

Release Number 8254-20

CFTC and 30 States Charge Los Angeles Precious Metals Dealers in Ongoing \$185 Million Fraud Targeting the Elderly

Largest Joint Filing Between CFTC and State Regulators in History

September 25, 2020

Washington, D.C. — The Commodity Futures Trading Commission and 30 state regulators that are members of the North American Securities Administrators Association (NASAA) announced the filing of a joint civil enforcement action in the U.S. District Court for the Northern District of Texas against two precious metals dealers and their companies for perpetrating a \$185 million fraudulent scheme targeting elderly persons nationwide.

The complaint charges defendants **TMTE, Inc., d/b/a Metals.com, Chase Metals, LLC, Chase Metals, Inc.** (collectively “Metals.com”), **Barrick Capital, Inc.** and its principals, **Lucas Asher a/k/a Lucas Thomas Erb a/k/a Luke Asher** and **Simon Batashvili** with executing an ongoing nationwide fraud that solicited and received more than \$185 million in investor funds to purchase fraudulently overpriced gold and silver bullion. **Tower Equity, LLC** is also charged as a relief defendant. The defendants and relief defendant are all located in Los Angeles, California.

On September 22, 2020, The Honorable Judge David C. Godbey of the U.S. District Court for the District of Northern District of Texas entered a restraining order freezing the assets of the defendants and the relief defendant and permitting the CFTC and the states to inspect all relevant records. The court also appointed a receiver to take control of Metals.com, Barrick, and Tower Equity, as well as the assets of Asher and Batashvili.

The CFTC investigated this matter in parallel with state securities regulators. This enforcement action is the largest joint filing in CFTC history with state regulators, and the first resulting from a [2018 information sharing agreement](#) between the CFTC and NASAA, which represents state and provincial securities regulators in the United States, Canada, and Mexico.

“This historic joint effort between the CFTC and 30 state regulators is an important step toward rooting out fraud across the country,” said CFTC Chairman Heath P. Tarbert. “This case highlights just how geographically broad commodities fraud can be in our rapidly-evolving financial markets and how important it is for regulators at all levels of government to work together to pursue bad actors and protect market participants.”

“I fundamentally believe that we can most effectively protect our markets when working together with our colleagues in the enforcement and regulatory community,” said CFTC Director of Enforcement James McDonald. “While much attention has been paid to our parallel enforcement efforts with federal partners, we are also committed to working closely with state authorities to hold bad actors accountable. This case highlights the best of parallel civil enforcement.”

“Collaboration with our federal counterparts is an essential element of effective investor protection. Investors benefit when regulators build bridges toward our common goals of protecting investors and the integrity of the financial markets. We look forward to continue strengthening these bonds as we bring many more collaborative enforcement actions such as those announced today,” said Lisa Hopkins, NASAA President and West Virginia Senior Deputy Securities Commissioner.

“State securities regulators have a long history of working together with one another and with our federal counterparts to protect investors and enforce the law. Given the complexity of investment products, our jobs have never been more important, or more demanding. Today’s action demonstrates the commitment of state and federal regulators to work together to prevent investment fraud,” said Joseph P. Borg, chair of NASAA’s Enforcement Section and Director of the Alabama Securities Commission.

Case Background

The complaint alleges that, from at least September 1, 2017 to the present, the defendants fraudulently solicited and received over \$185 million in customer funds—including more than \$140 million in retirement savings—from at least 1,600 persons throughout the United States for the purpose of purchasing precious metals bullion. The defendants targeted a vulnerable population of elderly persons with little experience in precious metals. Through their fraudulent solicitation, the defendants deceived customers into purchasing precious metals bullion at grossly inflated prices that bore no relationship to the prevailing market price. The overcharges averaged from 100 percent to more than 300 percent over the prevailing market price. In the end, nearly every customer lost the vast majority of their funds deposited with the defendants.

As the complaint alleges, to perpetuate their fraud, when questioned by customers about the value of the precious metals bullion they purchased, the defendants falsely claimed that the precious metals bullion were rare and carried a premium far above the base melt value. In fact, the precious metals bullion were significantly less valuable than the defendants claimed.

In the continuing litigation against the defendants, the CFTC and the states seek disgorgement of ill-gotten gains, civil monetary penalties, restitution, permanent registration and trading bans, and a permanent injunction against further violations of the Commodity Exchange Act, CFTC regulations, and state laws, as charged.

The case was filed with the cooperation and assistance of the following state agencies: Alabama Securities Commission; State of Alaska; Arizona Corporation Commission; California Commissioner of Business Oversight; Colorado Securities Commissioner; Delaware Department of Justice; State of Florida, Office of the Attorney General and Office of Financial Regulation; Office of the Georgia Secretary of State; Hawaii Office of the Securities Commissioner; Idaho Department of Finance; Indiana Securities Commissioner; Iowa Insurance Commissioner; Office of the Kansas Securities Commissioner; Kentucky Department of Financial Institutions; Maine Office of Securities; Maryland Securities Commissioner;; Michigan Department of Attorney General; Mississippi Secretary of State; Nebraska Department of Banking & Finance; Nevada Office of Secretary of State; New Mexico Securities Division; New York Attorney General; Oklahoma Department of Securities;; South Carolina Attorney General and South Carolina Secretary of State; South Dakota Department of Labor & Regulation; Tennessee Department of Commerce and Insurance; State of Texas; Washington State Department of Financial Institutions; West Virginia Securities Commission; and State of Wisconsin.

The CFTC Division of Enforcement staff members responsible for this action are Hillary Van Tassel, Patricia Gomersall, JonMarc Buffa, and Richard Foelber, in partnership with enforcement authorities from NASAA member agencies, led by Alabama and Texas.

CFTC’s Precious Metals Customer Fraud Advisory

The CFTC has issued several customer protection [fraud advisories](#), including the [Precious Metals Fraud Advisory](#), which provides information about a type of fraud involving the trading of precious metals—such as gold, silver, palladium, and platinum—and how customers can detect, avoid, and report these scams.

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](#) online.

NASAA's Precious Metals Investor Advisory

NASAA and its members have issued a series of [investor advisories](#), including an advisory on matters to consider before making [gold-related investments](#).

Investors should also contact their state or provincial securities regulator with questions about any investment opportunity or the person offering it for sale before investing in the product. For contact information, visit the NASAA website [here](#).

About the CFTC:

The CFTC was created as an independent government agency in 1974 with the enactment of the Commodity Exchange Act (CEA). The CFTC's mission is to promote the integrity, resilience, and vibrancy of the U.S. derivatives markets through sound regulation. Among other things, the CFTC aims to protect market users and their funds, consumers, and the public from fraud, manipulation, and abusive practices related to derivatives and other products that are subject to the CEA. For more information, visit www.cftc.gov.

About NASAA:

Formed in 1919, NASAA is the non-profit association of state, provincial, and territorial securities regulators in the United States, Canada and Mexico. NASAA has 67 members, including the securities regulators in all 50 states, the District of Columbia, Puerto Rico, and the U.S. Virgin Islands. NASAA's U.S. members are responsible for administering state securities laws, commonly known as "Blue Sky Laws." For more information, visit: www.nasaa.org.

-CFTC-