The Myth of Prime Bank Investment Scams

Third Edition

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INTRODUCTION

The Post World War II financial scene has been marked by nothing short of a revolution. Characterized by noted financial commentator, Joseph Nocera, as “the money revolution”, it has been marked by the entry of the middle class into the once-esoteric world of high finance.¹ One factor of the opening and expansion of the financial markets has been the vast increase in financial products in which they can invest their increasing wealth over and above relatively simple investments in savings, pension funds, and equities. Simultaneously, there has occurred a legal and business revolution by which personal property security interests have become the normative means of wealth and finance, displacing interests in real property and, in the course of things, abstracted into levels that would have been previously unthinkable or unmarketable.² The final piece of this picture is the accompanying transformation of the staid financial industries of the post Depression world. One solution to the dangers which were thought to have led to this disaster was to compartmentalize financial service providers and to isolate their products and markets from one another. In the last half of the 20th Century, these barriers have come under systematic attack and have been dismantled with the result that insurers, investment companies, and banks are competing with one another.³

¹. Joseph Nocera, A PIECE OF THE ACTION (1994) 9 – 11. “Over the past two decades, we’ve been participating in nothing less than a money revolution. This is not a term I use lightly. When one recalls what the financial life of the middle class was like twenty years ago—when thrift was the highest virtue, when the daily movement of the Dow Jones average had almost no relevance to our lives, when few of us knew what a mutual fund was, much less the distinction between, say, a growth fund and a balanced fund—it’s hard not to conclude that this transformation has, indeed, been revolutionary.”

². The scope and extent of this revolution can be measured by the successive revisions of UCC Article 9, Personal Property Security Interests. A quick comparison of the standard treatise of the then advanced thinking in this field contained in Grant Gilmore’s seminal treatise, SECURITY INTERESTS IN PERSONAL PROPERTY (1965), with articles on the 1999 revision of Article 9 such as Edwin E. Smith, An Introduction to Revised UCC Article 9, 17 THE NEW ARTICLE 9 (1999) illustrate the depth of these changes.

³. In the 1997 edition of his useful overview of U.S. banking, THE BANKERS, Martin Mayer recounts a story which appeared in the first edition of a retirement party for a banker after fifty years (continued on next page)
The result is a bewildering array of products, some of which make it possible to believe that anything is possible. A case in point is the junk bond phenomenon of the 90s. Fueled by money in search of high returns, the markets for previously unmarketable securities burgeoned into a source of instant wealth not only for the lucky few, but for a few brief dazzling moments, for the common man. The same story could be told of various mergers, take overs, and acquisitions that have dotted the recent financial landscape. What has emerged is aptly described by Marcia Stigum as “the money market”, a “wholesale market for low-risk, highly liquid, short terms IOUs.”

Despite the expectations of instant wealth and disproportionate returns, there never could have been any doubt by the sober observer of these “bubbles” as to the risks inherent in these investment strategies. The funds invested were at risk and, when the bubble burst, were frequently lost. Anyone entering this market could readily discover that it was risky simply by reflecting on the significance of the name “Junk”. Nor were these risks hidden. It is difficult to muster sympathy for a gambler who knows the game, plays, and loses. Nor is it any surprise that the dealer and the house come out in the black. Indeed, it would be somewhat of a surprise if they did not.

At the same time as this legitimate market has emerged, however, another financial world has come into existence. Unlike the world of legitimate finance, this world of finance is mythical, driven by the greed, culpability, naivete, and pride of its investor/victims and, unrestrained by the limitations of reality, is largely contoured to capture their imagination. One of its restraining factors is the need of service. When asked to name the most important change in those fifty years, after considerable thought he finally named air conditioning. Of this tale, Mayer write “Twenty years later, this story is prehistoric. It’s still funny, but it’s incomprehensible. In these twenty years, banking has changed beyond recognition.”


6. The long history of enthusiasms which take hold of the financial markets from time to time. It is explored from the Dutch Tulip fiasco of the 17 century to the 1987 stock market collapse in JOHN KENNETH GALBRAITH, A SHORT HISTORY OF FINANCIAL EUPHORIA (1993). See also EDWARD CHANCELLOR, DEVIL TAKE THE HINDMOST (1999) (from the South Sea bubble to the Japanese economy).
to have an appearance of legitimacy. From rather simplistic scams, the schemes have grown into complex relatively sophisticated scams that have netted millions from wealthy investors who ought to know better.

The difference between these scams\(^7\) and the bubble-type investment schemes lies in the disclosure of risk and the fact that the bubbles are investments, however risky. It is one thing to gamble and lose; it is quite another to be assured of a risk free investment and to be deceived because there is no investment of the sort indicated whatsoever and the entire scheme is the fabric of its creators’ overactive imaginations. The former is imprudent, the latter is actionable. There is no chance whatsoever for the scammed investor to win at the end of the day while the bubble investor has a chance to win (or lose) and knows it.

Because they take advantage of gaps in regulatory regimes, criminal law, and law enforcement coverage, such scams can operate undetected for years and, even when detected, the scamsters can often avoid criminal liability. The lack of uniformity in regulation and control of different nations makes it possible to operate activities in some less developed nations with virtually no regulation or tax consequences which would be prohibited or carefully scrutinized in most developed countries, and it is unlikely, even in these countries, that officials will pursue extra-territorial crimes.

While these schemes should be so attractive to so many is not hard to explain. Whether the market is up or down, there are always investors who want or need higher returns. When the “secret” of such returns lies in obscure areas of international banking and finance, almost anything can seem plausible even to otherwise sophisticated investors. Banks, of course, are well known financial intermediaries and international bank undertakings have long been an important component in international finance and commerce. The details are somewhat obscure (not unknowable, just unknown) even to most businesspeople. In finance, however, technical obscurity has never been a problem. After all, how many investors really understand the technical details of STRIPS, derivatives, or many of the other complex investment vehicles touted in today’s market? What matters is sufficient perception of credibility to comfort investors and their advisers.

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7. Although interchangeable with “fraud,” “scam” is preferred here because the term “fraud” has an accepted meaning in letter of credit law involving circumstances where there was a legitimate financial instrument. See Rev. U.C.C. § 5—109. On the other hand, these schemes rarely involve real instruments, and when they do they are issued by captive “banks” operating in virtually unregulated systems or, if an operating legitimate bank, due to fraudulent inducement of an unsuspecting bank employee or corruption of an all-too-suspecting one.
Known variously as “prime bank letters of credit,” “prime bank guarantees,” “3039s,” “high yield” investments, and a host of variations, a species of fraudulent financial instruments has emerged since the mid-80s. The instruments mimic legitimate financial instruments sufficiently to attract serious attention and are well drafted enough to be capable of misleading all but those familiar with the elusive world of international bank operations. It is the purpose of this book to explore this world, to examine the legitimate instruments, compare them with the fraudulent ones and to identify their features. It is undertaken in the hope that the information will alert investors and their professional advisers to increase their vigilance, and to assist the legal community in prosecutions where safeguards fail. In doing so, concrete illustrations, examples, official warnings, and other materials are provided.

What is intended is a symptomatic description of a virulent commercial virus; its precise configurations are, as is typical with the genus, subject to rapid mutations that can radically alter their outward appearance. As a result, there is no prototype. Based on more than 10 years of work with these schemes and examination of more than 1,000 of them, however, an attempt is made here to describe a composite scheme. Not all the schemes contain all of the elements described and the more recent versions, having benefitted from the most obvious (and well-publicized) mistakes of their precursors, are far more subtle. There are, nonetheless, certain characteristics common to these schemes which are identified and explained.

I. PRIME BANK FINANCIAL INSTRUMENT SCHEMES

The burgeoning Post World War II field of financial and business fraud was first explored in depth in the 1973 book, The Fountain Pen Conspiracy. It details the growth of petty “confidence” scams into sophisticated schemes involving real estate, insurance, and financial markets, and employing the services of a cadre of shady accountants and attorneys. Central to many of the scams was the use of banks, best exemplified by the notorious Bank of Sark. Banks, whether real or fictitious, proved themselves invaluable to the scamsters in these schemes both because of their reputation and the mystique surrounding their activities. Out of these experiences emerged a species of scams which focused on the use of banks.
RWAs

The first of this line of scams to come to the attention of international bankers were “Ready, Willing, and Able” communications. The setting is straightforward. Buyers and sellers are often relative strangers to one another and require assurances regarding one another’s ability to perform their respective obligations. In such a setting, it is natural for the parties to turn to third party intermediaries such as bankers to add comfort and assurance to the prospective deal. The banker, for example, can provide assurance regarding the general creditworthiness of the buyer, its standing in the local community, its status as a dependable customer, and similar matters. The bank is also able to verify signatures of its customers and does so regularly.

All of these activities are undertaken by banks as a courtesy in order to promote business. Any such communication is not an undertaking of the bank and does not commit the bank to pay, purchase, or advance money. It is not uncommon for such communications to state in a forthright fashion these limitations in language such as “without engagement” or “without bank responsibility.” If the parties want a bank commitment, there are bank services to which they can always resort such as commitments to lend or letters of credit.

The scamsters hijacked this not uncommon business practice to add credibility to their schemes. They only required two ingredients:

1. A banker. For this function they prefer an officer at a small bank or a low ranking officer at a big bank. The idea is to obtain from the officer a letter or cable to the buyer or its bank which indicates that the customer of the first bank is “ready, willing, and able” (the “RWA”) to perform a certain transaction. With such a document, an accomplished scamster can perform financial miracles, quite literally making money out of nothing. If unable to find such a person at a real bank, they can always resort to forgery or set up a “shell” bank or banker.

How is it possible to obtain such letters from a “real” banker? Given the right circumstances and a gift of persuasion (these artists are not called “confidence men” without reason), it is relatively easy to get someone working for a bank to sign almost anything where they believe that the bank could not possibly itself be committed and where it would help an actual or potential customer (banks, after all, pride themselves for their service). Likely targets are inexperienced officers, private bankers, and officers of small rural banks. As a result, numbers of banks
and bank employees have unwittingly (and, in a few instances, wittingly) lent themselves to these schemes.

2. A businessperson with money who is eager for a fantastic deal that would generate more money. The simplest variety of this scam is where the scamster acts as representative of a “seller” who produces goods in which the businessman deals. Armed with an “RWA” from a known bank, the scamster is often able to convince the victim to advance funds based on the letter. What is the value of such a letter? It can be used in an endless variety of ways to further scams. For example, the victim is encouraged to ship goods or pay money in reliance on such a letter.

Advanced Fee Schemes

A related scheme is the Advanced Fee Scheme in which the victim is induced to advance funds in consideration of a handsome return when the “sure deal” pays off. While the scheme comes in many varieties, a typical instance would be the presence of a letter on the stationery of a large corporation supposedly signed by an officer of the corporation. Obtaining stationery is a simple matter of sending inquiry to the corporation and using the response as a model. The signatures of all the key officers of every large corporation are on file with the Securities Exchange Commission in connection with required annual reports. The scamster, however, need do nothing more than call the corporation and request a free copy of its annual report containing such signatures.

Alternatively, the scamster can establish its own corporation and, if a balance sheet is wanted, “cook” its books. In an advanced fee scam, an entity needs short-term funds for a “sure thing.” The scamster is either a broker for or representative of the entity. Although the corporation is actually or supposedly well endowed, the victim is told that it cannot raise the sum required either for legal/regulatory reasons or because it is temporarily illiquid. As a result, it is said to be prepared to pay well to obtain the sum needed as a down payment or advance fee, the return of which is certain and risk-free.

For example, the entity is supposedly the buyer of oil rights but an advance fee or good faith down payment is required to finalize the purchase. The subject of the scam can also be bank or insurance loans. In this variation what is needed is advance money for the points which must be paid up front or to meet regulatory requirements.
A communication through or from a bank can add significantly to the comfort level of the victim. Such a communication can be in the form of an RWA or a similar letter forwarded by a real or imaginary bank. While the latter is possible, as indicated, it is not too difficult to obtain the real thing. Similar comfort can be provided by a professional—an attorney or accountant vouching for or lending credibility to the scheme.

A feature of the more sophisticated of these schemes is a contract which sets forth the conditions of performance. Read carefully—usually a daunting task because the text of the documents with which these schemes abound is usually dense and partially incomprehensible, often deliberately so—the conditions are often impossible of performance. As a result, the victim not only is deprived of funds but may be technically in default on its contractual obligations. Being merely a broker, the scamster claims entitlement to the commission and claims either to be wronged by the victim for not performing or to also have been wronged by the third party (and sometimes claims both—consistency not being a prized virtue among this set).

**Ponzi and Pyramid Schemes**

Not infrequently, prime bank schemes draw on an older ploy known as the “Ponzi” scheme. Named after an early 20th Century confidence artist, a Ponzi scheme is one which returns investor’s funds not from earnings but from the principal contributed by subsequent investors. A related scheme is the so-called “pyramid” scheme in which investors recruit other investors and receive a percentage of their investment, passing up a portion and receiving portions passed up from below. This approach enlists multiple salespersons who are best able to convince their friends and business relations to invest. Both these schemes are particularly vicious because they give the illusion of providing promised returns to some at least if only for a short time. Both have been used in connection with prime bank scams.¹⁰

**Commodity Scams**

Another variation is the commodity scam. By targeting a well-known commodity or product which is in demand, scamsters have been able to induce

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¹⁰ Many of the notorious West African telefaxes and e-mails take such an approach. Representing that a group of Nigerians wish to transfer large sums from the country, first they seek account information from the victim and then an advance for administrative expenses and to demonstrate “good faith”. Sometimes these scams are linked with Prime Bank schemes.
victims to invest in the purchase or sale of the product. Such schemes have involved Marlboro Cigarettes, oil, cement, and sugar, to name only the best known ones. They play on persons who are unfamiliar with these specialized markets. In a sugar fraud scam, for example, a New York City dentist “purchased” more sugar than was available for export throughout the entire world for a two year period.

Prime Bank or High Yield Scams

In this context, it is no surprise that the financial products of banks became the basis for these scams, as well. Beginning in the mid-1980s, banks moved from supporting props to center stage. At this time, reports began to surface of opportunities to purchase letters of credit and independent guarantees.

Known at the beginning by various names such as “3039 Letters of Credit,” “Standby Letters of Credit,” or “SLCs,” the term “prime bank” quickly came to be associated with the genre. Thus, one heard of opportunities to invest in “Prime Bank Letters of Credit,” “Prime Bank Guarantees,” “Prime Bank Standbys,” “Prime Bank Notes,” “Prime Bank Bills” and the like. At times, the instruments were generic “Prime Bank Instruments.” The phrase could be found in capital or lower case letters and with variations such as instruments “issued by prime banks” or with geographical limitations such as “European Prime Banks.” Often the victim was offered a “menu” of “prime” banks (e.g. “issued by a Top 25 European Bank”) which either could issue the instrument or could be selected to do so.

While the term “prime” has no generally accepted meaning in banking and is not a term of art, it has come to be associated with offerings of major banks of the highest financial standing or with products available to their best customers.


13. They were first mentioned in Banking Circular BC 141 dated July 7, 1986, by the U.S. Office of the Comptroller of the Currency which supervises national banks. Mr. John Shockey of the O.C.C. (now retired), who was responsible for this warning, has been a leading figure in combatting financial frauds. The first industry alert was in LC Update, July 1989 at pp. 4 & 24.

14. Among the many Prime Bank cases that have been pursued, the following are some of those noting the term “prime bank notes”: S.E.C. v. Norton, 21 F.Supp.2d 361 (S.D.N.Y. 1998), See infra p. 248; Local 875 I.B.T. Pension Fund v. Pollack, 992 F.Supp. 545 (E.D.N.Y. 1998), See infra text
For example, the “prime rate” refers to the rate of interest charged by the major “money center” banks to their best customers. The major banks are rightly regarded as a source of stability, lending comfort to investors. The term can also be understood to apply to the banks themselves. Such banks set the standards for international banking and for the financial community.

Of course, there is no magic to the phrase “prime bank” and, with the onslaught of negative publicity attached to it, the phrase has been masked or dropped from recent scams. Some avoid the term “prime bank”, and de-emphasize the role of banks, focusing instead on the risk free guaranteed high or disproportionate returns they yield. Thus, the name “Prime Bank Instrument” or “High Yield Instruments” aptly describes this category of fraud.15

These scams have been the subject of warnings by regulators and major institutions,16 the object of extensive coverage in the financial and general press,17 and have led to the demise of at least one legitimate bank18 and two

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bankers. They have also been the object of actions by governmental authorities in the U.S. (the U.S. Securities and Exchange Commission, whose early recognition of the menace of prime bank scams has done much to retard their spread around the world), by state and federal criminal prosecutors, and

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Commercial Fraud: An Overview, 1996 ANNUAL SURVEY OF LETTER OF CREDIT LAW & PRACTICE 34.

18. On March 31, 1994, the Central Bank of the Czech Republic appointed an administrator to liquidate Banka Bohemia. It had reportedly issued US $1.2 billion in “Prime Bank Guarantees” on July 14, 1993 with a maturity date of July 15, 2003. One interrupted “sale” was the exchange by the bank of US $17.8 million in Prime Bank Guarantees for US $2 million. Somehow the bank was to earn the balance in ten years and one day.

19. The officers of a small rural branch of the Agricultural Bank of China in Hengshui were fraudulently induced to issue US $10 billion in standby letters of credit by two Americans of Chinese ancestry. The credits were subsequently seized. The Americans were imprisoned and the bankers were reportedly executed. The bank had reportedly never before issued a standby letter of credit. See the Reuter Business Report, “British Police Foil $10 Billion Fraud Bid” (Oct. 19, 1994).

lawsuits by victims.  

Some of the schemes have achieved a high profile because of the nature of the victims, who have included the Chicago Housing Authority Employee Benefits Fund, the Salvation Army Pension Fund, the Pension Fund of Local 875 of the International Brotherhood of Teamsters, the pension fund of the


23. The Pension Fund was defrauded of at least US $10.5 million. The scam resulted in civil actions by the S.E.C. and criminal actions by the U.S. Department of Justice. The entire episode received extensive press coverage. See, e.g., Laurie Cohen, Former CHA Official is Charged in 3 Scams, CHI. TRIB., Oct. 18, 1995, at 1.


National Council of Churches of Christ,\textsuperscript{26} the trustee of the Island of Nauru,\textsuperscript{27} and the government of the Cook Islands.\textsuperscript{28} While there is no accurate record of the tab these scams have exacted from the business and investment community, an estimate of US $500 million per year in the U.S. alone is given. The amounts claimed in the reported cases (only the tip of the iceberg) suggests that this figure is conservative. Assuming that the figure outside the U.S. is similar, the losses would be in excess of $10 billion for the past decade.

In addition to giving a prominent role to major banks, the schemes have common characteristics that make them readily identifiable and distinguish them from legitimate programs and opportunities for investment.

1. There is no economic basis for the transaction or creditable explanation of how it can generate the promised returns.

2. The promised returns on the investments are disproportionate to the risk. Touted as “risk free” or of minimal risk (as is suggested by the association with top tier, major, or prime banks), they offer returns obviously disproportionate with such status. These “risk free” investments have promised “guaranteed” returns of from 40% to 1000%, sometimes per month. While high returns (and losses) can be had on speculative instruments, investment grade financial instruments do not yield such returns in times of low inflation.

3. The commercial basis for the transaction is frequently obscure and it is often unclear whether it involves finance, trading in instruments, or commercial activity.

4. The source of the various funds or undertakings is, likewise, often obscure. It is often unclear whether the obligations are those of the bank or of some customer, what (if any) obligation is borne by the bank, and why a major bank would either extend credit to a person or entity of such low credit worthiness as

\textsuperscript{26} The National Council of Churches of Christ invested US $7.9 million in prime bank guarantees or standby letters of credit issued by Banka Bohemia. See, e.g., \textit{Church Group Recovers Money from Fraud Scheme}, \textit{REUTERS} March 20, 1995. Approximately US $5 million was eventually recovered.

\textsuperscript{27} A trust established for the phosphate-rich island lost at least US $12 million from an investment in trading in prime bank notes. See, e.g., \textit{Nauru Sues Over Prime Bank Notes}, \textit{THE SUNDAY TELEGRAPH}, June 27, 1993 at 39.

\textsuperscript{28} On October 24, 1994, the then Prime Minister of the Cook Islands, acting on behalf of Queen Elizabeth II, signed twenty-two letters of guarantee of one-year duration, for a total value of US $2 billion. At the time, the annual budget of the Islands was approximately US $3 million a year.
to be required to pay such rates or seek funds itself at rates so greatly in excess of the market rate.

5. The schemes often rely upon trades on a mysterious and secretive secondary market for profits.

6. While using the name or characteristics of recognized undertakings, they differ significantly from the nature and character of these undertakings which are often used as if they are interchangeable and without regard for their distinctions.

7. They misuse the technical terms related to the instruments involved.

8. Prime Bank Instrument schemes are typically surrounded by an aura of secrecy and a conspiratorial sense. The explanation as to why everyone is not lining up to invest in such a “sure” deal is, in part, that “insiders” of some sort or another are keeping it a secret. Linked with this notion is the explanation as to why banks and bankers will deny the existence of these schemes (to hide them or because only a few bank “insiders” know of the program).

9. Prime Bank Instrument schemes are typically clouded in unnecessary complexity, layered transactions, and confusion. For example, purchases and sales of instruments issued by legitimate banks take place regularly, are followed in the financial press, and are relatively straightforward. In these fraudulent schemes, there are often multiple parties with varying and ill-defined roles, some of whom are disclosed and others of whom are undisclosed, with varying interests and alignments. They are unnecessarily complicated so as to confuse victims and their advisers, and draw upon various disciplines so as to confuse experts familiar with only one aspect of the deliberately confusing transactions which they involve. This complexity serves to distract target investors and their advisers from the patent contradictions inherent in such schemes when viewed in their essence and apart from the apparatus surrounding and obscuring them. It also permits promoters and scamsters to seek to excuse their personal responsibility by blaming an external circumstance, the target, another party, or one another. The scams are also commonly structured to require a performance from the victim that is impossible so as to place the target in technical default.

29. When asked for the name of one prominent person who was aware of the scheme, one scamster stated in all seriousness: “Paul Volker [then Chair of the Federal Reserve Board]... but he’ll deny it.” Based on a meeting of a group of scamsters with potential victims at which the author was present in New York City in 1993. The scamster, now reportedly in a New York prison, claimed to be a member of the Rothschild family with links to the family trust.
10. The materials and documents lack the professional characteristics typically associated with major financial transactions. Their appearance is often inconsistent with what would be expected of a major financial undertaking. They often contain spelling errors, typographical errors, and grammatical errors.

11. The scam will sometimes rely on professionals to lend credibility such as an accountant or attorney. These persons, however, are rarely from major firms or of sufficient seniority to justify their involvement in a transaction of such magnitude.

12. They sometimes rely on escrow, confirmation of funds, or similar arrangements with banks or attorneys. This arrangement is intended to assure the target that the funds will not be used outside the purposes of the program. It is common for victims when faced with complex escrow arrangements, sometimes drafted by attorneys, to ask “What do I have to lose?” Often these arrangements contain a “back door” which either gives or enables the scamsters to obtain control of the funds or to substitute worthless undertakings in exchange for the funds. Sometimes they simply press the victim to sign over control.

13. It is not unusual for Prime Bank Instrument schemes to be explained in the context of macroeconomic policy or theory. These explanations often link the instruments to international monetary policy and the institutions that oversee it.30 This linkage both adds to the credibility of the scheme and shrouds it in an element of mystery for the average investor. It is not uncommon for the schemes to claim falsely the backing of the International Monetary Fund, the World Bank, the Bank of International Settlements, the United Nations, the Federal Reserve, the International Chamber of Commerce, and other similar organizations.31

14. They are often linked to eleemosynary causes either by name or by requiring that a portion of the profits be allocated to such causes. In so doing, they capitalize on a common feature of human nature which takes comfort in doing good especially when one is doing well at the very same time. This feature is particularly grotesque when it is used by persons in positions of spiritual authority

30. One document which commonly is found amongst the materials passed on scam rationale articles to victims is an entertaining essay on Post World War II monetary policy in which the general scheme is linked to the Bretton Woods system. Cleverly written, the document is 20% correct, 20% sophomoric, 20% wrong, and 40% seriously misleading.

31. These organizations deny any involvement in such schemes. See infra accompanying pp. 92-105. Interestingly, in a perverted twist of logic, the very denials are used as evidence for the “secrecy” or “conspiracy” of “insiders”.
to fleece their flock.\textsuperscript{32} It also enables the fraudsters to target such organizations more readily.

15. Because of the increasing publicity given to warnings against Prime Bank Instrument Fraud, it is not uncommon for such schemes cynically to allude to these warnings and, indeed, to emphasize them, suggesting that the scheme being proposed does not constitute a fraudulent scheme, and seeking to disarm the target by urging him or her to be on the alert for ones that were fraudulent.

16. Where fees and commissions are involved, they are often grossly disproportionate to the services performed or the risk assumed. The scamsters often claim to have “earned” their portion of the funds invested in return for a given service even though the investment was not successful.

17. It is also typical that a variety of excuses of increasing crescendos will be offered when the promised returns fail to emerge. They will in the first place explain the delays, and finally the failure of the transaction. The blame will invariably rest on other persons involved in the scheme or the victim. It is not uncommon for the victim to be offered an opportunity to recoup the loss by investing in another scheme or in recruiting another investor. Some of the schemes contain voluminous correspondence amongst the various scamsters debating the wording of non-existent instruments and discussing who is responsible for what.

18. A typical feature of these schemes is that the funds are used for purposes that have no relationship to the transaction. Indeed, rather than investing in any type of financial transaction, much less the ones for which the funds were advanced, the funds or a significant portion of them are frequently disbursed for personal purposes, forwarded to (or stolen by) another accomplice, or even used for defense attorneys, rather than being returned to the victim.

While not all of these characteristics are present in each scam, it is typical that many of them are present. Regardless of how many are present, however, at their essence, the schemes promise a return disproportionate to the risk involved, a risk which is lessened or profits enhanced by the involvement in some sense of a major bank.

\textsuperscript{32} The author recalls some ever-faithful members of the congregation of one alleged scamster minister who was successfully pursued by the S.E.C. who attended the trial and spent the trial earnestly praying (unavailingly it must be noted) for each witness. \textit{S.E.C. v. Deyon}, 977 F. Supp. 510 (D. Maine 1997), \textit{See infra} text accompanying p. 238.
The Myth of Prime Bank Investment Scams

The second part of this article addresses:

- Types of Undertakings and Distortions from the Real Things
- Common Features of Prime Bank Instrument Schemes
- Why They Work

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