

**CR - 09 00487 JW**

**HRL**

**UNITED STATES DISTRICT COURT**

**FILED**

**NORTHERN DISTRICT OF CALIFORNIA**

2009 MAY -6 P 2:06

**SAN JOSE DIVISION**

RICHARD W. ADAMS  
CLERK  
U.S. DISTRICT COURT  
NO. DIST. OF CALIF.

*E-filing*

**THE UNITED STATES OF AMERICA**

**vs.**

**ALBERT KE-JENG HU,**

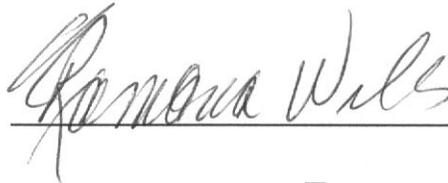
**a/k/a Ke-Jeng Hu,**

**INDICTMENT**

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

**FORFEITURE ALLEGATION:** (18 U.S.C. §§ 981(a)(1)(c) and 28 U.S.C. § 2461(c) -  
Forfeiture of Wire Fraud Proceeds)

*A true bill.*



**Foreperson**

*Filed in open court this 6 day of May*

*A.D. 2009*



**UNITED STATES MAGISTRATE JUDGE**

*Bail. \$ NO BAIL WARRANT*

*C  
JW*

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JOSEPH P. RUSSONIELLO (CASBN 44332)  
United States Attorney

FILED

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RICHARD W. MICARD  
CLERK  
U.S. DISTRICT COURT  
NO. DIST. OF CALIF.

E-filing

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

JW

UNITED STATES OF AMERICA,

CR -09 00487  
No

Plaintiff,

v.

VIOLATIONS: 18 U.S.C. § 1343 – Wire Fraud; 18 U.S.C. § 981(a)(1)(C) – Civil Forfeiture; 28 U.S.C. § 2461(c) – Criminal Forfeiture

HRL

ALBERT KE-JENG HU,  
a/k/a Ke-Jeng Hu,

SAN JOSE VENUE

Defendant.

INDICTMENT

The Grand Jury charges:

INTRODUCTORY ALLEGATIONS

At all times relevant to this Indictment:

1. The Asenqua Beta Fund was a hedge fund managed in Sunnyvale, California.
2. The Fireside LS Fund was a hedge fund managed in Sunnyvale, California.
3. Defendant Albert Ke-Jeng Hu, a/k/a Ke-Jung Hu, was a resident of the Northern

District of California involved in the administration and operation of the Asenqua Beta Fund and the Fireside LS Fund. Defendant Hu also operated a company, Asenqua Ventures, located in

INDICTMENT

1 Sunnyvale, California. Defendant Hu solicited investments from potential investors for both the  
2 Asenqua Beta Fund and the Fireside LS Fund.

3 4. Defendant Hu maintained a bank account at a Bank of America in San Francisco,  
4 California under the name Asenqua Capital LLC. Defendant Hu directed investors in the  
5 Asenqua Beta Fund to wire investment funds into this bank account. Defendant Hu was a  
6 signatory on the signature card for this account. Defendant Hu also maintained a bank account at  
7 a Credit Suisse in Singapore. Defendant Hu directed investors in the Fireside LS Fund to wire  
8 investment funds into this bank account. Defendant Hu was a signatory on the signature card for  
9 this account.

#### 10 THE SCHEME TO DEFRAUD

11 5. Beginning in approximately September 1, 2002 and continuing until June 11,  
12 2008, in the Northern District of California and elsewhere, the defendant, Albert Ke-Jung Hu,  
13 along with other persons known and unknown, did knowingly devise, and intend to devise, a  
14 material scheme and artifice to defraud and to obtain money by means of materially false and  
15 fraudulent pretenses, representations, and promises, knowing that those pretenses, representations  
16 and promises were false when made.

17 6. The purpose of the scheme to defraud was for defendant Hu, a resident of  
18 California, to enrich himself by inducing various investors to wire money to him based upon  
19 defendant Hu's false representations regarding his hedge funds.

20 7. Defendant Hu and others told potential investors that they were operating hedge  
21 funds under the names Asenqua Beta Fund and Fireside LS Fund out of locations in Sunnyvale,  
22 San Francisco and elsewhere in the Northern District of California.

23 8. It was further part of the scheme to defraud that defendant Hu and others induced  
24 investors to give Hu money by making false representations regarding entities that were  
25 supposedly affiliated with these hedge funds, such as prominent law firms, a fund administrator,  
26 an independent auditing firm, and a chief financial officer (CFO). In reality, neither the law  
27 firms, the fund administrator, nor the CFO ever had any connection with the Asenqua Beta Fund  
28 or Fireside LS Fund. Furthermore, the so-called "independent" auditing firm was a facade

1 defendant Hu fabricated to lure investors to invest in his funds.

2 9. It was further part of the scheme to defraud that defendant Hu used the names of  
3 these entities to legitimize the hedge funds and give the perception that the hedge funds were  
4 secure.

5 10. It was further part of the scheme to defraud that defendant Hu enticed victims to  
6 invest by promising them rates of returns as high as 20-30% a year.

7 11. It was further part of the scheme to defraud that once defendant Hu obtained  
8 money from investors, he did not invest those funds as promised but instead converted that  
9 money for his own personal use and for other non-investment purposes.

10 MANNER AND MEANS

11 12. In furtherance of the scheme to defraud, defendant Hu and his representatives  
12 communicated to potential investors (through verbal statements as well as investment-related  
13 documents such as subscription agreements, private placement memoranda (PPM) and quarterly  
14 statements) one and more of the following false statements to induce them to invest:

- 15 (a) That GlobeOp Financial Services, a popular and well-known fund  
16 administrator for hedge funds, was the fund administrator for defendant  
17 Hu's Fireside LS Fund.
- 18 (b) That the law firm Pillsbury Winthrop Shaw Pittman LLP was engaged as  
19 legal counsel for defendant Hu's Fireside LS Fund.
- 20 (c) That the law firm Proskauer Rose LLP was engaged as legal counsel for  
21 defendant Hu's Fireside LS Fund.
- 22 (d) That the law firm Heller Ehrman LLP was as of February 2005 engaged as  
23 legal counsel for defendant Hu's Asenqua Beta Fund.
- 24 (e) That the firm "Castillo, Lyn, Cohen & Vijay" was an independent auditor  
25 for defendant Hu's Asenqua Beta Fund and Fireside LS Fund.
- 26 (f) That an individual named Tony Pollace was the chief financial officer of  
27 the Asenqua Beta Fund and Fireside LS Fund and that Pollace had signed  
28 off on quarterly financial statements of those hedge funds which defendant

1 Hu provided to investors.

2 (g) That as of May 2007 the minimum amount individuals were investing in  
3 the Fireside LS Fund to date was \$1,000,000.

4 (h) That defendant Hu would pay investors rates of return as high as 20% to  
5 30% annually and that these were the historic rates of return for his hedge  
6 funds,

7 (i) That defendant Hu would obtain these high rate returns for investors  
8 primarily by investing their funds in technology-related securities.

9 13. In fact, each of the representations described in paragraph 12 was knowingly false  
10 when made, in that:

11 (a) Defendant Hu knew that GlobeOp Financial Services had never been the  
12 fund administrator for his Fireside LS Fund.

13 (b) Defendant Hu knew that Pillsbury, Winthrop, Shaw, and Pittman had  
14 never been legal counsel for his Fireside LS Fund.

15 (c) Defendant Hu knew that the law firm Proskauer Rose LLP had never been  
16 legal counsel for the Fireside LS Fund.

17 (d) Defendant Hu knew that the law firm Heller Ehrman was not legal counsel  
18 for the Asenqua Beta Fund in February 2005.

19 (e) Defendant Hu knew that "Castillo, Lyn, Cohen & Vijay" was not an  
20 independent auditor for defendant Hu's Asenqua Beta Fund and Fireside  
21 LS Fund, but rather a shell auditing firm defendant Hu and his  
22 representatives had created to facilitate his fraudulent scheme.

23 (f) Defendant Hu knew that Tony Pollace had never been chief financial  
24 officer of the Fireside LS Fund or the Asenqua Beta Fund, and that the  
25 purported signature of "Pollace" on quarterly financial statements  
26 defendant Hu provided investors was in fact a forgery.

27 (g) Defendant Hu knew that multiple individual investors had invested less  
28 than \$1,000,000 in the Fireside LS Fund as of May 2007.

1 (h) Defendant Hu knew that he could not provide investors in his hedge funds  
2 with 20-30% annual return and had not done so in the past.

3 (i) Defendant Hu knew that he was diverting the majority of investors funds  
4 for non-investment purposes rather than investing those funds in the  
5 manner he had promised.

6 14. As a result of Hu's false representations, investors in the Northern District of  
7 California directed their brokers to wire money to accounts Hu and representatives controlled  
8 both in the United States and abroad. In all, defendant Hu raised a total of at least \$2,700,000  
9 from investors based on his false statements, but failed to invest this money in the manner that he  
10 had promised, failed to provide the investors with the interest they had been promised, and failed  
11 to repay their principal when requested. Defendant Hu instead converted the majority of  
12 investors' funds for his and others' personal use, diverted hundreds of thousands of dollars  
13 abroad, and used investor funds to make partial payments to at least one other investor in a  
14 manner consistent with a "Ponzi" fraud scheme.

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

16 15. The factual allegations contained in paragraphs 1 through 14 are incorporated as if  
17 fully set forth here.

18 16. On or about the dates indicated for each of Counts One through Seven below, in  
19 the Northern District of California and elsewhere, the defendant,

20 ALBERT KE-JENG HU,  
21 a/k/a Ke-Jeng Hu,

22 and other persons known and unknown to the grand jury, having knowingly and intentionally  
23 devised a material scheme and artifice to defraud and to obtain money and property by means of  
24 materially false and fraudulent pretenses, representations, and promises, did for the purpose of  
25 executing such scheme and artifice knowingly cause to be transmitted in interstate and foreign  
26 commerce certain writings, signs, signals, and pictures, that is, wire transfers of funds, as further  
27 set forth below:

28

<u>COUNT</u>	<u>DATE</u>	<u>ITEM</u>	<u>WIRED FROM</u>	<u>WIRED TO</u>
1	2/8/05	\$100,000 wire transfer	Merrill Lynch New York, New York	Bank of America San Francisco, California
2	2/23/05	\$100,000 wire transfer	UBS New York, New York	Bank of America San Francisco, California
3	7/6/05	\$250,000 wire transfer	Merrill Lynch New York, New York	Bank of America San Francisco, California
4	4/27/07	wire communication directing \$2,000,000 wire transfer	Fidelity Cupertino, California	Fidelity Boston, Massachusetts
5	4/30/07	\$2,000,000 wire transfer	Fidelity Boston, Massachusetts	Credit Suisse Singapore
6	6/19/07	wire communication directing \$250,000 wire transfer	Merrill Lynch San Jose, California.	Merrill Lynch New York, New York
7	6/19/07	\$250,000 wire transfer	Merrill Lynch New York, New York	Credit Suisse Singapore

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

FORFEITURE ALLEGATION: (18 U.S.C. §§ 981(a)(1)(c) and 28 U.S.C. § 2461(c) - Forfeiture of Wire Fraud Proceeds)

17. The allegations of paragraphs 1 through 16 of this Indictment are realleged and incorporated as if fully set forth herein.

18. Upon a conviction of any of the offenses alleged in Counts One through Seven above, defendant

ALBERT KE-JENG HU,  
a/k/a Ke-Jeng Hu,

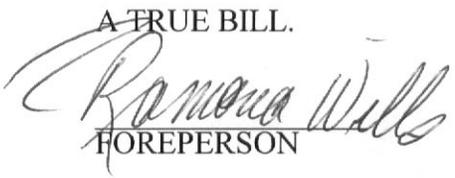
shall forfeit to the United States, all property (real and personal) which constitutes proceeds and is derived from proceeds traceable to said offense(s), pursuant to 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c), including but not limited to the following: a. a sum of money not less than \$2,700,000 representing the amount of proceeds obtained as a result of the offense

19. If any of the above described forfeitable property, as a result of any act or omission

1 of the defendant:

- 2 (a) cannot be located upon the exercise of due diligence;
- 3 (b) has been transferred or sold to, or deposited with, a third person;
- 4 (c) has been placed beyond the jurisdiction of the Court;
- 5 (d) has been substantially diminished in value; or
- 6 (e) has been commingled with other property which cannot be subdivided without
- 7 difficulty; any and all interest defendant has in other property shall be vested in the United States
- 8 and forfeited to the United States pursuant to Title 21, United States Code, Section 853(p), as
- 9 incorporated by Title 28, United States Code, Section 2461(c) and Rule 32.2 of the Federal Rules
- 10 of Criminal Procedure.

11 DATED: 5/6/09

A TRUE BILL.  
  
 FOREPERSON

14 JOSEPH P. RUSSONIELLO  
United States Attorney

15   
 16 JEFFREY NEDROW  
 17 Deputy Chief, San Jose Branch Office

18 (Approved as to form: )  
 19 AUSA Fazioli

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AO 257 (Rev. 6/78)

**DEFENDANT INFORMATION RELATIVE TO A CRIMINAL ACTION - IN U.S. DISTRICT COURT**

BY:  COMPLAINT  INFORMATION  INDICTMENT  
 SUPERSEDING

**OFFENSE CHARGED**

COUNTS ONE THROUGH SEVEN: (18

U.S.C. § 1343 - Wire Fraud)

FORFEITURE ALLEGATION: (18 U.S.C. §§

981(a)(1)(c) and 28 U.S.C. § 2461(c) -

Forfeiture of Wire Fraud Proceeds)

- Petty
- Minor
- Misdemeanor
- Felony

**PENALTY:**

20 years imprisonment (per count)

\$250,000 fine (per count)

3 years supervised release

\$100 special assessment

E-filing

Name of District Court, and/or Judge/Magistrate Location  
NORTHERN DISTRICT OF CALIFORNIA

FILED

DEFENDANT - U.S.

ALBERT KE-JENG HU, a/k/a Ke-Jeng Hu,

DISTRICT COURT NUMBER

CR - 09 00487

DEFENDANT

**IS NOT IN CUSTODY**

- 1)  Has not been arrested, pending outcome this proceeding.  
If not detained give date any prior summons was served on above charges
- 2)  Is a Fugitive
- 3)  Is on Bail or Release from (show District)

**IS IN CUSTODY**

- 4)  On this charge
- 5)  On another conviction
- 6)  Awaiting trial on other charges

Fed'l  State

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

HONG KONG

Has detainer been filed?  Yes  No

If "Yes" give date filed

DATE OF ARREST

Month/Day/Year

Or... if Arresting Agency & Warrant were not

Month/Day/Year

DATE TRANSFERRED TO U.S. CUSTODY

This report amends AO 257 previously submitted

**PROCEEDING**

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

S/A Gregory Fine - 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. Att'y  Defense

this prosecution relates to a pending case involving this same defendant

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

SHOW DOCKET NO.

MAGISTRATE CASE NO.

09-70057-PVT

Name and Office of Person Furnishing Information on THIS FORM

JOSEPH P. RUSSONIELLO

U.S. Att'y  Other U.S. Agency

Name of Asst. U.S. Att'y (if assigned)

JOSEPH A. FAZIOLI

**ADDITIONAL INFORMATION OR COMMENTS**

**PROCESS:**

SUMMONS  NO PROCESS\*  WARRANT Bail Amount: NO BAIL

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: \_\_\_\_\_