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\$6 million has agreed to plead guilty to securities fraud charges filed by the U.S. Attorney for the Western District of North Carolina.

Jun. 19, 2013

An investment fund owner and operator that defrauded investors of approximately \$6 million has agreed to plead guilty to securities fraud charges filed by the U.S. Attorney for the Western District of North Carolina.

A criminal bill of information filed in U.S. District Court charged James Alexander Shepherd, 58, of Vass, North Carolina, with one count of securities fraud. Shepherd has agreed to plead guilty to the charge.

According to filed court documents and court proceedings, beginning in 2006 and through the spring of 2013, Shepherd defrauded over 100 investors in Union County and elsewhere of approximately \$6 million.

Court documents indicate that Shepherd perpetrated the fraud by promising his victims returns on their investments in funds Shepherd owned and controlled, including "The Shepherd Major Play Option Fund, L.P.," (the "Major Play Fund") and the "Shepherd's Model Hedge Fund," (the "Hedge Fund").

In addition, Shepherd had some individual investors that invested their money independent of any particular investment vehicle. Court records show that in about 2006 and unbeknownst to his investors, Shepherd began misappropriating investor money from the Major Play Fund. Shepherd used the misappropriated funds for other purposes, including to pay investors of his hedge fund, to trade in his personal accounts, and to fund the operations of Shepherd's newsletter, which offered investment news and advice to thousands of subscribers.

According to court records, Shepherd also used the money to fund his personal

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Commodities Futures Trading Commission.

The false financial statements also misrepresented to investor victims the financial condition of the fund. For example, in December 31, 2012, Shepherd represented in a fraudulent statement that the fund had a \$6,041,850 cash balance, when in reality the fund had less than \$100,000 at the time.

According to filed documents, Shepherd was able to obtain the Independent Auditor's Report each year by tricking the accountant who provided it. According to common practice at the time, the accountant would send a letter of inquiry to the bank the fund held its account, requesting the fund's cash balance.

On each occasion, the accountant sent the inquiry letter to the bank's P.O. Box address provided by Shepherd and to the attention of "Charles Fisher," who was purportedly working at the bank. In each instance, records show that the accountant would then receive a letter or fax confirmation from Charles Fisher verifying the Major Play Fund's bank balance, as well as a copy of the bank statement confirming the cash balance of the fund. In reality, court documents indicate, Charles Fisher was a fictitious bank employee.

Shepherd would forge the name Fisher on a fake bank letter and send forged bank statements with fake balances. Shepherd generated the fraudulent bank statements using a version of Adobe Acrobat that enabled him to type false numbers over true bank statements. Shepherd also controlled the P.O. Box the accountant's letters were mailed to and controlled the fax number that supposedly belonged to Charles Fisher at the bank.

According to court records, Shepherd's scheme was uncovered when in March 2013 the accountant insisted on verifying the cash balance of fund's bank account

electronically, through the audit confirmation website [www.confirmation.com](http://www.confirmation.com),

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case of a single bad investment. Shepherd used his investors' money to fund his failing investment funds and his personal lifestyle and prolonged the fraudulent scheme through trickery and lies. Prosecuting investment schemes is a priority for this office, and we will continue to go after those who make false promises and steal people's hard-earned money," says U.S. Attorney Tompkins.

"James Shepherd went to great lengths to conceal his criminal scheme, even creating phantom bank employees in order to fool the auditors tracking his accounts. The FBI and our law enforcement partners will keep exposing those responsible for these crimes as long as innocent people are cheated out of their hard earned money," said John A. Strong, Special Agent in Charge of the Charlotte Division of the FBI.

The bill of information filed against Shepherd includes a notice of forfeiture, which gives notice that the defendant must forfeit to the United States of the property involved in the offenses charged in the information and all property that is proceeds of such offenses.

Shepherd's initial appearance and plea hearing have not been set yet by the court. At sentencing, Shepherd faces a maximum of 20 years in prison and a \$5 million fine. As part of his plea agreement, Shepherd has agreed to pay full restitution to his victims, the amount of which will be determined by the court at sentencing.

In a related action, today the CFTC also filed a civil enforcement action against Shepherd.

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