

STATE OF NORTH CAROLINA



Department of The Secretary of State

In the Matter of:

THE NORTH CAROLINA SECURITIES DIVISION,

Petitioner,

vs.

**JAMES HARVEY MASON;
THE JHM FOREX ONLY POOL (f/k/a THE JHM
FOREX ONLY POOL, LP); and
FOREX TRADING AT HOME (d/b/a "FTAH
PARTNERS");**

Respondents.

**TEMPORARY ORDER TO
CEASE AND DESIST**

FILE NO. 12-SEC-132

PURSUANT TO THE AUTHORITY granted by Chapter 78A of the North Carolina General Statutes (the North Carolina Securities Act) ("Securities Act"), and the rules promulgated thereunder, the Securities Division ("Division") of the Department of the Secretary of State ("Department") has investigated the activities of JAMES HARVEY MASON; THE JHM FOREX ONLY POOL (f/k/a THE JHM FOREX ONLY POOL, LP); and FOREX TRADING AT HOME (d/b/a "FTAH PARTNERS") (collectively "Respondents"), to determine if these Respondents or any one of them, has engaged in, or is about to engage in, any act or practice constituting a violation of the Securities Act or any rule or order thereunder.

THE DIVISION has filed an Administrative Petition against the above-named

Respondents seeking, among other remedies, a temporary and summary Cease and Desist Order as to each Respondent pursuant to the provisions of N.C.G.S. § 78A-47(b)(2).

THE SECRETARY OF STATE, acting by and through her duly authorized Deputy Securities Administrator, from the investigation and the information derived therein, as shown in the Administrative Petition and supported by affidavit, and for the protection and preservation of the public welfare and in the public interest, makes the following:

FINDINGS OF FACT

(1) Respondent JHMFOP is a domestic business entity domiciled in Polk County, North Carolina. JHMFOP transacts business from addresses located in Snow Camp, Graham, Mill Spring, and Hendersonville, North Carolina. JHMFOP operates through a maze of interrelated companies including The JHM Forex Only Pool Irrevocable Trust and JHM Holdings, LLC, all of which are wholly owned and operated by Mason. JHMFOP is an assumed name for the sole proprietorship of Mason.

(2) At no time and in no capacity has JHMFOP been registered pursuant to the provisions of the Securities Act with the Administrator.

(3) Respondent FTAH is a domestic business entity domiciled in Alamance County, North Carolina. FTAH transacts business from two addresses, both of which are located in Graham, North Carolina. Similarly to JHMFOP, FTAH operates through a maze of interrelated companies, including "Forex Trading at Home Association," "Forex Trading at Home Partners," and "FTAH Partners." FTAH is wholly owned and operated by Mason.

(4) At no time and in no capacity has FTAH been registered pursuant to the provisions of the Securities Act with the Administrator.

(5) Respondent Mason is a natural person. Respondent Mason resides at addresses in Graham, North Carolina and transacts business from addresses located in Graham and Mill Spring, North Carolina. Mason transacts securities business with and through JHMFOP and FTAH

(6) At no time and in no capacity has Mason been registered pursuant to the provisions of the Securities Act with the Administrator.

(7) In 2000, Mason was convicted of wire fraud in the U.S. District Court, District of South Carolina, and sentenced to eighteen months imprisonment, *see United States v. Mason*, No. 99-cr-00231-JFA (D.S.C. Feb. 8, 2000), *aff'd* 41 F. App'x 612 (4th Cir. 2002).

(8) Upon information and belief, beginning around July 2010 and continuing through at least December 2012, Mason solicited individuals, including at least one North Carolina resident, to become investors in the JHMFOP investment enterprise. Mason also permitted and encouraged other persons to solicit investors in the JHMFOP pool. Respondents, with Mason orchestrating the enterprise, transacted business into or from North Carolina as securities dealers and securities salesmen.

(9) Based upon these solicitations, at least sixty individuals, including North Carolina residents, invested at least \$1,500,000 with JHMFOP. At least \$1,000,000 of these funds were pooled and placed in a forex trading account in JHMFOP's name.

(10) In or about September 2012, Mason began to solicit individuals directly to become investors in the FTAH investment enterprise. Mason also permitted and encouraged other individuals to solicit investors in the FTAH investment enterprise. Mason marketed FTAH to at least some investors as a trading system, but claimed that the funds used to purchase the trading system would be placed in the FTAH investment pool and used for forex trading. At least

\$136,000 of the funds received from FTAH investors were pooled and placed in a forex trading account in FTAH's name.

(11) In written communications with investors in both the JHMFOP and FTAH investment enterprises, Mason explained how the investment enterprise operated.

(12) The forex transactions conducted by Respondents were entered into on a leveraged or margined basis. The transactions resulted in neither delivery of actual currency within two days nor created an enforceable obligation to deliver between a seller and a buyer that had the ability to deliver and accept delivery, respectively, in connection with their lines of business.

(13) Rather, these forex contracts purportedly remained open from day to day and ultimately were offset without anyone making or taking delivery of actual currency or facing an obligation to do so.

(14) Mason's forex trading resulted in overall losses to investors' monies.

(15) In a document styled "Operations Policies," dated 11 June 2012, which Mason sent to JHMFOP investors, Mason represented that "[f]unds received of account holders are pooled and traded for profit." The "Operations Policies" also required investors, as signatories, to acknowledge that his or her invested funds in JHMFOP "are pooled into Forex trading accounts held at [a futures commissions merchant] and traded by [Mason] for the benefit of the investors...." Respondents also represented that they could guarantee investors' funds. Mason represented to investors that they should consider his assurances "as a written guarantee" that their funds were protected from loss by "either the Fund Managers earnings, or future earnings" or other unidentified assets.

(16) In an email, dated 04 October 2012, to JHMFOP investors, Mason promised investors that if he lived until September 2013, all investors would be able to withdraw their pooled funds.

(17) In an email, dated 09 October 2012, Mason sent to JHMFOP investors, he advised that, among other things, he could “guarantee 100% of investors personally invested capital.”

(18) In that same email, Mason attached a spreadsheet describing expected profits from investments for a period of five years. According to this spreadsheet, an investment of \$5,000 was expected to grow more than 500% annually, and after five years, the investment was expected to be worth more than \$100 million.

(19) Mason made similar representations concerning the FTAH investment enterprise. For example, in a 26 July 2012 email, Mason guaranteed that if purchasers of the trading system, marketed through FTAH, lost money within their first ninety days of trading, he would refund the full purchase price. On 09 September 2012, Mason further represented that his FTAH trading system was so effective that it would make investors “independent” and would help anyone “more than any education they could ever attain.”

(20) In a document styled “Purchase Options,” dated 29 August 2012, which Mason emailed to FTAH investors, Mason promised he “will perform the trading duties” for the investors’ account. He also promised to grow through his trading activities an investor’s \$1,000 deposit into a total of \$4,400 within a time period of 260 trading days, or one year time frame, equal to a 340% annual return.

(21) In a biography Mason provided to investors, he described himself as a former cotton mill manager and owner with over thirty-five years of experience trading commodity futures and options. He failed to disclose both that, in 2000, he was convicted of wire fraud in connection

with certain cotton transactions and that he was sentenced to eighteen months in prison and three years of supervised release.

(22) It is in the public interest of the citizens of North Carolina or for the protection of investors and consistent with the purposes fairly intended by the policy and provisions of Chapter 78A that Respondents be prohibited from violating the provisions of the Securities Act in connection with selling or making offers to sell securities, or buying or soliciting offers to buy securities.

(23) The offer or sale of the investment contract by Respondents as described herein constitutes the “offer” or “sale” of a "security" within the meaning of N.C.G.S. §§ 78A-2(8) and 78A-2(11).

(24) The investment contract security as offered by Respondents as described herein is, and was not, registered with the Division prior to being offered or sold, or both, into or from North Carolina, as required by N.C.G.S. § 78A-24.

(25) By offering and selling the security described herein to the public in North Carolina, Respondents transacted business and acted as “dealers” or “salesman,” or both, within the meaning of N.C.G.S. §§ 78A-2(2) and 78A-2(9).

(26) At all relevant times herein, Respondents were registered neither as a dealer in securities, nor a salesman of, securities as required by N.C.G.S. §78A-36.

(27) Respondents presently continue to have the ability to offer or sell, or both, securities to persons into or from North Carolina in violation of the provisions of N.C.G.S. §§ 78A-24 and 78A-36.

(28) It is in the public interest of the citizens of North Carolina or for the protection of investors public and consistent with the purposes fairly intended by the policy and provisions of

Chapter 78A that each Respondent, any person acting on behalf of each Respondent, or any entity, officer, director, employee or agent of each Respondent, be prohibited from violating the provisions of the Securities Act in connection with selling or making offers to sell securities, buying or soliciting offers to buy securities, or transacting business as a dealer in, or salesman of, securities including, but not limited to, being prohibited from offering to sell or selling the unregistered securities of the Respondents or any other entities under their control and being prohibited from acting as unregistered securities dealers or salesmen.

(29) Respondents' solicitation of investor public poses an immediate and significant danger to the public welfare because the securities offered have not been registered with the Division and Respondents have not registered as a dealer in, or salesman of, securities. Proper registration of securities is an essential safeguard serving to protect the public from securities fraud. Further, the registration of dealers and salesmen, as required by the Securities Act, ensures that persons transacting business in North Carolina are competent and properly authorized to do so.

(30) An immediate Temporary Order to Cease and Desist is necessary and appropriate to address Respondents' violation of the Securities Act. Delay in issuing an order, under N.C.G.S. §47(b)(1) will result in irreparable harm to the public interest by allowing persons to continue to transact business in North Carolina in violation of its laws, and to its citizens in the form of economic loss resulting from investment in securities sold in violation of its laws.

CONCLUSIONS OF LAW

(1) The Secretary has statutory authority pursuant to N.C.G.S. §78A-47(b)(2) to enter and issue a temporary and summary Cease and Desist Order against each Respondent to halt further violations of the Securities Act.

(2) There is reasonable cause to believe each Respondent has engaged, or is about to engage, in any act or practice constituting a willful violation of the Securities Act, specifically N.C.G.S. § 78A-24 and § 78A-36.

(3) There is reasonable cause to believe each Respondent may continue to commit acts and omissions in violation of the Securities Act.

(4) It is necessary and appropriate for the protection and preservation of the public interest or for the protection of investors and consistent with the purposes fairly intended by the policy and provisions of Chapter 78A that each Respondent be summarily ordered to cease and desist from making offers and sales of securities in violation of the Securities Act.

(5) The public interest would be irreparably harmed by the delay inherent in issuing an order under the provisions of N.C.G.S. § 78A-47(b)(1).

NOW, THEREFORE, IT IS ORDERED, pursuant to the authority contained in N.C.G.S. § 78A-47(b)(2), that each Respondent, and any person, employee, officer, director, entity, or independent contractor under the direction or control of any such Respondent, shall immediately cease and desist offering for sale, soliciting offers to purchase, or selling, any security of any issuer, howsoever denominated, including but not limited to the securities of Respondents or other entities under their control, unless and until any such:

- a. Securities have been registered under the provisions of the Securities Act; and
- b. Respondent, and any person or entity under the direction or control of any such Respondent, is properly registered as a securities dealer or salesman under the provisions of the Securities Act.

NOTICE IS HEREBY GIVEN that each Respondent may request a hearing upon this matter by transmitting such request, in writing, to David S. Massey, Deputy Securities

Administrator, Securities Division, Department of the Secretary of State, Post Office Box 29622, Raleigh, North Carolina 27626-0622. A copy of any such request shall be served by first class mail upon Allan C.J. Russ, Deputy Director, Securities Division, Post Office Box 29622, Raleigh, North Carolina 27626-0622. If such a request is made, this matter shall be scheduled for hearing in accordance with Chapter 150B of the North Carolina General Statutes within twenty (20) days after receipt by the Deputy Securities Administrator of the written request. If no request for hearing, other responsive pleading or submission is received by the Deputy Securities Administrator within thirty (30) business days of the receipt of service hereof, this Temporary Order To Cease and Desist shall become final and remain in effect as to each Respondent that fails to request a hearing unless it is modified or vacated by the Secretary of State in her capacity as Administrator of the Securities Act.

WITNESS MY HAND AND THE OFFICIAL SEAL of the North Carolina

Department of the Secretary of State, this the 27th day of March 2013.

Time of entry: 5:18 P.M.



ELAINE F. MARSHALL SECRETARY OF THE
STATE OF NORTH CAROLINA and
SECURITIES ADMINISTRATOR

By: [Signature]
DAVID S. MASSEY
DEPUTY SECURITIES ADMINISTRATOR