

Prepared Remarks Concerning United States v. Joseph Collins

by

Michael J. Garcia

United States Attorney for the Southern District of New York

New York, New York

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GOOD AFTERNOON.

TODAY WE ANNOUNCE THE INDICTMENT OF JOSEPH COLLINS, A PARTNER WITH THE LAW FIRM MAYER BROWN, FOR HIS ROLE IN THE FRAUD THAT RESULTED IN THE DEMISE OF REFCO, A NEW YORK-BASED FINANCIAL SERVICES FIRM THAT WAS COLLINS'S LONG-TERM CLIENT. HE IS CHARGED WITH INTENTIONALLY FURTHERING THE FRAUD AT REFCO BY TELLING LIES AND DECEPTIVE HALF-TRUTHS, AND OMITTING MATERIAL INFORMATION. HE WAS NOT MERELY A LAWYER WHOSE CLIENT WAS COMMITTING FRAUD AND WHO SHOULD HAVE CAUGHT ON – COLLINS INSTEAD PLAYED AN ACTIVE AND CRUCIAL PART IN PERPETRATING THE REFCO FRAUD.

TWO YEARS AGO THE COUNTRY WITNESSED ONE OF THE SWIFTEST AND MOST SPECTACULAR COLLAPSES OF A PUBLIC COMPANY IN

RECENT MEMORY. WITHIN A WEEK OF THE DISCLOSURE OF CERTAIN ACCOUNTING IRREGULARITIES, REFCO, WHICH WAS ONCE THOUGHT TO BE A BILLION DOLLAR COMPANY, FILED FOR BANKRUPTCY AND THE COMPANY'S CEO, PHILLIP BENNETT, WAS UNDER ARREST.

DURING THE PAST TWO YEARS, THIS OFFICE, ALONG WITH OUR PARTNER AGENCIES, HAS CONTINUED TO INVESTIGATE THOSE RESPONSIBLE FOR THE \$2.4 BILLION FRAUD THAT WAS AT THE CORE OF REFCO'S COLLAPSE, OBTAINING INDICTMENTS NOT ONLY AGAINST BENNETT BUT ALSO AGAINST REFCO'S FORMER CHIEF FINANCIAL OFFICER, ROBERT C. TROSTEN, AND ONE OF REFCO'S FORMER OWNERS AND A PAST PRESIDENT OF THE COMPANY, TONE N. GRANT.

IN THE INDICTMENT RETURNED TODAY, COLLINS – REFCO'S LONG-TIME OUTSIDE COUNSEL – IS CHARGED WITH PARTICIPATING IN THE FRAUD AT REFCO BY COVERING UP THE COMPANY'S DETERIORATING FINANCIAL CONDITION. COLLINS HELPED BENNETT HIDE REFCO'S LOSSES FROM ITS AUDITORS AND THE

PUBLIC BY DRAFTING LOAN DOCUMENTS THAT TEMPORARILY TRANSFERRED THE LOSSES OFF OF REFCO'S BOOKS DURING ITS FISCAL YEAR END, GIVING THE FALSE IMPRESSION THAT REFCO WAS A PROFITABLE, VIBRANT COMPANY, WHEN IN FACT IT WAS SO STARVED FOR CASH THAT IT COULD NOT EVEN MEET ITS DAILY OBLIGATIONS TO COVER THE TRANSACTIONS OF ITS CUSTOMERS.

COLLINS'S ROLE EXPANDED AFTER BENNETT FOUND A POTENTIAL INVESTOR TO BUY A CONTROLLING INTEREST IN REFCO, THE PRIVATE EQUITY FIRM THOMAS H. LEE PARTNERS. REPRESENTING REFCO AND BENNETT'S HOLDING COMPANY IN THIS TRANSACTION, COLLINS HELPED BENNETT COMMIT A MASSIVE FRAUD ON LEE, THE BANKS AND PRIVATE INVESTORS WHO HELPED FUND THE \$1.9 BILLION TRANSACTION.

COLLINS MISLED LEE AND OTHERS INTO BELIEVING THAT BENNETT'S HOLDING COMPANY OWED REFCO NO MORE THAN APPROXIMATELY \$108 MILLION, AND THAT THE DEBT WOULD BE REPAYED BY THE TIME THE LEVERAGED BUYOUT, OR "LBO"

TRANSACTION CLOSED. COLLINS KNEW THAT BENNETT'S HOLDING COMPANY ACTUALLY OWED REFCO AT LEAST \$1 BILLION AND THAT, EVEN AFTER THE LBO, BENNETT'S HOLDING COMPANY WOULD CONTINUE TO OWE REFCO AT LEAST \$300 MILLION.

ADDITIONALLY, COLLINS PLOTTED WITH BENNETT TO CONCEAL THE FACT THAT REFCO HAD RECEIVED A CASH INFUSION OF MORE THAN \$450 MILLION FROM THE AUSTRIAN BANK BAWAG – IN PART TO PAY DOWN \$350 MILLION OF THE GIANT DEBT THAT BENNETT'S HOLDING COMPANY OWED REFCO – AND THAT, IN RETURN, BAWAG ACQUIRED THE RIGHT TO RECEIVE A 47% ECONOMIC INTEREST IN REFCO – KEY INFORMATION THAT COLLINS ACTIVELY WORKED TO CONCEAL FROM THE BUYERS.

COLLINS ALSO MISLED THOMAS H. LEE AND OTHERS INTO BELIEVING THAT REFCO HAD APPROXIMATELY \$500 MILLION IN EXCESS WORKING CAPITAL WHEN COLLINS KNEW THAT \$390 MILLION OF THAT AMOUNT WAS NOT WORKING CAPITAL, BUT WAS A LOAN FROM BAWAG.

AND, FINALLY, COLLINS ASSISTED IN THE PREPARATION OF A STOCK REGISTRATION STATEMENT IN CONNECTION WITH REFCO'S INITIAL PUBLIC OFFERING THAT CONCEALED TRANSACTIONS THAT MIGHT HAVE REVEALED REFCO'S TRUE ECONOMIC CONDITION.

COLLINS'S ROLE IN THE FRAUD WAS VITAL BECAUSE THE PEOPLE HE LIED TO BELIEVED HIM AS A RESULT OF HIS LONG-STANDING RELATIONSHIP WITH THE COMPANY AND HIS STATURE WITHIN THE LEGAL COMMUNITY.

IN CLOSING, THOUGH, LET ME RE-EMPHASIZE THAT TODAY'S CHARGES SHOULD BE NO CAUSE FOR CONCERN FOR THE VAST MAJORITY OF OUTSIDE COUNSEL WHO CONDUCT THEMSELVES LAWFULLY. IT IS NOT A CRIME TO HAVE A CLIENT WHO COMMITS A CRIME. NO LAWYER WILL BE PROSECUTED UNLESS THAT LAWYER KNOWS ABOUT THE CLIENT'S FRAUD AND AGREES TO JOIN IN IT UNDERSTANDING ITS UNLAWFUL NATURE, OR UNDERSTANDING ITS UNLAWFUL NATURE, TAKES STEPS INTENDING TO HELP THE FRAUD

SUCCEED. THAT IS WHAT JOSEPH COLLINS IS ALLEGED TO HAVE
DONE: THAT IS WHY HE IS BEING CHARGED TODAY.

AT THIS TIME, I WOULD LIKE TO EXTEND MY THANKS TO THE
SECURITIES & EXCHANGE COMMISSION, THE UNITED STATES POSTAL
INSPECTION SERVICE, THE COMMODITY FUTURES TRADING
COMMISSION, AND THE CRIMINAL INVESTIGATORS OF THE U.S.
ATTORNEY'S OFFICE, ALL OF WHOM HAVE WORKED SO HARD TO
UNCOVER THOSE RESPONSIBLE FOR THE FRAUD AT REFCO.

THANK YOU.