

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Criminal Case No. 13-CR-00001-REB

UNITED STATES OF AMERICA

Plaintiff,

v.

1. DAVID N. HAWKINS,

Defendant.

INFORMATION

18 U.S.C. §1343

18 U.S.C. §1957

18 U.S.C. §981

18 U.S.C. §2

The United States Attorney charges that:

COUNT 1

(Wire Fraud)

1. From in or about December 2009 and continuing through December 2011, the exact dates being unknown, in the State and District of Colorado, and elsewhere, the defendant,

DAVID N. HAWKINS,

devised and intended to devise a scheme and artifice to defraud and to obtain money and property by means of false and fraudulent material pretenses, representations and promises from individuals who invested with him in a purported private investment fund which he operated under the name "PD Hawk Investments." Through

such scheme, the defendant solicited and obtained from individual investors funds in excess of \$1.2 million, a significant portion of which funds he diverted and misappropriated for his own use or for uses not authorized by his investors.

Background

At all times material to this Information:

2. The defendant, DAVID N. HAWKINS, was a resident of Colorado Springs, Colorado and was employed as a deputy sheriff for the El Paso County, Colorado Sheriff's Office. The defendant also held himself out to be a successful trader and investor in foreign currencies and the exchanges of foreign currencies (hereinafter, the "FOREX" or "foreign currency exchange" markets).

3. Beginning in or about December 2009, the defendant began a side business under the name PD Hawk Investments, the ostensible purpose of which was to pool funds from others and trade in the foreign currency exchange markets on their behalf. The defendant accepted and solicited funds for this ostensible purpose from friends and colleagues at the El Paso County Sheriff's Office and within the greater law enforcement community in El Paso County, Colorado, and from their respective relatives and acquaintances.

The Scheme and Artifice

4. It was part of the scheme and artifice to defraud and

to obtain money and property by false and fraudulent material pretenses, representations and promises that the defendant, DAVID N. HAWKINS, in order to induce individuals to provide him investment funds, would and did make, and cause to be made, the following representations, among others:

- a. That the defendant had a three year track record of realizing sustained and consistent profits from trading in the FOREX markets;
- b. That the defendant had achieved, at times, gains as high as 62% in a one day period of FOREX trading;
- c. That investors would be guaranteed a return of 10% per month (or 120% per annum), compounded monthly, on their investments, a guarantee which the defendant stated he was able to provide based on the profitability of his FOREX trading;
- d. That the investors' funds would only be used by the defendant to trade in the FOREX or foreign currency exchange markets;
- e. That the defendant would keep for himself from investors' funds only those amounts that defendant realized from the FOREX trading that were above the guaranteed 10% monthly returns to investors;
- f. That the defendant, not the investors, would be

responsible for paying any tax liabilities on the 10% monthly returns that defendant was promising investors and that any payments for tax liabilities would not be subtracted from these guaranteed returns; and

- g. That the investors could withdraw their principal investments and accrued profits with the defendant at any time, provided that they made their requests within certain prescribed windows of time within the month that they were requesting their funds.

5. In truth and fact, as defendant HAWKINS then well knew, the foregoing representations were inaccurate and patently false and misleading, in that, among other things:

- a. At no time was defendant HAWKINS ever profitable, on a monthly or annual basis, in his FOREX trading activity either on his own behalf or involving investors' money;
- b. While he would eventually transfer most of investors' funds to trading accounts that he had established with FOREX brokers and dealers, most of the funds, once in these accounts, would not be used by the defendant for trading but rather would remain parked in the accounts;

- c. Those investor funds that defendant HAWKINS did actually apply to FOREX trading were quickly dissipated and consumed through consistent trading losses; and
- d. The defendant would periodically remove those investors funds which would remain in the FOREX trading account, after these trading losses, and re-deposit the funds into bank accounts which the defendant controlled, which funds the defendant would then use either for his own personal expenses and uses, for personal investments unrelated to FOREX trading or investment, or to fund payments to those of his investors who requested to withdraw their principal investments and supposed accrued profits.

6. As a part of the scheme and artifice to defraud and to obtain money and property by false and fraudulent material pretenses, representations and promises, in order to conceal his trading loses and misapplication of funds from existing investors and in order to induce further investments from them and investments from prospective investors, defendant HAWKINS sent investors monthly emails which falsely reported to them that their funds were growing, as promised, by 10% each month and that their supposed profits were being rolled into their overall

investment and growing at a 10% monthly rate as well. The monthly emails would also falsely depict each investor's fund balance as appreciating based on these falsely reported returns.

7. In order to conceal his diversion and misapplication of these investor funds, to further conceal his trading losses, and to make it otherwise appear that the investment fund was operating profitably consistent with his representations, defendant HAWKINS, as the overall the scheme progressed, engaged in a Ponzi scheme with investors' monies. Defendant HAWKINS would and did fund distributions to investors who sought withdrawals of their share of the funds' purported profits either from pre-existing investor funds that he accumulated in FOREX trading and bank accounts that he controlled or from additional investment funds he would solicit and secure from current or new investors. Through such distributions, defendant HAWKINS would make it falsely appear to existing and prospective investors that his business was making actual returns of profits on investors' funds, consistent with his reporting of these returns, rather than simply returning to these investors their own principal funds or diverting to them other investors' money.

8. On or about November 1, 2011, in the State and District of Colorado, and elsewhere, for the purpose of executing the aforesaid scheme and artifice to defraud and for obtaining money and property by false and fraudulent pretenses, representations

and promises, and attempting to do so, the defendant,

DAVID N. HAWKINS,

did knowingly transmit and cause to be transmitted in interstate commerce, from a place within the State of Colorado to a place within the Commonwealth of Pennsylvania, by means of wire communications, certain signals and sounds, to wit, the following email communication, from email address

david@pdhawkinsinvestment.com, to an individual identified herein as Jcq.R., a resident of Drexel Hill, Pennsylvania:

Interest earned in October 2011 - \$6,040.00
Withdrawal on 10/31/11 - \$1,000
Balance as of 11/1/11 - \$65,440.00

All in violation of Title 18, United States Code, Sections 1343 and 2.

COUNT 2

(Monetary Transactions in Property
Derived From Specified Unlawful Activity)

9. The allegations contained in paragraphs 1 through 8 of this Information are hereby re-alleged as if set out in full and incorporated herein by reference.

10. On or about March 9, 2011, in the State and District of Colorado, and elsewhere, the defendant,

DAVID N. HAWKINS,

did knowingly engage and attempt to engage in a monetary transaction affecting interstate or foreign commerce, in criminally derived property of a value greater than \$10,000, that

is, funds obtained through the scheme described in paragraphs 1 through 7 of this Information, which property was derived from a specified unlawful activity, namely, wire fraud, in violation of Title 18, United States Code, Sections 1343, as set forth in this Information; that is, the defendant transferred, and caused to be transferred, \$18,736 in investor funds to an automobile dealership in Beaverton, Oregon, through a wire transfer from an account in his name at ENT Federal Credit Union (Account Number Ending In - 5502) to a bank account for the automobile dealership at Wells Fargo Bank, NA.

In violation of Title 18 of the United States Code, Sections 1957 and 2.

Notice of Forfeiture

11. The allegations contained in Count 1 of this Information are hereby re-alleged and incorporated by reference for the purpose of alleging forfeiture pursuant to the provisions of Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c) (wire fraud).

12. Upon conviction of the violations alleged in Count 1 of this Information involving violations of Title 18, United States Code, Section 1343, the defendant,

DAVID N. HAWKINS,

shall forfeit to the United States, pursuant to Title 18, United States Code, Sections 981(a)(1)(C), 1956(c)(7), and 1961(1), any

and all of the defendant's right, title and interest in all property, real or personal, constituting and derived from any proceeds the defendants obtained directly and indirectly as a result of the commission of such offenses, including, but not limited to:

- a. A \$16,813 money judgment, representing part of the proceeds obtained by the defendant as a result of the scheme charged in this Information.

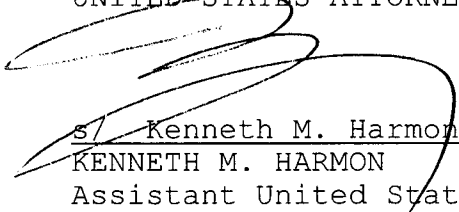
13. If any of the property described in paragraph 12 above, as a result of any act or omission of the defendant:

- 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 subdivided without difficulty;

it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 28, United States Code, Section 2461(c), to seek forfeiture of any

other property of said defendants up to the value of the
forfeitable property.

JOHN F. WALSH
UNITED STATES ATTORNEY



~~s/ Kenneth M. Harmon~~
KENNETH M. HARMON
Assistant United States
Attorney
1225 17th Street, Suite 700
Denver, CO 80202
Phone: (303) 454-0100
Fax: (303) 454-0402
Kenneth.Harmon@usdoj.gov

(Rev. 03/07)

DATE: January 2, 2013

DEFENDANT: David N. Hawkins
YOB: 1967
ADDRESS: Colorado Springs, Colorado

COMPLAINT FILED? _____ YES X NO

IF YES, PROVIDE MAGISTRATE CASE NUMBER: _____
IF NO, PROCEED TO "OFFENSE" SECTION

HAS DEFENDANT BEEN ARRESTED ON COMPLAINT? _____ YES X NO

IF NO, A NEW WARRANT IS REQUIRED

OFFENSE: Count 1
Wire Fraud
18 U.S.C. §1343

Count 2
Monetary Transactions in Property Derived From Specified Unlawful Activity
18 U.S.C. §1957

LOCATION OF OFFENSE (COUNTY/STATE): El Paso County, Colorado and elsewhere

PENALTY: Count 1
NMT 20 years imprisonment; \$250,000 fine, or both; \$100 Special Assessment; NMT 3 years supervised release. Restitution.

Count 2
NMT 10 years imprisonment; \$250,000 fine (or an alternate fine of not more than twice the amount of criminally derived property involved in the transaction), or both; \$100 Special Assessment; NMT 3 years supervised release.

AGENTS:

Jon W, Cronan, Special Agent
Federal Bureau of Investigation
Colorado Springs, CO

Ronald A. Loecker, Special Agent
Internal Revenue Service,
Criminal Investigation Division
Denver, Colorado

AUTHORIZED BY:

Kenneth M. Harmon
Assistant U.S. Attorney

ESTIMATED TIME OF TRIAL:

X five days or less _____ over five days _____ other

THE GOVERNMENT

_____ will seek detention in this case X will **not** seek detention in this case

The statutory presumption of detention is or is **not** applicable to this defendant. (Circle one)

OCDETF CASE: Yes X No