

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA) No. 15 CR 306
)
) Violation: Title 18, United States
) Code, Section 1343
NICK WURL)

COUNT ONE

The SPECIAL JANUARY 2014 GRAND JURY charges:

1. At times material to this Indictment:

a. Defendant NICK WURL was the President of Ludiera Capital, LLC, an Illinois company, located in Chicago. Ludiera purported to be in the business of buying, transporting, and selling commodities, such as corn and wheat, domestically and internationally.

b. Ludiera sold shares to investors in a fund that Ludiera purported to own and operate, known as the Diversified Opportunity Portfolio, L.P.

c. The Portfolio purportedly made money based on Ludiera’s business of buying, transporting, and selling commodities.

d. Defendant WURL had exclusive authority to manage the operations and affairs of Ludiera and the Portfolio (hereinafter collectively referred to as Ludiera).

e. Ludiera never engaged in the physical purchase, transportation, or sale of any goods or commodities, and never earned any income, fees, commissions, or

profit from any business operations involving the purchase, transportation, or sale of physical commodities or goods.

f. Defendant WURL had control of Ludiera's funds. He was responsible for soliciting investors on behalf of Ludiera, and preparing and sending account statements to Ludiera investors.

g. Ludiera and its investors agreed that investors would pay Ludiera a management fee of 1% of their investments, which agreement was based on the information provided to investors concerning Ludiera and the nature of the investment. Ludiera was not entitled to any other payment, unless Ludiera was profitable.

2. Beginning in or about no later than July 2013 and continuing until in or about May 2015, in the Northern District of Illinois, Eastern Division, and elsewhere,

NICK WURL,

defendant herein, devised, intended to devise, and participated in a scheme to defraud investors, and to obtain money and property from investors 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 defendant WURL fraudulently obtained at least approximately \$9 million from at least approximately 50 investors through the offer and sale of shares in Ludiera's Diversified Opportunity Portfolio. In offering and selling those shares, defendant WURL made false representations about the nature of Ludiera's business, the financial condition of Ludiera and the Portfolio, the expected return and actual return on the investment, the risk involved in the investment, the status of the

investment, and the use of investors' funds. Defendant WURL misappropriated investors' funds to trade futures and options without disclosing that he was using investors' funds for trading. Defendant WURL also misappropriated investors' funds to pay personal expenses for his own benefit. Defendant WURL fraudulently retained investors' funds and concealed the scheme by preparing and distributing fraudulent account statements to investors.

4. It was further part of the scheme that defendant WURL falsely represented to investors that Ludiera transported physical commodities, which Ludiera had purchased, to other parts of the United States or overseas, where there was significant demand for those goods, and that Ludiera was able to sell those commodities at higher prices in those locations, thereby earning large profits. For example, defendant WURL falsely represented that, in April 2015, Ludiera engaged in two large transactions involving the movement of soybeans from the United States to China. In fact, defendant WURL knew that Ludiera never purchased, transported, or sold actual physical commodities or goods.

5. It was further part of the scheme that defendant WURL fraudulently told investors that their funds would be used in connection with the purchase, transportation, and sale of commodities, when, in fact, he intended to and did misappropriate a significant portion of the investors' funds to trade in futures and options.

6. It was further part of the scheme that defendant WURL falsely represented to investors that in 2014, investors' funds had increased by more than 42%, as a result of profits from Ludiera's business of purchasing, transporting, and selling commodities.

Defendant WURL also falsely represented to investors that in the first three months of 2015, investors' funds had increased by an additional 15%, as a result of profits from Ludiera's business. In fact, defendant WURL knew that the investors' funds had not increased, and, instead, had decreased as a result of defendant WURL's trading losses.

7. It was further part of the scheme that defendant WURL falsely represented to investors that investing with Ludiera involved very little risk, and that they would not lose any money over and above the 1% management fee that they paid to Ludiera. In fact, defendant WURL knew that there was a significant risk that investors would lose money because Ludiera was not buying, transporting, or selling commodities as represented, and defendant WURL was misappropriating investors' funds for other purposes.

8. It was further part of the scheme that defendant WURL made false representations to investors concerning Ludiera's financial position, and provided false financial statements to investors, which included false information concerning Ludiera's sales, net income, and assets. For example, defendant WURL and the financial statements falsely represented that, in 2013, Ludiera had sales of approximately \$116 million, net income of approximately \$16 million, and assets of approximately \$28 million. In fact, defendant WURL knew that those numbers were vastly inflated.

9. It was further part of the scheme that defendant WURL falsely represented to investors that Ludiera's financial statements had been audited by a large reputable outside accounting firm. Defendant WURL intentionally provided a fake letter to investors, which falsely appeared to be from the accounting firm. That letter falsely

represented that the accounting firm had audited Ludiera's financial statements for 2012 and 2013, and that the financial statements gave a true and fair view of Ludiera's financial position. In fact, defendant WURL knew that Ludiera had not been audited, that the letter was false, and that the financial statements significantly misstated Ludiera's financial condition.

10. It was further part of the scheme that defendant WURL falsely represented to investors that Ludiera had obtained financing from the U.S. Department of Agriculture, through its rural development program. Defendant WURL falsely represented to investors that Ludiera had used those funds to purchase land, and to begin construction on a large railroad loading facility, in order to help Ludiera grow and expand. In fact, defendant WURL knew that Ludiera had not obtained any financing, and had not purchased land or started construction on a facility.

11. It was further part of the scheme that defendant WURL misappropriated a portion of investors' funds to pay for personal expenses, including the purchase of two vehicles, repayment of a personal loan, and payment of personal credit card charges. Defendant WURL knew that he was not authorized to use those funds for personal use.

12. It was further part of the scheme that defendant WURL created and sent account statements to investors, which falsely inflated the value of investors' accounts. The account statements also falsely indicated that Ludiera had engaged in profitable transactions involving the purchase, transportation, and sale of physical commodities, such as soybeans. In fact, defendant WURL knew that the investors' account statements were falsely inflated and that Ludiera had not engaged in the transactions listed.

13. It was further part of the scheme that defendant WURL misrepresented, concealed, and hid, and caused to be misrepresented, concealed, and hidden, the existence of the scheme, the purposes of the scheme, and acts done in furtherance of the scheme.

14. It was further part of the scheme that, as a result of his actions, defendant WURL caused losses to investors of at least approximately \$4 million.

15. On or about May 7, 2015, at Chicago, in the Northern District of Illinois, Eastern Division, and elsewhere,

NICK WURL,

defendant herein, for the purpose of executing the scheme to defraud, did knowingly cause to be transmitted in interstate commerce, from Chicago, Illinois to New Jersey, by means of wire communication, certain writings, signs, and signals, namely: an interstate email sent electronically by defendant WURL in Chicago, Illinois, to an investor, Br.Ham., in New Jersey, which email contained false information concerning Ludiera's financial situation, and included an account statement that falsely described transactions by Ludiera and fraudulently inflated the value of the investor's account;

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

Forfeiture Allegation

The SPECIAL JANUARY 2014 GRAND JURY further alleges:

1. Upon conviction of an offense in violation of Title 18, United States Code, Section 1343, as set forth in this Indictment, defendant shall forfeit to the United States of America any property which constitutes and is derived from proceeds traceable to the offense, as provided in Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c).

2. The property to be forfeited includes, but is not limited to:

- a. a personal money judgment in the amount of approximately \$9,000,000, including but not limited to,
- b. the following specific property:
 - i. all monies held by Charles Schwab & Co., Inc., d/b/a OptionsXpress, belonging to, controlled by, or being held for the benefit of defendant NICK WURL, d/b/a Ludiera Capital, LLC, held in any brokerage account, including but not limited to account # xxxx- 0714, in the amount of \$2,990,165.37;
 - ii. all monies held by Boothbay Absolute Return Strategies, LP, belonging to defendant NICK WURL, d/b/a Ludiera Capital, LLC, including, but not limited to, \$408,703.08;
 - iii. all monies held by JP Morgan Chase Bank, N.A. belonging to defendant NICK WURL, d/b/a Ludiera Capital, LLC, held in any account, including but not limited to an account ending in 7075, in the amount of \$14,476.22, and an account ending in 6270, in the amount of \$16,243.03;
 - iv. all monies held by Interactive Brokers, LLC, belonging to defendant NICK WURL, d/b/a Ludiera Capital, LLC, including, but not limited to, \$10,000;
 - v. a 2014 Chevrolet Corvette, VIN 1G1YM2D73E5100977; and

vi. a 2015 GMC Yukon Denali, VIN 1GKS2CKJ6FR604011.

3. If any of the property described above, as a result of any act or omission by a defendant: cannot be located upon the exercise of due diligence; has been transferred or sold to, or deposited with, a third party; has been placed beyond the jurisdiction of the Court; has been substantially diminished in value; or 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, as provided in Title 21, United States Code Section 853(p).

A TRUE BILL:

FOREPERSON

UNITED STATES ATTORNEY