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Department of Justice

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FOR IMMEDIATE RELEASE

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Gary Hirst Sentenced To 8 Years In Prison For Defrauding Tribal Entity And Pension Funds Of Tens Of Millions Of Dollars

Robert Khuzami, Attorney for the United States, Acting Under Authority Conferred by 28 U.S.C. § 515, announced that GARY HIRST was sentenced today by U.S. District Judge Ronnie Abrams to 8 years imprisonment for defrauding a Native American tribal entity and numerous pension fund investors of tens of millions of dollars in connection with the issuance of bonds by the tribal entity. HIRST pled guilty May 15, 2018, to conspiracy to commit securities fraud, securities fraud, investment adviser fraud, and conspiracy to commit investment adviser fraud before U.S. Magistrate Judge Barbara Moses.

Attorney for the United States Robert Khuzami said: "This complex and brazen securities fraud scheme lined the pockets of Gary Hirst and his co-defendants but left the Native American tribal entity, the Wakpamni Lake Community Corporation \$60 million in debt. Hirst, who is already in prison for a separate securities scheme prosecuted by this Office, now faces additional time behind bars for this criminal conspiracy."

According to the allegations contained in the Indictment filed against HIRST and statements made in related court filings and proceedings, including the trial of co-defendants John Galanis, Devon Archer, and Bevan Cooney:

From March 2014 through April 2016, HIRST, Jason Galanis, John Galanis, Devon Archer, Bevan Cooney, Michelle Morton, and Hugh Dunkerley, engaged in a fraudulent scheme to misappropriate the proceeds of bonds issued by the Wakpamni Lake Community Corporation ("WLCC"), a Native American tribal entity (the "Tribal Bonds"), and to use funds in the accounts of clients of asset management firms controlled by HIRST, Morton, and others to purchase the Tribal Bonds, which the clients were then unable to redeem or sell because the bonds were illiquid and lacked a ready secondary market.

The WLCC was convinced to issue the Tribal Bonds through false and fraudulent representations by John Galanis. Simultaneously, Jason Galanis, with the backing of Archer and Cooney, worked to acquire Hughes Capital Management (“Hughes”), a registered investment adviser. HIRST and Morton were installed as Hughes’s chief investment officer and chief executive officer, respectively. Within weeks of taking control of Hughes, HIRST and Morton placed the entire \$28 million first series of Tribal Bonds with Hughes clients but failed to disclose material facts about the Tribal Bonds, including that the Tribal Bonds fell outside the investment parameters set forth in the investment advisory contracts of certain Hughes clients. Indeed, HIRST himself signed the trade tickets to purchase the bonds after other employees of Hughes refused to do so. In addition, Hughes’s clients were not told about substantial conflicts of interest with respect to the issuance and placement of the Tribal Bonds before the Tribal Bonds were purchased on these clients’ behalf.

The defendants and their co-conspirators then misappropriated the proceeds of the first Tribal Bond issuance. Specifically, although the Tribal Bonds were supposed to be invested in an annuity, the proceeds were deposited into an account opened by HIRST and over which both HIRST and Dunkerley had signatory authority. HIRST and Dunkerley, at the direction of Jason Galanis, then transferred significant amounts of the bond proceeds from that account to support the defendants’ business and personal interests. Jason Galanis, for example, used a portion of the proceeds of the first Tribal Bond issuance to finance the purchase of a \$10 million luxury apartment in Tribeca. John Galanis, similarly, secretly received \$2.35 million in proceeds of the first bond issuance, which he spent on a variety of personal expenses and luxury items, including cars, jewelry, and hotel expenses.

In addition, after John Galanis induced the WLCC to issue a second round of Tribal Bonds, Archer and Cooney used \$20 million of bond proceeds from the first issuance to buy the entirety of the second issuance. As a result of the use of recycled proceeds to purchase additional issuances of Tribal Bonds, the face amount of Tribal Bonds outstanding increased and the amount of interest payable by the WLCC increased, but the actual bond proceeds available for investment on behalf of the WLCC did not increase. The bonds purchased by Archer and Cooney were then used to meet net capital requirements at two broker dealers in which Archer and Cooney had interests. Cooney also obtained a \$1.2 million loan based on his purported ownership of the bonds, which he subsequently failed to repay. In addition, millions of dollars in bond proceeds from the bond issuances were used to finance the acquisition of companies that the defendants and their co-conspirators acquired as part of a strategy to build a financial conglomerate.

In the spring of 2015, John Galanis induced the WLCC to issue an additional \$16 million worth of Tribal Bonds. Simultaneously, Jason Galanis, Archer, and others – in consultation with HIRST – purchased a second investment adviser, Atlantic Asset Management (“Atlantic”), and installed Morton as the chief executive officer. Within days of obtaining control of Atlantic, Morton placed the entirety of the \$16 million Tribal Bond with an Atlantic client, without the client’s consent and without disclosing the fact that the Tribal Bonds were outside the client’s investment parameters and that numerous conflicts of interest existed. The proceeds of the \$16 million issuance were again not invested in an annuity as promised, but instead were diverted, among other things, to finance the defendants’ acquisition of another company in furtherance of their plan to build a financial conglomerate and to make payments to one of the broker dealers in which Archer and

Cooney had interests. HIRST also directed that significant portions of the bond proceeds be funneled through other secret accounts and used to purchase significant portions of a technology stock's IPO – which was itself secretly controlled by several of the defendants.

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In addition to the prison term, GARY HIRST, 66, was sentenced to 3 years of supervised release. HIRST was also ordered to forfeit \$1.3 million and to make restitution in the amount of \$43,785,176.

Jason Galanis, who pled guilty to conspiracy to commit securities fraud, securities fraud, and investment adviser fraud, was sentenced to a term of 173 months in prison on August 11, 2017. Michelle Morton, who pled guilty to conspiracy to commit securities fraud and investment adviser fraud, is scheduled to be sentenced on November 30, 2018. John Galanis, who was convicted at trial of conspiracy to commit securities fraud and securities fraud, is scheduled to be sentenced on November 2, 2018. Devon Archer and Bevan Cooney, who were convicted at trial of conspiracy to commit securities fraud and securities fraud, are scheduled to be sentenced on November 9, 2018. Hugh Dunkerley, who pled guilty to conspiracy to commit securities fraud, two counts of securities fraud, bankruptcy fraud, and falsification of records with the intent to obstruct a government investigation, is scheduled to be sentenced on March 8, 2019.

This conviction represents HIRST's second conviction in this District in a little more than a year. On August 3, 2017, following his conviction at trial, HIRST was sentenced by U.S. District Judge P. Kevin Castel to 78 months in prison in connection with his participation in a scheme to manipulate the market for Gerova Financial Group, Ltd., a publicly traded company listed on the New York Stock Exchange, and to defraud the shareholders of that company.

Mr. Khuzami praised the work of the U.S. Postal Inspection Service and the Federal Bureau of Investigation, and thanked the Securities and Exchange Commission.

This case is being handled by the Office's Securities and Commodities Fraud Task Force. Assistant U.S. Attorneys Rebecca Mermelstein, Brendan F. Quigley, and Negar Tekeei are in charge of the prosecution.

Component(s):

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