

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA : **DATE: MAY 22, 2013**
v. : **CRIMINAL NO.: 13–**
TIMOTHY D. BURNS : **VIOLATIONS:**
: **18 U.S.C. § 1341 (mail fraud – 1 count)**
: **18 U.S.C. § 1343 (wire fraud – 1 count)**
: **18 U.S.C. § 1014 (loan fraud–2 counts)**
: **Notice of Forfeiture**

INFORMATION

COUNT ONE

THE UNITED STATES ATTORNEY CHARGES THAT:

At all times material to this information:

1. Defendant TIMOTHY D. BURNS of Phoenixville was a businessman whose office was in Conshohocken, all in the Eastern District of Pennsylvania.
2. Defendant TIMOTHY D. BURNS owned and operated businesses including one that provided bill paying and concierge services to wealthy clients, and another that provided financial management services to a different set of clients. BURNS was the sole owner of these businesses and others.
3. In 2011, it appeared that Facebook, Inc., the owner of the social network known as “Facebook,” would become a publicly traded company.
4. Some of defendant TIMOTHY D. BURNS’ friends and clients learned that a large financial services company planned to purchase and sell of shares of Facebook prior to any public offering of the stock.
5. At some time in the winter of 2011, that financial services company

withdrew from brokering Facebook stock. Some of defendant TIMOTHY D. BURNS' clients and their associates, however, remained interested in buying Facebook shares before it was available as a publicly traded stock. Defendant BURNS stepped in and offered to make the purchases for them. It was defendant BURNS' intention to earn money from the transactions several different ways: he would take a fee at the time of the purchase, he would take a small percent of the growth in the value of the shares for a period of two years after the shares were publicly traded, and he planned to make purchases for his own account.

6. To the end of purchasing Facebook shares before they were offered publicly, defendant TIMOTHY D. BURNS formed a limited partnership hereafter called "Fund I." Defendant BURNS issued a prospectus for Fund I. It was a limited partnership and investors were limited partners, in which their interests were a function of the amount of money they invested.

7. By in or about March 2011, defendant TIMOTHY D. BURNS raised from about 50 investors approximately \$13,000,000 to purchase Facebook shares.

8. Initially, through an intermediary internet site, defendant TIMOTHY D. BURNS negotiated to purchase about 500,000 shares at \$27 each through a Facebook employee known here as D.W. On or about March 21, 2011, defendant TIMOTHY D. BURNS called the capital from Fund I investors to close the deal. However, just before closing, D.W. changed his mind and walked away from the deal. It was defendant BURNS' understanding that D.W. wanted a higher price for the shares. The deal fell through.

9. Shortly thereafter, the intermediary told defendant TIMOTHY D. BURNS that he had found 2,000,000 shares of Facebook that BURNS could buy for \$27 per share. The

person who defendant BURNS was told controlled the shares was known as “Ken Dennis.”

This name was a pseudonym for a man named T.S.

10. Through the intermediary internet site, defendant TIMOTHY D. BURNS was introduced to T.S. T.S. represented that for an advance fee of approximately \$11.2 million, he would provide defendant TIMOTHY D. BURNS with 20 million Facebook shares.

11. Defendant TIMOTHY D. BURNS created a second limited partnership entity for the purpose of selling shares of Facebook and issued a prospectus for it, as he had for the first. This second partnership was called Fund II.

THE SCHEME

12. From on or about May 15, 2007, to on and about September 12, 2012, defendant

TIMOTHY D. BURNS

devised and intended to devise a scheme to acquire Facebook and other similar social media company stock shares and to obtain money and property valued in total just under \$20 million, by means of false and fraudulent pretenses, representations and promises.

MANNER AND MEANS

It was part of the scheme that:

13. Defendant TIMOTHY D. BURNS used money he converted from his Family Services clients in an attempt to acquire Facebook and other similar social media shares to sell to willing investors.

14. Defendant TIMOTHY D. BURNS used Fund I money from investors to pay a fee to acquire Fund II and other Facebook shares, without any disclosure to Fund I

investors.

15. In advance of any closing of the purchase of any Facebook shares, defendant TIMOTHY D. BURNS spent over approximately \$4 million of Fund II funds to buy a shore home in Avalon, New Jersey.

16. In advance of any closing of the purchase of any Facebook shares defendant TIMOTHY D. BURNS used Fund II funds to make a down payment on a commercial property in Conshohocken, Pennsylvania for his personal investment inventory.

17. After defendant TIMOTHY D. BURNS learned that he had been defrauded of and had lost the \$11.2 million he paid from Fund I to acquire Facebook shares from T.S., he called for the capital from Fund II investors.

18. On or about April 12, 2012, in the Eastern District of Pennsylvania and elsewhere, defendant

TIMOTHY D. BURNS

for the purpose of executing such scheme and attempting to do so, caused to be placed in an authorized depository for mail matter and to be delivered by mail to T.H. B. according to the directions thereon mail matter, that is, a purported “K1” statement for the year 2011, fraudulently purporting to reflect a purchase by T.H.B. of Facebook shares.

In violation of Title 18, United States Code, Section 1341.

COUNT TWO

THE UNITED STATES ATTORNEY FURTHER CHARGES THAT:

1. Count One, paragraphs 1 through 11 and 13 through 17 are incorporated as if set forth here.
2. On or about October 3, 2011, in the Eastern District of Pennsylvania and elsewhere, defendant

TIMOTHY D. BURNS

for the purpose of executing the scheme described above, and attempting to do so, caused to be transmitted by means of wire communication in interstate commerce sounds and signals, that is, the wire transfer of \$4,198,654.02 from PNC Bank in Pennsylvania to the Sturdy Stone Harbor Bank in New Jersey, funds which he told victims would be used to purchase stock but which he instead used to purchase a family shore house on Pelican Drive, Avalon, New Jersey.

In violation of Title 18, United States Code, Section 1343.

COUNT THREE

THE UNITED STATES ATTORNEY FURTHER CHARGES THAT:

1. Count One, paragraphs 1 through 11 and 13 through 17 are incorporated as if set forth here.
2. The Bancorp Bank is a federally insured financial institution.
3. On or about January 12, 2012, in Philadelphia, in the Eastern District defendant

TIMOTHY D. BURNS

knowingly made and caused to be made to The Bancorp Bank a false statement for the purpose of influencing the actions of the bank upon a loan, that is, a loan in the amount of \$6,000,000 to purchase a commercial building at 125 East Elm Street, Conshohocken, Pennsylvania, in that defendant BURNS falsely represented to Bancorp executives that his companies had earned approximately \$20 million from the sale of Facebook stock, \$8.6 million of which was his profit on the transaction, when, in fact, he had made no such purchases and profit, but had been defrauded, as he well knew, of \$11.2 million that he had paid to T.S.

All in violation of Title 18, United States Code, Section 1014.

COUNT FOUR

THE UNITED STATES ATTORNEY FURTHER CHARGES THAT:

1. Count One, paragraphs 1 through 11 and 13 through 17 are incorporated as if set forth here.

2. The Bancorp Bank is a federally insured financial institution.

3. On or about September 12, 2012, in Philadelphia, in the Eastern District
defendant

TIMOTHY D. BURNS

knowingly made and caused to be made to The Bancorp Bank a false statement for the purpose of influencing the actions of the bank upon a loan, that is, a loan in the amount of \$1,500,000 to purchase a commercial building at 125 East Elm Street, Conshohocken, Pennsylvania, in that defendant BURNS falsely represented to Bancorp executives that his companies had earned approximately \$20 million from the sale of Facebook stock, \$8.6 million of which was his profit on the transaction, when, in fact, he had made no such purchases and profit, but had been defrauded, as he well knew, of \$11.2 million that he had paid to T.S.

All in violation of Title 18, United States Code, Section 1014.

NOTICE OF FORFEITURE

THE UNITED STATES ATTORNEY FURTHER CHARGES THAT:

1. As a result of the violations of Title 18, United States Code, Sections 1341, 1343, and 1014, set forth in this indictment, defendant

TIMOTHY D. BURNS

shall forfeit to the United States of America all property, real or personal, constituting proceeds of the offenses and any property traceable thereto, including, but not limited to:

A. The following real property:

- i. 23 Pelican Drive,
Avalon, New Jersey,
or any proceeds of its sale;
- ii. 125 East Elm Street,
Conshohocken, Pennsylvania,
or any proceeds of its sale;
- iii. 26 Meredith Road,
Phoenixville, Pennsylvania,
or any proceeds of its sale;

B. All of the following personal property in which defendant TIMOTHY D. BURNS has any right, title or interest or any proceeds thereof:

- i. Penn Liberty Bank
 1. Account No. ending 3280, in the name of Timothy Burns and Claire Burns,
 2. Account No. ending 4973, in the name of Timothy Burns and Claire Burns,
 3. Account No. ending 1478, in the name of Timothy Burns and Claire Burns,
 4. Account ending 0173, in the name of ESG Capital Partners GP, LTD,
 5. Account ending 1205, in the name of ESG Capital Partners GP, LLC,
 6. Account ending 1213, in the name of ESG Capital Partners,

- LP,
 - 7. Account ending 1437, in the name of 23 Pelican, LLC,
 - 8. Account ending 1494, in the name of 125 E. Elm Partners,
 - 9. Account ending 2286, in the name of ESG Capital Partners IV, LP,
 - 10. Account ending 6569, in the name of ESG Coldstream, LP,
 - 11. Account ending 9621, in the name of ESG,
 - 12. Account ending 2906, in the name of ESG,
 - 13. Account ending 3012, in the name of ESG,
 - 14. Account ending 3301, in the name of ESG,
 - 15. Account ending 3665, in the name of ESG,
 - 16. Account ending 4507, in the name of ESG Reality Partners,
 - 17. Account ending 2039, in the name of ESG;
- ii. PNC Bank
- 1. Account No. ending 6456, in the name of Timothy Burns and Claire Burns.
 - 2. Account No. ending 8208, in the name of the Burns Trust,
 - 3. Account ending 8195, in the name of ESG Capital Partners GP, LTD.,
 - 4. Account ending 8179, in the name of ESG Capital Partners II, LP;
- iii. Fidelity Investments
- 1. Account No. ending 1741, in the name of Timothy Burns and Claire Burns,
 - 2. Account No. ending 3660, in the name of Timothy Burns and Claire Burns,
 - 3. Account No. ending 9511, in the name of Timothy Burns and Claire Burns,
 - 4. Account No. ending 2656, in the name of ESG Capital Partners, LP,
 - 6. Account No. ending 5334, in the name of ESG Wealth Management;
- iv. Hartford Investments Account in the name of Timothy David Burns
- v. Facebook, Inc. stock, in which Timothy Burns or the Burns Trust has any right, title, or interest.
- vi. Twitter stock, in which Timothy Burns or the Burns Trust has any right, title, or interest.

- vii. Any proceeds of claims filed in the Eastern District of California relating to purported stock sales by T.S.

or the sum of 19,638,923.60 in U.S. currency.

- 2. If any of the property subject to forfeiture, as a result of any act or omission of the defendants:
 - (a) cannot be located upon the exercise of due diligence;
 - (b) has been transferred or sold to, or deposited with, a third party;
 - (c) has been placed beyond the jurisdiction of the Court;
 - (d) has been substantially diminished in value; or
 - (e) has been commingled with other property which cannot be divided without difficulty;

it is the intent of the United States, pursuant to Title 18, United States Code, Section 982, incorporating Title 21, United States Code, Section 853(p), to seek forfeiture of any other property of the defendant up to the value of the property subject to forfeiture including without limitation the following personal property:

- 1. 244 Bella Lane,
King of Prussia, Pennsylvania,
- 2. 26 Meredith Road,
Phoenixville, Pennsylvania, to the extent that the
property is not otherwise forfeitable as proceeds.

All pursuant to Title 18, United States Code, Section 982(a)(2).

ZANE DAVID MEMEGER
UNITED STATES ATTORNEY