

Ashe Based Ponzi Conviction: 50 Years in Fed Prison

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Keith Franklin Simmons, 47, of West Jefferson, N.C., was sentenced Wednesday to 50 years in prison in connection with a \$40 million Ponzi scheme he operated, announced Anne M. Tompkins, U.S. Attorney for the Western District of North Carolina. U.S. District Judge Robert J. Conrad, Jr. also ordered the defendant to serve three years under court supervision following his prison term, and to pay \$35,331,632 in restitution. Joining U.S. Attorney Tompkins in making today's announcement is Chris Briese, Special Agent in Charge of the Federal Bureau of Investigation (FBI), Charlotte Division, and Jeannine A. Hammett, Special Agent in Charge of the Internal Revenue Service - Criminal Investigation Division (IRS-CI).

"What makes this case particularly troubling is that from the beginning this defendant had no intention of investing a single dime of the victims' money," said U.S. Attorney Tompkins.

"Simmons made slick presentations to his victims about lucrative investment returns that were filled with lies and deceit. Simmons was a con artist who pocketed people's savings to finance his own lavish lifestyle and went to great lengths to cover up his crimes. The impact of Simmons' fraud has been devastating to his victims who trusted him with their hard-earned money. I want to caution potential investors before they turn over their life's investments to pay close attention to sales pitches that promise large returns on investments. If it sounds too good to

be true, it probably isn't." "Keith Simmons preyed on the elderly and the vulnerable, swindling his victims out of millions of dollars. This case is a stark reminder to the con artists who run these schemes they will face lengthy prison sentences and it is a lesson to investors to be cautious and to question promises of large payoffs," said Chris Briese, Special Agent in Charge of FBI Charlotte. "Our investigators worked closely with the U.S. Attorney's Office in bringing this case to

a successful conclusion. We are sending a clear message that North Carolina will not tolerate financial crime and that we will put financial criminals behind bars," stated Jeannine A.

Hammett, Special Agent in Charge of IRS. In December 2009, Simmons was arrested by the FBI and detained without bond. In August 2010, a superseding bill of indictment charged Simmons with one count of securities fraud, one count of wire fraud, and two counts of money laundering. In December 2010, Simmons was convicted on all four counts by federal jury.

According to filed court documents, court proceedings and today's sentencing hearing, beginning in April 2007, Simmons began soliciting victims to invest in Black Diamond for supposed trading in the foreign currency exchange market. From April 2007 through September 2009, Simmons and his co-conspirators induced over 400 victims nationwide to invest more than \$40 million in Black Diamond through a series of false representations, including bogus claims that Black Diamond was generating profits of more than 48% annually in the foreign currency trading market. In reality, none of the representations Simmons made to his victims were true. Simmons never invested the funds in any foreign currency market. Rather, court records indicate, Simmons used his victims' money to fund a lavish lifestyle. At sentencing, Judge Conrad noted, "The Court could not help but be struck by the devastation suffered by the victims in this case," and that there was a "callousness to this Ponzi

scheme that seems singular to this Court." Judge Conrad said that the defendant's conduct "had a generational impact on the victims seldom seen by this Court." Judge Conrad also said that, "A 50 year sentence is an enormous sentence but there seems to be no other sentence . . .

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. that would accomplish justice in this case.” In addition to providing for restitution to victims, federal law also provides for forfeiture of proceeds of crime. Accordingly, Judge Conrad sentenced Simmons to forfeit properties, including numerous pieces of real estate, a vehicle, funds obtained from the sale of real estate, and funds obtained from the sale of shares of ultimate fighting companies. In addition, via administrative agency processes, the FBI has already forfeited numerous additional vehicles and collectible coins seized from Simmons. Simmons had purchased the forfeited properties with over \$4,800,000 in proceeds of the scheme. The U.S. Attorney’s Office will request liquidation of any finally forfeited assets and return of net proceeds of liquidation to victims.