



March 4, 2011

UNITED STATES ATTORNEY TIMOTHY J. HEAPHY

I. Introduction

Good morning and thank you all for being here today. I am Tim Heaphy, the United States Attorney for the Western District of Virginia.

I have asked you all here today to discuss a case that was the before the U.S. District Court this morning -- the restitution hearings for Birgit Mechlenburg and Kenneth Mason. These two defendants were the final co-conspirators brought to justice in a multi-million dollar, international Ponzi scheme prosecuted by this office.

In addition to the Mechlenburg case, I also want to speak more broadly about financial crime and what the United States Department of Justice is doing to target investment schemes like the one operated in the

Mechlenburg case. We'll close with a blunt warning and tell you about a resource to help investors ensure that their money is protected and safe.

II. Mechlenburg Case

A. The Vavasseur Ponzi Scheme

Between 1998 and 2002, a Charlottesville resident named Terry Dowdell, along with Birgit Mechlenburg, Ken Mason and others, created and marketed an investment scheme dubbed the “Vavasseur” program. Dowdell, Mechlenburg and Mason represented to potential investors that the Vavasseur Program was a legitimate trading program. They promised investors extremely high returns – as much as 160% -with no risk to the principal.

Laying the groundwork for his scheme, Terry Dowdell represented himself as someone who had an inside connection with the Federal Reserve, through whom he could access a high level bank instrument trading program. At the outset, Dowdell and his cohorts marketed the scheme as a \$1 million program. Over time, they allowed potential

investors to pool their money to get into the Vavasseur program, and as time went on, investors with funds below \$1 million were also signed on to Dowdell's Vavasseur program. Investors entered into contracts which appointed the Vavasseur Corporation to use the funds to purchase bank instruments issued by major banks in the United States and Western Europe. During the course of the scheme, Mechlenburg, Dowdell, Mason, and others broadened their criminal horizons, and along with their counterparts in the United Kingdom, sought and found investors from the UK and other European countries, and during the four years the scheme operated, Vavasseur brought in approximately \$250 million from more than 100 investors across the globe. Mechlenburg, a former certified securities trader, was one of the top promoters of the Vavasseur scheme and was personally responsible for bringing in more than \$13 million in investor funds.

Vavasseur was a Ponzi scheme, which, like other Ponzi schemes, promised investors extraordinarily high returns on money they invested with no risk to the principal. Investors received payments during the

operation of the scheme, represented as “profits” from the investments. In reality, the payments were not investment profits— they were simply funds obtained from more recent investors. That’s the definition of a Ponzi scheme, it is an escalating fraud, with money from new investors used to pay previous investors, until it all comes crashing down.

Those running Vavasseur never actually invested any of the money they collected from investors. Not a single cent. Instead of being invested, the investors’ money went to line the pockets of Dowdell, Mechlenburg, Mason, and the other conspirators. The Vavassuer defendants talked investors out of their money with the promise of high returns and the comfort of no risk to the principal. They then pooled investors’ money together and placed it into accounts controlled by members of this conspiracy.

B. SEC Asset Freeze

In November 2001, the SEC brought a lawsuit, an emergency

action seeking a temporary restraining order and asset freeze here in the federal district court in Charlottesville, against the assets of Vavasseur, Terry Dowdell, Birgit Mechlenburg, Ken Mason and others. **This was a critical maneuver.** Because of the excellent investigatory work, quick thinking and immediate actions of SEC, the November 2001 asset freeze captured approximately \$33 million of the conspiracy's assets, and those funds were seized by the government.

The quick action by the SEC and their successful freeze of the Vavasseur assets made it possible for us to ultimately reimburse victims of this Ponzi scheme. By the time a fraudulent conspiracy like this is brought to justice, the cupboards are typically bare. All the money is gone and all the players are broke. According to the court-appointed Receiver in this case - Mr. Roy Terry of the law firm Durette Bradshaw - we have returned over \$34 million, which amounts to approximately 58 % of the losses from court approved claims to the victims. That is an unusual and truly remarkable result.

C. WDVA and UK Criminal Convictions

While Terry Dowdell, Mason and Mechlenburg were the major players in this scheme, several other individuals have also been successfully prosecuted in this case:

- In 2007, Robert June and Michael Hardesty, along with Ken Mason, were convicted in this District pursuant to a plea agreement for participating in the securities fraud scheme.

- In late 2007, Gregory Smyth, Mark Smyth, and Rebecca Dowdell pled guilty to a related wire fraud conspiracy charge in the Western District of Virginia.

- Also in 2007, Mary Dowdell, Terry Dowdell's wife, was convicted by a jury in this courthouse for her participation in the wire fraud conspiracy.

- In 2008, three of Dowdell's Vavasseur conspirators were prosecuted by our counterparts overseas, with whom we have worked closely during the investigatory stages and throughout the prosecutions in this case. In a trial lasting eight months, at which FBI Agent Jim

Lamb and Mr. Levine from the SEC testified, the Serious Fraud Office in London convicted Shinder Gangar and Alan White of charges similar to those brought against these defendants in the United States for their role in the overseas operation of Vavasseur.

- A third British citizen, Nigel Heath, was convicted on related charges in a guilty plea in the UK.

D. Mechlenburg Flight and Extradition

Back in 2002, following the court's asset freeze, and during the SEC's civil litigation, Birgit Mechlenburg fled the United States for Europe, settling in the small country of Andorra. As the other members of the conspiracy were brought to justice here in Charlottesville and in the UK, Mechlenburg was living in Europe, likely believing that she would go unnoticed and would never have to face criminal prosecution. However, with the assistance of the Department of Justice and law enforcement authorities in Spain and Andorra, Mechlenburg was arrested on the streets of Andorra last year and extradited to the United States in early 2010. Mechlenburg's case was set for trial in November

of last year, but on September 9, 2010, she admitted her guilt and pled guilty pursuant to a Plea Agreement to conspiracy to commit wire fraud. On January 6 of this year, she was sentenced to five years in federal prison.

E. Today's Restitution Order

The final phase of the case against Ms. Mechlenburg was today, when she and Mr. Mason were ordered to pay roughly \$24 million in restitution to the Vavasseur Victims. The restitution order will provide a measure of recovery for those unfortunate investors who thought they were putting their money into a legitimate investment program only to learn later that they had become victims of an international Ponzi scheme.

F. Law Enforcement Cooperation

This case has traveled a long and winding road from the time it began some many years ago. The investigation required agents to travel far and wide across the globe to follow Vavasseur's trail of deception

and greed. Along the way, the prosecution team was aided by international authorities in a number of countries, including particularly the United Kingdom, Andorra and Spain, without whose assistance this case would not have been possible.

Some of the people who helped investigate and prosecute Ms. Mechlenburg and her co-defendants are here today and I want to recognize and thank them for their hard work.

I want to first recognize Assistant United States Attorney Jean Hudson for her tireless work on this case. Over the past several years, a total of nine defendants were indicted and brought to justice in the Western District of Virginia, beginning with former Charlottesville resident Terry Dowdell, who plead guilty to related charges in 2004 and is serving a 15 year sentence for his role as the lead defendant in this conspiracy.

Mr. Steven Levine, counsel from the Chicago office of the United States Securities and Exchanges Commission, and a Special Assistant United States Attorney in the Western District, conducted the extensive

and thorough investigation of the Vavasseur Ponzi scheme for the SEC and was the attorney for the SEC during the civil litigation which preceded the criminal prosecutions in this case. Mr. Levine's expertise and the countless hours of work that went into the case before it came to the Western District of Virginia, was the foundation for the successful prosecutions of nine defendants here in our district, and I thank him for his unflagging dedication to this case. I would also like to extend thanks to Ms. Merri Jo Gillette, Director of the Chicago Regional Office of the SEC, who unfortunately could not be with us today, for the SEC's continuous support of this investigation and prosecution in the Western District of Virginia.

Likewise, I would like to recognize Special Agent Jim Lamb, of the Charlottesville Office of the FBI, who partnered with Mr. Levine to complete the criminal investigation in this case, and Michael Morehart, Special Agent in Charge of the Richmond Division of the FBI, whose office supported the criminal investigation and prosecution in this case over the last years. I want to thank him and Agent Lamb for all the

excellent investigatory work the FBI did to bring this case to a successful close.

III. Other Financial Fraud Cases in the District

While the Dowdell case was certainly the largest Ponzi scheme this district has ever prosecuted, it was not the only conviction of financial fraud our office has obtained.

A. Johnson/Farrier

In 2009, Ted Johnson and Frank Farrier were convicted for running a Ponzi scheme based in Giles County, Virginia. At the time of their sentencing, Judge Samuel Wilson observed that these two defendants had bilked “the recently widowed, the emotionally vulnerable and the frequently unsophisticated” out of millions of dollars.

Farrier and Johnson ran a classic Ponzi scheme, taking money from new investors to make payments to those already invested in the fraud. In all, the two men were sentenced to 7 and 16 years in federal prison respectively and ordered to repay \$2.9 million in restitution.

However, unlike the Mechlenburg case, by the time charges were brought against Farrier and Johnson, the money was all but gone.

Neither man had any considerable assets to seize and, sadly, most of the approximately 80 victims in the case will never recover the money they have lost.

B. Donnelly

More recently, our office prosecuted local businessman John Donnelly. Like Farrier, Johnson, Mechlenburg and Dowdell, Donnelly promised his investors high returns using a complex marketing and futures trading strategy he had developed. He was able to convince more than 30 investors to give him more than \$5 million dollars to invest in his scheme.

However, the plan was a front, and the money placed in his care was simply used to pay off long term investors. In over 10 years, Donnelly never invested a single dollar, instead he used his time to create false IRS tax forms to curtail his scheme and keep investor funds flowing into his fraud.

In November 2009 Donnelly was ordered to serve 90 months in federal prison and ordered to repay \$5 million in restitution to his victims.

IV. Operation Broken Trust

Our steadfast approach to investigating and prosecuting these very involved and complex financial cases is not something unique to the Western District of Virginia.

Across the country, the Department of Justice has made the prosecution of financial fraud a top priority. Earlier this year, Attorney General Eric Holder announced the results of Operation Broken Trust, a nationwide operation which targeted investment fraud.

Broken Trust, the first national operation of its kind to target a broad array of investment fraud schemes that preyed upon the public's investing interest, was spearheaded by the President Obama's Financial Fraud Enforcement Task Force - a multi-agency team that was formed by the President 2009 to combat financial fraud. The Department of

Justice is a central participant in the Financial Fraud Enforcement Task Force and will continue to be the prime investigator of these kinds of investment schemes nationwide.

Between August 2010 and December 2010, Operation Broken Trust involved enforcement actions against 343 criminal defendants and 189 civil defendants for fraud schemes involving more than 120,000 victims throughout the country.

Operation Broken Trust demonstrates the commitment of the Department of Justice to investigating and prosecuting financial fraud. We will continue to prioritize these cases, apprehend fraudsters and attempt to recover restitution to their victims. Little that we do is as important as this.

V. Awareness

Our long history of prosecuting financial fraud cases in the district and today's \$24 million restitution order should serve as a reminder for anyone out there conducting this type of fraudulent activity that we are

watching you. It should also serve as a warning to investors that they need to be careful when deciding where to place their trust and their money. Part of the reason we have these press events, besides informing the community about the work we are doing, is to raise awareness about the types of schemes that are out there and point citizens in the right direction, before they invest, and likely lose, their money.

The number one rule to remember when evaluating an investment opportunity is that **if something sounds too good to be true, it probably is.** If someone offers you 160 percent return on your initial investment within the first several weeks, it is very likely that something is amiss.

Potential investors must not be fooled by the promise of high returns. Do your homework and make sure the people you are turning your money over to are legitimate, have a track record of success and knowledge and are up front about where your money will be invested.

Those of us who work in government will do our best to warn the public about fraudulent schemes and patterns as they emerge. That

actually happened in the Vavasseur matter, as there were specific warnings sounded about the kind of investment scheme involved in this case. The SEC issued a public warning to all investors about bogus “Prime Bank” investment schemes, exactly like the Vavasseur program. Despite those warnings, Mechlenburg and the others continued to successfully market the program, persuading more and more investors to put more and more money into the scheme.

One component of the President’s task force is to work on ways to make the public more aware of resources available to protect against these types of fraud and how to report fraud when it occurs. To learn more about investment scams, how to take steps to protect yourself from scams or how to report investment fraud, please visit www.stopfraud.gov. This site provides advice to avoid these kinds of investment schemes. It also links to resources and places to go if you believe you have been victimized.

We believe that www.stopfraud.gov is a valuable tool in our fight against financial fraud. We can’t do this alone. We need your help to

uncover these kinds of fraudulent schemes, and to bring the perpetrators to justice.

VI. Conclusion

I want to again thank all the agents standing behind me for taking on the monumental task of prosecuting the members of this conspiracy. I know all of you, and others within your respective agencies, sacrificed a great deal of time and energy to this case. Hopefully, knowing the victims of this scheme will get some financial relief makes it all worth while.

We will know answer any questions you may have regarding the Mechlenburg case or financial fraud in general.