

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff

v.

**JOSEPH S. FORTE and
JOSEPH FORTE, L.P.,**

Defendants.

Civil Action No.
09-cv-0063-PD

COMPLAINT

Plaintiff Securities and Exchange Commission (the "Commission") alleges as follows:

SUMMARY

1. From at least February 1995 to the present, defendant Joseph S. Forte ("Forte") has been operating a Ponzi scheme in which he fraudulently obtained approximately \$50 million from roughly 80 investors through the sale of securities in the form of limited partnership interests in defendant Joseph Forte, L.P. ("Forte LP").

2. Forte told investors that he would invest the limited partnership funds in a securities futures trading account in the name of Forte LP that would trade in futures contracts, including S&P 500 stock index futures. Forte continually lost money on the limited trading that he did, sustaining trading losses of approximately \$3.3 million between 1998 and 2008. From the inception of the scheme, the defendants lied to investors about the returns on the trading, reporting to investors annual returns ranging from 18.52% to almost 38%.

3. In addition to misrepresenting to investors that Forte was a successful trader, that he was making large profits with their funds, and grossly inflating Forte LP's account balance, the defendants misrepresented the use of investor funds. Despite Forte's promises to investors, a significant portion of investor funds was never invested as promised. Forte has admitted that he took at least \$10 to \$12 million in so-called fees for his personal use, and used approximately \$15 to \$20 million of investor funds to repay other investors.

4. In order to conceal the trading losses and misappropriation of investor funds, the defendants issued or caused to be issued false account statements and other reports to investors which, among other things, reflected profitable returns from trading. His most recent reports to investors, as of September 30, 2008, claimed that investor funds totaled more than \$154 million. In fact, Forte LP's trading account contained less than \$150,000 at that time.

5. In late December 2008, Forte admitted to federal authorities that he had been conducting the scheme described in this Complaint, and that he does not have funds to repay investors.

6. As a result of the conduct described in this Complaint, defendants Forte and Forte LP have violated, and unless restrained and enjoined will continue to violate, Section 17(a) of the Securities Act of 1933 ("Securities Act") [15 U.S.C. § 77q(a)], Section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. § 78j(b)], and Rule 10b-5 [17 C.F.R. § 240.10b5], thereunder.

JURISDICTION AND VENUE

7. The Commission brings this action pursuant to Section 20(b) of the Securities Act [15 U.S.C. § 77t(b)], and Sections 21(d) and (e) of the Exchange Act [15 U.S.C. §§ 78u(d) and (e)],

to enjoin such acts, transactions, practices, and courses of business; obtain disgorgement and civil penalties; and for other appropriate relief.

8. This Court has jurisdiction over this action pursuant to Section 22(a) of the Securities Act [15 U.S.C. § 77v(a)], and Sections 21(d) and 27 of the Exchange Act [15 U.S.C. §§ 78u(e) and 78aa].

9. Certain of the acts, transactions, practices, and courses of business constituting the violations alleged herein occurred within the Eastern District of Pennsylvania and elsewhere, and were effected, directly or indirectly, by making use of the means and instruments of transportation and communication in interstate commerce, or the means and instrumentalities of interstate commerce, or the mails, or the facilities of a national securities exchange.

DEFENDANTS

10. **Joseph S. Forte**, age 53, is a resident of Broomall, Pennsylvania. Forte has never been registered with the Commission in any capacity. Since its inception, Forte has been the general partner of Forte LP, and controls its day to day operations.

11. **Joseph Forte, L.P.** is a limited partnership established by Forte in or about 1995. Its principal place of business is at Forte's home in Broomall, Pennsylvania. Forte LP has never been registered with the Commission in any capacity.

FACTS

12. At all times relevant to the facts alleged in this Complaint, defendant Forte LP was controlled by, and acted by and through, defendant Forte.

13. In early 1995, Forte formed Forte LP with the assistance of an accountant whom he had known for many years. Forte claimed to have a system for profitable trading in S&P 500 futures contracts. Beginning with three investors, and at least \$200,000, Forte began to trade in the

futures market in an account with MF Global, Inc., a broker-dealer registered with the Commission (the “trading account”).

14. At all relevant times, Forte was the general partner of Forte LP and, according to the Limited Partnership agreement provided to investors, Forte had sole and exclusive control of the partnership. The agreement provided that the purpose of the limited partnership was to invest in “SECURITIES FUTURES.” The agreement also provided that the limited partners could not have any role in the management or operation of the partnership. Forte was to receive a management fee of one-half percent (½%) of the capital of the partnership on a quarterly basis, as well as an incentive fee based upon a sliding scale measured by the performance of the partnership.

15. Over time, the defendants obtained funds from as many as 80 investors, including at least one charitable foundation. Each investor executed a Limited Partnership agreement, joining the investment as a new limited partner. According to Forte, over time investors invested up to \$50 million in Forte LP.

16. At the end of each quarter and calendar year, the defendants issued or caused to be issued statements to each investor, computing the value of their respective holdings, the income of the partnership, the fees charged and expenses paid, income earned, as well as the annualized return on capital in Forte LP. All of this information was false, and created by Forte as part of the scheme.

17. In fact, Forte has admitted that he misrepresented and falsified Forte LP’s trading performance from the very first quarter. He arbitrarily selected the percentage of gains that Forte LP would report to investors. Among other things, he admitted that Forte LP obtained many investors from 2000 to 2002, because he was claiming to be generating gains up to 30% despite a declining stock market. These gains were fictitious, deliberately created by him to maintain the

illusion that he had mastered trading in the futures market, and to keep the scheme running and attract new investors.

18. Despite the impressive and consistent returns he reported to investors in quarterly and other statements, Forte consistently lost money in the trading account. For the period from 1995 through September 30, 2008, the defendants reported to investors annual returns ranging from 18.52% to as high as 37.96%. However, from January 1998 through October 2008, the Forte LP trading account had net trading losses of approximately \$3.3 million. During this period, Forte's trading was profitable in only one year, 2002, when he realized a profit of \$21,823.

19. In addition to falsifying Forte LP's trading performance, the defendants also misrepresented Forte LP's use of investor funds. Forte told investors that their investments would be used solely for trading in futures contracts. In fact, it appears that much of the money raised was used for other purposes. For approximately five years, between October 2002 and February 2007, no funds were deposited into the trading account, and from October 2004 through July 2007, Forte conducted minimal trading in the account.

20. Investors generally made their investments in the limited partnership by writing a check to Forte LP, which Forte then deposited in a bank account in the name of the limited partnership. Forte then wired funds to the Forte LP trading account at MF Global. However, Forte admitted that he did not send all of the investor funds to the MF Global account.

21. Although he claimed that he raised approximately \$50 million from investors for the purpose of trading in the Forte LP account at MF Global, between January 1998 and October 31, 2008, Forte deposited only \$25.8 million in the MF Global trading account and during that same time period he withdrew \$23.1 million. Significantly, in a statement provided to investors, the

defendants falsely reported capital contributions of \$33,781,372 for the nine months ending September 30, 2008 alone.

22. Forte admitted that he would frequently take cash out of Forte LP's bank account to meet redemption requests of investors. He estimated that he used approximately \$15 to \$20 million of investor funds to repay other investors.

23. In addition, at times throughout the relevant period, Forte used investor funds to pay himself both a management fee and an incentive fee based on the fictitious performance numbers reported to investors. According to the statements provided to investors, he charged fees of \$28.7 million between March 1995 and September 2008. He admits to receiving at least \$10 to \$12 million in fees.

24. As of the end of September 2008, the defendants misrepresented to investors that Forte LP's portfolio was worth over \$150 million. In fact, Forte LP's trading account at that time had a balance of only \$146,814. Although Forte ceased trading in the Forte LP account around October 2008, he continued to solicit investors.

25. Many of the investors considered themselves close friends of Forte and Forte repeatedly assured them that their investments were safe. They kept their funds with Forte and invested additional monies because of the false statements they received from the defendants reflecting impressive trading profits and growth of their account balances. Other individuals became investors with Forte because of the consistently high reported returns.

26. In 2008, the scheme began to unravel. By September 2008, Forte LP's trading account was virtually depleted, and the defendants could not meet redemption requests. Undaunted, Forte continued the fraudulent activity, soliciting money from two close friends, and then using their funds to pay other investors.

27. Finally, when the defendants could no longer obtain investments at a rate sufficient to honor redemption requests, Forte confessed to the fraud to federal authorities.

CLAIM FOR RELIEF

**Violations of Section 17(a) of the Securities Act,
Section 10(b) of the Exchange Act and Rule 10b-5 thereunder**

28. The Commission realleges and incorporates by reference each and every allegation in paragraphs 1 through 27, inclusive, as if the same were fully set forth herein.

29. From at least February 1995 through the present, as a result of the conduct alleged herein, defendants Forte and Forte LP, knowingly or recklessly, in connection with the offer, purchase, or sale of securities, directly or indirectly, by the use of the means or instruments of transportation or communication in interstate commerce, or the means or instrumentalities of interstate commerce, or the mails, or the facilities of a national securities exchange:

- (a) employed devices, schemes or artifices to defraud;
- (b) obtained money or property by means of, or made, untrue statements of material fact, or omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; or
- (c) engaged in acts, transactions, practices, or courses of business that operated as a fraud or deceit upon offerees, purchasers, and prospective purchasers of securities.

30. By engaging in the foregoing conduct, defendants Forte and Forte LP have violated, and unless restrained and enjoined will continue to violate, Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)], Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)], and Rule 10b-5 [17 C.F.R. § 240.10b-5], thereunder.

WHEREFORE, the Commission respectfully requests that this Court enter a final judgment:

I.

Permanently restraining and enjoining defendants Forte and Forte LP from violating Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)], Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)], and Rule 10b-5 [17 C.F.R. § 240.10b5], thereunder.

II.

Ordering defendants Forte and Forte LP to disgorge any and all ill-gotten gains, together with prejudgment interest, derived from the activities set forth in this Complaint.

III.

Ordering defendants Forte and Forte LP to pay civil penalties pursuant to Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)] and Section 21(d)(3) of the Exchange Act [15 U.S.C. § 78u(d)(3)].

IV.

Granting such other and further relief as the Court may deem just and appropriate.

Respectfully submitted,

s/ Catherine E. Pappas

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