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CFTC Wins Trial against Virtual Currency Fraudster

Court Orders Defendants to Pay over \$1.1 Million in Penalties and Restitution in Connection with the “Vicious Defrauding of Customers”

Washington, DC - A New York federal court entered final judgment ordering **Patrick K. McDonnell** of Staten Island, New York, and **CabbageTech, Corp.** d/b/a Coin Drop Markets (CDM), McDonnell's New York-based company, to pay over \$1.1 million in civil monetary penalties and restitution in connection with a lawsuit brought by the Commodity Futures Trading Commission (CFTC) alleging fraud in connection with virtual currencies, including Bitcoin and Litecoin.

In an accompanying 139-page Memorandum (Decision) entered on August 23, 2018, following a four-day bench trial, Judge Jack B. Weinstein of the U.S. District Court for the Eastern District of New York found that McDonnell and CDM (together, Defendants) engaged in a deceptive and fraudulent virtual currency scheme to induce customers to send money and virtual currencies to CDM, purportedly in exchange for real-time expert virtual currency trading advice and for virtual currency purchasing and trading on behalf of the customers under McDonnell's direction. In fact, these misrepresentations were lies, and McDonnell simply misappropriated customer funds in what the Court found was the “vicious defrauding of customers.”

James McDonald, the CFTC's Director of Enforcement, commented: “As the court's judgment makes clear, the CFTC will continue to act aggressively to identify bad actors involved in virtual currencies and hold them accountable. This case also shows the CFTC's readiness to prove its case at trial.”

The Court's Decision finds that from approximately January 2017 through approximately July 2017, McDonnell and CDM engaged in a deceptive and fraudulent scheme to induce customers to send money and virtual currencies to CDM, purportedly in exchange for real-time virtual currency trading advice and for virtual currency purchasing and trading on behalf of the customers under McDonnell's direction. In fact, as found in the Decision, the supposedly expert, real-time virtual currency advice was never provided, and customers who provided funds to McDonnell and CDM to purchase or trade on their behalf never saw those funds again. In short, McDonnell and CDM used their fraudulent solicitations to obtain and then keep customers' funds—as the Decision found, McDonnell “ruthlessly misled customers and misappropriated their funds.”

The Decision further finds that to conceal their fraudulent scheme, soon after obtaining customer funds, Defendants removed the website and social media materials from the Internet and ceased communicating with CDM Customers, who lost most if not all of their invested funds due to Defendants' fraud and misappropriation. Neither Defendant has ever been registered with the CFTC in any capacity.

The decision stems from the Complaint filed in this action on January 18, 2018 (see CFTC Complaint and Press Release 7675-18 (<https://www.cftc.gov/PressRoom/PressReleases/pr7675-18>)). The Court had previously entered a Preliminary Injunction Order in favor of the CFTC and against McDonnell and CabbageTech, Corp., finding that the CFTC had shown that Defendants would continue to violate the Commodity Exchange Act (CEA) without court intervention and that the CFTC's antifraud authority unambiguously applies broadly to the use or attempted use of any manipulative or deceptive device in connection with a contract of sale of any commodity in interstate commerce, including the virtual currencies at issue in this matter (see CFTC Complaint and Press Release 7702-18 (<https://www.cftc.gov/PressRoom/PressReleases/pr7702-18>)).

In addition to requiring Defendants, jointly and severally, to pay \$290,429.29 in restitution to customers and a \$871,287.87 civil monetary penalty, the Final Judgment imposed permanent trading and registration bans on Defendants, and permanently enjoined them from further violations of the Commodity Exchange Act and CFTC Regulations, as charged.

The CFTC cautions that orders requiring repayment of funds to victims may not result in the recovery of any money lost because the wrongdoers may not have sufficient funds or assets. The CFTC will continue to fight vigorously for the protection of customers and to ensure the wrongdoers are held accountable.

This case is brought in connection with the CFTC Division of Enforcement Virtual Currency Task Force.

The staff members responsible for this case are Christopher Giglio, Alejandra de Urioste, Gates S. Hurand, David Oakland, K. Brent Tomer, Lenel Hickson, Jr., and Manal M. Sultan.

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CFTC's Customer Fraud Advisory on Virtual Currencies and Bitcoin

The CFTC has issued a Customer Advisory on the Risks of Virtual Currency Trading (https://www.cftc.gov/idc/groups/public/@customerprotection/documents/file/customeradvisory_urvct121517.pdf) to inform the public of possible risks associated with investing or speculating in virtual currencies or recently launched Bitcoin futures and options. The CFTC has also issued several other customer protection Fraud Advisories (<https://www.cftc.gov/ConsumerProtection/FraudAwarenessPrevention/CFTCFraudAdvisories/index.htm>) that provide the warning signs of fraud.

Also, before investing or trading with a firm, check the firm's registration status and disciplinary history, if registered, with the National Futures Association. A company's registration status can be found at: www.nfa.futures.org/basicnet (<https://www.cftc.gov/exit/index.htm?http://www.nfa.futures.org/basicnet>).

Customers can report suspicious activities or information, such as possible violations of commodity trading laws, to the CFTC Division of Enforcement via a Toll-Free Hotline 866-FON-CFTC (866-366-2382) or file a tip or complaint (<https://www.cftc.gov/ConsumerProtection/FileaTiporComplaint/index.htm>) online.