

FILED

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
OCALA DIVISION

2010 SEP 14 AM 10:44

CLERK, U.S. DISTRICT COURT
OCALA, FLORIDA

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 5:10-cv- 468-OC-106RS

REAL PROPERTY, INCLUDING
ANY BUILDINGS, APPURTENANCES,
AND IMPROVEMENTS THEREON,
LOCATED AT 17532 COBBLESTONE
LANE, CLERMONT, FLORIDA,

REAL PROPERTY, INCLUDING
ANY BUILDINGS, APPURTENANCES,
AND IMPROVEMENTS THEREON,
LOCATED AT 13045 HIDDEN BEACH WAY,
CLERMONT, FLORIDA,

Defendants.

VERIFIED COMPLAINT FOR FORFEITURE *IN REM*

Plaintiff United States of America, by and through the undersigned Assistant United States Attorney, brings this complaint and alleges upon information and belief, in accordance with Supplemental Rule G(2), Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions, as follows:

NATURE OF THE ACTION

1. This is a civil action *in rem* to forfeit to the United States, the following real properties located at 17532 Cobblestone Lane, Clermont, Florida, 34711 and 13045 Hidden Beach Way, Clermont, Florida, 34711 (Defendant Properties), pursuant to 18 U.S.C. § 981(a)(1)(C), as proceeds traceable to a conspiracy to commit a "specified unlawful activity," as that term is defined in 18 U.S.C. § 1956(c)(7), specifically wire

fraud offenses. This action is also brought, pursuant to 18 U.S.C. § 981(a)(1)(A), against the Defendant Properties because the monetary transactions conducted to purchase these properties were made in violation of 18 U.S.C. § 1957(a). The offenses which give rise to this action arise from an investment fraud scheme perpetrated by Assured Capital Consultants, Jenifer Hoffman, John Boschert, Bryan Zuzga and others in which investors have been defrauded out of millions of dollars.

JURISDICTION AND VENUE

2. This Court has subject matter jurisdiction over an action commenced by the United States by virtue of 28 U.S.C. § 1345, and over an action for forfeiture by virtue of 28 U.S.C. § 1355.

3. This Court has *in rem* jurisdiction over the Defendant Properties pursuant to:

a. 28 U.S.C. § 1355(b)(1)(A), because pertinent acts or omissions giving rise to the forfeiture occurred in the Middle District of Florida; and

b. 28 U.S.C. § 1355(b)(1)(B), because venue properly lies in the Middle District of Florida pursuant to 28 U.S.C. § 1395.

4. Venue is proper in the District Court for the Middle District of Florida, pursuant to 28 U.S.C. § 1355(b)(1), because the acts or omissions giving rise to the forfeiture occurred in this district.

THE DEFENDANT *IN REM*

5. The Defendant Properties are described as:

a. 17532 Cobblestone Lane, Clermont, Florida 34711, more particularly described as:

Lot 30, MAGNOLIA POINTE, according to the plat thereof, as recorded in Plat Book 40, Pages 1 through 6, inclusive, of the Public Records of Lake County, Florida; and

b. 13045 Hidden Beach Way, Clermont, Florida 34711, more particularly described as:

Lot 72, MAGNOLIA POINTE, according to the plat thereof recorded in Plat Book 40, Page(s) 1-6, of the Public Records of Lake County, Florida

and are located in Lake County, Florida. The United States does not request authority from the Court to seize the real property defendant at this time.

6. As set forth in Supplemental Rule G(3)(a) and 18 U.S.C. § 985(b)(1) and (c)(1), the United States will:

- a. post notice of this action and a copy of the Complaint on the defendant real properties;
- b. serve notice of this action on the defendant real properties owner(s), and any other person or entity who may claim an interest in the defendant, along with a copy of this Complaint;
- c. file a lis pendens in county records of the defendant real properties' status as a defendant in this *in rem* action.

7. The Defendant Properties are subject to forfeiture pursuant to 18 U.S.C. § 981(a)(1)(C), because they constitute proceeds traceable to a conspiracy to commit "specified unlawful activity," as that term is defined in 18 U.S.C. § 1956(c)(7). A "specified unlawful activity," as defined in 18 U.S.C. § 1956(c)(7), includes offenses

listed in 18 U.S.C. § 1961(1). Specifically, 18 U.S.C. § 1961(1) includes wire fraud violations. Lastly, the monetary transactions made to purchase the Defendant Properties were conducted in violation of 18 U.S.C. § 1957(a) because they involved monetary transactions conducted with more than \$10,000 in criminally derived funds and, as such, are subject to forfeiture pursuant to 18 U.S.C. § 981(a)(1)(A).

FACTS

8. Specific details of the facts and circumstances supporting the forfeiture of the defendant real properties are contained in the Affidavit of United States Secret Service Special Agent Shelley Kolarczyk, which is attached hereto as Exhibit A and fully incorporated herein by reference.

9. As required by Supp'l Rule G(2)(f), this complaint supports a reasonable belief that the government will be able to meet its burden of proof at trial. Specifically, there is probable cause to believe that the Defendant Properties were purchased with proceeds of the wire fraud offenses detailed in SA Kolarczyk's Affidavit, and therefore, are subject to forfeiture pursuant to 18 U.S.C. § 981(a)(1)(C). Additionally, there is probable cause to believe that the Defendant Properties were involved in violations of 18 U.S.C. § 1957(a), and therefore, are subject to forfeiture pursuant to 18 U.S.C. § 981(a)(1)(A).

WHEREFORE, the United States requests that process, in accordance with the provisions of Supplemental Rule G, be issued against the Defendant Properties to enforce the forfeiture and that any person or persons having an interest therein be cited and directed to appear and show cause why it should not be decreed; and that the

Defendant Properties be forfeited to the United States for disposition according to law;
and that the United States have such other and further relief as this case may require.

Respectfully submitted,

A. BRIAN ALBRITTON
United States Attorney


By: 
Nicole M. Andrejko
Assistant United States Attorney
Florida Bar No. 0820601
501 West Church St., Suite 300
Orlando, FL 32805
Telephone: (407) 648-7500
Facsimile: (407) 648-7643
E-mail: Nicole.Andrejko@usdoj.gov

VERIFICATION

I, Shelley Kolarczyk, hereby verify and declare under penalty of perjury as provided by 28 U.S.C. § 1746 that I am a Special Agent with the United States Secret Service, that I have read the foregoing Verified Complaint *in rem* and know the contents thereof, and that the matters contained in the Verified Complaint are true and correct to my own knowledge, except those matters herein stated to be alleged on information and belief and, as to those matters, I believe them to be true and correct.

The sources of my knowledge and information, and the grounds of my belief are the official files and records of the United States, information supplied to me by other law enforcement officers, as well as my investigation of this case and other cases.

Executed this 10 day of September, 2010.


Shelley Kolarczyk, Special Agent
United States Secret Service

AFFIDAVIT

I, Shelley Kolarczyk, being duly sworn, depose and state as follows:

1. I am a Special Agent (SA) of the United States Secret Service (USSS) and have been so employed for 8 years. I am currently assigned to the Orlando Field Office. Among my duties as a SA, I am charged with the investigation of financial crimes, including check fraud, identity fraud, credit card fraud, bank and wire fraud, and the manufacturing, possession and passing of counterfeit United States currency. I have been involved in several investigations involving Ponzi/Pyramid schemes¹ that resulted in the issuance of seizure warrants. As a SA, I have conducted numerous wire fraud, money laundering and other financial crimes investigations. I have become intimately familiar with the manner in which criminals communicate by wire (telephone, internet, fax machine, etc.) in attempts to code their language to disguise the true meaning of their conversations. Additionally, I have extensive experience in investigating individuals who attempt to conceal proceeds of illegal acts, such as wire fraud, including the use of trusts and corporations to disguise the true owner of illicit funds they control through these entities. I have become knowledgeable about the methods and means by which money is laundered and the efforts of persons involved in

¹ Ponzi schemes promote allegedly lucrative business opportunities, often involving foreign currency exchange, precious metals trading, or other high return investments. However, in a Ponzi scheme, there is in fact no underlying profitable business to support the payments promoters say they will make to the investors. Instead, the promoters simply use the money obtained from a growing base of latter investors to pay so-called "profits" to earlier investors. Schemes that depend on growing the base of new investors to support payments to prior investors are also referred to as pyramids. Ponzi schemes have evolved with the development of the Internet, but their basic premise remains the same: later investors' funds are used to pay the earlier investors.

such activities to avoid detection by law enforcement. As a USSS agent, I have utilized a variety of investigative techniques and resources, including physical and electronic surveillance, undercover operations, and cooperating sources of information, including cooperating defendants.

2. This investigation is being conducted jointly by the USSS, the FBI, the IRS and the State of Florida, Office of Financial Regulation. Information obtained as a result of the investigative efforts of each agency is being shared with agents from the other agencies and incorporated into this affidavit. The facts set forth in this affidavit are based on my own personal knowledge, knowledge obtained from law enforcement officers, reviews of documents and computer records related to this investigation, communications with others who have personal knowledge of the events and circumstances described herein (including participants,) and information gained through my training and experience and the training and experience of others. Because this affidavit is being submitted for the limited purpose of establishing probable cause in support of the civil forfeiture complaint described herein, it does not set forth each and every fact that I or others have learned during the course of the investigation.

I. **Property to be Seized**

3. This affidavit is being submitted for the limited purpose of supporting the civil forfeiture complaint against real properties located at:

- a. **17532 Cobblestone Lane, Clermont, Florida, 34711, titled in the name of Donald and Jenifer Hoffman; and**
- b. **13045 Hidden Beach Way, Clermont, Florida, 34711, titled in the name of Bryan and Mersades Zuga.**

II. Relevant Individuals/Entity

4. The following individuals/entity are believed to be involved in this scheme:

a. **John Boschert** (Boschert)

b. **Jenifer Hoffman** (Hoffman)

c. **Bryan Zuzga** (Zuzga)

d. **Assured Capital Consultants (ACC)** - According to the Florida Department of State, Division of Corporations, ACC was established in September 2008. Boschert is listed as the Manager and Hoffman was listed as the Managing Member. State filings indicate that ACC is engaged in "any and all lawful business." ACC's principal address is listed as 13148 Summerlake Way, Clermont, Florida.

III. Overview of Scheme

5. Since January 2009, the above-referenced individuals have been deceiving investors by making claims to them, both via business meetings and phone conversations, that investments in ACC would yield exceptionally high returns on investments not achievable anywhere in the legitimate business world. Specifically, ACC's Joint Venture Revenue Share Agreements (Agreements) indicate that although ACC does not guarantee minimum monthly returns to investors, investors could earn monthly returns between 100%-200% on their investments, with any earnings over 100% per month paid directly to ACC.

6. The terms of ACC's agreements indicate that investor funds would be placed into what ACC described as a "private placement trade platform," which was being managed by a confidential Trade Platform. Indeed, Boschert and Hoffman told

investors that the specific details of ACC's investments were private or confidential and could not be shared with them.² As is typical of most pyramid schemes, investors were advised verbally that the higher initial investment they made with ACC, the higher returns they would receive and the quicker they would receive their payouts. Investors were also advised verbally that their funds would not leave the designated escrow account. Per the terms of the agreements, at any time upon their request, investors' full principal investment would be returned to them within 10 business days. ACC offered investment opportunities ranging between \$50,000 to \$500,000 with the option for smaller investors to pool their funds and invest as a group, as many individuals did.

7. As part of the investment scheme, Hoffman verbally advised investors that Bryan Zuzga (Zuzga) was managing investors' payments by serving as the escrow agent for funds disbursed from Assured Capital Consultant's SunTrust Bank Account #1000085984168 (ACC's SunTrust Account). Several investors also reported conversations with Hoffman and ZUZGA wherein Hoffmana and Zuzga held Zuzga out to be ACC's lawyer. Initial investigation into Zuzga's background indicates that he does not hold a license to practice law in either Florida or Ohio, as he represented to several investors. Zuzga also falsely represented to investors via an Escrow Agreement, he was the sole signatory on ACC's SunTrust Account.

8. An examination into ACC's SunTrust Account, the account utilized by ACC to accept investor funds, does not indicate that any legitimate investments were actually

² On at least one occasion, Boschert advised an investor that he could not disclose how ACC was investing investor funds because the company ACC was investing with did not want this information disclosed.

being made on behalf of ACC's investors. Bank analysis reveals that since January 2009, ACC collected over \$28 million from various investors, both domestic and international. Instead of investing funds on behalf of investors, bank records indicate that Boschert and Hoffman were misappropriating investors' funds for their own personal benefit. Specifically, these individuals used investors' funds to purchase vehicles, vessels, buy homes, compensate themselves and send money to accounts directly under their control. This investigation has revealed that neither Boschert nor Hoffman have any substantial income other than ACC related money.

IV. ACC is Unlicensed to Operate Its Business

9. I contacted the National Futures Association (NFA) and the Commodities Futures Trading Commission (CFTC) in order to determine whether ACC holds any type of investment licenses. A check with both the NFA and CFTC resulted in negative results for any license or registration for ACC, Boschert or Hoffman. According to the CFTC, ACC is considered a "pool operator" because it collectively accumulates investor money for investments. Serving as a pool operator for the purpose of purchasing commodities without a license or registration is in violation of federal law. Registration with the CFTC requires companies to produce disclosure documents, yearly prospectuses and incorporation documents. These are necessary to protect investors from fraudulent practices by unregulated pool operators.

V. Investor Interview

10. On September 16, 2009, I received a call from St. Petersburg, Florida resident Brian Haas (Haas) who was concerned that he may have been victimized by an investment scheme operated by ACC. In June 2009, Haas, on behalf of his wholly

owned company, Marketworx Corp., began investing with ACC. Haas learned about ACC through an acquaintance and was interested in investing his money where he could receive a high yield on investments. ACC purported in writing to Haas, and other individuals, that investments were made in private placement platforms. As was the case with other investors, ACC advised Haas that it was unable to disclose the specific nature of the investments it would make on his behalf.

11. On June 11, 2009, Marketworx Corp. entered into a contract with ACC. The terms of the contract indicate that interest, in the amount of 5-25% per week, was to be paid every ten days once investing began. Moreover, Marketworx had to agree to pay ACC any earnings earned in excess of 100% per month. If, however, Marketworx wanted to withdraw its principal, it could do so at any time after it provided ACC with 10 business days notice.

12. Pursuant to the terms of the contract, on June 12, 2009, Haas wired \$100,000 to ACC's SunTrust Account for the sole purpose of investing with ACC.

13. Thereafter, on or about July 14, 2009, Haas was verbally informed by Hoffman that his investment had earned \$196,000. With this information, Haas requested a \$50,000 payout from his earnings, which he received on July 22, 2009 in the form of a wire from ACC's SunTrust Account.

14. On July 31, 2009, feeling confident in his investment decision, Haas provided ACC with additional funds for investment. Haas provided SunTrust Official Check No. 4677029837 made payable to ACC in the amount of \$254,000 to add to his original investment. Bank records reveal this check was deposited into ACC's SunTrust Account.

15. In the days following his additional investment, Boschert and Hoffman communicated regularly with Haas regarding his investment. In early August 2009, Haas began to have problems reaching Boschert and Hoffman and became concerned about his investment. Accordingly, on August 3, 2009, Haas requested the return of his earnings and entire principal investment. Hoffman initially agreed to return these funds to Haas, but then continued to delay and make broken promises to Haas regarding the return of his funds. On September 26, 2009, after several weeks of attempting to obtain his funds from Hoffman, Haas called the Orlando Secret Service to file a complaint.

16. Additional victims have been identified and have provided similar accounts of their dealings with ACC to the Orlando Secret Service.

VI. Tracing of Funds Used to Purchase the Defendant Real Properties

17. According to bank records, on September 8, 2008, Jenifer Hoffman and John Boschert opened SunTrust Business Checking Account #1000085984168 held in the name of Assured Capital Consultants, LLC, at the Clermont branch located at 581 E. Highway 50, Clermont, Florida, 34711. Bank records list Hoffman and Boschert as the only signatories on the account in their capacity as Managers of ACC's Escrow Account. As discussed above, ACC directed investors to send their investment funds to this account.

18. Between January and September 2009, over \$28 million was wired or directly deposited into this account. Based on a review of incoming wires, and numerous victim interviews conducted by investigators, with the exception of a small

portion of funds,³ it is apparent this account was funded almost entirely with funds received directly from ACC investors. Bank analysis indicates that of the funds deposited into this account, \$19,761,376.25 was returned to investors, \$1,906,525 was wired to ACC's Secondary Account, \$1,093,890 was wired to DAH Management,⁴ \$832,250 was wired to or withdrawn by Boschert and/or Hoffman, \$382,000 was wired to Zuzga, \$350,000 was wired to Paul Forkner,⁵ and \$150,000 was wired to Banco General in Panama and there were \$446,300 in counter and cash withdrawals.

19. While it appears that the funds in this account were being used to pay back investor returns (as it typical in most Ponzi/Pyramid schemes), compensate Boschert, Hoffman and their family members, sent to overseas accounts and used to purchase assets for the Hoffmans, there is little to no account activity that demonstrates that the funds were actually being invested as advertised to investors. Indeed, none of the account's outgoing wires can be directly traced to any legitimate investment.

20. Additionally, investor funds deposited into ACC's SunTrust Account were used to purchase the Defendant Properties.

³ A portion of funds, \$1,412,690, came from ACC SunTrust Account #1000085983079 (ACC's Secondary Account) and two cash deposits totaling \$11,500. With the exception of a few transactions, the vast majority of the funds deposited into ACC's Secondary Account came from ACC's SunTrust Account. Both of ACC's SunTrust accounts were closed on or about September 21, 2009 for "non-compliance" with SunTrust Bank's rules and regulations and after the bank received several customer complaints.

⁴ DAH Management is an active Florida corporation listing Jenifer Hoffman as the sole Officer/Director.

⁵ Paul Forkner is Jenifer Hoffman's father.

A. Purchase of The Hoffmans' Property

21. Records obtained from the Lake County Property Appraiser's Office reveal that on July 3, 2009, Donald and Jenifer Hoffman purchased their residence located at 17532 Cobblestone Lane, Clermont, Florida, 34711 for \$1,575,000 (Hoffmans' residence). Attorney Wade Boyette served as the title agent for the closing. The following is a summary of the funding of the Hoffmans' residence:

- a. On June 19, 2009, the ACC SunTrust Account received an incoming wire of \$1,850,000 from United Funding.⁶ The same day \$230,000 was wired from the ACC SunTrust Account to the BankFirst account of the Boyette Law Offices in Clermont, Florida.
- b. On June 29, 2009, the ACC SunTrust Account received an incoming wire of \$500,000 from Harbour Distribution.⁷ The same day \$500,000 was wired from the ACC SunTrust Account to the BankFirst account of the Boyette Law Offices in Clermont, Florida.
- c. On June 30, 2009, the ACC SunTrust Account received an incoming wire of \$300,000 from Aishwariya Enterprises.⁸ The same day \$303,963.96 was wired from the ACC SunTrust Account to the BankFirst account of the Boyette Law Offices in Clermont, Florida.
- d. On July 2, 2009, the ACC SunTrust Account received an incoming wire of \$400,000 from United Funding. The same day \$300,000 was wired from the ACC SunTrust Account to the BankFirst account of the Boyette Law Offices in Clermont, Florida.

22. Because the Hoffmans' residence was purchased with at least \$1,330,000 in wire fraud proceeds, the Hoffmans' residence, up to \$1,330,000, is subject to

⁶ United Funding has been identified as a victim in this case and is currently awaiting the return of investor funds.

⁷ Harbour Distribution has been identified as a victim in this case and is currently awaiting the return of investor funds.

⁸ Aishwariya Enterprises has been identified as a victim in this case and is currently awaiting the return of investor funds.

forfeiture as proceeds of the wire fraud violations, pursuant to 18 U.S.C. § 981(a)(1)(C). Additionally, the four wire transfers also violated 18 U.S.C. § 1957(a) because they involved monetary transactions conducted with more than \$10,000 in criminally derived funds and, as such, the entire property is subject to forfeiture pursuant to 18 U.S.C. § 981(a)(1)(A).

B. Purchase of the Zuzgas' Residence

23. Additionally, investor funds deposited into ACC's SunTrust Account were used to purchase Zuzga and his spouse, Mersades Zuzga's, residence located at 13045 Hidden Beach Way, Clermont, Florida, 34711 (Zuzgas' residence). Records obtained from the Lake County Property Appraiser's Office reveal that on July 9, 2009, the Zuzgas' purchased their residence for \$385,000. Watson Title Services, Inc. served as the title agent for the closing.

24. On July 7, 2009, Zuzga opened SunTrust Personal Checking Account #1000096511042 (Zuzga's SunTrust Account) at the Clermont branch at 581 E. Highway 50, Clermont, Florida, 34711 with a \$100 cash deposit. Zuzga has sole signature authority on this account.

25. On July 17, 2009, ACC's SunTrust Account received a \$1,000,000 wire from International Finance and Trust, LLC.⁹ On the same day, \$382,000 was wired from ACC's SunTrust Account to Zuzga's SunTrust Account. The same day, \$381,975.65 was withdrawn from Zuzga's SunTrust Account in the form of two official checks made payable to Watson Title Services, Inc: 1) SunTrust Official Check

⁹ International Finance and Trust, LLC has been identified as a victim investor in this case and is currently awaiting the return of investor funds.

#2136867534, dated July 17, 2009, in the amount of \$190,987.83; and 2) SunTrust Official Check #2136867543, dated July 17, 2009, in the amount of \$190,987.82.

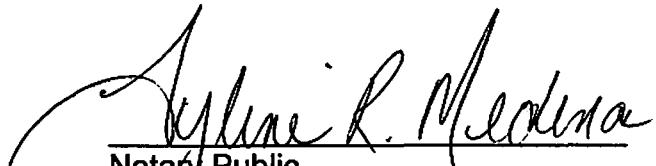
26. Records obtained from Watson Title Services, Inc. reveal these official checks were received on July 22, 2009 as payment for the balance due for the closing of the Zugas' residence.

27. Because the Zuzgas' residence was purchased with at least \$381,975.65 in wire fraud proceeds, the Zuzgas' residence, up to \$381,975.65 is subject to forfeiture as proceeds of the wire fraud violations, pursuant to 18 U.S.C. § 981(a)(1)(C). Additionally, the purchase of the Zuzgas' residence with the two cashier's checks also violated 18 U.S.C. § 1957(a) because it involved two monetary transactions each conducted with more than \$10,000 in criminally derived funds and, as such, the entire property is subject to forfeiture pursuant to 18 U.S.C. § 981(a)(1)(A).


Special Agent Shelley Kolarczyk
United States Secret Service

State of Florida
County of Orange

Before me, the undersigned authority personally appeared, Special Agent Shelley Kolarczyk, who having produced her United States Secret Service credentials as identification and having being duly sworn, deposes and says that the foregoing Affidavit is true to the best of her knowledge, information and belief. Witness my hand and official seal in the State of Florida, County of Orange this 10th day of September, 2010.


Notary Public
Commission Expires:



Tyline R. Medina
Commission # DD590194
Expires December 29, 2010
Banded Troy Fair - Insurance, Inc 600-385-7019

