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PETER OPPENEER
CLERK US DIST COURT
WD OF WI

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA

v.

JAMES KOLF,

Defendant.

INDICTMENT

Case No. 17 CR 024 WMC

- 18 U.S.C. § 1343
- 18 U.S.C. § 1341
- 18 U.S.C. § 1957(a)
- 18 U.S.C. § 981(a)(1)(C)
- 18 U.S.C. § 982

THE GRAND JURY CHARGES:

COUNTS 1-16

Background

1. At times material to this indictment:

a. Defendant JAMES KOLF worked in the securities industry as a broker-dealer agent and as an investment advisor in Middleton and Madison, Wisconsin. Between September of 2009 and January of 2015, KOLF worked as an agent advisor for New England Securities. Between January of 2015 and May of 2016, KOLF worked as an agent advisor for MetLife. Between May of 2016 and August of 2016, KOLF worked as a registered representative for New York Life.

b. On April 29, 2011, KOLF opened a business checking account (account number XX1787) at Park Bank in the name of "SFN Financial Network." KOLF was the only authorized signer on the account.

c. The correspondent bank used by Park Bank to clear check deposits from the fall of 2013 through the end of 2016 was U.S. Bank. Prior to that, Park Bank used Chase Bank to clear deposited checks. As the correspondent banks, U.S. Bank and Chase Bank collected funds from the banks of investors in SFN Financial Network as referenced in Paragraph 10 below. Images of the checks that were deposited into Park Bank account XX1787 were electronically transmitted to U.S. Bank and Chase Bank by UFS, LLC, the data processor for Park Bank, via a secured internet web portal. UFS, LLC is based in Grafton, Wisconsin. The electronic transmissions containing the check images were received at U.S. Bank's data processing center in St. Paul, Minnesota, and at Chase Bank's offices in Tampa, Florida.

d. FS Energy & Power Fund was a business development company that invested in income-oriented securities of private energy-related companies and was an approved product offered through New England Securities. The stock ticker symbol for FS Energy & Power Fund was "FSEN."

Scheme to Defraud

2. During the period beginning in or about April of 2011, and continuing to in or about August of 2016, in the Western District of Wisconsin and elsewhere, the defendant,

JAMES KOLF,

knowingly, and with the intent to defraud, devised and participated in a scheme to defraud investors, and to obtain money and property by means of materially false and fraudulent pretenses, representations, omissions, and promises.

3. It was part of the scheme to defraud that KOLF, beginning in 2011, started soliciting his existing brokerage customers at New England Securities to invest in "SFN Financial Network." As part of his solicitations, KOLF made various material misrepresentations to investors regarding SFN Financial Network. For example, KOLF represented that SFN Financial Network would invest funds on the investors' behalf in energy companies. KOLF also represented to investors that their investment in SFN Financial Network would produce at least a consistent 6% annual rate of return. In fact, SFN Financial Network was not a legitimate investment and KOLF did not intend to invest any of the funds given to him.

4. It was further part of the scheme to defraud that KOLF attempted to boost the appearance and credibility of SFN Financial Network to potential investors. For example, KOLF provided investors with prospectuses and marketing material for the similarly named legitimate investment, FS Energy & Power Fund (stock ticker symbol "FSEN"). KOLF led several of the investors to believe that SFN Financial Network invested in energy and power companies and he used the materials from FS Energy and Power Fund to give the investors a false sense of security in the investment. In fact, SFN Financial Network and FS Energy & Power Fund were

unrelated and SFN Financial Network did not invest in that or any other energy or power company.

5. It was further part of the scheme to defraud that KOLF used the investment funds for SFN Financial Network to pay his personal living expenses, including but not limited to:

- a. The cash purchase of his residence at 1701 Mulberry St., Sauk City, Wisconsin;
- b. home improvements at 1701 Mulberry St.;
- c. credit card payments to Capital One;
- d. resolving an outstanding tax liability with the United States Treasury Department;
- f. property taxes to Sauk County, Wisconsin; and
- g. the cash purchase of a car.

6. It was further part of the scheme to defraud that KOLF provided many investors with purported account statements from their investments with SFN Financial Network. The account statements were fictitious and showed the investors' supposed year-to-date profits and their supposed current portfolio balance. Additionally, to make the account statements appear valid, many of the statements referred to the investment as "FSFN Energy Pwr." In addition, on many of the account statements, KOLF included a CUSIP (Committee on Uniform Security Identification Procedures) number for FS Energy & Power. By sending the account

statements, KOLF intended to lull investors into believing that he was investing their money in a legitimate investment. KOLF knew that the account statements were fictitious.

7. It was further part of the scheme to defraud that KOLF made payments to some investors using funds from Park Bank account XX1787. KOLF told these investors that the payments were interest income earned from their investment in SFN Financial Network, when in fact, KOLF knew there was no interest income or investment in SFN Financial Network. For example, KOLF sent a check dated March 4, 2015, for \$352.60, to investor "MO" from Park Bank Account number XX1787.

8. It was further part of the scheme to defraud that KOLF failed to inform his investors that he lied to them about there being a real investment. KOLF failed to tell the investors that he misappropriated their funds to pay for his personal expenses and to provide returns to other investors. KOLF failed to inform his investors that he did not make any money from their investment in SFN Financial Network.

9. It was further part of the scheme to defraud that KOLF received \$905,077.20 in investor funds which he failed to invest and instead used for his own purposes.

Wires

10. On or about the dates listed below, in the Western District of Wisconsin and elsewhere, the defendant,

JAMES KOLF,

for the purpose of executing the scheme, deposited investor checks written to "SFN Financial Network" or "SFN Financial" into Park Bank account number XX1787, thereby knowingly causing to be transmitted, by means of wire communications in interstate commerce, the signals and sounds described below for each count:

SUMMARY OF WIRE COMMUNICATIONS RESULTING FROM DEPOSIT OF CHECKS INTO SFN FINANCIAL NETWORK CHECKING ACCOUNT AT PARK BANK				
COUNT	DATE	DESCRIPTION OF WIRE	FROM	TO
1	11/30/2012	Electronic images of check #1752 for \$20,000 from investor B.E.	UFS LLC in Grafton, WI	Chase Bank in Tampa, FL
2	9/30/2013	Electronic images of check #6249 for \$12,500 from investor B.K.	UFS LLC in Grafton, WI	Chase Bank in Tampa, FL
3	12/12/2013	Electronic images of check #1519 for \$18,000 from investor L.F.	UFS LLC in Grafton, WI	U.S. Bank in St. Paul, MN
4	4/8/2014	Electronic images of check #9338 for \$50,000 from investor L.W.	UFS LLC in Grafton, WI	U.S. Bank in St. Paul, MN
5	4/11/2014	Electronic images of check #4320 for \$40,000 from investor K.L.	UFS LLC in Grafton, WI	U.S. Bank in St. Paul, MN
6	4/17/2014	Electronic images of check #7628 for \$22,000 from investor V.R.	UFS LLC in Grafton, WI	U.S. Bank in St. Paul, MN
7	4/21/2014	Electronic images of check #6534 for \$16,000 from investor M.C.	UFS LLC in Grafton, WI	U.S. Bank in St. Paul, MN
8	4/25/2014	Electronic images of check #1898 for \$9,000 from investor B.E.	UFS LLC in Grafton, WI	U.S. Bank in St. Paul, MN
9	5/2/2014	Electronic images of check #8368 for	UFS LLC in Grafton, WI	U.S. Bank in St. Paul, MN

		\$100,000 from investor K.Z.		
10	5/20/2014	Electronic images of check #2375 for \$49,577.20 from investor V.M.	UFS LLC in Grafton, WI	U.S. Bank in St. Paul, MN
11	5/28/2014	Electronic images of check #7270 for \$80,000 from investor J.H.	UFS LLC in Grafton, WI	U.S. Bank in St. Paul, MN
12	5/28/2014	Electronic images of check #6028 for \$30,000 from investor J.U.	UFS LLC in Grafton, WI	U.S. Bank in St. Paul, MN
13	7/11/2014	Electronic images of check #6601 for \$115,000 from investor B.K.	UFS LLC in Grafton, WI	U.S. Bank in St. Paul, MN
14	7/16/2014	Electronic images of check #1908 for \$64,000 from investor M.O.	UFS LLC in Grafton, WI	U.S. Bank in St. Paul, MN
15	2/17/2016	Electronic images of check #6393 for \$11,500 from investor J.U.	UFS LLC in Grafton, WI	U.S. Bank in St. Paul, MN
16	2/17/2016	Electronic images of check #2454 for \$8,500 from investor J.U.	UFS LLC in Grafton, WI	U.S. Bank in St. Paul, MN

(In violation of Title 18, United States Code, Section 1343).

COUNT 17

1. Paragraphs 1-9 of Counts 1-16 are incorporated here.
2. On or about July 17, 2015, in the Western District of Wisconsin, the defendant,

JAMES KOLF,

for the purpose of executing or attempting to execute the above-described scheme, knowingly caused to be delivered by the United States Postal Service, according to the directions thereon, an envelope containing a fictitious account statement from

SFN Financial Network, Middleton, Wisconsin, addressed to investor "JU" in Waunakee, Wisconsin.

(In violation of Title 18, United States Code, Section 1341).

COUNT 18

On or about May 29, 2014, in the Western District of Wisconsin, the defendant,

JAMES KOLF,

knowingly engaged in a monetary transaction in criminally derived property of a value greater than \$10,000, specifically, KOLF withdrew \$280,534 from the SFN Financial Network checking account at Park Bank, account number XX1787, which was derived from a specified unlawful activity, specifically the wire fraud described in Counts 1-16 above, and purchased a cashier's check for the same amount payable to Wisconsin River Title, and the cashier's check was used to fund the purchase of a residence located at 1701 Mulberry Street in Sauk City, Wisconsin.

(In violation of Title 18, United States Code, Section 1957(a)).

FORFEITURE ALLEGATION

1. The allegations contained in Counts 1-18 are realleged and incorporated here for the purpose of alleging forfeitures pursuant to Title 18, United States Code, Sections 981(a)(1)(C), 982 and Title 28, United States Code, Section 2461(c).

2. Upon conviction of any of the offenses in violation of Title 18, United States Code, Section 1343, as set forth in Counts 1-16 of this indictment, or a

conviction for the offense in violation of Title 18, United States Code, Section 1341, as set forth in count 17 of this indictment, the defendant, JAMES KOLF, shall forfeit to the United States of America, pursuant to Title 18, United States Code, Sections 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 offenses. The property to be forfeited includes, but is not limited to, the following:

- a. Money Judgment - a sum of money equal to \$905,077.20 in United States currency, representing the amount of proceeds obtained as a result of wire and mail fraud;
- b. the real property and improvements located at 1701 Mulberry Street, Sauk City, Wisconsin, Tax Parcel ID Number 181-1139-00000; and
- c. a silver 2015 Mini Cooper automobile, VIN WMWZC3C53FWP53161.

3. Pursuant to Title 18, United States Code, Section 982(a), upon conviction of the offense in violation of Title 18, United States Code, Section 1957, as set forth in Count 18 of this indictment, the defendant, JAMES KOLF, shall forfeit to the United States of America any property, real or personal, involved in such offense, and any property traceable to such property. The property to be forfeited includes, but is not limited to, the following:

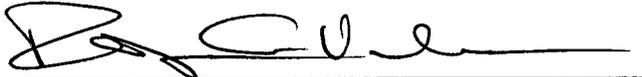
- a. The real property and improvements located at 1701 Mulberry Street, Sauk City, Wisconsin, Tax Parcel ID Number 181-1139-00000.

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

- 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 divided without difficulty,

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

A TRUE BILL



PRESIDING JUROR



JEFFREY M. ANDERSON
Acting United States Attorney

Indictment returned: 3-29-17