

Robb Evans

Trustee for Certain Assets of The United States of America

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IMPORTANT ANNOUNCEMENT TO ALL INVESTORS AND CREDITORS

***In the Matter of United States of America v. Larry Wilcoxson, Roxanne Albaugh, David Baxter et al
U.S. District Court for the Eastern District of California
Case No. CR-S 99-0359 DFL***

The United States Attorney General, through the Chief of the Asset Forfeiture and Money Laundering Section (AFMLS), Criminal Division, U.S. Department of Justice (USDOJ), has appointed Robb Evans to act as Restitution Trustee to notify victims of the investment fraud scheme and other creditors of their opportunity to file a Petition for Remission or Mitigation of Forfeiture pursuant to 28 C.F.R. Part 9 (1997). A Petition for Remission is not available to challenge the validity of the forfeiture itself; rather, it is an opportunity for the innocent victims of the defendants' investment fraud scheme and other creditors to seek some relief through the Attorney General's discretionary authority to use federally forfeited property to compensate victims of the underlying criminal activity and other creditors. Pursuant to 28 CFR § 9.9(c) (1997), Robb Evans will process all such Petitions for Remission and will make a recommendation to the Chief of AFMLS on the distribution of assets to petitioners. The following information is meant to provide investors and creditors with information about the fraud scheme and related prosecutions and forfeitures, the petition process, the role of Robb Evans as Trustee, and to answer some frequently asked questions.

Background on the Fraudulent Scheme

Preliminary analysis indicates that beginning in November 1997, Wilcoxson devised a plan to defraud investors by soliciting investments for a high yield trading program that supposedly involved profits generated through the purchase and sale of notes in an exclusive European financial market. The investments were marketed to investors around the world. The scheme was devised in 1997 and Larry Wilcoxson and others, whom he recruited as agents or brokers, represented to the investors that they would receive profits of about 50 percent per month. Investors were periodically sent account statements showing that they had received those profits, when in fact no such profits had been received from any trading program. The preliminary investigation so far reveals that more than 1,600 individuals invested in the scheme through the IFR Trust, an offshore trust, controlled by Wilcoxson.

Procedural Background

On December 16, 1999, a federal grand jury charged Wilcoxson with 31 federal criminal violations, including violations of 18 U.S.C. §§ 371 (securities fraud), 1341 (mail fraud), and 1956 and 1957 (money laundering). The grand jury also charged pursuant to 18 U.S.C. § 982(a)(1) that various properties were subject to forfeiture to the United States because Wilcoxson had acquired them with the illegal proceeds of his fraud scheme. [see Superseding Indictment]

On October 5, 2000, Wilcoxson entered into a plea agreement with the United States, in which he agreed to plead guilty to laundering more than \$7.1 million in fraud proceeds. [see Plea Agreement] Wilcoxson also agreed to forfeit any interest he may have in the fraud proceeds or property he acquired with such proceeds, as described by the federal grand jury. The United States District Court accepted Wilcoxson's plea agreement and on October 19, 2000, the United States District Court entered a Preliminary Order of Forfeiture, which authorized the United States to seize the Subject Property. [see Preliminary Order of Forfeiture] By separate order, the Court appointed Robb Evans to serve as trustee for the purpose of "receiving the Subject Property, managing the Subject Property, and liquidating the Subject Property for the protection of the United States". [see Order Appointing Trustee]

Thereafter, the Attorney General, through her designee, Gerald E. McDowell, Chief of the AFMLS, authorized the appointment of Robb Evans to act as trustee to notify potential victims of the Wilcoxson scheme that they may petition the Attorney General for remission from the assets which constitute the Subject Property. [see Notice of Appointment] Robb Evans is also authorized to process petitions, and make recommendations to AFMLS on the distribution of such property to petitioners.

The Court's Preliminary Order of Forfeiture also authorized the Government to begin ancillary proceedings to resolve any third-party petitions asserting an interest in the Subject Property. Pursuant to the Court's preliminary order of forfeiture, the United States initiated ancillary proceedings by, among other things, publishing notice in the manner prescribed by the Court in its Preliminary Order of Forfeiture. The ancillary claims process has now concluded. Presently, the Government has noticed before the Court a motion for entry of a Final Order of Forfeiture. Upon entry, the Final Order of Forfeiture will vest in the Government all right, title and interest in the Subject Property.

Investor Funds and Creations of Claims Database

Concurrent with his duties as the Trustee for receiving, managing and liquidating the forfeited assets, Robb Evans, as the Restitution Trustee, has commenced investigation and independent analysis of the data collected, so far, from the FBI, IRS and the U.S. Attorney's office.

The Trustee intends to submit an initial report to the Court in a few weeks. The purpose of this initial report is to inform the Court regarding the activities of the Trustee, and to provide information regarding the forfeited assets and related matters. The Trustee has initiated steps to take control of the forfeited assets to trace money transfers, and other diversions, and pursue all possible sources of recovery.

The former bookkeeper, William Gordin's records reveal the existence of about 80 brokers who were paid significant sums of money as commissions.

The process of reconciliation of the data with financial records has commenced and the data will be confirmed with original sources from investors, paid checks and bank transfers. This process of reconstruction of records and reconciliation could take a number of weeks. The Trustee, therefore, advises that the investors provide him with comprehensive information on their investments, as soon as possible.

When this forensic analysis is completed, the Restitution Trustee will send out the claim forms to the known potential claimants.

The Trustee has been receiving phone calls, e-mails and letters from hundreds of investors with different types of questions and as advised in the earlier notice, (posted in our website www.robbevans.com) an individual answer to each investor will only add to the cost of administration and diminish the net recovery. In an effort to reduce the administrative cost of individual responses to investors, we have summarized below some of the common questions.

QUESTIONS ON INVESTMENTS AND STATUS OF CLAIMS

1. ***What should I do to be on your list of claimants?***

If you have not sent a letter with details of your address and other contact information, you may please do so now by sending a letter, via ordinary mail, to the address shown above.

2. ***How do I know whether my name is in your database?***

We have compiled a preliminary database, but there is no assurance that your name is there and even if your name appears in the list, whether the addresses we have collected are the correct ones. We recommend that you send a simple letter with your latest address and other contact information such as telephone, facsimile numbers and e-mail address. Please also indicate whether you opened an offshore trust and whether your investment account is held in the name of a trust. If you believe that your investment account was transferred to Mr. David Baxter in the United Kingdom, please provide full details. This will allow the Restitution Trustee to verify your information and process your claim quickly and efficiently.

3. ***I did not invest directly. I gave my funds through some contact or a broker/agent. How do I get a claim form?***
Please give full details of your investment, how and when funds were sent, copies of any checks or wire transfer instructions, and which agent/broker handled your investment etc.
 4. ***When can I expect a claim form to be sent to me?***
Once a list of potential claimants has been compiled and the investment records have been reconciled, we anticipate sending out the claim forms in the second quarter of 2001.
 5. ***What happened to Wilcoxson and other defendants?***
Mr. John Witzke is serving a sentence, and Larry Wilcoxson and William Gordin have been sentenced. Mr. David Baxter was arrested in Britain on January 10, 2001, and was released on bail (after surrendering his passport), pending further extradition proceedings in Britain. Copies of the press releases on the sentencing can be seen on the web site mentioned above. The press releases discuss the other defendants as well.
 6. ***Will the Trustee make any interim distributions as and when he liquidates the assets?***
No. The Restitution Trustee will make recommendations to the Chief of AFMLS on the distribution of the assets to claimants. This will happen only after the (Assets) Trustee has liquidated all the forfeited assets and a final Forfeiture Order is issued in this regard.
 7. ***As far as investors and creditors are concerned, who has priority in getting paid?***
There are not many creditors other than the investors. Non-owner victims generally receive a pro-rata share of the net proceeds of the forfeited property, based upon their documented uncompensated pecuniary losses.
 8. ***What kind of realistic time frame should be expected before we get our money back? Any ballpark figure?***
If things go as expected, the Restitution Trustee hopes to send a recommendation to the AFMLS by the middle of next year. Please, however, note that a decision could be delayed because of appeals, competing claims for the forfeited properties, requests for information, etc.
 9. ***How will our investments be treated as far as payment is concerned? Will investors who invested early get more return than the investors who invested at a later date?***
Part of the Restitution Trustee's job is to analyze and recommend a distribution formula to AFMLS. In Ponzi schemes such as this, generally, all investors are treated the same.
 10. ***What about income payments that some investors have received? Will those payments be deducted from our distributions?***
That is quite possible. Right now, we do not yet know with certainty how this will be treated. But the Court's and USDOJ's standards are to treat everybody fairly. That will be one of the factors to be considered when we recommend a distribution formula.
 11. ***Can we report our losses to the IRS?***
You will have to consult a tax advisor on that.
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