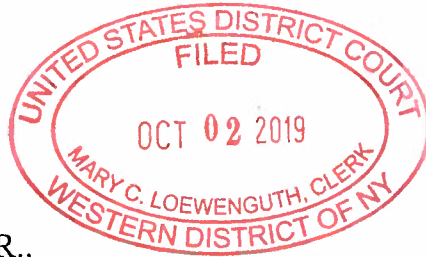


IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

v.



19-CR-6135

PERRY SANTILLO, JR.,

INFORMATION
18 U.S.C. §§ 1341, 1349,
and 1956(h)
(3 Counts and 2 Forfeiture
Allegations)

Defendant.

COUNT 1
(Conspiracy to Commit Mail Fraud)

The United States Attorney Charges That:

A. OBJECT OF THE CONSPIRACY

1. From in or about January 2008, to in or about June 2018, the exact dates being unknown, in the Western District of New York and elsewhere, the defendant, PERRY SANTILLO, JR. ("SANTILLO"), did knowingly, willfully and unlawfully combine, conspire and agree with C.P., a person known to the United States Attorney, and others known and unknown, to devise a scheme and artifice to defraud, and to obtain money by means of false pretenses, representations and promises, and, for the purpose of executing such scheme and artifice, to place in any post office or authorized depository for mail matter, any matter or thing whatever to be sent or delivered by the Postal Service; to deposit, and cause to be deposited any matter or thing whatever to be sent or delivered by any private or commercial interstate carrier; to take and receive therefrom and such matter or thing; and to

knowingly cause to be delivered by mail or such carrier according to the direction thereon, any such matter or thing, in violation of Title 18, United States Code, Section 1341.

2. The object of the conspiracy, and the scheme and artifice, consisted of SANTILLO, C.P. and other coconspirators inducing prospective investors to invest monies in various entities on the basis of false and misleading representations and promises about such entities and investments. In truth and in fact, the purported entities engaged in no substantial business operations and realized little to no revenue from business operations. The purported entities maintained cash flow only through constant infusions of new investor money, which was used to repay earlier investors, finance the conspirators' lifestyles, and pay various expenses associated with creating the appearance of legitimate business operations. In short, the object of the conspiracy was to operate a Ponzi scheme.

B. MEANS BY WHICH THE OBJECT OF THE CONSPIRACY WAS TO BE ACCOMPLISHED

The object of the conspiracy was accomplished in substance as follows:

3. SANTILLO and C.P. sold to investors promissory notes and other securities issued by various entities that they owned and controlled, including but not limited to Lucian Development ("Lucian"), First Nationle Solutions ("FNS"), United RL Capital Services ("United RL"), Percipience Global Corporation ("Percipience"), Boyles America, NexMedical Solutions and Middlebury Development (collectively, the "Issuers"). SANTILLO and C.P. falsely portrayed the various Issuers as unrelated, independent businesses, using different states of incorporation, fake addresses and fake employee names to hide the fact that the Issuers were under their control. In truth and in fact, the Issuers were

operated from Lucian Development, at 36 W. Main Street, in Rochester, New York, by common employees, and the Issuers were under the direct ownership and control of SANTILLO and C.P.

4. To locate potential investors, SANTILLO and C.P. acquired the businesses of existing investment advisors and brokers located across the country. In total, they acquired at least 15 investment advisors or brokers located in Tennessee, Ohio, Minnesota, Nevada, California, Florida, South Carolina, Texas, Pennsylvania, Maryland and Indiana.

5. After acquiring an existing investment advisor or broker, SANTILLO and C.P. caused such advisor or broker to set up meetings with his/her clients to introduce SANTILLO and C.P. to the clients. At these meetings, and at later meetings, SANTILLO and C.P. advised the clients that their investment portfolios needed to be adjusted to improve returns and reduce risk, and recommended liquidating existing investments and using the proceeds to acquire promissory notes and other securities of the Issuers.

6. During these meetings, SANTILLO and C.P. falsely represented the nature of the Issuers' business and use of clients' funds in such businesses, both verbally and in written brochures provided to the clients. SANTILLO and C.P. concealed material information from their clients, including the fact that they owned and controlled the Issuers, and that the clients' monies would not be used in the manner and for the purposes represented but would instead be used to repay earlier investors, fund their lifestyles, and pay operating expenses of the Ponzi scheme.

7. Clients who decided to invest in the Issuers were commonly given promissory notes or subscription agreements, and asked to complete various forms needed to transfer their money to SANTILLO and C.P. The completed forms and checks were then sent from the clients' locations across the country to the offices of Lucian Development, in Rochester, New York, where the paperwork was filed and the checks deposited into bank accounts controlled by SANTILLO and C.P.

8. Later, as the fraudulent promissory notes became due, or investors from time to time sought to liquidate their investments or obtain promised payments, SANTILLO and C.P., and others acting at their direction, misrepresented to investors that their funds were safe and secure, and made other misrepresentations to lull investors and conceal the fact that they were operating a Ponzi scheme.

9. SANTILLO and C.P. did not use investors' money in the manner promised and represented. Instead, they used the money to repay earlier investors, finance their lifestyles, repay high rate commercial loans and fund general operating expenses of the scheme, including the costs associated with acquiring new investment advisors and brokers, rents and employee salaries, among other expenses.

C. ACTS IN FURTHERANCE OF THE CONSPIRACY

In furtherance of the conspiracy, the follow acts, among others, were committed by SANTILLO and C.P., and others acting at their direction, in the Western District of New York, and elsewhere:

10. In or about December 31, 2017, SANTILLO and C.P. mailed and caused to be sent to Victim 1, a person known to the United States Attorney, in the Western District of New York, by United States mail an annual report dated December 31, 2017, falsely stating that Victim 1's investment in FNS had a value of \$94,341.89. In truth and in fact, on or about December 31, 2017, Victim 1's investment in FNS was worthless or close to worthless.

11. In or about May 2018, SANTILLO and C.P. caused an employee, J.P., to meet with Victim 1 in the Western District of New York and to lull him with false assurances that Victim 1's money was safe in an account, and to attempt to convince Victim 1 to reinvest his principal and accrued interest in another promissory note.

12. In or about November 2017, in the Western District of New York, C.P. met with Victim 2, a person known to the United States Attorney, to induce him to invest in FNS and Middlebury Development, falsely representing that Victim 2's money would be invested in real estate and medical devices. None of Victim 2's money was invested in real estate or medical devices, but instead was used to pay C.P.'s brother, repay prior investors, make payments on high-interest rate lenders, and pay for employee and other expenses associated with operating the Ponzi scheme.

13. On or about October 1, 2015, SANTILLO caused a check from Victim 3, a person known to the United States Attorney, in the amount of \$200,000 for a purported investment in United RL Capital Services to be delivered by Federal Express to the Western District of New York.

All in violation of Title 18, United States Code, Section 1349.

COUNT 2
(Mail Fraud)

The United States Attorney Further Charges That:

1. The allegations of Count 1 of this Indictment are incorporated herein by reference.

2. From in or about January 2008 to in or about June 2018, the exact dates being unknown, in the Western District of New York and elsewhere, the defendant, PERRY SANTILLO, JR., did devise a scheme and artifice to defraud, and to obtain money by means of false pretenses, representations and promises, that is, the Ponzi scheme described in Count 1 above.

3. For the purpose of executing such scheme and artifice, and attempting to do so, on or about May 19, 2017, SANTILLO did knowingly cause to be delivered by commercial interstate carrier according to the direction thereon, that is, by Federal Express to Lucian Development in Rochester, New York, a check from Victim 4, a person known to the United States Attorney, in the amount of \$282,310.57.

All in violation of Title 18, United States Code, Section 1341.

COUNT 3
(Money Laundering Conspiracy)

The United States Attorney Further Charges That:

1. The allegations of Counts 1 and 2 of this Indictment are incorporated herein by reference.

A. OBJECT OF THE CONSPIRACY

2. From in or about January 2008 to in or about June 2018, the exact dates being unknown, in the Western District of New York and elsewhere, the defendant, PERRY SANTILLO, JR., did knowingly, willfully and unlawfully combine, conspire and agree with C.P., a person known to the United States Attorney, and with others, known and unknown to conduct financial transactions which involved the proceeds of a specified unlawful activity, that is, mail fraud in violation of Title 18, United States Code, Section 1341, and wire fraud in violation of Title 18, United States Code, Section 1343, knowing that the transactions were designed in whole and in part to conceal and disguise the nature, the location, the source, the ownership and the control of the proceeds of said specified unlawful activity and knowing that the property involved in the financial transaction represented the proceeds of some form of unlawful activity, in violation of Title 18, United States Code, Section 1956(a)(1)(B)(i).

B. MEANS BY WHICH THE OBJECTS OF THE CONSPIRACY WERE TO BE ACCOMPLISHED

The object of the conspiracy was accomplished in substance as follows:

3. SANTILLO, C.P., and others acting at their direction, opened and controlled hundreds of different accounts under numerous different business names at financial institutions in the Western District of New York, including but not limited to, Bank of America, Citizens Bank, Genesee Regional Bank and ESL Federal Credit Union.

4. Some of these accounts were used to receive investor monies, which constituted proceeds of specified unlawful activity, that is, mail fraud in violation of Title 18, United

States Code, Section 1341, and wire fraud in violation of Title 18, United States Code, Section 1343. Thereafter, SANTILLO and C.P. directed an employee to transfer the funds to other accounts, often multiple times, before using the funds to repay earlier investors, use the money for their personal benefits, or otherwise spend the money.

5. By moving investor monies through various accounts in various entity names, SANTILLO and C.P. intended and were able to conceal the source, nature and control of the funds, that is, obscure the fact that the vast funds used to repay earlier investors, finance the coconspirators' lifestyles, and pay operating expenses, all came from victims of the Ponzi scheme.

C. ACTS IN FURTHERANCE OF THE CONSPIRACY

In furtherance of the conspiracy, the following acts among others were committed by the SANTILLO and others in the Western District of New York, and elsewhere:

6. On or about September 1, 2016, two victims of the Ponzi scheme, located in California, wire transferred a total of \$442,850.38, to an FNS bank account at Citizens Bank in Rochester, ending in -3921.

7. On or about September 1, 2016, at the direction of SANTILLO and C.P., the funds set forth above in paragraph 6, which were proceeds of a specified illegal activity, that is, mail fraud and wire fraud, were immediately transferred through several intermediate accounts located in the Western District of New York, including a Lucian Development account at Citizens Bank ending in -2933, a Middlebury Development account at Citizens

Bank ending in -5217, a Middlebury Development account at Bank of America ending in -6374, and a United RL account at Bank of America ending in -5101.

8. Thereafter, having concealed the source of the funds by means of the intermediate transfers set forth in paragraph 7 above, SANTILLO and C.P. caused the funds to be used to: (i) repay a prior investors; (ii) repay high interest rate loans; (iii) fund personal accounts of Santillo, C.P., and a family member; and (iv) pay the operating expenses of the Ponzi scheme, among other uses.

All in violation of Title 18, United States Code, Section 1956(h).

FIRST FORFEITURE ALLEGATION
(Proceeds Forfeiture)

The United States Attorney Alleges That:

Upon conviction of the offenses set forth in Counts 1 and 2 of this Information, the defendant, PERRY SANTILLO, JR., 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 property, real or personal, which constitutes or is derived from proceeds traceable to the offense. The property to be forfeited includes, but is not limited to, the following:

A. REAL PROPERTY:

- i. The defendant will forfeit any and all right, title and interest in the deed of trust recorded on October 22, 2018 filed in the Jackson County, Missouri Clerk's Office, Instrument #2018E0091879, mortgage, default payments due and foreclosure rights regarding the above real property. The defendant agrees that the above real property was purchased with proceeds derived from the offenses set forth in Counts 1 and 2 of this Information.

B. MOTOR VEHICLE:

- i. One 2013 BMW X5 bearing VIN: 5UXZV8C51DL899033.

All pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c).

SECOND FORFEITURE ALLEGATION
(Money Laundering Forfeiture)

The United States Attorney Further Alleges That:

Upon conviction of the offense set forth in Count 3 in this Information, the defendant, **PERRY SANTILLO, JR.**, shall forfeit to the United States, any and all property, real or personal, involved in a money laundering offense, including, but not limited to the following:

A. ELECTRONICS

- i. One San Disk thumb drive Cruzer Glide 32GB S/N 8M170925719B seized on June 19, 2018;

The following all seized on December 6, 2018 from 1900 Portola Drive, Suite 107, Salinas California:

- ii. One Dell desktop computer S/N 4TKMPM1, model: DCCY1F;
- iii. One Dell desktop computer S/N HT58KN1, model: DCCY1F;
- iv. One Dell desktop computer S/N 6RV9VL1, model: DCCY1F;
- v. One Dell desktop computer S/N 1Z5TNM1, model: DCCY1F;
- vi. One Dell desktop computer S/N CRP7JQ1, model: DCCY1F;
- vii. Dell desktop computer S/N JY3SNM1, model: DCCY1F;
- viii. One Dell desktop computer S/N HVNS4M1, model: DCCY1F;
- ix. One Dell desktop computer S/N 2MG6XQ1, model: DCCY1F;
- x. One Dell desktop computer S/N 92GWKM1, model: DCCY1F;
- xi. Dell desktop computer S/N HC1CKM1, model: DCCY1F;
- xii. One Dell desktop computer S/N B21TKM1, model: DCCY1F;
- xiii. One Dell desktop computer S/N G57J7M1, model: DCCY1F;

The following seized on June 19, 2018 from 1100 Long Pond Road, Rochester, New York:

- xiv. One Verizon Android Device model: QMV7B, FCC ID HFS-QMV7B;

- xv. One My Book Essential external hard drive S/N WMC0S0522738;
- xvi. One Dell PowerEdge T320 computer tower CN-0FHW0J-71070-46R-0026-A02;

The following seized on June 19, 2018 from 83 Derrick, Rochester, New York :

- xvii. One Western Digital external hard drive, S/N WXEZ07W66403;
- xviii. One Verizon cell phone, model: PB00100, S/N HT9B1HG14780;
- xix. One Sony laptop model: PCG-61A12L S/N 275539253027718;
- xx. One Memory card - 8GB black Toshiba SD-K08G 1013WF9816G;
- xxi. One Memory card - 8GB black Optima SD-K08G 1029WW8400F;
- xxii. One Memory card - 2.0GB blue SanDisk BE0717202742B;
- xxiii. One SimpleTech SD adapter with black micro SD card 8GB C08G inserted inside;
- xxiv. One Memory card - 512MB blue San Disk SDMSPD-512 AX0512CP;
- xxv. One SanDisk Cruzer 2 GB flash drive BE0806NKGB SDCZ6-2048RB;

The following seized on June 19, 2018 from 54 Kensington Court, Rochester, New York:

- xxvi. One Samsung Galaxy Note 3, model: SM-N900V, IMEI 990004343222034;
- xxvii. One Toshiba Laptop, S/N: 4B057719Q;
- xxviii. One Western Digital My Book Essential – S/N WMC0S0568789;
- xxix. One Samsung tablet, model: SM-T817V, IMEI 990005918582207;
- xxx. One Samsung tablet, model: SCH-1705, IMEI 990003420575959

B. MONETARY JUDGMENT

A money judgment in the amount of seventy million seven hundred thousand (\$70,700,000) dollars which sum of money is approximately equal to the total amount involved in the money laundering offense that is charged in Count 3, to be joint and several with any other co-conspirator related to this prosecution.

SUBSTITUTE ASSETS

If the property described above, as a result of any act or omission of the defendant:

- (1) cannot be located upon the exercise of due diligence;
- (2) has been transferred or sold to, or deposited with, a third person;
- (3) has been placed beyond the jurisdiction of the Court;

- (4) has been substantially diminished in value; or
- (5) 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(b) and Title 21, United States Code, Section 853(p), to seek forfeiture of any other property of said defendant up to the value of the money judgment, including but not limited to the following assets:

- i. All contents and funds contained in Chase Account # 31903237 in the name of James Nobles, Esq. PC., separate trust account in the name of Perry Santillo ("the Santillo Account") and any contents therein that have been transferred to the United States Marshals Service in accordance with the Court Order in the Securities and Exchange Commission's case against the defendant, 18 Civ. 5491 (JGK) and all additional funds that will be seized by United States Marshals Service contained in the Santillo account, when the total amount of funds in the Santillo account approach \$500,000 in accordance with the Court Order, 18 Civ. 5491 (JGK).

All pursuant to Title 18, United States Code, Sections 982(a)(1) and (b) and Title 21, United States Code, Section 853(p).

Dated: Rochester, New York, October 2, 2019

JAMES P. KENNEDY, JR.
United States Attorney
Western District of New York

BY:


JOHN J. FIELD
Assistant United States Attorney
United States Attorney's Office
100 State Street, Suite 500
Rochester, NY 14614
(585) 399-3933
John.Field@usdoj.gov