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12 **UNITED STATES DISTRICT COURT**
 13 **CENTRAL DISTRICT OF CALIFORNIA**
 14

15 **SECURITIES AND EXCHANGE**
 16 **COMMISSION,**

17 **Plaintiff,**

18 vs.

19 **SAFEVEST, LLC; JON G. ERVIN; and**
JOHN V. SLYE;

20 **Defendants.**

Case No.: **SACV08-00473 JVS (MLGx)**
COMPLAINT

BY: _____
 2008 MAY - 1 AM 10:14
 CLERK U.S. DISTRICT COURT
 CENTRAL DISTRICT OF CALIF.
 SANTA ANA CA

FILED

1 Plaintiff Securities and Exchange Commission (“Commission”) alleges as
2 follows:

3 **JURISDICTION AND VENUE**

4 1. This Court has jurisdiction over this action pursuant to Sections 20(b),
5 20(d)(1) and 22(a) of the Securities Act of 1933 (“Securities Act”), 15 U.S.C. §§
6 77t(b), 77t(d)(1) & 77v(a), and Sections 21(d)(1), 21(d)(3)(A), 21(e) and 27 of the
7 Securities Exchange Act of 1934 (“Exchange Act”), 15 U.S.C. §§ 78u(d)(1),
8 78u(d)(3)(A), 78u(e) & 78aa. Defendants have, directly or indirectly, made use of
9 the means or instrumentalities of interstate commerce, of the mails, or of the
10 facilities of a national securities exchange, in connection with the transactions,
11 acts, practices, and courses of business alleged in this Complaint.

12 2. Venue is proper in this district pursuant to Section 22(a) of the
13 Securities Act, 15 U.S.C. § 77v(a), and Section 27 of the Exchange Act, 15 U.S.C.
14 § 78aa, because certain of the transactions, acts, practices, and courses of conduct
15 constituting violations of the federal securities laws occurred within this district,
16 defendant Safevest, LLC is located in this district, defendant Jon G. Ervin resides
17 in this district, and defendant John V. Slye transacts business in this district.

18 **SUMMARY**

19 3. From at least May 2007 continuing to the present, the defendants have
20 been engaged in a fraudulent scheme whereby they solicit investors to invest in a
21 purported program to trade commodity futures. In fact, investor monies are not
22 invested in futures trading. Instead, the defendants have, in Ponzi-like fashion,
23 used investor funds to pay off other investors, and the individual defendants have
24 misappropriated investor funds for their own personal use. To date, the defendants
25 have raised approximately \$25.7 million from approximately 550 investors.

26 4. The defendants have violated and are violating the antifraud
27 provisions of Section 17(a) of the Securities Act, 15 U.S.C. § 77q(a), and Section
28 10(b) of the Exchange Act, 15 U.S.C. § 78j(b), and Rule 10b-5 thereunder, 17

1 C.F.R. § 240.10b-5. By this action, the Commission seeks a temporary restraining
2 order and preliminary and permanent injunctions prohibiting future such
3 violations, appointment of a receiver over the entity defendant, an order freezing
4 the defendants' assets, disgorgement of the defendants' ill-gotten gains, and civil
5 penalties.

6 THE DEFENDANTS

7 5. **Safevest, LLC** is registered as a domestic limited liability company in
8 the state of Nevada. Its principal place of business was Mission Viejo, California
9 until in or about March 2008, when its offices were moved to Laguna Hills,
10 California, its current place of business.

11 6. **Jon G. Ervin** is the managing director and an owner of Safevest. He
12 is responsible for the day-to-day operations of Safevest, including ensuring that
13 certain promotional materials are sent to consultants who market the investment
14 program to investors, as well as sending such materials directly to investors. Ervin
15 is also a signatory on all of Safevest's bank accounts. Ervin was previously sued
16 by the Commission on September 25, 2003, as a nominal defendant in *SEC v. ACI,*
17 *Inc., et al.*, Civil Action No. 6:03-CV-01343-JTM-DWB (D. Kan.). Ervin resides
18 in Mission Viejo, California.

19 7. **John V. Slye** is the Chief Executive Officer ("CEO") and an owner of
20 Safevest. Slye is a signatory on several of Safevest's bank accounts. Slye claims
21 to be an ordained minister and one of the founders of the National Foundation for
22 Cancer Research. Slye resides in Arlington, Virginia.

23 THE FRAUDULENT SCHEME

24 A. The Nature Of The Purported Investment

25 8. From at least May 2007 continuing to the present, the defendants have
26 offered and sold securities in the form of investment contracts to investors
27 nationwide. The defendants, directly and indirectly, through written promotional
28 materials and through "consultants," represent that Safevest pools investor monies

1 and then invests those monies in trading commodity futures, sometimes referred to
2 by the defendants as “commodities,” that there are significant positive daily returns
3 from the futures trading, and that the profits are split so that the investor receives
4 60% of the profits and Safevest receives the remaining 40%. Investors are
5 variously told that the minimum investment is \$5,000 or \$25,000. The defendants
6 further represent that the investment is low risk in that only 8-13% of investor
7 funds are used for trading at any one time, and that trading will stop if losses on
8 any particular day reach 2.5%. Finally, investors are told that their investments are
9 liquid in that they may receive their money back within 72 hours of requesting it.
10 The defendants have raised at least \$25.7 million from approximately 550
11 investors to date.

12 9. In fact, no monies are invested in futures trading. Instead, the
13 defendants have used investor funds to pay off other investors in Ponzi-like
14 fashion, and misappropriated funds for their personal use.

15 **B. The Defendants Market The Investment To Christians Through A**
16 **Multilevel Marketing Scheme**

17 10. The investment is marketed through a multilevel marketing scheme
18 whereby investors are often solicited by other investors, usually friends they have
19 met in church. In turn, the investors who obtain investments from their friends
20 (sometimes referred to as “consultants”) receive a 10% “referral fee” from the
21 purported profits made by new investors they have solicited. Investors may also be
22 solicited by consultants affiliated with the defendants, which consultants are not
23 investors themselves.

24 11. The defendants directly and indirectly through consultants represent to
25 investors that the investment is for “Christians.” Defendant Slye’s resume is
26 included in the written promotional materials disseminated by defendants Safevest
27 and Ervin, both directly to investors and indirectly through the consultants. That
28 resume represents that Slye is an “Ordained Minister,” who has been “Pastor of a

1 church in Washington, D.C. for 5 years,” that he has served in various capacities
2 with religious organizations, that he has been a missionary for 34 years, that he has
3 “[built] schools in Nigeria and Haiti,” and that he is one of the founders of the
4 National Foundation for Cancer Research, an organization that has contributed
5 over \$240 million for cancer research.

6 **C. The Defendants Falsely Represent The Investment Program Exists And**
7 **Is Profitable**

8 12. Defendants represent to investors, both orally, and in written
9 promotional materials approved by defendant Ervin, that investor monies are
10 pooled and invested in futures trading. In particular, investors receive a written
11 “Overall Summary” which states under the heading “**TRADING THROUGH**
12 **CHICAGO MERCANTILE EXCHANGE,**” that:

13 The contract trades are electronically cleared trades at the Chicago
14 Mercantile Exchange for E-mini S&P and, potentially, at the Chicago
15 Board of Trade for electronic 30-year bond and 10-year note futures. . .

16 As mentioned, participation is highly regulated and, accordingly, strict
17 compliance with all principles and procedures must be adhered.

18 Though unlikely, trading in the S&P market (*rather than the E-mini*
19 *S&P*) could occur --- though, unlikely --- for investments placed
20 and/or combined within the larger matrix. The e-mini S&P allows for
21 electronic trading, whereas the S&P market requires a trader
22 positioned “on the floor” to transact the trading.

23 [emphasis original].

24 13. The Joint Venture Private Placement Agreement between Safevest
25 and each investor further represents that Safevest will provide “A trading platform
26 and ‘Master Account’ bank account through which to conduct the Private
27 Placement Program of this Agreement,” as well as management of the private
28 placement program and monitoring related to the program.

1 14. The “Overall Summary” transmitted to investors directly or indirectly
2 by Safevest further represents that the trading “mechanism in place” includes
3 “Traders (on behalf of Safevest, for each investor as its client),” with “assistance
4 from a Branch Manager of the brokerage firm,” and/or “assistance and closing
5 through an International major Clearing House (*upgraded from previous service
6 through a major brokerage firm*)” [emphasis original]. The Overall Summary
7 further represents that “At present, the Traders enjoy Institutional status at the
8 International major Clearing House.”

9 15. The “Request for Information” portion of the “Non-Solicitation
10 Letter” Safevest requires each investor to complete purports to be directed from the
11 investor to Safevest; Harmony, Inc.; UBS AG; Wachovia Securities and
12 “Affiliated Entities,” misleadingly implying that information provided by the
13 investor is conveyed to the brokerage firms UBS AG and Wachovia Securities, or
14 to Harmony Inc., and thus further misleadingly implying that these entities have
15 something to do with investing investor monies in futures trading. In fact, no
16 investor monies were transmitted by Safevest to UBS AG or to Wachovia
17 Securities. Additionally, Harmony, Inc. has not been registered since May 30,
18 1991, when it ceased to be registered as a Commodity Trading Adviser.

19 16. The defendants represent that the investment program is highly
20 profitable. The defendants represent directly and indirectly through consultants
21 that profits range from 1.5% to 1.7%, or 1.6% to 1.9% per day. Some investors are
22 told that there has never been a “down” day. The defendants also disseminate to
23 investors with the other written promotional materials a “May Trading Track
24 Record” which purports to set forth “actual percentages for the month of May 2007
25 of best efforts. . . .” The daily gross percentage profits range from 0.6% to 3.5%,
26 and the daily net percentage profits range from 0.36% to 2.28%. Thus, defendants
27 represent to investors that their trading program yields a profit of several hundred
28 percent per year.

1 17. Once an investor has signed various documents, including a Non-
2 Solicitation Letter, a Non-Disclosure/Non-Circumvention Agreement, a Private
3 Joint Venture Finder's Fee Agreement, a Joint Venture Private Placement
4 Agreement, a Safevest, LLC Contract Addendum, and wired monies to Safevest,
5 defendant Ervin causes an "account" with Safevest for that investor to be opened.
6 The investor may then check his or her "account" online using a password, in order
7 to determine the amount of "profit" he or she has earned on his or her investment.
8 Each day, Ervin determines what percentage "profit" is to be reflected in these
9 investor accounts and causes the investor accounts to reflect that such profit has
10 been earned.

11 18. In fact, the defendants have not invested a penny of investor funds in
12 any futures trading program, and have opened no futures brokerage accounts on
13 behalf of Safevest or any of its investors.

14 **D. The Defendants Falsely Represent That Investors' Risk Of Loss Is**
15 **Limited**

16 19. In the Overall Summary, the defendants represent that while past
17 performance is no guarantee of future success or profit:

18 With that in mind, the trading that is performed has a "**Loss**"
19 **tolerance of Two and One-Half percent (2.5%) of Principal per**
20 **trading day.** Furthermore, actual trading should be made having
21 exposure of no more than 8%-13% of Principal at any given time.

22 [emphasis original]. These representations reinforce similar oral representations
23 made to investors that only a maximum of 8-13% of their principal will be used for
24 trading in any one day and that once losses reach 2.5% of their principal, trading
25 will cease.

26 20. The Safevest, LLC Contract Addendum included in the written
27 promotional materials represents "Total liquidity within 72 hours notice ideally
28 (emergencies understood)." Investors are similarly orally told that they may

1 withdraw any or all of their investment on 72 hours notice.

2 21. In fact, when investors request withdrawal of their monies, they are
3 told by defendants Ervin and Slye that money is not immediately available. In
4 response to investor requests for withdrawal of their funds, Ervin has variously told
5 investors, among other things, to call him back "in a few hours," "tomorrow," or
6 "next week"; that "I have no funds today," "I am expecting two million from
7 abroad," "money is frozen up somewhere in overseas assets," or that money is with
8 or will be sent to Ervin from an attorney. Slye has similarly promised investors
9 that they will receive requested withdrawal of their funds within a few days. Both
10 Ervin and Slye have represented to investors that they will liquidate their personal
11 assets in order to honor investor withdrawal requests.

12 22. Requests by investors for withdrawal of their funds have either not
13 been honored or have only been partially honored.

14 **E. Investor Funds Have Been Misappropriated And Misused By Ervin And**
15 **Slye**

16 23. Throughout the relevant period, Ervin has had signatory authority
17 over all of Safevest's accounts and Slye has had signatory authority over
18 Safevest's major bank accounts. Contrary to the defendants' representations, no
19 investor monies have been invested in futures trading. Instead, of the
20 approximately \$25.7 million raised, \$18.5 million has been paid to investors in
21 Ponzi-like fashion. The remaining \$7.2 million has been misappropriated and/or
22 misused by the defendants, and includes the following disbursements from
23 Safevest's accounts, totaling \$4,408,935:

- 24 a. A total of \$229,470 to Ervin and his relatives.
- 25 b. A check signed by Ervin on July 18, 2007, for \$41,744 paid to
26 Tuttle-Click, Inc., a car dealer in Orange County, for the purchase
27 of an automobile.
- 28 c. Wire transfers of \$250,000 to John V. Slye and \$9,500 to Linda

1 Slye.

- 2 d. Check card purchases of at least \$151,779 and ATM
3 withdrawals of \$16,442, including check card purchases from
4 American Airlines, US Airways, Aloha Airlines, Dillard's, Inc.
5 department store, Wal-Mart, Sam's Club, Disney's Fantasia,
6 Desert Vista Eye Specialist, and a number of restaurants,
7 including P.F. Chang's, the Red Lobster, and Van's Steak
8 House.
- 9 e. A wire transfer for \$1 million to Eben Mwasha Philanthropic,
10 S.A. Eben Mwasha is an individual purportedly affiliated with
11 a community-based organization located in Tanzania.
- 12 f. August 21, 2007 and September 27, 2007 wire transfers of
13 \$250,000 and \$1 million respectively to Trotter Jones, LLP, a
14 law firm in Augusta, Georgia.
- 15 g. Checks totaling \$950,000 dated from July 2007 through
16 October 2007, payable to GTS Research, Inc., which entity
17 claims to be a research and development company and a sole
18 assignee of a patent pending for a new energy source, and
19 which entity and its president and/or chairman of the board,
20 Carl LaRue Godfrey (who has a criminal record), were ordered
21 by the California Corporations Commissioner on August 15,
22 2007, to desist and refrain from offering or selling or buying or
23 offering to buy any security in the State of California by means
24 of any communications which include untrue statements of
25 material fact or omissions of material fact.
- 26 h. A total of \$510,000 for the benefit of Dennis D. Cope, who pled
27 guilty on December 21, 2007, to one count of conspiracy to
28 commit wire fraud and mail fraud in violation of 18 U.S.C. §§

1 371 & 372, and one count of securities fraud in violation of 15
2 U.S.C. §§ 77(e)(c) & 77x, in *United States v. Dennis D. Cope*,
3 CR 05-237-PHX-JAT (D. Ariz.), which disbursements
4 consisted of:

- 5 i. A July 12, 2007, wire transfer of \$200,000 to the
6 Arizona Bar Foundation Trust, William Foreman
7 P.C., a trust account for a criminal defense attorney
8 located in Scottsdale, Arizona, who represented
9 Dennis Cope in the above case;
- 10 ii. An August 1, 2007, wire transfer of \$200,000 to
11 the Arizona Bar Foundation, dba Lewis and Roca
12 Trust, fbo Dennis Cope/Atty Fred Petti, which
13 attorney, Frederick Petti, also represented Dennis
14 Cope in the above case; and
- 15 iii. An additional \$110,000 in checks paid to Rusty
16 Cope from the Safevest account during the period
17 from June through September 2007.

18 The above disbursements were made contrary to defendants' representations to
19 investors that their money would be invested in the futures market.

20 **FIRST CLAIM FOR RELIEF**

21 **FRAUD IN THE OFFER OR SALE OF SECURITIES**

22 **Violations of Section 17(a) of the Securities Act**

23 **(Against All Defendants)**

24 24. The Commission realleges and incorporates by reference paragraphs 1
25 through 23 above.

26 25. Defendants Safevest, Ervin and Slye, and each of them, by engaging
27 in the conduct described above, directly or indirectly, in the offer or sale of
28 securities by the use of means or instruments of transportation or communication

1 in interstate commerce or by use of the mails:

- 2 a. with scienter, employed devices, schemes, or artifices to
- 3 defraud;
- 4 b. obtained money or property by means of untrue statements of a
- 5 material fact or by omitting to state a material fact necessary in
- 6 order to make the statements made, in light of the
- 7 circumstances under which they were made, not misleading; or
- 8 c. engaged in transactions, practices, or courses of business which
- 9 operated or would operate as a fraud or deceit upon the
- 10 purchaser.

11 26. By engaging in the conduct described above, defendants Safevest,
12 Ervin and Slye violated, and unless restrained and enjoined will continue to
13 violate, Section 17(a) of the Securities Act, 15 U.S.C. § 77q(a).

14 **SECOND CLAIM FOR RELIEF**

15 **FRAUD IN CONNECTION WITH THE PURCHASE OR SALE OF SECURITIES**

16 **Violations of Section 10(b) of the Exchange Act and Rule 10b-5 Thereunder**

17 **(Against All Defendants)**

18 27. The Commission realleges and incorporates by reference paragraphs 1
19 through 23 above.

20 28. Defendants Safevest, Ervin and Slye, and each of them, by engaging
21 in the conduct described above, directly or indirectly, in connection with the
22 purchase or sale of a security, by the use of means or instrumentalities of interstate
23 commerce, of the mails, or of the facilities of a national securities exchange, with
24 scienter:

- 25 a. employed devices, schemes, or artifices to defraud;
- 26 b. made untrue statements of a material fact or omitted to state a
- 27 material fact necessary in order to make the statements made,
- 28 in the light of the circumstances under which they were made,

1 not misleading; or

2 c. engaged in acts, practices, or courses of business which
3 operated or would operate as a fraud or deceit upon other
4 persons.

5 By engaging in the conduct described above, defendants Safevest, Ervin and Slye
6 violated, and unless restrained and enjoined will continue to violate, Section 10(b)
7 of the Exchange Act, 15 U.S.C. § 78j(b), and Rule 10b-5 thereunder, 17 C.F.R. §
8 240.10b-5.

9 **PRAYER FOR RELIEF**

10 WHEREFORE, the Commission respectfully requests that the Court:

11 **I.**

12 Issue findings of fact and conclusions of law that the defendants committed
13 the alleged violations.

14 **II.**

15 Issue orders, in a form consistent with Fed. R. Civ. P. 65(d), temporarily,
16 preliminarily and permanently enjoining defendants Safevest, Ervin and Slye and
17 their officers, agents, servants, employees, and attorneys, and those persons in
18 active concert or participation with any of them, who receive actual notice of the
19 order by personal service or otherwise, and each of them, from violating Section
20 17(a) of the Securities Act, 15 U.S.C. § 77q(a), and Section 10(b) of the Exchange
21 Act, 15 U.S.C. § 78j(b) and Rule 10b-5 thereunder, 17 C.F.R. § 240.10b-5.

22 **III.**

23 Issue in a form consistent with Fed. R. Civ. P. 65, a temporary restraining
24 order and a preliminary injunction freezing the assets of defendants Safevest, Ervin
25 and Slye; appointing a receiver over defendant Safevest; prohibiting each of the
26 defendants from destroying documents; and ordering accountings from each of the
27 defendants.

28 *

1 **IV.**

2 Order defendants Safevest, Ervin and Slye to disgorge all ill-gotten gains
3 from their illegal conduct, together with prejudgment interest thereon.

4 **V.**

5 Order defendants Safevest, Ervin and Slye to pay civil penalties under
6 Section 20(d) of the Securities Act, 15 U.S.C. § 77t(d), and Section 21(d)(3) of the
7 Exchange Act, 15 U.S.C. § 78u(d)(3).

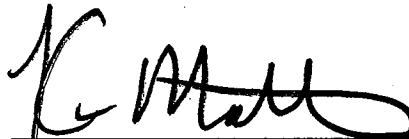
8 **VI.**

9 Retain jurisdiction of this action in accordance with the principles of equity
10 and the Federal Rules of Civil Procedure in order to implement and carry out the
11 terms of all orders and decrees that may be entered, or to entertain any suitable
12 application or motion for additional relief within the jurisdiction of this Court.

13 **VII.**

14 Grant such other and further relief as this Court may determine to be just and
15 necessary.

16
17 DATED: May 1, 2008



18 Karen Matteson
19 Steven S.Y. Wang
20 Attorneys for Plaintiff
21 Securities and Exchange Commission
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