

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA	:	Hon. Katharine S. Hayden
	:	
	:	Criminal Number: 19-935
v.	:	
	:	18 U.S.C. § 1343
DAVID BUCKINGHAM	:	26 U.S.C. § 7202
	:	

SUPERSEDING INFORMATION

The Defendant having waived in open court prosecution by indictment, and any challenges to Count Two based on venue, the United States Attorney for the District of New Jersey charges:

COUNT ONE
(Wire Fraud)

Individuals and Entities

1. At all times relevant to this Superseding Information:
 - a. Defendant David Buckingham ("BUCKINGHAM") was a resident of Chatham, New Jersey. He was an Associate Director and in charge of the New York office of a global maritime service group (the "Victim Company").
 - b. The Victim Company was headquartered in London, England and offered, among other services, the handling of subrogation claims related to marine transportation of goods for insurance companies. As Associate Director and head of the Victim Company's New York office, BUCKINGHAM was a signatory on the Victim Company's United States bank accounts and had

authority to issue checks on behalf of the Victim Company for legitimate business purposes.

c. The Victim Company had two bank accounts in the United States: (1) an operating account (the "Operating Account") and (2) a client funds trust account (the "Client Trust Account"). The Operating Account was used to pay monthly bills, payroll, and fees. The Client Trust Account held client money collected. The only transactions allowed in the Client Trust Account were: (1) incoming payments collected on behalf of the Victim Company's clients; (2) outgoing payments to the clients of the money recovered by the Victim Company; and (3) outgoing payments to the Operating Account of the Victim Company's fees for recovering the clients' money.

The Scheme to Defraud

2. Beginning at least as early as in or around January 2016 through in or around October 2018, in Union County, in the District of New Jersey and elsewhere, the defendant,

DAVID BUCKINGHAM,

did knowingly and intentionally devise and intend to devise a scheme and artifice to defraud the Victim Company, and to obtain money and property by means of materially false and fraudulent pretenses, representations, and promises, as set forth below.

Goal of the Scheme to Defraud

3. The goal of the scheme was for BUCKINGHAM to enrich himself unlawfully by making unauthorized payments from the Victim Company to himself in order to obtain funds to which he was not entitled, including by (a) writing unauthorized checks to himself and to "cash" from the Operating Account while misrepresenting the payments as the Victim Company's tax payments or other legitimate business expenses, and (b) writing unauthorized checks to himself and to "cash" from the Client Trust Account.

Manner and Means of the Scheme to Defraud

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

a. BUCKINGHAM wrote checks from the Operating Account to himself or to "cash" and obtained funds to which he was not entitled. In some instances, BUCKINGHAM falsified the Victim Company's books and records in an effort to make the payments appear legitimate by claiming that certain of these checks were to make tax payments on behalf of the Victim Company or to pay other legitimate business expenses.

b. In other instances, BUCKINGHAM wrote checks from the Client Trust Account to himself or to "cash" and obtained funds to which he was not entitled. For example, on or about May 9, 2017, BUCKINGHAM deposited a check for approximately \$4,250 from the Client Trust Account into his personal account at an ATM in Berkeley Heights, New Jersey, resulting in an interstate wire transmission.

c. BUCKINGHAM used the proceeds of the scheme for his own personal expenses.

d. BUCKINGHAM's conduct resulted in hundreds of thousands of dollars in losses to the Victim Company.

Execution of the Scheme to Defraud

5. On or about May 9, 2017, for the purpose of executing and attempting to execute the scheme and artifice to defraud, in Union County, in the District of New Jersey and elsewhere, the defendant

DAVID BUCKINGHAM

did knowingly and intentionally transmit and cause to be transmitted by means of wire communications in interstate and foreign commerce certain writings, signs, signals, pictures, and sounds, namely, the deposit of a check for approximately \$4,250 from the Client Trust Account into BUCKINGHAM's personal account at an ATM in Berkeley Heights, New Jersey.

In violation of Title 18, United States Code, Section 1343 and Section 2.

COUNT TWO
(Failure to Collect, Account for, and Pay Over Payroll Taxes)

1. The allegations contained in Paragraph 1(a) through 1(c) of this Superseding Information are realleged here.
2. At all times relevant to Count Two of this Superseding Information:
 - a. The Internal Revenue Service (“IRS”) was an agency of the United States within the Department of Treasury, responsible for administering and enforcing the tax laws of the United States.
 - b. Pursuant to the Internal Revenue Code and associated statutes and regulations, including the Federal Insurance Contributions Act (“FICA”), employers were required to withhold amounts from the gross salary or wages of their employees to cover individual income, Social Security, and Medicare tax obligations. Employers were required to withhold these amounts to be held in trust on behalf of the United States and remit these withheld “trust fund” amounts (“payroll taxes”) over to the IRS on a periodic basis, no later than the last day of the month following the end of the quarter.
 - c. Employers were required to prepare and file an Employer's Quarterly Federal Tax Return (“Form 941”), due on the last day of the month following the end of a quarter, setting forth the total amount of wages and other compensation subject to withholding, the total amount of payroll taxes withheld, and the total tax deposits made to the IRS. Pursuant to the Internal

Revenue Code, any person having authority to exercise significant control over an employer's financial affairs was deemed responsible for collecting, accounting for, and paying over payroll taxes, regardless of whether the person in fact exercised such control.

3. Beginning in or around February 2016, and continuing until in or around October 2018, BUCKINGHAM exercised significant control over the Victim Company's financial affairs, including controlling the Operating Account from which the Victim Company paid pay monthly bills, payroll, and fees. Thus, BUCKINGHAM was a person responsible for collecting trust fund taxes, accounting for those taxes by filing Forms 941 with the IRS and paying over to the IRS those taxes for the employees of the Victim Company.

4. On or about June 30, 2018, in the Southern District of New York and elsewhere, defendant

DAVID BUCKINGHAM

being a person required to collect, truthfully account for, and pay over payroll taxes to the IRS, did willfully fail to truthfully account for and pay over to the IRS all of the payroll taxes due and owing to the United States on behalf of the Victim Company, and its employees.

In violation of Title 26, United States Code, Section 7202 and Title 18, United States Code, Section 2.

FORFEITURE ALLEGATION AS TO COUNT ONE

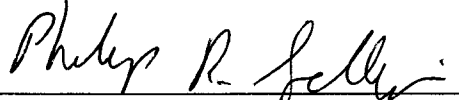
1. As the result of committing the offense constituting specified unlawful activity as defined in 18 U.S.C. § 1956(c)(7), as alleged in Count One of the Superseding Information, defendant DAVID BUCKINGHAM shall forfeit to the United States, pursuant to 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c), all property, real and personal, that constitutes or is derived from proceeds traceable to the commission of the wire fraud offense, and all property traceable thereto.

Substitute Assets Provision

2. 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.



PHILIP R. SELLINGER
United States Attorney

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INFORMATION FOR

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