



Florida & International Corporate & Financial Fraud Investigators

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Report Number: 99-221-004

Opened: 6/20/99

Closed: Ongoing

Case Agent: Bill E. Branscum

Client: Various Former Investors, Atty. Chris Vernon, et al.

Report Title: SEC Report; David Michael Mobley's Maricopa Operation

Synopsis:

Oracle International is a private investigative agency in Naples, FL. I have received several inquiries regarding the activities of David M. Mobley, an investment advisor, who arrived in this area from Ohio circa 1992. In June 1999, I was retained by a Naples accounting firm concerned for the welfare of their client(s) and I have been retained by others since that time.

I have reason to believe that Mobley, acting by and through various "Maricopa" entities, is in violation of various statutes and regulations promulgated in an effort to protect investors and he may be perpetrating an investment related Ponzi scheme. I have forwarded my concerns, and supporting information, to the appropriate law enforcement and regulatory authorities including the FBI/Naples, Florida Division of Securities/Fort Myers, the SAO/Naples, et al.

Atty. Chris Vernon, of the Naples, FL law firm; Treiser, Kobza & Lieberfarb, is one of my more recent clients, and a recognized authority with regard to securities related issues. Based upon the information developed by the Agency, he contacted the Securities and Exchange Commission and we have agreed to provide an in depth report.

This report is hereby tendered to the SEC in furtherance of that agreement; however, the Agency reserves all rights related to issues of privilege, confidentiality and proprietary interest, especially as they apply to the identities of our clients and confidential sources.

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I notified the Florida Division of Securities that Mobley, acting thru Maricopa, was actively soliciting investor funds in apparent violation of **Florida State Statute, 517.12, entitled, *Registration of dealers, associated persons, investment advisers, and branch offices***, that says:

(1) **No dealer, associated person**, or issuer of securities **shall sell or offer for sale any securities** in or from offices in this state, or sell securities to persons in this state from offices outside this state, by mail or otherwise, **unless the person has been registered with the department** pursuant to the provisions of this section. The department shall not register any person as an associated person of a dealer unless the dealer with which the applicant seeks registration is lawfully registered with the department pursuant to this chapter, and

(4) **No investment adviser or associated person** of an investment adviser or federal covered adviser shall engage in business from offices in this state, **or render investment advice to persons of this state**, by mail or otherwise, unless the federal covered adviser **has made a notice filing with the department pursuant to s. 517.1201 or the investment adviser is registered** pursuant to the provisions of this chapter and associated persons of the federal covered adviser or investment adviser have been registered with the department pursuant to this section.

I contacted the National Futures Association and was advised that Mobley is not registered with the NFA and has never been registered in any capacity. Sources report that he attempted NFA registration in 1996 but his application was rejected when it was discovered that he made false statements in that he did not reveal his criminal history.

The Florida Division of Securities, the NASD and the NFA have reported that none of Mobley's Maricopa corporations, funds or partnerships were/are licensed to conduct transactions related to securities, commodities or futures.

Although Mobley claims that his investment related activities do not fall within the provisions of state and federal regulation, investigation reveals:

- In the 1997 interview, published on the IITM web site at <http://iitm.com/tips/mobley.htm>, entitled, ***An Interview with David Mobley: Steps to Become More Successful***, appended to the report as an exhibit, Mobley holds himself and his Maricopa operation out to be:

"a full blown money management company, a securities broker/dealer, a trading manager and an investment advisor."¹

¹ *"An Interview with David Mobley: Steps to Become More Successful," bottom of page 1*

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- Mobley, d/b/a **Maricopa Investment Corporation**, advertises and solicits business as an "Investment Advisor" as evidenced by City Directory listings appended to this report as a composite exhibit. Specifically:
 - a. 1994: Yellow Pages, under Investment Advisory Service, listing reads: "Maricope [sic] Investment Corp (David Mobley) . . . 261-3111"
 - b. 1995: Yellow Pages, under Investment Advisory Service, listing reads: "Maricope [sic] Investment Corp (David Mobley) . . . 261-3111"
 - c. 1997: Yellow Pages, under Investment Advisory Service, listing reads: [REDACTED] Trading Co & Investment Corp (Robert [REDACTED] President). . . 594-0799"
 - d. 1998: White Pages listing reads: "Maricopa International Investment, David Mobley, Chairman of the Board, Investment Advice . . . 594-0077" and directly beneath that, "Maricopa International Investment, David Mobley, President, Security Brkrs Dlr . . . 262-3111"
 - e. 1998: Yellow Pages, under Stock and Bond Brokers, listing reads: "Maricopa International Investment, David Mobley, Pres. . 262-3111"
 - f. 1998: Yellow Pages, under Investment Advisory Service, listing reads: "Maricopa International Investment, David Mobley, CEO . . . 594-0077"
- Mobley has held himself out to the public as a dealer in securities, as evidenced by the fact that he established **Maricopa Securities Corporation**, Corporate Document # P94000006075, on January 18, 1994.
- Mobley actively solicits investors as evidenced by his statement in the previously referenced 1997 interview published on the IITM web site entitled, **An Interview with David Mobley: Steps to Become More Successful**, where Mobley says:

"People out there who want to participate, we would have contact us through Van's offices [no doubt ensuring Van Tharp receives his commission]."
- Mobley also solicits investors through a "slick," professionally produced advertising circular, a copy of which is separately provided.

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- Mobley also solicits new investors through his existing investors. Mobley's investors, and others familiar with his Maricopa operation, report that Mobley offers substantial financial incentives to investors who solicit their friends and associates to invest.
- Several sources report that Mobley has used private investigators to identify and "qualify" potential clients. This may be an effort to verify assets, or establish that they are not under cover investigators.
- According to Maricopa employee Mahesh Johari, he has personal knowledge that Mobley manages IRA Funds in his Maricopa hedge funds.

Although neither Mobley, nor any of the previously referenced "Maricopa" entities are registered in any capacity, the NASD reports that the above referenced **Maricopa Securities Corporation** was the original name of **Mercury American Capital**, a Florida corporation that attempted to do business as a securities broker in New York. The NASD reports that they shut it down in 1997 for failing to comply with regulations related to disclosure. Florida Division of Corporations records reveal that the sole corporate officer of **Mercury American Capital** was Michael Novick, but the original founders of the corporation were Mobley and his associates. Corporate records and the NASD documents appended to this report as an exhibit.

On December 5, 1996, the Denver Post published an article indicating that the NASD fined Michael H. Novick¹ of Boulder, CO, \$52,754 and barred him from association with any NASD members for securities related offenses. The article is appended to this report as an exhibit.

It is difficult to imagine how anyone could become the industry's foremost expert without having been involved in the industry. Brokers and investment advisors are trained within the industry and their progress is measured by a series of NASD/NFA exams that can only be taken by people who are members of registered firms. It seemed curious that an individual who had never been registered in any capacity, and had never taken any of the NASD/NFA exams that would establish his qualifications, would appear in Naples, Florida bearing the investor's "Holy Grail."

I initiated investigative inquiries in an effort to discover where Mobley had been, and what he had done in the past. I discovered that Mobley had previously lived in Swanton, Ohio, a small town on the outskirts of Toledo. Inquiries there, and in surrounding counties, revealed that Mobley had a criminal history and had been involved in civil litigation related to fraud. One law enforcement source I spoke to referred to Mobley as a *"two-bit con artist who hustled church groups."*

¹ We have *not* determined that this is the same Michael Novick

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I spoke to Dallas Oberdick in Wood County, Ohio, who claimed to have been victimized by Mobley in an investment scam that transpired on January 21, 1990. He reported that Mobley had convinced him to entrust him with \$20,000, which was to be held in an escrow account for the purpose of real estate development.

When Victim Oberdick began to suspect that he had been scammed, he filed criminal charges that were investigated by Wood County authorities. He stated that Chief Deputy Bratton, the investigator who handled the investigation, determined that there had never been an escrow account and that Mobley had deposited the funds into his personal bank account and immediately began to draw from them for his personal use. A warrant for Mobley's arrest was issued March 19, 1992. A copy of the warrant and associated documents are appended to this report as an exhibit.

Victim Oberdick also reported that he was aware of a similar situation in which Mobley had victimized another individual, David [REDACTED]. He stated that Mobley had convinced Victim [REDACTED], a member of their church, to entrust him with \$100,000. Victim Oberdick stated that the money was never repaid and Victim [REDACTED] had been unwilling to press charges for fear that his wife would find out.

I initiated a collateral request in Ohio. I contacted Gary T. Ericson, a former federal probation officer and contract investigator for the Drug Enforcement Administration, currently employed as a private investigator in Toledo. I provided him with the information I had developed to that point, and he assumed responsibility for the investigative inquiries to be conducted in Ohio from there.

Investigator Ericson rapidly developed a great deal of derogatory information evincing a history of allegations related to fraud and deceit. He provided this Agency with copies of investigative reports as well as information regarding complaints by a number of people claiming to have been victimized in various fraudulent scams and a transcript of a phone conversation, recorded by Victim Oberdick on February 8, 1992, while talking to Mobley's sister, Diane Kibby. This conversation was surreptitiously recorded at the direction of Chief Deputy Bratton.

In this transcript, Kibby claimed that Mobley had defrauded her, their mother and other members of his family as well. Mobley's sister stated that their other brother was killed in Vietnam when Mobley was a child. She reported that their parents reacted to this tragedy by giving Mobley, the "baby" of the family, everything he could possibly want. Displaying substantial resentment, she painted a picture of a spoiled brat¹.

"I think Dave was so spoiled . . . and given everything. Didn't have to go to school if he didn't want to, and they babied him and coddled him after

¹ Tx of Kibby conversation, bottom of page 12 thru top of page 13

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our brother was killed. Dave was only about 9-10 years old. After that, he got everything."

She went on to state that, other than a short stint working for the Jeep Corporation in Toledo, Mobley has never held a job as an adult¹. She described various investment undertakings he attempted related to property and referenced a number of cases where people lost funds entrusted to him for investment purposes.

She stated that Mobley defaulted on a debt which she believed to be about \$20,000 to their mother and stated that he failed to repay funds she and other members of their family loaned him when he got in trouble. She indicated that she did not know if their mother would pursue criminal charges but stated that she had threatened to².

She also referred to Mobley's involvement in some sort deal related to a coal mine circa 1980-81, which was apparently one of the first of many investment schemes. She stated that their brother, Bill, and his wife, Carol, borrowed money to invest with him. She also reports that his "in laws at the time" were involved as investors. She reports that the funds were lost and she stated that it took seven years for Bill Mobley and her sister-in-law, Carol, to pay the money back.³ She went on to say:

"And then Carol was feeling upset when she saw Dave's cars and big fancy house and satellite dishes . . . and wouldn't pay anyone back."⁴

Diane Kibby refers to the time that Mobley was in financial trouble and borrowed money from her. She says:

"That's what I am wondering because he told me that, well I talked to the bank when I loaned him some money and they said they would press charges and he would wind up in jail."⁵

In discussing Mobley's refusal to repay her, his sister said:

"Well, you see, I think that's why he's letting it go because he thinks he's legally safe and he knows I have a good heart and I don't want to cause him any trouble, I don't want to go to Court over it. My motto has always been, people are more important than things."⁶

¹ Tx of Kibby conversation, page 6, bottom third of the page
² Tx of Kibby conversation, top of page 24
³ Tx of Kibby conversation, middle of page 6 to end of page 7
⁴ Tx of Kibby conversation, bottom of page 7
⁵ Tx of Kibby conversation, middle of page 7
⁶ Tx of Kibby conversation, bottom third of page 15

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The following exchange between Dallas Oberdick and Mobley's sister is particularly revealing. He says¹:

". . . I question in my mind, is he a criminal? You know, cause you're putting him in a class, you know, with murderers and everybody else and I guess I am trying to decide in my own mind if he is, you know, if he's a criminal or not, did he have any criminal intent when he was doing all this stuff. But, then you start looking at the whole picture and he's taken all these people in town and ripped them off, and he doesn't have any intention of paying them . . ."

She responded:

"That's the facts."

At the end of this transcript, Diane Kibby said:

"Well, if he ends up going to prison and in big trouble, we all have to remember that he put himself there."²

Victim Oberdick describes Mobley's strategy for protecting his assets during the course of his conversation with Kibby. He says:

"He switched all that property over, he keeps it all hidden. All that stuff is hidden in Port Lawrence Title and Insurance so nobody knows what he's got. See, and then he's transferred all the - instead of him being the beneficiary of the trust, he made Gwen the beneficiary of the trust"³.

Investigator Ericson also located and interviewed Mobley's former wife who prefers that her name not be mentioned. According to his report, appended to this report as an exhibit, she stated that:

Mobley worked for the Jeep Corporation in Toledo for a couple of years until he quit one day, "out of the blue" with no other job to go to. He tried selling fireplace inserts for a while, attempted to established a business called Renaissance where he white walled tires, and then started to sell real estate.

¹ Tx of Kibby conversation, top third of page 18

² Tx of Kibby conversation, middle of page 26

³ Tx of Kibby conversation, top third of page 19

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She describes Mobley as a cutthroat, mean spirited person who dreamed of being an entrepreneur and was always reading self help books. She reports that when they divorced in 1984, she was awarded custody of their two children. She indicates that he could not be counted upon to meet his child support obligations.

She states that prior to their divorce, Mobley conned her parents into entrusting him with \$20,000 for investment purposes and then filed bankruptcy in Toledo. She states that her parents did not know what to do after he filed bankruptcy; since he was their son-in-law at the time, they declined to press criminal charges.

According to Investigator Ericson, Mobley's former wife reports Mobley saw visions of his dead brother's spirit and, after watching television evangelist, Kenneth Copeland, preach about demonic possession, Mobley claimed to have, *"belched demons from his body which explained his poor behavior."* He reports that she describes him as a very callous crook that suffers from mental problems.

Because they have children together, she has stayed in touch with Mobley to a limited extent. She states that he has a house in Colorado, a condominium in Naples and frequently travels to New York. She has no idea where he gets his money.

Investigator Erickson also interviewed Chief Deputy Robert L. Bratton of the Ottawa County Sheriff's Department. CD Bratton, a veteran investigator of more than twenty years experience, reports that a member of his congregation, Dallas Oberdick, alleged that Mobley had swindled him out of \$20,000. CD Bratton discovered that other members of the congregation, Paul Piehl and David Bagi, had lost investment funds entrusted to Mobley as well. He identified another victim as being Bill Beausey.

CD Bratton provided Investigator Ericson with copies of investigative reports he had generated during the course of his investigation, which led to Mobley's indictment for defrauding Victim Dallas Oberdick. Copies of these documents are appended to this report as a composite exhibit.

CD Bratton reported that Mobley had also defrauded members of other area churches of funds entrusted to him for investment purposes. He reported that church officials of the Cathedral of Praise and the Grace Community Church in Toledo refused to cooperate in his investigation as it was their position that the damage was done, the victims wanted to get on with their lives and Mobley was no longer welcome there.

During the course of his investigation, CD Bratton discovered that Mobley *"had a criminal problem of passing bad checks in 1983."* CD Bratton reports that Mobley subsequently filed bankruptcy in Toledo, Ohio.

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CD Bratton also reported that his investigation revealed that Mobley defrauded the First Federal Bank of Delta. Mobley is alleged to have secured a \$300,000 home loan using various properties as collateral which were evidently represented as being unencumbered. When Mobley defaulted on his second mortgage payment, the bank is reported to have discovered that a number of liens and tax assessments had been filed against the properties. The bank reportedly foreclosed and sold the property.

In addition to the information delineated above, CD Bratton's reports indicate that he interviewed Ken Cuning on January 7, 1992; Cuning had handled Mobley's financial records. CD Bratton reported that the information provided by Cuning,

"Clearly shows a pattern of irresponsible debt and criminal intent with the money Mr. Mobley secured from private individuals."

In a supplemental report, CD Bratton indicated that he learned that Mobley had relocated to Florida, he contacted Collier County authorities and advised them of Mobley's propensity to perpetrate financial frauds on January 8, 1992.

David Michael Mobley's version of the story is somewhat different. He describes himself as a *"child prodigy"* and states that in 1992, he founded **Maricopa Investment Funds** *"after a successful twenty-two year business career."*¹

Disputed history notwithstanding, we know that on January 30, 1992, Mobley was first issued a Florida driver's license. At the time, he and his wife owned a white, 1979 Mercedes Benz and lived at 2635 Crayton RD, in Naples, FL. This was not an expensive place to live; the owner purchased this rental property in 1990 for \$198,300.

On September 16, 1992, while driving an inexpensive car and living in an inexpensive residence, Mobley established the **Maricopa International Investment Corporation** at 2706 S. Horsheshoe DR, Suite 101, in Naples. According to information provided by the Florida Division of Securities, the NASD and the NFA, **Maricopa International Investment Corporation** was not a registered securities dealer or investment advisor and David Mobley was not a registered securities broker or investment advisor; he has never been registered in any capacity.

During this time period, Mobley apparently began to become known in Naples as a successful investor specializing in hedge fund management. A number of well known, and widely respected members of the community invested substantial sums of money with Mobley. Mobley engendered substantial respect due to his association with credible members of the community and he was reported to be active in the church and involved with various charitable organizations.

¹ See Maricopa Advertising Circular, year 2000, page 11, paragraph 2

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Circa 1993, Mobley had his first significant challenge. One of his investors became suspicious and withdrew his funds. In response to Mobley's remonstrations, the investor advised Mobley that the funds had been placed in the custody and control of a reputable broker in Indiana and challenged Mobley to use his "top-secret" program to direct the trades to be executed by the Indiana broker.

Mobley, who had theretofore generated marvelous returns on paper, while using his top secret computerized investment strategy, and executing his trades only at night, accepted the challenge. The dubious investor reports that his investment strategies, if indeed they could be called strategies at all, failed miserably. He states that the broker handling the account told him that Mobley seemed to have no clue what he was doing; he said he had never seen anything like it.

[REDACTED]

[REDACTED]

In 1994, Mobley also established the **Maricopa Financial Corporation** at the 2706 S. Horshoe DR address. According to information provided by the Florida Division of Securities and the NFA, the **Maricopa Financial Corporation** was never registered to engage in securities/commodities transactions.

In October 1994, Mobley purchased the property at 6325 Burnham RD in Quail West, Naples, Florida. The purchase price is variously reflected as \$1,150,000 and \$864,285. This is one of the least expensive homes in this exclusive development.

In June 1996, Mobley purchased the property at 3362 Cerrito Court in Naples, FL for \$238,400 and, in August 1996, Mobley purchased a 1.5 acre lot at 5922 Burnham RD in Quail West for \$1,000,000.

On February 27, 1996, [REDACTED] established the [REDACTED], which was subsequently rated as one of the best performing hedge funds in the country; Barron's magazine featured it at the top of a list published August 5, 1996. Unlike Mobley's investment ventures, this was an independently operated and audited operation. Broker [REDACTED] maintains that Mobley's "trade strategies" had nothing to do with his success and Mobley had no input into [REDACTED] decisions.

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Nevertheless, Mobley had numerous copies of the Barron's article reproduced and distributed. Several people have reported that he proudly displays them on walls in his home and offices as evidence of his "international acclaim."

Other than the dubious investor's "challenge" that met with miserable failure, none of the sources interviewed thus far have seen anything to suggest that Mobley has ever executed any trades at all. Mobley explains that he must be so secretive regarding his "top-secret" proprietary strategies that he executes all his trades at night.

Mobley's representations regarding the nature of this "top-secret" computerized algorithm have been various and conflicting. He has made statements to the effect that his system is simple, and could easily be derived by anyone who reviewed his trades. This dramatically conflicts with his portrayal of his system as relying upon a computer managed algorithm with forty-nine (49) variables.

Mobley claims that he focuses on options traded on the S&P 100 Index, or OEX. Industry professionals indicate that this is absurd. The OEX is reportedly unable to accommodate a \$400 million dollar portfolio and, even if it were, these sources state that transactions of this volume and magnitude cannot be effectuated at night.

Further, industry professionals state that it would not be possible to manage a \$400 million dollar portfolio in a "paperless office." They insist that the verification and internal audit processes necessary to track trades and positions are more than any one person could manage.

For the year 2000, Mobley has created an elaborate advertising circular that he distributes to potential clients. A review of this "slick," professionally produced publication reveals it to be a collection of grandiose claims and false statements, especially concerning the backgrounds of the parties involved.

This current advertising circular identifies three active hedge funds as being: **Maricopa Investment Fund, LTD**; **Maricopa Index Hedge Fund, LTD**; and **Maricopa Eclipse Partners Fund, Ltd**¹.

Maricopa International Investment Corporation, the General Partner of **Maricopa Investment Fund, LTD** and **Maricopa Index Hedge Fund, LTD**, is also the General Partner of **Maricopa Eclipse Fund, LTD**; although there is a "Partners" fund, the reference may be due to scrivener's error as explicated later in the report.

Maricopa Investment Fund, LTD is a limited partnership established in Florida on May 17, 1993, according to records provided by the Division of Corporations.

See Maricopa Advertising Circular, year 2000, page 11, paragraph 2¹

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According to the Supplemental Affidavit of Capital Contributions filed March 18, 1999, the limited partners had contributed \$47,121,888.68 as of 12/98.

Maricopa Index Hedge Fund, LTD is a limited partnership established in Florida on May 9, 1997, according to records provided by the Division of Corporations. According to the Supplemental Affidavit of Capital Contributions filed March 10, 1999, the limited partners had contributed \$2,300,566.71 as of 12/98.

Maricopa International Investment Corporation, the General Partner of **Maricopa Investment Fund, LTD** and **Maricopa Index Hedge Fund, LTD**, is also the General Partner of **Maricopa Eclipse Fund, LTD**, a limited partnership established in Florida on July 21, 1997, according to records provided by the Division of Corporations. According to the Affidavit of Capital Contributions, the limited partners initially contributed \$15,000,000 to the **Maricopa Eclipse Fund, LTD**.

Maricopa International Investment Corporation, the General Partner of **Maricopa Investment Fund, LTD**, **Maricopa Index Hedge Fund, LTD** and **Maricopa Eclipse Fund, LTD** is an active Florida corporation established September 16, 1992, according to records provided by the Division of Corporations. The corporate officers are:

Title: CEO	Name: Mobley, David
Title: S,T	Name: Mobley, Gwendolyn
Title: P	Name: Mobley, William E
Title: VP	Name: Mobley, David Jr.

Maricopa International Investment Corporation is also the owner of two fictitious names, or d/b/a's:

Maricopa Investment Corporation
10621 Airport Pulling Road N, Suite 3
Naples, FL 34103

Maricopa Investment Fund
5150 Tamiami Trail N, Suite 700
Naples, FL 34103

Maricopa Eclipse Partners, LTD is a limited partnership established in Florida on January 15, 1998, according to records provided by the Division of Corporations. According to the Affidavit of Capital Contributions filed January 15, 1998, the limited partners had contributed \$500 as of January 1998. The General Partner is listed as being:

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Mobley Trading and Investment Corporation
f/k/a: Maricopa Eclipse Corporation
5150 Tamiami Trail N, Suite 700
Naples, FL 34103

It seems curious that the advertising circular would reference **Maricopa Eclipse Partners, LTD** as one of their active funds and fail to mention **Maricopa Eclipse Fund, LTD** which seems to be far more active. In light of the fact that it is more recently established, the absence of substantial contributions and managed by a different General Partner, this may be an inadvertent misrepresentation.

In any event, the most recently filed Affidavits of Capital Contributions, associated with the referenced hedge fund limited partnerships, reflect that General Partner **Maricopa International Investment Corporation**, reported approximately \$65 million dollars in contributions under management going into 1999.

Mobley Trading and Investment Corporation, the General Partner of **Maricopa Eclipse Partners, LTD** is a corporation established in Florida on January 14, 1998, under the name **Maricopa Eclipse Corporation** according to records provided by the Division of Corporations. A Name Change Amendment was filed January 27, 2000. The corporate officers are:

Title: CEO	Name: Mobley, David
Title: S,T	Name: Mobley, Gwendolyn
Title: P	Name: Mobley, William E
Title: VP	Name: Mobley, David Jr.

Mobley Trading and Investment Corporation is also the General Partner of **Mobley Trading & Investment Partnership II, LP** as well as **Mobley Trading & Investment Partnership III, LP**. The Division of Corporations has no record that there ever was a **Mobley Trading & Investment Partnership I, LP**.

These limited partnerships were established in Florida on January 15, 1998, under the original names: **Maricopa Income Partners I, LTD** and **Maricopa Income Partners II, LTD** according to records provided by the Division of Corporations. Name Change Amendments were filed January 27, 2000. According to the associated Affidavits of Capital Contributions, the limited partners initially contributed \$500 to each of these limited partnerships.

Maricopa Eclipse Partners, LTD, Mobley Trading & Investment Partnership II, LP and **Mobley Trading & Investment Partnership III, LP** appear to be the next wave of Mobley managed investment vehicles.

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The advertising circular references a foreign corporation, **Ensign Trading Corp.**, at PO Box 10656 A.P.O. 802 West Bay Road, Grand Cayman, Cayman Islands, B.W.I. This corporation is not mentioned in the text; the reference to this corporation is in the form of a graph, proffered as a representation of this funds past performance. Graphs that ostensibly depict the past performance of **Maricopa Investment Fund, LTD** and **Maricopa Index Hedge Fund, LTD** are included as well but there is no graph purporting to represent the past performance of either **Maricopa Eclipse Fund, LTD**, or **Maricopa Eclipse Partners, LTD**.

A review of these graphs is intriguing. Although the Florida Secretary of State, Division of Corporations reports that the **Maricopa Investment Fund, LTD** was established May 17, 1993, the graph depicts its performance beginning in October 1992. The annual yields claimed by Maricopa rival anything known to the industry; a feat that is doubly remarkable in light of their conspicuous absence of professional licensing and experienced personnel.

While one might expect that *"one of the top investment firms in the world operating in a world set apart from its colleagues in the investment business,"* would be staffed by a collection of industry icons, Mobley's Maricopa operations is staffed by: his wife, Gwen; his son, David; his son-in-law, [REDACTED]; his brother, William; and his wife's cousin, Lori Welty.

Nevertheless, Mobley claims to have something in excess of \$400 million dollars under management and he would have it believed that he generates an average annual tax deferred return of approximately 50% for his investors *after* his 30% fee is deducted. It is little wonder that few investors opt to remove funds from a program yielding a consistent annual return of 71.42%.

On the other hand, it is a wonder that Mobley has himself invested money in anything else. Mobley has invested millions of dollars in the ill fated and controversial project known as "Stadium Naples," a cigar bar called Heaven, Rasmussen's polling enterprise renamed Maricopa Research, and Peabody's sports bar. These enterprises have something else in common - failure, they are all defunct.

Curiously, Mobley failed to maintain his position with the one project in which he has been involved that has been a success - Pelican Strand. Sources report that Mobley was involved as a financier but, when the time came to meet his financial obligation, he was unable to produce a couple of million dollars.

Mobley recently purchased a home on the side of a mountain in an exclusive Colorado gated community and he is in the process of building another house in Naples.

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Mobley has been involved in a number of legal disputes in New York, New Jersey, Atlanta, and Naples but none relate to a claim that his Maricopa operation is a scam.

On February 12, 2000, Barron's weekly financial magazine published an extensive article by Investigative Reporter Jon R. Laing, that questioned the character and integrity of David Michael Mobley and the legitimacy of the claims Mobley has made regarding the returns generated by the various hedge funds he manages.

On Sunday, February 13, 2000, Investigative Reporter Gina Edwards, Naples Daily News, published a follow up article revealing that the information reported by Barron's had been developed during the course of the agency's ongoing investigation and forwarded to law enforcement and regulatory authorities.

On Sunday, February 20, 2000, Investigative Reporter Gina Edwards, Naples Daily News, published a second, and far more detailed, follow up article indicating that law suits were imminent and Mobley claims to be in the process of arranging to have his operation audited in light of media skepticism.

Summation:

Mobley claims that he was a child prodigy, who "*began trading his own Merrill Lynch account at age 13,*" and whose current performance consistently eclipses the returns on investment generated by the icons of the industry. Investigation reveals that Mobley has a high school education, no record of any employment with any broker dealer/investment advisor, no licenses or registration with the NASD/NFA or any other objective indicia of credibility. On the other hand, it is the consensus of everyone I interviewed that Mobley is exceptionally, and perhaps extraordinarily, intelligent and nobody denies that he seems well versed in trading nomenclature and theory.

It is undeniable that traders/investors develop strategies, profiles and models that guide their decisions; however, one might reasonably expect that the developer of the most extraordinarily effective program on the planet would have some sort of industry background and credentials. On the other hand, exceptionally gifted and extraordinarily intelligent students have been known to do poorly in a structured environment and assuming, *arguendo*, that this undertaking is "more art than science," Mobley would not be the first self-taught maestro without formal training.

If Mobley's past history of fraud and failure actually masked latent genius that manifested itself in the form of an incredibly successful system, one might reasonably suspect that he would welcome the third party audits that would document his success. Mobley claims that he avoids independent auditors due to concerns that they would be likely to "steal" this alleged secret strategy. Bonding and civil liability issues aside, industry professionals I have interviewed scoff at the notion that an auditor could derive trading strategies based upon trade records.

Assuming, *arguendo*, that his strategies could be derived by an auditor. That does not explain why none of the professionals who have been involved in his operation have ever seen any indication that Mobley has ever executed a trade and nobody has offered any credible explanation for the absence of basic financial accounting.

The consistency of Mobley's unaudited track record is the subject of much skepticism. Most sources seem to agree that in the world of high-risk trading, the average gains reflected in the investor's statements are possible but they are equally agreed that, due to the high-risk involved, the consistency of Mobley's alleged results is highly, if not wholly, implausible. On the other hand, I understand that some corporate entities artificially stabilize their quarterly earnings by under reporting exceptionally good performance to provide reserves used to offset poor performance.

If we assume that investors would find stability alluring, an unaudited fund could fabricate stability without fabricating their average performance and they would have a clear motivation to do so. Alternatively, it could all be outright fraud.

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Mobley claims to have something in excess of \$400 million dollars under management averaging "tax deferred" annual returns of about 50% after his 30% fee is deducted. Whether or not the unrealized profits generated to investors are actually tax deferred, his \$85.7¹ million dollar annual income would appear to be taxable. Without knowing exactly what he is doing, it isn't possible to say.

A person's home typically represents two-three times their annual salary yet Mobley lives in a house valued at \$1 million dollars, the least expensive house in his neighborhood. In 1998, he was apparently unable to produce the funds necessary to meet his obligations with regard to the Strand - that should have been "chump change." By that same token, assuming, *arguendo*, that this whole operation is a scam, and the funds have been embezzled, he should have been "rolling in dough."

Mobley explicitly and consistently claims to have three active hedge funds and claims to have \$400 million dollars under management. Corporate records support his story that he has three active hedge funds but the Affidavits of Capital Contributions associated with these limited partnerships total \$65 million dollars. Although the affidavits are a year out of date, this would seem to be a tremendous disparity.

Mobley's representation that the funds under management in the domestic limited partnerships are used to buy stock in the foreign entity, presumably Ensign Trading, Co., does not appear to help reconcile this disparity as it merely describes a transfer from one hand to another. Further, if the domestic funds were invested in a single offshore entity and thereby commingled, it would seem that the performance of these funds would mirror the performance of the offshore fund with their respective gains determined as a function of proportionality. This conflicts with the their graphs.

In any event, the offshore nature of this investment strategy is problematic. Issues related to Maricopa's qualifications to serve as the custodian of an IRA account notwithstanding, all IRA accounts must be domestic by statute. Once these funds are transferred to an account or trust with a foreign bank, they are deemed to be income. [IRC §408(a) Keenan, 76 TCM 748 (1998); Chiu, 73 TCM 2679 (1997)]

I am not certain that this is either a Ponzi scheme or a pyramid scheme, but it clearly has elements of both. Like all Ponzi artists, Mobley claims to have that "top secret system" that promises to make people rich and like all pyramids, investors make money by soliciting new investors. The guy who recruits you gets a piece of the pie (taken from Mobley's 30%) for as long as you remain in the game. The question is, can the Maricopa operation sustain itself without new investors?

¹ Calculation: The easiest way to understand the math is to realize that in a "70/30 split" Mobley's cut is 3/10ths of the pie or 3/7ths (.428) of what the investors get. If a \$400M fund nets 50% to the investor, Mobley receives .428 of \$200M or \$85.71M.

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Mobley's Maricopa operation is rife with fraud and deceit and, while I doubt that Mobley has \$400M under management, or anything approaching that figure, it is clear that a great deal of money is involved. Given his international contacts and ready access to jet aircraft, Mobley is a definite and obvious flight risk. The fact that he and his wife, Gwen, are suddenly, and perhaps conveniently, claiming to be estranged is classic and discouraging. Loyalty is an admirably quality but the only reasonable thing an investor can do in this circumstance is try to cash out and hope the money is there.

* * * * *

I have not personally discussed any of this with David Mobley as he has not responded to my repeated efforts to arrange an interview. Prognostication is a pointless exercise in the absence of the facts, but I suspect that Maricopa probably says it best, albeit inadvertently, in their advertising circular:

"As we define it, investing is understanding and managing the illusive balance between risk and return."¹

Time and truth may redefine this apparent typographical error as a "Freudian slip" exposing the Maricopa operation as an elaborate illusion in which the elusive commodity is the truth.

Wherever the truth lies, Mobley holds himself and his Maricopa operation out to the public as a securities broker dealer and an investment advisor. He and his associates actively and aggressively solicit investments without the appropriate licenses and registrations. In so doing, he appears to have violated state and federal law and subjected himself, and his operation, to the regulatory authority of the SEC.

Naples is a small community, the Maricopa investors are my neighbors, but David Mobley is my neighbor too. I hope this report represents the diligence and objectivity that I intended and they deserve. This investigation is ongoing.

¹ See Maricopa Advertising Circular, year 2000, page 3, line 1

Exhibit List

- 1 1997 interview, published on the IITM web site at <http://iitm.com/tips/mobley.htm> entitled, *An Interview with David Mobley: Steps to Become More Successful*
- 2 Telephone Directory Listings, Yellow Pages and White Pages
- 3 Mercury Corporate records, NASD documents and Article regarding NASD sanctions against Michael H. Novick published in the Denver Post, December 5, 1996
- 4 Warrant for Mobley's Arrest, issued March 19, 1992, and other court documents
- 5 Transcript of telephone conversation between Victim Oberdick and David Mobley's sister, Diane Kibby, recorded at the direction of law enforcement authorities on February 8, 1992.
- 6 Investigator Ericson's Report with Supplements regarding Interviews with Chief Deputy Bratton and David Mobley's first wife, Cathy
- 7 Chief Deputy Bratton's notes and reports