

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

- - - - - X

UNITED STATES OF AMERICA :

SEALED INDICTMENT

- v. - :

12 Cr.

S. GEORGE MILTER and  
CLIFFE R. BODDEN,

**12 CRIM29 1**

Defendants.

- - - - - X

COUNT ONE

(Conspiracy to Commit Wire Fraud)

The Grand Jury charges:

Relevant Individuals and Entities

1. At all times relevant to this Indictment, Lempert Brothers International U.S.A. ("Lempert Brothers") was a New York corporation and a registered broker-dealer with the Financial Industry Regulatory Authority ("FINRA") and the Securities Exchange Commission ("SEC"), and a member of the Securities Investor Protection Corporation ("SIPC"). Lempert Brothers maintained a corporate address in Manhattan, New York.

2. At all times relevant to this Indictment, Lempert Capital Management, Ltd. ("Lempert Capital") was a corporation purportedly incorporated in the Cayman Islands that shared a Manhattan address with Lempert Brothers. Lempert Capital was not registered with FINRA, SIPC, or the SEC.

3. At all times relevant to this Indictment, Lempert, Inc. ("Lempert, Inc.") was a New York corporation that shared an

address for service of process with Lempert Brothers. S. GEORGE MILTER, the defendant, held Lempert, Inc. out as the management company for Lempert Capital. Lempert, Inc. was not registered with FINRA, SIPC, or the SEC.

4. At all times relevant to this Indictment, S. GEORGE MILTER, the defendant, resided in Manhattan and held himself out as the Chief Executive Officer ("CEO") of Lempert Brothers and the President and CEO of Lempert Capital.

5. At all times relevant to this Indictment, CLIFFE R. BODDEN, the defendant, resided in Florida and held himself out as a Managing Director of Lempert Capital.

#### The Scheme to Defraud

6. From in or about 2005 up to and including in or about 2010, S. GEORGE MILTER and CLIFFE R. BODDEN, the defendants, and others known and unknown, perpetrated a scheme to defraud foreign investors in which they solicited at least \$946,509 for purported investments but then failed to invest the solicited money as represented and, without the investors' knowledge or authorization, misappropriated and converted the investors' funds to their own benefit and the benefit of others.

7. In furtherance of the scheme to defraud, S. GEORGE MILTER, the defendant, made material misrepresentations to induce foreign investments, including, but not limited to, the following false statements made to certain foreign investors:

a. that the investors' funds would be invested in the United States financial markets;

b. that the investors' funds would be invested by a registered broker-dealer, i.e., Lempert Brothers, through its purported management company, Lempert Capital; and

c. that the investors' funds could not lose more than 20% of their total value because if the value of the funds dropped more than 20%, the money effectively would be frozen with all remaining funds available for return to investors.

8. Based on the misrepresentations described above and others by S. GEORGE MILTER, the defendant, and others known or unknown, beginning in or about November 2005 up to and including in or about October 2006, certain foreign investors wired approximately \$946,509 to accounts in the name of Lempert, Inc., which accounts were located in Manhattan and controlled by MILTER.

9. In furtherance of the scheme to defraud, and after receiving money from certain foreign investors as described above, from in or about late 2005 up to and including in or about early 2007, S. GEORGE MILTER and CLIFFE R. BODDEN, the defendants, caused false monthly account statements to be sent to the investors purporting to reflect that the investors' funds had earned substantial income. In truth and in fact, the investors' money was not invested as represented and was instead misappropriated.

10. In furtherance of the scheme to defraud, S. GEORGE MILTER and CLIFFE R. BODDEN, the defendants, used the investors' money to benefit themselves and others, including by, among other things, using the money to pay office rent, transferring the money to MILTER's family member, transferring the money to entities affiliated with BODDEN, and withdrawing the money as cash or through debit card purchases.

11. In furtherance of the scheme to defraud, from in or about 2007 up to and including in or about 2010, when investors attempted to withdraw funds from their purported investment accounts, S. GEORGE MILTER and CLIFFE R. BODDEN, the defendants, made additional false and fraudulent representations as to why the funds could not be returned when requested and that the funds were safe and secure. Among other things, MILTER and BODDEN falsely told investors that their money was illiquid because it had been invested in various companies that had not yet gone public. In truth and in fact, the investors' money was not available for return to the investors because it had not been invested as represented, but rather had been used by MILTER and BODDEN to benefit themselves and others.

#### Statutory Allegations

12. From in or about 2005 up to and including in or about 2010, S. GEORGE MILTER and CLIFFE R. BODDEN, the defendants, and others known and unknown, willfully and knowingly, did

combine, conspire, confederate, and agree together and with each other to commit wire fraud, in violation of Title 18, United States Code, Section 1343.

13. It was a part and object of the conspiracy that S. GEORGE MILTER and CLIFFE R. BODDEN, the defendants, 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

14. In furtherance of the conspiracy and to effect its illegal object, S. GEORGE MILTER and CLIFFE R. BODDEN, the defendants, committed the following overt acts, among others, in the Southern District of New York and elsewhere:

a. On or about November 25, 2005, MILTER caused an individual investor ("Victim 1") to wire approximately \$249,970 from a bank account outside the United States to a bank account located in Manhattan that MILTER controlled.

b. On or about March 21, 2006, MILTER caused an

individual investor ("Victim 2") to wire approximately \$145,426 from a bank account outside the United States to a bank account located in Manhattan that MILTER controlled.

c. On or about March 23, 2006, MILTER caused false monthly account statements to be sent from Manhattan to investors located outside the United States, including to Victim 1.

d. On or about March 28, 2006, MILTER and BODDEN caused approximately \$330,000 of investors' funds to be wired from a bank account that MILTER controlled and that was located in Manhattan to an entity affiliated with BODDEN.

e. On or about April 14, 2006, BODDEN caused false monthly account statements to be sent from Manhattan to investors located outside the United States, including to Victim 1.

f. On or about October 4, 2006, MILTER and BODDEN caused Victim 1 to wire approximately \$135,947 from a bank account outside the United States to a bank account located in Manhattan that MILTER controlled.

g. On or about May 3, 2007, MILTER made false representations to Victim 1 over the telephone regarding how Victim 1's money had been invested.

h. On or about May 3, 2007, BODDEN made false representations to Victim 1 over the telephone regarding how Victim 1's money had been invested.

(Title 18, United States Code, Section 1349.)

COUNT TWO

(Wire Fraud)

The Grand Jury further charges:

15. The allegations contained in paragraphs 1 through 11 and 14, are hereby repeated, realleged, and incorporated by reference as if fully set forth herein.

16. From in or about 2005 up to and including in or about 2010, in the Southern District of New York and elsewhere, S. GEORGE MILTER and CLIFFE R. BODDEN, the defendants, 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, to wit, MILTER and BODDEN engaged in an investment fraud scheme that defrauded investors out of approximately \$946,509, and in furtherance of the scheme to defraud, MILTER and BODDEN caused wire communications, including, but not limited to, wire transfers of money from locations outside the United States to Manhattan and false representations made over the telephone from Manhattan to investors located outside the United States.

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

FORFEITURE ALLEGATION

17. As the result of committing the conspiracy and wire fraud offenses in violation of Title 18, United States Code, Sections 1349 and 1343 as alleged in Counts One and Two of this Indictment, S. GEORGE MILTER and CLIFFE R. BODDEN, the defendants, shall forfeit to the United States, pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461, all property, real and personal, that constitutes or is derived from proceeds traceable to the commission of the offenses, including, but not limited to, the following:

a. At least \$946,509 in United States currency, in that such sum in aggregate is property representing the amount of proceeds obtained as a result of the charged conspiracy and wire and mail fraud offenses.

Substitute Asset Provision

18. If any of the above-described forfeitable property, as a result of any act or omission of the defendants,

a. cannot be located upon the exercise of due diligence;

b. has been transferred or sold to, or deposited with, a third person;

c. has been placed beyond the jurisdiction of the Court;

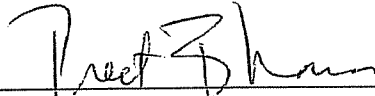
d. has been substantially diminished in value; or



e. has been commingled with other property which cannot be subdivided without difficulty; it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), to seek forfeiture of any other property of the defendants up to the value of the forfeitable property described above.

(Title 18, United States Code, Section 981(a)(1)(C);  
Title 21, United States Code, Section 853(p);  
and Title 28, United States Code, Section 2461.)

  
FOREPERSON

  
PREET BHARARA  
United States Attorney

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SOUTHERN DISTRICT OF NEW YORK

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INDICTMENT

12 Cr. \_\_\_\_

(18 U.S.C. §§ 1349, 1343, and 2.)

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PREET BHARARA  
United States Attorney.



Foreperson.

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