

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

**UNDER
SEAL**

UNSEALED 9/20/12

UNITED STATES OF AMERICA

Case No. 3:12-cv-00485-KJ

INDICTMENT

v.

JON MICHAEL HARDER,

Defendant.

18 U.S.C. § 2 (Aiding and abetting)
18 U.S.C. § 1341 (Mail Fraud)
18 U.S.C. § 1343 (Wire Fraud)
18 U.S.C. § 1957 (Money Laundering)
18 U.S.C. §§ 981, 982;
28 U.S.C. § 2461 (Crim. Forfeiture)

FORFEITURE ALLEGATION

*****UNDER SEAL*****

THE GRAND JURY CHARGES:

I. Introduction and Overview

1. Beginning not later than 2006 and continuing until mid-2008, defendant JON MICHAEL HARDER (“HARDER”), in the District of Oregon and elsewhere, defrauded more than 1,000 investors out of approximately \$130 million.

2. Defendant HARDER, directly and through other persons and entities, known and unknown to the grand jury, who were under his employ, supervision and control, or acting in combination or concert with him, by means of a scheme and artifice to defraud and through materially false and fraudulent pretenses, representations, and promises and material omissions solicited investments across the country into Sunwest Management, Inc., and its affiliated businesses (“Sunwest” or “the Sunwest Enterprise”), all of which HARDER controlled, allegedly

for the purpose of acquiring, managing, and constructing senior housing facilities, known as assisted living facilities (“ALFs”).

3. HARDER’s scheme and artifice was based on three materially false promises and representations, that : 1) investors would be investing in a specific individual senior housing facility or ALF; 2) any return on their investment would be based solely on the financial performance of that individual ALF; and 3) Sunwest was a financially strong and successful company. In truth and fact: 1) investors’ money in a particular ALF was commingled with investments from all investors in all ALFs as well as with bank loans for these ALFs; and 2) at least as far back as 2006, Sunwest was losing millions of dollars a year.

4. As a result of the success of the scheme and artifice, and notwithstanding the fact that Sunwest was losing millions of dollars a year starting at least as far back as 2006, during the period 2006-2008, HARDER through Sunwest raised over \$300 million from over 1,000 investors in Oregon and throughout the country. As Sunwest began to collapse and as its losses mounted, HARDER went on an acquisition binge to fund his business empire and to mask losses and the commingling of funds. During the period 2006- 2008, HARDER and Sunwest, in addition to duping over 1000 investors and banks which were lending money, acquired over 100 facilities, buying ALFs at the rate of approximately one per week. Before Sunwest collapsed from the weight of the fraud, Sunwest, at its height, had acquired approximately three hundred senior housing facilities/ALFs serving over 15,000 residents with an average age of 85.

II. The Defendant

5. HARDER, an Oregon resident, before he resigned from his positions with the Sunwest Enterprise, was the founder, majority owner, Chief Executive Officer, and President of Sunwest Management, Inc. (“SMI”). He was also the founder, owner in whole or in part, and the

person in control of the vertically integrated Sunwest businesses, corporations and limited liability companies, otherwise known as Sunwest or the Sunwest Enterprise, and described below.

III. The Sunwest Enterprise

6. HARDER developed a complex, vertically integrated set of companies which he used to market investments and obtain bank loans, acquire ALFs, manage ALFs, construct new ALFs, furnish and decorate ALFs, solicit tenants for the ALFs, hire employees to work at the ALFs, and insure the employees and facilities. HARDER exercised complete control over the entire enterprise and had an ownership if not controlling ownership interest in each segment of the enterprise, including an interest in each ALF. Chief among the corporate components of Sunwest Enterprise were:

a. Sunwest Management, Inc. (“SMI”) is an Oregon corporation formed on or about February 27, 1992. HARDER owned approximately 75% of SMI and was Chief Executive Officer, President and a Director of the company. The principal business of SMI was managing ALFs.

b. Canyon Creek Development, Inc. (“CCD”) is an Oregon corporation formed on or about March 28, 2001. HARDER owned approximately 60% of CCD and was the Vice President and a Director of the company. The primary business of CCD was the acquisition of property for Sunwest to manage, and to gather information that would be used in investment documents that were distributed to investors as part of the sales process.

c. Canyon Creek Financial, LLC (“CCF”) is an Oregon Limited Liability Company formed on November 4, 2005. As of December 31, 2008, HARDER

owned 100% of CCF. CCF was licensed by the United States Securities and Exchange Commission (“SEC”) and the Financial Industry Regulatory Authority (“FINRA”) as a broker-dealer, limited to the private placement of securities sponsored by the property developer CCD.

d. Senenet, Inc. is an Oregon corporation formed on August 14, 2002. As of December 31, 2008, HARDER owned approximately 80% of Senenet. HARDER was President and a Director of Senenet. The primary business of Senenet was the leasing of employees to other affiliated companies, including but not limited to CCD, CCF, and senior living facilities.

e. KDA Construction, Inc. is an Oregon corporation formed on or about March 15, 2000. As of December 31, 2008, HARDER owned 41% of KDA Construction. The primary business of KDA was to provide construction services to senior living facilities and properties sponsored by CCD and managed by SMI.

7. The Sunwest Enterprise, taking into account the establishment of several legal entities for each ALF, consisted of over 700 corporations, partnerships and limited liability companies. All of these entities were controlled by HARDER, and he had an ownership interest in almost every one.

IV. The Sunwest Investment Program As Marketed to Investors and to Banks.

8. Beginning in 2001 and running through 2008, Sunwest offered to investors an opportunity to invest in ALFs either through the purchase of tenancy in common interests (“TIC”) or preferred membership interests. Starting in 2006, the majority of investors were sold TIC interests; which as described below, were supposed to be a tax free exchange of the investor’s previous interest in a property with an interest in a Sunwest ALF.

9. Starting in 2006, the TIC offerings were sold in a consistent manner. CCD identified a property to be acquired and managed by SMI. Investors would buy an ownership interest in a specific ALF through a tenancy in common ownership interest, which was a way for the investor to engage in a tax free exchange of an ownership interest in one property into an ownership interest in a specific ALF. The ALF would be co-owned by a separate limited liability company that would be owned by HARDER. The money invested by the TIC owners would be used as a down payment for the property purchase, with the remainder of the purchase price to be financed by a bank loan or mortgage obtained by HARDER's limited liability company (the "Co-Owner"). Once purchased through the TIC investments and bank loans, the ALF would be leased to and managed by other companies in the Sunwest Enterprise that were owned in whole or in part by HARDER and in most instances completely controlled by him.

10. CCF was formed to market and sell ALF investments to these TIC investors. CCF would market and sell TIC investments directly to investors and through third party brokers who specialized in these types of tax free property exchanges, known as IRS 1031 Exchanges. CCF used various marketing materials, including private placement memoranda ("PPMs"), Executive and Offering Summaries, and Offering Memoranda. These marketing materials and documents were sent to investors and potential investors throughout the country by the United States Postal Service ("USPS"), United Parcel Services ("UPS"), FEDEX, facsimile, and e-mail.

11. The sales program was marketed through the distribution of the sales documents described above in investor meetings and through HARDER's personal sales efforts. The general sales pitch made by HARDER and those working for and with him emphasized certain points. First, investors were told that they would be investing in specific ALFs, not the Sunwest Enterprise as a whole. Second, they were told that their investment in a specific ALF would

generate an annual return, paid in the form of “rent” from the particular facility. Typically, the investor was told that they would receive an annual 8-10% return as rent. Although the investment documents, such as the PPM, disclosed that a property might not generate sufficient income to pay the rent, the documents made clear that the rent, if paid, would come from the positive cash flow from the specific ALF in which the investor put in money. In addition, rent could be paid from funds set aside as a reserve.

12. To assuage investor concerns that rent would be paid, investors were told that Sunwest had a history of never missing a rent payment. This statement led investors and potential investors to believe that Sunwest was a successful business.

13. The marketing information provided to investors touted Sunwest’s expertise and ability to use economies of scale to lower ALF operating costs and improve profitability. The investment literature described a process of refinancing the property such that in addition to receiving the annual 8-10% rent, upon refinancing, the TIC investor would receive back the original investment and a 2% return for each year of the TIC investment.

14. As part of the marketing scheme, investors were told that financial security of the facility and the ability to pay rent were backed by the principals of Sunwest, including HARDER and Darryl Fisher, who was the Chief Operating Officer of SMI and the largest minority interest owner in SMI and CCD. HARDER purported to have a net worth of approximately \$300 million.

15. In 2008, as the Sunwest Enterprise began to collapse, and as it became more difficult for Sunwest to acquire new properties and refinance existing properties, Sunwest accelerated their program of selling preferred membership interests in certain properties. The

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preferred investors purchased a percentage interest in the entity operating a specific ALF.

Preferred membership interest investors received an annual 10% return.

V. The Manner and Means of the Scheme and Artifice

16. HARDER, either directly or through other persons or entities under his employ, supervision and control, or acting in concert with them, engaged in a scheme and artifice to defraud and to obtain money and property through materially false and fraudulent pretenses, representations, and promises concerning the investment program. Among the materially false and fraudulent representations were:

a. Investor Funds Would Be Invested In A Specific Assisted Living Facility.

It was represented both orally and in writing that investor funds would be used for expenses and costs associated with a specific property. Although the investment documents changed over time, they all included specific language concerning ALF investments being single purpose entities whose sole purpose was to acquire, further develop and operate a specific property. This same single purpose representation was made orally at investment meetings. In truth and fact, HARDER ran Sunwest as a single, integrated unitary enterprise, commingling investor funds from the numerous ALFs into commingled bank accounts which would then be used for operational purposes of all ALFs, among other things. These commingled funds were used to pay the so called rents which were supposed to be related to specific properties.

b. Investments Were Independent of the Success or Failure of Other Sunwest

Properties. It was represented both orally and in writing that investments in a particular ALF were not impacted by the success or failure of other ALFs under

management and control of Sunwest. In truth and fact, since all funds were commingled and since the Sunwest Enterprise was run as a single, integrated unitary business, money from successful facilities was diverted to unsuccessful ALFs, and each ALF became dependent on the success of the enterprise as a whole.

c. Sunwest Was A Successful Business. Investors were induced to invest in part on the materially false representation, made orally and in writing, that Sunwest was a financially successful business. In truth and fact, by 2006, Sunwest was losing millions of dollars each year. Facilities were only partially filled and often in disrepair. ALF vendor payments were delayed. Construction reserves from bank loans were looted to pay operational expenses. Sunwest stayed afloat through its commingling of funds and by operating as a Ponzi scheme: Sunwest relied on the new cash infusion from investors and bank loans and refinancing as it acquired facilities at the rate of one a week in order to prop up its failed business practices. In addition, as described below, Sunwest relied on bank reserves from loans it obtained through misleading and often fraudulent representations and material omissions, and by relying on escalating personal loans obtained by HARDER to fill cash needs.

d. Sunwest Never Missed a Payment to Investors. One of the critically important marketing pitches employed by HARDER and those working for and with him was that Sunwest never missed a “rent” payment to an investor. In truth and fact, those rent payments often did not come from the success of the facility in which the investor invested. Instead, it came from the commingled funds,

looting of loan reserves, fraudulently obtained bank loans and personal loans taken by HARDER.

e. Reserve Accounts Would Cover Expenses Until Profitable. Many of the ALFs were acquired at a time when the facility itself was not fully occupied. To assure investors that they would receive their “rents” while the ALF was brought up to near full occupancy, investors were told orally and in writing that reserves would be set aside to be used for rent payments until such time as the occupancy rate was sufficiently high to cover all expenses and provide a return in the form of rent to investors. In truth and fact, the reserves were often used for purposes wholly unrelated to the particular facility for which the reserve was established.

f. HARDER and the Principals of Sunwest Personally Guaranteed Investor Funds. Investors were told that the Sunwest principals would personally guarantee their investments. HARDER was held out as a man of immense wealth with a financial statement showing a net worth of approximately \$300 million. In truth and fact, HARDER’s financial statement was based on artificially established values of the ALFs in which HARDER had an ownership interest; values which HARDER himself established. The financial statements did not reflect the dramatic losses being experienced by the ALFs, the state of occupancy of the ALFs, and ALFs which were in disrepair.

g. TIC Investors Would Have Their Investments Processed in Accordance With the Requirements of Internal Revenue Code Section 1031, Dealing With Tax Free Exchanges of Property. During the period 2006-2008, the majority of the \$300 million invested came from TIC investors. The TIC investors were

interested in deferring tax payments on the sale of property they had once owned, and under Section 1031 of the Tax Code, they were entitled to do so if they were exchanging one property for another. This required the investor to exchange the proceeds from the ownership of a particular piece of property for ownership in another specific piece of property within a specified period of time. For this exchange to satisfy IRS requirements, the investor had to buy an ownership interest, as a tenant in common with other owners, in a specific ALF. In truth and fact, due to the commingled use of funds and the unitary nature of the integrated enterprise of a collection of ALFs, the IRS requirements could not be met.

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17. It was further part of the scheme and artifice that HARDER, acting alone and in concert with others, travelled throughout the country to solicit investors and obtain bank loans. As part of the interstate nature of the scheme and artifice:

- a. Investor meetings were held at various locations throughout the country;
- b. HARDER, using expensive Sunwest jets that the enterprise could not afford, visited properties and lenders throughout the country;
- c. Offering materials and other investment related materials were distributed throughout the country by mail, FEDEX, UPS, facsimile, and e-mail; and
- d. Communications to investors throughout the country occurred through meetings, telephone calls, e-mail and the means described above.

18. It was further part of the scheme and artifice that HARDER through Sunwest employed two prominent law firms to distribute investment literature to and receive executed investment documents from investors, thereby lending an air of legitimacy to the investment

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related documents when, in truth and fact, the investment documents were riddled with material falsehoods and omissions.

19. It was further part of the scheme and artifice that HARDER, in order to prop up the deteriorating financial situation of the Sunwest Enterprise, relied on personal promissory notes to fulfill the basic needs and obligations of the ALFs.

20. It was further part of the scheme and artifice that at least since 2006, HARDER operated the Sunwest Enterprise as a Ponzi scheme dependent on the cash infusion from new investors, bank loans and the refinancing of existing facilities. Due to the severe cash drain from a money losing enterprise, HARDER was dependent on new cash to pay promised rents to existing investors and to fund essential operations of existing facilities such as payroll, utilities, maintenance, and food vendors. In particular, investor money and loan reserves for existing facilities as well as cash infusions through bank loans were often looted and diverted to pay for food for senior residents, to keep the lights on, and to pay the employees who were assisting the senior residents.

21. It was further part of the scheme and artifice that HARDER defrauded financial institutions which made the original loans to purchase the facilities and refinanced existing loans. Such loans were given to Sunwest ALFs based on materially false representations and material omission of facts, such as the commingling of funds, HARDER's false financial statements, the diversion of money into non-senior housing investments, and the failure to abide by loan covenants.

22. It was further part of the scheme and artifice that rent payments from the ALF tenants did not stay with the ALF itself but rather were diverted and commingled with funds

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from all sources and used for purposes wholly unrelated to the particular ALF from which the rents were generated.

23. It was further part of the scheme and artifice that HARDER exercised total control over the Sunwest Enterprise, including but not limited to, movement of money and dissemination of financial information amongst the Sunwest entities and acquired ALFs, in order to, among other things, mask the true financial condition of the business from investors and lenders. In addition, HARDER did not routinely provide financial statements to many of the investors, and failed to disclose that many of the bank loans were in default and loan covenants were routinely ignored and violated.

24. It was further part of the scheme and artifice that HARDER, acting alone and through his associates and employees of Sunwest companies he controlled, continued to raise money and solicit investors, particularly in 2008, when HARDER well knew that many of the loans were in default and the Sunwest Enterprise was on the verge of bankruptcy. Knowing the full extent of the dire financial predicament of Sunwest, HARDER continued to defraud and mislead by soliciting and obtaining preferred investments in ALFs.

Count 1 - 25

(Mail Fraud - 18 U.S.C. §§ 2 and 1341)

25. **Scheme and Artifice:** The Grand Jury incorporates paragraphs 1-24 as if set forth fully herein and re-alleges the scheme and artifice to defraud and to obtain money and property from another person by means of materially false and fraudulent pretenses, representations and promises, and material omissions of fact, as described in those paragraphs.

26. On or about the dates listed below, in the District of Oregon and elsewhere, defendant JON MICHAEL HARDER, having knowingly devised and intended to devise the

aforementioned scheme and artifice to defraud, and to obtain money and property by means of materially false and fraudulent pretenses, representations and promises, and through omissions of material fact, for the purpose of executing and attempting to execute the scheme and artifice, did knowingly cause to be delivered by the United States Postal Service or commercial interstate carrier to the recipients and at the locations show below, each use of mails being a separate count of this Indictment:

Count	Date	From	To	Mailing
1	2/07/2008	Portland, OR.	Tigard, OR.	J. B. investment documents for Paragon Gardens.
2	5/12/2008	Tigard, OR.	Portland, OR.	J. B. investment documents for Paragon Gardens.
3	12/26/2007	Mercer Island, WA.	Portland, OR.	S. B. investment documents for Clovis Senior Living.
4	1/25/2008	Mercer Island, WA.	Portland, OR.	S. B. investment documents for Paragon Gardens.
5	5/12/2008	Portland, OR.	Loma Linda, CA.	N. B. investment documents for Sunrise Creek.
6	1/22/2008	Junction City, OR.	Portland, OR.	P. E. & S. E. investment documents for Hobbs Assisted Living.
7	1/11/2008	Bismarck, ND.	Portland, OR.	R. G. investment documents for West Salem Senior Living.
8	3/06/2008	Salem, OR.	Bismarck, ND.	R. G. investment documents for Paragon Gardens.
9	12/21/2007	Portland, OR.	Tigard, OR.	K. H. and R. H. investment documents for Clovis Senior Living.
10	6/17/2008	Portland, OR.	Tigard, OR.	K. H. and R. H. investment documents for Sunrise Creek.

Count	Date	From	To	Mailing
11	1/11/2008	West Linn, OR.	Portland, OR.	R. H. and D. H. investment documents for Hobbs Assisted Living.
12	1/11/2008	Portland, OR.	Keizer, OR.	R. H. and D. H. investment check for Hobbs Assisted Living.
13	12/21/2007	Sherwood, OR.	Portland, OR.	L. H. and J. H. investment documents for Clovis Senior Living.
14	11/26/2007	Salem, OR.	Portland, OR.	L. H. and K. H. investment documents for West Salem Senior Living.
15	12/11/2007	Salem, OR.	Salem, OR.	Canyon Creek Financial, LLC, letter to L. H. and K. H., Re: West Salem Senior Living.
16	3/05/2008	Salem, OR.	Salem, OR.	Sunwest Member Disbursement Account check payable to L. H. and K. H.
17	1/11/2008	Gresham, OR	Portland, OR	L. M. and M. M. investment documents for Hobbs Assisted Living.
18	1/11/2008	Fairview, OR.	Keizer, OR.	L. M. and M. M. investment check for Hobbs Assisted Living.
19	6/06/2008	Lake Oswego, OR.	Scotts Mill, OR.	Equity Advantage, Incorporated letter dated June 10, 2008, w/encl. investment exchange documents for Nashville Senior Living to J. P.
20	3/14/2008	Portland, OR.	Sherman Oaks, CA.	M. R. and L. R. investment documents for Paragon Gardens.
21	5/02/2008	Baltimore, MD.	Portland, OR.	W. S. and M. S. investment documents for Hobbs Assisted Living.

Count	Date	From	To	Mailing
22	5/27/2008	Baltimore, MD.	Portland, OR.	W. S. and M. S. investment documents for Sunrise Creek.
23	6/03/2008	Bend, OR.	Portland, OR.	J. T. investment documents for Nashville Senior Living.
24	5/19/2008	Salem, OR.	Portland, OR.	R. W. investment documents for West Salem Senior Living.
25	5/13/2008	Salem, OR.	Portland, OR.	R. W. investment documents for Paragon Gardens.

All in violation of Title 18, United States Code, Sections 2 and 1341.

Counts 26 - 36

(Wire Fraud - 18 U.S.C. §§ 2 and 1343)

27. **Scheme and Artifice:** The Grand Jury incorporates paragraphs 1-24 as if set forth fully herein and re-alleges the scheme and artifice to defraud and to obtain money and property from another person by means of materially false and fraudulent pretenses, representations and promises, and material omissions of fact, as described in those paragraphs.

28. On or about the dates listed below, in the District of Oregon and elsewhere, defendant JON MICHAEL HARDER, having knowingly devised and intended to devise the aforementioned scheme and artifice to defraud, and to obtain money and property by means of materially false and fraudulent pretenses, representations and promises, and through omissions of material fact, for the purpose of executing and attempting to execute the scheme and artifice, did knowingly cause to be transmitted by interstate and foreign commerce by means of wire

communications, writings, signals, and sounds to the recipients and at the locations shown below, each interstate communication or communication in foreign commerce being a separate count in the Indictment:

Count	Date	Wire Communication	Origin	Destination
26	2/12/2008	\$250,000.00 wire transfer re: Paragon Gardens.	U.S. Bank, J. B., Tigard, OR.	First American Trust Company, FSB Santa Ana, CA.
27	5/12/2008	\$150,000.00 wire transfer re: Paragon Gardens.	Rivermark Community Credit Union, J. B., Beaverton, OR	First American Trust Company, FSB Santa Ana, CA.
28	5/21/2008	Facsimile re: Investment documents signature pages for Sunrise Creek.	Loma Linda, CA., N. B.	Portland, OR. – Davis, Wright Tremaine.
29	1/22/2008	\$100,000.00 wire transfer re: Hobbs Assisted Living.	Food Industries Credit Union, P. E., Springfield, OR.	First American Trust Company, FSB Santa Ana, CA.
30	12/05/2007	Facsimile of CCF Confidential Accredited Investor Questionnaire	R. G., Bismarck, ND.	Canyon Creek Financial, LLC Salem, OR.
31	11/11/2008	\$10,250.00 wire transfer re: West Salem Senior Living.	Starion Financial, R. G., Bismarck, ND.	Bank of the Cascades Salem, OR.

Count	Date	Wire Communication	Origin	Destination
32	1/11/2008	\$182,592.21 wire transfer re: West Salem Senior Living.	North Dakota Guaranty and Title Company, R. G., Bismarck, ND via Wells Fargo Bank San Francisco, CA.	Bank of the Cascades Salem, OR.
33	3/06/2008	Facsimile re: Investment documents signature pages for Paragon Gardens.	R. G., Bismarck, ND.	Canyon Creek Financial, LLC Salem, OR.
34	6/06/2008	\$293,250.00 wire transfer re: Nashville Senior Living.	Umpqua Bank – Equity Advantage Inc. J. P., Lake Oswego, OR.	First American Trust Company, FSB Santa Ana, CA.
35	4/07/2008	Facsimile re: Paragon Gardens investment documents	M. R. and L. R., Sherman Oaks, CA.	Canyon Creek Financial, LLC Salem, OR.
36	6/06/2008	\$81,336.98 wire transfer re: Nashville Senior Living.	Umpqua Bank – Equity Advantage Inc. J. T., Lake Oswego, OR.	First American Trust Company, FSB Santa Ana, CA.

All in violation of Title 18, United States Code, Sections 2 and 1343.

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Counts 37 - 56

(Engaging in monetary transactions in property derived from specified unlawful activity -
18 U.S.C. §§ 2 and 1957)

29. The grand jury incorporates paragraphs 1-28 above, Counts 1-25 (Mail Fraud), and Counts 26-36 (Wire Fraud) as if set forth in full herein.

30. On or about the dates shown below, in the District of Oregon and elsewhere, defendant JON MICHAEL HARDER, did knowingly engage and attempt to engage in monetary transactions, in or affecting interstate commerce, in criminally derived property of value greater than \$10,000 by depositing, withdrawing, transferring or exchanging funds, by, through, or to a financial institution, such property having been derived from a specified unlawful activity, that is mail fraud, as set out in Counts 1-25, and wire fraud, as set out in Counts 26-36, which are incorporated by reference herein:

Count	Date	Amount	Transaction
37	5/07/2008	\$40,000.00	Jon M. & Kristin P. Harder Wells Fargo Bank account #XXX-XXX8106, online transfer to Wells Fargo Bank account #XXX-XXX3578, a personal account of Jon M. & Kristin P. Harder
38	5/16/2008	\$50,000.00	Jon M. & Kristin P. Harder Wells Fargo Bank account #XXX-XXX8106, online transfer to Wells Fargo Bank account #XXX-XXX3578, a personal account of Jon M. & Kristin P. Harder
39	6/06/2008	\$25,000.00	Jon M. & Kristin P. Harder Wells Fargo Bank account #XXX-XXX4517, online transfer to Wells Fargo Bank account #XXX-XXX3578, a personal account of Jon M. & Kristin P. Harder

Count	Date	Amount	Transaction
40	6/13/2008	\$50,000.00	Jon M. & Kristin P. Harder Wells Fargo Bank account #XXX-XXX8106, online transfer to Wells Fargo Bank account #XXX-XXX3578, a personal account of Jon M. & Kristin P. Harder
41	6/27/2008	\$20,000.00	Jon M. & Kristin P. Harder Wells Fargo Bank account #XXX-XXX8106, online transfer to Wells Fargo Bank account #XXX-XXX3578, a personal account of Jon M. & Kristin P. Harder
42	1/11/2008	\$25,170.80	Jon M. & Kristin P. Harder Wells Fargo Bank account #XXX-XXX4517, check #016303, payable to Bank of Whitman for Harder home loan.
43	2/4/2008	\$23,647.19	Jon M. & Kristin P. Harder Wells Fargo Bank account #XXX-XXX4517, check #016560, payable to Bank of Whitman for Harder home loan.
44	3/12/2008	\$23,000.00	Jon M. & Kristin P. Harder Wells Fargo Bank account #XXX-XXX4517, check #017134, payable to Bank of Whitman for Harder home loan.
45	4/10/2008	\$23,000.00	Jon M. & Kristin P. Harder Wells Fargo Bank account #XXX-XXX4517, check #017819, payable to Bank of Whitman for Harder home loan.
46	5/6/2008	\$30,000.00	Jon M. & Kristin P. Harder Wells Fargo Bank account #XXX-XXX4517, check #018524, payable to Bank of Whitman for Harder home loan.
47	4/4/2008	\$26,856.00	Jon M. & Kristin P. Harder Wells Fargo Bank account #XXX-XXX4517, check #017666, payable to Olson Barker Cabinets for Harder South Beach Home.

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Count	Date	Amount	Transaction
48	4/4/2008	\$13,984.00	Jon M. & Kristin P. Harder Wells Fargo Bank account #XXX-XXX4517, check #017652, payable to Vandervert Ranch Assoc., Inc. for Harder Vandervert Ranch Home.
49	3/5/2008	\$20,000.00	Jon M. & Kristin P. Harder Wells Fargo Bank account #XXX-XXX4517, check #017038, payable to Olson Barker Cabinets for Harder South Beach Home.
50	6/12/2008	\$12,195.00	Jon M. & Kristin P. Harder Wells Fargo Bank account #XXX-XXX4517, check #019246, payable to Olson Barker Cabinets for Harder South Beach Home
51	1/30/2008	\$30,800.55	Jon M. & Kristin P. Harder Wells Fargo Bank account #XXX-XXX4517, check #016428, payable to Chown for Harder South Beach Home.
52	3/4/2008	\$25,000.00	Jon M. & Kristin P. Harder Wells Fargo Bank account #XXX-XXX4517, check #016971, payable to EM Bull Springs Holdings, LLC for bare land purchase near Bend.
53	4/4/2008	\$25,000.00	Jon M. & Kristin P. Harder Wells Fargo Bank account #XXX-XXX4517, check #017620, payable to EM Bull Springs Holdings, LLC for bare land purchase near Bend.
54	5/8/2008	\$25,000.00	Jon M. & Kristin P. Harder Wells Fargo Bank account #XXX-XXX4517, check #018547, payable to EM Bull Springs Holdings, LLC for bare land purchase near Bend.
55	6/5/2008	\$25,000.00	Jon M. & Kristin P. Harder Wells Fargo Bank account #XXX-XXX4517, check #019112, payable to EM Bull Springs Holdings, LLC for bare land purchase near Bend.

Count	Date	Amount	Transaction
56	12/28/2007	\$66,483.49	Jon M. & Kristin P. Harder Wells Fargo Bank account #XXX-XXX4517, wire transfer to First American Trust Company, FSB for the benefit of First American Title Company for Harder Highlands Lot, 62656 Rowallen, Ct., Bend, OR.

All in violation of Title 18 United States Code, Sections 2 and 1957.

FORFEITURE ALLEGATION NO. 1

Upon conviction of one or more of the offenses alleged in Counts 1 through 36 of this Indictment, defendant JON MICHAEL HARDER shall forfeit to the United States pursuant to 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c), any property constituting or derived from proceeds obtained directly or indirectly as a result of the violations of Mail Fraud (18 U.S.C. § 1341) or Wire Fraud (18 U.S.C. § 1343), including but not limited to the following:

1. PROCEEDS

A sum of money equal to \$130,000,000.00 in United States currency, representing the amount of proceeds obtained as a result of mail fraud and wire fraud.

2. VEHICLES:

- A) A 2006 Ford F150, VIN 1FTPX14546NA17580;
- B) A 2004 Land Rover, VIN SALME11414A161265;
- C) A 2006 Volkswagen Jetta, VIN 3VWST71K66M680305; and a
- D) A 2007 Mercedes, VIN WDDNG71X37A06389.

3. PERSONAL PROPERTY:

- A) One (1) Diamond Ring, multiple 2-carat diamonds with D-color and VS quality; and

B) Genelux Stock Options valued at \$99,999.00

4. REAL PROPERTIES:

A) All that lot or parcel of land, together with its buildings, appurtenances, improvements, fixtures, attachments and easements, located at **17600 Vandervert Road, Bend, Deschutes County, Oregon**, more particularly described as:

Tract L, VANDERVERT RANCH PHASE II, Deschutes County, Oregon.

B) All that lot or parcel of land, together with its buildings, appurtenances, improvements, fixtures, attachments and easements, located at **6430 SW Arbor Drive, South Beach, Lincoln County, Oregon**, more particularly described as: **LOT 4, SOUTHSORE, IN LINCOLN COUNTY, OREGON**

C) All that lots or parcels of land, together with its buildings, appurtenances, improvements, fixtures, attachments and easements, located at **4633 Madrona Heights Drive, NE, Silverton, Marion County, Oregon**, more particularly described as:

PARCEL 1:

Beginning at a point which is 2285.46 feet South 01°55' West and 559.10 feet North 78°56'20" East and 350.47 feet North 05°57'30" West from the Northwest corner of the Preston Hamilton Donation Land Claim in Section 1, Township 7 South, Range 1 West of the Willamette Meridian, Marion County, Oregon; thence North 05°57'30" feet; then North 89°59'20" East 435.20 feet to the West right of way line of County Road, No. 667; thence South 37°29'15" East along the West right of way line, 181.00 feet; thence South 89°59'20" West 275.50 feet; thence South 65°07'06" West 267.97 feet to the place of beginning.

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PARCEL II:

Beginning at a point which is 2285.46 feet South 01°55' West and 630.70 feet North 78°56'20" East and 201.53 feet North 58°43'30" East and 33.19 feet North 05°57'30" West from the Northwest corner of the Preston Donation Land Claim in Section 1, Township 7 South, Range 1 West of the Willamette Meridian, Marion County, Oregon; point is also on the North right of way line of County Road, No. 761; thence North 05°57'30" West 311.65 feet; thence North 89°59'20" East 275.50 feet to the West right of way line of County Road, No. 667; thence South 37°29'15" East along the West way line, 139.56 feet to the North right of way of said County Road No. 761; thence South 58°43'30" West along the North right of way line 383.86 feet to the place of beginning. Save and except that portion conveyed to Marion County, Oregon for road purposes by deed recorded October 7, 1988, in Reel 649, Page 115, Microfilm Records for Marion County, Oregon.

Tax Parcel Number: R20707 and R20703

- D) All that lot or parcel of land, together with its buildings, appurtenances, improvements, fixtures, attachments and easements, located at **Forest Glen Retirement, 200 SW Frontage Road, Canyonville, Douglas County, Oregon**, more particularly described as:

BEGINNING AT A ¾" IRON PIPE ON THE EAST LINE OF PROPERTY RECORDED IN DOUGLAS COUNTY CLERK'S DEED RECORDS IN VOLUME 105, PAGE 368, AND WHICH IS ON THE WEST LINE OF GROVE STREET IN CANYONVILLE, OREGON, FROM WHICH BEGINNING POINT THE NORTHWEST CORNER OF BLOCK 17, CANYONVILLE, OREGON, BEARS NORTH 29° WEST 102.4 FEET AND NORTH 72° 30' EAST 51.02 FEET; THENCE RUNNING FROM SAID BEGINNING POINT, SOUTH 29° EAST 57.3 FEET ALONG THE WEST LINE OF GROVE STREET TO A ¾ INCH IRON PIPE AT THE SOUTHWEST CORNER OF SAID STREET; THENCE NORTH 61° EAST 50.0 FEET TO THE SOUTHEAST CORNER OF SAID STREET; THENCE NORTH 29° WEST 25.0 FEET ALONG THE EAST LINE OF SAID STREET TO A POINT; THENCE NORTH 61° EAST 200.0 FEET ON A LINE PARALLEL TO AND 25 FEET NORTHERLY AT RIGHT ANGLES, FROM THE SOUTH LINE OF LOTS 1 AND 6 OF SAID BLOCK 17; THENCE SOUTH 29° EAST 25 FEET ALONG THE EAST LINE OF SAID LOT 1 TO THE SOUTHEAST CORNER THEREOF; THENCE SOUTH 35° EAST 373.0 FEET ON THE EAST LINE OF THE LANDS CONVEYED BY THE STATE OF OREGON, BY AND THROUGH ITS STATE HIGHWAY COMMISSION, TO R.L. FALK AND ESTHER I. FALK, HIS WIFE, AS RECORDED IN BOOK 242, RECORDER'S NO. 195017, DEED RECORDS OF DOUGLAS COUNTY, OREGON, TO A POINT ON THE NORTH LINE OF LOT 5, BLOCK 2, GOODELL TRACT, CITY OF CANYONVILLE, DOUGLAS COUNTY,

OREGON; THENCE SOUTH 62° 30' WEST 42.2 FEET ALONG SAID NORTH LINE TO A POINT; THENCE SOUTH 70° 30' WEST 259.4 FEET; AND ALONG THE NORTH LINE OF A CEMETERY TO A POINT; THENCE NORTH 6° 30' WEST 99.0 FEET; SOUTH 61° WEST 27.8 FEET, AND SOUTH 14° EAST 31.0 FEET TO THE NORTHEAST CORNER OF BLOCK 1, SAID GOODELL TRACT; THENCE SOUTH 72° 30' WEST APPROXIMATELY 48.7 FEET TO A HALF INCH IRON PIPE AT THE SOUTHEAST CORNER OF PROPERTY RECORDED IN DOUGLAS COUNTY CLERK'S DEED RECORDS, IN VOLUME 105, PAGE 368; THENCE SOUTH 72° 25' WEST 240.4 FEET WHICH HAS BEEN PREVIOUSLY GIVEN AS SOUTH 76° 30' WEST 3.54 CHAINS TO A HALF INCH IRON PIPE AT THE SOUTHWEST CORNER OF SAID RECORDED PROPERTY; THENCE NORTH 17° WEST 318.4 FEET TO A ¾" IRON PIPE ON THE WEST LINE OF SAID RECORDED PROPERTY; THENCE NORTH 72° 30' EAST 228.6 FEET TO THE PLACE OF BEGINNING.

E) All that lot or parcel of land, together with its buildings, appurtenances, improvements, fixtures, attachments and easements, located at **0 Frontage**

Road, Canyonville, Douglas County, Oregon, more particularly described as:

BEGINNING AT A ¾ INCH IRON PIPE ON THE EAST LINE OF PROPERTY RECORDED IN DOUGLAS COUNTY CLERK'S DEED RECORDS IN VOLUME 105, PAGE 368, AND WHICH IS ON THE WEST LINE OF GROVE STREET IN CANYONVILLE, OREGON, FROM WHICH BEGINNING POINT THE NORTHWEST CORNER OF BLOCK 17, CANYONVILLE, OREGON, BEARS NORTH 29° WEST 102.4 FEET AND NORTH 72°30' EAST 51.02 FEET; THENCE RUNNING FROM SAID BEGINNING POINT, SOUTH 29° EAST 57.3 FEET ALONG THE WEST LINE OF GROVE STREET TO A ¾ INCH IRON PIPE AT THE SOUTHWEST CORNER OF SAID STREET; THENCE NORTH 61° EAST 50.0 FEET TO THE SOUTHEAST CORNER OF SAID STREET, THENCE NORTH 29° WEST 25.0 FEET ALONG THE EAST LINE OF SAID STREET TO A POINT; THENCE NORTH 61° EAST 200.0 FEET ON A LINE PARALLEL TO AND 25 FEET NORTHERLY AT RIGHT ANGLES, FROM THE SOUTH LINE OF LOTS 1 AND 6 OF SAID BLOCK 17; THENCE SOUTH 29° EAST 25 FEET ALONG THE EAST LINE OF SAID LOT 1 TO THE SOUTHEAST CORNER THEREOF; THENCE SOUTH 35° EAST 373.0 FEET ON THE EAST LINE OF THE LANDS CONVEYED BY THE STATE OF OREGON, BY AND THROUGH ITS STATE HIGHWAY COMMISSION, TO R.L. FALK AND ESTHER I. FALK, HIS WIFE, AS RECORDED IN VOLUME 242, RECORDER'S NO. 195017, DEED RECORDS OF DOUGLAS COUNTY, OREGON, TO A POINT IN THE NORTH LINE OF LOT 5, BLOCK 2, GOODELL TRACT, CITY OF CANYONVILLE, DOUGLAS COUNTY OREGON; THENCE SOUTH 62° 30' WEST 42.2 FEET ALONG SAID NORTH LINE TO A POINT; THENCE SOUTH 70° 30' WEST 259.4 FEET; AND ALONG THE NORTH LINE OF A CEMETERY TO A POINT; THENCE NORTH 6°30' WEST 99.0 FEET; SOUTH 61° WEST 27.8 FEET, AND SOUTH 14° EAST 31.0

FEET TO THE NORTHEAST CORNER OF BLOCK 1, SAID GOODELL TRACT; THENCE SOUTH; THENCE SOUTH 72°30' WEST APPROXIMATELY 48.7 FEET TO A HALF INCH IRON PIPE AT THE SOUTHEAST CORNER OF PROPERTY RECORDED IN DOUGLAS COUNTY CLERK'S DEED RECORDS, IN VOLUME 105, PAGE 368; THENCE SOUTH 72°25' WEST 240.4 FEET WHICH HAS BEEN PREVIOUSLY GIVEN AS SOUTH 76°30' WEST 3.54 CHAINS TO A HALF INCH IRON PIPE AT THE SOUTHWEST CORNER OF SAID RECORDED PROPERTY; THENCE NORTH 17° WEST 318.4 FEET TO A ¾ INCH IRON PIPE ON THE WEST LINE OF SAID RECORDED PROPERTY; THENCE NORTH 72°30' EAST 228.6 FEET TO THE PLACE OF BEGINNING.

- F) All that lot or parcel of land, together with its buildings, appurtenances, improvements, fixtures, attachments and easements, located at **0 Grove Street, Canyonville, Douglas County, Oregon**, more particularly described as:

THE FOLLOWING DESCRIBED PROPERTY SITUATED IN CANYONEVILLE, COUNTY OF DOUGLAS, STATE OF OREGON, DESCRIBED AS FOLLOWS: BEGINNING AT A 3/4" IRON PIPE ON THE EAST LINE OF PROPERTY RECORDED IN DOUGLAS COUNTY CLERK'S DEED RECORDS IN VOLUME 105, PAGE 368, AND WHICH IS ON THE WEST LINE OF GROVE STREET IN CANYONVILLE, OREGON, FROM WHICH BEGINNING POINT THE NORTHWEST CORNER OF BLOCK 17, CANYONVILLE, OREGON, BEARS NORTH 29° WEST 102.4 FEET AND NORTH 72° 30' EAST 51.02 FEET; THENCE RUNNING FROM SAID BEGINNING POINT, SOUTH 29° EAST 57.3 FEET ALONG THE WEST LINE OF GROVE STREET TO A 3/4 INCH IRON PIPE AT THE SOUTHWEST CORNER OF SAID STREET; THENCE NORTH 61° EAST 50.0 FEET TO THE SOUTHEAST CORNER OF SAID STREET; THENCE NORTH 29° WEST 25.0 FEET ALONG THE EAST LINE OF SAID STREET TO A POINT; THENCE NORTH 61° EAST 200.00 FEET ON A LINE PARALLEL TO AND 25 FEET NORTHERLY AT RIGHT ANGLES, FROM THE SOUTH LINE OF LOTS 1 AND 6 OF SAID BLOCK 17; THENCE SOUTH 29° ESAT 25 FEET ALONG THE EAST LINE OF SAID LOT 1 TO THE SOUTHEAST CORNER THEREOF; THENCE SOUTH 35° EAST 373.0 FEET ON THE EAST LINE OF THE LANDS CONVEYED BY THE STATE OF OREGON, BY AND THROUGH ITS STATE HIGHWAY COMMISSION, TO R.L. FALK AND ESTHER I. FALK, HIS WIFE, AS RECORDED IN BOOK 242, RECORDER'S NO. 195017, DEED RECORDS OF DOUGLAS COUNTY, OREGON, TO A POINT ON THE NORTH LINE OF LOT 5, BLOCK 2, GOODELL TRACT, CITY OF CANYONVILLE, DOUGLAS COUNTY, OREGON; THENCE SOUTH 62° 30' WEST 259.4 FEET; AND ALONG THE NORTH LINE OF A CEMETERY TO A POINT; THENCE NORTH 6° 30' WEST 99.0 FEET; SOUTH 61° WEST 27.8 FEET, AND SOUTH 14° EAST 31.0 FEET TO THE NORTHEAST CORNER OF BLOCK 1, SAID GOODELL TRACT; THENCE SOUTH 72° 30' WEST APPROXIMATELY 48.7 FEET TO A HALF INCH IRON PIPE AT THE SOUTHEAST CORNER OF PROPERTY RECORDED IN DOUGLAS

COUNTY CLERK'S DEED RECORDS, IN VOLUME 105, PAGE 368; GIVEN AS SOUTH 76° 30' WEST 3.54 CHAINS TO A HALF INCH IRON PIPE AT THE SOUTHWEST CORNER OF SAID RECORDED PROPERTY; THENCE NORTH 17° WEST 318.4 FEET TO A 3/4" IRON PIPE ON THE WEST LINE OF SAID RECORDED PROPERTY; THENCE NORTH 72° 30' EAST 228.6 FEET TO THE PLACE OF BEGINNING.

G) All that lot or parcel of land, together with its buildings, appurtenances, improvements, fixtures, attachments and easements, located at **523 NW 1st**

Street, Canyonville, Douglas County, Oregon, more particularly described as:

BEGINNING AT A POINT WHICH IS AT THE INTERSECTION OF THE SOUTHERLY LINE OF FIFTH STREET AND THE WESTERLY LINE OF GROVE STREET IN THE CITY OF CANYONVILLE, DOUGLAS COUNTY, OREGON AS SHOWN ON THE PLAT ON FILE IN THE OFFICE OF THE COUNTY CLERK OF DOUGLAS COUNTY, OREGON; SAID POINT ALSO BEING SOUTH 72° 30' WEST 50.2 FEET FROM THE NORTHWESTERLY CORNER OF BLOCK 17, CANYONVILLE; THENCE SOUTH 29° EAST ALONG THE WESTERLY LINE OF SAID GROVE STREET 102.4 FEET; THENCE SOUTH 72° 30' WEST 128.6 FEET TO THE EASTERLY LINE OF THE LANDS SOLD TO REX LAMM, ET UX., AS RECORDED IN VOLUME 125, PAGE 598 OF THE DEED RECORDS OF DOUGLAS COUNTY, OREGON; THENCE NORTH 17° WEST 100 FEET ALONG SAID EASTERLY LINE TO THE SOUTHERLY LINE OF FIFTH STREET; THENCE NORTH 72° 30' EAST ALONG SAID SOUTHERLY LINE 106.5 FEET TO THE POINT OF BEGINNING.

H) All that lot or parcel of land, together with its buildings, appurtenances, improvements, fixtures, attachments and easements, located at **Deer Meadow**

Assisting Living, 1350 W. Main Street, Sheridan, Yamhill County, Oregon,

more particularly described as:

BEGINNING ON THE SOUTHERLY MARGIN OF OLD STATE HIGHWAY NO. 18 AT AN IRON PIPE AND IRON ROD SET ON THE WESTERLY LINE OF LAND DESCRIBED AS PARCEL 2 OF THAT CONVEYANCE FROM HELDER TO CHURCH OF SCIENTOLOGY, FILM VOLUME 128, PAGE 1160, YAMHILL COUNTY DEED RECORDS, SAID BEGINNING POINT BEING NORTH 111.6 FEET, NORTH 68° 42' EAST 1429.58 FEET, AND SOUTH 15° 33' EAST 30.15 FEET FROM THE SOUTHWEST CORNER OF THE JAMES B. GRAVES DONATION LAND CLAIM NO. 42 IN TOWNSHIP 5 SOUTH, RANGE 6 WEST,

WILLAMETTA MERIDIAN, YAMHILL COUNTY, OREGON; THENCE NORTH 88° 42' 02" EAST, 262.15 FEET TO AN IRON ROD ON THE SOUTHERLY MARGIN OF SAID HIGHWAY; THENCE SOUTH 21° 18' 54" EAST 603.29 FEET TO AN IRON ROD; THENCE SOUTH 66° 47' 50" WEST, 321.94 FEET TO AN IRON ROD, THENCE NORTH 15° 45' 00" WEST, 302.49 FEET TO AN IRON ROD; THENCE NORTH 15° 33' 00" WEST, 303.20 FEET TO THE POINT OF BEGINNING.

FORFEITURE ALLEGATION NO. 2

Upon conviction of one or more of the offenses alleged in Counts 37 through 56 of this Indictment, defendant JON MICHAEL HARDER shall forfeit to the United States pursuant to 18 U.S.C. § 982(a)(1), all property, real and personal, involved in the money laundering offenses and all property traceable to such property, including but not limited to the following:

1. PROCEEDS

A sum of money equal to \$580,137.03 in United States currency, representing the amount of proceeds obtained as a result of the money laundering;

2. REAL PROPERTIES:

- A.) All that lot or parcel of land, together with its buildings, appurtenances, improvements, fixtures, attachments and easements, located at **17600 Vandervert Road, Bend, Deschutes County, Oregon**, more particularly described as:
- Tract L, VANDERVERT RANCH PHASE II, Deschutes County, Oregon.
- B.) All that lot or parcel of land, together with its buildings, appurtenances, improvements, fixtures, attachments and easements, located at **6430 SW Arbor Drive, South Beach, Lincoln County, Oregon**, more particularly described as:
- LOT 4, SOUTHSORE, IN LINCOLN COUNTY, OREGON

///

C.) All that lots or parcels of land, together with its buildings, appurtenances, improvements, fixtures, attachments and easements, located at **4633 Madrona Heights Drive, NE, Silverton, Marion County, Oregon**, more particularly described as:

PARCEL 1:

Beginning at a point which is 2285.46 feet South 01°55' West and 559.10 feet North 78°56'20" East and 350.47 feet North 05°57'30" West from the Northwest corner of the Preston Hamilton Donation Land Claim in Section 1, Township 7 South, Range 1 West of the Willamette Meridian, Marion County, Oregon; thence North 05°57'30" feet; then North 89°59'20" East 435.20 feet to the West right of way line of County Road, No. 667; thence South 37°29'15" East along the West right of way line, 181.00 feet; thence South 89°59'20" West 275.50 feet; thence South 65°07'06" West 267.97 feet to the place of beginning.

PARCEL II:

Beginning at a point which is 2285.46 feet South 01°55' West and 630.70 feet North 78°56'20" East and 201.53 feet North 58°43'30" East and 33.19 feet North 05°57'30" West from the Northwest corner of the Preston Donation Land Claim in Section 1, Township 7 South, Range 1 West of the Willamette Meridian, Marion County, Oregon; point is also on the North right of way line of Count Road, No. 761; thence North 05°57'30" West 311.65 feet; thence North 89°59'20" East 275.50 feet to the West right of way line of County Road, No. 667; thence South 37°29'15" East along the West way line, 139.56 feet to the North right of way of said County Road No. 761; thence South 58°43'30" West along the North right of way line 383.86 feet to the place of beginning. Save and except that portion conveyed to Marion County, Oregon for road purposes by deed recorded October 7, 1988, in Reel 649, Page 115, Microfilm Records for Marion County, Oregon.

Tax Parcel Number: R20707 and R20703

D.) All that lot or parcel of land, together with its buildings, appurtenances, improvements, fixtures, attachments and easements, located at **Deer Meadow Assisting Living, 1350 W. Main Street, Sheridan, Yamhill County, Oregon**, more particularly described as:

BEGINNING ON THE SOUTHERLY MARGIN OF OLD STATE HIGHWAY NO. 18 AT AN IRON PIPE AND IRON ROD SET ON THE WESTERLY LINE OF LAND DESCRIBED AS PARCEL 2 OF THAT CONVEYANCE FROM HELDER

TO CHURCH OF SCIENTOLOGY, FILM VOLUME 128, PAGE 1160, YAMHILL COUNTY DEED RECORDS, SAID BEGINNING POINT BEING NORTH 111.6 FEET, NORTH 68° 42' EAST 1429.58 FEET, AND SOUTH 15° 33' EAST 30.15 FEET FROM THE SOUTHWEST CORNER OF THE JAMES B. GRAVES DONATION LAND CLAIM NO. 42 IN TOWNSHIP 5 SOUTH, RANGE 6 WEST, WILLAMETTA MARIDIAN, YAMHILL COUNTY, OREGON; THENCE NORTH 88° 42' 02" EAST, 262.15 FEET TO AN IRON ROD ON THE SOUTHERLY MARGIN OF SAID HIGHWAY; THENCE SOUTH 21° 18' 54" EAST 603.29 FEET TO AN IRON ROD; THENCE SOUTH 66° 47' 50" WEST, 321.94 FEET TO AN IRON ROD, THENCE NORTH 15° 45' 00" WEST, 302.49 FEET TO AN IRON ROD; THENCE NORTH 15° 33' 00" WEST, 303.20 FEET TO THE POINT OF BEGINNING.

If any of the above-described forfeitable property in both forfeiture allegations, 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;

it is the intent of the United States, pursuant to 21 U.S.C. § 853(p) as incorporated by 18 U.S.C. § 982(b), to seek forfeiture of any other property of said defendant up to the value of the forfeitable property described above.

SUBSTITUTION OF ASSETS

If any of the above-described forfeitable property, 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; it is the intent of the United States, pursuant to 21 U.S.C. § 853(p) as incorporated by 18 U.S.C. § 982(b), to seek forfeiture of any other property of said defendant(s) up to the value of the forfeitable property described above.

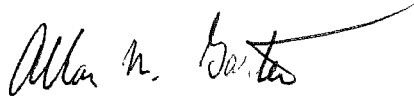
Dated this 18th day of September, 2012.

A TRUE BILL.

OFFICIATING FOREPERSON

Presented by:

S. AMANDA MARSHALL, OSB #95347
United States Attorney



ALLAN M. GARTEN, OSB #81236
Assistant United States Attorney
Senior Litigation Counsel