

No.

CR 10 00730

JFV

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DISTRICT COURT
RICHARD W. WIEKING
N.D. CALIFORNIA



THE UNITED STATES OF AMERICA

vs.

BARBRA ALEXANDER, BETH PINA, and MICHAEL SWANSON

INDICTMENT

COUNT ONE: 18 U.S.C. § 1349 (Conspiracy to Commit Mail and Wire Fraud)

COUNTS TWO -FOURTEEN: 18 U.S.C. § 1341 (Mail Fraud)

COUNTS FIFTEEN THROUGH TWENTY-EIGHT: 18 U.S.C. § 1343 (Wire Fraud)

COUNTS TWENTY-NINE THROUGH THIRTY: 15 U.S.C. §§ 78j(b) and 78ff; 17 C.F.R. §§ 240.10b-5 and 240.10b5-2; 18 U.S.C. § 2 (Securities Fraud)

COUNTS THIRTY-ONE THROUGH FORTY-THREE: 18 U.S.C. § 1957(a) - Engaging in Monetary Transactions in Property Derived from Specified Unlawful Activity

A true bill.

J. Howard Falk 10-6-10
Foreperson

Filed in open court this 6th day of October A.D. 2010

[Signature]
UNITED STATES MAGISTRATE JUDGE

Bail. \$ No Bond Arrest Warrants for each defendant

1 MELINDA HAAG (CABN 132612)
2 United States Attorney

FILED

2010 OCT -6 P 2:26

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
N.D. CALIF. SAN JOSE



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8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 SAN JOSE DIVISION

11 UNITED STATES OF AMERICA,
12 Plaintiff,

No. **CR10 00730**
VIOLATIONS:

JF
PVT

13
14 v.

15 BARBRA ALEXANDER,
16 BETH PINA, and
17 MICHAEL SWANSON,

18 Defendants.

18 U.S.C. § 1349 (Conspiracy);
18 U.S.C. § 1341 (Mail Fraud);
18 U.S.C. § 1343 (Wire Fraud);
15 U.S.C. §§ 78j(b) and 78ff,
17 C.F.R. §§ 240.10b-5 and 240.10b5-2,
18 U.S.C. § 2 (Securities Fraud); 18 U.S.C.
§ 1957(a) (Money Laundering);
18 U.S.C. § 981(a)(1)(C),
28 U.S.C. § 2461(c), 18 U.S.C. § 982(a)(1)
(Forfeiture)

19 SAN JOSE VENUE

20
21 **INDICTMENT**

22 The Grand Jury charges that, at all relevant times:

23 Relevant Entities and Individuals

24 1. BARBRA ALEXANDER ("ALEXANDER") was a resident of Monterey,
25 California, and worked as a licensed real estate agent and broker in the real estate development
26 and investment profession. ALEXANDER also hosted a radio show, Moneydots, in which she
27 discussed financial investments.

28 **INDICTMENT**

1 2. BETH PINA ("PINA") was a resident of Monterey, California, and Fairfield,
2 Idaho, and worked as a licensed real estate agent and bookkeeper in the real estate development
3 and investment profession.

4 3. MICHAEL SWANSON ("SWANSON") was a resident of Seaside, California,
5 with a masters degree in business administration. SWANSON worked as a business finance
6 consultant.

7 4. A&P PROPERTIES, INC. ("A&P PROPERTIES") was a California corporation
8 located in Monterey. ALEXANDER was the President of A&P PROPERTIES. PINA was the
9 Secretary and Chief Financial Officer of A&P PROPERTIES. A&P PROPERTIES, established
10 in 2006, was a "hard money" lender that specialized in short-term, high-interest, fixed-rate
11 mortgage financing. A&P PROPERTIES purported to engage in the business of originating and
12 servicing loans made by private investors to borrowers, primarily for residential properties.

13 5. APS FUNDING, INC. ("APS") was a California corporation located in Monterey,
14 California, that was owned and controlled by ALEXANDER, PINA, and SWANSON.
15 ALEXANDER was its President and Chief Executive Officer. PINA was its Secretary and Chief
16 Financial Officer. In 2008, after SWANSON joined A&P PROPERTIES, the name was changed
17 to APS. SWANSON was the Vice-President of APS. APS continued to engage in "hard money"
18 lending to borrowers.

19 6. GCF INVESTMENTS was a private investment fund established by
20 ALEXANDER before the establishment of A&P Properties. GCF INVESTMENTS offered
21 investors the opportunity to make "hard money" loans directly to borrowers.

22 7. GCF INVESTMENT LLC (the "LLC") was an investment fund established and
23 managed by A&P PROPERTIES. In 2006, the managing members, ALEXANDER and PINA,
24 established the LLC for the stated purposed of offering securities (known as "units") to investors
25 and using the proceeds from the offering to make "hard money" loans originated and serviced by
26 A&P PROPERTIES. The LLC accepted investment funds up to \$4,000,000. If the LLC reached
27 this preset cap of investment funds, a new fund would be created.

28 **INDICTMENT**

1 8. GREENLIGHT was an investment fund established and managed by APS. In
2 2008, APS managing members, ALEXANDER, PINA, and SWANSON, established
3 GREENLIGHT, after the LLC reached its \$4,000,000 cap, and offered additional units to
4 investors for the same purposes as the LLC.

5 The Business of A&P PROPERTIES and the LLC

6 9. A&P PROPERTIES managed the LLC investment fund. Through a Private
7 Placement Memorandum, A&P PROPERTIES sold Class A units to investors and placed the
8 invested funds into the LLC investment fund. A&P PROPERTIES promised Class A unit
9 investors that the investment funds would be invested in "hard money" lending. The typical loan
10 charged 13% to 15% interest with an up-front payment of points equal to 1% to 10%. The loans
11 were for terms from six to twelve months. The holder of each Class A unit was entitled to a
12 monthly "preferred return." The preferred return was equal to 12% on an annual basis of the
13 initial capital contribution of \$10,000 per unit.

14 10. ALEXANDER and PINA, as the managing members of A&P PROPERTIES and
15 the LLC, were required to hold at least three Class A units and a Class B Managing Member unit.
16 As Class A unit holders, ALEXANDER and PINA were entitled to receive monthly distributions
17 commensurate with their required holding of at least three Class A units. As Class B unit
18 holders, ALEXANDER and PINA were entitled to receive any monies held by the LLC after the
19 preferred return payout, including after payment was made to any unpaid Class A unit holders
20 from prior months.

21 11. ALEXANDER and PINA generated a standard set of investment documents that
22 allegedly were provided to LLC investors, by hand-delivery or mail, at the inception of an
23 investment (hereafter the "Financial Investment Documents"). The Financial Investment
24 Documents included: (a) a Private Placement Memorandum; (b) an Amendment to the Private
25 Placement Memorandum; (c) an Operating Agreement; and (d) a Subscription Agreement.

26 12. After A&P PROPERTIES received and deposited LLC investors' checks,
27 ALEXANDER and PINA purportedly attempted to recruit and lend money to borrowers. In the

28 **INDICTMENT**

1 Private Placement Memorandum, ALEXANDER and PINA represented to LLC investors that
2 their borrowers would be “homeowners, contractors, business owners and land or commercial
3 property owners.” A&P PROPERTIES also told investors that the loans would be “secured by
4 residential, commercial property and vacant land located throughout California, Montana, Idaho,
5 Oregon and Washington.”

6 13. A&P PROPERTIES gave LLC investors the choice of either receiving an interest
7 payment every month or having that payment added to their principal investment. A&P
8 PROPERTIES mailed monthly account statements to all LLC investors and monthly interest
9 payments to the investors who so elected. A&P PROPERTIES mailed account statements
10 reflecting a growing principal balance to the LLC investors who chose to have their monthly
11 interest payments added to their principal investment.

12 APS and the Establishment of the GREENLIGHT Fund

13 14. In or about 2008, ALEXANDER and PINA invited SWANSON to join A&P
14 PROPERTIES as a partner. After SWANSON joined their partnership, in or about February
15 2008, the LLC issued an Amendment to the Private Placement Agreement, notifying investors
16 that SWANSON would have an active role in the management of the LLC and that the
17 company’s name would be changed to APS.

18 15. The business model of A&P Properties remained the same after the name was
19 changed to APS.

20 16. APS, just as A&P PROPERTIES had done before it, sold investors Class A units
21 and placed the invested funds into one of two investment funds. Initially, invested funds were
22 placed into the LLC. After the LLC reached its preset cap of \$4,000,000, APS created
23 GREENLIGHT and placed invested funds into it.

24 17. As it did in its prior incarnation as A&P PROPERTIES, APS promised Class A
25 investors that the funds invested in GREENLIGHT would be invested in short-term, high-
26 interest, fixed-rate mortgage financing. The typical loan charged 10% to 15% interest with an
27 up-front payment of points equal to 1% to 10%. The loans were for terms from six to twelve
28

INDICTMENT

1 months. The holder of each Class A unit was entitled to a monthly "preferred return." The
2 preferred return was equal to 12% on an annual basis of the initial capital contribution of \$10,000
3 per unit.

4 18. ALEXANDER, PINA, and SWANSON, as the managing members of APS and
5 GREENLIGHT, were required to hold at least three Class A units and a Class B Managing
6 Member unit. Just as under the LLC, ALEXANDER, PINA, and SWANSON, were entitled to
7 receive the preferred return and any monies held by GREENLIGHT after the payout of the
8 preferred return.

9 19. ALEXANDER, PINA, and SWANSON again generated a standard set of
10 Financial Investment Documents, similar to those used at A&P PROPERTIES, and allegedly
11 provided these documents to investors at the inception of their investment, usually by hand-
12 delivery or mail.

13 20. APS gave GREENLIGHT investors the same choice it gave LLC investors – to
14 receive an interest payment every month or have that interest payment added to the principal
15 investment. APS mailed monthly account statements to all GREENLIGHT investors and
16 monthly interest payments to the investors who so elected. APS mailed account statements
17 reflecting a growing principal balance to the GREENLIGHT investors who chose to have their
18 monthly interest payments added to their principal investment.

19 21. Contrary to its representation to investors in the LLC and GREENLIGHT, APS,
20 through managing members ALEXANDER, PINA, and SWANSON, did not make efforts to
21 locate borrowers, to collect payments from delinquent borrowers, or to record any deeds of trust
22 or other security interest it held on the borrower's property.

23 The Scheme to Defraud

24 22. In or about 2008 through 2009, ALEXANDER, PINA, and SWANSON engaged
25 in a scheme, plan and artifice to defraud investors, and to obtain money and property by means of
26 materially false and fraudulent pretenses, representations, and promises, through three principal
27 methods: (A) making materially false statements, (B) omitting to disclose material facts, and (C)

28 **INDICTMENT**

1 creating a materially deceptive and misleading scheme, plan, and artifice to defraud. Investors
2 entrusted ALEXANDER, PINA, and SWANSON with several million dollars, but
3 ALEXANDER, PINA, and SWANSON failed to invest nearly 90% of those funds in the manner
4 promised, and converted millions of dollars of the investors' money for their personal benefit.

5 23. ALEXANDER, PINA, and SWANSON made false and misleading statements to
6 investors using, among other things, the Financial Investment Documents, interest payments and
7 account statements, and verbal communications with investors. ALEXANDER, PINA, and
8 SWANSON created the false and misleading appearance that the investors' funds were invested
9 in sound, secured real estate loans, which offered high returns.

10 24. In truth, as ALEXANDER, PINA, and SWANSON knew, beginning in about
11 2008, most of the investment monies were not being spent on loans, but rather by the partners
12 themselves. Moreover, the few loans that had been made were not performing, and thus the
13 investors' funds were not secure. As borrowers increasingly failed to pay off loans,
14 ALEXANDER, PINA, and SWANSON, without the investors' prior knowledge or consent,
15 failed to foreclose on the property, failed to notify the borrowers of the delinquency, and actively
16 concealed from investors the frequency of nonperforming loans.

17 25. In order to continue to divert funds to ALEXANDER, PINA, and SWANSON, the
18 defendants began to pay existing investors from new investors' funds rather than from income
19 from borrowers.

20 26. It was a part of the scheme to defraud that, among other conduct, ALEXANDER,
21 PINA, and SWANSON :

22 (A) represented to investors that information disclosed to investors about, the debt
23 obligations and likelihood of default by the borrowers was accurate, when in truth,
24 ALEXANDER, PINA, and SWANSON knew that such information was materially understated;

25 (B) represented to investors that their money would be invested in loans secured
26 by deeds of trust, when in truth, ALEXANDER, PINA, and SWANSON improperly diverted
27 investor funds for personal use;

28 **INDICTMENT**

1 (C) failed to disclose to investors material, adverse information about the financial
2 condition of their loans, in violation of the duties of trust, loyalty, confidence, and full disclosure
3 that ALEXANDER, PINA, and SWANSON had, including, among other things, the borrowers'
4 failure to pay interest or pay off the loan;

5 (D) deceived investors by creating the misleading appearance through the monthly
6 interest and account statements that ALEXANDER, PINA, and SWANSON had rolled-over
7 monthly interest payments directly into the investors' principal investment, when in truth,
8 ALEXANDER, PINA, and SWANSON had spent the investors' money and had not added the
9 investors' monthly interest payment to the investors' principal investment;

10 (E) deceived investors by continuing to send to them, by mail, regular interest
11 payments and account statements, which lulled investors into a false sense of security by creating
12 the appearance that the borrowers were performing their loan obligations, when in truth, as
13 ALEXANDER, PINA, and SWANSON knew, most loans were non-performing, the borrowers
14 did not pay interest, and the source of a material amount of the monthly interest payments paid to
15 investors was money received from new investors;

16 (F) misrepresented to LLC and GREENLIGHT investors that their investment
17 funds would not be lent for personal, non-business expenses to ALEXANDER, PINA, and
18 SWANSON or their pet projects, such as Moneydots Radio Show, when in truth, as
19 ALEXANDER, PINA, and SWANSON knew, the LLC and GREENLIGHT lent millions of
20 dollars to themselves;

21 (G) misrepresented to their tax preparation professionals, Finn & Cohen, that
22 investors had voted and approved a change to APS's accounting method from the cash method to
23 the accrual method in order to conceal the extent to which APS held non-performing loans;

24 (H) concealed their misconduct by providing false financial information to
25 outside tax preparers, Finn & Cohen, who reviewed financial documents prepared by
26 ALEXANDER, PINA, and SWANSON during Finn & Cohen's preparation of tax returns for
27 APS, the LLC, and GREENLIGHT for the 2007 and 2008 tax years;

28 **INDICTMENT**

1 (I) concealed the source, theft, and misappropriation of investor funds for personal
2 use by directing an employee to change the in-house accounting of the funds ALEXANDER,
3 PINA, and SWANSON withdrew from APS from "salary" to "loans";

4 (J) defrauded investors out of millions of dollars and used this money for personal
5 financial benefit, by redirecting investor funds towards "loans" to ALEXANDER, PINA, and
6 SWANSON on which they never paid interest;

7 27. By December 2009, as part of their fraudulent scheme, ALEXANDER, PINA, and
8 SWANSON had solicited over \$7,900,000 from nearly sixty investors.

9 COUNT ONE: 18 U.S.C. § 1349 (Conspiracy to Commit Mail and Wire Fraud)

10 28. Paragraphs 1 through 27 are realleged and incorporated as if fully set forth herein.

11 29. From in or about 2006 through in or about 2009, in the Northern District of
12 California and elsewhere, the defendants,

13 BARBRA ALEXANDER,
14 BETH PINA, and
MICHAEL SWANSON,

15 and others known and unknown to the Grand Jury, did knowingly and intentionally conspire and
16 agree together and with each other to commit offenses against the United States, to wit, (a) mail
17 fraud, in violation of Title 18, United States Code, Section 1341, and (b) wire fraud, in violation
18 of Title 18, United States Code, Section 1343 by devising a scheme and artifice to obtain money
19 by means of false and fraudulent representations, specifically by soliciting investments under the
20 false and fraudulent pretense that the solicited funds would be invested in "hard money" loans.

21 The Means and Methods of the Conspiracy

22 30. Among the means and methods by which ALEXANDER, PINA, and SWANSON
23 carried out the conspiracy to defraud investors were the following:

24 (A) mailing and otherwise delivering to investors the Financial Investment
25 Documents, and other documents that contained materially false information;

26 (B) transmitting, and causing to be transmitted, wire transfers diverting investor
27 funds for personal use;

28 **INDICTMENT**

1 (C) executing documents, in breach of the duties of trust, loyalty, confidence, and
2 full disclosure that ALEXANDER, PINA, and SWANSON had, to extend loan maturity dates
3 from borrowers to the LLC and GREENLIGHT, all without prior knowledge or consent of
4 investors;

5 (D) mailing and electronically transferring to investors deceptive and misleading
6 interest payments and account statements, which created the appearance that their investments
7 were performing and their principal was safe;

8 (E) loaning investor funds to themselves, in violation of the Financial Investment
9 Documents;

10 (F) paying interest and/or principal withdrawals to LLC and GREENLIGHT
11 investors that were funded in material part by new investor money;

12 (G) providing false financial information to tax preparers;

13 (H) belatedly or never recording assignments of deeds of trust by borrowers on
14 behalf of the LLC and GREENLIGHT on certain properties;

15 (I) making, at investor meetings, materially false statements, omitting to disclose
16 material information and making statements that were materially misleading and deceptive; and

17 (J) paying themselves millions of dollars through various forms of compensation.

18 All in violation of Title 18, United States Code, Section 1349.

19 COUNTS TWO THROUGH FOURTEEN: 18 U.S.C. § 1341 (Mail Fraud)

20 31. Paragraphs 1 through 27 are realleged as if fully set forth herein.

21 32. On or about the dates set forth below, in the Northern District of California and
22 elsewhere, the defendants,

23 BARBRA ALEXANDER,
24 BETH PINA, and
MICHAEL SWANSON,

25 for the purpose of executing a scheme to defraud, by means of false and fraudulent material
26 representations, the above-described scheme and attempting to do so, sent and caused to be sent
27 through the U.S. Postal Service, the items indicated below, in violation of Title 18, United States

28 **INDICTMENT**

Code, Section 1341, to wit:

COUNT	DATE	ITEM MAILED
2	April 2008	GCF LLC "welcome letter" and interest statement for investor M
3	May 2008	GCF LLC interest statement for investor M
4	June 2008	GCF LLC interest statement for investor M
5	March 2009	GREENLIGHT taxable interest statement for investor G
6	May 2009	GCF LLC letter acknowledging receipt of withdrawal request for investor N
7	January 2010	GCF LLC interest statement for investor N
8	July 2009	GREENLIGHT supplemental investment receipt and acknowledgment for investor J
9	July 2009	GCF LLC interest statement and interest payment for investor E
10	August 2009	GREENLIGHT interest statement for investor D
11	October 2009	GREENLIGHT interest statement for investor D
12	November 2009	GREENLIGHT interest statement for investor D
13	January 2010	GREENLIGHT interest statemnt for investor G
14	February 2010	GREENLIGHT interest statement for investor J

All in violation of Title 18, United States Code, Section 1341.

COUNTS FIFTEEN THROUGH TWENTY-EIGHT: 18 U.S.C. § 1343 (Wire Fraud)

33. Paragraphs 1 through 27 are realleged as if fully set forth herein.

34. On or about the dates set forth below, in the Northern District of California and elsewhere, the defendants,

BARBRA ALEXANDER,
BETH PINA, and
MICHAEL SWANSON,

for the purpose of executing a scheme to defraud, by means of false and fraudulent material

INDICTMENT

1 representations, the above-described scheme and attempting to do so, transmitted and caused to
 2 be transmitted by means of wire in interstate commerce, the writings and signals indicated below,
 3 in violation of Title 18, United States Code, Section 1343, to wit:

COUNT	DATE	ITEM WIRED	WIRED FROM	WIRED TO
15	9/30/2008	\$649,625.92 from investor A	Pacific Grove, CA (via FEDWIRE registration wire to East Rutherford, NJ)	Monterey, CA
16	11/14/2008	\$250,000 from investor K	San Rafael, CA (via FEDWIRE registration wire to East Rutherford, NJ)	Monterey, CA
17	12/15/2008	\$15,225.49 from investor B	Fremont, CA (via FEDWIRE registration wire to East Rutherford, NJ)	Monterey, CA
18	12/18/2008	\$38,797.15 from investor F	Fremont, CA (via FEDWIRE registration wire to East Rutherford, NJ)	Monterey, CA
19	4/3/2009	\$33,583.99 from investor C	Fremont, CA (via FEDWIRE registration wire to East Rutherford, NJ)	Monterey, CA
20	5/4/2009	\$45,483.80 from investor C	Fremont, CA (via FEDWIRE registration wire to East Rutherford, NJ)	Monterey, CA
21	5/29/2009	\$51,163.15 from investor C	Fremont, CA (via FEDWIRE registration wire to East Rutherford, NJ)	Monterey, CA
22	6/10/2009	\$14,991.99 from investor C	Fremont, CA (via FEDWIRE registration wire to East Rutherford, NJ)	Monterey, CA
23	6/17/2009	\$66,286.01 from investor D	Fremont, CA (via FEDWIRE registration wire to East Rutherford, NJ)	Monterey, CA
24	6/24/2009	\$80,000 from investor J	Encinitas, CA (via FEDWIRE registration wire to East Rutherford, NJ)	Monterey, CA
25	6/25/2009	\$99,517 from investor I	Fremont, CA (via FEDWIRE registration wire to East Rutherford, NJ)	Monterey, CA
26	7/20/2009	\$152,099.44 from investor D	Fremont, CA (via FEDWIRE registration wire to East Rutherford, NJ)	Monterey, CA

28 INDICTMENT

27	7/24/2009	\$20,085.16 from investor D	Fremont, CA (via FEDWIRE registration wire to East Rutherford, NJ)	Monterey, CA
28	10/20/2009	\$100,000 from investor H	Missoula, MT (via FEDWIRE registration wire to East Rutherford, NJ)	Monterey, CA

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

COUNTS TWENTY-NINE THROUGH THIRTY: 15 U.S.C. §§ 78j(b) and 78ff; 17 C.F.R. §§ 240.10b-5 and 240.10b5-2; 18 U.S.C. § 2 (Securities Fraud)

35. Paragraphs 1 through 27 are realleged as if fully set forth herein.

36. On or about the dates set forth below, in the Northern District of California and elsewhere, the defendants,

BARBRA ALEXANDER,
BETH PINA, and
MICHAEL SWANSON,

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, in connection with the purchase and sale of securities, did use and employ manipulative and deceptive devices and contrivances, and aided and abetted others in using and employing manipulative and deceptive devices and contrivances, in contravention of Title 15, United States Code, Sections 78j(b) and 78ff, and Title 17, Code of Federal Regulations, Sections 240.10b-5 and 240.10b5-2, and Title 18, United States Code, Section 2: 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 the 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, used and caused others to use the mails in the manner, and on or about the dates, set forth below:

INDICTMENT

Count	Approximate Mailing Date	Description
29	March 2008	\$99,951.75 investment by Investor M
30	March 2009	\$100,000 investment by Investor L

All in violation of Title 15, United States Code, Sections 78j(b) and 78ff; Title 17, Code of Federal Regulations, Sections 240.10b-5 and 240.10b5-2; and Title 18, United States Code, Section 2.

COUNTS THIRTY-ONE THROUGH FORTY-THREE: (18 U.S.C. § 1957(a) - Engaging in Monetary Transactions in Property Derived from Specified Unlawful Activity)

37. Paragraphs 1 through 27 are realleged and incorporated as if fully set forth here.

38. On or about the dates listed below, in the Northern District of California, and elsewhere, the defendant,

BARBRA ALEXANDER,
BETH PINA, and
MICHAEL SWANSON,

did knowingly engage in a monetary transaction by, through, and to a financial institution, affecting interstate commerce, in criminally-derived property of a value greater than \$10,000, said property having in fact been derived from specified unlawful activity, namely, mail fraud, wire fraud, and securities fraud:

<u>Count</u>	<u>Date</u>	<u>Amount</u>	<u>Transaction</u>
31	4/9/2008	\$10,500	Check paid to Moneydots
32	9/17/2008	\$10,000	Check paid to Moneydots
33	11/10/2008	\$24,012.68	Check paid to American Express
34	3/28/2008	\$10,000	Check paid to Beth Pina
35	4/14/2008	\$10,000	Check paid to Beth Pina
36	5/6/2008	\$10,000	Check paid to Beth Pina
37	10/3/2008	\$10,000	Check paid to Barbra Alexander
38	10/14/2008	\$20,000	Check paid to Barbra Alexander

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39	10/22/2008	\$20,000	Check paid to Barbra Alexander
40	10/30/2008	\$10,000	Check paid to Barbra Alexander
41	10/30/2008	\$10,000	Check paid to Barbra Alexander
42	9/26/2008	\$50,000	Check paid to Michael Swanson
43	7/3/2009	\$10,000	Check paid to Michael Swanson

All in violation of Title 18, United States Code, Section 1957.

FORFEITURE ALLEGATION: 18 U.S.C. §981(a)(1)(C) and 28 U.S.C. §2461(c) (Forfeiture)

39. Paragraphs 1 through 38 are realleged as if fully set forth herein.

40. Upon a conviction of any of the offenses alleged in Counts One through Thirty, the defendants,

BARBRA ALEXANDER,
BETH PINA, and
MICHAEL SWANSON,

shall forfeit to the United States all property, constituting and derived from proceeds traceable to violations of Title 18, United States Code, Section 1341 (Mail Fraud), Title 18, United States Code, Section 1343 (Wire Fraud), Title 15, United States Code, Sections 78j(b) and 78ff; and Title 17, Code of Federal Regulations, Sections 240.10b-5 and 240.10b5-2 (Securities Fraud); as alleged in Counts One through Thirty of this Indictment.

41. Upon a conviction of any of the offenses alleged in Counts Thirty-One through Forty-Three, the defendants,

BARBRA ALEXANDER,
BETH PINA, and
MICHAEL SWANSON,

shall forfeit to the United States all property, real or personal, involved in a violation of Title 18, United States Code, Section 1957, and property traceable thereto, as alleged in Counts Thirty-One through Forty-Three of this Indictment, including but not limited to any proceeds from said violations, and any property which facilitated said violations.

42. If any of the forfeitable property, as a result of any act or omission of ALEXANDER or PINA or SWANSON:

INDICTMENT

- (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 divided without difficulty;

it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p) (as incorporated in Title 18, United States Code, Section 982(b) and Title 28, United States Code, Section 2461(c)), to seek forfeiture of any other property of said defendants up to the value of the forfeitable property described above.

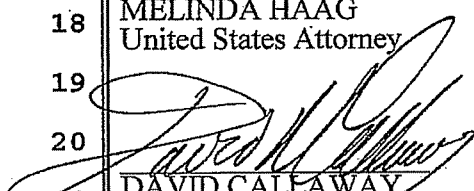
All in violation of Title 18, United States Code, Section 1341 (Mail Fraud), Title 18, United States Code, Section 1343 (Wire Fraud), Title 15, United States Code, Section 78j(b) and 78ff; Title 17, Code of Federal Regulations, Sections 240.10b-5 and 240.10b5-2 (Securities Fraud); Title 18, United States Code, Section 1957 (Money Laundering); Title 18, United States Code Section 981(a)(1)(C), 982(a)(1); and Title 28, United States Code, Section 2461(c).

DATED: October 6, 2010


A TRUE BILL


FOREPERSON

MELINDA HAAG
United States Attorney


DAVID CALLEWAY
Chief, San Jose Branch Office

Approved as to form:


JEFF SCHENK
Assistant United States Attorney

INDICTMENT

DEFENDANT INFORMATION RELATIVE TO A CRIMINAL ACTION - IN U.S. DISTRICT COURT

BY: COMPLAINT INFORMATION INDICTMENT
 SUPERSEDING

OFFENSE CHARGED

- 18 U.S.C. § 1349 (Conspiracy); 18 U.S.C. § 1341 (Mail Fraud); 18 U.S.C. § 1343 (Wire Fraud); 15 U.S.C. §§ 78j(b) and 78ff, 17 C.F.R. §§ 240.10b-5 and 240.10b5-2, 18 U.S.C. § 2 (Securities Fraud); 18 U.S.C. § 1957(a) (Money Laundering); 18 U.S.C. § 981(a)(1)(C), 28 U.S.C. § 2461(c), 18 U.S.C. § 982(a) (1) (Forfeiture)
- Petty
- Minor
- Misdemeanor
- Felony

PENALTY: See Attachment

Name of District Court, and/or Judge/Magistrate Location

NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

2010 OCT -6 P 2:21

DEFENDANT - U.S.

(1) Barbra ALEXANDER

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
M.D. CALIF. SAN JOSE

JF

CR 10 00730

DEFENDANT

PVT

IS NOT IN CUSTODY

- Has not been arrested, pending outcome this proceeding.
- 1) If not detained give date any prior summons was served on above charges
- 2) Is a Fugitive
- 3) Is on Bail or Release from (show District)

IS IN CUSTODY

- 4) On this charge
 - 5) On another conviction } Federal State
 - 6) Awaiting trial on other charges
- If answer to (6) is "Yes", show name of institution

Has detainer been filed? Yes No

If "Yes" give date filed

DATE OF ARREST

Month/Day/Year

Or... if Arresting Agency & Warrant were not

DATE TRANSFERRED TO U.S. CUSTODY

Month/Day/Year

This report amends AO 257 previously submitted

PROCEEDING

Name of Complainant Agency, or Person (& Title, if any)

FBI

person is awaiting trial in another Federal or State Court, give name of court

this person/proceeding is transferred from another district per (circle one) FRCrp 20, 21, or 40. Show District

this is a reprosecution of charges previously dismissed which were dismissed on motion of:

U.S. ATTORNEY DEFENSE

SHOW DOCKET NO.

this prosecution relates to a pending case involving this same defendant

MAGISTRATE CASE NO.

prior proceedings or appearance(s) before U.S. Magistrate regarding this defendant were recorded under

Name and Office of Person

Furnishing Information on this form MELINDA HAAG

U.S. Attorney Other U.S. Agency

Name of Assistant U.S. Attorney (if assigned)

JEFFREY B. SCHENK

ADDITIONAL INFORMATION OR COMMENTS

PROCESS:

SUMMONS NO PROCESS* WARRANT

Bail Amount: No Bail

If Summons, complete following:

Arraignment Initial Appearance

*Where defendant previously apprehended on complaint, no new summons or warrant needed, since Magistrate has scheduled arraignment

Defendant Address:

Date/Time: Before Judge:

Comments:

Maximum Penalties for
U.S. v. BARBRA ALEXANDER, BETH PINA, MICHAEL SWANSON

Count One – 18 U.S.C. § 1349 – Conspiracy to Commit Mail and Wire Fraud

20 years imprisonment
\$250,000 fine, or twice the gross gain or gross loss from the offense
3 years supervised release
\$100 special assessment

Counts Two through Fourteen – 18 U.S.C. § 1341 – Mail Fraud

20 years imprisonment
\$250,000 fine, or twice the gross gain or gross loss from the offense
3 years supervised release
\$100 special assessment

Counts Fifteen through Twenty-Eight – 18 U.S.C. § 1343 – Wire Fraud

20 years imprisonment
\$250,000 fine, or twice the gross gain or gross loss from the offense
3 years supervised release
\$100 special assessment

Counts Twenty-Nine through Thirty – 15 U.S.C. §§ 78j(b) and 78ff;
17 C.F.R. §§ 240.10b-5 and 240.10b5-2; 18 U.S.C. § 2 – Securities Fraud

20 years imprisonment
\$5,000,000 fine
3 years supervised release
\$100 special assessment

Counts Thirty-One through Forty-Three – 18 U.S.C. § 1957(a) – Engaging in Monetary
Transaction in Property Derived from Specified Unlawful Activity

10 years imprisonment
\$250,000 fine, or twice the amount of the criminally derived property involved in the transaction
3 years supervised release
\$100 special assessment

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NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

OFFENSE CHARGED

- Petty
 - Minor
 - Misdemeanor
 - Felony
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 (Securities Fraud); 18 U.S.C. § 1957(a) (Money Laundering);
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 (1) (Forfeiture)

PENALTY: See Attachment

DEFENDANT: RICHARD W. WICKING
CLERK, U.S. DISTRICT COURT
N.D. CALIF. & IDRE

(2) Beth PINA

DISTRICT COURT NUMBER

CR 10 00730

JF

PVA

PROCEEDING

Name of Complainant Agency, or Person (& Title, if any)

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person is awaiting trial in another Federal or State Court, give name of court

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U.S. Attorney Other U.S. Agency

Name of Assistant U.S. Attorney (if assigned) JEFFREY B. SCHENK

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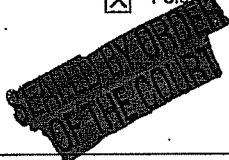
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(3) Michael SWANSON

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N.D. CALIF. SAN JOSE
JF

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