

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA)	
)	No.
v.)	
)	Violation: Title 18, United States
DAVID GODWIN and)	Code, Section 1343
JOHN COLETTI)	

The SPECIAL FEBRUARY 2014 GRAND JURY charges:

1. At times material to the indictment:
 - a. ContinuityX Solutions, Inc. had offices in Metamora, Illinois, and provided computer and telecommunication services, including networked computer server space.
 - b. Defendant DAVID GODWIN was the chief executive officer, president and chairman of the board for ContinuityX.
 - c. Defendant JOHN COLETTI was a sales representative for ContinuityX.
 - d. Telecommunications Company was a global company that had offices in Hong Kong, and provided telecommunications services throughout the world. Telecommunications Company entered into a joint marketing agreement with ContinuityX under which ContinuityX billed Telecommunications Company for services that ContinuityX provided to Telecommunications Company's customers.

e. Employee 1 and Employee 2 were two employees that worked for Telecommunications Company.

f. Account receivable financing, also known as factoring, was the provision to an account creditor of funds in the amount of a percentage of an outstanding account receivable, such as an invoice, in return for the right to collect from the account debtor the entire amount of the account receivable.

g. Victim Companies 1 and 2 provided accounts receivable financing and had offices in Atlanta, Georgia, and Baltimore, Maryland, respectively.

h. ContinuityX was an issuer with the Securities and Exchange Commission pursuant to the Securities and Exchange Act and required to file periodic reports, including Form 10-Q, containing financial statements with the SEC.

i. Auditing Firm assisted ContinuityX with its financial statements, including the periodic financial statements filed with the SEC.

j. ContinuityX maintained computer servers in Chicago, Illinois for purposes including sending and receiving of email messages using ContinuityX email accounts.

2. Beginning in or about October 2012, and continuing until in or about February 2013, at Chicago, in the Northern District of Illinois, Eastern Division, and elsewhere,

DAVID GODWIN and
JOHN COLETTI,

defendants herein, knowingly devised, intended to devise, and participated in a scheme to defraud and to obtain money from Victim Company 1 and Victim Company 2 by means of materially false and fraudulent pretenses, representations, and promises, and by concealment of material facts, which scheme is further described below.

3. It was part of the scheme that defendants DAVID GODWIN and JOHN COLETTI fraudulently obtained approximately \$6 million by causing Victim Companies 1 and 2 to provide money to ContinuityX under an accounts receivable financing agreement based upon fictitious accounts receivable, certain invoices, purportedly owed to ContinuityX by Telecommunications Company.

4. It was further part of the scheme that defendant DAVID GODWIN falsely represented to Victim Company 1, Victim Company 2, Auditing Firm, ContinuityX's chief financial officer, investors, and others that ContinuityX was owed millions of dollars by Telecommunications Company for services purportedly provided for two customers of Telecommunications Company.

5. It was further part of the scheme that defendant DAVID GODWIN fraudulently caused ContinuityX to create invoices that falsely represented that Telecommunications Company owed ContinuityX approximately \$4 million for services provided for a portion of September 2012 and approximately \$8 million for

services provided in October 2012, when defendant DAVID GODWIN knew that these invoices were false.

6. It was further part of the scheme that defendant DAVID GODWIN fraudulently represented that he needed the invoices prepared in order to provide them to Telecommunications Company and obtain payment, when defendant DAVID GODWIN knew the amount falsely represented on the invoices was not owed to ContinuityX by Telecommunications Company and he did not intend to provide the invoices to Telecommunications Company.

7. It was further part of the scheme that defendant DAVID GODWIN fraudulently caused the signature of Employee 1 to be forged on a purchase order that represented that Telecommunications Company owed ContinuityX millions a month for services provided to two customers of Telecommunication Company, when defendant DAVID GODWIN knew that the signature was unauthorized and a forgery, and that Telecommunications Company did not owe ContinuityX millions of dollars.

8. It was further part of the scheme that defendant DAVID GODWIN caused himself to be the point of contact within ContinuityX regarding the false invoices and that defendant DAVID GODWIN worked to prevent ContinuityX, Victim Company 1, and Victim Company 2 representatives, and others from having direct contact with Telecommunications Company representatives about the false invoices and the millions of dollars purportedly owed to ContinuityX.

9. It was further part of the scheme that defendant DAVID GODWIN fraudulently caused ContinuityX to use the false invoices to Telecommunications Company as part of an accounts receivable financing agreement with Victim Company 1 and Victim Company 2.

10. It was further part of the scheme that on or about November 13, 2012, at approximately 9:52 a.m., defendant DAVID GODWIN, in order to conceal the fraudulent nature of the invoices from Auditing Firm, CFO and others, created an email that purported to be from a Telecommunications Company employee, Employee 2, which falsely represented that the invoices were genuine, and then forwarded that email to Auditing Firm, CFO, and others, when defendant DAVID GODWIN knew that Employee 2 did not know about or authorize the email and that the invoices were false.

11. It was further part of the scheme that defendants DAVID GODWIN and JOHN COLETTI fraudulently arranged a conference call on or about November 13, 2012 at approximately 1:30 p.m., with Auditing Firm, CFO, and an individual purporting to be Employee 2 in order for Telecommunications Company to confirm the invoices and to confirm that Telecommunications Company owed millions of dollars to ContinuityX, when defendants DAVID GODWIN and JOHN COLETTI knew that defendant JOHN COLETTI was going to pose as Employee 2 on the conference call.

12. It was further part of the scheme that shortly before the conference call on November 13, 2012, at approximately 10:21 a.m., defendant DAVID GODWIN sent an email to defendant JOHN COLETTI to prepare defendant JOHN COLETTI to fraudulently pose as Employee 2 on the call. The email included: (a) the information for the conference call, including the call-in number and access code; (b) the false and fraudulent email purportedly from Employee 2 that defendant DAVID GODWIN forwarded to Auditing Firm and CFO earlier on November 13; and (c) the purchase order that falsely represented that Telecommunications Company owed ContinuityX millions a month for services provided to two customers of Telecommunications Company.

13. It was further part of the scheme that on November 13, 2012, at approximately 1:30 p.m., defendant JOHN COLETTI fraudulently posed as Employee 2, participated in a conference call with defendant DAVID GODWIN, Auditing Firm and CFO, and falsely represented that Telecommunications Company owed millions of dollars to ContinuityX.

14. It was further part of the scheme that on or about November 15, 2012, at approximately 9 a.m., defendant DAVID GODWIN fraudulently sent an email to Victim Company 2 that attached an invoice that falsely represented that ContinuityX was owed approximately \$8 million by Telecommunications Company for services provided in October 2012 and stated that ContinuityX was going to be

paid in full by Telecommunications Company before providing Telecommunications Company its share pursuant to the joint marketing agreement.

15. It was further part of the scheme that on or about November 15, 2012, defendants DAVID GODWIN and JOHN COLETTI fraudulently arranged a conference call with Victim Company 2 in order for Employee 2 to confirm that Telecommunications Company owed millions of dollars to ContinuityX, when defendants DAVID GODWIN and JOHN COLETTI knew that a Employee 2 was not going to be on the call, and instead defendant JOHN COLETTI was going to fraudulently pose as Employee 2.

16. It was further part of the scheme that before the conference call on November 15, 2012, at approximately 1:14 p.m., defendant DAVID GODWIN sent an email to defendant JOHN COLETTI to prepare defendant JOHN COLETTI to pose as Employee 2 on the conference call. The email included: (a) the email that defendant DAVID GODWIN sent to Victim Company 2 earlier that same day regarding the payment of the false invoice; (b) the purchase order that falsely represented that Telecommunications Company owed ContinuityX millions a month for services provided to two customers of Telecommunications Company, and (c) the invoice that falsely represented that Telecommunications Company owed ContinuityX approximately \$8 million for services provided by ContinuityX.

17. It was further part of the scheme that on or about November 15, 2012, at approximately 1:18 p.m., defendant JOHN COLETTI fraudulently posed as a

Employee 2 and participated in a conference call with defendant DAVID GODWIN and a representative of Victim Company 2, and falsely represented that Telecommunications Company owed millions of dollars to ContinuityX.

18. It was further part of the scheme that on or about November 16, 2012, at approximately 9:45 a.m., defendant DAVID GODWIN forwarded the November 13, 2012 email that purported to be from Employee 2 to Victim Company 2 in response to Victim Company 2's request that Telecommunications Company confirm the false invoices in written form.

19. It was further part of the scheme that later on or about November 16, 2012, defendant DAVID GODWIN fraudulently caused ContinuityX to enter an accounts receivable financing agreement with Victim Company 1 and Victim Company 2, by signing the agreement on behalf of ContinuityX, in which Victim Company 1 and Victim Company 2 bought the right to collect on certain accounts receivable, including certain invoices that falsely represented that Telecommunications Company owed ContinuityX over \$12 million, when defendant DAVID GODWIN knew that Telecommunications Company did not owe ContinuityX millions of dollars. As part of the November 16, 2012 agreement, Victim Company 1 and Victim Company 2 disbursed \$6 million for the benefit of ContinuityX, including approximately \$2.7 million that was paid directly to a ContinuityX bank account.

20. It was further part of the scheme that, on or about November 22, 2012, to conceal the false nature of the invoices from CFO and others, defendant DAVID GODWIN fraudulently caused ContinuityX to file a Form 10-Q with the SEC for the quarter ending September 30, 2012, and signed the Form 10-Q as CEO, which recognized revenue of approximately \$7 million for that quarter, \$4 million of which was purportedly from Telecommunications Company, when defendant DAVID GODWIN knew that the revenue purportedly received from Telecommunications Company was false.

21. It was further part of the scheme that defendant DAVID GODWIN sent emails to Victim Company 2, investors, and others fraudulently representing that Telecommunications Company intended to pay ContinuityX millions of dollars on the false invoices, when defendant DAVID GODWIN knew that Telecommunications Company did not owe ContinuityX millions of dollars, never received the false invoices, and did not intend to pay millions of dollars to ContinuityX.

22. It was further part of the scheme that in approximately December 2012 and January 2013, when Victim Company 1, Victim Company 2, CFO and others started to inquire about the timing of the payment of millions of dollars from Telecommunications Company on the false invoices, defendant DAVID GODWIN created emails that purported to be from Employees 1 and 2 that falsely stated that Telecommunications Company intended to pay ContinuityX.

23. It was further part of the scheme that defendants DAVID GODWIN and JOHN COLETTI fraudulently arranged a conference call on or about January 9, 2013 with ContinuityX's CFO in order for Employee 2 to confirm that Telecommunications Company intended to pay ContinuityX on the false invoices, when defendants DAVID GODWIN and JOHN COLETTI knew that a Employee 2 was not going to be on the call and instead defendant JOHN COLETTI was going to fraudulently pose as Employee 2.

24. It was further part of the scheme that on or about January 9, 2013, at approximately 10:53 a.m., defendant JOHN COLETTI fraudulently posed as Employee 2, participated in a conference call with defendant DAVID GODWIN and ContinuityX's CFO, and falsely represented that Telecommunications Company planned to pay the false invoices.

25. It was further part of the scheme that defendants DAVID GODWIN and JOHN COLETTI concealed, misrepresented, and hid, and caused to be concealed, misrepresented, and hidden, the existence, purpose, and acts done in furtherance of the scheme.

26. As a result of the scheme, defendants DAVID GODWIN and JOHN COLETTI fraudulently obtained on behalf of ContinuityX approximately \$6,000,000 from Victim Company 1 and Victim Company 2.

27. On or about October 19, 2012, at Chicago, in the Northern District of Illinois, Eastern Division, and elsewhere,

DAVID GODWIN,

defendant herein, for the purpose of executing the scheme, knowingly caused to be transmitted by means of a wire communication in interstate commerce certain writings, signs, and signals, to Chicago, Illinois, by way of a location outside Illinois, namely an email from ContinuityX's CFO to defendant DAVID GODWIN, which email included fraudulent ContinuityX invoices that represented that Telecommunications Company owed ContinuityX millions of dollars;

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

COUNT TWO

The SPECIAL FEBRUARY 2014 GRAND JURY further charges that:

1. Paragraphs 1 through 26 of Count One of this indictment are incorporated here.

2. On or about November 13, 2012, at approximately 9:52 a.m., at Chicago, in the Northern District of Illinois, Eastern Division, and elsewhere,

DAVID GODWIN,

defendant herein, for the purpose of executing the scheme, knowingly caused to be transmitted by means of a wire communication in interstate commerce certain writings, signs, and signals, from Chicago, Illinois, to a location outside of Illinois, namely an email from defendant DAVID GODWIN to Auditing Firm and others, which email forwarded an email that purported to be from Employee 2 regarding the false invoices;

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

COUNT THREE

The SPECIAL FEBRUARY 2014 GRAND JURY further charges that:

1. Paragraphs 1 through 26 of Count One of this indictment are incorporated here.

2. On or about November 13, 2012, at approximately 10:21 a.m., at Chicago, in the Northern District of Illinois, Eastern Division, and elsewhere,

DAVID GODWIN and
JOHN COLETTI,

defendants herein, for the purpose of executing the scheme, knowingly caused to be transmitted by means of a wire communication in interstate commerce certain writings, signs, and signals, from Chicago, Illinois, to a location outside of Illinois, namely an email from defendant DAVID GODWIN to defendant JOHN COLETTI, which email included information about the false invoices and a conference call with Auditing Firm and others on November 13, 2012;

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

COUNT FOUR

The SPECIAL FEBRUARY 2014 GRAND JURY further charges that:

1. Paragraphs 1 through 26 of Count One of this indictment are incorporated here.

2. On or about November 15, 2012, at approximately 9 a.m., at Chicago, in the Northern District of Illinois, Eastern Division, and elsewhere,

DAVID GODWIN and
JOHN COLETTI,

defendants herein, for the purpose of executing the scheme, knowingly caused to be transmitted by means of a wire communication in interstate commerce certain writings, signs, and signals, from Chicago, Illinois, to a location outside of Illinois, namely an email from defendant DAVID GODWIN to Victim Company 2, which email fraudulently represented that Telecommunications Company was going to pay the false invoices;

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

COUNT FIVE

The SPECIAL FEBRUARY 2014 GRAND JURY further charges that:

1. Paragraphs 1 through 26 of Count One of this indictment are incorporated here.

2. On or about November 15, 2012, at approximately 1:14 p.m., at Chicago, in the Northern District of Illinois, Eastern Division, and elsewhere,

DAVID GODWIN and
JOHN COLETTI,

defendants herein, for the purpose of executing the scheme, knowingly caused to be transmitted by means of a wire communication in interstate commerce certain writings, signs, and signals, from Chicago, Illinois, to a location outside of Illinois, namely an email from defendant DAVID GODWIN to defendant JOHN COLETTI, which email included information about the false invoices;

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

COUNT SIX

The SPECIAL FEBRUARY 2014 GRAND JURY further charges that:

1. Paragraphs 1 through 26 of Count One of this indictment are incorporated here.

2. On or about November 16, 2012, at approximately 9:45 a.m., at Chicago, in the Northern District of Illinois, Eastern Division, and elsewhere,

DAVID GODWIN and
JOHN COLETTI,

defendants herein, for the purpose of executing the scheme, knowingly caused to be transmitted by means of a wire communication in interstate commerce certain writings, signs, and signals, from Chicago, Illinois, to a location outside of Illinois, namely an email from defendant DAVID GODWIN to Victim Company 2, which email forwarded a fraudulent email that purported to be from Employee 2;

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

FORFEITURE ALLEGATION

The SPECIAL FEBRUARY 2014 GRAND JURY further alleges:

1. The allegations contained in this indictment are incorporated here for the purpose of alleging forfeiture pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c).

2. As a result of the violations of Title 18, United States Code, Section 1343, as alleged in Counts One through Six of this indictment,

DAVID GODWIN and
JOHN COLETTI,

defendants herein, 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(c), all property constituting, and derived from, and traceable to, proceeds obtained, directly or indirectly, as a result of defendants' violations of Title 18, United States Code, Section 1343, including approximately \$6,000,000.

3. If any of the forfeitable property described above, as a result of any act or omission by the defendants:

- 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

