

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF VIRGINIA

FILED

UNITED STATES SECURITIES  
AND EXCHANGE COMMISSION,

Plaintiff,

v.

INTERNATIONAL FIDUCIARY CORP., S.A.,  
DANIEL ERIC BYER,  
MALCOLM CAMERON BOYD STEVENSON,  
and PRESTON DAVID PINKETT II

Defendants.

CIVIL ACTION

FILE NO. 1:06cv1354  
GBL/RTJ

2006 DEC -4 P 12:18  
CLERK US DISTRICT COURT  
ALEXANDRIA, VIRGINIA

COMPLAINT

Plaintiff Securities & Exchange Commission (“the Commission”) for its Complaint against Daniel Eric Byer, (“Byer”), Malcolm Cameron Boyd Stevenson (“Stevenson”), Preston David Pinkett II (“Pinkett”), and International Fiduciary Corp., S.A. (“IFC”), (collectively, the “defendants”), alleges as follows:

INTRODUCTION

1. Since at least July 2003, defendants engaged in a Ponzi scheme in which they raised at least \$18.2 million from 182 investors by offering contracts to participate in the returns from an investment program that purported to generate returns through sophisticated trading in debt obligations of major world banks - Prime Bank instruments. In fact, Prime Bank instruments do not exist and returns to investors came largely from their own initial investments in a classic pyramid scheme.

2. Defendants offered and sold minimum \$100,000 investment contracts to share in returns from an “asset growth program” that promised to trade in “1<sup>st</sup> tier medium-term bank notes.” Investors were told that their money would be deposited into one of three banks, either United Bank, in Arlington, Virginia, Banco Bilbao Vizcaya Argentaria (“BBVA”) or

Great Florida Bank (“GFB”), both located in Miami, Florida. The defendants told investors that their money would remain in a segregated account, controlled by the investor, and that said account would “remain in full equity value or greater than full equity value.” Investors were promised a rate of return that varied between 4% and 6% per month.

3. The prime bank debt obligations that defendants promised to invest in simply do not exist. They are designed generally, and were designed by the defendants in this instance, for fraudulent purposes. The defendants have engaged in a fraud upon investors, because they either knew, or were reckless in not knowing, that these “prime bank instruments” do not exist, that the promised returns came from other investors’ contributions and not from any trading in bank notes, and that there was no guarantee insuring against risk of loss.

4. The defendants did not use the investors’ money to finance the purchase of prime bank instruments. Instead, investors’ money was transferred from the individual accounts established and maintained for the investors to large, commingled accounts controlled only by the defendants. From these accounts, defendants wired money to banks and entities unrelated to the purported investment program.

5. Defendants, directly and indirectly, are now and have been engaged in, and unless restrained and enjoined by this Court will continue to engage in, transactions, acts, practices, and courses of business that violate Section 10(b) of the Securities Exchange Act of 1934 (15 U.S.C. § 78j(b)) and Rule 10b-5 (17 C.F.R. § 240.10b-5).

6. Defendants, directly and indirectly, are now and have been engaged in, and unless restrained and enjoined by this Court will continue to engage in, transactions, acts, practices, and courses of business that violate Sections 5 and 17(a) of the Securities Act of 1933 (15 U.S.C. §§ 77(e) and 77q(a)).

7. The Commission brings this action pursuant to the authority conferred upon it by Section 20(b) of the Securities Act of 1933 (15 U.S.C. § 77t(b)) and Sections 21(d) and (e) of

the Securities Exchange Act of 1934 (15 U.S.C. § 78u(d) and (e)) for an order permanently restraining and enjoining defendants and granting other equitable relief.

### **JURISDICTION AND VENUE**

8. This Court has jurisdiction over this action pursuant to Section 22(a) of the Securities Act of 1933 (15 U.S.C. § 77v(a)), Section 21(e) of the Securities Exchange Act of 1934 (15 U.S.C. § 78u(e)), and Section 27 of the Securities Exchange Act of 1934 (15 U.S.C. § 78aa). Defendants, directly or indirectly, have made use of the means and instrumentalities of interstate commerce or of the mails in connection with the acts, transactions, practices and courses of business alleged in this Complaint.

9. Venue lies in this Court pursuant to Section 22(a) of the Securities Act of 1933 (15 U.S.C. § 77v(a)) and Section 27 of the Securities Exchange Act of 1934 (15 U.S.C. § 78aa), because certain of the conduct alleged in this Complaint took place within the Eastern District of Virginia.

10. Upon information and belief, defendant Pinkett is a resident of Arlington, Virginia. He conducts business in Arlington, Virginia, at defendant IFC, and certain of the transactions, acts, practices, and courses of business constituting the violations of law alleged herein occurred within the Eastern District of Virginia. In addition, IFC – the offeror of the fraudulent investments -- is a Virginia company with offices in this District and Division.

### **DEFENDANTS**

11. Malcolm Cameron Boyd Stevenson: Defendant Stevenson is resident of Abbotsford, British Columbia. He is an authorized signatory for IFC.

12. Daniel Eric Byer: Defendant Byer is a resident of Abbotsford, British Columbia. Byer solicited clients for investment with IFC.

13. Preston David Pinkett II: Defendant Pinkett lists a residence in Arlington, Virginia. He is an officer and director and authorized signatory for IFC.

14. International Fiduciary Corp., S.A.: Defendant IFC is a Virginia corporation with offices in Arlington, Virginia. Defendant Pinkett is a director, and also chairman and CEO. IFC was incorporated in July 2003. IFC maintains a password-protected website.

15. On November 1, 2006, in a Temporary Notice and Order issued by the British Columbia Securities Commission, an agency of the Canadian Province of British Columbia ("BCSC"), the BCSC found that the defendants were illegally selling fictitious prime bank securities to residents of British Columbia and ordered them to cease trading the IFC investments.

### **THE NATURE OF THE FRAUDULENT OFFERING**

16. The defendants have been offering and selling securities in the form of investment contracts to the general public. The defendants have offered and sold, and are continuing to offer and sell, these securities through the use of the telephone, the mails and other means and instruments of interstate commerce.

17. Each investment contract offered and sold by the defendants constitutes a "security" pursuant to Section 2(1) of the Securities Act of 1933 (15 U.S.C. §77b(1)) and Section 3(a)(10) of the Securities Exchange Act of 1934 (15 U.S.C. § 78c(a)(10)). The money provided to the defendants is consideration for a contract, transaction or scheme whereby the investors make an investment of money in a common enterprise offered, sold and/or promoted by the defendants with the expectation of profits through the efforts of others.

18. From at least July 2003, the defendants have been marketing investments in an "asset-growth program" in which individuals or entities invest funds with the defendants in order to participate in returns from a prime bank trading program. Investors were falsely told their money would be pooled and used as collateral to finance the purchase of "1<sup>st</sup> tier medium-term bank notes."

19. Investors have been falsely told, orally and through written offering documents that

their investments with the defendants would remain owned by the investors in segregated accounts under their control. Investors were also led to believe that their investments in defendant IFC would be used only as collateral for trades and therefore would remain in insured bank accounts.

20. The defendants solicited the investors to invest in these arrangements with defendant IFC by executing agreements.

21. Investors are told that the minimum investment in the scheme is \$100,000, and at least \$18.2 million has been invested in the scheme with one or more of the defendants.

22. Investor funds have not been used to finance trading in any bank instrument as represented to investors. In addition, investors' funds have not been maintained under their control in segregated accounts. Rather, investors' funds were transferred by defendants to commingled accounts controlled only by the defendants and used for other purposes.

23. Fraudulent schemes that purport to offer investments in fictitious securities and financial instruments (including medium-term bank notes or MTNs), sometimes referred to as "prime bank instruments," that are allegedly sold by the world's leading banks or "prime banks" have proliferated over the past ten years. Such "prime bank" investment schemes are fraudulent and "prime bank instruments" do not exist.

24. From July 2003 to the present, one or more of the defendants made these representations to investors orally, and then followed up by having the investors execute a two-page contract on IFC letterhead. The contract bore the subject line: "Asset Growth Program" and in certain instances referred to an introduction made by Byer. Pinkett and Stevenson executed the contract as authorized signatories of IFC. The contract repeated the false claims about the existence of "1<sup>st</sup> tier medium-term bank notes" and about segregated investor bank accounts.

25. Most of the investors resided in the Pacific Northwest, primarily in the Canadian

province of British Columbia.

**MISREPRESENTATIONS AND OMISSIONS MADE  
TO INVESTORS AND POTENTIAL INVESTORS**

26. As part of and in furtherance of their fraudulent scheme, the defendants and their agents, in the offer and sale of the securities, have misrepresented and omitted to state the following material facts:

a. misrepresented that IFC had “developed a business relationship with an international bank that operates an asset growth program by buying and selling 1<sup>st</sup> tier medium-term bank notes;”

b. misrepresented that investors’ funds would “always remain owned by the Depositor and the Depositor remains in full control of those funds;”

c. misrepresented that investors’ accounts “shall remain in full equity value or greater than full equity value;”

d. misrepresented that investors would receive regular monthly returns from participation in a program that traded bank notes;

e. misrepresented that investments in IFC were safe and secure, and protected against risk under insurance provided by the Federal Deposit Insurance Corporation; and

f. omitted to disclose that investors’ money was completely moved out of individual investor accounts without prior notice, and moved into accounts under the sole control of the defendants where money was wired to banks and entities unrelated to the purported investment program.

g. omitted to disclose that investor funds were used to pay investors’ monthly returns.

### **IFC DID NOT APPLY THE INVESTORS FUNDS AS PROMISED**

27. After executing the contract, at least 182 investors sent their investments in amounts of \$100,000 or more to United Bank in Arlington, Virginia.

28. At least one investor made his contribution from (and received ponzi payments in return to) his U.S. bank account in Blaine, Washington in the United States.

29. From July 2003 to the present, Pinkett opened at least 182 separate bank accounts at United Bank that would purportedly house the investors' initial investment.

30. Contrary to the representations made to the investors, the investor funds did not always remain in the account owned by the investor, nor did the account remain in full equity value or greater than full equity value. Rather, with respect to initial investments sent to United Bank, the money from an individual investor's separate account was almost immediately wired into one of two larger accounts at United Bank maintained by IFC. Pinkett served as the sole signatory on both of these larger United Bank accounts. Only a nominal amount of money remained in each of the separate bank accounts that housed the investors' initial investment.

31. Funds transferred into the larger accounts were used to make monthly payments to prior investors, in order to maintain investor confidence and perpetuate the scheme. In addition, IFC has wired money from these two larger accounts to banks in New York, Canada, Hong Kong, and Thailand despite the representation to investors that the money would remain in one of three banks in Virginia and Florida.

### **FIRST CAUSE OF ACTION**

**(Violations of Section 10(b) and Rule 10b-5 of the Securities Exchange Act of 1934)**

32. Plaintiff repeats and realleges Paragraphs 1 through 31 above.

33. Defendants, with scienter, in connection with the purchase or sale of securities, by the use of means or instrumentalities of interstate commerce or of the mails, directly or indirectly:

(a) employed devices, schemes or artifices to defraud; (b) made untrue statements of material

facts or omitted to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; or (c) engaged in acts, practices or courses of business which operated or would operate as a fraud or deceit upon purchasers of securities in violation of Section 10(b) of the Securities Exchange Act of 1934 (15 U.S.C. §78j(b)) and Rule 10b-5 (17 C.F.R. § 240.10b-5).

34. By reason of the foregoing, defendants violated Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 and unless restrained and enjoined will continue to do so.

**SECOND CAUSE OF ACTION  
(Violations of Section 17(a)(1) of the Securities Act of 1933)**

35. Plaintiff repeats and realleges Paragraphs 1 through 31 above.

36. Defendants, with scienter, in the offer or sale of securities, by the use of means or instruments of transportation or communication in interstate commerce, or by the use of the mails, directly or indirectly employed devices, schemes or artifices to defraud in violation of Section 17(a)(1) of the Securities Act of 1933 (15 U.S.C. § 77q(a)(1)).

37. By reason of the foregoing, defendants violated Sections 17(a)(1) of the Securities Act of 1933 and unless restrained and enjoined will continue to do so.

**THIRD CAUSE OF ACTION  
(Violations of Section 17(a)(2) and (3) of the Securities Act of 1933)**

38. Plaintiff repeats and realleges Paragraphs 1 through 31 above.

39. Defendants, in the offer or sale of securities, by the use of means or instruments of transportation or communication in interstate commerce, or by the use of the mails, directly or indirectly (a) obtained money or property by means of untrue statements of material facts or omissions to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; or (b) engaged in transactions, practices or courses of business which operated or would operate as a fraud or



deceit upon purchasers of securities in violation of Section 17(a)(2) and (3) of the Securities Act of 1933 (15 U.S.C. § 77q(a)(2) and (3)).

40. By reason of the foregoing, Defendants violated Sections 17(a)(2) and (3) of the Securities Act of 1933 and unless restrained and enjoined will continue to do so.

**FOURTH CAUSE OF ACTION  
(Violations of Section 5(c) of the Securities Act of 1933)**

41. Plaintiff repeats and realleges Paragraphs 1 through 31 above.

42. Defendants, and each of them, by engaging in the conduct described in paragraphs 1 through 31 above, directly or indirectly, through use of the means or instruments of transportation or communication in interstate commerce or the mails, offered to sell securities in the form of investment contracts or, directly or indirectly, or carried such securities to be carried through the mails or in interstate commerce, for the purpose of sale or delivery after sale.

43. No registration statement has been filed with the Commission or has been in effect with respect to these securities.

44. By reason of the foregoing, the defendants, directly or indirectly violated, and unless enjoined will continue to violate Section 5(c) of the Securities Act of 1933 (15 U.S.C. §§ 77e(c)).

## **PRAYER FOR RELIEF**

WHEREFORE, the Commission respectfully requests that the Court:

### **I.**

Issue findings of fact and conclusions of law that the defendants committed the violations charged and alleged herein.

### **II.**

Issue in a form consistent with Rule 65(d) of the Federal Rules of Civil Procedure, orders temporarily restraining and preliminarily and permanently enjoining defendants Daniel Eric Byer, Malcolm Cameron Boyd Stevenson, Preston David Pinkett II, and International Fiduciary Corp., S.A., and their officers, agents, servants, employees and attorneys, and those persons in active concert or participation with any of them, who receive actual notice of the Order by personal service or otherwise, and each of them, from engaging in the transactions, acts, practices and courses of business described herein, and from engaging in conduct of similar purport and object in violation of Sections 5 and 17(a) of the Securities Act of 1933, and Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 thereunder.

### **III.**

Issue in a form consistent with Rule 65(e) of the Federal Rules of Civil Procedure, orders temporarily restraining and preliminarily and permanently enjoining defendants Daniel Eric Byer, Malcolm Cameron Boyd Stevenson, Preston David Pinkett II, and International Fiduciary Corp., S.A., and their officers, agents, servants, employees and attorneys, and those persons in active concert or participation with any of them, who

receive actual notice of the Orders by personal service or otherwise, and each of them, from:

- A. transferring, changing, wasting, dissipating, converting, concealing or otherwise disposing of, in any manner, any funds, assets, claims, or other property or assets owned or controlled by, or in the possession or custody of defendants from investors;
- B. destroying, mutilating, concealing, transferring, altering, or otherwise disposing of, in any manner, any books, records, computer programs, computer files, computer printouts, correspondence, memoranda, brochures, or any other documents of any kind, pertaining in any manner to the business of Daniel Eric Byer, Malcolm Cameron Boyd Stevenson, Preston David Pinkett II, and International Fiduciary Corp., S.A., including, without limitation, the sale of securities;
- C. transferring, assigning, selling, hypothecating, or otherwise disposing of any notes, investment contracts, partnership agreements, or other securities of the defendants; and
- D. transferring, assigning, selling, hypothecating, or otherwise disposing of assets of Daniel Eric Byer, Malcolm Cameron Boyd Stevenson, Preston David Pinkett II, and International Fiduciary Corp., S.A., existing and in the custody or control of Daniel Eric Byer, Malcolm Cameron Boyd Stevenson, Preston David Pinkett II, and International Fiduciary Corp., S.A. as of the date of the Order.

#### IV.

Issue an Order directing all of the defendants, jointly and severally, to prepare and present to the Court and the Commission, within thirty (30) days from the entry of said order, a sworn accounting of all of the proceeds collected by the defendants from the activities described in the Commission's Complaint.

#### V.

Enter an Order directing defendants Daniel Eric Byer, Malcolm Cameron Boyd Stevenson, Preston David Pinkett II, and International Fiduciary Corp., S.A., to pay civil fines and/or penalties under the pursuant to Section 20(d) of the Securities Act of 1933 (15 U.S.C. § 77t(d)), and Section 21(d)(3) of the Exchange Act of 1934 (15 U.S.C. § 78u(d)(3)).

#### VI.

Enter an Order directing defendants Daniel Eric Byer, Malcolm Cameron Boyd Stevenson, Preston David Pinkett II, and International Fiduciary Corp., S.A., to repatriate any and all funds of IFC transferred to any location outside the United States, and to disgorge any ill-gotten gains.

#### VII.

Enter an Order enjoining defendants Daniel Eric Byer, Malcolm Cameron Boyd Stevenson, Preston David Pinkett II, and International Fiduciary Corp., S.A., from accepting, taking control of, or depositing in any financial institution additional funds from actual or potential investors in IFC.

#### VIII.

Enter an Order directed to any financial or brokerage institution or other person or

entity located within the territorial jurisdiction of the United States courts that is holding any funds or other assets in the name of, for the benefit of, or under the control of defendants Daniel Eric Byer, Malcolm Cameron Boyd Stevenson, Preston David Pinkett II, and International Fiduciary Corp., S.A., or their officers, directors, subsidiaries, affiliates, agents, servants, employees, attorneys-in-fact, and those persons in active concert or participation with them, which requires said financial institutions or brokerage institutions to hold and retain within their control and prohibit the withdrawal, removal, transfer or other disposal of any such funds or other assets.

**IX.**

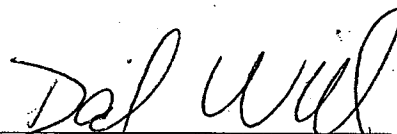
Grant such other and further relief as this Court may determine to be just, equitable and necessary, including, but not limited to, a freeze of assets, and the acceleration of discovery, including the forthwith production of books and records, and an order requiring the defendants to repatriate all funds derived from the activities described in the Commission's Complaint to an account determined by the Court in the United States.

**X.**


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

Dated: Washington, D.C.  
December 4, 2006

Respectfully submitted,



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