

Approved: Edward Imperatore
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Assistant United States Attorneys

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Before: THE HONORABLE BARBARA MOSES
United States Magistrate Judge
Southern District of New York

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: SEALED COMPLAINT
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UNITED STATES OF AMERICA :
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: Violations of
- v. - : 15 U.S.C. §§ 78j(b), 78ff;
: 17 C.F.R. §§ 240.10b-5; 18
BRENT BORLAND, : U.S.C. §§ 371, 1343, and 2
:
: Defendant. : COUNTY OF OFFENSES:
: New York
:
:
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SOUTHERN DISTRICT OF NEW YORK, ss.:

DIANA CHAU, being duly sworn, deposes and says that she is a Postal Inspector with the United States Postal Inspection Service ("USPIS") and charges as follows:

COUNT ONE
(Conspiracy to Commit Securities Fraud and Wire Fraud)

1. From at least in or about 2014 through at least in or about March 2018, in the Southern District of New York and elsewhere, BRENT BORLAND, the defendant, and others known and unknown, willfully and knowingly did combine, conspire, confederate, and agree together and with each other to commit offenses against the United States, to wit, securities fraud, in violation of Title 15, United States Code, Sections 78j(b) and 78ff and Title 17, Code of Federal Regulations, Section 240.10b-5; and wire fraud, in violation of Title 18, United States Code, Section 1343.

2. It was a part and object of the conspiracy that BRENT BORLAND, the defendant, and others known and unknown, willfully and knowingly, directly and indirectly, by use of the means and instrumentalities of interstate commerce, and of the mails,

would and did use and employ 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 facts 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 other persons, in violation of Title 15, United States Code, Sections 78j(b) and 78ff.

3. It was a further part and object of the conspiracy that BRENT BORLAND, the defendant, and others known and unknown, 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, would and did transmit and cause 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, in violation of Title 18, United States Code, Section 1343.

Overt Acts

4. In furtherance of the conspiracy and to effect its illegal objects, BRENT BORLAND, the defendant, committed the following overt acts, among others, in the Southern District of New York and elsewhere:

a. In or about March 2016, BORLAND accepted an investment of approximately \$1 million from an investor solicited by BORLAND ("Victim-1"), which BORLAND used, in part, to pay personal expenses, such as his home mortgage, credit card debt, a beach club membership, and private school tuition.

b. In or about February 2018, BORLAND met with an investor that BORLAND had solicited ("Victim-2") at BORLAND's office in New York, New York to discuss the purported status of Victim-2's investment.

(Title 18, United States Code, Section 371.)

COUNT TWO
(Securities Fraud)

5. From at least in or about 2014 through at least in or about March 2018, in the Southern District of New York and elsewhere, BRENT BORLAND, the defendant, willfully and knowingly, directly and indirectly, by use of the means and instrumentalities of interstate commerce, and of the mails, 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 facts 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 other persons, to wit, BORLAND misappropriated investor funds and made, and caused to be made, false representations to investors regarding (1) the use of their investment funds in Belize Infrastructure Fund I, LLC and related entities ("Belize Fund"), (2) the returns investors would receive from Belize Fund, and (3) the purported investment security in Belize Fund.

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

COUNT THREE
(Wire Fraud)

6. From at least in or about 2014 through at least in or about March 2018, in the Southern District of New York and elsewhere, BRENT BORLAND, 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, BORLAND made, and caused to be made, false representations, through means including email and telephone communications, to investors regarding investments in Belize Fund, and misappropriated investor funds for his own use, including by wire transfer.

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

The bases for my knowledge and the foregoing charges are, in part, as follows:

7. I have been a Postal Inspector with the USPIS for approximately two years. I am assigned to a unit that specializes in the investigation of white-collar offenses, including securities fraud and investment fraud. During my tenure with the USPIS, I have participated in numerous investigations of financial crimes and complex frauds.

8. The information contained in this affidavit is based upon my personal knowledge, as well as information obtained during this investigation, directly or indirectly, from other sources and agents, including documents and information provided to me by representatives of the U.S. Securities and Exchange Commission ("SEC"), and documents provided by financial institutions and investors. Because this affidavit is prepared for the limited purpose of establishing probable cause, I have not set forth each and every fact I have learned in connection with this investigation. Where communications and events are referred to herein, moreover, they are related in substance and in part. Where dates, figures, and calculations are set forth herein, they are approximate.

BACKGROUND

9. Based upon my review of bank account records, e-mails, and other subpoenaed records, I have learned the following, in sum and substance, and in part:

a. Belize Fund is a Florida limited liability company owned by BRENT BORLAND, the defendant, and based in New York, New York. Belize Fund purports to be in the business of selling promissory notes to finance the construction of an airport in Belize known as the Placencia International Airport (the "Airport"). A website relating to the purported development, <https://www.theplacencia.com>, states, in pertinent part, that "[o]ur soon-to-open, privately owned Placencia International Airport will make paradise even more accessible."

b. Borland Capital Group, LLC ("BCG"), also owned by BORLAND, is a Delaware limited liability company based in New York, New York. A co-conspirator not named as a defendant

herein ("CC-1") identified himself as "managing director" of BCG.

c. Canyon Acquisitions, LLC ("Canyon") is a Nevada limited liability company owned by BORLAND and his wife.

OVERVIEW OF THE FRAUDULENT SCHEME

10. From at least in or about 2014 through at least in or about March 2018, BRENT BORLAND, the defendant, and others known and unknown, solicited and received approximately \$21.9 million from approximately 40 investors based upon representations that BORLAND would use the investors' money to construct an airport in Belize. BORLAND promised investors high rates of return on their investments, which he represented were temporary "bridge financing." BORLAND also represented to investors that their investments would be fully secured by real property in Belize that was unencumbered by any liens or obligations.

11. In truth and in fact, however, BRENT BORLAND, the defendant, misappropriated millions of dollars of investors' funds and used those funds for his own personal benefit. BORLAND diverted at least approximately thirty percent of the approximately \$21.9 million invested by victims to himself to pay for a variety of personal expenses, including his mortgage payments, credit card bills, and luxury automobiles. In contrast to BORLAND's representations that investors would receive high rates of return within a specified time frame, all known investors in the scheme lost money. And while BORLAND represented that the investments would be secured by real property, the property purportedly serving as collateral was improperly pledged to multiple investors and, in some cases, did not even exist.

MISREPRESENTATIONS TO INVESTORS

12. Based upon my conversations with Victim-1, as well as my review of emails that BRENT BORLAND, the defendant, sent to Victim-1 and documents provided to Victim-1, I have learned the following, in substance and in part:

a. In or about January 2016, brokers associated with BORLAND introduced Victim-1 to BORLAND. Victim-1 subsequently spoke with BORLAND on multiple occasions by telephone and exchanged emails with BORLAND and CC-1.

b. During telephone conversations and email exchanges, BORLAND solicited Victim-1 to invest in the construction of the Airport by making a loan to Belize Fund. BORLAND represented to Victim-1 that Victim-1's investment would be a "bridge loan" for the Airport that would be repaid with interest.

c. BORLAND represented to Victim-1 that the proceeds of Victim-1's loan would be used to construct the Airport.

d. In an email dated January 17, 2016, sent from the email address brent@bcgnyc.com, BORLAND represented to Victim-1, among other things:

As mentioned, the principals of The Placencia Group have invested \$24mm into this project. 100% completion will require an additional \$35mm. As discussed, a \$45mm loan is currently being structured that will enable the completion of Placencia International Airport, starting with laying the final 10-inch capping layer atop the runway and other surfaces, thus enabling operation of the asset. Following the capping layer we have a two-phase completion plan (domestic and international) that will create an exciting mix of opportunities and possibilities such as a second 12,000 ft runway for long-haul cargo flights for firms in Asia and elsewhere who wish to make use of our negotiated export-free zone and create a logistics pivot-point into North and South America. The mentioned \$45mm loan is scheduled to close in Q1 of 2016.

e. BORLAND further represented to Victim-1 that Victim-1's loan would be fully secured by a particular piece of real property located in Belize.

f. BORLAND advised Victim-1 that BORLAND had invested millions of dollars of his own money into the Airport project. BORLAND also explained that he needed an additional \$1 million investment in order to complete the "bridge loan" necessary to finance the project.

g. On the basis of BORLAND's representations, Victim-1 purchased a Belize Fund note from BORLAND for approximately \$1 million. In or about March 2016, BORLAND, from the email account brent@bcgnyc.com, sent an email to Victim-1, copying CC-1, attaching a note, signed by BORLAND, which provided, in relevant part, that Victim-1 would receive his

investment principal and 15 percent interest by the maturity date, in or about June 2016. The note further provided that Belize Fund is "required to pre-pay (retire) the [note] if [Belize Fund] closes any Bridge Financing, at least \$20 Million in the form a lump [sic] sum investment (a 'Qualified Funding') for the Placencia International Airport Project." BORLAND personally guaranteed the note.

h. Victim-1's note was also accompanied by a "real estate pledge and security agreement," signed by BORLAND, which provided that Victim-1's investment was fully secured by a particular piece of real property located in Belize and that BORLAND would not "transfer or encumber in any way th[e] pledged property" and "shall not permit any mortgages or liens to attach to the pledged property until the loan is repaid in its entirety."

i. In or about 2016 and early 2017, CC-1 provided periodic updates to Victim-1 by email regarding the purported status of the investment and assured Victim-1 that Victim-1 would be repaid.

j. After BORLAND failed to make payment to Victim-1 on the maturity date, Victim-1, in or about January 2017, served a demand letter on BORLAND seeking repayment. In response, BORLAND sent a text message to Victim-1 in which BORLAND stated that BORLAND had "an audit from Deloitte evidencing the funds invested" in the Airport. BORLAND, however, never provided that purported audit to Victim-1 notwithstanding Victim-1's demand that BORLAND do so.

k. In or about March 2017, Victim-1 brought a lawsuit against BORLAND for fraud, among other offenses. BORLAND ultimately agreed to settle the action and paid Victim-1 approximately \$400,000 as a portion of the settlement. BORLAND has made no further payments to Victim-1 to date.

13. Based upon my conversations with a particular investor in Belize Fund ("Victim-3"), as well as my review of emails that BRENT BORLAND, the defendant, and CC-1 sent Victim-3 and documents provided to Victim-3, I have learned the following, in substance and in part:

a. In or about 2015, a broker associated with BORLAND introduced Victim-3 to BORLAND.

b. In or about 2015 and 2016, Victim-3 spoke and exchanged emails with BORLAND and an associate of Borland, who

together solicited an investment from Victim-3. BORLAND advised Victim-3 that he was working on a major project in Belize involving the construction of the Airport. BORLAND represented to Victim-3 that Belize Fund was selling notes as "bridge" financing to fund the construction project.

c. BORLAND solicited Victim-3's purchase of a Belize Fund note. BORLAND represented to Victim-3 that the proceeds of Victim-3's note purchase would be used to apply a new layer of concrete on the Airport runway. BORLAND also represented that the note would pay a rate of return of 15 percent within approximately three months. BORLAND, however, did not disclose to Victim-3 that Belize Fund had already defaulted on a note issued to at least one prior investor.

d. On the basis of BORLAND's representations, Victim-3 purchased a Belize Fund note from BORLAND for approximately \$500,000 in or about April 2016. The note provided, in relevant part, that Victim-3 would receive his investment principal and 15 percent interest within three months, in or about June 2016. The note further provided that Belize Fund is "required to pre-pay (retire) the [note] if [Belize Fund] closes any Bridge Financing, at least \$20 Million in the form a lump [sic] sum investment (a 'Qualified Funding') for the Placencia International Airport Project." The note was signed and personally guaranteed by BORLAND.

e. Victim-3's note was also accompanied by a "real estate pledge and security agreement," signed by BORLAND, which provided that Victim-3's investment was fully secured by a particular piece of real property located in Belize and that BORLAND would not "transfer or encumber in any way th[e] pledged property" and "shall not permit any mortgages or liens to attach to the pledged property until the loan is repaid in its entirety."

f. To date, Victim-3 has not received any payment of interest or principal from Belize Fund or BORLAND.

14. Based upon my conversations with a particular investor in Belize Fund ("Victim-4"), as well as my review of emails that BRENT BORLAND, the defendant, and CC-1 sent to Victim-4 and documents provided to Victim-4, I have learned the following, in substance and in part:

a. In or about early 2015, an associate of Victim-4 introduced Victim-4 to BORLAND.

b. Victim-4 spoke with BORLAND by telephone. BORLAND solicited Victim-4 to invest by making a loan to Belize Fund that would finance the construction of the Airport. BORLAND represented to Victim-4 that Victim-4's investment would be a "bridge loan" that would be repaid within approximately 90 days, when BORLAND would obtain permanent financing.

c. BORLAND represented to Victim-4 that the proceeds of Victim-4's loan would be used to construct the Airport.

d. BORLAND further represented to Victim-4 that Victim-4's loan would be secured by real property in Belize. It was Victim-4's understanding from BORLAND that the real property did not secure the investment of any investor other than Victim-4.

e. On the basis of BORLAND's representations, Victim-4 purchased a Belize Fund note from BORLAND for approximately \$500,000 in or about May 2015. The note provided, in relevant part, that Victim-4 would receive his investment principal and 15 percent interest by the maturity date, in or about July 2015. The note further provided that Belize Fund is "required to immediately pre-pay (retire) the Note if Borrower closes any Bridge Financing for the Placencia International Airport Project, provided Company receives investments of at least \$10 Million." BORLAND signed and personally guaranteed the note. The note was accompanied by a term sheet, which identified Victim-4's note as a security and represented that the proceeds of the loan would be used for "operating capital."

f. Victim-4's note was also accompanied by a "real estate pledge and security agreement," signed by BORLAND, which provided that Victim-4's investment was fully secured by specific real property located in Belize and that BORLAND would not "transfer or encumber in any way th[e] pledged property" and "shall not permit any mortgages or liens to attach to the pledged property until the loan is repaid in its entirety."

g. To date, Victim-4 has not received any payment of interest or principal from Belize Fund or BORLAND.

THE PURPORTED INVESTMENT SECURITY

15. Based upon my interviews of investors, review of emails and documentation provided to investors, and conversations with the SEC, I have learned the following, in substance and in part:

a. BRENT BORLAND, the defendant, pledged real property in Belize as security for the Belize Fund notes sold to investors. The "real estate pledge and security agreements," which were signed by BORLAND, represented that the investors' notes were fully secured by real property in Belize purportedly owned by Mayan Lagoon Estates, LTD.

b. Contrary to the representations in the pledge documents that the real property securing the note would not be "transfer or encumber [sic] in any way," the same pieces of real property were repeatedly pledged to multiple investors simultaneously. For example, between in or about February 2015 and in or about June 2015, at least twelve investors were pledged property described as "Placencia North Block 36 Parcel 2169 Known as Lot 84 of the subdivision" ("Lot 84"). BORLAND apparently varied the value of another piece of real property security known as "Lot 31" to make it appear to a given investor that Lot 31 was worth twice the amount he or she had invested. For example, a pledge agreement issued a particular investor ("Victim-5") for \$250,000 represented that Victim-5's note was secured by Lot 31, with a purported value of \$500,000. However, a pledge agreement issued to a different investor ("Victim-6") only two weeks later for \$1 million stated that Victim-6's note was secured by Lot 31, with a purported value of \$2 million.

16. Based upon my interview of Victim-1 and review of public property records from Belize provided by Victim-1's counsel, I have learned that the real property that purportedly secured Victim-1's \$1 million note purchase does not appear to exist.

THE MISAPPROPRIATION OF INVESTOR FUNDS

17. Based on my conversations with representatives of the SEC as well as my own review of records from financial institutions used by BRENT BORLAND, the defendant, and Belize Fund to receive and disburse proceeds from investors, including but not limited to accounts in the name of Belize Fund, BCG, Canyon, and BORLAND personally, I have learned the following, in substance and in part:

a. From in or about 2014 through in or about 2018, at least approximately \$21.9 million was raised from approximately 40 investors in Belize Fund and sent to certain bank accounts of which BRENT BORLAND, the defendant, was a signatory. Of those funds, at least approximately \$7,544,814 was diverted and spent in the United States on expenditures that

had nothing to do with constructing the Airport, including on a variety of BORLAND's personal expenses.

b. For example, of the funds received from investors in Belize Fund, at least approximately \$3,442,521 was spent on what appear to be the personal expenses of BORLAND and his wife, including the following:

- i. at least \$1.75 million in mortgage payments on BORLAND's home in Florida;
- ii. \$97,000 in property tax payments for the same home;
- iii. a \$25,000 payment for a Mercedes Benz G63 registered in BORLAND's name;
- iv. \$92,000 in private school tuition payments for BORLAND's children;
- v. \$36,000 for BORLAND's membership dues at the Delray Beach Club;
- vi. more than \$31,000 in payments to Bloomingdales;
- vii. more than \$11,000 in dues to BORLAND's mother-in-law's homeowners association;
- viii. nearly \$10,000 in payments to a store called "Luxury of Watches"; and
- ix. more than \$183,000 in cash withdrawals.

c. In addition, approximately \$2.67 million was disbursed to American Express to pay for credit card bills in the name of BORLAND's wife.

d. At least approximately \$32,000 was paid by check or wire transfer to CC-1.

e. Based upon my investigation to date, it appears that none of the approximately 40 investors was repaid the principal of his or her investment. As discussed above, Victim-1, who purchased a \$1 million note, received only approximately \$400,000 after suing BORLAND for fraud.

WHEREFORE, the deponent prays that an arrest warrant be issued for BRENT BORLAND, the defendant, and that he be imprisoned or bailed as the case may be.



DIANA CHAU
Postal Inspector
U.S. Postal Inspection Service

Sworn to before me this
11th day of May, 2018

S/Barbara Moses

THE HONORABLE BARBARA MOSES
UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT OF NEW YORK