

Presented to the Court by the foreman of the  
Grand Jury in open Court, in the presence of  
the Grand Jury and FILED in the U.S.  
DISTRICT COURT at Seattle, Washington.

August 23 2023  
By Ravi Subramanian, Clerk  
[Signature] Deputy

UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

UNITED STATES OF AMERICA,  
Plaintiff

v.

JOHN M. WHISENANT,  
Defendant.

NO. **CR 23 - 138 LK**

**INDICTMENT**

The Grand Jury charges that:

**COUNTS 1-5**  
**(Wire Fraud)**

**Introduction**

1. The conduct charged in this indictment victimized a private company headquartered in Seattle, Washington that operated a car trade platform that allowed customers to purchase, sell, and trade pre-qualified used vehicles (Company-1).<sup>1</sup> Users accessed Company-1's services through their official website or through a mobile application. Company-1 was founded in 2011 and, during the time of the scheme detailed

<sup>1</sup> Company - 1 has been purchased by a larger corporation and no longer operates as an independent company and the Company - 1 name.

1 below, was staffed by fewer than 100 employees. Company-1 maintained company bank  
2 accounts at Silicon Valley Bank (SVB), based in the State of California, for its financial  
3 transactions, including sales-related payments and employee payroll, and used  
4 QuickBooks accounting software for bookkeeping.

5 2. In October 2018, Company-1 hired JOHN M. WHISENANT as a  
6 Transaction Manager. His initial duties consisted of processing the paperwork required to  
7 verify vehicle ownership and to assist customers with financing. A few months later,  
8 WHISENANT was promoted to Director of Marketplace Operations, a managerial role  
9 on the “public-facing” side of Company-1.

10 3. Approximately one year later Company-1 reduced the size of its workforce,  
11 and in so doing expanded WHISENANT’s responsibilities to include managing payroll  
12 and customer sales transactions. To fulfill these tasks, Company-1 entrusted  
13 WHISENANT with unrestricted access to its payment systems. This access afforded  
14 WHISENANT the ability to send ACH (Automated Clearing House) payments from  
15 Company-1’s SVB bank accounts, access to all customer transaction records, and access  
16 to its accounting records kept using QuickBooks software. WHISENANT’s QuickBooks  
17 access also provided him with the QuickBooks login credentials assigned to Company-  
18 1’s Chief Executive Officer (CEO). WHISENANT took advantage of this access to  
19 covertly steal over two million dollars from Company-1.

20 4. WHISENANT’s employment with Company-1 ended when he abruptly  
21 resigned on February 21, 2022.

#### 22 **Scheme To Defraud**

23 5. Beginning in or about June of 2019 and continuing through at least  
24 November 2021, in King County, within the Western District of Washington and  
25 elsewhere, JOHN M. WHISENANT, with intent to defraud, knowingly devised a scheme  
26 and artifice to defraud and to obtain money and property by means of materially false and  
27 fraudulent pretenses, representations and promises.

6. The essence of this scheme and artifice to defraud was for WHISENANT to  
initiate numerous, unauthorized ACH transfers from Company-1’s SVB bank account to

1 one of several, unique personal bank accounts belonging to him under his name, JOHN  
2 M. WHISENANT. It was also a part of the scheme for WHISENANT to conceal the  
3 nature of these ACH transfers by describing in their corresponding ACH bank  
4 descriptions as fictitious customer transactions or company expenses. Furthermore,  
5 unauthorized changes made by WHISENANT in Company-1's QuickBooks records that  
6 recorded these ACH transfers reflect an additional layer of concealment as part of the  
underlying scheme.

7 **Manner and Means**

8 7. It was part of the scheme and artifice to defraud that, while working as the  
9 Director of Marketplace Operations at Company-1, WHISENANT used his access to  
10 Company-1's SVB bank account ending in 4943 to successfully initiate, via interstate  
11 wire, at least 57 separate ACH transfers, totaling over \$2 million, from Company-1's  
12 SVB account ending in 4943 to one of 14 unique, personal bank accounts held by  
13 WHISENANT. None of the transactions were authorized.

14 8. It was further part of the scheme and artifice to defraud that the  
15 corresponding ACH descriptions for many of these transfers contained the identities of  
16 customers, many of whom had previously conducted legitimate transactions with  
17 Company-1. Other, generic ACH descriptions such as "ACH PREFUNDING" were used  
18 for the remainder of the 57 ACH transfers. These actions reflected WHISENANT's  
19 efforts to label the transactions in a way that would make them appear to be legitimate.

20 9. It was further part of the scheme and artifice to defraud that WHISENANT  
21 falsified entries in Company-1's QuickBooks records, often in conjunction with the  
22 approximate date of the fraudulent ACH transfers, to disguise these transfers as  
23 legitimate business items. Examples include receivables due from customers for made-up  
24 vehicle transactions, made-up operational expenses for purchase of vehicles from  
25 wholesalers, and reductions to payables such as sales tax payable.  
26  
27

**Execution of Scheme and Artifice to Defraud**

10. On or about the dates set forth in the table below, in King County, within the Western District of Washington, and elsewhere, WHISENANT, for the purpose of executing this scheme and artifice to defraud, did knowingly cause to be transmitted by wire communication in interstate and foreign commerce, writings, signs, signals, pictures, and sounds, each transmission of which constitutes a separate count of this indictment:

COUNT	DATE	WIRE TRANSMISSION
1	06/18/2019	An ACH transfer in the amount of \$8,950.96 initiated from Company-1's Silicon Valley Bank account ending in 4943, which transmitted a wire and signal from outside the State of Washington to WHISENANT's Sound Credit Union account ending in 1214-10, whose servers are located in the State of Washington.
2	06/19/2019	An ACH transfer in the amount of \$13,300 initiated from Company-1's Silicon Valley Bank account ending in 4943, which transmitted a wire and signal from outside the State of Washington to WHISENANT's Sound Credit Union account ending in 1214-10, whose servers are located in the State of Washington.
3	07/15/2019	An ACH transfer in the amount of \$10,001 initiated from Company-1's Silicon Valley Bank account ending in 4943, which transmitted a wire and signal from outside the State of Washington to WHISENANT's Sound Credit Union account ending in 1214-10, whose servers are located in the State of Washington.
4	09/04/2019	An ACH transfer in the amount of \$20,372 initiated from Company-1's Silicon Valley Bank account ending in 4943, which transmitted a wire and signal from outside the State of Washington to WHISENANT's Sound Credit Union account ending in 1214-10, whose servers are located in the State of Washington.
5	01/16/2020	An ACH transfer in the amount of \$11,539.47 initiated from Company-1's Silicon Valley Bank account ending in 4943, which transmitted a wire and signal from outside the State of Washington to WHISENANT's Sound Credit Union account ending in 8959, whose servers are located in the State of Washington.

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

ASSET FORFEITURE ALLEGATION

1. The allegations contained in Counts 1 – 5 of this Indictment are hereby realleged and incorporated by reference for the purpose of alleging forfeiture. Upon conviction of any of the offenses alleged in Counts 1 - 5, JOHN M. WHISENANT shall forfeit to the United States, pursuant to Title 18, United States Code, Section 981(a)(1)(C), by way of Title 28, United States Code, Section 2461(c), all property constituting or traceable to proceeds of the wire-fraud scheme described above, including but not limited to a judgment for a sum of money in the amount of \$2,084,799.08 reflecting the proceeds Defendant obtained as a result of the scheme.

**Substitute Assets.** If any of the above-described forfeitable property, as a result of any act or omission of the Defendant,

1. cannot be located upon the exercise of due diligence;
2. has been transferred or sold to, or deposited with a third party;
3. has been placed beyond the jurisdiction of the Court;
4. has been substantially diminished in value; or,
5. has been commingled with other property which cannot be divided without difficulty;

it is the intent of the United States to seek the forfeiture of any other property of the Defendant up to the value of the above-described forfeitable property pursuant to Title 21, United States Code, Section 853(p).

A TRUE BILL: *yes*

DATED: *August 23, 2023*

*Signature of Foreperson redacted pursuant to the policy of the Judicial Conference of the United States.*

FOREPERSON

  
TESSA M. GORMAN  
Acting United States Attorney

  
AMY JAQUETTE  
Assistant United States Attorney

  
SEAN H. WAITE  
Assistant United States Attorney