

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- - - - -X

UNITED STATES OF AMERICA :

- v. - :

KENNETH LEVIN, :

TAYLOR LEVIN, :

SEARS HOBBS, :

a/k/a "Karen White," :

a/k/a "Kelly Chase," :

JAMES CONLEY, :

MARCEL HARRIS, :

STEPHEN FRIEDMAN, AND :

JONATHAN CAMPBELL, :

Defendants. :

- - - - -X

SEALED
INDICTMENT

15 Cr.

15 CRIM 101

COUNT ONE

(Conspiracy to Commit Mail and Wire Fraud)

The Grand Jury charges:

RELEVANT INDIVIDUALS AND ENTITIES

1. Company-1 and its predecessor companies, collectively, the "Business Opportunity Companies," operated from at least in or about January 2005 until at least in or about December 2011. The Business Opportunity Companies, located in Manhattan, New York, purported to sell lucrative vending machine "business opportunities" to customers throughout the United States. The Business Opportunity Companies claimed that if customers purchased certain vending machines, the customers would be able to place those machines in pre-approved, high-volume locations,

and would receive assistance from qualified and trained individuals in establishing, maintaining, and operating a successful vending machine business. During the relevant time period, based in part on assurances from the Business Opportunity Companies that, among other things, their customers would earn significant profits from the vending machines in a relatively short period of time if their customers acquired a vending machine "business opportunity" package, the Business Opportunity Companies sold packages to at least 1,300 customers and collected nearly \$9 million in payments from those customers. Very few, if any, customers ultimately made a profit after purchasing the vending machines, and most Business Opportunity Companies' customers lost nearly all, if not all, of their investments in the vending machines they acquired from the Business Opportunity Companies.

2. At all times relevant to this Indictment, the Business Opportunity Companies were incorporated in New York state and their principal place of business was Manhattan, New York. While the Business Opportunity Companies operated under at least seven different names during the relevant time period, all used nearly identical sales tactics and methods, were managed by the same principal, KENNETH LEVIN, the defendant, and employed many of the same sales representatives.

3. From in or about January 2005 until at least in or about December 2011, KENNETH LEVIN, the defendant, was the founder and President of the Business Opportunity Companies. LEVIN operated and controlled the Business Opportunity Companies' day-to-day operations, including advertising, sales, hiring, and responding to consumer complaints.

4. From in or about February 2006 until at least in or about December 2011, TAYLOR LEVIN, the defendant and son of KENNETH LEVIN, the defendant, was employed by the Business Opportunity Companies. TAYLOR LEVIN's responsibilities included, among other things, receiving and responding to consumer complaints, speaking by telephone to prospective customers, and sending promotional materials to prospective customers.

5. From in or about October 2005 until at least in or about April 2011, SEARS HOBBS, a/k/a "Karen White, a/k/a "Kelly Chase," the defendant, was a sales representative for the Business Opportunity Companies. HOBBS's responsibilities included, among other things, speaking by telephone to prospective customers and sending promotional materials to prospective customers.

6. From in or about January 2005 until at least in or about November 2011, JAMES CONLEY, the defendant, was a sales representative for the Business Opportunity Companies. CONLEY's

responsibilities included, among other things, speaking by telephone to prospective customers and sending promotional materials to prospective customers.

7. From in or about January 2005 until at least in or about August 2011, MARCEL HARRIS, the defendant, was a sales representative for the Business Opportunity Companies. HARRIS's responsibilities included, among other things, speaking by telephone to prospective customers and sending promotional materials to prospective customers.

8. From in or about January 2010 until at least in or about November 2011, STEPHEN FRIEDMAN, the defendant, was a sales representative for the Business Opportunity Companies. FRIEDMAN's responsibilities included, among other things, speaking by telephone to prospective customers and sending promotional materials to prospective customers.

9. From in or about February 2010 until at least in or about December 2011, JONATHAN CAMPBELL, was a sales representative for the Business Opportunity Companies. CAMPBELL's responsibilities included, among other things, speaking by telephone to prospective customers and sending promotional materials to prospective customers.

THE BUSINESS OPPORTUNITY SCHEME

10. From at least in or about January 2005 through at least in or about December 2011, KENNETH LEVIN, TAYLOR LEVIN, SEARS HOBBS, a/k/a "Karen White," a/k/a "Kelly Chase," JAMES CONLEY, MARCEL HARRIS, STEPHEN FRIEDMAN, and JONATHAN CAMPBELL, the defendants, and others known and unknown, perpetrated a scheme to defraud hundreds of consumers. Specifically, and as set forth in greater detail below, the defendants deceived prospective customers interested in purchasing vending machines by lying about and concealing information about, among other things, the locations in which the vending machines would be placed and the profit consumers could expect to earn.

11. KENNETH LEVIN, TAYLOR LEVIN, SEARS HOBBS, a/k/a "Karen White," a/k/a "Kelly Chase," JAMES CONLEY, MARCEL HARRIS, STEPHEN FRIEDMAN, and JONATHAN CAMPBELL, the defendants, and others known and unknown, marketed and sold two purported "business opportunities" to prospective customers: (1) to own and operate vending machines that dispensed both drinks and snack food, and (2) to own and operate vending machines that dispensed only candy. As part of the purported business opportunity package, the Business Opportunity Companies offered to sell to customers vending machines for which the sales representatives and others claimed profitable locations were already identified, and to connect customers with experienced

"locators," who would facilitate placing the vending machines in those pre-determined locations. The Business Opportunity Companies further promised to provide ongoing assistance and training to their customers about how to operate a successful vending machine business.

12. To acquire customers, the Business Opportunity Companies placed advertisements in newspapers throughout the United States, which claimed, in substance and in part, that the Business Opportunity Companies had locations available for the placement of vending machines. Prospective customers who responded to the advertisements spoke by telephone with representatives of the Business Opportunity Companies, including KENNETH LEVIN, TAYLOR LEVIN, SEARS HOBBS, a/k/a "Karen White," a/k/a "Kelly Chase," JAMES CONLEY, MARCEL HARRIS, STEPHEN FRIEDMAN, JONATHAN CAMPBELL, the defendants, and others known and unknown. During these calls with prospective customers, the company representative would typically describe the business opportunity as a low-risk investment in which the Business Opportunity Companies would provide everything needed for the customer to be successful. The Business Opportunity Companies' representative would further claim that all the customer had to do to earn income was to visit the vending machines occasionally to collect their money and restock the machines.

13. KENNETH LEVIN, TAYLOR LEVIN, SEARS HOBBS, a/k/a "Karen White," a/k/a "Kelly Chase," JAMES CONLEY, MARCEL HARRIS, STEPHEN FRIEDMAN, and JONATHAN CAMPBELL, the defendants, and others known and unknown, told prospective customers, in substance and in part, that they could purchase packages of five or ten vending machines, and that "routes," or locations, for each machine had been identified and were available in the customers' local area. The defendants also provided the prospective customers with the telephone number of a locating company and encouraged the prospective customer to contact the locating company to verify that the routes were available. In truth and in fact, and as the defendants knew, the locating companies did not have specific "routes" available.

14. KENNETH LEVIN, TAYLOR LEVIN, SEARS HOBBS, a/k/a "Karen White," a/k/a "Kelly Chase," JAMES CONLEY, MARCEL HARRIS, STEPHEN FRIEDMAN, JONATHAN CAMPBELL, the defendants, and others known and unknown, recommended a variety of locating companies, who each charged a fee for their locating services, but recommended only one locating company to any individual prospective customer. At times during the conspiracy, the defendants, and others known and unknown, alerted the operators of the locating companies to expect a telephone call from a prospective customer and coached the locating company operators to falsely state that they had profitable locations available

for the five or ten vending machine packages in the prospective purchaser's local geographic area. As directed by the defendants, the locators took these calls from prospective customers and falsely told the prospective customers what the Business Opportunity Companies' sales representatives coached them to say - that high-traffic, and therefore profitable, locations had already been found and were waiting in the prospective customers' respective geographic areas.

15. At other times during the conspiracy, the locating company operators also represented to prospective customers of the Business Opportunity Companies that the locating companies (i) would screen potential locations to ensure adequate foot traffic; (ii) high-traffic locations could be found in the prospective customer's area; and (iii) the locating companies would send professional "locators" with expertise in finding profitable locations to the customer's area to place the vending machines promptly. In some cases, the locators also guaranteed to prospective customers of the Business Opportunity Companies, in substance and in part, that the locators would relocate the customer's vending machines if the business did not achieve a certain level of income.

16. In truth and in fact, as KENNETH LEVIN, TAYLOR LEVIN, SEARS HOBBS, a/k/a "Karen White," a/k/a "Kelly Chase," JAMES CONLEY, MARCEL HARRIS, STEPHEN FRIEDMAN, JONATHAN CAMPBELL, the

defendants, and the locators well knew, the locating companies did not have high-traffic locations or routes waiting in the prospective customer's area. The locators did not screen potential locations. The locators did not have locations awaiting vending machines. The locators were not professionals with special skills, tools, or expertise in finding good locations. The locators placed the vending machines wherever they could, often in businesses that had not consented to housing the machines and that soon demanded that the machines be removed. The locating companies did not honor their purported guarantees. The vending machines generated little, if any, income for the customers who purchased the machines. The Business Opportunity Companies' customers lost nearly all, if not all, of their investments with the Business Opportunity Companies. For many customers of the Business Opportunity Companies, the loss was a significant portion of their life savings.

17. Many Business Opportunity Companies customers complained to KENNETH LEVIN, TAYLOR LEVIN, SEARS HOBBS, a/k/a "Karen White," a/k/a "Kelly Chase," JAMES CONLEY, MARCEL HARRIS, STEPHEN FRIEDMAN, JONATHAN CAMPBELL, the defendants, and others known and unknown, about the quality of the vending machines, the quality of the candy provided, the locations in which the machines were placed, the locators sent by the locating

companies, the lack of income generated by the vending machines, and the fact that locating companies did not, as promised, already have locations in which to place their vending machines. KENNETH LEVIN, TAYLOR LEVIN, HOBBS, CONLEY, HARRIS, FRIEDMAN, CAMPBELL, and other employees of the Business Opportunity Companies provided little, if any, response to these complaints and continued to follow the deceptive and misleading sales practices described above despite these complaints.

MEANS AND METHODS OF THE CONSPIRACY

18. From at least in or about January 2005 through at least in or about December 2011, KENNETH LEVIN, TAYLOR LEVIN, SEARS HOBBS, a/k/a "Karen White," a/k/a "Kelly Chase," JAMES CONLEY, MARCEL HARRIS, STEPHEN FRIEDMAN, and JONATHAN CAMPBELL, the defendants, and others known and unknown, devised, implemented, supervised, and executed a scheme to fraudulently induce more than 1,300 customers to purchase vending machine "business opportunities" from the Business Opportunity Companies by means of materially false and fraudulent pretenses, representations, and promises.

19. To effectuate the scheme, KENNETH LEVIN, TAYLOR LEVIN, SEARS HOBBS, a/k/a "Karen White," a/k/a "Kelly Chase," JAMES CONLEY, MARCEL HARRIS, STEPHEN FRIEDMAN, JONATHAN CAMPBELL, the defendants, and others known and unknown, intentionally deceived customers regarding the services that the

Business Opportunity Companies, and the locating companies recommended by the Business Opportunity Companies, would provide to customers. It was further a part and an object of the scheme that the defendants and others intentionally misled customers regarding the likely profits of the business opportunities.

20. KENNETH LEVIN, TAYLOR LEVIN, SEARS HOBBS, a/k/a "Karen White," a/k/a "Kelly Chase," JAMES CONLEY, MARCEL HARRIS, STEPHEN FRIEDMAN, JONATHAN CAMPBELL, the defendants, and others known and unknown, continued to make false and misleading statements regarding the services provided, and the expected profits, from the vending machine "business opportunities" purchased by customers, even after the Business Opportunity Companies had received numerous complaints from customers that the vending machines did not earn the profits represented by the sales representatives, and locating companies did not usually find locations that generated the profits represented by sales representatives.

21. To fraudulently induce consumers to purchase the business opportunities, KENNETH LEVIN, TAYLOR LEVIN, SEARS HOBBS, a/k/a "Karen White," a/k/a "Kelly Chase," JAMES CONLEY, MARCEL HARRIS, STEPHEN FRIEDMAN, JONATHAN CAMPBELL, the defendants, and others known and unknown, made, and caused others to make, numerous materially false statements, including, among others, the following:

MATERIALLY FALSE STATEMENTS

a. The locating company recommended by the Business Opportunity Companies would secure - and in many cases, had already secured - high-traffic locations for the prospective customer's vending machines;

b. The locating company recommended by the Business Opportunity Companies was familiar with the prospective customer's geographic area and had expertise in finding profitable locations for vending machines;

c. Customers who purchased the vending machine "business opportunity" from the Business Opportunity Companies would earn substantial profits;

d. Customers would earn back their investment in one year or less;

e. The prospective customer would receive an exclusive territory for their vending machines;

f. The sales representative owned his or her own vending machines which were profitable;

g. The vending machine had automatic features when, in truth and in fact, the machines had to be manually operated; and

h. The Business Opportunity Companies would assist the prospective customer in operating the business for the lifetime of the business.

22. To further fraudulently induce consumers to purchase the business opportunities, KENNETH LEVIN, TAYLOR LEVIN, SEARS HOBBS, a/k/a "Karen White," a/k/a "Kelly Chase," JAMES CONLEY, MARCEL HARRIS, STEPHEN FRIEDMAN, JONATHAN CAMPBELL, the defendants, and others known and unknown, omitted and concealed, and caused others to omit and conceal, numerous material facts, including, among others, the following:

OMISSION/CONCEALMENT OF MATERIAL FACTS

a. The Business Opportunity Companies changed their name regularly to avoid association with previous complaints and evade a federal law that required a disclosure statement including, among other things, a list of past customers, be sent to prospective vending machine "business opportunity" customers;

b. The Business Opportunity Companies and the locating companies received numerous complaints from customers about the lack of profitability of the business opportunity;

c. The Business Opportunity Companies received numerous complaints from customers about the failure regarding the locators' failure to place the vending machines in profitable locations;

d. HOBBS used aliases to avoid association with previous complaints; and

e. The operator of one locating company recommended by the Business Opportunity Companies used an alias to avoid association with previous complaints about the locating company.

STATUTORY ALLEGATIONS

23. From in or about January 2005 through in or about December 2011, in the Southern District of New York and elsewhere, KENNETH LEVIN, TAYLOR LEVIN, SEARS HOBBS, a/k/a "Karen White," a/k/a "Kelly Chase," JAMES CONLEY, MARCEL HARRIS, STEPHEN FRIEDMAN, and JONATHAN CAMPBELL, the defendants, and others known and unknown, willfully and knowingly did combine, conspire, confederate, and agree together and with each other to commit 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, to wit, KENNETH LEVIN, TAYLOR LEVIN, HOBBS, CONLEY, HARRIS, FRIEDMAN, and CAMPBELL defrauded customers who sought to purchase and had purchased vending machine "business opportunities" from the Business Opportunity Companies.

24. It was a part and object of the conspiracy that KENNETH LEVIN, TAYLOR LEVIN, SEARS HOBBS, a/k/a "Karen White," a/k/a "Kelly Chase," JAMES CONLEY, MARCEL HARRIS, STEPHEN FRIEDMAN, and JONATHAN CAMPBELL, the defendants, and others known and unknown, willfully and knowingly, having devised and intending to devise a scheme and artifice to defraud, and for

obtaining money and property by means of false and fraudulent pretenses, representations and promises, for the purpose of executing such scheme and artifice and attempting so to do, did place and caused to be placed in a post office and authorized depository for mail matter, matters and things to be sent and delivered by the Postal Service, and did deposit and cause to be deposited matters and things to be sent and delivered by private and commercial interstate carriers, and did take and receive and cause to be taken and received therefrom, such matters and things, and did cause to be delivered by mail and such carriers, according to the direction thereon, such matters and things, in violation of Title 18, United States Code, Section 1341.

25. It was further a part and object of the conspiracy that KENNETH LEVIN, TAYLOR LEVIN, SEARS HOBBS, a/k/a "Karen White," a/k/a "Kelly Chase," JAMES CONLEY, MARCEL HARRIS, STEPHEN FRIEDMAN, and JONATHAN CAMPBELL, the defendants, and others known and, willfully and knowingly, having devised and intending to devise a scheme and artifice to defraud and for obtaining money and property by means of false and fraudulent pretenses, representations, and promises, would and did transmit and cause to be transmitted by means of wire, radio, and television communication in interstate and foreign commerce, writings, signs, signals, pictures, and sounds for the purpose

of executing such scheme and artifice, in violation of Title 18, United States Code, Section 1343.

OVERT ACTS

26. In furtherance of the conspiracy and to achieve its illegal objects, KENNETH LEVIN, TAYLOR LEVIN, SEARS HOBBS, a/k/a "Karen White," a/k/a "Kelly Chase," JAMES CONLEY, MARCEL HARRIS, STEPHEN FRIEDMAN, and JONATHAN CAMPBELL, the defendants, and others known and unknown, committed the following overt acts, among others, in the Southern District of New York and elsewhere:

a. On or about April 15, 2011, KENNETH LEVIN had a telephone conversation with a customer of the Business Opportunity Companies ("Victim-1"), who was located in Texas, during which KENNETH LEVIN told Victim-1, in substance and in part, that high volume locations were available in Victim-1's geographic area and waiting for vending machines to be placed, and that Victim-1 could expect to earn approximately \$250 per week through the proposed business opportunity;

b. On or about April 27, 2011, TAYLOR LEVIN caused a customer of the Business Opportunity Companies ("Victim-2"), who was located in Tennessee, to mail a check in the amount of \$10,250 to the Business Opportunity Companies' office in Manhattan, New York;

c. On or about July 31, 2010, HOBBS had an telephone conversation with a customer of the Business Opportunity Companies ("Victim-3"), who was located in Washington, during which HOBBS told Victim-3, in substance and in part, that the vending machines would make a profit of approximately \$200 a week and that existing routes were available for the vending machines HOBBS was selling;

d. On or about May 12, 2010, HARRIS caused a customer of the Business Opportunity Companies ("Victim-4"), who was located in Florida, to mail a check in the amount of \$12,495 to the Business Opportunity Companies' office in Manhattan, New York;

e. In or around May 2010, FRIEDMAN had a telephone conversation with a customer of the Business Opportunity Companies ("Victim-5"), who was located in Yonkers, New York, during which FRIEDMAN told Victim-5, in substance and in part, that Victim-5 would recoup his investment within six months;

f. On or about September 3, 2010, CAMPBELL had a telephone conversation with customer of the Business Opportunity Companies ("Victim-6"), who was located in Virginia, during which CAMPBELL told Victim-6, in substance and in part, that he would recoup his investment in the vending machine "business opportunity" within several months; and

g. On or about January 4, 2011, CONLEY falsely stated to a prospective customer ("Victim-7"), in substance and in part, that the Business Opportunity Companies had fifteen locations in Buffalo, New York waiting for vending machines, and offered the customer a five-machine route and a ten-machine route.

(Title 18, United States Code, Section 1349.)

COUNT TWO
(Mail Fraud)

The Grand Jury further charges:

27. The allegations contained in paragraphs 1-22 and 26 above are hereby repeated, realleged, and incorporated by reference as if fully set forth herein.

28. From in or about January 2005 through in or about December 2011, in the Southern District of New York and elsewhere, KENNETH LEVIN, TAYLOR LEVIN, SEARS HOBBS, a/k/a "Karen White," a/k/a "Kelly Chase," JAMES CONLEY, MARCEL HARRIS, STEPHEN FRIEDMAN, and JONATHAN CAMPBELL, the defendants, and others known and unknown, willfully and knowingly, having devised and intending to devise a scheme and artifice to defraud, and for obtaining money and property by means of false and fraudulent pretenses, representations and promises, for the purpose of executing such scheme and artifice and attempting so to do, did place and caused to be placed in a post office and

authorized depository for mail matter, matters and things to be sent and delivered by the Postal Service, and did deposit and cause to be deposited matters and things to be sent and delivered by private and commercial interstate carriers, and did take and receive and cause to be taken and received therefrom, such matters and things, and did cause to be delivered by mail and such carriers, according to the direction thereon, such matters and things, to wit, KENNETH LEVIN, TAYLOR LEVIN, HOBBS, CONLEY, HARRIS, FRIEDMAN, and CAMPBELL, participated in a scheme to defraud customers and prospective customers of the Business Opportunity Companies by making materially false statements to, and concealing material facts from, those customers and prospective customers regarding vending machine "business opportunities," and in furtherance of the scheme, sent and caused to be sent numerous documents and payments by mail, from and to the Business Opportunity Companies' office in Manhattan, New York.

(Title 18, United States Code, Sections 1341 and 2.)

COUNT THREE
(Wire Fraud)

The Grand Jury further charges:

29. The allegations contained in paragraphs 1-22 and 26 above are hereby repeated, realleged, and incorporated by reference as if fully set forth herein.

30. From in or about January 2005 through in or about December 2011, in the Southern District of New York and elsewhere, KENNETH LEVIN, TAYLOR LEVIN, SEARS HOBBS, a/k/a "Karen White," a/k/a "Kelly Chase," JAMES CONLEY, MARCEL HARRIS, STEPHEN FRIEDMAN, and JONATHAN CAMPBELL, the defendants, and others known and unknown, willfully and knowingly, having devised and intending to devise a scheme and artifice to defraud and for obtaining money and property by means of false and fraudulent pretenses, representations, and promises, would and did transmit and cause to be transmitted by means of wire, radio, and television communication in interstate and foreign commerce, writings, signs, signals, pictures, and sounds for the purpose of executing such scheme and artifice, to wit, KENNETH LEVIN, TAYLOR LEVIN, HOBBS, CONLEY, HARRIS, FRIEDMAN, and CAMPBELL participated in a scheme to defraud customers and prospective customers of the Business Opportunity Companies by making materially false statements to, and concealing material facts from, those customers and prospective customers regarding vending machine "business opportunities," and in furtherance of the scheme, made and caused to be made numerous interstate telephone calls, electronic mailings and wires, to and from representatives of the Business Opportunity Companies located in

Manhattan, New York and victims located throughout the United States.

(Title 18, United States Code, Sections 1343 and 2.)

FORFEITURE ALLEGATION

31. Upon conviction of the offenses alleged in Counts One, Two and Three of this Indictment, KENNETH LEVIN, TAYLOR LEVIN, SEARS HOBBS, a/k/a "Karen White," a/k/a "Kelly Chase," JAMES CONLEY, MARCEL HARRIS, STEPHEN FRIEDMAN, and JONATHAN CAMPBELL, the defendants, 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, all property, real and personal, which constitutes, or is derived from, proceeds traceable to the offenses alleged in Counts One, Two and Three of this Indictment.

SUBSTITUTE ASSET PROVISION

32. If any of the above-described forfeitable property, as a result of any act or omission of KENNETH LEVIN, TAYLOR LEVIN, SEARS HOBBS, a/k/a "Karen White," a/k/a "Kelly Chase," JAMES CONLEY, MARCEL HARRIS, STEPHEN FRIEDMAN, and JONATHAN CAMPBELL, the defendants,

(1) cannot be located upon the exercise of due diligence;

(2) has been transferred or sold to, or deposited with, a third party;

(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 subdivided without difficulty; it is the intent
of the United States, pursuant to Title 21, United States Code,
Section 853(p), to seek forfeiture of any other property of said
defendant up to the value of the forfeitable property described
above.

(Title 18, United States Code, Section 981; Title 21, United
States Code, Section 853; and Title 28, United States Code,
Section 2461.)


FOREPERSON



PREET BHARARA
United States Attorney

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

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a/k/a "Kelly Chase," a/k/a "Kelly White," JAMES
CONLEY, MARCEL HARRIS, STEVEN FRIEDMAN
AND JONATHAN CAMPBELL,

Defendants.

INDICTMENT

15 Cr.

(Title 18, United States Code, Sections 1341, 1343, 1349
and 2)

PREET BHARARA
United States Attorney.

A TRUE BILL

Foreperson.
