

WK:DG
F. #2018R01513

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X

UNITED STATES OF AMERICA

- against -

JOHN CUCINELLA,

Defendant.

-----X

INFORMATION

Cr. No. _____
(T. 15, U.S.C., §§ 78j(b) and 78ff;
T. 18, U.S.C., §§ 981(a)(1)(C) and
3551 et seq.; T. 21, U.S.C., § 853(p);
T. 28, U.S.C., § 2461(c))

THE UNITED STATES ATTORNEY CHARGES:

At all times relevant to this Information, unless otherwise indicated:

INTRODUCTION

I. The Defendant and Mackrow

1. The defendant JOHN CUCINELLA was a resident of Brooklyn, New York. Beginning in or about February 2015, CUCINELLA was the Investment Manager of Mackrow Asset Management Group (“Mackrow”), which purported to be an asset management firm located in Brooklyn, New York. In a brochure that CUCINELLA provided to clients, Mackrow was described as a “Financial Center, providing you all the resources of a true financial concierge.” Mackrow operated in CUCINELLA’s residence.

II. The Fraudulent Scheme

2. In or about and between March 2015 and April 2018, the defendant JOHN CUCINELLA engaged in a scheme to defraud clients and potential clients of Mackrow by falsely representing that investor funds would be used, among other things, to invest in pre-initial public

offering (“pre-IPO”) shares of private companies. In reality, CUCINELLA did not use investor funds for this purpose, and instead used investor funds for, among other things, the payment of his personal expenses.

3. In or about and between April 2017 and May 2017, the defendant JOHN CUCINELLA separately called, by telephone, Investor-1 and Investor-2, individuals whose identities are known to the United States Attorney. Investor-1 and Investor-2 were both at least 80 years old. During both telephone calls, CUCINELLA solicited money for purported investments in the pre-IPO stock of “Raid,” which CUCINELLA stated was a company that made insect spray. CUCINELLA told Investor-1 and Investor-2, in part, that Raid was going to “go public” in the near future and that its stock would subsequently increase in value. In reality, Raid was a brand name for an insect spray manufactured by S.C. Johnson & Son, Inc. (“S.C. Johnson”), a privately held company. Neither Raid nor S.C. Johnson issued public stock offerings in 2017.

4. After their calls with the defendant JOHN CUCINELLA regarding the purported investments in Raid, Investor-1 and Investor-2 both sent checks to Mackrow. Investor-1 sent a check for \$16,000 and Investor-2 sent a check for \$10,000. After receiving these checks, CUCINELLA sent Investor-1 and Investor-2 account documents from Mackrow that contained no reference to Raid. Instead, the Mackrow account documents purported to reflect investments in, among other things, “Domestic Guard Advantage One.” No fund or entity traded under the name “Domestic Guard Advantage One” on any market or exchange in the United States in 2017.

5. The Mackrow account documents that CUCINELLA sent to Investor-1 and Investor-2 purported to reflect the purchase and subsequent sale of “Domestic Guard Advantage

One” for substantial losses. For example, CUCINELLA mailed Investor-1 Mackrow account statements purporting to show the purchase of 775 units of “Domestic Guard Advantage One” in May 2017 for approximately \$16,027, and the subsequent sale of those 775 units in June 2017 for an approximately \$6,889.70 loss. Similarly, CUCINELLA sent Investor-2 Mackrow account documents purporting to show the purchase of 475 units of “Domestic Guard Advantage One” in April 2017 for approximately \$10,017.75, and the subsequent sale of those 475 units in June 2017 for an approximately \$3,705 loss.

6. After Investor-1, who resided outside of New York, learned that the defendant JOHN CUCINELLA had invested Investor-1’s money in “Domestic Guard Advantage One,” Investor-1 asked CUCINELLA to return his investment. In or about June 2017, CUCINELLA sent Investor-1 a check for \$8,644.14. This check purportedly represented what remained of Investor-1’s \$16,000 investment approximately one month earlier. CUCINELLA sent Investor-1 this check, as well as other Mackrow account documents, by mail from New York to Investor-1’s residence outside of New York.

7. After his initial \$10,000 investment in or about April 2017, Investor-2 sent Mackrow an additional investment check for \$5,000. In or about October 2017, the defendant JOHN CUCINELLA told Investor-2 that his entire \$15,000 investment had been lost.

8. The defendant JOHN CUCINELLA similarly solicited investments in pre-IPO companies from multiple other investors. For example, in or about 2017, CUCINELLA called Investor-3, an individual whose identity is known to the United States Attorney, and told him that he should invest in a chemical company that was going to go public in the near future. Investor-3 agreed to invest, and sent a \$3,000 check to Mackrow. Investor-3 subsequently received Mackrow account documents showing the purported purchase and subsequent sale of

150 units of “U.S. Defense Tier 3.” No fund or entity traded under the name “U.S. Defense Tier 3” on any market or exchange in the United States in 2017. Investor-3 lost his entire \$3,000 investment.

9. In or about 2015, the defendant JOHN CUCINELLA called Investor-4, an 85-year old individual whose identity is known to the United States Attorney, and told him that he should invest in a company that was going to go public in the near future and the stock of which would subsequently increase in value. In or about and between September 2015 and August 2016, Investor-4 sent Mackrow multiple checks totaling more than \$30,000. Investor-4 lost the entire investment and never received shares of any company.

10. In or about 2015, the defendant JOHN CUCINELLA called Investor-5, an individual whose identity is known to the United States Attorney, and solicited investments in a company’s stock. Investor-5 agreed to invest with Mackrow and, in or about and between December 2015 and August 2016, Investor-5 invested over \$80,000 with Mackrow. Investor-5 lost the entire investment and never received shares of any company.

11. In or about and between March 2015 and April 2018, a bank account in the name of “Zanisle Holdings dba Mackrow Asset Management” (the “Mackrow Account”) received approximately \$778,348 from approximately 81 different individuals or entities (the “Mackrow Investors”), including from Investor-1 through Investor-5. During that same time period, the Mackrow Investors received approximately \$80,818 in return from the Mackrow Account. None of the Mackrow Investors received more money than they had sent to the Mackrow Account. In or about April 2018, the Mackrow Account had a balance of less than \$5,000.

12. In or about and between March 2015 and April 2018, more than \$400,000 was transferred from the Mackrow Account to three bank accounts controlled by the defendant

JOHN CUCINELLA. One of those bank accounts (the “First Cucinella Account”), which received approximately \$330,000 from the Mackrow Account, transferred approximately \$313,400 to another bank account controlled by CUCINELLA in the name of Zanisle Holdings Corp. (the “Zanisle Account”).

13. In or about and between March 2015 and April 2018, more than \$650,000 was transferred into the Zanisle Account from the Mackrow Account and the First Cucinella Account. This constituted approximately 84% of the total money (\$775,957.84) deposited into the Zanisle Account during that period. Disbursements from the Zanisle Account during this time period included, among other things, approximately \$108,000 for credit card payments and approximately \$40,000 at a Mercedes-Benz dealer in Brooklyn, New York. In or about April 2018, the Zanisle Account had a balance of less than \$8,000.

SECURITIES FRAUD

14. The allegations contained in paragraphs one through 13 are realleged and incorporated as if fully set forth in this paragraph.

15. In or about and between March 2015 and April 2018, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendant JOHN CUCINELLA did knowingly and willfully use and employ one or more manipulative and deceptive devices and contrivances, contrary to Rule 10b-5 of the Rules and Regulations of the United States Securities and Exchange Commission, Title 17, Code of Federal Regulations, Section 240.10b-5, by: (a) employing one or more devices, schemes and artifices to defraud; (b) making one or more untrue statements of material fact and omitting to state one or more material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and (c) engaging in one or more acts, practices and

courses of business which would and did operate as a fraud and deceit upon one or more clients and potential clients in Mackrow, in connection with the purchase and sale of investments in securities, including pre-initial public offering shares of private companies, directly and indirectly, by use of means and instrumentalities of interstate commerce and the mails.

(Title 15, United States Code, Sections 78j(b) and 78ff; Title 18, United States Code, Section 3551 et seq.)

CRIMINAL FORFEITURE ALLEGATION

16. The United States hereby gives notice to the defendant that, upon his conviction of the offense charged herein, the government will seek forfeiture in accordance with Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c), which require any person convicted of such offense to forfeit any property, real or personal, constituting, or derived from, proceeds obtained directly or indirectly as a result of such offense.

17. 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 Title 21, United States Code, Section 853(p), to seek forfeiture of any other property of the defendant up to the value of the forfeitable property described in this forfeiture allegation.

(Title 18, United States Code, Section 981(a)(1)(C); Title 21, United States Code, Section 853(p); Title 28, United States Code, Section 2461(c))

RICHARD P. DONOGHUE
UNITED STATES ATTORNEY
EASTERN DISTRICT OF NEW YORK