

FILED

Sep 18 2024

Mark B. Busby
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

CRIMINAL COVER SHEET

Instructions: Effective November 1, 2016, this Criminal Cover Sheet must be completed and submitted, along with the Defendant Information Form, for each new criminal case.

CASE NAME:

USA V. BEN RICHARD THOMAS III

CASE NUMBER: CR24-00511 MMC

This Case Under Seal?	Yes	No <input checked="" type="checkbox"/>
Total Number of Defendants:	1 <input checked="" type="checkbox"/>	2-7 <input type="checkbox"/> 8 or more <input type="checkbox"/>
Does this case involve ONLY charges under 8 U.S.C. § 1325 and/or 1326?	Yes	No <input checked="" type="checkbox"/>
Venue (Per Crim. L.R. 18-1):	SF <input checked="" type="checkbox"/>	OAK <input type="checkbox"/> SJ <input type="checkbox"/>
Is this a potential high-cost case?	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
Is any defendant charged with a death-penalty-eligible crime?	Yes	No <input checked="" type="checkbox"/>
Is this a RICO Act gang case?	Yes	No <input checked="" type="checkbox"/>
Assigned AUSA (Lead Attorney): Christiaan Highsmith		Date Submitted: 09/18/2024
Comments:		

RESET FORM

SAVE PDF

United States District Court

FOR THE
NORTHERN DISTRICT OF CALIFORNIA

VENUE: SAN FRANCISCO

CR24-00511 MMC

UNITED STATES OF AMERICA,

V.

BEN RICHARD THOMAS III

FILED

Sep 18 2024

Mark B. Busby
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO

DEFENDANT(S).

INDICTMENT

18 U.S.C. § 1343 – Wire Fraud;

18 U.S.C. § 1957 – Engaging in Monetary Transactions in Property Derived from
Specified Unlawful Activity;

18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c) – Forfeiture Allegation

A true bill.

/s/ Foreperson of the Grand Jury

Foreman


Filed in open court this 18th day of

September, 2024.

S. Ybarra

Clerk

Bail, \$ Summons



HONORABLE ALEX G. TSE, U.S. MAGISTRATE JUDGE

FILED

Sep 18 2024

Mark B. Busby
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO

ISMAIL J. RAMSEY (CABN 189820)
United States Attorney

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,)	CASE NO. CR24-00511 MMC
)	
Plaintiff,)	<u>VIOLATIONS:</u>
)	18 U.S.C. § 1343 – Wire Fraud;
v.)	18 U.S.C. § 1957 – Engaging in Monetary
)	Transactions in Property Derived from Specified
BEN RICHARD THOMAS III,)	Unlawful Activity;
)	18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c) –
Defendant.)	Forfeiture Allegation
)	
)	<u>SAN FRANCISCO VENUE</u>

INDICTMENT

The Grand Jury charges:

Introductory Allegations

At all times relevant to this Indictment:

1. The defendant, BEN RICHARD THOMAS III (“THOMAS”), resided in Braselton, Georgia, and was employed by Williams Sonoma, Inc. (“WSI”).
2. WSI was incorporated in 1973 and describes itself as an “omni-channel specialty retailer of high-quality products for the home.” WSI is headquartered in San Francisco, California, and sells products under several brands, including Williams-Sonoma, Pottery Barn, West Elm, Rejuvenation, and Mark and Graham. WSI sells merchandise to consumers via websites, direct-mail catalogs, and operates more than 500 retail stores and in the United States, Puerto Rico, Canada, Australia, and the United

INDICTMENT

1 Kingdom.

2 3. WSI has a Code of Business Conduct and Ethics that applies to its employees stating that
3 “employees must not engage in any transaction when an employee may face a real or perceived conflict
4 of interest with the company.” WSI distributes its Code of Business Conduct and Ethics to all
5 employees on an annual basis and makes the Code available to all employees via its internal document
6 database. Accordingly, THOMAS was prohibited from conducting any business activities outside of his
7 employment with WSI that created a real or perceived conflict of interest with WSI.

8 4. In 2016, THOMAS began working at WSI as the General Operations Manager for WSI’s
9 Braselton, Georgia, warehouse and distribution facility (the “WSI Braselton Facility”), which serves the
10 Southwestern United States. To support the WSI Braselton Facility, WSI hired both permanent
11 employees and temporary staff through approved WSI vendors. WSI requires key card access badges
12 for all employees (including temporary employees provided by WSI vendors) to access the Braselton
13 facility. These key card access badges record the dates and times each individual employee accesses the
14 facility. WSI policy requires that any employee accessing the Braselton facility use his/her individual
15 access badge to enter and exit. Additionally, CCTV cameras record activity at the facility, including at
16 employee access points.

17 5. As part of his job responsibilities at the WSI Braselton Facility, THOMAS had oversight
18 over vendors providing services to the Braselton facility, including vendors providing temporary
19 employees, and he had authority to approve payment of invoices up to \$50,000.

20 6. On or about February 14, 2017, THOMAS registered Empire Logistics Services, LLC
21 (“Empire”) with the Georgia Secretary of State. Empire’s business address corresponded to a mailbox at
22 a UPS store in Braselton, Georgia, four miles from THOMAS’s home.

23 7. In or about late March/early April 2017, THOMAS caused WSI to approve Empire as a
24 vendor at the WSI Braselton Facility. THOMAS did not inform WSI that in fact THOMAS owned and
25 controlled Empire.

26 8. On or about March 21, 2017, THOMAS caused the creation of an Empire bank account
27 at Fidelity Bank with an account number ending -3012 (“Empire account -3012”). The same day,
28 THOMAS caused the creation of a personal bank account in his wife’s name at Fidelity Bank with an

1 account number ending in -0471 (“Thomas Account -0471”).

2 9. On or about October 22, 2018, THOMAS caused Empire to change its name with the
3 Georgia Secretary of State to Express Logistics Pros, LLC (“Express”).

4 10. Between in or about 2017 and continuing through in or about December 2023, THOMAS
5 caused Empire and Express to send WSI hundreds of invoices, each for less than \$50,000, purportedly
6 corresponding to temporary staffing provided to WSI. The invoices were always in Empire’s name,
7 even after THOMAS changed Empire’s name to Express on or about October 22, 2018. In fact, Empire
8 and Express did not perform work for WSI. In total, THOMAS submitted Empire/Express invoices to
9 WSI that totaled approximately \$11 million for work not provided. In his role as a WSI General
10 Operations Manager, THOMAS approved the Empire/Express invoices, which were all below his
11 \$50,000 approval threshold. As a result, WSI made approximately 335 separate wire payments to
12 Empire account -3012 totaling approximately \$10.75 million.

13 The Scheme to Defraud

14 11. Between in or about February 2017 and continuing through in or about December 2023,
15 THOMAS engaged in a scheme, plan, and artifice to defraud WSI as to a material matter, and to obtain
16 money and property by means of materially false and fraudulent pretenses, representations, and
17 promises, by making materially false and misleading statements, and failing to disclose material facts
18 with a duty to disclose.

19 12. The objective of the scheme to defraud was to induce WSI to wire funds into Empire
20 bank accounts controlled by THOMAS and for THOMAS to spend those funds for personal use,
21 including to purchase a yacht, automobiles, tickets to professional sporting events, pet cloning, an
22 approximately 12,000 square foot home, and professional landscaping services for his home. Through
23 the scheme to defraud, and false statements and omissions with a duty to disclose, THOMAS obtained
24 money and property.

25 13. Specifically, from in or about February 2017 and continuing through in or about
26 December 2023, THOMAS caused Empire and Express to send WSI hundreds of invoices that totaled
27 approximately \$11 million for work that was not performed. In his role as General Operations Manager
28 at WSI, THOMAS approved the invoices, which had an average invoice amount of approximately

1 \$31,940, and were all below his \$50,000 approval threshold. Based on THOMAS's approvals, WSI sent
2 approximately 335 wire payments to Empire account -3012 totaling approximately \$10.75 million.
3 THOMAS represented to WSI that K.J. Davis operated Empire and Express when in fact THOMAS
4 owned and operated Empire and Express. Further, THOMAS owed a duty of loyalty and
5 trustworthiness to WSI but he omitted and concealed from WSI that he owned and operated Empire and
6 Express.

7 14. In furtherance of the scheme to defraud, THOMAS used a variety of means and methods,
8 including:

- 9 a. Causing Empire to be an approved WSI vendor but omitting and concealing from
10 WSI that THOMAS owned and controlled Empire, despite owing a duty to disclose
11 such information to WSI;
- 12 b. Submitting to WSI a New Vendor Setup Form for Empire containing numerous false
13 statements, including that K.J. Davis was the company contact for Empire rather than
14 THOMAS;
- 15 c. Submitting to WSI a 1099 Information Request for Empire falsely representing that
16 K.J. Davis was Empire's "Area Director" rather than THOMAS;
- 17 d. Submitting to WSI an ACH payment form for Empire falsely listing K.J. Davis as
18 Empire's contact rather than THOMAS;
- 19 e. Submitting to WSI a Transportation Contractor Agreement bearing the signature K.J.
20 Davis, "Area Director," rather than THOMAS's signature;
- 21 f. Submitting an Assistant Agreement for Empire to WSI bearing the signature K.J.
22 Davis rather than THOMAS's signature;
- 23 g. Submitting to WSI a price agreement between Empire and WSI with a start date of
24 "2/6/2017" bearing the signature K.J. Davis rather than THOMAS's signature;
- 25 h. Submitting false Empire and Express invoices to WSI via email address
26 kj.davis@empirelogistic.co to conceal that THOMAS was submitting the invoices to
27 WSI;
- 28 i. Approving, as a WSI General Operations Manager, Empire and Express invoices that

- 1 should have been denied by WSI because THOMAS owned Empire and Express;
- 2 j. Approving, as a WSI General Operations Manager, Empire and Express invoices that
- 3 should have been denied by WSI because Empire and Express did not perform work
- 4 for WSI;
- 5 k. Causing WSI to wire funds into Empire account -3012 for THOMAS's benefit based
- 6 on THOMAS's false statements, omissions, and concealment with a duty to disclose.
- 7 l. Failing to disclose to WSI, when he had a duty to disclose, that THOMAS owned and
- 8 controlled Empire and Express, which were billing WSI for services;
- 9 m. Creating Empire and Express email accounts in someone else's name to create a false
- 10 and misleading trail for submission of invoices to WSI for approval;
- 11 n. Misusing his position and authority as General Operations Manager at the WSI
- 12 Braselton Facility to approve Empire and Express invoices for work and services that
- 13 otherwise would not have been approved;
- 14 o. Transferring funds wired from WSI to Empire account -3012 to THOMAS's personal
- 15 account so that THOMAS could spend WSI money for personal use, including for a
- 16 yacht, automobiles, tickets to professional sporting events, and an approximately
- 17 12,000 square foot home.

18 COUNTS ONE THROUGH EIGHT:(18 U.S.C. § 1343 – Wire Fraud)

19 15. Paragraphs 1 through 14 of this Indictment are re-alleged and incorporated as if fully set

20 forth here.

21 16. Beginning no later than in or about February 2017 and continuing through in or about

22 December 2023, in the Northern District of California, and elsewhere, the defendant,

23 BEN RICHARD THOMAS III,

24 knowingly and with the intent to defraud devised and intended to devise a scheme and artifice to defraud

25 WSI as to a material matter and to obtain money and property from WSI by means of materially false

26 and fraudulent pretenses, representations, and promises, and by means of omission and concealment of

27 material facts with a duty to disclose, which scheme is summarized in paragraphs 1 through 14 above.

28 //

The Use of the Wires

17. On or about the dates set forth in the separate counts below, in the Northern District of California, and elsewhere, for the purpose of executing the aforementioned scheme and artifice to defraud, the defendant, did knowingly transmit and cause to be transmitted in interstate and foreign commerce, by means of a wire communication, certain writings, signs, signals, pictures, and sounds, namely, the following:

COUNT	DATE	DESCRIPTION OF WIRE COMMUNICATION
1	10/06/2021	Electronic approval of \$49,478.90 payment from WSI's offices in the Northern District of California to Empire account -3012 in the Northern District of Georgia.
2	10/13/2021	Electronic approval of \$54,841.80 payment from WSI's offices in the Northern District of California to Empire account -3012 in the Northern District of Georgia.
3	10/20/2021	Electronic approval of \$48,345.70 payment from WSI's offices in the Northern District of California to Empire account -3012 in the Northern District of Georgia.
4	10/27/2021	Electronic approval of \$47,776.10 payment from WSI's offices in the Northern District of California to Empire account -3012 in the Northern District of Georgia.
5	12/02/2021	Electronic approval of \$51,192.40 payment from WSI's offices in the Northern District of California to Empire account -3012 in the Northern District of Georgia.
6	12/08/2021	Electronic approval of \$55,461.40 payment from WSI's offices in the Northern District of California to Empire account -3012 in the Northern District of Georgia.
7	12/15/2021	Electronic approval of \$57,119.40 payment from WSI's offices in the Northern District of California to Empire account -3012 in the Northern District of Georgia.
8	12/21/2021	Electronic approval of \$57,689.50 payment from WSI's offices in the Northern District of California to Empire account -3012 in the Northern District of Georgia.

All and each in violation of Title 18, United States Code, Section 1343.

COUNTS NINE THROUGH THIRTEEN: (18 U.S.C. § 1957 – Engaging in Monetary Transactions in Property Derived from Specified Unlawful Activity)

18. Paragraphs 1 through 17 of this Indictment are re-alleged and incorporated as if fully set forth here.

19. Among other transactions, on or about the dates set forth in the separate counts below, in

the Northern District of California, and elsewhere, the defendant,

BEN RICHARD THOMAS III,

knowingly engaged in a monetary transactions by, through, and to a financial institution, in and affecting interstate and foreign commerce, in criminally derived property of a value greater than \$10,000, such funds having been derived from the specified unlawful activity of wire fraud, to wit, the wire fraud scheme pertaining to WSI alleged in Counts One through Eight of this Indictment:

COUNT	DATE	DESCRIPTION OF MONETARY TRANSACTION
9	02/02/2021	Posting of check #585 in the amount of \$91,996.53 in Thomas Account -0471 constituting payment for a 2021 Range Rover Westminster Edition.
10	02/19/2021	Posting of check #587 in the amount of \$44,000 in Thomas Account -0471 constituting payment for a 2019 GMC Sierra 1500 4WD Crew Cab pickup truck.
11	10/27/2021	Wire transfer in the amount of \$109,995 from Empire Account -3012 to a private airplane travel company.
12	12/22/2021	Posting of check #106 in the amount of \$198,000 in Empire Account -3012 constituting the loan payment for THOMAS's residence.
13	11/22/2022	Posting of check #908 with memo "Backyard" in the amount of \$70,000 in Thomas Account -0471 constituting payment for landscaping services at THOMAS's residence.

Each and all in violation of Title 18, United States Code, Section 1957.

FORFEITURE ALLEGATION: (18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c))

20. The allegations contained in this Indictment are re-alleged and incorporated by reference for the purpose of alleging forfeiture pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c).

21. Upon conviction for any of the offenses set forth in this Indictment, the defendant,

BEN RICHARD THOMAS III,

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 or personal, constituting, or derived from proceeds the defendant obtained directly and indirectly, as the result of those violations, including but not limited to the following:

- a. 38' 2006 regal 3880 Pleasure Cruiser yacht, Hull ID: RGMLB188D506 (GA: GA0387YW);
- b. 2020 Sea Doo BRP Queretaro jet ski, VIN: YDV31368L021 (GA: GA3544RJ);
- c. 2019 Yamaha jet ski, VIN: YAMA1585E919 (GA: GA1468KL);
- d. 2021 Range Rover, VIN: SALGS2RU0MA430338 (GA Plate: WFM533);
- e. 1968 Chevrolet Camaro, VIN 124378N455786 (GA Plate: XIY189);
- f. 2019 GMC Sierra pickup truck, 3GTP9EEL8KG175423 (GA Plate: ETQ864);
- g. \$48,479.20 held at Ameris Bank in Empire Logistics account number 370003012;
- h. \$5,457.95 held at Ameris Bank in Ben and Jennifer Thomas account number 1370010471;
- i. \$922.21 held at Peach State Bank in Bright Indoor Group Inc. account number 2038289;
- j. \$982.53 held in a Robinhood account in Ben Thomas's name; and
- k. \$23,660.00 in U.S. currency seized from Ben Thomas's residence on February 28, 2024;
- l. The following assets relating to Regline Outdoors, Inc.:
 - 48,339 shares in Regline Outdoors, Inc. held by Simple Agreement for Future Equity (SAFE) agreement holder Ben Thomas; and
 - 87,895 series seed preferred shares in Regline Outdoors, Inc. held by Ben Thomas.

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

- a. cannot be located upon 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,

the United States of America shall be entitled to forfeiture of substitute property pursuant to Title 21,

1 United States Code, Section 853(p), as incorporated by Title 28, United States Code, Section 2461(c).

2 All pursuant to Title 18, United States Code, Section 981(a)(1)(C), Title 28, United States Code,
3 Section 2461(c), and Federal Rule of Criminal Procedure 32.2.

4
5
6 DATED: September 18, 2024

A TRUE BILL.

7
8
9 ISMAIL J. RAMSEY
10 United States Attorney

/s/
FOREPERSON

11
12 /s/
CHRISTIAAN H. HIGHSMITH
13 Assistant United States Attorney

DEFENDANT INFORMATION RELATIVE TO A CRIMINAL ACTION - IN U.S. DISTRICT COURT
 BY: ☐ COMPLAINT ☐ INFORMATION ☒ INDICTMENT
☐ SUPERSEDING
OFFENSE CHARGED
 Counts 1-8: 18 U.S.C. § 1343 – Wire Fraud; ☐ Petty
 Counts 9-13: 18 U.S.C. § 1957 – Engaging in Monetary ☐ Minor
 Transactions in Property Derived from Specified Unlawful ☐ Misdemeanor
 Activity; ☐ Felony
 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c) – Forfeiture Allegation

 PENALTY: Counts 1-8: 20 years imprisonment; \$250,000 fine; 3 years supervised release; \$100 special assessment
 Counts 9-13: 10 years imprisonment; \$250,000 fine; 3 years supervised release; \$100 special assessment
 Forfeiture

Name of District Court, and/or Judge/Magistrate Location

 NORTHERN DISTRICT OF CALIFORNIA
 SAN FRANCISCO DIVISION
DEFENDANT - U.S.

BEN RICHARD THOMAS III

 DISTRICT COURT NUMBER
 CR24-00511 MMC
FILED

Sep 18 2024

 Mark B. Busby
 CLERK, U.S. DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 SAN FRANCISCO
DEFENSE**IS NOT IN CUSTODY**

Has not been arrested, pen

 1) ☐ If not detained give date an
 summons was served on al
2) ☐ Is a Fugitive3) ☐ Is on Bail or Release from (show District)**IS IN CUSTODY**4) ☐ On this charge5) ☐ On another conviction☐ Federal ☐ State6) ☐ Awaiting trial on other charges

If answer to (6) is "Yes", show name of institution

 Has detainer ☐ Yes
 been filed? ☐ No

 If "Yes"
 give date
 filed
DATE OF ARREST

Month/Day/Year

Or... if Arresting Agency & Warrant were not

DATE TRANSFERRED TO U.S. CUSTODY

Month/Day/Year

☒ U.S. Attorney ☐ Other U.S. Agency

Name and Office of Person

Furnishing Information on this form Ismail J. Ramsay

 Name of Assistant U.S.
 Attorney (if assigned)

Christiaan Highsmith

☐ This report amends AO 257 previously submitted**ADDITIONAL INFORMATION OR COMMENTS****PROCESS:**☒ SUMMONS ☐ NO PROCESS* ☐ WARRANT

If Summons, complete following:

☐ Arraignment ☒ Initial Appearance

Defendant Address:

Bail Amount: _____

 * Where defendant previously apprehended on complaint, no new summons or
 warrant needed, since Magistrate has scheduled arraignment

Oct. 1, 2024

Date/Time: 10:30 a.m.

Before Judge: Peter H. Kang

Comments: