

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

_____	)	
SECURITIES AND EXCHANGE	)	
COMMISSION,	)	
	)	
Plaintiff,	)	
	)	Civil Action No. _____
v.	)	
	)	
GARY J. MARTEL, D/B/A	)	Jury Trial Demanded
MARTEL FINANCIAL GROUP,	)	
and MFG FUNDING,	)	
	)	
Defendant.	)	
_____	)	

**COMPLAINT**

Plaintiff Securities and Exchange Commission (“Plaintiff” or “Commission”) alleges the following against Defendant Gary J. Martel, d/b/a Martel Financial Group and MFG Funding, and hereby demands a jury trial:

**PRELIMINARY STATEMENT**

1. This case involves fraudulent misrepresentations and the misappropriation of investor assets by Martel, while conducting business as “Martel Financial Group” and “MFG Funding.” Since at least 2006, Martel induced numerous individuals in multiple states to invest in so-called “90 day pass-through bonds” or other purported fixed income or pooled investment products. Although the bonds supposedly were issued by various entities with similar names (such as ACI, llc, BCI, llc, CCI, llc, etc.), they “passed through” Martel in that investors paid principal to, and received any returns from, Martel himself.

2. The only documentation that Martel provided to bond investors were account statements that he created, which reflected the purported bond terms and the accumulated returns from rolling over the subject bonds (and accrued interest) for additional periods. Similar account statements were created and distributed by Martel to investors in the other investment vehicles he peddled.

3. Many of the investors solicited by Martel were retirees seeking a safe investment with a fixed income stream, so Martel periodically provided certain investors with small interest payments. When Martel eventually stopped making such periodic distributions, a growing number of concerned investors demanded the return of their funds. Martell responded to investors, if at all, with dizzying variations of the “check’s in the mail.” These assurances, like others provided by Martel, were false and, to date, there is no evidence that Martel made any legitimate investments on behalf of the bond investors or other investors. Martel has conceded, through counsel, that investor losses “may be well into seven-figures.”

4. Through the activities alleged in this Complaint, Martel engaged in: (1) fraudulent or deceptive conduct in connection with the purchase or sale of securities, in violation of Section 10(b) of the Securities Exchange Act of 1934 (“Exchange Act”) and Rule 10b-5 thereunder; (2) fraud in the offer or sale of securities in violation of Section 17(a) of the Securities Act of 1933 (“Securities Act”); and (3) fraudulent or deceptive conduct with respect to investment advisory clients, in violation of Sections 206(1) and (2) of the Investment Advisers Act of 1940 (“Advisers Act”).

5. Accordingly, the Commission seeks the following relief: (a) entry of a permanent injunction prohibiting Martel from further violations of the relevant provisions of the federal securities laws; (b) disgorgement of Martel’s ill-gotten gains, plus pre-judgment interest thereon;

and (c) the imposition of a civil monetary penalty due to the egregious nature of Martel's violations.

6. In addition, because of the risk that Martel will continue violating the federal securities laws and the danger that any remaining investor funds will be dissipated or concealed before the entry of a final judgment, the Commission seeks preliminary equitable relief to: (a) prohibit Martel from continuing to violate the relevant provisions of the federal securities laws; (b) freeze Martel's assets and otherwise maintain the status quo; (c) require Martel to submit an accounting of investor funds and other assets in his possession or control; (d) prohibit Martel from soliciting or accepting additional investments; (e) prohibit Martel from destroying relevant documents; (f) order Martel to repatriate any funds that he has transferred outside the United States; and (g) authorize the Commission to conduct expedited discovery.

#### **JURISDICTION AND VENUE**

7. The Commission seeks a permanent injunction and disgorgement pursuant to Section 20(b) of the Securities Act [15 U.S.C. § 77t(b)], Section 21(d)(1) of the Exchange Act [15 U.S.C. § 78u(d)(1)], and Section 209(d) of the Advisers Act [15 U.S.C. § 80b-9(d)].

8. The Commission seeks the imposition of a civil monetary penalty pursuant to Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)], Section 21(d)(3) of the Exchange Act [15 U.S.C. § 78u(d)(3)], and Section 209(e) of the Advisers Act [15 U.S.C. § 80b-9(e)].

9. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331, Sections 20(d) and 22(a) of the Securities Act [15 U.S.C. §§ 77t(d), 77v(a)], Sections 21(d), 21(e) and 27 of the Exchange Act [15 U.S.C. §§ 78u(d), 78u(3), 78aa], and Sections 209(d), 209(e) and 214 of the Advisers Act [15 U.S.C. §§ 80b-9(d), 90b-9(e), 80b-14].

10. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b) because a substantial part of the events giving rise to the claims occurred in this district and because Martel resides in this district.

11. In connection with the conduct alleged in this Complaint, Martel directly or indirectly made use of the means or instruments of transportation or communication in interstate commerce, the facilities of a national securities exchange, or the mails:

12. Martel's conduct involved fraud, deceit, or deliberate or reckless disregard of regulatory requirements, and resulted in substantial loss, or significant risk of substantial loss, to other persons.

13. Unless enjoined, Martel is likely to continue to engage in the securities law violations alleged herein, or in similar conduct that would violate the federal securities laws.

**DEFENDANT**

14. Martel, age 55, lives in Chelsea, Massachusetts.

15. He has previously been a registered representative at various financial firms in New England, with his last such association ending in 2009.

16. Both during and after his employment with one or more of these firms, Martel offered clients investment advice and opportunities, doing business under the name "Martel Financial Group." This business, which does not appear to be a legal entity, was conducted from an office in Woburn, Massachusetts until Martel moved the operation to an office maintained at (or adjacent to) his residence in Chelsea. Monies were received and disbursed to investors by Martel under the separate guise of "MFG Funding," which also does not appear to be a legal entity.

**FACTUAL ALLEGATIONS**

**A. Martel Obtained Money From Numerous Investors By Purporting to Facilitate Safe Investments in Corporate Bonds With Favorable Interest Rates.**

17. Starting in 2006, if not earlier, Martel began encouraging investors to place retirement, college or other needed savings in so-called “90 day pass-through bonds.” As described by Martel, the bond principal and interest could be rolled over for additional 90-day periods, providing a favorable return and/or generating a fixed income stream. In a few instances, Martel purported to place an investor’s funds in a “45 day pass-through” bond with similar features.

18. Martel had previously provided financial planning advice and sold annuity products to many of these individuals, while he was associated with a registered broker-dealer/investment adviser. Because of these and other prior financial dealings with Martel, such investors, as well family and friends whom they referred to Martel, trusted that Martel would invest their funds in some type of legitimate security with the features described by Martel. Investors did not have fee arrangements with Martel, but several reported that they understood he was being compensated through commissions.

19. Martel told many investors that the bonds were “low risk” and/or that their funds were “safe” and would be available to them as needed. Martel led at least one bond investor to believe that her investment was covered by the Securities Investor Protection Corporation and by insurance policies held by the brokerage companies with whom he was previously associated.

20. Martel did not provide investors with any documents about the bonds other than periodic account statements which he created on Martel Financial Group letterhead with the slogan “When you don’t want to ‘go it’ alone!”

21. Investors received separate statements for each bond that they purportedly held through the Martel Financial Group. These statements purported to: show an investor's "portfolio value" and/or "pass-through value" as of a given date; reflect that the investor's portfolio was comprised of "Fixed Income/Equivalents;" list the bond issuer and the bond terms; and record the amounts invested and the quarterly "interest credits" to the investor's account.

22. Collectively, through these account statements, Martel represented that investor funds were used to purchase at least the following "90 day pass-through" bonds:

ACI, llc	4.875%
BCI, llc	5.325%
CCI, llc	4.065%, 4.325%, 5.875%
DCI, llc	4.125%
FCI, llc	3.875%
FTI, llc	5.325%
TCI, llc	3.875%, 4.125%, 4.225%, 4.625%
TCI2, llc	4.125%
QVT, llc	4.125%

23. Many investors, after receiving several periodic statements showing positive returns and/or receiving small distributions of interest, provided Martel with additional funds. Martel continued to accept investors' money under the pretense that it would be added to existing bond investments or invested in other bonds. According to the account statements prepared and issued by Martel, investors were able to roll-over or reinvest their "90 day" bonds for years without any fluctuation in the interest rate and were able to consolidate disparate bonds.

**B. Martel Also Lured Investors By, Among Other Means, Offering Mortgage-Related Securities and the Chance to Invest in the Facebook IPO.**

24. During the same time period, Martel enticed certain of his bond investors and other individuals to participate in some form of mortgage real estate investment trust or comparable investment. Investors provided funds to Martel believing that he would pool their funds with those of other investors for the purpose of loaning money for mortgages to owners of real estate, or purchasing existing mortgages or mortgage-backed securities.

25. As with the bond investments, Martel prepared and transmitted periodic account statements to investors, on the Martel Financial Group letterhead, showing the yield and value of the mortgage-related investments they purportedly held.

26. Martel also represented to certain investors that a portion of their funds were separately held in an interest bearing "MFGF Cash Reserve Account."

27. More recently, as Martel was becoming increasingly unable to make distributions promised to investors and honor redemption requests, he solicited investments in a \$500,000 investment pool that purportedly would seek to invest in the widely-publicized and anticipated Facebook IPO. In a written presentation emailed to certain clients in or around March 2012, Martel described the contemplated pool as "A Potential Chance for the small, Non-Institutional Investor to own a piece of the [Facebook] Public Offering." MFG Funding would supposedly hold investor funds until the pool was full, with investors earning varying levels of interest depending upon their level of commitment to the pool, and then the funds would "pass through" to the underwriters of the Facebook initial public offering. According to Martel's presentation, any Facebook stock obtained by the pool would then be transferred into the individual names of the pool investors.

28. The written document prepared and distributed by Martel describing the Facebook stock opportunity included the following disclosure:

Martel Financial Group is a Financial Services Company that created MFG Funding. This, as a holding tank, and as a 'pass – through of funds' instrument, for the purpose of creating and facilitating Pools of Monies. These, of which, can be designated for a variety of financial objectives that individuals may not be able to do themselves, outside of pooling assets with others.

29. Martel obtained money from at least one investor, and possibly more, for the Facebook-related investment pool. Facebook's initial public offering took place on May 18, 2012, yet this investor has not received any Facebook stock or a return of the money contributed to the alleged pool.

30. Martel obtained over \$1.6 million from 12 investors in Massachusetts, Florida and Vermont through the conduct described above and likely considerably more from other similarly situated investors.

**C. Martel's Scheme Unraveled as Multiple Investors Discovered That They Could Not Get Their Money Back.**

31. In connection with the bond and other investment offerings, Martel utilized bank accounts in the names of "Martel Financial Group" and "MFG Funding" at Citizens Bank. Martel led investors to believe that the MFG Funding account served as a custodial account for their funds. Investors typically made payments to and received any payments from MFG Funding.

32. Martel transferred monies from the MFG Funding bank account to bank accounts he maintained for Martel Financial Group and his other businesses. These transfers would sometimes be recorded as loans in accounting records maintained by Martel, but the loans were rarely repaid.

33. On information and belief, the interest payments that Martel made to certain bond investors were actually payments out of bond investor principal contributions or other funds entrusted to Martel.

34. During 2011, the monthly and/or quarterly payments that Martel promised to certain investors began arriving late or not at all.

35. By the Spring of 2012, multiple investors sought to redeem the stated value of their accounts after Martel missed further required payments or failed to payout other requested distributions.

36. Martel often failed to respond to the complaints he received from investors, but when he did, he made numerous misrepresentations to investors about the status of their accounts in order to conceal the fact that their money was gone. Martel repeatedly told investors that the delayed or omitted payments were the result of errors by the bank or the post office. Martel also blamed payment delays on his absence from the office due to personal health issues.

37. In April and May of 2012, Martel wrote hundreds of thousands of dollars in bad checks to investors.

38. On or about June 7, 2012, Martel placed two residential units at his Chelsea address for sale.

39. During the past two weeks, Martel's counsel sent letters to over 40 individuals, in five different states (Massachusetts, Vermont, New Hampshire, New York, and Florida), disclosing that Martel, Martel Financial Group, and MFG Funding "have ceased operations and are in the process of assessing their assets and liabilities with a view toward liquidation."

40. In response to an inquiry by state officials, a law firm retained by Martel disclosed that "he is unable to make payments due some 40 customers who purchased various

forms of investment vehicles from him.” This letter also disclosed that the investor losses “may be well into seven-figures.”

41. On information and belief, the bonds and other investments offered and sold by Martel are fictitious and/or do not currently exist. To date, Martel has not provided the Commission or investors with any information to corroborate the existence of the subject bonds and Martel does not appear to hold any such investments or the funds represented in the investors’ account statements.

42. When Martel appeared before Commission staff for investigative testimony, he invoked his Fifth Amendment right against self-incrimination and refused to answer any questions related to the bonds, the mortgage-related securities or the Facebook stock offering. In fact, Martel invoked his Fifth Amendment right against self-incrimination as to every question posed about the business of the Martel Financial Group and MFG Funding.

**FIRST CLAIM FOR RELIEF**  
**(Violation of Section 10(b) of the Exchange Act and Rule 10b-5)**

43. The Commission repeats and incorporates by reference the allegations in paragraphs 1 through 42 above.

44. By engaging in the conduct described above, Defendant Martel, directly or indirectly, acting knowingly or recklessly, in connection with the purchase or sale of securities, by the use of means and instrumentalities of interstate commerce, or of the mails, or a facility of a national securities exchange: (a) has employed or is employing devices, schemes or artifices to defraud; (b) has made or is making untrue statements of material fact or has omitted or is omitting to state a material fact necessary to make the statements made, in the light of the circumstances under which they were made, not misleading; and (c) has engaged or is engaging in acts, practices or courses of business which operate as a fraud or deceit upon certain persons.

45. As a result, Defendant violated and, unless enjoined, will continue to violate Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5 [17 C.F.R. § 240.10b-5] thereunder.

**SECOND CLAIM FOR RELIEF**  
**(Violation of Section 17(a) of the Securities Act)**

46. The Commission repeats and incorporates by reference the allegations in paragraphs 1 through 45 above as if set forth fully herein.

47. Defendant, directly or indirectly, acting intentionally, knowingly or recklessly, by use of the means or instruments of transportation or communication in interstate commerce or by the use of the mails, in the offer or sale of securities: (a) has employed or is employing devices, schemes, or artifices to defraud; (b) has obtained or is obtaining money or property by means of untrue statements of material fact or omissions to state a material fact necessary to make the statements not misleading; or (c) has engaged or is engaging in transactions, practices, or courses of business which operate as a fraud or deceit upon the purchasers of such securities.

48. By engaging in the conduct described above, Defendant has violated, and unless enjoined will continue to violate, Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)].

**THIRD CLAIM FOR RELIEF**  
**(Violation of Sections 206(1) and (2) of the Advisers Act)**

49. The Commission repeats and incorporates by reference the allegations in paragraphs 1 through 48 above as if set forth fully herein.

50. Defendant Martel was an “investment adviser” within the meaning of Section 202(a)(11) of the Advisers Act [15 U.S.C. § 80b-2(a)(11)].

51. By engaging in the conduct described above, Defendant, by use of the mails or any means or instrumentality of interstate commerce, directly or indirectly, acting intentionally,

knowingly or recklessly: (a) has employed or is employing devices, schemes, or artifices to defraud; or (b) has engaged or is engaging in transactions, practices, or courses of business which operate as a fraud or deceit upon a client or prospective client.

52. By engaging in the conduct described above, Defendant has violated, and unless enjoined will continue to violate, Sections 206(1) and (2) of the Advisers Act [15 U.S.C. § 80b-6(1), (2)].

**PRAYER FOR RELIEF**

WHEREFORE, the Commission requests that this Court:

A. Enter a preliminary injunction, order freezing assets, and order for other equitable relief in the form submitted with the Commission's motion for such relief;

B. Enter a permanent injunction restraining Defendant and each of his agents, servants, employees and attorneys and those persons in active concert or participation with him who receive actual notice of the injunction by personal service or otherwise, including facsimile transmission or overnight delivery service, from directly or indirectly engaging in the conduct described above, or in conduct of similar purport and effect, in violation of:

1. Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5 [17 C.F.R. § 240.10b-5] thereunder; and
2. Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)].

C. Enter a permanent injunction restraining Defendant and each of his agents, servants, employees and attorneys and those persons in active concert or participation with him who receive actual notice of the injunction by personal service or otherwise, including facsimile transmission or overnight delivery service, from directly or indirectly engaging in the conduct described above, or in conduct of similar purport and effect, in violation of Sections 206(1) and (2) of the Advisers Act [15 U.S.C. § 80b-6(1), (2)].

D. Require Defendant to disgorge his ill-gotten gains and losses avoided, plus pre-judgment interest, with said monies to be distributed in accordance with a plan of distribution ordered by the Court;

E. Order Defendant to pay an appropriate civil monetary penalty pursuant to Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)], Section 21(d)(3) of the Exchange Act [15 U.S.C. § 78u(d)(3)], and Section 209(e) of the Advisers Act [15 U.S.C. § 80b-9(e)];

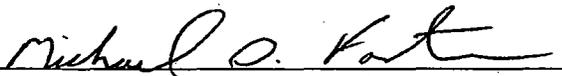
F. Retain jurisdiction over this action to implement and carry out the terms of all orders and decrees that may be entered; and

G. Award such other and further relief as the Court deems just and proper.

Respectfully submitted,

**SECURITIES AND EXCHANGE  
COMMISSION,**

By its attorneys,

  
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