

TESTIMONY OF KARL SPICER

BEFORE THE UNITED STATES SENATE SPECIAL COMMITTEE ON AGING

APRIL 30, 2014

Thank you Chairman Nelson, Ranking Member Collins, and distinguished members of the Special Committee on Aging for this opportunity to testify at this important hearing on the protection of the elderly.

My name is Karl Spicer and, as a result of my participation in a South Florida-based commodities fraud scheme, I am a convicted felon. Consequently, I have first-hand knowledge of the deceptive methods employed by scam artists to entice unsuspecting and vulnerable victims to part with their hard earned savings in fraudulent “investment opportunities.”

As this Special Committee is uniquely aware, because of their accumulated assets, the elderly are particularly attractive targets for a wide array of fraudsters, regardless of the specific nature of the investment vehicle being offered to the public. From my vantage point, it is clear that the elderly need to be well-educated and equipped with the necessary skills to protect themselves from financial exploitation.

My purpose in testifying today is to provide the Special Committee with some measure of insight into the specific methods used by trained salesmen to deceive the investing public. I wish to impress upon the Special Committee that my willingness to speak candidly about the so called “tools of the trade” is based upon a clear recognition of the magnitude of the monetary and emotional harm that my conduct has caused to the victims in my specific case. The recognition of the harm that I caused is further compounded by the reality that, in all likelihood, I will never be able to provide the

victims with any appreciable measure of relief. It is my hope that, by testifying about the pitfalls in succumbing to “high pressure” sales tactics, I can help prevent elderly victims from being ensnared in ongoing or new investment scams. I wish to invite the Special Committee to probe my knowledge of the tactics employed in such scams and to specifically delve into the nature and degree of my conduct in the specific scheme for which I stand convicted.¹

Briefly, by way of background, I am thirty-seven years old and I was born in Beckley, West Virginia. My younger sister and I were raised by our mother, a single mom who was employed in the health care industry. In 1994, when I was eighteen, our family moved to South Florida so that my mother could take advantage of a new employment opportunity. Because of the long hours required by my mother’s new position, I raised my younger sister during the years she attended middle school. My sister eventually attained her law degree at a prestigious university and is now a practicing attorney.

In approximately 2000, after working a number of years in the construction industry, I became a licensed commodities broker in South Florida. After cycling through a number of questionable firms, some of which came under the scrutiny of the Commodities Futures Trading Commission, I became steeped in the methods used to sell

¹ The Special Committee should be aware that at no time during this hearing will I be invoking my Fifth Amendment protection against self-incrimination. In fact, I wish to inform the Special Committee that, based upon the advice of my counsel, Christopher Bruno, Esq. and James Sallah, Esq., both of whom are here with me today, I am knowingly and voluntarily waiving my Fifth Amendment Rights under the U.S. Constitution. Consequently, it is my goal to not merely respond in a cursory fashion to isolated questions; rather, I will look to the content of the specific line of inquiry – the spirit of the question – in order to provide the Special Committee with as much relevant information as possible. It is respectfully submitted that my statements made during this hearing today will be truthful, decisive and made without hesitancy.

investment opportunities, as well as the techniques employed to offset investor efforts to delay or avoid investment commitments. Throughout the period of time that I was a commodities broker in South Florida I earned commissions in the approximate amount of \$1,500,000.

Eventually, in about March 2012, I became affiliated with a with a South Florida commodities firm known as PMCO Services, Inc. From that period of time through February 2013, myself and a number of business associates engaged in a systematic scheme to defraud the investing public through the sale of silver bullion and other precious metals through PMCO. The PMCO scheme involved 150 harmed investors and resulted in approximately \$7,000,000 in losses. As a result of my effort, I earned approximately \$227,000 in commissions from the PMCO scheme. Throughout this time-period, my conduct and that of my business associates was intended to defraud investors who purchased precious metals through the company.

In essence, PMCO salesmen were pitching clients on an opportunity to invest in a “Leveraged Program” for the purported purchase of precious metals. The allure of a leveraged program is specifically designed to entice clients by offering the ability to finance a significant portion of the investment. Consequently, in addition to paying an up-front portion of the investment in the program, investors were also charged finance fees. These fees were not adequately explained to potential clients. Moreover, due to fluctuations in the commodities market, investors could be subject to margin calls which could result in the sale of their existing position or in the payment of additional funds to off-set a deficiency in their account.

As an “introducing broker” in the sale of commodities, PMCO purchased leads from a number of sources, including vendors who regularly secured identifying information from other telemarketing firms or “boiler rooms.” As an introducing firm, PMCO secured an affiliation with an entity known as AmeriFirst Inc., a “clearing firm,” which was required to effectuate the trades and to also ensure the storage of the specific metals that were purportedly purchased by the investor.

In general, after identifying viable candidates from the lead list, a “fronter,” a less experienced salesman, would utilize a devised sales “script” and contact a potential investor in order to gauge potential interest, including an initial assessment of the amount of money the customer could be enticed to committing to the metals program. The fronter would immediately forward to an interested customer a glossy promotional package. Shortly thereafter, a salesman, known as a “closer,” would follow up with the potential investor and impart “new” information which was designed to insure an investment in the metals program. In order to construct a superficial layer of plausible deniability, the new client was directed to the “Compliance Department,” in realty an untrained secretary or other administrative person. The closer would “school” the investor to give appropriate responses during the recorded compliance call, including a confirmation that the client was specifically aware of the risks associated with the highly speculative nature of the leveraged program.

As with any investment scam and in order to effectuate the goals and objectives of the scheme, my associates and I deliberately deceived investors by making a number of affirmative misrepresentations and by also failing to disclose material facts concerning the investment opportunity.

More specifically, we intentionally deceived potential investors into believing that PMCO was a well-established firm located in the financial district in New York City, when in fact the company was located in South Florida. In addition, administrative personnel were also directed to inform inquiring, pre-existing investors that the company was located in New York in order to alleviate any concerns about the legitimacy of the company.

In addition, at the time of the PMCO scheme, my business partner was the subject of an ongoing inquiry conducted by the CFTC concerning his role in another commodities venture. In order to disguise his involvement in PMCO, my business partner used a nominee to conceal his ownership interest in the entity and he also used an alias when interacting with existing clients to further mask his true identity. Although all of the salesmen at PMCO, including myself, knew that my partner was engaging in such conduct, we deliberately failed to disclose such vital information to our clients.

Moreover, in my capacity as an initial salesman, I engaged in a pattern of deliberate and fraudulent conduct in order to entice investors into substantially increasing their positions in the precious metals program. In this regard, I falsely led investors to believe that my partner, the so called highly skilled, head commodities trader at the firm, had just acquired highly relevant information that would have a significant impact on the market. The purpose of this fraudulent misrepresentation was to deceive investors into believing that time was of the essence for them take advantage of a unique investment opportunity. In my experience, the elderly are particularly susceptible to succumbing to “high pressure” sales tactics that emphasize a time-of-the-essence investment decision. Due to the highly effective nature of this sales tactic, the head trader would continue this

pattern of fraudulent conduct by convincing investors to purchase more precious metals. The head trader would continue using similar techniques to reload certain investors throughout the life of the scheme.

Finally, during the first eight months of my affiliation with PMCO, I fully believed that the clearing firm was in fact purchasing the metals on behalf of our clients. However, at the end of 2012, I became aware of a number of unambiguous red flags which established that the clearing firm may have also engaged in fraudulent conduct. Needless to say, I never disclosed to new investors or to pre-existing PMCO investors my suspicions concerning the clearing firm's failure to purchase the metals. Because of my concerns, I left PMCO in early 2013. Although I am not certain, in retrospect, it certainly appears that AmeriFirst was nothing more than a paper entity which essentially never purchased the promised metals.

Immediately upon learning that I was the subject of a criminal indictment filed by the New York County District Attorney's Office, I fully accepted responsibility for my conduct and I also agreed to cooperate against other culpable individuals, including my business partner. Ultimately, I entered a plea of guilty to one count of Grand Larceny in the Second Degree and to one count of participating in a Scheme to Defraud. I am scheduled to be sentenced for my role in the scheme in June 2013.

There can be no doubt that I knew that my conduct in connection with the PMCO venture was not only illegal, but also morally wrong. As a result, I accept full responsibility for my conduct and I know that I alone must face the consequences of my actions.

Thank you again, Senator Nelson for the opportunity to testify today. As I stated earlier, I am certainly willing to answer any questions put forth by the Special Committee.