<DOCUMENT>
<TYPE>N-8A
<SEQUENCE>1
<FILENAME>c25974_n8a.txt
<TEXT>

FUND NAMES:
1. 2002-2004: Ivy Multi-Strategy Hedge Fund LLC
2. 2004-2009: BNY Ivy Multi-Strategy Hedge Fund LLC
3. 2009-2010: Defenders Multi-Strategy Hedge Fund LLC
4. 2010-2011: Ivy Asset Management LLC

SECURITIES AND EXCHANGE COMMISSION
Washington, DC 20549

FORM N-8A

NOTIFICATION OF REGISTRATION FILED PURSUANT TO SECTION 8(a)
OF THE INVESTMENT COMPANY ACT OF 1940

The undersigned investment company hereby notifies the Securities and Exchange Commission that it registers under and pursuant to the provisions of Section 8(a) of the Investment Company Act of 1940 and in connection with such notification of registration submits the following information:

NAME: Ivy Multi-Manager Hedge Fund LLC

ADDRESS OF PRINCIPAL BUSINESS OFFICE (NO. & STREET, CITY, STATE ZIP CODE):

One Wall Street
New York, New York 10286

TELEPHONE NUMBER (INCLUDING AREA CODE): 212-495-1784

NAME AND ADDRESS OF AGENTS FOR SERVICE OF PROCESS:

William P. Sauer
The Bank of New York
75 Park Place
Tenth Floor
New York, NY 10286

COPIES TO:
Kenneth S. Gerstein, Esq.
Schulte Roth & Zabel LLP
919 Third Avenue
New York, NY 10022

CHECK APPROPRIATE BOX:

Registrant is filing a Registration Statement pursuant to Section 8(b) of the Investment Company Act of 1940 concurrently with the filing of form N-8A:

Yes _X_ No __

<PAGE>

SIGNATURES

Pursuant to the requirements of the Investment Company Act of 1940, the

registrant has caused this notification of registration to be duly signed on its behalf in New York City and the State of New York on the 29th day of October, 2002.

IVY MULTI-MANAGER HEDGE FUND LLC
(Name of Registrant)

By: /s/ William P. Sauer

Name: William P. Sauer
Title: Manager

</TEXT>
</DOCUMENT>

UNITED STATES SECURITIES AND EXCHANGE COMMISSION

Litigation Release No. 17687 / August 20, 2002

SEC v. William P. Sauer, James M. Jordan and Phil D. Kerley, Civil Action File No. 1:02-CV-2191 (N. D. Ga., August 7, 2002)

The Securities and Exchange Commission announced that on August 7, 2002 it filed a complaint in the United States District Court for the Northern District of Georgia against William P. Sauer ("Sauer"), James M. Jordan ("Jordan") and Phil D. Kerley ("Kerley"), alleging that each of them fraudulently sold large amounts of the securities issued in connection with two Ponzi Schemes, ETS Payphones, Inc. ("ETS"), and Global Telelink Services, Inc. ("GTS"). Sauer and Kerley also fraudulently sold the securities of Global Contact Corporation ("GCC"), a corporation controlled by GTS.

The Commission's complaint alleges that ETS, GTS and GCC depended on the sale of new investments in order to meet their current financial obligations, such as investor lease payments and refunds. Jordan, Sauer and Kerley knew, or were severely reckless in failing to disclose, among other things, that ETS, GTS and GCC could not make the payments they promised to investors without continually selling their products to new investors. From 1998 until September 2000, Jordan and his agents, including Sauer and Kerley, sold more than $84 million of the ETS payphone investments. Sauer and Kerley sold at least $1 million of the ETS payphone investments at prices between $5,000 and $7,000 per unit. Beginning in November 1999 until at least June 2000, Jordan and his agents, including Sauer and Kerley, sold more than $10 million of the GTS investments. Beginning in August 2000 and continuing until GTS and GCC were enjoined on March 9, 2001, Sauer and his agents, including Kerley, sold about $2 million of GCC investments.

The Commission's complaint charges the defendants with violations of Sections 5(a), 5(c) and 17(a) of the Securities Act of 1933 ("Securities Act") and Sections 10(b) and 15(a) of the Securities Exchange Act of 1934 ("Exchange Act"), and Rule 10b-5 thereunder. The Commission's complaint seeks permanent injunctions, accountings, disgorgement, prejudgment interest and civil penalties against each defendant.

▸ SEC Complaint in this matter

http://www.sec.gov/litigation/litreleases/lr17687.htm

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

SECURITIES AND EXCHANGE COMMISSION,	:	CIVIL ACTION FILE
Plaintiff,	:	NO. 1:02-CV-2191
v.	:	
WILLIAM P. SAUER JAMES M. JORDAN, and PHIL D. KERLEY,	:	
Defendants.	:	

FINAL JUDGMENT AS TO JAMES M. JORDAN

The Securities and Exchange Commission having filed a Complaint and Defendant James M. Jordan ("Jordan") having entered a general appearance; consented to the Court's jurisdiction over Defendant and the subject matter of this action; consented to entry of this Final Judgment without admitting or denying the allegations of the Complaint (except as to jurisdiction); waived findings of fact and conclusions of law; and waived any right to appeal from this Final Judgment:

I.

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendant Jordan, his agents, servants, employees, attorneys, assigns, and all persons in active concert or participation with them who

receive actual notice of this Final Judgment by personal service or otherwise are permanently restrained and enjoined from violating, directly or indirectly, Section 10(b) of the Securities Exchange Act of 1934 (the "Exchange Act") [15 U.S.C. § 78j(b)] and Rule 10b-5 promulgated thereunder [17 C.F.R. § 240.10b-5], by using any means or instrumentality of interstate commerce, or of the mails, or of any facility of any national securities exchange:

(a) to employ any device, scheme, or artifice to defraud;

(b) to make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; or

(c) to engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person,

in connection with the purchase or sale of any security.

II.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant Jordan, his agents, servants, employees, attorneys, assigns, and all persons in active concert or participation with them who receive actual notice of this Final Judgment by personal service or otherwise are permanently restrained and enjoined from violating Section 17(a) of the Securities Act [15 U.S.C. §

77q(a)] in the offer of any security by the use of any means or instruments of transportation or communication interstate commerce or by use of the mails, directly or indirectly:

(a) to employ any device, scheme, or artifice to defraud;

(b) to obtain money or property by means of any untrue statement of a material fact or any omission of a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; or

(c) to engage in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon the purchaser.

III.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant Jordan, his agents, servants, employees, attorneys, assigns, and all persons in active concert or participation with them who receive actual notice of this Final Judgment by personal service or otherwise are permanently restrained and enjoined from violating Section 5 of the Securities Act [15 U.S.C. § 77e] by, directly or indirectly, in the absence of any applicable exemption:

(a) Unless a registration statement is in effect as to a security, making use of any means or instruments of transportation or communication in interstate commerce

or of the mails to sell such security through the use or medium of any prospectus or otherwise;

(b) Unless a registration statement is in effect as to a security, carrying or causing to be carried through the mails or in interstate commerce, by any means or instruments of transportation, any such security for the purpose of sale or for delivery after sale; or

(c) Making use of any means or instruments of transportation or communication in interstate commerce or of the mails to offer to sell or offer to buy through the use or medium of any prospectus or otherwise any security, unless a registration statement has been filed with the Commission as to such security, or while the registration statement is the subject of a refusal order or stop order or (prior to the effective date of the registration statement) any public proceeding of examination under Section 8 of the Securities Act [15 U.S.C. § 77h].

IV.

IT IS FURTHER ORDERED THAT, defendant Jordan, his officers, agents, servants, employees, attorneys, and those persons in active concert or participation with him and each of them, are permanently enjoined from directly or indirectly violating Section 15(a) of the Exchange Act [15 U.S.C. § 78o(a)] by using

any means or instrumentality of interstate commerce or of the mails, to effect transactions in, or to induce or attempt to induce the purchase or sale of securities, without registering with the Commission as a broker or dealer.

V.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant is liable for disgorgement of $3,195,000, representing profits gained as a result of the conduct alleged in the Complaint, together with prejudgment interest thereon in the amount of $1,848,920, for a total of $5,043,920. Based on Defendant's sworn representations in his Statement of Financial Condition dated November 18, 2006, and other documents and information submitted to the Commission, however, the Court is not ordering Defendant to pay a civil penalty and payment of $5,043,920 of disgorgement and pre-judgment interest thereon is waived. The determination not to impose a civil penalty and to waive payment of the disgorgement and pre-judgment interest is contingent upon the accuracy and completeness of Defendant's Statement of Financial Condition. If at any time following the entry of this Final Judgment the Commission obtains information indicating that Defendant's representations to the Commission concerning his assets, income, liabilities, or net worth were fraudulent, misleading, inaccurate, or incomplete in any material respect as of the time such representations were made, the

Commission may, at its sole discretion and without prior notice to Defendant, petition the Court for an order requiring Defendant to pay the unpaid portion of the disgorgement, pre-judgment and post-judgment interest thereon, and the maximum civil penalty allowable under the law. In connection with any such petition, the only issue shall be whether the financial information provided by Defendant was fraudulent, misleading, inaccurate, or incomplete in any material respect as of the time such representations were made. In its petition, the Commission may move this Court to consider all available remedies, including, but not limited to, ordering Defendant to pay funds or assets, directing the forfeiture of any assets, or sanctions for contempt of this Final Judgment. The Commission may also request additional discovery. Defendant may not, by way of defense to such petition: (1) challenge the validity of the Consent or this Final Judgment; (2) contest the allegations in the Complaint filed by the Commission; (3) assert that payment of disgorgement, pre-judgment and post-judgment interest or a civil penalty should not be ordered; (4) contest the amount of disgorgement and pre-judgment and post-judgment interest; (5) contest the imposition of the maximum civil penalty allowable under the law; or (6) assert any defense to liability or remedy, including, but not limited to, any statute of limitations defense.

VI.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Consent is incorporated herein with the same force and effect as if fully set forth herein, and that Defendant shall comply with all of the undertakings and agreements set forth therein.

XI.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that this Court shall retain jurisdiction of this matter for the purposes of enforcing the terms of this Final Judgment.

VII.

There being no just reason for delay, pursuant to Rule 54(b) of the Federal Rules of Civil Procedure, the Clerk is ordered to enter this Final Judgment forthwith and without further notice.

Dated: 1 May, 2008

UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA

SECURITIES AND EXCHANGE COMMISSION,		
Plaintiff,	:	
v.	:	**CIVIL ACTION FILE**
WILLIAM P. SAUER	:	**NO. _____**
JAMES M. JORDAN, and	:	
PHIL D. KERLEY,	:	
Defendants.		

COMPLAINT FOR INJUNCTIVE AND OTHER RELIEF

Plaintiff, Securities and Exchange Commission ("Commission"), files this complaint and alleges that:

OVERVIEW

1. William P. Sauer ("Sauer"), James M. Jordan ("Jordan") and Phil D. Kerley ("Kerley"), each fraudulently sold large amounts of the securities issued in connection with two Ponzi schemes, ETS Payphones, Inc. ("ETS"), and Global Telelink Services, Inc. ("GTS"). Sauer and Kerley also fraudulently sold the securities of Global Contact Corporation ("GCC"), a corporation controlled by GTS. The securities were sold primarily to elderly investors.

2. Each investment program purported to sell a pay telephone or other piece of equipment to the investor, and to lease the equipment back from the investor in exchange for a periodic return to be paid to the investor. The ETS, GTS and GCC investment agreements were substantially similar in structure, although each investment had a different purchase price and promised investors a slightly different return varying from 14 percent to 15 percent. GTS and GCC promised investors a percentage of the revenue from their device in addition to the fixed monthly payment.

3. From 1998 until September 2000, Jordan and his agents, including Sauer and Kerley, sold more than $84 million of the ETS payphone investments at prices between $5,000 and $7,000 per unit.

4. Beginning in November 1999 until at least June 2000, Jordan and his agents, including Sauer and Kerley, sold more than $10 million of the GTS investments. Beginning in August 2000 and continuing until GTS and GCC were enjoined on March 9, 2001, Sauer and his agents, including Kerley, sold approximately $2

million of GCC investments.

5. ETS, GTS and GCC were Ponzi schemes, which depended on the sale of new investments in order to meet their current financial obligations, such as investor lease payments and refunds. Jordan, Sauer and Kerley knew, or were severely reckless in failing to discover, that ETS, GTS and GCC were functioning as Ponzi schemes.

6. Jordan, Sauer and Kerley knew, or were severely reckless in not knowing, that their representations that ETS, GTS and, in the case of Sauer and Kerley, GCC, were safe investments and that ETS, GTS and GCC were profitable companies, were false.

7. Defendants Jordan, Sauer and Kerley, by virtue of their conduct, directly and indirectly, have engaged, and unless enjoined will engage, in transactions, acts, practices and courses of business that have constituted and will constitute violations of Sections 5(a), 5(c) and 17(a) of the Securities Act of 1933 ("Securities Act") [15 U.S.C. §§ 77e(a), 77e(c) and 77q(a)], and Sections 10(b) and 15(a) of the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. § 78j(b) and 15 U.S.C. § 78o(a)] and Rule 10b-5 [17 C.F.R. § 240.10b-5] promulgated thereunder.

JURISDICTION AND VENUE

8. The Commission brings this action pursuant to Sections 20(b) and 20(d) of the Securities Act [15 U.S.C. §§ 77t(b) and 77t(d)], and Sections 21(d) and 21(e) of the Exchange Act [15 U.S.C. §§ 78u(d) and 78u(e)], to enjoin the defendants from engaging in the transactions, acts, practices and courses of business alleged in this complaint, and transactions, acts, practices and courses of business of similar purport and object, for disgorgement of illegally obtained funds and other equitable relief, and for civil money penalties.

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

10. The defendants, directly and indirectly, made use of the mails, the means and instruments of transportation and communication in interstate commerce, and the means and instrumentalities of interstate commerce in connection with the transactions, acts, practices and courses of business alleged in this complaint.

11. Certain of the transactions, acts, practices and courses of business constituting violations of the Securities Act and the Exchange Act occurred within the Northern District of Georgia. Defendants Jordan and Sauer reside in the Northern District of Georgia. Defendants Jordan, Sauer and Kerley have solicited investors in the Northern District of Georgia.

12. The defendants, unless restrained and enjoined by this Court, will continue to engage in the transactions, acts, practices and courses of business alleged in this complaint, and in transactions, acts, practices and courses of business of similar purport and object.

DEFENDANTS

13. James M. Jordan, age 69, resides in Cartersville, Georgia. Jordan has never been registered with the Commission as a broker or dealer nor has he ever been associated with a registered broker or dealer.

14. William P. Sauer, age 56, resides in Marietta, Georgia. Sauer has never been registered with the Commission as a broker or dealer nor has he ever been associated with a registered broker or dealer.

15. Phil D. Kerley, age 59, resides in Greenville, North Carolina. He has never been registered with the Commission as a broker or dealer nor has he ever been associated with a registered broker or dealer.

FACTS

The ETS Investment Scheme

16. From prior to September 1998 through September 10, 2000, ETS offered and sold to the public investments consisting of a pay telephone, a site location, a lease/back agreement, and a buy/back agreement. The ETS investments were ultimately sold to more than 16,000 investors. ETS filed a petition under Chapter 11 of the Bankruptcy Code in September 2000. ETS was subsequently enjoined from committing violations of the registration and antifraud provisions of the federal securities laws by the United States District Court for the Northern District of Georgia.

17. Beginning on or about September 1, 1998 until on or about September 10, 2000, Jordan, through BEE Communications, Inc. ("BEE"), marketed ETS payphone investments through a network of insurance salesmen and financial planners in 29 states. While Jordan managed BEE, agents working for him, including Sauer and Kerley, sold over $84 million of ETS payphone investments.

18. While ETS purportedly offered three basic programs to payphone purchasers, Jordan, Sauer and Kerley recommended the program called the Payphone Equipment Lease Program ("lease program"). Virtually all investors who purchased ETS payphones subscribed to the lease program.

19. Under the lease program, the investor purchased a payphone for $6,750, for example, and agreed to lease the payphone back to ETS for a period of sixty months. ETS agreed to pay the investor a lease payment of $82 per month per unit over the sixty-month period. The lease payments purportedly represented a 14 percent annual return to the investor, and were to be paid regardless of the revenue obtained from the specific payphone owned by the investor.

20. At the end of the sixty-month lease term, investors had the option of renewing the lease or selling the payphone back to ETS for the full purchase price.

21. Jordan, Sauer and Kerley sold the payphone lease program to older and retired investors as a passive investment that would increase the income the investor was receiving on money held in certificates of deposit, bonds or retirement accounts.

22. ETS paid distributors, including Jordan, commissions totaling approximately 25 percent of the purchase price, to market the ETS payphone investments.

23. Jordan paid BEE's sales agents, including Sauer and Kerley, between 12 percent and 18 percent in commissions on their ETS sales depending on the volume of units they sold. Jordan kept the balance of the commission spread.

24. Sauer sold more than $1.4 million of ETS investments and earned commissions from those sales of more than $250,000.

25. Kerley sold more than $1 million of ETS investments.

26. Jordan's company, BEE, and Kerley, among others, were the subjects of a North Carolina cease-and-desist order issued on May 11, 2000 in connection with the sale of ETS payphones in North Carolina. That order described the ETS payphone investment as a security. The order stated (a) that ETS had sustained operating losses since its inception; (b) that ETS historically generated a substantial portion of its cash receipts from payphone sales rather than from operating payphones; and (c) that ETS would have difficulty meeting its obligations to investors if it was unable to generate revenue from payphone sales.

27. Jordan persisted in selling ETS investments until September 2000, despite the fact that the North Carolina cease-and-desist order issued against ETS, BEE and Kerley, stated that the ETS lease program was an unregistered security and that ETS would have difficulty meeting its obligations to investors if it was unable to generate revenue from payphone sales. He failed to disclose the North Carolina cease-and-desist order to his sales agents or to prospective investors.

28. Jordan, Sauer and Kerley provided investors with sales materials prepared by BEE ("sales materials") and a "Basic Disclosure Document Presented by ETS Payphones, Inc." (the "disclosure document").

29. The sales materials emphasized the high fixed return, security and liquidity of the lease program and described it as a suitable investment for self-directed IRAs. In addition, the materials represented to investors that the investors would have no active responsibilities for the operation of the equipment.

30. The sales materials that Jordan prepared for his agents represented that the ETS payphone investment was a safe investment and that ETS was a profitable, fast growing company.

31. The sales materials that Jordan, Sauer and Kerley gave to investors also claimed that ETS would repurchase the equipment for the original purchase price at the owner's request or at the end of five years. Investors were told that ETS could afford to repurchase the equipment for its full purchase price because the site location of the payphone made it valuable at the end of the lease.

32. The selling brochure included general information about the payphone industry and included discussions about the "profitability" of payphones. The selling brochure contained statements in bold print such as "watch the profits add up" and "why are pay phones so profitable."

33. The BEE sales materials included a page titled "CDs or Payphones, You Decide" that compared the ETS investments to a certificate of deposit. This sales tool, which Sauer and Kerley often discussed with investors, emphasized the higher monthly income from the payphone lease and claimed that the payphone lease offered similar safety and greater liquidity than a certificate of deposit.

34. In fact, ETS was a Ponzi scheme, which is a scheme where returns are paid to investors from monies contributed by later investors.

35. ETS continually lost money on its pay telephone operations, and specifically lost more than $33 million during the first six months of 2000.

36. Jordan knew that ETS was a Ponzi scheme. Jordan had actual knowledge of

the financial condition of ETS. Jordan received copies of ETS financial statements and discussed them with ETS management. The ETS financial statements revealed that as of December 31, 1998, March 31, 1999, and June 30, 2000, ETS, which had no other business operations, was in a precarious financial situation and that its payphone operations were incurring large losses and were not capable of sustaining the business without infusions of money from new investors.

37. For example, ETS financial statements prepared in accordance with generally accepted accounting principles revealed that ETS had a stockholders' deficit of $24,493,531 at March 31, 1999 and that ETS had a net loss from operations of $32,033,347 for the fifteen-month period ending March 31, 1999.

38. Investors and prospective investors were not provided with ETS financial statements. The ETS and BEE sales materials did not contain ETS financial statements and omitted to disclose the 25 percent commission rate ETS paid to the sales agents.

39. Jordan saw ETS's financial statements and knew that ETS was losing substantial amounts of money and was not profitable. He omitted to disclose this information to his sales agents and affirmatively misrepresented to agents and investors that the ETS investment was safe and that ETS was profitable.

40. Sauer and Kerley took no steps to verify the accuracy of ETS's claims about its profitability or the safety of the payphone investment. They also made no effort to verify that the examples ETS provided to illustrate the revenue and profit from a `typical' payphone were accurate. They had no reasonable basis for these claims that they made to investors and were severely reckless in doing so.

41. Jordan, Sauer and Kerley knew that after paying commissions, ETS received approximately $5,062.50 from each payphone sold. They also knew that ETS was obligated to pay the monthly return for sixty months plus pay the full $6,750 purchase price at the end of the lease term.

42. Thus, in order to generate the profits that were promised to investors, ETS had to earn 25.64 percent on the money it received from investors after selling commissions were deducted from the sales price.

43. Jordan, Sauer and Kerley knew that the 25 percent commission rate was important information, which potential investors' could use to evaluate ETS's ability to meet its financial commitments to investors.

44. Jordan, Sauer and Kerley knew, or were severely reckless in not knowing, that because of the high commission rate ETS paid for the sale of its payphones, ETS's claims about its profitability and ability to pay investors may not have been accurate.

45. Jordan knew and failed to disclose to investors the fact that if a significant number of investors were to exercise their buy-back options or request refunds at or near the same time period, ETS did not have the cash to make such payments. Sauer and Kerley made no effort to determine whether ETS could satisfy its buy-back obligations. Sauer and Kerley were severely reckless in not making this inquiry.

46. The lease program units are securities. ETS has never filed a registration statement with the Commission in connection with the offer and sale of these securities. No exemption from registration is applicable.

47. Jordan, Sauer and Kerley used the mails and other jurisdictional means to market the ETS investments.

The GTS Investment Program

48. From November 1999 through March 8, 2001, GTS offered telephone "gateway" switch investments ("gateway investments") to the general public. GTS was subsequently enjoined from committing violations of the registration and antifraud provisions of the federal securities laws by the United States District Court for the Northern District of Georgia. Until July 2000, Jordan sold gateway investments through BEE, through another entity that he controlled and through his sales agents, including Sauer and Kerley.

49. In explaining its gateway switch to investors, GTS and its sales agents, including Jordan, Sauer and Kerley, explained that its long-distance customers would dial a local number in their area and would be connected to a nearby gateway switch. The gateway would convert the call into data packets that would be routed to a gateway switch at the call destination over the Internet, where the data packets would be re-assembled and then delivered to the call destination through local phone lines. According to GTS, using the Internet instead of the telephone network to carry calls from the originating gateway to a gateway at the call destination would result in a substantial reduction in the cost of the call.

50. GTS prepared a promotional video to show to sales agents and prospective investors that illustrated and explained the long distance network, which GTS had purportedly created with its gateway switches. That video showed the GTS network as an operating long distance network. In addition to illustrating its technology as an operating long-distance network, the video represented that GTS was "[t]he first company to have a dynamic routing technology in place."

51. In fact, GTS deployed fewer than 50 of the more than 200 gateways sold. Most of deployed gateways were never operational. Moreover, GTS's network never operated as represented to investors, never operated commercially and never was developed to the point that customers could be billed for the calls they made. GTS never developed or acquired the billing software required to make even the few gateways GTS eventually deployed commercially functional.

52. The gateway investments, which were structured substantially like the ETS leaseback agreements, were offered in units that included a telephone switch, a site location, a lease/back agreement, and a buy/back agreement.

53. GTS offered gateway switches to investors for $27,000 or $54,000, with the more expensive switch purportedly able to handle more traffic. In fact, because of problems with the technology, the more expensive switches could not handle more traffic than the less expensive switches.

54. The GTS gateway investment lease program that Jordan, Sauer and Kerley sold to investors provided that upon purchasing the switch, the investor leased it back to GTS on a 48-month lease. In return for leasing back the switch, the investor was to receive monthly lease payments at a rate of 14 or 15 percent per year ($315 or $675 per month, depending on the switch), and a percentage of the revenues on calls made through the originating gateway.

55. GTS also promised investors one-half percent of gross revenue from the $27,000 switch or one percent of the gross revenues from the $54,000 switch.

56. Under the gateway lease program, GTS and its sales agents, including Jordan, Sauer and Kerley, represented to investors that it would manage the operations of the switches. GTS was to perform all services in connection with the selection, installation and management of the switch. The investor was purportedly to receive passive income.

57. Pursuant to at least some of the leases, the investor retained the right to liquidate the gateway investment at any time, but a penalty would be assessed based upon the time remaining on the lease.

58. GTS, through Jordan, Sauer and Kerley and others, offered two other programs in connection with the gateway investments. Both of those alternatives required the investor to manage the switch, which was not realistically possible. No investors chose either of those options.

59. Jordan, Sauer and Kerley did not see or review GTS financial statements and took no action to determine whether GTS could keep its commitment to investors, even after learning facts that raised serious doubts about GTS's ability to meet those commitments. Jordan, Sauer and Kerley had no reasonable basis to believe that the GTS and GCC investments were safe, liquid or that the companies were profitable and were extremely reckless by representing such claims to investors.

60. Jordan, Sauer and Kerley provided investors with GTS sales materials that projected substantial additional profits to investors depending on the volume of long distance service that originated from each particular switch. Jordan, Sauer and Kerley were severely reckless in providing the materials containing those representations to investors, when Jordan, Sauer and Kerley had taken no steps to determine if the representations were true.

61. GTS and later GCC each used sales materials, copied from those Jordan produced for ETS sales agents, that compared the respective investments to a certificate of deposit. The materials represented that the GTS and GCC investments offered safety, a higher rate of return and greater liquidity than a certificate of deposit. Jordan, Sauer and Kerley provided these materials to potential investors when they knew, or were extremely reckless in not knowing, that these representations were false.

62. Because Jordan, Sauer and Kerley had made no reasonable effort to determine whether the representations were true, Jordan, Sauer and Kerley knew, or were severely reckless in not knowing, that their representations to investors about profits to be generated from the investors' switches were false.

63. The GTS documents that Jordan, Sauer and Kerley provided to investors and the initial GCC documents Sauer and Kerley provided to investors represented that GTS or GCC would deposit sufficient funds into a "sinking fund" to provide for the return of investment.

64. In May 2000, Jordan, Sauer and Kerley learned that the president of GTS had lost more than $100,000 of the sinking fund through a series of stock investments. Jordan, Sauer and Kerley had told investors that the sinking fund would be invested in an interest bearing account.

65. Jordan, Sauer and Kerley failed to disclose to previous or subsequent investors or prospective investors that the president of GTS had lost more than $100,000 of the GTS sinking fund in the stock market.

66. By May 2000, Jordan's agents had sold more than 100 gateway switches to investors.

67. In May 2000, Jordan, Sauer and Kerley learned that GTS was a Ponzi scheme and that GTS had not installed any gateway switches and had no source of funds, other than money raised from new investors, to pay its commitments to earlier investors.

68. After he learned that GTS had not installed any switches, Jordan insisted that GTS begin to install the gateway switches that had already been sold. Nonetheless, Jordan and his agents, including Sauer and Kerley, continued selling the gateways.

69. Despite knowing that GTS never marketed long distance service through its network and never generated any revenue from its purported network of gateway switches, Jordan, Sauer and Kerley continued showing prospective investors the GTS promotional video, which represented that the GTS network was fully developed and operational.

70. Jordan, Sauer and Kerley knew or were extremely reckless in not knowing, that GTS had no revenue other than what it received from the sale of gateways, that GTS had not completed the development of its product and that as a consequence GTS could not make the payments it promised investors unless it continued to raise money from new investors. They failed to disclose those facts to prospective investors.

71. By June 2000, when GTS had only installed fewer than 10 of the more than 150 gateway switches sold to investors, Jordan returned some of the funds he was holding from GTS sales to investors and ceased marketing the GTS investment contracts because he was concerned that GTS had no means to pay investors except by selling more switches.

72. Jordan told his sales agents, including Sauer and Kerley, that he had stopped selling the gateway switches because GTS had not installed most of the devices that had been sold and had no revenue to pay its commitments to the purchasers of that equipment.

73. After learning from Jordan that GTS had failed to install the vast majority of the switches it had sold to investors, Sauer and Kerley sold switches to investors whose money had been returned, without explanation, by Jordan. They did not disclose to the investors that GTC had failed to install switches and had no revenue. Shortly thereafter, GTS discontinued further gateway installation and changed its business plan to the GCC investment described below.

74. Jordan received 25 percent of the sales price for each switch that was sold. He paid salesmen in his organization, like Sauer and Kerley, between 16% and 18% of the sales price and kept the balance for himself.

The GCC Call Center Program

75. In August 2000, shortly after Jordan stopped selling gateway switches, GTS began diverting funds from GTS investors to purchase the assets and lease of a defunct telephone call center. 76. A call center is a telephone room that is equipped to handle telephone inquiries on behalf of its customers.

77. In the beginning of August 2000, GTS began selling and leasing back call center stations in a format similar to that used for the ETS and GTS investments. A call center station is essentially a workstation in a call center.

The units sold to investors ("call center investments") included a call center station to be purchased by the investor, and a leaseback agreement between the investor and GCC.

78. Sauer, through a corporation he created and controlled, took over the marketing of the GCC call center investment. Sauer and agents working through him, including Kerley, began selling the GCC investment. The stations were sold for $9,500 per unit and were leased back to GCC in a format similar to that used by GTS for the switches.

79. Sauer and Kerley knew or were severely reckless in not knowing that GTS used money raised from GTS investors to purchase the GCC demonstration call center. They failed to disclose that fact to GTS investors or subsequent GCC investors.

80. Sauer and Kerley promised GCC investors a fixed lease payment, plus one half percent or one percent of the revenues from the station, with the higher rate of return for investors who purchased five or more stations.

81. After the commencement of the scheme, the format was changed so that the selling agent purchased the station using funds obtained from the investor. The investor received a purportedly secured note from the selling agent that entitled the investor to a portion of the selling agent's principal and interest at a rate of 16 percent per year, paid monthly for 48 months.

82. The note was purportedly secured by a security interest filing on the workstation equipment. No such filings were made.

83. Although GCC sold more than 120 stations, GCC only established a demonstration call center with 44 stations. Most of the call center stations in the demonstration center never had personnel assigned to them, although after January 2001, a few of the call center seats were manned to solicit real estate business, but never generated any revenue for the company.

84. GCC was a continuation of the GTS Ponzi scheme. Payments to investors and other creditors and for business expenses were made using funds from later investors.

85. Investors in the call center lease program had no active role in the management of the call centers. Investors were to receive passive income from the investment.

86. Jordan, Sauer and Kerley did not disclose the high commission rates GTS or, in the case of Sauer and Kerley, GCC paid to sales agents, despite knowing, or being severely reckless in not knowing, that the commission rate was high and significantly impacted the ability of GTS, and later GCC, to honor the commitments made to investors.

87. Sauer and Kerley knowingly or with severe recklessness sold the GCC investment program as a safe investment when they had made no effort to determine the financial condition of GCC or whether it had any revenues from operations, and when they knew that GCC was an offshoot of the GTS Ponzi scheme and was using GTS investors' funds to operate.

88. Kerley was extremely reckless in selling the GTS and GCC investments, which he knew were structured almost identically to the ETS investment, after being subject to a North Carolina cease-and-desist order in May 2000 that ordered him to cease and desist from selling unregistered securities and to cease making misrepresentations in connection with those sales, and which

contained facts from which he could conclude that ETS was a Ponzi scheme.

89. Kerley failed to disclose the cease-and-desist order to subsequent investors and prospective investors.

90. After September 2000, Sauer knew, or was severely reckless in not knowing that the GCC program was an unregistered securities offering and a Ponzi scheme, but nonetheless continued to sell the GCC investment through his agents without disclosing those facts to investors. Sauer was advised by an attorney that the GCC program was a security, but he continued to process investments for Kerley.

91. The investments offered in the GTS gateway program and the GCC Call Center lease program are securities.

92. No registration statement has been filed with the Commission in connection with the offer and sale of the GTS and GCC investment contracts and notes. No exemption from registration is applicable.

93. Jordan, Sauer and Kerley used the mails and other jurisdictional means to market the GTS and GCC investments.

94. By virtue of the conduct described above, Jordan, Sauer and Kerley engaged in business as broker-dealers and induced and attempted to induce the purchase and sale of securities. Jordan, Sauer and Kerley were not registered with the Commission as brokers or dealers, and were not associated with any registered broker or dealer.

95. The businesses of Jordan, Sauer and Kerley were not exclusively interstate.

COUNT I - FRAUD

Violations of Section 17(a)(1) of the Securities Act [15 U.S.C. § 77q(a)(1)]

96. Paragraphs 1 through 95 are restated and incorporated herein by reference.

97. From on or about September 1, 1998 until in or about July 2000, defendants Jordan, Sauer and Kerley, and from July 2000 continuing until March 9, 2001, Sauer and Kerley, singly and in concert, in the offer and sale of securities, by the use of means and instruments of transportation and communication in interstate commerce and by use of the mails, directly and indirectly, employed devices, schemes and artifices to defraud purchasers of such securities, all as more particularly described above.

98. The defendants knowingly, intentionally, and/or recklessly engaged in the aforementioned devices, schemes and artifices to defraud, made untrue statements of material facts and omitted to state material facts, and engaged in fraudulent acts, practices and courses of business. In engaging in such conduct, the defendants acted with scienter, that is, with intent to deceive, manipulate or defraud or with severe reckless disregard for the truth.

99. By reason of the foregoing, defendants Jordan, Sauer and Kerley have violated Section 17(a)(1) of the Securities Act [15 U.S.C. § 77q(a)(1)].

COUNT II - FRAUD

Violations of Sections 17(a)(2) and 17(a)(3) of the Securities Act [15 U.S.C. §§ 77q(a)(2) and 77q(a)(3)]

100. Paragraphs 1 through 95 are restated and incorporated herein by reference.

101. From September 1, 1998 until in or about July 2000, defendants Jordan, Sauer and Kerley, and from August 2000 until GTS and GCC were enjoined on March 9, 2001, Sauer and Kerley, in the offer and sale of securities, by use of means and instruments of transportation and communication in interstate commerce and by use of the mails, directly and indirectly:

(a) obtained money and property by means of untrue statements of material facts and omissions to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; and

(b) engaged in transactions, practices and courses of business which operated and would operate as a fraud and deceit upon the purchasers of such securities, all as more particularly described above.

102. By reason of the foregoing, defendants Jordan, Sauer and Kerley have violated Sections 17(a)(2) and (3) of the Securities Act [15 U.S.C. §§ 77q(a)(2) and 77q(a)(3)].

COUNT III - FRAUD

Violations of Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5 Thereunder [17 C.F.R. § 240.10b-5]

103. Paragraphs 1 through 95 are restated and incorporated herein by reference.

104. From September 1, 1998 until in or about July 2000, defendants Jordan, Sauer and Kerley, and from August 2000 until GTS and GCC were enjoined on March 9, 2001, Sauer and Kerley, in connection with the purchase and sale of securities, by the use of means and instrumentalities of interstate commerce and by use of the mails, directly and indirectly:

(a) employed devices, schemes, and artifices to defraud;

(b) made untrue statements of material facts and omitted to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; and

(c) engaged in acts, practices, and courses of business which operated as a fraud and deceit upon persons, all as more particularly described above.

105. The defendants knowingly, intentionally, and/or with severe recklessness, engaged in the aforementioned devices, schemes and artifices to defraud, made untrue statements of material facts and omitted to state material facts, and engaged in fraudulent acts, practices and courses of business. In engaging in such conduct, the defendants acted with scienter, that is, with intent to deceive, manipulate or defraud or with severe reckless disregard for the truth.

106. By reason of the foregoing, defendants Jordan, Sauer and Kerley have violated Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5].

COUNT IV - UNREGISTERED OFFERING OF SECURITIES

Violations of Sections 5(a) and 5(c) of the Securities Act [15 U.S.C. §§ 77e(a) and 77e(c)]

107. Paragraphs 1 through 95 are restated and incorporated herein by reference.

106. No registration statement has been filed or is in effect with the Commission pursuant to the Securities Act and no exemption from registration exists with respect to the securities described herein.

107. From September 1, 1998 until in or about July 2000, defendants Jordan, Sauer and Kerley, and from August 2000 until GTS and GCC were enjoined on March 9, 2001, Sauer and Kerley, singly and in concert, have:

(a) made use of the means or instruments of transportation or communication in interstate commerce or of the mails to sell securities, through the use or medium of a prospectus or otherwise;

(b) carried securities or caused such securities to be carried through the mails or in interstate commerce, by any means or instruments of transportation, for the purpose of sale or for delivery after sale; and

(c) made use of the means or instruments of transportation or communication in interstate commerce or of the mails to offer to sell or offer to buy securities, through the use or medium of any prospectus or otherwise, without a registration statement having been filed with the Commission as to such securities.

108. By reason of the foregoing, defendants Jordan, Sauer and Kerley, directly and indirectly, singly and in concert, have violated Sections 5(a) and 5(c) of the Securities Act [15 U.S.C. §§ 77e(a) and 77e(c)].

COUNT V - EFFECTING SECURITIES TRANSACTIONS FOR THE ACCOUNTS OF OTHERS WITHOUT BEING REGISTERED WITH THE COMMISSION AS A BROKER-DEALER

Violations of Section 15(a) of the Exchange Act [15 U.S.C. § 78o(a)]

109. Paragraphs 1 through 95 are hereby restated and incorporated by reference.

110. From September 1, 1998 until in or about July 2000, defendants Jordan, Sauer and Kerley, and from August 2000 until GTS and GCC were enjoined on March 9, 2001, Sauer and Kerley, used the mails and the means and instrumentalities of interstate commerce, to effect transactions in, or to induce or attempt to induce the purchase or sale of securities, without registering with the Commission as a broker, as more particularly described above.

111. By reason of the transactions, acts, omissions, practices and courses of business set forth above, defendants Jordan, Sauer and Kerley have violated Section 15(a) of the Exchange Act [15 U.S.C. § 78o(a)].

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Securities and Exchange Commission respectfully prays for:

I.

Findings of Fact and Conclusions of Law pursuant to Rule 52 of the Federal Rules of Civil Procedure, finding that the defendants committed the violations alleged herein.

II.

Permanent injunctions, restraining and enjoining defendants, their officers, agents, servants, employees, attorneys, and those persons in active concert or participation with them who receive actual notice of the order of injunction, and each of them, whether as principals or as aiders and abettors, from violating Sections 5(a), 5(c) and 17(a) of the Securities Act [15 U.S.C. §§ 77e(a), 77e(c) and 77q(a)], and Sections 10(b) and 15(a) of the Exchange Act [15 U.S.C. §§ 78j(b) and 78o(a)] and Rule 10b-5 [17 C.F.R. § 240.10b-5] promulgated thereunder.

III.

An order requiring accountings by defendants of the use of proceeds of the sales of the securities described in this Complaint and the disgorgement of all ill-gotten gains or unjust enrichment with prejudgment interest, to effect the remedial purposes of the federal securities laws.

IV.

An order pursuant to Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)] and Section 21(d)(3) of the Exchange Act [15 U.S.C. § 78u(d)(3)] imposing civil penalties against defendants.

V.

Such other and further relief as this Court may deem just, equitable, and appropriate in connection with the enforcement of the federal securities laws and for the protection of investors.

DATED: August 20, 2002

RESPECTFULLY SUBMITTED,

_____
William P. Hicks
District Trial Counsel
Georgia Bar No. 351649
Telephone: (404) 842-7675

_____
Alex Rue
Senior Trial Counsel
Georgia Bar No. 618950
Telephone: (404) 842-7616

Counsel for Plaintiff
Securities and Exchange Commission
3475 Lenox Road, N.E., Suite 1000
Atlanta, Georgia 30326-1232

http://www.sec.gov/litigation/complaints/comp17687.htm

Home | Previous Page

Modified: 08/20/2002