

United States District Court

FOR THE
NORTHERN DISTRICT OF CALIFORNIA

VENUE: SAN FRANCISCO

CR21-397EMC

UNITED STATES OF AMERICA,

V.

ALAN ANDERSON,

DEFENDANT(S).

FILED

Oct 13 2021

CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO

INDICTMENT

118 U.S.C. § 1343 – Wire Fraud;
15 U.S.C. §§ 78j(b) & 78ff; 17 C.F.R. 240.10b-5 – Securities Fraud;
18 U.S.C. §§ 981(a)(1)(C) & 982(a) & 28 U.S.C. § 2461(c) – Criminal Forfeiture

+

A true bill.

/S/ Foreperson of the Grand Jury

Foreman

Filed in open court this ___ 13th ___ day of
___ October 2021 ___.

Rose Maher

Clerk

Bail, \$ _ No Bail



Hon. Thomas S. Hixson, U.S. Magistrate Judge

FILED

Oct 13 2021

CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO

STEPHANIE M. HINDS (CABN 154284)
Acting United States Attorney

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,)	CASE NO.	CR21-397EMC
)		
Plaintiff,)	<u>VIOLATIONS:</u>	
)	18 U.S.C. § 1343 – Wire Fraud;	
v.)	15 U.S.C. §§ 78j(b) & 78ff; 17 C.F.R.	
)	240.10b-5 – Securities Fraud;	
ALAN ANDERSON,)	18 U.S.C. §§ 981(a)(1)(C) & 982(a) & 28	
)	U.S.C. § 2461(c) – Criminal Forfeiture	
Defendant.)		
)	SAN FRANCISCO VENUE	
)		
)	<u>UNDER SEAL</u>	

INDICTMENT

The Grand Jury charges:

Introductory Allegations

At all times relevant to this Indictment:

1. Defendant Alan ANDERSON resided in the Northern District of California and in the Central District of California.
2. IMBEE, INC. (“IMBEE”) was a Delaware Corporation based in Walnut Creek, California, and owned and operated by ANDERSON. IMBEE owned and operated the website imbee.com, which was marketed as a child-friendly social media platform. On or about April 22, 2010, ANDERSON incorporated IMBEE in the State of Delaware.

INDICTMENT

1 3. FANLALA was a California Corporation owned and operated by ANDERSON.
2 FANLALA was marketed as an internet-based music streaming for children. Starting no later than on or
3 about September 8, 2011, ANDERSON was the Chief Executive Officer of FANLALA.

4 4. FRUIT PUNCH, INC. ("FRUIT PUNCH") was a California Corporation owned and
5 operated by ANDERSON. FRUIT PUNCH provided an online application called FRUIT PUNCH
6 MUSIC, which was marketed as a music-streaming service for children. ANDERSON was the Chief
7 Executive Officer of FRUIT PUNCH.

8 5. On or about April 22, 2010, ANDERSON opened three bank accounts in IMBEE's name
9 at Bank of America with account numbers ending in -8001, -8068, and -6054, respectively.
10 ANDERSON was the sole signatory on each of the three IMBEE Bank of America bank accounts.

11 6. On or about December 19, 2011, ANDERSON opened a bank account in FANLALA's
12 name at Bank of America with an account number ending in -1197. ANDERSON was the sole
13 signatory on the FANLALA Bank of America account.

14 7. On or about March 23, 2012, ANDERSON opened two bank accounts in IMBEE's name
15 at Wells Fargo with account numbers ending in -1626 and -0741, respectively. ANDERSON was the
16 sole signatory on the two bank accounts.

17 8. On or about August 3, 2013, ANDERSON opened two bank accounts in FANLALA's
18 name at Wells Fargo with account numbers ending in -1839 and -7388. ANDERSON was the sole
19 signatory on the bank accounts.

20 9. On or about October 25, 2013, ANDERSON opened a bank account in IMBEE's name at
21 Wells Fargo with an account number ending in -3201. ANDERSON was the sole signatory on the bank
22 account.

23 10. On or about September 24, 2015, ANDERSON opened a bank account in IMBEE's name
24 at Wells Fargo with an account number ending in -4463. ANDERSON was the sole signatory on the
25 bank account.

26 11. On or about May 20, 2016, ANDERSON opened two bank accounts in the name of
27 FRUIT PUNCH at Bank of the West with account numbers ending in -5346 and -5353, respectively.
28 ANDERSON was the sole signatory on the bank accounts.

12. On or about November 15, 2016, ANDERSON opened a bank account in the name of FRUIT PUNCH at BBVA Compass with an account number ending in -9232. ANDERSON was the sole signatory on the account.

13. Company-1 was a publicly traded, multinational toy manufacturing company.

14. Company-2 was a company that made the Nabi series of tablet computers. Company-2 filed for Chapter 11 bankruptcy in or about December 2015. In or about January 2016, Company-1 acquired Company-2.

The Scheme to Defraud

15. Beginning at a date unknown to the grand jury, but no later than on or about April 22, 2010, and continuing through a date unknown to the grand jury but until at least in or about February 2019, ANDERSON knowingly devised, intended to devise, and carried out a scheme and artifice to defraud as to a material matter, and to obtain money and property by means of materially false and fraudulent pretenses, representations, and promises, and by omissions and concealment of material facts, which scheme is described further below.

16. As part of the scheme to defraud, ANDERSON solicited individuals to invest in IMBEE, FANLALA, and FRUIT PUNCH. ANDERSON represented to investors and potential investors that investments in IMBEE would result in ownership interests in IMBEE, FANLALA, and/or FRUIT PUNCH.

17. As part of the scheme to defraud, ANDERSON concealed and hid, and caused to be concealed and hidden, the acts done and the purpose of the acts done in furtherance of the scheme, including by:

- a. showing investors and potential investors false and fraudulent income statements that misrepresented IMBEE's, FANLALA's, and FRUIT PUNCH's profitability;
- b. showing investors and potential investors false and fraudulent profit and loss statements for IMBEE;
- c. representing to investors and potential investors pending acquisitions of IMBEE and FANLALA by larger companies when in fact there were no acquisitions pending;
- d. altering or creating false contracts showing that IMBEE was being acquired by other

- 1 companies and sharing those false contracts with investors and potential investors;
- 2 e. emailing to investors and potential investors false and fraudulent contracts showing
- 3 that IMBEE was being acquired by UniV AC Corp Inc.;
- 4 f. falsely representing to investors that IMBEE and FANLALA had “re-partnered with
- 5 Company-2 (now owned by toy giant [Company-1])” when in fact IMBEE and
- 6 FANLALA had no new partnerships with Company-2 or Company-1;
- 7 g. falsely representing to a potential investor, R.P., that IMBEE was being acquired by
- 8 Company-1 and offering to sell R.P. 17,000 shares in IMBEE;
- 9 h. emailing R.R., an investor, and falsely claiming that the value of IMBEE was \$21.6
- 10 million and that R.R. owned 70% of IMBEE.

11 COUNTS ONE THROUGH FOUR: (18 U.S.C. § 1343 – Wire Fraud)

12 18. Paragraphs 1 through 17 of this Indictment are re-alleged and incorporated as if fully set

13 forth here.

14 19. Beginning on or about April 22, 2010 and continuing through on or about May 18, 2019,

15 in the Northern District of California and elsewhere, the defendant,

16 ALAN ANDERSON,

17 knowingly and with the intent to defraud participated in, devised, and intended to devise a scheme and

18 artifice to defraud as to a material matter, and to obtain money and property by means of materially false

19 and fraudulent pretenses, representations, and promises, and by means of omission and concealment of

20 material facts.

21 20. On or about the dates set forth below, in the Northern District of California and

22 elsewhere, for the purpose of executing the scheme and artifice to defraud, and attempting to do so, the

23 defendant did knowingly transmit and cause to be transmitted in interstate and foreign commerce, by

24 means of a wire communication, certain writings, signs, signals, pictures, and sounds:

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COUNT	DATE	DESCRIPTION OF ITEM WIRED
1	11/02/2016	Email from ANDERSON to T.W. attaching a false purchase order showing that Company-1 paid FRUIT PUNCH \$1,120,324.43 on September 8, 2016.
2	03/03/2017	Email from ANDERSON to T.W. attaching a false "INTERNET RADIO DISTRIBUTION & LICENSE AGREEMENT" between FANLALA and Company-2, falsely indicating that Company-2 would pay FANLALA a prepayment fee of \$12,500,000.
3	04/19/2017	Email from ANDERSON to G.S. attaching a false "INTERNET RADIO DISTRIBUTION & LICENSE AGREEMENT" between FANLALA and Company-2, falsely indicating that Company-2 would pay FANLALA a prepayment fee of \$15,253,000.
4	05/19/2018	Email from ANDERSON to G.S. attaching a false bank statement for a BBVA Compass bank account ending in the last four digits 9232.

All in violation of Title 18, United States Code, Section 1343.

COUNT FIVE: (15 U.S.C. §§ 78j(b) & 78ff; 17 C.F.R. 240.10b-5 – Securities Fraud)

21. The allegations in Paragraphs 1 through 20 are realleged and incorporated as if fully set forth here.

22. Beginning on or about April 22, 2010 and continuing through on or about May 18, 2019, in the Northern District of California and elsewhere, the defendant,

ALAN ANDERSON,

willfully and knowingly, directly and indirectly, by the use of the means and instrumentalities of interstate commerce, the mails, and the facilities of national securities exchanges, in connection with the purchase and sale of securities, did use and employ manipulative and deceptive devices and contrivances by: (a) employing devices, schemes and artifices to defraud; (b) making untrue statements of material facts and omitting to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; and (c) engaging in acts, practices and courses of business which operated and would operate as a fraud and deceit upon persons, specifically, ANDERSON made false statements to obtain an investment from R.P. on or about October 26, 2016.

All in violation of Title 15, United States Code, Sections 78j(b) and 78ff, and Title 17, Code of Federal Regulations, Section 240.10b-5.

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INDICTMENT

1 FORFEITURE ALLEGATION: (18 U.S.C. §§ 981(a)(1)(C) & 982(a) & 28 U.S.C. § 2461(c) –
2 Criminal Forfeiture)

3 23. The allegations in Paragraphs 1 through 22 are re-alleged and incorporated by reference
4 for the purpose of alleging forfeiture pursuant to Title 18, United States Code, Section 981(a)(1)(C) and
5 982(a), and Title 28, United States Code, Section 2461(c).

6 24. Upon conviction for any of the offenses alleged in Counts One through Five, the
7 defendant,

8 ALAN ANDERSON,
9 shall forfeit to the United States, pursuant to Title 18, United States Code, Sections 981(a)(1)(C) and
10 982(a), and Title 28, United States Code, Section 2461(c), all property, real or personal, which
11 constitutes or is derived from proceeds traceable to said violations, including but not limited to a sum of
12 money equal to the total proceeds from the commission of said offenses.

13 25. If, as a result of any act or omission of the defendant, any of said property:

- 14 a. cannot be located upon exercise of due diligence;
15 b. has been transferred or sold to, or deposited with, a third party;
16 c. has been placed beyond the jurisdiction of the court;
17 d. has been substantially diminished in value; or
18 e. has been commingled with other property which cannot be divided without
19 difficulty,

20 the United States of America shall be entitled to forfeiture of substitute property pursuant to Title 21,
21 United States Code, Section 853(p), as incorporated by Title 18, United States Code, Section 982(b)(1),
22 and Title 28, United States Code, Section 2461(c).

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1 All pursuant to Title 18, United States Code, Sections 981(a)(1)(C) and 982(a), Title 28, United
2 States Code, Section 2461(c), and Federal Rule of Criminal Procedure 32.2.

3
4 DATED: October 13, 2021

A TRUE BILL.

5
6 /s/
FOREPERSON

7
8 STEPHANIE M. HINDS
Acting United States Attorney

9
10 /s/
11 CHRISTIAAN HIGHSMITH
SCOTT JOINER
12 Assistant United States Attorneys

DEFENDANT INFORMATION RELATIVE TO A CRIMINAL ACTION - IN U.S. DISTRICT COURT
 BY: ☐ COMPLAINT ☐ INFORMATION ☒ INDICTMENT
☐ SUPERSEDING
OFFENSE CHARGED
 Counts 1-4: 18 U.S.C. § 1343 - Wire Fraud
 Count 5: 15 U.S.C. §§ 78j(b) and 78ff; and
 Title 17 C.F.R. § 240.10b-5 - Securities Fraud

☐ Petty
☐ Minor
☐ Misdemeanor
☒ Felony

PENALTY: Counts 1-4: 20 years of imprisonment, 3 years of supervised released, \$250,000 fine, \$100 special assessment

Count 5: 20 years of imprisonment, 3 years of supervised released, \$5,000,000 fine, \$100 special assessment

Name of District Court, and/or Judge/Magistrate Location

 NORTHERN DISTRICT OF CALIFORNIA
 SAN FRANCISCO DIVISION
DEFENDANT - U.S.

▶ Alan Anderson

 DISTRICT COURT NUMBER
 CR21-397 EMC
PROCEEDING

Name of Complainant Agency, or Person (& Title, if any)

FBI

☐ person is awaiting trial in another Federal or State Court, give name of court

☐ this person/proceeding is transferred from another district per (circle one) FRCrP 20, 21, or 40. Show District

☐ this is a reprosecution of charges previously dismissed which were dismissed on motion of:
☐ U.S. ATTORNEY ☐ DEFENSE

SHOW DOCKET NO.

☐ this prosecution relates to a pending case involving this same defendant

MAGISTRATE CASE NO.

☐ prior proceedings or appearance(s) before U.S. Magistrate regarding this defendant were recorded under

 Name and Office of Person
 Furnishing Information on this form Stephanie M. Hinds

☒ U.S. Attorney ☐ Other U.S. Agency

 Name of Assistant U.S.
 Attorney (if assigned) Christiaan Highsmith
DEFENDANT**IS NOT IN CUSTODY**

Has not been arrested, pending outcome this proceeding.

 1) ☒ If not detained give date any prior summons was served
2) ☐ Is a Fugitive3) ☐ Is on Bail or Release**IS IN CUSTODY**4) ☐ On this charge5) ☐ On another conviction
☐ Federal ☐ State
6) ☐ Awaiting trial on other charges

If answer to (6) is "Yes", show name of institution

 Has detainer been filed? ☐ Yes ☐ No

If "Yes" give date filed

DATE OF ARREST ▶

Month/Day/Year

Or... if Arresting Agency & Warrant were not

DATE TRANSFERRED TO U.S. CUSTODY ▶

Month/Day/Year

FILED

Oct 13 2021

 CLERK, U.S. DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 SAN FRANCISCO

☐ This report amends AO 257 previously submitted
ADDITIONAL INFORMATION OR COMMENTS**PROCESS:**
☐ SUMMONS ☐ NO PROCESS* ☒ WARRANT

Bail Amount: _____

If Summons, complete following:

☐ Arraignment ☐ Initial Appearance

Defendant Address:

* Where defendant previously apprehended on complaint, no new summons or warrant needed, since Magistrate has scheduled arraignment

Date/Time: _____ Before Judge: _____

Comments: