

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA

CRIMINAL COMPLAINT

v.

CASE NUMBER:

JAY C. NOLAN

UNDER SEAL

I, the undersigned complainant, being duly sworn on oath, state that the following is true and correct to the best of my knowledge and belief: During the period beginning no later than in or about 2006 and continuing to on or about November 17, 2009, at Kenilworth, in the Northern District of Illinois, Eastern Division, and elsewhere, JAY C. NOLAN defendant herein:

did knowingly devise and intend to devise a scheme to defraud, and to obtain money and property by means of materially false and fraudulent pretenses, representations, and promises and by material omissions, and for the purpose of executing and attempting to execute the scheme, did knowingly cause to be delivered by the United States Postal Service according to the direction thereon, a parcel containing an account statement addressed to Investor A in Northbrook, Illinois, from Kenilworth, Illinois, on or about November 17, 2009;

in violation of Title 18, United States Code, Section 1341. I further state that I am a Special Agent with the Federal Bureau of Investigation, and that this complaint is based on the facts contained in the Affidavit which is attached hereto and incorporated herein.

Signature of Complainant
JOSEPH KARMIK
Special Agent, Federal Bureau of Investigation

Sworn to before me and subscribed in my presence,

November 24, 2009 at Chicago, Illinois
Date City and State

MARTIN C. ASHMAN, U.S. Magistrate Judge
Name & Title of Judicial Officer

Signature of Judicial Officer

UNITED STATES DISTRICT COURT)
) ss
NORTHERN DISTRICT OF ILLINOIS)

AFFIDAVIT

I, JOSEPH KARMIK, being duly sworn, state as follows:

1. I am a Special Agent with the Federal Bureau of Investigation, and have been so employed for 23 years. My current responsibilities include the investigation of white collar crime, including mail, wire, and bank fraud.

2. This affidavit is submitted in support of a criminal complaint alleging that Jay C. Nolan has violated Title 18, United States Code, Section 1341. Because this affidavit is being submitted for the limited purpose of establishing probable cause in support of a criminal complaint charging Jay C. Nolan with mail fraud, I have not included each and every fact known to me concerning this investigation. I have set forth only the facts that I believe are necessary to establish probable cause to believe that the defendant committed the offense alleged in the complaint.

3. This affidavit is based on my personal knowledge as well as information provided to me by other law enforcement agents and witnesses.

4. According to records obtained from the Illinois Secretary of State, Lodge Capital Group, LLC was established as an Illinois limited liability company on or about June 21, 2002. The sole member of Lodge Capital Group, LLC, is listed as Jay C. Nolan. The principal office address for Lodge Capital Group, LLC, is shown as 400 Central Ave 202, Northfield, IL 60093.

5. According to records obtained from the Illinois Secretary of State, Lodge Diversified¹ Fund, LP, was established as an Illinois limited partnership on or about November 10, 2004. The “agent” who filed the originating papers for Lodge Diversified Fund, LP, was Jay C. Nolan. The “designated office” for Lodge Diversified Fund, LP, is listed as 400 Central Ave., Suite 202, Northfield, IL 60093.

6. ADM Investor Services, Inc. (“ADM”) is a registered Futures Commission Merchant that provides futures trade execution and clearing services to retail, commercial and institutional customers. ADM’s customers utilize ADM’s services to trade futures products on the CME Group (formerly the Chicago Mercantile Exchange and Chicago Board of Trade), the New York Board of Trade, the New York Mercantile Exchange, the Minneapolis Grain Exchange and the Kansas City Board of Trade.

7. According to records obtained from ADM, on or about December 31, 2004, Jay C. Nolan opened a futures trading account with ADM in the name of Lodge Diversified Fund, LP. The Introducing Broker for this account was Matthew Kilcline Co., Inc.

8. On November 21, 2009, Investor A was interviewed by investigating agents. Investor A stated that he met Jay Nolan in about 2003 or 2004. In or about 2005, Investor A agreed to invest money with Nolan in Lodge Diversified Fund, LP (hereafter “Lodge Diversified Fund”), a hedge fund managed by Nolan. According to Investor A, Nolan told Investor A that he (Nolan) would invest the money raised by Lodge Diversified Fund in various commodities via futures markets.

¹ As indicated below, Jay Nolan operated the limited partnership under the name Lodge “Diversified” Fund LP rather than Lodge “Diversified” Fund LP. See ¶¶ 8-17.

9. Investor A stated that in 2005, he invested a total of approximately \$720,000 with Nolan in the Lodge Diversified Fund. Investor A made additional investments in the Lodge Diversified Fund of approximately \$1.5 million in 2006 and \$750,000 in 2007. Investor A told investigating agents that there were six other investors who invested money with Nolan in Lodge Diversified Fund, including Investor B.

10. According to Investor A, beginning in or about 2005 and continuing to the present, he received an account statement in the mail every month. The account statement listed the current monetary balance of the Lodge Diversified Fund as well as Investor A's personal account balance, the gain or loss for the current month and year-to-date, and the fees taken out by Nolan for managing the assets in the fund. Beginning in or about 2007, the monthly account statement was printed on letterhead of ADM Investor Services. Furthermore, each Saturday at approximately 9:00 am, Investor A received a telephone call from Nolan who either described Investor A's account earnings that week, the trades made by Nolan and the total account equity, or else left a voice-mail detailing the same information. Investor A did not recall whether Nolan ever reported a loss to Investor A's account in these monthly statements or weekly phone calls and/or messages.

11. Investor A told investigating agents that on or about November 17, 2009, he received from the United States Postal Service an envelope containing an account statement for Lodge Diversified Fund for the month of October 2009 with a return address of Lodge Diversified Fund, LP, c/o Lodge Capital Group LLC, 400 Central Avenue, Suite 220, Northfield, Illinois 60093. The post-mark on the envelope indicated that the envelope was delivered to the United States Postal Service on or about November 17, 2009, in Kenilworth,

Illinois, 60043. The account statement indicated that Investor A's balance as of October 31, 2009, was \$5,611,901.26 and the account balance of the Lodge Diversified Fund as of October 31, 2009, was \$6,308,409.51. A copy of the account statement is attached as Exhibit A. The personal information relating to Investor A has been intentionally redacted.

12. After receiving the account statement, Investor A called the phone number for ADM Investor Services listed at the bottom of the statement, 312-272-7200, and discovered that this phone number was not in service.

13. Investor A stated that he searched for and was able to find a contact phone number for ADM Investor Services. When Investor A called ADM, Investor A was told by ADM employees that the Lodge Diversified Fund account contained approximately \$170,000.

14. According to records obtained from ADM, as of October 30, 2009, the account balance for the Lodge Diversified Fund trading account maintained at ADM was \$204,304.67 and the market value of the Lodge Diversified Fund trading account was \$177,239.67.

15. According to Investor A, on or about November 20, 2009, Investor A and Investor B met with Nolan at a Starbucks in Northfield, Illinois, near Nolan's office. During the ensuing conversation, Nolan admitted to them that he (Nolan) had lost most of the money in the Lodge Diversified Fund account in 2006 and had been sending false statements to investors to hide the substantial losses that he had incurred. Investor A and Investor B then accompanied Nolan to Nolan's office, 400 Central Avenue, Suite 220, in Northfield, Illinois. At Nolan's office, Nolan showed Investor A and Investor B numerous files relating to the

Lodge Diversified Fund that were stored in the office. Nolan also showed Investor A and Investor B how he (Nolan) had taped ADM letterhead on the top of a fictitious Lodge Diversified Fund account statement in order to make copies of the statements and distribute them to investors. According to Investor B, while in Nolan's office, Investor B saw account statements from Harris Bank which indicated an account balance of approximately \$100,000. According to Investor B, Nolan had previously represented to Investor B that the Harris Bank accounts contained millions of dollars in government securities to collateralize the ADM futures trading account. Investor B also reported that there were several computers in Nolan's office which appeared to be actively monitoring trading positions.

16. According to Investor B, Jay Nolan's office is a small one-room office located within Suite 220 of the building located at 400 Central Avenue, Northfield, Illinois. Suite 220 is comprised of multiple offices. Nolan's office is the unmarked door on the left after entering Suite 220.

17. On or about November 20, 2009, Investor A placed a consensually recorded telephone call to Nolan.² During the ensuing conversation, Nolan again admitted to Investor A that he (Nolan) "lost two-thirds of this money that was in there [the Lodge Diversified Fund]³ at the time in like three months in the middle of '06." Later in the conversation, Nolan said that "[t]here was still a million left after the shit hit the fan. I was trying to earn

² During the conversation, Investor A referred to Nolan as "Jay" on several occasions. Investor A also identified Nolan as the recipient of the phone call.

³ The explanations provided in brackets indicate my understanding of the word or phrase preceding the bracketed language based on my knowledge of this case and conversations with other law enforcement agents and witnesses.

the money back.” Nolan also said that he didn’t “have any of the money,” but admitted that each month he had continued to take a 2% asset management fee. Nolan admitted that there was a “paper trail on everything” and that he (Nolan) had been “looking through it [the documents]” that morning. Nolan also stated “there’s no dispute here, I did it,” and that “it’s been my own personal nightmare since ‘06.”

18. Based on the facts set forth above, there is probable cause to believe that defendant Jay C. Nolan knowingly devised and intended to devise a scheme to defraud, and to obtain money and property by means of materially false and fraudulent pretenses, representations, and promises and by material omissions, and for the purpose of executing and attempting to execute the scheme, knowingly caused to be delivered by the United States Postal Service according to the direction thereon, a parcel containing an account statement addressed to Investor A in Northbrook, Illinois, from Kenilworth, Illinois, on or about November 17, 2009, in violation of Title 18, United States Code, Section 1341.

FURTHER AFFIANT SAYETH NOT.

Joseph Karmik
Special Agent, FBI

Subscribed and sworn
before me this 24th day of November, 2009

Honorable Martin C. Ashman
United States Magistrate Judge