

ORIGINAL

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA :

- v. - :

WILLIAM J. WELLS, :

Defendant. :

- - - - - x

COUNT ONE
(Securities Fraud)

The Grand Jury charges:

Relevant Individuals and Entities

1. At all relevant times, WILLIAM J. WELLS, the defendant, purported to be the principal investment manager of Promitor Capital Management LLC ("Promitor Capital"), a New York limited liability company formed in September 2009 that operated a private investment vehicle for individuals (the "Promitor Fund").

2. WILLIAM J. WELLS, the defendant, was the only employee associated with Promitor Capital. At various relevant times, WELLS operated Promitor Capital from an apartment in Manhattan, New York and from his home in New Jersey. WELLS solicited investments for the Promitor Fund and for so-called individual trading accounts, described by WELLS as "sub-

JUDGE WOOD

INDICTMENT

15 Cr. CRIM 885

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accounts," for which WELLS purported to execute individualized trading strategies.

The Scheme to Defraud

3. From at least in or about September 2009 through at least in or about September 2015, WILLIAM J. WELLS, the defendant, raised more than \$1.5 million from more than thirty investors by falsely representing that he had achieved consistently positive returns trading in the U.S. equity markets, including through the successful use of options to hedge risk. In truth, and as WELLS well knew, WELLS' trading was remarkably unsuccessful. Between 2009 and the present, WELLS realized trading losses every year and, in total, trading losses in excess of \$500,000. As of September 2015, Promitor Capital had less than \$1,000 under management. To hide his trading losses, WELLS generated fictitious account statements and also made oral and written misrepresentations that his trading strategies were generating consistently positive returns.

4. WILLIAM J. WELLS, the defendant, routinely converted the money he did not lose in securities trading to his own use to pay personal expenses and used new investor funds to pay back other investors in a Ponzi-like fashion. The funds WELLS converted to himself were used to pay personal expenses, including more than \$500,000 for, among other things, credit

card bills, payments for WELLS' automobile, and for private school tuition. To fund redemptions he could not forestall, WELLS paid approximately \$500,000 - monies WELLS solicited from new investors - to existing investors. Such redemptions were often paid only after investors threatened to file a lawsuit or report WELLS to the authorities.

Statutory Allegations

5. From at least in or about September 2009 through at least in or about September 2015, in the Southern District of New York and elsewhere, WILLIAM J. WELLS, the defendant, willfully and knowingly, directly and indirectly, by use of the means and instrumentalities of interstate commerce, the mails and the facilities of national securities exchanges, used and employed manipulative and deceptive devices and contrivances in connection with the purchase and sale of securities, in violation of Title 17, Code of Federal Regulations, Section 240.10b-5, by: (a) employing devices, schemes and artifices to defraud; (b) making untrue statements of material fact and omitting to state 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 acts, practices and courses of business which operated and would operate as a fraud and deceit upon persons, to wit, WELLS, on behalf of his investment company, Promitor Capital, solicited more than \$1.5

million in funds from investors purportedly for the purpose of purchasing securities when, in truth and in fact, WELLS converted some of the money to his own use and used some of the money to pay purported returns to other investors to whom he falsely reported positive trading results and account balances.

(Title 15, United States Code, Sections 78j(b) and 78ff;
Title 17, Code of Federal Regulations, Section 240.10b-5; Title
18, United States Code, Section 2.)

COUNT TWO
(Wire Fraud)

The Grand Jury further charges:

6. The allegations contained in paragraphs 1 through 4 of this Indictment are hereby repeated, realleged, and incorporated by reference as if fully set forth herein.

7. From at least in or about September 2009 through at least in or about September 2015, in the Southern District of New York and elsewhere, WILLIAM J. WELLS, the defendant, willfully and knowingly, having devised and intending to devise a scheme and artifice to defraud, and for obtaining money and property by means of false and fraudulent pretenses, representations, and promises, transmitted and caused to be transmitted by means of wire, radio, and television communication in interstate and foreign commerce, writings, signs, signals, pictures, and sounds for the purpose of executing such scheme and artifice, to wit, WELLS, on behalf of

his investment company, Promitor Capital, solicited more than \$1.5 million in funds from investors purportedly for the purpose of purchasing securities when, in truth and in fact, he converted some of the money to his own use and he used some of the money to pay purported returns to other investors to whom he falsely reported positive trading results and account balances via email and other interstate wires.

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

FORFEITURE ALLEGATION

8. As the result of committing the offenses alleged in Counts One and Two of this Indictment, WILLIAM J. WELLS, the defendant, 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, all property, real and personal, that constitutes or is derived from proceeds traceable to the commission of the offenses.

Substitute Asset Provision

9. If any of the above-described forfeitable property, as a result of any act or omission of WILLIAM J. WELLS, 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 subdivided without difficulty, it is the intent of the United States, pursuant to Title 18, United States Code, Section 982(b), and Title 21, United States Code, Section 853(p), to seek forfeiture of any other property of WELLS up to the value of the above forfeitable property.

(Title 18, United States Code, Sections 981 and 982;
Title 21, United States Code, Section 853;
Title 28, United States Code, Section 2461.)


FOREPERSON 12/21/15


PREET BHARARA
UNITED STATES ATTORNEY

Form No. USA-33s-274 (Ed. 9-25-58)

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Title 17, Code of Federal Regulations, Section 240.10b-5; Title
18, United States Code, Sections 1343 and 2.)

FOREPERSON

PREET BHARARA

United States Attorney

MM Mohlman 12/21/15

12/21/15 Fld. Indictment. Case assigned to Judge Wood.

Pitman, USMS
BP