



*United States Attorney
Southern District of New York*

FOR IMMEDIATE RELEASE
January 14, 2010

CONTACT: U.S. ATTORNEY'S OFFICE
YUSILL SCRIBNER
REBEKAH CARMICHAEL
JANICE OH
PUBLIC INFORMATION OFFICE
(212) 637-2600

REFCO'S PRINCIPAL OUTSIDE ATTORNEY SENTENCED IN
MANHATTAN FEDERAL COURT TO SEVEN YEARS IN PRISON
FOR \$2.4 BILLION FRAUD

PREET BHARARA, the United States Attorney for the Southern District of New York, announced that JOSEPH P. COLLINS, formerly the principal outside attorney for the defunct financial services company Refco, was sentenced today to seven years in prison for his role in executing Refco's more than \$2.4 billion fraud. COLLINS, 59, of Winnetka, Illinois, was found guilty on July 10, 2009, following a nine-week jury trial of one count of conspiracy, two counts of securities fraud, and two counts of wire fraud in connection with his role in the fraud. The sentence was imposed this morning in Manhattan federal court by United States District Judge ROBERT P. PATTERSON, who also presided over the trial.

According to documents filed in this case, the proof at trial, and statements made in Manhattan federal court:

In August 2004, Thomas H. Lee Partners, L.P., purchased a majority interest in Refco through a \$1.9 billion leveraged buyout ("LBO") transaction. The buyout was financed with approximately \$500 million in cash from Thomas H. Lee Partners, \$600 million in notes Refco sold to private investors, and approximately \$800 million borrowed from a syndicate of banks. In August 2005, Refco conducted an initial public offering ("IPO") of its stock, and Refco's stock was then listed on the New York Stock Exchange. Both the LBO and the IPO took place as a result of a massive fraud scheme to steal more than \$2.4 billion from potential investors and lenders. The scheme was perpetrated by PHILLIP R. BENNETT, former Chief Executive Officer and 50% owner of Refco, and others, with the knowing assistance of COLLINS. As a result of the disclosure of a large related-party debt owed by BENNETT to Refco, Refco went into bankruptcy and its stock was delisted from the New York Stock Exchange only months after the IPO.

Among other things, COLLINS participated in BENNETT's scheme to falsify Refco's financial statements by hiding from the company's auditors an enormous debt owed to Refco by a holding company partially owned by BENNETT. Specifically, on at least 17 different occasions from February 2000 through October 2005, COLLINS (and lawyers at his firm working at his direction) drafted or caused to be prepared documents arranging for the routing, through various third parties, of more than \$5.5 billion in loans from Refco to BENNETT's company. As COLLINS knew, and as reflected in the documents, the loans were made shortly before, and reversed shortly after, Refco's fiscal year- and quarter-ends. During those brief periods, BENNETT used the loans to pay down the debt his company owed to Refco, only to have the debt return once these "Round Trip Loan Transactions" were reversed. This process had the effect of concealing the size of Refco's related-party debt as it made the debt owed by BENNETT's company appear significantly smaller than it really was.

COLLINS also made affirmative misrepresentations and drafted contract terms that misled others to believe BENNETT's holding company owed Refco no more than approximately \$108 million, which COLLINS falsely misrepresented would be repaid by the time the LBO transaction closed. COLLINS knew that BENNETT's holding company actually owed Refco at least \$1 billion as of January 2004, and that even after the LBO, BENNETT's holding company would continue to owe Refco at least \$300 million.

Additionally, COLLINS falsely represented to Thomas H. Lee Partners and others that all material contracts and related-party transactions had been disclosed, while knowing that documents relating to the Round Trip Loan Transactions -- including documents through which Refco guaranteed to third parties the performance of BENNETT's company in amounts totaling billions of dollars -- were never provided to Thomas H. Lee Partners.

COLLINS also agreed with BENNETT to conceal the terms of a 2002 agreement that resulted in the Austrian bank BAWAG having an approximately 47% economic interest in Refco. The terms were concealed because Thomas H. Lee Partners would not pay as much for Refco if had known the terms of the agreement. COLLINS, to achieve this concealment, directed others not to disclose information relating to BENNETT's buyout of BAWAG's interest under the 2002 agreement, and falsely represented to Thomas H. Lee Partners that all material contracts and related party transactions concerning Refco had been disclosed when COLLINS knew that the 2002 agreement had been concealed.

COLLINS also created fraudulent corporate documents for Refco, which he provided to Thomas H. Lee Partners, that additionally concealed from Thomas H. Lee Partners BAWAG's true economic interest in Refco. COLLINS further agreed to mislead Thomas H. Lee Partners and its representatives into believing that Refco possessed approximately \$500 million in excess working capital when he knew that approximately \$390 million of this money was really funded by an overdraft loan from the Austrian bank BAWAG.

* * *

To date, several former executives of Refco have been charged and sentenced for their participation in the fraud:

- On July 3, 2008, BENNETT, 61, of Gladstone, New Jersey, was sentenced to 16 years in prison by United States District Judge NAOMI REICE BUCHWALD. BENNETT pleaded guilty on February 15, 2008, to all 20 charges filed against him.
- On August 7, 2008, TONE N. GRANT, 65, of Chicago, Illinois -- one of the former owners of Refco -- was sentenced to 10 years in prison by Judge BUCHWALD. On April 17, 2008, GRANT was found guilty after trial in Manhattan federal court on all five counts in the Indictment against him.
- On February 20, 2008, ROBERT C. TROSTEN, 40, of Sarasota, Florida -- the former Chief Financial Officer of Refco -- pleaded guilty before Judge BUCHWALD to five counts charged in the Indictment against him. He is scheduled to be sentenced on May 4, 2010.
- On December 19, 2007, SANTO C. MAGGIO, 58, of Naples, Florida -- a former Executive Vice President of Refco and the former President and Chief Executive Officer of Refco Securities LLC, a Refco subsidiary -- pleaded guilty before United States Magistrate Judge RONALD L. ELLIS to a four-count Information. He is scheduled to be sentenced on May 27, 2010.

U.S. Attorney BHARARA stated: "Joseph Collins was more than a corrupt attorney who turned a blind eye to his client's actions. He played an instrumental role in Refco's staggering fraud and epic collapse. In his position both as Refco's long-term counsel and within the legal community, Collins was uniquely placed to lend his hand to truth or treachery. He chose

treachery, and today faces the consequences of his choice. This Office, along with our partners at the U.S. Postal Inspection Service and the SEC, will continue to aggressively pursue those who facilitate financial fraud, whatever their station."

Mr. BHARARA, a member of the President's Financial Fraud Enforcement Task Force, praised the efforts of the United States Postal Inspection Service and the Criminal Investigators of the United States Attorney's Office, and thanked the Securities and Exchange Commission and the Commodity Futures Trading Commission for their assistance in the investigation of this case.

Assistant United States Attorneys CHRISTOPHER L. GARCIA, SHARON COHEN LEVIN, JEFFREY ALBERTS, and AMY LESTER are in charge of the prosecution.

10-014

###