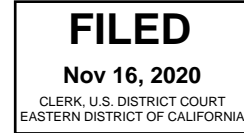


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7 United States of America

8 IN THE UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA

11 UNITED STATES OF AMERICA,
12 Plaintiff,
13 v.
14 KENNETH WINTON,
15 Defendant.

CASE NO. 2:20-cr-0216-KJM

18 U.S.C. § 1349 – Conspiracy to Commit Wire
Fraud; 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C.
§ 2461(c) – Criminal Forfeiture

16
17
18 I N F O R M A T I O N

19 COUNT ONE: [18 U.S.C. § 1349 – Conspiracy to Commit Wire Fraud]

20 The United States Attorney charges: T H A T

21 KENNETH WINTON,
22 defendant herein,

23 **I. INTRODUCTION**

24 At all times relevant to this Information:

25 1. Family Wealth Legacy LLC (Company 1) was registered in Illinois but operated by
26 individuals living in the State and Eastern District of California. Family Wealth Legacy LLC was an
27 investment company whose representatives solicited investors to make various investments, including
28 fixed return investments, investments in securities through the purported use of algorithms, and life

1 insurance. Family Wealth Legacy LLC was involuntarily dissolved in Illinois in or about February
2 2020, but nevertheless continued to operate after that date.

3 2. Family Wealth Legacy Investments LP (Company 1A) and Family Wealth Legacy Fixed
4 Return Fund LLC (Company 1B) were registered in Delaware but operated by individuals living in the
5 State and Eastern District of California. Family Wealth Legacy Investments LP and Family Wealth
6 Legacy Fixed Return Fund LLC were additional companies that were also involved in raising money for
7 purported investments.

8 3. Although they were separate legal entities, Family Wealth Legacy LLC, Family Wealth
9 Legacy Investments LP, and Family Wealth Legacy Fixed Return Fund LLC relied on common
10 leadership and operated in material respects as a single entity, referred to herein as Family Wealth
11 Legacy (Company Group 1).

12 4. Zolla Financial LLC (Company 2) was registered in Delaware but operated by
13 individuals living in the State and Eastern District of California. Zolla Financial LLC was an investment
14 company whose representatives raised investor funds through transactions that were typically styled as
15 loans offering a fixed return, with the company's returns purportedly generated through algorithmic
16 trading.

17 5. Zolla High Yield Fund LLC (Company 2A) was registered in Delaware but operated by
18 individuals living in the State and Eastern District of California. Company 2A was the documented
19 borrower for many of the loans managed by Zolla Financial LLC. According to documentation
20 provided to investors, Zolla Financial LLC was the principal owner and sole manager of Zolla High
21 Yield Fund LLC.

22 6. Zolla Government Insured Fund LLC (Company 2B) and Zolla Realty Fund LLC
23 (Company 2C) were both registered in Delaware but operated by individuals living in the State and
24 Eastern District of California. Zolla Government Insured Fund LLC and Zolla Realty Fund LLC were
25 also used to offer loan products.

26 7. Although they were separate legal entities, Zolla Financial LLC, Zolla High Yield Fund
27 LLC, Zolla Government Insured Fund LLC, and Zolla Realty Fund LLC relied on common leadership
28 and operated in material respects as a single entity, referred to herein as Zolla (Company Group 2).

1 8. At various times, Family Wealth Legacy and Zolla had common leadership and
2 employees. In addition, funds were frequently transferred between the bank accounts belonging to
3 Family Wealth Legacy and the bank accounts belonging to Zolla.

4 9. Matthew Piercey (Individual 1), charged elsewhere, resided in or around the Redding,
5 California, area. Matthew Piercey was the owner and operator of Family Wealth Legacy. Matthew
6 Piercey was also the majority owner of Zolla from its inception until at least 2019, and a manager of
7 Zolla from inception through at least late 2018. Matthew Piercey continued to raise investor funds for
8 Zolla and to have other involvement in the operation of Zolla even after he supposedly no longer had an
9 ownership interest or executive role.

10 10. Defendant KENNETH WINTON resided in Chico and then Oroville, California.
11 WINTON was initially an investor in Family Wealth Legacy. WINTON worked for Family Wealth
12 Legacy and Zolla in 2018, assisting Matthew Piercey with raising funds from investors. WINTON
13 became the CEO, President, and Manager of Zolla by no later than approximately February 2019.
14 WINTON became the purported owner of Zolla no later than approximately January 2020.

15 **II. THE CONSPIRACY**

16 11. Beginning at a time no later than in or about May 2018, and continuing through at least in
17 or about July 2020, in the State and Eastern District of California and elsewhere, Matthew Piercey,
18 defendant KENNETH WINTON, and others known and unknown to the United States did knowingly
19 and intentionally combine, agree, and conspire to commit wire fraud in violation of Title 18, United
20 States Code, Section 1349.

21 **III. THE OBJECT OF THE CONSPIRACY**

22 12. The object of the conspiracy was to execute or attempt to devise, participate in, and
23 execute a material scheme to defraud investors and to obtain money and property by means of materially
24 false and fraudulent pretenses, representations, promises, and omissions, and the concealment of
25 material facts, in violation of Title 18, United States Code, Section 1343.

26 **IV. MANNER AND MEANS**

27 13. In furtherance of the conspiracy, Matthew Piercey, defendant KENNETH WINTON, and
28 their co-conspirators employed the following ways and means, among others:

1 14. Matthew Piercey created companies, including the Family Wealth Legacy and Zolla
2 companies, through which he offered various investment products. Matthew Piercey made material
3 false statements to investors to encourage them to invest through the companies and also made material
4 false statements to discourage investors from withdrawing their money.

5 15. Matthew Piercey recruited KENNETH WINTON to be an investor. Subsequently,
6 Matthew Piercey recruited KENNETH WINTON to assist him with raising money from investors.
7 Eventually, Matthew Piercey recruited KENNETH WINTON to manage and own Zolla.

8 16. Matthew Piercey and KENNETH WINTON conspired to use Zolla to execute a scheme
9 to obtain investor funds, and to lull investors and discourage them from requesting to withdraw funds,
10 by means of material false statements and omissions. Through Zolla, Matthew Piercey and KENNETH
11 WINTON, and others acting at their direction, offered investors various investment products, including
12 but not limited to investments in Zolla High Yield Fund LLC and investments in Zolla Financial LLC.
13 Matthew Piercey and KENNETH WINTON often styled the investment products as loans from the
14 investors to companies in Zolla.

15 17. To obtain investor funds, Matthew Piercey and KENNETH WINTON made and arranged
16 for others to make materially false and misleading statements and omissions, including but not limited to
17 statements about how invested funds were used, where invested funds went, the success of investment
18 strategies, the liquidity of investments, and the equity and assets of companies in Zolla, including Zolla
19 High Yield Fund LLC. For example, in some cases, Matthew Piercey and KENNETH WINTON
20 informed investors, or arranged for investors to be informed, that Zolla High Yield Fund LLC had
21 equity-to-debt and equity-to-asset ratios of at least 20%, when Matthew Piercey and KENNETH
22 WINTON knew that was false.

23 18. Once investors had sent funds for investment, Matthew Piercey and KENNETH
24 WINTON used investor funds or arranged for them to be used in ways that were contrary to what
25 investors had been told, including but not limited to using them for personal use, commissions, expenses
26 of Zolla, and investments other than algorithmic trading. For example, Matthew Piercey and
27 KENNETH WINTON arranged to pay commissions to KENNETH WINTON and others for
28 investments in Zolla High Yield Fund LLC, despite having told investors that there were no

1 commissions. Matthew Piercey and KENNETH WINTON also represented to certain investors that
2 their funds were invested through Zolla, when in fact their funds were held by Family Wealth Legacy
3 and had never been sent to Zolla.

4 19. To lull investors and discourage them from requesting to withdraw funds, Matthew
5 Piercey and KENNETH WINTON made and arranged for others to make materially false and
6 misleading statements and omissions to investors, including about: the current location, value, and
7 nature of investments; the purported success of Zolla's investment strategies; the reasons for delays in
8 payments to investors; the likelihood of Zolla receiving a substantial influx of funds in the near future,
9 including through an acquisition or line of credit; the extent of Zolla High Yield Fund LLC's purported
10 equity; and the ability of Zolla to repay investors. For example, Matthew Piercey and KENNETH
11 WINTON provided or arranged for others to provide to investors account statements, and in some
12 instances a mobile phone application, that showed the purported value of investments, when Matthew
13 Piercey and KENNETH WINTON knew that the alleged values were false. As one example of material
14 omissions, Matthew Piercey and KENNETH WINTON had a duty to disclose to investors that Zolla
15 High Yield Fund LLC's equity-to-debt ratio had fallen below 20%, yet Matthew Piercey and
16 KENNETH WINTON concealed this information from investors and failed to disclose it.

17 20. It was further part of the conspiracy that Matthew Piercey and KENNETH WINTON
18 continued to solicit additional money from existing investors using material false statements and
19 omissions, including statements and omissions described in Paragraphs 17 through 19 above. To further
20 lull investors, discourage investors from requesting to withdraw funds, and in some cases convince
21 investors to invest additional funds, Matthew Piercey and KENNETH WINTON sometimes made
22 payments or arranged for payments to be made to investors, including small payments described as
23 interest.

24 21. In furtherance of the conspiracy, Matthew Piercey and KENNETH WINTON
25 communicated with investors, each other, other conspirators, and other individuals associated with Zolla
26 through various means, including telephone calls, text messages, email messages, and in person. Some
27 of those communications involved interstate wires. Matthew Piercey and KENNETH WINTON also
28 used wires, including interstate wires, to receive and transfer investor funds in furtherance of the

1 conspiracy.

2 22. In total, Family Wealth Legacy and Zolla raised at least approximately \$35 million from
3 investors, and paid approximately \$8.8 million to investors. Of the remaining net investment of
4 approximately \$26 million, few if any liquid assets remain to repay investors. The part of the scheme
5 described herein attributable to defendant KENNETH WINTON pertaining to Zolla caused investors to
6 make investments in Zolla, and/or to forego their property rights to recall existing investments in Zolla,
7 for investments totaling at least approximately \$11.6 million.

8 23. As a result of the conspiracy, Matthew Piercey and KENNETH WINTON obtained
9 substantial personal benefits, including but not limited to cash and purchased items. Matthew Piercey
10 used investor funds to pay over \$1.5 million on personal credit cards and business lines of credit that
11 included various personal expenses and approximately \$1 million on the purchase and renovation of two
12 residential properties. KENNETH WINTON obtained, among other things, approximately \$1 million,
13 some of which he used to purchase a houseboat.

14 **V. OVERT ACTS**

15 In furtherance of the conspiracy and to effectuate the objects and purposes of the conspiracy, the
16 following overt acts, in addition to others, were committed in the State and Eastern District of California
17 and elsewhere:

18 24. In or about May 2018, defendant KENNETH WINTON told Investor 15 that there were
19 no fees or commissions for investments in Zolla High Yield Fund LLC.

20 25. In or about May 2018, defendant KENNETH WINTON told Investor 15 that 20% annual
21 return was a reasonable expectation based on the past performance of the algorithm.

22 26. In or about May 2018, defendant KENNETH WINTON recruited Investor 15 to invest
23 approximately \$1.2 million in Zolla High Yield Fund LLC.

24 27. On or about August 13, 2018, defendant KENNETH WINTON emailed Matthew Piercey
25 seeking a 10% commission of approximately \$120,843.80 for Investor 15's investment.

26 28. [Intentionally blank].

27 29. On or about June 28, 2019, defendant KENNETH WINTON signed a promissory note on
28 behalf of Zolla High Yield Fund LLC to obtain approximately \$371,153.48 from Investor 16.

1 30. On or about the dates listed below, defendant KENNETH WINTON paid or caused to be
2 paid the following lulling payments to Investor 16, with each payment constituting a separate overt act:

- 3 a) \$3,022.14 on or about August 2, 2019
- 4 b) \$2,531.06 on or about September 3, 2019
- 5 c) \$2,449.06 on or about October 3, 2019
- 6 d) \$2,530.94 on or about November 4, 2019
- 7 e) \$2,449.06 on or about December 3, 2019
- 8 f) \$2,532.02 on or about January 2, 2020
- 9 g) \$2,531.51 on or about February 5, 2020
- 10 h) \$2,369.42 on or about March 3, 2020

11 31. On or about September 17, 2019, defendant KENNETH WINTON sent an email to
12 Investor 7 attaching a statement that WINTON claimed was for Zolla.

13 32. On or about September 17, 2019, defendant KENNETH WINTON sent an email to
14 Investor 7 attaching a marketing document describing Zolla High Yield Fund LLC as having an equity-
15 to-asset ratio of 20%.

16 33. On or about September 20, 2019, Matthew Piercey sent an email to Investor 10, prior to
17 Investor 10 's investments in Zolla High Yield Fund LLC, that attached a marketing document
18 describing Zolla High Yield Fund LLC as having an equity-to-asset ratio of 20%.

19 34. In or about October 2019, Matthew Piercey arranged for Investor 10 to make new
20 investments in Zolla High Yield Fund LLC.

21 35. On or about October 10, 2019, Matthew Piercey emailed Investor 17, stating that Zolla
22 was in negotiations with a buyer and stating: "But my commitment to ... you would be however long it
23 takes your investment in the Zolla equity would be worth double. The buyer has approved this double
24 crediting already."

25 36. On or about October 10, 2019, Matthew Piercey emailed Investor 17, stating "Because
26 Zolla is cash flow positive, it is very unlikely you would lose money."

27 37. On or about January 11, 2020, Matthew Piercey sent an email to some investors in Zolla,
28 including Investors 10 and 17, attaching purported "year in review trading statements" from Brokerage

1 Firm A for Zolla High Yield Fund LLC.

2 38. In or about March 2020, defendant KENNETH WINTON had a phone conversation with
3 Investor 18 in which defendant KENNETH WINTON arranged for Investor 18 to invest \$600,000 in
4 Zolla Financial LLC.

5 39. On or about March 16, 2020, defendant KENNETH WINTON sent an email to
6 Individual 2, in which KENNETH WINTON stated “Zolla is up 16%+ since the markets started
7 dropping.”

8 40. On or about April 2, 2020, defendant KENNETH WINTON sent an email to Investor 18
9 regarding Investor 18’s intent to initiate a wire transfer of \$600,000.

10 41. On or about April 3, 2020, defendant KENNETH WINTON sent an email to Investor 18
11 confirming receipt of \$600,000 in funds from Investor 18.

12 42. Between on or about April 6, 2020, and April 28, 2020, defendant KENNETH WINTON
13 caused over \$400,000 of the funds from Investor 18 to be paid to prior investors in Zolla as lulling
14 payments, including but not limited to the following payments, with each payment constituting a
15 separate overt act:

- 16 a) \$200,000 to Investor 19 on or about April 6, 2020
- 17 b) \$55,477.01 to Investor 20 on or about April 6, 2020
- 18 c) \$8,000 to Investor 15 on or about April 6, 2020
- 19 d) \$2,537.53 to Investor 16 on or about April 6, 2020
- 20 e) \$52,634.12 to Investor 21 on or about April 7, 2020
- 21 f) \$20,000 to Investor 23 on or about April 7, 2020
- 22 g) \$20,000 to Investor 24 on or about April 7, 2020
- 23 h) \$7,000 to Investor 7 on or about April 14, 2020
- 24 i) \$10,000 to Investor 25 on or about April 15, 2020
- 25 j) \$10,000 to Investor 5 on or about April 15, 2020
- 26 k) \$20,000 to Investor 8 on or about April 20, 2020
- 27 l) \$8,000 to Investor 15 on or about April 27, 2020
- 28 m) \$7,500 to Investor 26 on or about April 28, 2020

1 43. On or about April 13, 2020, Matthew Piercey sent an email to Individual 4 and defendant
2 KENNETH WINTON, enclosing a chart showing a 10% return allegedly achieved between January and
3 April 2020.

4 44. On or about April 14, 2020, defendant KENNETH WINTON sent an email to Matthew
5 Piercey and Individual 4 entitled "Information about Zolla," which stated that "this information is what
6 we can declare to our clients and potential clients" and listed the following information: (1) "We ONLY
7 use algorithm's" and they "liquidate every evening"; (2) "We invest in Currency Contracts," which are
8 "[v]ery predictable, and of course liquid"; and (3) "\$21M" in "[t]otal invested dollars in Zolla since its
9 inception" and only "\$2.6M (approximate)" in "[c]urrent debt for Zolla."

10 45. On or about May 15, 2020, defendant KENNETH WINTON told Investor 26 in a phone
11 conversation that the algorithm for Zolla had been making 16% to 20% per year.

12 46. On or about May 15, 2020, defendant KENNETH WINTON told Investor 26 in a phone
13 conversation that the funds invested in Zolla were being traded at Brokerage Firm A.

14 47. On or about May 15, 2020, defendant KENNETH WINTON told Investor 26 in a phone
15 conversation that Zolla had enough money to pay back all investors.

16 48. On or about May 15, 2020, defendant KENNETH WINTON told Investor 26 in a phone
17 conversation that 20% of funds invested in Zolla were in cash.

18 49. On or about May 15, 2020, defendant KENNETH WINTON told Investor 26 in a phone
19 conversation that Buyer A was expected to complete its acquisition of Zolla by July 1, 2020.

20 50. On or about June 17, 2020, defendant KENNETH WINTON told Investor 7 in a phone
21 conversation that Zolla was making 16-20% returns.

22 51. On or about June 17, 2020, defendant KENNETH WINTON told Investor 7 in a phone
23 conversation that the money in Zolla was liquid.

24 52. On or about June 17, 2020, defendant KENNETH WINTON told Investor 7 in a phone
25 conversation that Zolla had enough money to repay every client.

26 53. On or about June 17, 2020, defendant KENNETH WINTON told Investor 7 in a phone
27 conversation that Zolla could be closing out the deal to be purchased by Buyer A within a 30-day period.

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

1 FORFEITURE ALLEGATION: [18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c) – Criminal
2 Forfeiture]

3 1. Upon conviction of the offense alleged in Count One of this Information, defendant
4 KENNETH WINTON shall forfeit to the United States pursuant to 18 U.S.C. § 981(a)(1)(C) and 28
5 U.S.C. § 2461(c), all property, real and personal, which constitutes or is derived from proceeds traceable
6 to such violations, including but not limited to the following:

7 a. A sum of money equal to the total amount of proceeds traceable to such offenses, for
8 which defendant is convicted.

9 2. If any property subject to forfeiture, as a result of the offense alleged in Count One of this
10 Information, for which defendant is convicted:

11 a. cannot be located upon the exercise of due diligence;

12 b. has been transferred or sold to, or deposited with, a third party;

13 c. has been placed beyond the jurisdiction of the court;


14 d. has been substantially diminished in value; or

15 e. has been commingled with other property which cannot be divided without
16 difficulty;

17 it is the intent of the United States, pursuant to 28 U.S.C. § 2461(c), incorporating 21 U.S.C. § 853(p), to
18 seek forfeiture of any other property of defendant, up to the value of the property subject to forfeiture.

19
20 Dated: 11/16/2020

21 MCGREGOR W. SCOTT
United States Attorney

22
23 By: 
24 CHRISTOPHER S. HALES
25 MIRIAM R. HINMAN
26 Assistant United States Attorneys
27
28

United States v. Kenneth Winton

Penalties for Information

COUNT 1:

VIOLATION: 18 U.S.C. § 1349 - Conspiracy to Commit Wire Fraud

PENALTIES: A maximum of up to 20 years in prison; or
Fine of up to \$250,000; or both fine and imprisonment
Supervised release of up to 3 years.

SPECIAL ASSESSMENT: \$100

FORFEITURE ALLEGATION:

VIOLATION: 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c) – Criminal Forfeiture

PENALTIES: As stated in the charging document