

**IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION**

UNITED STATES OF AMERICA

v.

LEONARD J. CIPOLLA,

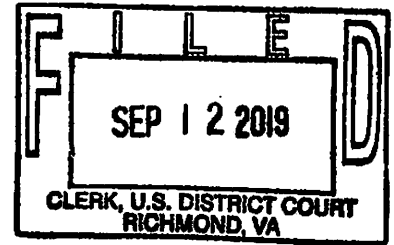
Defendant.

Case No. 3:19CR 126

18 U.S.C. § 1341
Mail Fraud
(Count 1)

7 U.S.C. §§ 6m(1), 6n and 13(a)(5)
Unregistered Commodity Pool Operator
(Count 2)

Forfeiture Allegation



CRIMINAL INFORMATION

THE UNITED STATES ATTORNEY CHARGES THAT:

GENERAL ALLEGATIONS

At all times material to this information, unless otherwise stated:

1. Defendant Leonard J. Cipolla owned and operated Tate Street Trading, Inc., later renamed Tate Street Capital, Inc. (collectively "Tate Street"), based in Chesterfield, Virginia.

2. The Commodity Futures Trading Commission ("CFTC") was an agency of the United States Government with oversight of the entire commodity futures industry.

3. Regulatory responsibilities of the CFTC include, but are not limited to, the regulation of commodity pools, which may engage in transactions involving commodity futures and commodity options.

4. A commodity pool is an entity in which multiple individuals or entities contribute funds in order to trade futures or futures options as a group. A commodity pool is intended to enable the investors to make investments as a group that they might not be able to or want to make individually, and to minimize the risks to individual investors by enabling them to invest in

a broader range of investment opportunities.

5. A commodity pool operator is a person engaged in a business in the nature of an investment trust or similar form of enterprise and who solicits, accepts, or receives funds from others for the purpose of trading in commodity futures contracts. 7 U.S.C. § 1a(5). Typically the funds received from investors by a commodity pool operator are combined in commodity pools and used to trade in commodity futures contracts or commodity options.

6. Commodity pool operators are required to be registered with the CFTC unless they qualify for an exception under the Commodity Exchange Act and/or CFTC regulations.

7. Trading of commodity futures and options usually takes place in trading accounts held at a futures commission merchant registered with the CFTC. A futures commission merchant is an individual or entity, similar to a brokerage house, which solicits or accepts orders to buy or sell commodity futures or options in accordance with the rules of an exchange.

COUNT ONE
(Mail Fraud)

8. The allegations contained in paragraphs 1 through 7 of this information are realleged and incorporated as though set forth in full here.

9. Between in or about 2009 through in or about March 2019, in the Eastern District of Virginia and elsewhere, the defendant, LEONARD J. CIPOLLA, devised a scheme and artifice to defraud and for obtaining money and property by means of materially false and fraudulent pretenses, representations and promises, and attempting to do so, did knowingly place and caused to be placed in any post office or authorized depository for mail matter, any matter and thing whatever to be sent and delivered by the Postal Service; deposit and caused to be deposited any matter and thing whatever to be sent and delivered by any private and commercial interstate carrier; and caused to be delivered by mail and such carrier any matter and whatever

according to the direction thereon.

10. CIPOLLA solicited individuals to invest money with him through his company Tate Street Trading. In doing so, CIPOLLA made and caused to be made material misrepresentations and omissions to induce these individuals to invest money. The specific misrepresentations CIPOLLA made to investors varied over time, but included the following statements:

- a. CIPOLLA told investors that their money would be used to trade in commodity futures contracts and commodity options.
- b. CIPOLLA represented that he was an experienced trader with a history of profitable trading performance.
- c. CIPOLLA represented that Tate Street Trading was qualified to manage tax-deferred retirement accounts, and that investors' tax-deferred retirement accounts in fact were rolled into individual tax-deferred retirement accounts managed by Tate Street Trading.
- d. CIPOLLA represented that he made money on profits generated from his trading, and did not inform individuals that he also used money from the principal they invested with him.
- e. CIPOLLA did not inform investors that their money would be used for his own personal expenses, and to repay earlier investors.

11. CIPOLLA signed promissory notes with many investors that promised a specific rate of return. CIPOLLA also represented that investors could withdraw their money with 30 to 60 days' notice.

12. CIPOLLA provided many investors with account statements purporting to show that the individual's principal was intact, and growing at the promised rate of return.

13. In fact, CIPOLLA only transferred a portion of the money he collected from investors to futures commission merchants for the purpose of pooling the money to trade commodity futures contracts and commodity options. Each time CIPOLLA opened a trading account at a futures commission merchant, CIPOLLA represented that he was not registered as a broker or a financial advisor, and he falsely represented that he did not solicit individuals for investment purposes, and that none of the funds he traded were pooled on behalf of other individuals. Ultimately, CIPOLLA lost nearly all the money he used to trade commodity futures contracts and commodity options.

14. CIPOLLA used the majority of the money he solicited from individuals for unauthorized purposes, including paying his own personal expenses and repaying earlier investors.

15. In furtherance of this scheme to defraud, CIPOLLA caused mailings through the United States mail and private mail carriers, including mailings of investor funds. Many of these mailing came to addresses within the Eastern District of Virginia. For example, on or about March 22, 2017, CIPOLLA knowingly caused to be delivered by mail and any private and commercial interstate carrier, to CIPOLLA's business address at 4201 Cheyenne Road, Richmond, a mailing containing a TD Ameritrade check in the amount of \$317,276.23, which funds constituted the transfer of a Tate Street investor's Individual Retirement Account ("IRA") from TD Ameritrade to what CIPOLLA had led the investor, E.M., to believe would be a tax-deferred retirement account managed by Tate Street.

16. As a result of this scheme to defraud, CIPOLLA fraudulently obtained millions of dollars from more than 30 investors.

(In violation of Title 18, United States Code, Sections 1341 and 2.)

COUNT TWO

(Unregistered Commodity Pool Operator)

THE UNITED STATES ATTORNEY FURTHER CHARGES:

17. The allegations contained in paragraphs 1 through 16 of this information are realleged and incorporated as though set forth in full here.

18. From in or about 2009 through in or about March 2019, in the Eastern District of Virginia and elsewhere, LEONARD J. CIPOLLA knowingly, willfully, and unlawfully used, and caused to be used, the mails and other means of interstate commerce to conduct business as a commodity pool operator. During this period, CIPOLLA was not registered as a commodity pool operator with the Commodity Futures Trading Commission and was not exempt by relevant statute or regulation from being so registered.

(In violation of Title 7, United States Code, Sections 6m(1), 6n, and 13(a)(5).

FORFEITURE

Pursuant to 32.2 of the Federal Rules of Criminal Procedure as to Count One of this criminal information, the defendant, upon conviction of the offense, shall forfeit to the United States any property, real or personal, which constitutes, or is derived from, proceeds traceable to such offense, pursuant to 18 U.S.C. §§ 981(a)(1)(C) and 28 U.S.C. § 2461(c).

The property subject to forfeiture includes but is not limited to the following:

A sum of money of at least \$7 million, which represents the total proceeds of the offense charged in Count 1, which shall be reduced to a money judgment against the defendant in favor of the United States; however, such judgment shall be partially offset by the following:

- \$30,127.33 in funds seized from Wells Fargo Account # ending in -6423 on April 2, 2019
- \$50,000 in funds seized from Tastyworks, Inc. Account # ending in -0130 on April 2, 2019
- Net proceeds from the sale of a 2015 Ford F150, VIN # 1FTFW1EF3FFC15941
- \$81,997.19 representing the proceeds from the sale of real property located at 44 Thornton Road in Nashua, New Hampshire

(All in accordance with Title 18, United States Code, Section 981(a)(1)(C), as incorporated by Title 28, United States Code, Section 2461(c).)

G. ZACHARY TERWILLIGER
UNITED STATES ATTORNEY

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