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FUGITIVE FOREIGN DIRECTOR OF LAKE SHORE ASSET MANAGEMENT INDICTED ON FEDERAL FRAUD AND OBSTRUCTION CHARGES

CHICAGO – The foreign managing director of a Chicago-based hedge fund that was forced into receivership by government regulators, is facing federal fraud, obstruction of justice and criminal contempt charges for allegedly fraudulently soliciting more than $300 million from at least 700 wealthy investors worldwide, federal law enforcement officials announced today. The defendant, **Philip J. Baker**, who controlled Lake Shore Asset Management Ltd., which purportedly traded clients' funds in several commodity futures pools, was charged in a 27-count indictment that was returned by a federal grand jury in February and unsealed yesterday, announced Patrick J. Fitzgerald, United States Attorney for the Northern District of Illinois, and Robert D. Grant, Special Agent-in-Charge of the Chicago Office of the Federal Bureau of Investigation.

An arrest warrant is outstanding for Baker, 44, a Canadian citizen who was last known to reside in Hamburg, Germany, and whose current whereabouts are unknown. The indictment was unsealed to facilitate international efforts to apprehend Baker.

Baker was indicted on 17 counts of wire fraud, two counts of commodities fraud, one count of embezzlement of commodity pool funds, three counts of obstruction of justice and four counts of criminal contempt. The indictment also seeks forfeiture of at least $273.5 million.

The indictment alleges that between 2002 and September 2007, as a result of Baker's fraudulent solicitations, he obtained approximately $312 million from investors, and misappropriated at least $30 million for his own use, and incurred several million dollars in net trading losses.

Baker allegedly held himself out as a co-founder and managing director of Lake Shore, and the managing director of the "Lake Shore Group of Companies." The Lake Shore companies advertised that they operated several commodity pools – investments that combined the funds of many investors for the purpose of trading commodity futures. Baker's solicitations to invest in the Lake Shore commodity pools allegedly withheld material information and made the following false representations:

- that the commodity pools generated positive returns since 1993, including between January 2002 and September 2007, when Lake Shore experienced millions of dollars in trading losses, and did not trade at all before 2002;

- that no management fee would be charged — except by one of the commodity pools, that no operational expenses would be passed on to the investors, and that participants would pay only a "profit incentive fee" if the pools generated profits, when in fact Baker charged investors more than $30 million in fees, and converted millions of dollars in investor funds to his own use even though the pools were not profitable; and

- that Baker co-founded Lake Shore in 1993, and that Lake Shore was regulated by U.S. authorities, when in fact Baker was not officially associated with any regulated Lake Shore entity until January 2007. The actual principals of a regulated entity that used the name "Lake Shore Inc." repeatedly told its regulator, the National Futures Association (NFA), that it conducted no business between 2002 and 2007, thereby avoiding audit and oversight. There are no allegations of wrongdoing involving Lake Shore Inc.

According to the indictment, on June 13, 2007, NFA regulators reviewed a web site associated with Lake Shore and saw a press release stating, "In its 13-year history, Lake Shore's flagship 'Program I' has generated a 28.27% compound annual return." The next day, NFA staff went to Lake Shore Ltd.'s office in the John Hancock Building on North Michigan Avenue to conduct an audit to verify the profit claim on the web site and because Lake Shore Ltd. had been registered with the NFA only since January 2007. Lake Shore did not provide the NFA with certain records it was required by law to keep and produce to regulators.

Later that month, the Commodity Futures Trading Commission (CFTC), filed a civil lawsuit against Lake Shore Ltd. in Federal Court in Chicago, and obtained a court order freezing its assets and requiring the company to produce books and records verifying its profit claims and identifying investors. In further proceedings, U.S. District Judge Blanche M. Manning issued several orders directing Lake Shore Ltd., other Lake Shore entities, and Baker himself to produce books and records. Baker allegedly never produced the documents but instead took steps to hide them in violation of the court orders, which formed the basis of the obstruction and criminal contempt charges in the indictment.

Among the misrepresentations alleged in the indictment were claims that various Lake Shore funds had generated the following high returns: 2002 — 55.5 percent; 2003 — 37.02 percent; 2004 — 33.8 percent; 2005 — 40.3 percent; and 2006 — 21.4 percent. However, Lake Shore funds actually experienced significant trading losses totaling approximately $38 million in 2002-05 and 2007, the indictment alleges.

In an effort to convince prospective investors that Lake Shore was regulated by U.S. authorities, Baker allegedly represented that Lake Shore was a CFTC-registered commodity pool operator and a member of the NFA. However, the actual principals of the CFTC-registered, NFA member entity called Lake Shore *Inc*. repeatedly told the NFA that Lake Shore Inc. had no customers or pool participants, and did not trade commodity futures between 2002 and 2007. Baker was never an NFA-approved principal of Lake Shore Inc., the indictment adds, and Lake Shore *Ltd*. Didn't become a CFTC-registered, NFA member until January 2007, only six months before it ceased operation.

The CFTC, under Rosemary Hollinger, associate director and regional counsel in Chicago, provided valuable assistance in the investigation. The government is being represented by Assistant U.S. Attorneys Clifford Histed and Carol Bell.

If convicted, the charges in the indictment carry the following maximum penalties on each count: wire fraud and obstruction of justice — 20 years in prison and a maximum fine $250,000; commodities fraud and embezzlement of commodity pool funds — 5 years in prison and a maximum fine of $500,000; and criminal contempt — an open-ended term of imprisonment. On the wire fraud counts, the Court may impose a fine totaling twice the loss to any victim or twice the gain to the defendant, whichever is greater. The Court, however, would determine the appropriate sentence to be imposed under the advisory United States Sentencing Guidelines.

The public is reminded that an indictment contains only charges and is not evidence of guilt. The defendant is presumed innocent and is entitled to a fair trial at which the government has the burden of proving guilt beyond a reasonable doubt.

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