

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO.

SECURITIES AND EXCHANGE COMMISSION,)	
)	
Plaintiff,)	
v.)	
)	
PHIL DONNAHUE WILLIAMSON,)	
)	
Defendant.)	
)	
)	
<hr style="width: 60%; margin-left: 0;"/>)	

COMPLAINT FOR INJUNCTIVE AND OTHER RELIEF

Plaintiff United States Securities and Exchange Commission (the “Commission”), for its Complaint against Phil Donnahue Williamson (“Williamson” or “Defendant”) alleges as follows:

I. INTRODUCTION

1. Since at least 2007, Williamson, a Miami-based unregistered investment adviser, operated a Ponzi scheme in which he advised at least seventeen investors, many of whom were public-sector retirees, to invest their retirement savings in an investment vehicle he created purportedly to invest in distressed properties in Florida and Georgia. From 2007 through 2014, Williamson raised more than \$2 million while making misrepresentations to investors about the use of their money, the valuation of their purported investments, and the returns on their investments. Further, Williamson misappropriated or misused at least \$748,000 of client funds

to pay personal expenses including school tuition for his children, his mortgage and car payments, and to fund his other businesses and make payments to other individuals and entities unrelated to investment activities.

2. By virtue of the foregoing conduct and as alleged further herein, Williamson violated, and unless enjoined, is reasonably likely to continue to violate, Sections 206(1), 206(2), and 206(4) of the Investment Advisers Act of 1940 (“Advisers Act”) [15 U.S.C. §§80b-6(1), (2), (4)] and Rule 206(4)-8 thereunder [17 C.F.R. 275.206(4)-8].

3. The Commission respectfully requests that this Court enter a permanent injunction restraining and enjoining Williamson from committing further violations of the federal securities laws as alleged in this Complaint and enter an order directing Williamson to pay disgorgement for the amounts he misappropriated or misused as alleged in this Complaint.

II. DEFENDANT WILLIAMSON AND OTHER RELEVANT ENTITIES

1. Phil Williamson, age 48, resides in Miami, Florida. Williamson formed and was the managing member of two Florida entities: Sterling Investment Fund, LLC, an investment fund Williamson formed, and Sterling Financial Partners, Inc., an investment advisory firm that Williamson formed.

2. Sterling Investment Fund, LLC (“Sterling Fund”) is a Florida limited liability company formed in 2007 with its principal place of business in Miami, Florida. The Sterling Fund was the vehicle in which Williamson advised potential investors to invest their retirement savings. Williamson advised investors to purchase an LLC interest in the Sterling Fund, which would then invest in mortgages and properties in Florida and Georgia. In addition, the Sterling Fund invested in LLC interests in another real estate-related private pool, Allied Mortgage

Investment Fund I, LLC. Williamson was the Registered Agent and Manager for the Sterling Fund until 2011 when he removed his name from corporate filings and listed his wife as the Registered Agent and Manager of the Sterling Fund. At all relevant times, however, Williamson ran the Sterling Fund.

3. Sterling Financial Partners, Inc. (“Sterling Financial”) was a Florida corporation formed in 2004 with its principal place of business in Miami, Florida. Sterling Financial is the name under which Williamson provided investment advisory services to the Sterling Fund investors. Sterling Financial was administratively dissolved by the state of Florida in 2012 for failing to file an annual report.

III. JURISDICTION AND VENUE

4. The Commission brings this action pursuant to Sections 209(d) and 214(a) of the Advisers Act [15 U.S.C. §§80b-9(d) and 80b-14(a)].

5. This Court has jurisdiction over this action, and venue lies in this District, pursuant to Section 214 of the Advisers Act [15 U.S.C. §80b-14] and 28 U.S.C. §1345. The Defendant, directly or indirectly, has used the mails and the means and instrumentalities of interstate commerce in connection with the acts, practices, transactions, and courses of business alleged herein, most of which occurred in this District. In addition, Defendant transacted business and maintained an office in this District throughout the relevant period. Furthermore, during the period of misconduct, Defendant resided in this District.

IV. WILLIAMSON'S ACTS IN VIOLATION OF THE ADVISERS ACT

A. Williamson Creates the Sterling Fund and Advises Investors

6. Williamson began his scheme in early 2007 when he recruited investors for an investment fund called Allied Mortgage Investment Fund I, LLC ("Allied"), which was a purported friends and family investment vehicle that invested in mortgages in Florida. After five months of soliciting investors for Allied, Williamson created his own investment fund called the Sterling Fund.

7. According to statements Williamson made to potential investors, the Sterling Fund was designed to invest in properties in Florida and Georgia. The subscription agreement for the Sterling Fund, which Williamson provided to potential investors, provided that investors would purchase an LLC interest in the Sterling Fund, and the fund would purchase mortgage loans and/or obtain and service institutional third-party financing that would be used to purchase mortgage loans.

8. Separately, Williamson told investors that the Sterling Fund would also buy LLC interests in Allied, a real estate-related pool.

9. The Sterling Fund was an investment company because the Sterling Fund's sole investment was an LLC interest in Allied.

10. Williamson met his investors in several ways: some were referred by Williamson's former coworker, some were Williamson's former clients, some approached Williamson after he spoke at financial seminars hosted by various churches, and some met him through other investors. When they initially met with Williamson, the investors, who were all

either approaching retirement or had recently retired, explained that they were looking for safe investments and needed to access their funds often.

11. Williamson assured them that there was no risk involved, and promised that their money would be available as needed. Williamson assured investors a yearly return of 8-12% and assured investors that there was no risk involved in investing in the Sterling Fund. In some instances, Williamson promised investors that if anything happened to their principal, he would make them whole.

12. Moreover, Williamson did not tell investors that he would charge a fee for his services, and investors did not know how Williamson would be paid, if at all, for his services.

13. Williamson provided customized investment advice to investors. For example, some investors expressed an interest in diversifying their investments, and Williamson advised them that they would be invested not only in the Sterling Fund, but also in various bonds and stocks, and in at least one instance, Williamson advised an investor about foreign currency trading.

14. Williamson also provided potential investors with fund documents, such as a subscription agreement and an accredited investor questionnaire for the Sterling Fund, and further provided investors with documents from the third party IRA custodian.

15. The subscription agreement for the Sterling Fund stated that it was for the sale of \$25,000,000 of membership interests in the Sterling Fund. The minimum subscription was \$25,000 and the agreement stated that the funds would be used “to purchase mortgage loans and/or obtain and service institutional third-party financing which will be used primarily to purchase mortgage loans and to otherwise fund the Company’s business.”

16. Williamson continued advising investors to purchase an interest in the Sterling Fund with similar representations. These investors were not sophisticated. Many of them were public sector retirees, including a former chief of police, two prison corrections officers, and a school principal. Further, many had never invested before and assigned all investment decisions to Williamson, whom they trusted.

B. Williamson directs investors to rollover retirement accounts to Pensco

17. To invest in the Sterling Fund, Williamson directed investors to rollover their retirement accounts to a third party IRA custodian called Pensco Trust Company, LLC (“Pensco”).

18. At the initial meeting with investors, Williamson provided investors with a series of documents created by Pensco, including a Traditional IRA Application, Investment Authorization, and Authorization for Payment of Management/Advisory Fees. By signing these documents, investors authorized Pensco to rollover their retirement accounts, purchase an interest in the Sterling Fund, and provide Williamson full control over their accounts as their financial representative.

19. Although investors did not realize it, they also authorized Williamson to deduct advisory fees for his advisory “services.” On the Authorization for Payment of Management/Advisory Fees, which investors and Williamson signed, Williamson checked a box to note that he would deduct an “Advisory” fee. The form explained that Williamson would provide Pensco with invoices for the advisory fees he was owed. Given this authority, Williamson directed Pensco to write him a check from investors’ accounts as an advisory fee on at least two occasions, totaling approximately \$13,000.

C. Investors Receive Valuations and Purported Distributions

20. Investors received two different valuations for their investments in the Sterling Fund. First, Williamson occasionally provided Sterling Fund investors with valuations of their interest in the Fund. Second, Williamson periodically provided valuations to Pensco, and in turn, Pensco provided quarterly valuations directly to investors.

21. Pensco received valuation information from Williamson at least once per year. Williamson did not provide any documentation to support the purported valuation of the investments and the valuations were not supported by Williamson's bank records. Williamson simply faxed or emailed Pensco a table with an investor's name and the purported value of his or her investment in the Sterling Fund. In turn, Pensco updated the investor account statements to reflect the valuations.

22. For example, for the quarter ended March 31, 2014, one investor received a statement from Pensco valuing her investment in the Sterling Fund at \$221,048.37. As of March 31, 2014, however, the Sterling Fund bank account had a balance of \$583.00 and no discernible investment activity.

23. In addition to quarterly account statements, investors generally received purported investment returns. The frequency with which an investor received a "return" varied, but at least two investors continued to receive these "returns" through October 2014.

24. Although investors believed they were receiving returns from investments in the Sterling Fund, they were actually receiving other investors' funds, and money that Williamson transferred from other bank accounts to continue making payments to investors and maintain the appearance of a profitable investment.

25. In an egregious example, Williamson instructed Pensco to pay investors from their own cash balance in their Pensco accounts.

D. Williamson Misappropriates and Misuses Sterling Fund Assets

26. Williamson did not invest the Sterling Fund assets as he represented to investors. Instead, Williamson commingled investor funds with his personal funds, used investor funds for personal expenses, and paid investors with other investors' money.

27. From 2007 to at least 2014, Williamson misappropriated and misused at least \$748,000 from his client, the Sterling Fund. Williamson used client assets to pay his own personal expenses, including mortgage payments, car payments, and school tuition for his children, and to fund his other business endeavors.

28. From 2007 to 2009 Williamson raised approximately \$2,096,000 from investors and through 2014 he used the proceeds as follows:

- \$658,000 invested in securities issued by Allied, which generated minor returns;
- \$690,000 paid in purported returns to investors;
- \$369,000 misappropriated by Williamson to pay for expenses like his home mortgage, car payments, travel, meals, tuition for his children, and to fund other businesses he owned; and
- \$379,000 transferred to other individuals and entities that did not appear to be for investment purposes.

29. The investments the Sterling Fund made in the securities issued by Allied were the only investments the Sterling Fund made, and the remainder of the money investors put into the Sterling Fund simply flowed through Williamson's various bank accounts as cash.

30. Williamson's bank records made clear the pattern of his Ponzi scheme. For example, one investor, a pastor and retired Miami-Dade County school teacher, invested \$125,000 in the Sterling Fund. That same day, Williamson transferred \$10,000 to himself in the Sterling Financial account, which he used as his personal bank account, and made a car payment to BMW, paid tuition for his children and transferred \$2,000 to another personal bank account to pay his credit card bill. Within two days of receiving the investor's funds, Williamson paid \$24,400 to other investors as purported distributions. In the following weeks, Williamson transferred an additional \$24,000 to himself in the Sterling Financial account to pay additional personal expenses.

31. Williamson followed a similar pattern when another investor, a retired grocery store manager who has returned to work after losing his retirement savings in Williamson's scheme, invested \$85,000 in the Sterling Fund. Within days, Williamson transferred \$32,000 to the Sterling Financial account to pay for personal expenses, including over \$6,000 in credit card payments. Over the next few months, with no apparent investment income to the Sterling Fund, Williamson paid at least \$69,000 to investors as purported distributions.

32. Williamson had control over the Sterling Fund's bank account and knew that he was not investing client assets as he represented to investors and was instead misappropriating client assets for personal use and to pay investors. In addition, he knew that investor returns paid by the Sterling Fund were not being paid from returns on legitimate investments, but rather from new investor funds and from his other enterprises.

E. The Sterling Fund Scheme Unravels

33. Bank records show that the Sterling Fund devolved into a Ponzi scheme almost immediately because Williamson did not make investments to generate returns other than buying an interest in Allied.

34. Many investors began asking questions when their “returns” dwindled or even disappeared. Some investors were curious about the underlying investments in the Sterling Fund and became suspicious when Williamson could not provide a list of properties in which the Sterling Fund invested. Others became concerned when they asked Williamson for an early distribution and Williamson, contrary to his earlier promises, said that the money was unavailable.

35. As the scheme unraveled, Williamson moved money between nineteen bank accounts to continue paying some investors and quell their concerns.

F. Williamson Made Material Misrepresentations and Omissions to Sterling Fund Investors

36. Williamson engaged in a scheme to defraud the Sterling Fund and its investors and made a series of misrepresentations to investors in the Sterling Fund. As detailed below, Williamson misrepresented, among other things, (1) the terms of the investment in the Sterling Fund, including that investors would receive a return ranging from 8-12%, that the investment involved no risk, and that investor funds would be used to purchase an LLC interest in the Sterling Fund and the Sterling Fund would purchase mortgages and properties in Florida and Georgia; (2) that investors were making “returns” on their purported investments; and (3) that the valuations for investors’ purported investments were the true value of the investment. In

addition to these affirmative misrepresentations, Williamson failed to disclose to investors that he would not use investor funds as he assured investors he would.

37. Williamson promised investors a yearly return ranging from 8 to 12%. Further, Williamson assured investors that their principal was not at risk and in some cases he even promised investors that he would make them whole if anything happened to their principal. In most cases, Williamson did not tell potential investors that he would charge an advisory fee for his purported investment advisory services.

38. Williamson misrepresented to investors that their money would be used to purchase an LLC interest in the Sterling Fund and the fund would purchase mortgages and properties in Florida and Georgia. Williamson also misrepresented to investors that the money they received was a “return” on their investments when the payments were not tied to investment activity. In addition to misrepresentations related to the investment “returns,” Williamson also misappropriated and misused over \$748,000 in investor funds

39. Finally, Williamson made repeated misrepresentations to investors regarding the valuation of their investments. The valuations provided to investors, either directly by Williamson or indirectly through Pensco, were not supported by any valuation methodology or any bank records.

40. Williamson’s misrepresentations were material. Investors would want to know that their money was not invested as represented and that their returns were based on the influx of money from new investors. Further, investors would want to know that the valuation statements they relied on to track their investments—which represented their retirement savings—were fictitious.

V. CLAIMS FOR RELIEF

COUNT I

Section 206(1) of the Advisers Act

41. The Commission adopts by reference paragraphs 1 through 40 of this Complaint.

42. At all relevant times, Defendant acted as an investment adviser as defined by Section 202(a)(11) of the Advisers Act [15 U.S.C. §80b-2(a)(11)], and served in that capacity with respect to his clients and investors. Defendant, for compensation, engaged in the business of directly advising the Sterling Fund as to the value of securities or as to the advisability of investing in, purchasing, or selling securities, and held himself out as an investment adviser.

43. As alleged herein, Defendant, by use of the mails or means and instrumentalities of interstate commerce, directly or indirectly employed a device, scheme, or artifice to defraud the Sterling Fund.

44. By reason of the foregoing, Defendant directly or indirectly violated, and unless enjoined, is reasonably likely to continue to violate, Section 206(1) of the Advisers Act [15 U.S.C. §80b-6(1)].

COUNT II

Section 206(2) of the Advisers Act

45. The Commission adopts by reference paragraphs 1 through 40 and 42 of this Complaint.

46. As alleged herein, Defendant, by use of the mails or means and instrumentalities of interstate commerce, directly or indirectly engaged in transactions, practices, or courses of business which operated as a fraud or deceit upon the Sterling Fund.

47. By reason of the foregoing, Defendant directly or indirectly violated, and unless enjoined, is reasonably likely to continue to violate, Section 206(2) of the Advisers Act [15 U.S.C. §80b-6(2)].

COUNT III

Section 206(4) and Rule 206(4)-8(a)(1) of the Advisers Act

48. The Commission adopts by reference paragraphs 1 through 40 and 42 this Complaint.

49. At all relevant times, the Sterling Fund was a “pooled investment vehicle” within the meaning of Advisers Act Rule 206(4)-8(b) [17 C.F.R. 275.206(4)-8(b)], because 100% of its total assets (exclusive of cash items) were used to purchase an LLC interest in Allied.

50. As alleged herein, Defendant, while acting as an investment adviser to a pooled investment vehicle, made untrue statements of material facts or omitted to state material facts necessary to make the statements made, in the light of the circumstances under which they were made, not misleading, to investors or prospective investors in the Sterling Fund.

51. By reason of the foregoing, the Defendant violated, and unless enjoined, is reasonably likely to continue to violate, Section 206(4) of the Advisers Act [15 U.S.C. § 80b-6(4)] and Rule 206(4)-8(a)(1) thereunder [17 C.F.R. 275.206(4)-8(a)(1)].

COUNT IV

Section 206(4) and Rule 206(4)-8(a)(2) of the Advisers Act

52. The Commission adopts by reference paragraphs 1 through 40, 42, and 49 of this Complaint.

53. As alleged herein, Defendant engaged in acts, practices, or courses of business that were fraudulent, deceptive, or manipulative with respect to investors or prospective investors in the Sterling Fund.

54. By reason of the foregoing, Defendant violated, and unless enjoined, is reasonably likely to continue to violate, Section 206(4) of the Advisers Act [15 U.S.C. §§ 80b-6(4)] and Rule 206(4)-8(a)(2) thereunder [17 C.F.R. 275.206(4)-8(a)(2)].

VI. RELIEF REQUESTED

WHEREFORE, the Commission respectfully requests that the Court:

Permanent Injunctive Relief

Issue a Permanent Injunction restraining and enjoining Defendant Williamson, his agents, servants, employees, attorneys, and representatives, and all persons in active concert or participation with them, and each of them, from violating Sections 206(1), 206(2), 206(4) of the Advisers Act and Rule 206(4)-8(a) thereunder [15 U.S.C. §§ 80b-6(1), 80b-6(2), and 80b-6(4), and 17 C.F.R. § 275.206(4)-8(a)].

Disgorgement

Issue an Order directing Defendant Williamson to disgorge the amounts he misused and misappropriated from the activities set forth in this Complaint, but deem this liability satisfied if

an Order of Restitution is entered in the criminal proceeding *United States v. Williamson*, Case No. 1:15-cr-20379 (S.D. Fla.).

Retention of Jurisdiction

Further, the Commission respectfully requests that the Court retain jurisdiction over this action in order to implement and carry out the terms of all orders and decrees that may hereby be entered, or to entertain any suitable application or motion by the Commission for additional relief within the jurisdiction of this Court.

Dated: June 1, 2015

Respectfully submitted,

By: s/Andrew O. Schiff
Andrew O. Schiff
Regional Trial Counsel
S.D. Fla. No. A5501900
Direct Dial: (305) 982-6390
E-mail: schiffa@sec.gov

Casey P. Cohen
Attorney
Florida Bar No. 84091
Direct Dial: (305) 982-6305
E-mail: cohenc@sec.gov

Attorneys for Plaintiff
SECURITIES AND EXCHANGE COMMISSION
801 Brickell Avenue, Suite 1800
Miami, Florida 33131
Telephone: (305) 982-6300
Facsimile: (305) 536-4154