

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA : Criminal No. 12-
:
: 18 U.S.C. § 1343
v. : 18 U.S.C. § 981(a)(1)(C)
: 28 U.S.C. § 2461
MICHAEL PENISTON :
: INFORMATION

The defendant having waived in open court prosecution by indictment, the United States Attorney for the District of New Jersey charges:

1. At all times relevant to this Information:

a. Defendant MICHAEL PENISTON was the founder and president of Venture Development Associates, Inc. ("VDA"), a company in Farmingdale, New Jersey, that held itself out as specializing in the procurement of corporate financing.

b. J.S. was an individual who resided in La Grange, Illinois.

2. From in or about January 2008, through in or about July 2011, MICHAEL PENISTON did knowingly and wilfully devise and intend to devise a scheme and artifice to defraud J.S. of money, namely, approximately \$49,640 in wire transfers that MICHAEL PENISTON obtained from J.S. by means of materially false and fraudulent pretenses, representations, and promises, as set forth below.

3. It was part of the scheme and artifice to defraud that MICHAEL PENISTON falsely represented to J.S. in January and February 2008 that MICHAEL PENISTON would use J.S.'s capital to acquire "via lease procedure" a "bank instrument" valued at 500,000,000 Euros and held at a bank in Liechtenstein. MICHAEL PENISTON further falsely represented that MICHAEL PENISTON and VDA would use the bank instrument to purchase "Medium Term Notes," which MICHAEL PENISTON and VDA would sell at a profit. MICHAEL PENISTON falsely stated that he would pay J.S. half the profits from the trading.

4. It was part of the scheme and artifice to defraud that MICHAEL PENISTON signed a February 1, 2008, "Agreement" between VDA and J.S. that memorialized the false representations noted in paragraph 3.

5. It was part of the scheme and artifice to defraud that J.S., in reliance on MICHAEL PENISTON's false representations, signed the Agreement.

6. It was part of the scheme and artifice to defraud that J.S., in reliance on MICHAEL PENISTON's false representations, provided funds directly to MICHAEL PENISTON by the following wire transfers to a VDA bank account at Sovereign Bank controlled by MICHAEL PENISTON:

Date	Wire Amount
Feb. 1, 2008	\$20,000
Feb. 6, 2008	\$24,640
Feb. 7, 2008	\$5,000

7. It was part of the scheme and artifice to defraud that MICHAEL PENISTON used these funds for personal expenditures and never acquired a "bank instrument" or any Medium Term Notes.

8. It was part of the scheme and artifice to defraud that MICHAEL PENISTON continued to communicate with J.S., including via e-mail, after the Agreement was signed, during which MICHAEL PENISTON falsely informed J.S. that the transactions for Medium Term Notes were imminent and, later, that they had taken place. For example:

a. MICHAEL PENISTON signed a "Private Placement Partnership Agreement," on or about February 29, 2008, that falsely represented to J.S. that MICHAEL PENISTON and VDA would enter into "Medium Term Note" transactions and would pay J.S. \$37,400,000 over a period of 40 out of 56 weeks.

b. MICHAEL PENISTON sent a letter to J.S. dated April 18, 2008, in which MICHAEL PENISTON falsely represented the following: "Please be advised that the 'transaction', albeit several weeks late, has been concluded. The release of funds has been forwarded to The Bank of New York for distribution to Bank of America"

9. It was part of the scheme and artifice to defraud that MICHAEL PENISTON, in late July 2011, contacted J.S., and promised him restitution. It was further part of the scheme and artifice to defraud that, on July 29, 2011, MICHAEL PENISTON faxed J.S. a copy of a Sovereign Bank check for \$200,000, and a copy of a United Parcel Service shipping label, which together falsely represented that MICHAEL PENISTON was providing these funds to his attorney T.N., who would in turn pay J.S., when, in fact, MICHAEL PENISTON had never sent this \$200,000 check to T.N.

10. On or about February 1, 2008, in Monmouth County, in the District of New Jersey, and elsewhere, for the purpose of executing and attempting to execute the scheme and artifice to defraud, the defendant,

MICHAEL PENISTON,

did knowingly and willfully cause to be transmitted, by means of wire communication in interstate commerce, writings, signs, and signals, namely, a wire transfer of \$20,000 from J.S. to a bank account controlled by MICHAEL PENISTON at Sovereign Bank.

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

FORFEITURE ALLEGATION

1. The prior allegations contained in this Information are hereby realleged and incorporated by reference for the purpose of noticing forfeitures pursuant to Title 28, United States Code, Section 2461(c).

2. The United States hereby gives notice to the Defendant that, upon conviction of the offense charged, the government will seek forfeiture, in accordance with Title 28, United States Code, Section 2461(c), and Title 18, United States Code, Section 981(a)(1)(C), of any and all property, real or personal, that constitutes or is derived from proceeds traceable to the violation of Title 18, United States Code, Section 1343, alleged in this Information of this including but not limited to the following:

- a. A sum of money equal to at least \$49,640 in United States currency.

3. If by any act or omission of the defendant, any of the property subject to forfeiture described in paragraph 2 herein:

- 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 subdivided without
difficulty,

the United States of America will be entitled to forfeiture of substitute property up to the value of the property described above in paragraph 2, pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 28, United States Code, Section 2461(c).



PAUL J. FISHMAN
United States Attorney

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