

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA : Hon.
 :
 v. : Crim. No.
 :
 MICHAEL J. CLARKE : 18 U.S.C. § 1343

SUPERSEDING INDICTMENT

The Grand Jury in and for the District of New Jersey, sitting at Newark, charges as follows:

Background

1. At all times relevant to this Superseding Indictment:
 - a. Defendant MICHAEL J. CLARKE (“CLARKE”) was a licensed Municipal Securities Representative who purported to separately operate a ticket brokering business that purchased tickets to entertainment and sporting events and resold those tickets for a profit. CLARKE also purported to have access to permanent seat licenses for the U.S. Open Tennis Championships (“U.S. Open”) that could be purchased and resold for a profit.
 - b. “Victim Investors” were individuals who invested money in CLARKE’s purported entertainment and sporting event ticket and/or U.S. Open seat license resale business.
 - c. “Victim Investor 1” was an individual who resided in Union County, New Jersey and invested in CLARKE’s purported ticket resale business.
 - d. “Bank 1” was a financial institution headquartered in New York, New York.

e. “Bank 2” was a financial institution headquartered in Hoboken, New Jersey.

The Scheme to Defraud

2. From in or about October 2015 through in or about October 2016, in the District of New Jersey and elsewhere, the defendant,

MICHAEL J. CLARKE,

did knowingly and intentionally devise and intend to devise a scheme and artifice to defraud victim investors and to obtain money and property by means of materially false and fraudulent pretenses, representations, and promises, and, for the purpose of executing and attempting to execute such scheme and artifice, did transmit and cause to be transmitted by means of wire communications in interstate and foreign commerce, certain writings, signs, signals, pictures, and sounds, as more fully set forth below.

Goal of the Scheme

3. The goal of the scheme was for CLARKE to enrich himself by fraudulently inducing the Victim Investors into investing money in his purported ticket purchase and resale business by making material misrepresentations and omissions.

Manner and Means of the Scheme

4. It was part of the scheme to defraud that:

a. CLARKE made numerous material misrepresentations to the Victim Investors, including that he would use their investments to purchase entertainment and sporting event tickets and then resell those tickets at a

mark-up, with the Victim Investors to receive a portion of the profits of the sales.

b. CLARKE assured Victim Investors that he had purchasers for the tickets lined up, or that tickets had been presold to purchasers.

c. CLARKE also misrepresented to Victim Investors that he had an opportunity to purchase permanent seat licenses for the U.S. Open, and that those seats could then be resold each year for a profit.

d. Based on his material misrepresentations, CLARKE obtained more than approximately \$617,400 from the Victim Investors over the course of the fraudulent scheme.

e. In order to lull the Victim Investors and continue to perpetuate the fraudulent scheme, CLARKE made payments to certain Victim Investors that were purportedly their interest payments on their investments. CLARKE also provided Victim Investors with blank personal checks or personal checks drawn on CLARKE's personal account at Bank 1 that did not clear due to insufficient funds.

f. For example, on or about September 20, 2016, CLARKE provided Victim Investor 1 with a \$7,000 check drawn on CLARKE's personal Bank 1 account that Victim Investor 1 attempted to deposit into Victim Investor 1's personal bank account at a Bank 2 branch location in Union County, New Jersey. CLARKE represented to Victim Investor 1 that the \$7,000 represented the return of Victim Investor 1's \$5,000 investment, which Victim Investor 1 understood would be used to purchase sporting event tickets, as

well as Victim Investor 1's share of the profits on the sale of those tickets. The \$7,000 check CLARKE provided to Victim Investor 1 did not clear due to insufficient funds.

g. When confronted by Victim Investors about CLARKE's failure to make payments to the Victim Investors as promised, or about checks drawn on CLARKE's personal bank account that failed to clear due to insufficient funds, CLARKE assured Victim Investors that they would be receiving their money from CLARKE. For example, on or about October 8, 2016, Victim Investor 1 sent CLARKE a text message stating "Mike, please do that bank transfer in the morning.... The \$7000 check from you was bounced by the bank on 9/28." CLARKE responded to Victim Investor 1 with text messages stating "Did this a.m. [Bank 1] will send me confirm via email when your bank accepts."

h. CLARKE provided additional assurance of payment in a text message that he sent to Victim Investor 1 on or about October 12, 2016, stating, "Just left [Bank 1] 101 Barclay street in Manhattan and was here since 430 pm after court -they called your bank several times in Hoboken and just recording. [sic] has been in fed pool since Tues am (went in Saturday) if it's not claimed by your bank they will give me certified check tomorrow. Enjoy your holiday."

i. Despite these assurances, Victim Investor 1 never received repayment of his \$5,000 investment or interest on that investment from CLARKE.

j. In fact, CLARKE did not use the Victim Investors' money only to purchase tickets or U.S. Open seat licenses, as promised. Instead, CLARKE diverted a portion of their money and used it for his own personal expenditures and to pay back prior investors in CLARKE's ticket resale scheme.

Execution of the Scheme

5. For the purpose of executing the scheme and artifice to defraud, in the District of New Jersey and elsewhere, defendant

MICHAEL J. CLARKE

did knowingly and intentionally transmit and cause to be transmitted by means of wire communication in interstate and foreign commerce certain writings, signs, signals, pictures, and sounds, namely, text messages falsely promising payment to Victim Investor 1 as follows:

Count	Approximate Date	Description
1	October 8, 2016	CLARKE sent Victim Investor 1 text messages, resulting in an interstate wire transmission, falsely assuring Victim Investor 1 that CLARKE had transferred money to Victim Investor 1's personal bank account at Bank 2.
2	October 12, 2016	CLARKE sent Victim Investor 1 text messages, resulting in an interstate wire transmission, falsely assuring Victim Investor 1 that CLARKE was in the process of repaying Victim Investor 1.

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

FORFEITURE ALLEGATION

1. The allegations contained in this Superseding Indictment are incorporated by reference as though set forth in full herein for the purpose of alleging forfeiture pursuant to Title 18, United States Code, Section 981 and Title 28, United States Code, Section 2461.

2. As a result of committing the offenses charged in Counts One and Two of this Superseding Indictment, defendant

MICHAEL J. CLARKE

shall forfeit to the United States, pursuant to Title 18, United States Code, Section 981 and Title 28, United States Code, Section 2461, all property, real and personal, that constitutes or is derived from proceeds traceable to the commission of the said offense, and all property traceable thereto.

Substitute Assets Provision

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

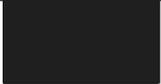
- (a) cannot be located upon the exercise of due diligence;
- (b) has been transferred or sold to, or deposited with, a third person;
- (c) has been placed beyond the jurisdiction of the Court;
- (d) has been substantially diminished in value; or
- (e) has been commingled with other property which cannot be subdivided without difficulty;

it is the intent of the United States, pursuant to 21 U.S.C. § 853(p), as incorporated by 28 U.S.C. § 2461(c), to seek forfeiture of any other property of the defendant up to the value of the above forfeitable property.

A TRUE BILL



FOREPERSON




RACHAEL A. HONIG

Acting United States Attorney

CASE NUMBER: 21-CR-741

**United States District Court
District of New Jersey**

UNITED STATES OF AMERICA

v.

MICHAEL J. CLARKE

SUPERSEDING INDICTMENT FOR

18 U.S.C. § 1343

A True Bill,

Foreperson

**RACHAEL A. HONIG
ACTING UNITED STATES ATTORNEY
FOR THE DISTRICT OF NEW JERSEY**

**JENNIFER S. KOZAR
ASSISTANT U.S. ATTORNEY
NEWARK, NEW JERSEY
(973) 645-2918**
