

ALB:BTK  
F. #2017R00434

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA

- against -

ERIC ERB,

Defendant.

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THE UNITED STATES ATTORNEY CHARGES:

INFORMATION

**CR 17 413**

Cr. No. \_\_\_\_\_  
(T. 18, U.S.C., §§ 1343, 981(a)(1)(C), 2 and  
3551 et seq.; T. 21, U.S.C., § 853(p); T. 28,  
U.S.C., § 2461(c))

**SPATT, J.**

**SHIELDS, M.J.**

INTRODUCTION

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

I. The Defendant and His Entities

1. The defendant ERIC ERB, a resident of Nassau County, New York, was an investment adviser based in Suffolk County, New York. From approximately January 2013 to February 2017, ERB solicited individuals to invest in Individual Retirement Accounts, annuities, real estate investment trusts, hedge funds and an initial public offering (collectively, the “investment vehicles”). Through verbal and written statements, ERB told investors that he would only invest their monies according to their instructions. Beginning in approximately 2014, ERB established Erb Capital Management, LLC (“Erb Capital”), which was a New York corporation, Erb Arbitrage Opportunity, Ltd., which was a British Virgin Islands corporation, and Erb Arbitrage Opportunity Fund, L.P., which was a Delaware corporation (collectively, the “Erb Entities”). The principal place of business for the Erb Entities was Babylon, New York.

2. The defendant ERIC ERB, together with others, solicited and received approximately \$5,437,568.12 in investment monies to invest in the investment vehicles and the Erb Entities from Investor #1 through Investor #38, individuals whose identities are known to the United States Attorney (collectively, the "Investors").

## II. The Fraudulent Scheme

3. In or about and between January 2016 and February 2017, both dates being approximate and inclusive, the defendant ERIC ERB, together with others, misappropriated approximately \$3,067,743.56 from the Investors and used these monies for his personal benefit and for the benefit of the Erb Entities, without authorization from the Investors.

4. In furtherance of the scheme to defraud, the defendant ERIC ERB, together with others, made wire transfers, which were used to fund unauthorized investments in the Erb Entities, from a bank account of Erb Capital, which was located at a branch of JP Morgan Chase Bank, N.A., in Babylon, New York, to a bank account located at Stonegate Bank in Fort Lauderdale, Florida.

5. In furtherance of the scheme to defraud, the defendant ERIC ERB, together with others, used an email account serviced by Google, Inc. to email false earnings statements to some of the Investors, which statements purported to show that investments that these Investors had authorized ERB to make were earning profits, when, in fact, as ERB then and there well knew, he had not made the investments that these Investors had authorized, but instead, had made investments that these Investors had not authorized and that were generating losses.

6. In furtherance of the scheme to defraud, the defendant ERIC ERB, together with others, fraudulently altered the payee information on checks that some of the

Investors had provided to ERB to invest in specific investments, such as annuities, and did not invest the money according to these Investors' instructions. After fraudulently altering the payee information on these checks, ERB deposited the checks in bank accounts that he controlled and used the monies obtained from the checks for the benefit of himself or the Erb Entities.

#### WIRE FRAUD

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

8. In or about and between January 2016 and February 2017, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendant ERIC ERB, together with others, did knowingly and intentionally devise a scheme and artifice to defraud Investor #1 through Investor #38, and to obtain money and property from them by means of materially false and fraudulent pretenses, representations and promises, and for the purpose of executing such scheme and artifice, transmitted and caused to be transmitted, by means of wire communication in interstate and foreign commerce, writings, signs, signals, pictures and sounds, to wit: wire transfers that were used to fund unauthorized investments in the Erb Entities.

(Title 18, United States Code, Sections 1343, 2 and 3551 et seq.)

#### CRIMINAL FORFEITURE ALLEGATION

9. 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, including but not limited to:

(a) approximately \$215,000, representing the proceeds of the sale of ERB's former residence, 49 West Lane, Bay Shore, New York, that was deposited with the Clerk of the Court, United States District Court for the Eastern District of New York on or about May 7, 2017;

(b) the net proceeds of the sale of one 2005, 25-foot Regulator Boat, Vehicle Identification Number ("VIN"): DJI24111K405, New York State license plate number: 3144GP; and

(c) the net proceeds of the sale of one 2004 Porsche 911, VIN: WP0CA299745S652275, New York State license plate number: HEDGER.

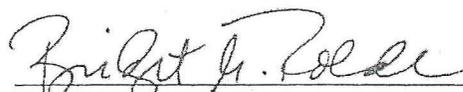
10. If any of the above-described forfeitable property, as a result of any act or omission of the defendant:

- (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))



BRIDGET M. ROHDE  
ACTING UNITED STATES ATTORNEY  
EASTERN DISTRICT OF NEW YORK

No.

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UNITED STATES DISTRICT COURT

EASTERN *District of* NEW YORK

CRIMINAL DIVISION

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THE UNITED STATES OF AMERICA

vs.

*ERIC ERB,*

Defendant.

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*A true bill.*

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*Foreperson*

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*Filed in open court this* \_\_\_\_\_ *day,*

*of* \_\_\_\_\_ *A.D. 20* \_\_\_\_\_

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*Clerk*

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*Bail, \$* \_\_\_\_\_

*Bradley T. King, Assistant U.S. Attorney, (631) 715-7875*

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