
UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA : **CRIMINAL COMPLAINT**
 :
 v. : Mag. No. 07-8017
 :
 FREDERIC WILLIAM MELENDEZ : Hon. Madeline Cox Arleo

I, Matthew Nagle, being duly sworn, state the following is true and correct to the best of my knowledge and belief. From 1999 through in or about April 2005, in Bergen County, in the District of New Jersey and elsewhere, defendant FREDERIC WILLIAM MELENDEZ did:

SEE ATTACHMENT A

In violation of Title 18, United States Code, Sections 1341, 1956, and 2.

I further state that I am a Special Agent of the Federal Bureau of Investigation and that this complaint is based on the following facts:

SEE ATTACHMENT B

Continued on the attached page and made a part hereof.

Matthew Nagle, Special Agent
Federal Bureau of Investigation

Sworn to before me and subscribed in my presence,
on this 15th day of February 2007, in Newark, New Jersey

HONORABLE MADELINE COX ARLEO _____
UNITED STATES MAGISTRATE JUDGE Signature of Judicial Officer

ATTACHMENT A

Count 1
(Mail Fraud)

for the purpose of executing and attempting to execute a scheme and artifice to defraud and for obtaining money and property by means of materially false and fraudulent pretenses, representations and promises, knowingly and willfully placed in a post office and authorized depository for mail, a matter and thing, specifically false and fraudulent account statements, to be sent and delivered by the Postal Service and by private and commercial interstate carrier in violation of Title 18, United States Code Sections 1341 and 2.

Count 2
(Money Laundering)

knowing that the property involved in a financial transaction represented the proceeds of some form of unlawful activity, and knowing that the transaction was designed in whole or in part to conceal and disguise the nature, location, source, and ownership of the proceeds of specified unlawful activity, namely mail fraud, did conduct and attempt to conduct financial transactions affecting interstate commerce, namely the deposits, withdrawals, and payments further detailed in Attachment B to this Complaint, in violation of Title 18, United States Code, Sections 1956 and 2.

ATTACHMENT B

I, MATTHEW NAGLE, a Special Agent of the Federal Bureau of Investigation, having conducted an investigation and having spoken with other individuals, have knowledge of the following facts:

Count 1
(Mail Fraud)

Background

1. From at least in or about 1999 through in or about April 2005, defendant FREDERIC WILLIAM MELENDEZ ("MELENDEZ") purported to operate an investment company named R&R Partners. As part of his purported investment company, MELENDEZ claimed to be the Chief Executive Officer of The Garden State Fund, an investment vehicle, which he claimed pooled investor's assets and invested them toward a specified goal. Specifically, a prospectus' provided by MELENDEZ to investors claimed The Garden State Fund "invest[ed] in the common stock of the top 100 public companies that are headquartered in New Jersey. Focusing on those companies that are rated A+ by the leading rating agencies." In addition to the prospectus, MELENDEZ orally solicited investors located within New Jersey by pitching The Garden State Fund as a conservative fund which invested in companies that were based in the State of New Jersey.

2. MELENDEZ operated R&R Partners and The Garden State Fund out of the residence MELENDEZ shared with his wife, K.C., at 9 Marc Road in Wayne, New Jersey from in or about 1999 through in or about late 2001 or 2002. Although the residence was listed in K.C.'s name, MELENDEZ made mortgage payments, as well as other payments related to the residence. Upon the sale of 9 Marc Road, MELENDEZ operated R&R Partners and The Garden State Fund out of his new residence at 640 Maple Avenue in Bergen, Wyckoff, New Jersey. Once again, the house is listed in K.C.'s name, but MELENDEZ made mortgage payments and paid other expenses. At all times relevant to this Complaint, MELENDEZ conducted the business of R&R Partners and The Garden State Fund out of these residences. The letterhead of The Garden State Fund listed both 9 Marc Road and 640 Maple Avenue as its business address in correspondence and on account statements given to victim investors. Indeed, MELENDEZ mailed investor M.T. an account statement dated December 27, 2002, which noted that the Fund had moved to a "new office" located at "640 Maple Ave., Wyckoff, N.J[.] 07481" and inviting the investor to "stop by

anytime." Indeed, investors P.P. and N.P. met with MELENDEZ at 640 Maple Avenue in Wyckoff, New Jersey regarding their accounts on at least two occasions.

3. On or about June 24, 2005, MELENDEZ met voluntarily with Federal investigators in Newark, New Jersey. During that meeting, MELENDEZ stated, in substance and in part, that he defrauded investors in R&R Partners and The Garden State Fund by soliciting money under the false pretense that it would be invested, then converting the money for his personal use. As detailed below, MELENDEZ' statement corroborated the results of the investigation.

MELENDEZ' Scheme to Defraud

4. From in or about 1999 through in or about April 2005, MELENDEZ induced victim investors to invest with R&R Partners and in The Garden State Fund through a litany of misrepresentations, including but not limited to: (1) fraudulently representing the nature of the investment (i.e. - that investors were investing in New Jersey by purchasing top New Jersey companies); (2) preparing false and misleading account statements that were mailed to victim investors and that contained trading activity that was inaccurate and misleading; and (3) fraudulently reporting the size, performance, and future of The Garden State Fund.
5. For example, in or about early 2004, MELENDEZ told investors that The Garden State Fund was in the process of acquiring a publicly traded company, "D.E.," headquartered in Oakland, New Jersey. MELENDEZ entitled this "Project: White Knight" and distributed materials to investors purportedly in relation to the acquisition of D.E. MELENDEZ told investors he had attended meetings with D.E.'s board of directors and that The Garden State Fund's attorneys had been working hard to complete the acquisition. MELENDEZ also told investors that The Garden State Fund had between \$7 and \$8 million in assets available to acquire D.E.
6. An interview of D.E.'s president revealed that at no time was MELENDEZ, The Garden State Fund, or any attorney representing MELENDEZ or the Fund in negotiations to acquire or otherwise obtain an ownership interest in D.E. Rather, MELENDEZ attempted to contact D.E. one time to obtain information about D.E., but his effort to obtain information was denied by D.E.

7. Moreover, during the period that MELENDEZ told investors that The Garden State Fund had more than \$7 million in assets, account records show that the Fund had a balance of less than \$10,000.
8. In another example, on or about January 3, 2005, MELENDEZ made a \$45,000 deposit into The Garden State Fund E*Trade account on behalf of N.P. N.P. instructed MELENDEZ to invest this money in a certificate of deposit. None of the money deposited by N.P. was invested into a certificate of deposit. Instead, MELENDEZ used the majority of N.P.'s investment for MELENDEZ personal use.
9. Similarly, MELENDEZ did not utilize investor money to invest in "New Jersey" companies as promised. Instead, MELENDEZ invested only a small portion of investor funds in an account at E*Trade Financial, and converted the vast majority of investor funds for his personal use.

The Garden State Fund Account at E*Trade

10. In furtherance of the fraud, on or about March 1, 2003, MELENDEZ established an account at E*Trade Financial in the name of The Garden State Fund. MELENDEZ was the sole person with signatory and check writing authority in the E*Trade account. MELENDEZ accepted investor funds both cash and checks made payable to E*Trade. Although MELENDEZ instructed investors to make checks payable to E*Trade, he told them that all statements and trade confirmations would come from MELENDEZ on The Garden State Fund's letterhead. In his interview, MELENDEZ advised investigators that he both mailed and hand-delivered Garden State Fund false and fraudulent account statements and confirmations to investors.
11. After depositing investor funds, MELENDEZ used his check writing privileges on the account to write checks for his personal use without the knowledge or consent of the investors. Analysis of the E*Trade account records indicate MELENDEZ misappropriated the majority of the investor funds deposited in the E*Trade account. Moreover, the funds that MELENDEZ did invest were not invested in accordance with The Garden State Fund's prospectus or MELENDEZ representations to investors (i.e. - funds were invested in companies outside of New Jersey).
12. For example, from in or about January 1, 2005 through in or about April 30, 2005, MELENDEZ received approximately

\$48,000 in deposits from investors in The Garden State Fund's E*Trade account. Of that \$48,000, MELENDEZ used more than \$46,000 for his personal expenditures. The payments were made directly from The Garden State Fund E*Trade account using check writing privileges. MELENDEZ' personal expenditures include: (1) approximately \$17,500 for MELENDEZ' mortgage payments and home improvement expenses; (2) more than \$2,000 in home utility payments; (3) more than \$16,000 in checks made payable to cash and family members; and (4) approximately \$9,500 in personal credit card payments.

13. During the same time period, MELENDEZ made only seventeen securities transactions resulting in a net loss of \$7,528.03. These transactions involved: (1) short sales of Best Buy and Goodyear Tire, and Hovnanian Enterprises; (2) the purchase of Netflix, RiteAid, Campbell Soup common stocks; and (3) the purchase of call options for Campbell Soup.
14. A review of The Garden State Fund E*Trade account statements revealed that from on or about March 1, 2003 through on or about April 30, 2005, a total of approximately \$403,297 in investor money was deposited into the account. As of on or about April 30, 2005, The Garden State Fund had a negative account balance of approximately minus \$11.75. A review of checks written during that period revealed that only \$13,166 was returned to investors, accounting for a shareholder loss of approximately \$390,000.
15. Interviews with victim investors M.C., C.W., M.T., P.P., and N.P. revealed they had invested a total of approximately \$440,000 with MELENDEZ and had received a total of only approximately \$15,000 in return.

Investor Losses and Concealment of the Fraud by Mail

16. During the interview with law enforcement, MELENDEZ stated, in substance and in part, that he defrauded investors of approximately \$100,000 through R&R Partners and The Garden State Fund. MELENDEZ provided federal agents with a document that he had created showing that he had received approximately \$498,150 in investments. MELENDEZ admitted, in substance and in part, that he used a portion of the money for personal expenses, household expenses, utility payments, and mortgage payments without the knowledge or consent of the investors.

17. MELENDEZ also stated, in substance and in part, that victims of his fraud included, but were not limited to, M.C., C.W., M.T., P.P., and N.P. MELENDEZ stated, in substance and in part, that he mailed correspondence and false account statements to the victims in an effort to conceal his fraud.
18. For example, on or about January 30, 2004, MELENDEZ mailed M.T. an account statement in furtherance of, and to conceal, his fraud. The account statement indicated that M.T.'s Garden State Fund account balance at E*Trade was \$25,564. At the time, the value of entire Garden State Fund E*Trade account was less than \$4,100.

Count 2
(Money Laundering)

19. The allegations as set forth in Paragraphs 1 through 18 of Count 1 of this Complaint are hereby realleged and incorporated as though set forth in full herein.
20. MELENDEZ used the following property, among others, to conceal and disguise the nature of the fraud, the location, source, and the true ownership of the proceeds of the mail fraud: (1) The Garden State Fund E*Trade account; (2) a bank account no. XX-XXXX-4466 at PNC Bank, in his wife, K.C.'s, name; (3) the residence located at 9 Marc Road in Wayne, New Jersey; and (4) the residence located at 640 Maple Avenue in Wyckoff, New Jersey.

The Garden State Fund's E*Trade Account

21. As detailed above, MELENDEZ caused more than \$400,000 in investor funds to be deposited into The Garden State Fund E*Trade Account. These funds were the illicit proceeds of MELENDEZ' scheme to defraud Garden State Fund investors. Once deposited, MELENDEZ converted these funds for his personal use, including payment of his personal mortgage payments, credit card bills, and checks written to he and his wife, K.C., for cash.

K.C.'s Account at PNC Bank

22. In addition, MELENDEZ caused more than \$64,000 in investor funds to be deposited into his wife K.C.'s checking account at PNC Bank. These funds were the illicit proceeds of the fraudulent misrepresentations MELENDEZ made to investors. Once deposited, MELENDEZ converted these funds for his personal use, including payment of his personal mortgage

payments, credit card bills, and checks written to he and his wife, K.C., for cash.

The Residences at 9 Marc Road and 640 Maple Avenue

23. As detailed in Count 1 above, MELENDEZ utilized the residences located at 9 Marc Road, in Wayne, New Jersey and 640 Maple Avenue, Wyckoff, New Jersey to meet with investors in R&R Partners and The Garden State Fund. In addition, MELENDEZ listed these addresses on the Fund's letterhead, maintained a home office at the residences to operate R&R Partners and The Garden State Fund, and maintained computers used in the operation of his scheme to defraud in the residences.
24. In addition, MELENDEZ used the residences to launder the illicit proceeds of his scheme to defraud. In particular, bank records show that MELENDEZ used more than \$188,500 of misappropriated investor money to make MELENDEZ' mortgage payments, and pay for home furnishings, home improvements, and utilities.

FORFEITURE ALLEGATION No. 1

As the result of committing one or more of the mail fraud offenses in violation of 18 U.S.C. § 1341, alleged in Count 1 of this Complaint, defendant MELENDEZ shall forfeit to the United States pursuant to 18 U.S.C. 981(a)(1)(C) and 28 U.S.C. § 2461(c), a sum of money equal to \$529,953.60 (representing all discoverable investor losses, crediting known investor returns) in United States currency, representing the amount of proceeds obtained as a result of the offense, MELENDEZ scheme to defraud the investors in R&R Partners and The Garden State Fund as detailed above in Count 1, in violation of Title 18, United States Code Sections 1341 and 2.

FORFEITURE ALLEGATION No. 2

As the result of committing one or more of the money laundering offenses listed in Count 2 in violation of 18 U.S.C. 1956, defendant MELENDEZ shall forfeit to the United States pursuant to 18 U.S.C. § 982(a)(1), a sum of money equal to approximately \$375,000 in United States currency currently held in the attorney trust account located at Gibbons, P.C. in Newark, New Jersey, in that such sum constitutes or is derived, directly or indirectly, from proceeds traceable to the commission of the mail fraud and money laundering as detailed in Count 2 of the Complaint. Furthermore, the \$375,000 are the proceeds of the

sale of an instrumentality of the fraud, namely the sale of 640 Maple Avenue in Wyckoff, New Jersey, all in violation of Title 18, United States Code, Sections 982 and 1956.