

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Criminal Case No.

UNITED STATES OF AMERICA,

Plaintiff,

v.

1. DAVID GWIN,

Defendant.

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**INDICTMENT**

18 U.S.C. § 1343

18 U.S.C. § 1957

18 U.S.C. §2(b)

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The Grand Jury charges that:

**COUNTS 1-11**

18 U.S.C. § 1343

**The Scheme**

1. Beginning in or about October 2003 and continuing until in or about August 2005, in the State and District of Colorado and elsewhere, defendant DAVID GWIN (“GWIN”) devised and intended to devise a scheme to defraud and to obtain money and property by means of materially false and fraudulent pretenses, representations, and promises by obtaining an advanced fee from individuals and companies who were seeking multimillion dollar loans (hereinafter referred to as “the Scheme”). It was part of the Scheme that:

2. From at least as early as October 2003, to in or about January 2005, defendant

GWIN operated a business called Asset Funding Solutions, Inc. (“AFSI”) which purported to be in the business of: (a) finding private investors to fund loans for investment projects; and (b) being the lender itself for such loans. In or about February 2005, defendant Gwin and others known to the grand jury changed the name of this business to Asset Global Funding, Inc. (“AGF”) and continued to operate this business until at least in or about August 2005. (Collectively referred to herein after as “AFSI/AGF”)

3. Defendant GWIN held himself out as having significant experience in finding funding for multimillion dollar loans for investment projects.

4. Defendant GWIN also held himself out as knowledgeable, competent, and having the ability and contacts necessary to find and secure millions of dollars in funding for such multimillion dollar loans.

5. At times during the scheme, defendant GWIN told the people and companies seeking multimillion dollar loans that AFSI/AGF had the ability to, and would, fund the multimillion dollar loans that were being sought.

6. Defendant GWIN also often made reassuring comments to people and companies seeking multimillion dollar loans, such as comments that their loans would be easy to fund.

7. Defendant GWIN told the people and companies seeking multimillion dollar loans that they were required to pay AFSI/AGF a fee in advance of receiving the funding for their loan. Sometimes, defendant GWIN referred to this advanced fee as a “due diligence fee,” sometimes as a “retainer,” and sometimes as an “application fee” (collectively referred to hereinafter as “Advanced Fee”).

8. In order to persuade the people and companies seeking multimillion dollar loans to send AFSI/AGF the Advanced Fee, which ranged from \$5,000 to \$340,000 depending on the

size of the loan sought, defendant GWIN falsely told them that the Advanced Fee was refundable if the loan they sought was not funded.

9. Between on or about October 20, 2003, and in or July, 2005, on behalf of the following projects and companies, someone paid AFSI/AGF Advanced Fees in the following amounts:

Poudre River Ranch	\$7,500
Two Creeks Development, LLC	\$5,000
Ice Skating, Inc	\$25,000
San Saba Mining	\$40,000
OG Holdings	\$150,000
Med Tech Products	\$20,000
Ocean Golf Investments	\$52,500
Wagon Works	\$92,000
Rainbow Korea	\$340,000
AK Ventures	\$200,000
Pelham Parkway	\$100,000
Northport Plumbing	\$60,000
Gilison Real Estate, Inc.	\$36,000

10. During the course of the scheme, defendant GWIN repeatedly told people and companies who had sent AFSI/AGF Advanced Fees that he was meeting with investors to secure their funding and that funding for their loan would happen soon.

11. In or about the Spring of 2005, in order to create the false impression that defendant GWIN was actively working with an investor named "Larry," defendant Gwin caused an email account with the address "larryaspen01@yahoo.com" to be created. Defendant GWIN further caused false emails purporting to be from "Larry" regarding various loans that "Larry" was purportedly working on funding to be sent from this account to J.G.<sup>1</sup> and to people working with defendant GWIN.

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<sup>1</sup> In order to protect their privacy rights, all victims and witnesses are referred to by their initials in this indictment.

12. Defendant GWIN did not secure funding for the loans for which the above-listed Advanced Fees were paid.

13. Defendant GWIN did not return Advanced Fees that were paid in connection with 10 of the 13 above listed projects.

14. For the purpose of executing the scheme described in paragraphs 1 through 12 above, on or about the dates set forth below, defendant GWIN transmitted, and caused to be transmitted, by means of wire communication in interstate commerce the writings, signs, signals, pictures and sounds set forth below:

Count	Date	Description of Wire Transmission
1	9/2/04	Wire transfer of \$25,000 from the Ice Skating, Inc. Construction Escrow Account at Alpine Bank to the AFSI account at Wells Fargo Bank in Colorado
2	12/14/04	Wire transfer of \$52,500 from the Ocean Golf Investments LLC account at State Bank to the AFSI account at Wells Fargo Bank in Colorado
3	1/3/05	Wire transfer of \$200,000 from the account of AK Ventures, Inc. at JPMorgan Chase Bank to the AFSI account at Wells Fargo Bank in Colorado
4	1/20/05	Telephone call between S.Y. in Colorado and K.R. in Texas
5	2/24/05	Email sent from "gwin@assetfsi.com" in Colorado to K.G. in Texas at 11:24 a.m.
6	3/20/05	Email sent from "postmaster@assetfsi.com" in Colorado to L.L. (with a cc to K.G. in Texas) at 10:52 p.m.
7	1/25/05	Wire transfer of \$100,000 from the account of Plummer Realty Inc. at Citibank to the AFSI account at Bank One in Colorado
8	2/17/05	Wire transfer of \$70,000 from the account of D.L. at Center Bank to the AGF account at US Bank in Colorado
9	2/18/05	Wire transfer of \$100,000 from the account of Uni Wireless, Inc. at MetroBank to the AGF account at US Bank in Colorado

10	3/1/05	Wire transfer of \$60,000 from the account of W.B.C. Industrial Supply at CitiBank to the AGF account at US Bank in Colorado
11	3/3/05	Email sent from "ilending@gmail.com" in California to J.H. (With a cc to S.Y. in Colorado) at 12:28 p.m.

**COUNTS 12 THROUGH 14**

18 U.S.C. §§ 1957, 2(b)

15. On or about the dates set forth below, in the State and District of Colorado, defendant DAVID GWIN knowingly engaged in, and caused others to engage in, the following monetary transactions affecting interstate and foreign commerce in criminally derived property of a value greater than \$10,000, such property having been derived from a specified unlawful activity, namely, wire fraud in violation of 18 U.S.C. § 1343:

Count	Date	Amount	Transaction
12	12/15/04	\$55,000	Check No. 3086 from Wells Fargo Acct. No. 6727501030 deposited into Wells Fargo Acct. No. 8989189975
13	12/23/04	\$90,000	Wire transaction from Wells Fargo Acct. No. 6727501030 to Wells Fargo Acct. No. 8989189975
14	1/4/05	\$190,000	Wire transaction from Wells Fargo Acct. No. 6727501030 to Wells Fargo Acct. No. 8989189975

**COUNT 15**

18 U.S.C. § 981(a)(1)(C)

18 U.S.C. § 982(a)(1)

28 U.S.C. § 2461(c)

16. The allegations contained in Counts 1 through 14 of this Indictment are hereby re-alleged and incorporated by reference for the purpose of alleging forfeiture pursuant to the provisions of 18 U.S.C. § 981(a)(1)(C), 18 U.S.C. § 982(a)(1), and 28 U.S.C. § 2461(c).

17. Upon conviction of the violations alleged in Counts 1 through 11 of this

Indictment involving a scheme to commit 18 U.S.C. § 1343, defendant DAVID GWIN shall forfeit to the United States, pursuant to Title 18, United States Code, Section 981(a)(1)(C), and Title 28, United States Code, Section 2461(c) any and all of the defendant's right, title and interest in all property constituting and derived from any proceeds the defendants obtained directly and indirectly as a result of such offense, including, but not limited to:

A money judgment in the amount of proceeds obtained by the defendant.

18. Upon conviction of the violations alleged in Counts 12 through 14 of this Indictment involving violations of 18 U.S.C. § 1957, defendant DAVID GWIN shall forfeit to the United States, pursuant to Title 18, United States Code, Section 982(a)(1) any and all of the defendant's right, title and interest in all property, real or personal, involved in such offense, or all property traceable to such property, including, but not limited to:

A money judgment in the amount of proceeds obtained by the by defendant DAVID GWIN.

19. If any of the property described in paragraphs 14 through 16 above, 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 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 18, United States Code, Section 982(b) and 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.

A TRUE BILL:

Ink signature on file in the clerk's office  
Foreperson

DAVID M. GAOUETTE  
Acting United States Attorney

s/Pegeen Rhyne  
By: PEGEEN D. RHYNE  
Assistant U.S. Attorney  
United States Attorney's Office  
1225 Seventeenth Street, Suite 700  
Denver, Colorado 80294  
Telephone: (303) 454-0323  
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Email: [Pegeen.Rhyne@usdoj.gov](mailto:Pegeen.Rhyne@usdoj.gov)  
Attorney for the Government

(Rev. 04/07)

DATE: February 10, 2009

DEFENDANT: DAVID GWIN

YOB: 1959

ADDRESS (CITY/STATE): Commerce City, 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: **COUNTS 1-11**: Title 18, United States Code, Section 1343 - Wire Fraud

**COUNTS 12-14**: Title 18, United States Code, Sections 1957, 2(b) -  
Monetary Transactions with Proceeds from Wire Fraud

**COUNT 15**: Title 18, United States Code, Sections 981(a)(1)(C),  
982(a)(1) and Title 28, United States Code, Section 2461(c) - Forfeiture

LOCATION OF OFFENSE (COUNTY/STATE): Denver County, Colorado

PENALTY: **COUNTS 1-11**:  
NMT 20 years imprisonment, NMT 3 years supervised release, a \$250,000  
fine, and a \$100 special assessment

**COUNTS 12-14**:  
NMT 10 years imprisonment, NMT 3 years supervised release, a \$250,000  
fine, and a \$100 special assessment

AGENT: FBI SA Janet Hukill and IRS SA Patrick Hegarty

AUTHORIZED BY: PEGEEN D. RHYNE  
Assistant U.S. Attorney

ESTIMATED TIME OF TRIAL:

\_\_\_\_\_ five days or less \_\_\_X\_\_\_ over five days \_\_\_\_\_ other



THE GOVERNMENT

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

The statutory presumption of detention **is not** applicable to this defendant.

OCDETF CASE:             Yes        X   No