

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- - - - - x

UNITED STATES OF AMERICA :

- v. - :

SCOT ZARKIEWICZ, :

Defendant. :

INFORMATION

13 Cr. ____ ()

- - - - - x

COUNT ONE
(Securities Fraud)

The United States Attorney charges:

Relevant Individuals and Entities

1. SingleClick Systems Corp. ("SingleClick Delaware") is a Delaware corporation with its principal place of business in Eatontown, New Jersey, and SingleClick Systems Corporation is a New Jersey corporation with its principal place of business in Eatontown, New Jersey ("SingleClick New Jersey"; both collectively, "SingleClick").

2. SingleClick is a privately-held software company whose self-proclaimed mission is to "simplify the configuration, management, access, and sharing of all the devices and content in the modern home and small office/home network." To this end, SingleClick has been engaged in the business of providing individuals and businesses with network software products that

facilitate content access and network and systems management from any internet-connected device.

3. At all relevant times, SCOT ZARKIEWICZ, the defendant, was the co-founder, President, Chief Executive Officer, Treasurer, and a principal owner of SingleClick. ZARKIEWICZ was principally responsible for the management and operation of SingleClick.

Overview of the Scheme to Defraud

4. From at least in or about mid-2009 through in or about June 2013, SCOT ZARKIEWICZ, the defendant, solicited investor contributions to, and caused investors to maintain their investment in, SingleClick based on fraudulent misrepresentations. Specifically, during the period relevant to this Information, ZARKIEWICZ told SingleClick investors, in both oral and written communications, that SingleClick had several large corporate clients, millions of dollars in annual revenue, and millions of dollars in cash in bank and brokerage accounts, when, in truth and in fact, and as ZARKIEWICZ well knew, SingleClick conducted minimal business operations, collected significantly less than a million dollars in annual revenue, and did not have more than approximately \$513,000 in cash on hand. ZARKIEWICZ made these misrepresentations to induce potential

investors to purchase SingleClick shares, and to induce existing investors to purchase additional shares and/or refrain from requesting redemptions of their investments. As a result of his fraudulent scheme, ZARKIEWICZ collected and maintained approximately \$5.5 million in investor money from approximately 30 victims.

ZARKIEWICZ Solicits Investments in SingleClick

5. From at least in or about the summer of 2009, SCOT ZARKIEWICZ, the defendant, solicited investors in SingleClick. The investors were both individual investors and investment funds. ZARKIEWICZ represented to potential investors, including investors in New York, New York, that SingleClick was a successful company, had millions of dollars in revenue, generated high profit margins, and already retained several large technology companies as customers of SingleClick's network software. Further, on different occasions, ZARKIEWICZ informed multiple investors that SingleClick had anywhere from 20 to 40 employees. ZARKIEWICZ also told multiple potential investors that the money they contributed would be used to purchase SingleClick stock from another purported investor who wished to sell his shares.

6. In the course of soliciting investors, SCOT ZARKIEWICZ, the defendant, provided investors subscription and shareholder agreements, and financial spreadsheets purporting to represent the company's financial condition, including monthly and quarterly profit and loss statements. Furthermore, ZARKIEWICZ provided multiple potential investors alleged tax returns for SingleClick for 2007, 2008, and/or 2009.

7. From at least in or about late 2009 through in or about June 2013, approximately 30 investors invested in SingleClick based on representations made by SCOT ZARKIEWICZ, the defendant, about SingleClick's financial performance. Several investors purchased SingleClick shares on more than one occasion and provided payment directly to ZARKIEWICZ, although on multiple occasions investors were told that the money would ultimately be provided to a SingleClick investor whose shares the new investors were purportedly purchasing. Indeed, during the period relevant to this Information, based on ZARKIEWICZ's representations about SingleClick's positive performance, multiple investors refrained from redeeming their investments.

ZARKIEWICZ's Representations After Solicitation

8. From at least in or about late 2009 through in or about June 2013, investors regularly requested updated

SingleClick financial statements from SCOT ZARKIEWICZ, the defendant. In response, ZARKIEWICZ provided excuses for why the financials were unavailable or not updated. On approximately five occasions during this period, however, ZARKIEWICZ provided updated financial statements in spreadsheet format without any of the underlying documents to support the figures represented in the spreadsheet. When several of the investors requested that ZARKIEWICZ provide audited financial statements, ZARKIEWICZ provided excuses for why audited statements were unavailable, but claimed that he would eventually secure them. ZARKIEWICZ never provided audited financials to the investors.

9. In or about early 2012, multiple investors expressed frustration with SCOT ZARKIEWICZ, the defendant, concerning the lack of audited financials and the lack of proof that SingleClick had millions of dollars in revenue and cash on hand in its accounts. In response to repeated investor pressure to provide proof of the business's profitability, in or about early February 2012, ZARKIEWICZ provided two video clips to investors through an electronic document sharing server. The purpose of the video clips was to demonstrate that SingleClick had sufficient money on hand. Specifically, one video clip showed ZARKIEWICZ on his computer logging in to view activity in

SingleClick's business checking account at TD Bank ("Video Clip-1"). Video Clip-1 showed that on or about January 31, 2012, SingleClick had approximately \$9.2 million on hand in SingleClick's account at TD Bank. The second video clip showed ZARKIEWICZ on his computer logging in to view activity in SingleClick's business checking account at Chase ("Video Clip-2"). Video Clip-2 showed that on or about January 31, 2012, SingleClick had approximately \$8.5 million on hand in SingleClick's account at Chase.

10. In or about early 2013, SCOT ZARKIEWICZ, the defendant, informed several of the investors that SingleClick had performed very well in 2012. Indeed, ZARKIEWICZ told an investor orally that SingleClick had generated approximately \$48 million in sales revenue in 2012. Further, ZARKIEWICZ continued to solicit investors based on SingleClick's purported financial success, and as late as in or about March 2013, an investment fund invested in SingleClick based on ZARKIEWICZ's representations.

11. In or about April 2013, SCOT ZARKIEWICZ, the defendant, notified several of the investors that a large Japanese corporation was interested in purchasing SingleClick. In an attempt to demonstrate the validity of his claim, and

satisfy multiple investors who continued to demand additional SingleClick financial statements and proof of SingleClick's value, ZARKIEWICZ provided a letter of intent from the Japanese corporation indicating its interest in acquiring SingleClick for \$270 million (the "April 2013 Letter of Intent"). The April 2013 Letter of Intent appeared to be signed by a representative from the Japanese corporation.

ZARKIEWICZ's Fraud Is Uncovered

12. In or about May 2013, multiple investors learned of the existence of another SingleClick investor in Maryland (the "Maryland Investor") who had filed a lawsuit against SingleClick and SCOT ZARKIEWICZ, the defendant (the "Lawsuit"). In the Lawsuit, the Maryland Investor demanded access to SingleClick's financial records and payment of a dividend to which the Maryland Investor was purportedly entitled. In the course of the Lawsuit, ZARKIEWICZ provided documents to the Maryland Investor as part of civil discovery. Among the documents ZARKIEWICZ provided were SingleClick's true bank account statements, which showed among other things, that SingleClick had only thousands of dollars in its bank accounts, not millions. After multiple investors learned that SingleClick had little cash on hand, several investors contacted SCOT

ZARKIEWICZ, the defendant, and demanded that he describe the true financial condition of the company.

13. In or about June 2013, SCOT ZARKIEWICZ, the defendant, had telephone calls with multiple investors to address the investors' concerns. During those conversations, ZARKIEWICZ divulged to at least one of the investors ("Victim-1") that he had not, in fact, been selling SingleClick products to the multiple corporate customers that he claimed to have, and that SingleClick's annual revenues were in the thousands of dollars, not in the millions. Similarly, during one of those telephone conversations, ZARKIEWICZ admitted to another investor ("Victim-2") that the bank statements he distributed to investors were fabricated, and the amounts displayed in Video Clip-1 and Video Clip-2 were false. ZARKIEWICZ also informed Victim-2 that SingleClick was generating approximately \$150,000 in annual revenue.

14. Additionally, in or about June 2013, SCOT ZARKIEWICZ, the defendant, admitted to some of the investors that SingleClick had less than 10 employees instead of anywhere from 20 to 40 employees that he had represented to multiple investors.

The June 14, 2013 Investor Call

15. On or about June 14, 2013, SCOT ZARKIEWICZ, the defendant, conducted a conference call with multiple investors (the "June 14, 2013 Investor Call"). During the June 14, 2013 Investor Call, which was recorded by an investor, ZARKIEWICZ made the following statements, among others, in sum and substance:

a. ZARKIEWICZ stated that he thought the investors now "had a handle on how dishonest" he had been about SingleClick's business.

b. In response to questioning from two investors about their share purchases, ZARKIEWICZ admitted that he had lied to them about the fact that they bought their shares from other investors that wanted to sell their investment in SingleClick.

c. ZARKIEWICZ noted that he is "fully well aware of the consequences of [his] actions" and what he will "face personally," and stated that "[his] actions" have jeopardized SingleClick's business prospects.

d. In response to an investor's question about how much revenue SingleClick is actually generating, ZARKIEWICZ stated that on a "monthly basis," SingleClick is generating

"maybe 25,000" in revenues and that "we really haven't done anything."

16. Following the June 14, 2013 Investor Call, SCOT ZARKIEWICZ, the defendant, admitted to Victim-1 that SingleClick had not received \$48 million in revenue in 2012, but rather, SingleClick's revenues for 2012 were approximately \$300,000 to \$400,000. Further, ZARKIEWICZ admitted to Victim-1 that the April 2013 Letter of Intent from the Japanese company was false.

**Fraudulent SingleClick Bank,
Brokerage, Financial and Tax Statements**

17. During the period relevant to this Information, SCOT ZARKIEWICZ, the defendant, distributed fraudulent SingleClick bank, brokerage, financial, and tax statements to investors and potential investors. For example, contrary to the representations made by, and documents distributed by ZARKIEWICZ to investors, SingleClick's total aggregate bank account balances never exceeded approximately \$513,000. Similarly, SingleClick's financial statements falsely represented that SingleClick had millions of dollars in annual revenue.

18. Moreover, on or about January 31, 2012, the date that Video Clip-1 showed a balance of approximately \$9.2 million with TD Bank, SingleClick's actual account balance was \$3,845.92. Similarly, on or about January 31, 2012, the date

that Video Clip-2 showed a balance of approximately \$8.9 million with Chase, SingleClick's actual account balance was \$66,478.42.

19. Furthermore, SCOT ZARKIEWICZ, the defendant, distributed to multiple investors SingleClick's alleged tax returns for 2007, 2008, and 2009, but those returns reflected names (and signatures) of tax preparers who had never prepared returns for SingleClick or ZARKIEWICZ.

20. Notably, and contrary to representations made by, and documents distributed by, SCOT ZARKIEWICZ, the defendant, showing that SingleClick had been generating millions of dollars in revenue, SingleClick's actual bank account balances at the end of each calendar year were as follows:

Date	SingleClick Total Account Balances
12/31/2009	\$177,855.94
12/31/2010	\$137,840.26
12/31/2011	\$31,437.62
12/31/2012	\$72,800.93

21. Additionally, the April 2013 Letter of Intent was fabricated and there was no potential acquisition of SingleClick by a Japanese corporation at that time. Indeed, the April 2013 Letter of Intent is virtually identical in formatting and verbiage to a draft letter of intent that SCOT ZARKIEWICZ, the defendant, had requested of, and received from, a SingleClick investor in or about March 2013.

22. During the period relevant to this Information, SCOT ZARKIEWICZ, the defendant, used approximately \$1.5 million in SingleClick funds for the following personal expenses, among others: personal mortgage payments; significant restaurant expenses; clothing expenses; purchases of and lease payments on high-end vehicles, including a Lexus, a Mercedes, and an Audi;

maintenance expenses on a boat; and expenses associated with personal travel, including to Atlantic City.

STATUTORY ALLEGATION

23. From at least in or about mid-2009 through in or about June 2013, in the Southern District of New York and elsewhere, SCOT ZARKIEWICZ, the defendant, willfully and knowingly, directly and indirectly, by the use of means and instrumentalities of interstate commerce, the mails and the facilities of national securities exchanges, in connection with the purchase and sale of securities, used and employed manipulative and deceptive devices and contrivances, in violation of Title 17, Code of Federal Regulations, Section 240.10b-5, by: (a) employing devices, schemes and artifices to defraud; (b) making untrue statements of material facts and omitting to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; and (c) engaging in acts, practices and courses of business which operated and would operate as a fraud and deceit upon persons, to wit, ZARKIEWICZ engaged in a scheme to defraud SingleClick investors by making material misrepresentations to, and distributing and causing to be distributed fraudulent bank, brokerage, financial, and tax

statements to, existing investors and potential purchasers of SingleClick shares.

(Title 15, United States Code, Sections 78j(b) & 78ff;
Title 17, Code of Federal Regulations, Section 240.10b-5)

COUNT TWO
(Wire Fraud)

The United States Attorney further charges:

24. From at least in or about mid-2009 through in or about June 2013, in the Southern District of New York and elsewhere, SCOT ZARKIEWICZ, the defendant, willfully and knowingly, having devised and intending to devise a scheme and artifice to defraud, and for obtaining money and property by means of false and fraudulent pretenses, representations, and promises, did transmit and cause to be transmitted by means of wire communication in interstate and foreign commerce, to wit, e-mails attaching fraudulent financial and/or tax statements to investors on various occasions, including to an investor located in New York, New York on or about November 26, 2010, writings, signs, signals, and sounds for the purpose of executing such scheme and artifice to defraud, to wit, ZARKIEWICZ engaged in a scheme to defraud SingleClick investors by making material misrepresentations to, and distributing and causing to be distributed fraudulent financial, bank, brokerage, and tax

statements to, existing investors and potential purchasers of SingleClick shares.

(Title 18, United States Code, Section 1343)

FORFEITURE ALLEGATION

25. As a result of committing the securities fraud and wire fraud offenses alleged in Counts One and Two, SCOT ZARKIEWICZ, the defendant, 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, real and personal, which constitutes or is derived from proceeds traceable to the commission of such offenses, including, but not limited to, a sum of United States currency equal to at least \$5.5 million in United States currency, representing the amount of proceeds obtained as a result of the charged offenses, and all right, title and interest in the following specific property:

- a. Any and all funds on deposit in TD Bank account number 4282135560, held in the name of SingleClick Systems, and any property traceable to such property;
- b. Any and all funds on deposit in First Virginia Community Bank account number 122226, held in the name of SingleClick Systems Corp., and any property traceable to such property; and

- c. One 2008 Ocean Billfish yacht named "Never Enough," Hull Number XYU00937A808, and any property traceable to such property.

Substitute Assets Provision

26. If any of the above-described forfeitable property, as a result of any act or omission of the defendant:

- (i) cannot be located upon the exercise of due diligence;
- (ii) has been transferred or sold to, or deposited with, a third party;
- (iii) has been placed beyond the jurisdiction of the court;
- (iv) has been substantially diminished in value; or
- (v) has been commingled with other property which cannot be divided without difficulty;

it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), to seek forfeiture of any other property of said defendant up to the value of the forfeitable property described above.

(Title 18, United States Code, Section 981;
Title 21, United States, Section 853(p);
Title 28, United States Code, Section 2461.)


PREET BHARARA 
United States Attorney

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(15 U.S.C. §§ 78j(b) & 78ff;
17 C.F.R. § 240.10b-5; 18 U.S.C. 1343)

PREET BHARARA
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