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

UNITED STATES OF AMERICA,
Plaintiff,
v.
DENNIS GIBB,
Defendant.

CASE NO. **CR 19-059** RSM

INFORMATION

The United States Attorney charges that:

COUNT 1
(Wire Fraud)

A. Introduction

1. At all material times, DENNIS GIBB was the president and owner of Sweetwater Investments, Inc. ("Sweetwater Investments"), located in Redmond, Washington. Sweetwater Investments was a Registered Investment Advisor with the Securities and Exchange Commission.

2. Beginning no later than 2008, DENNIS GIBB, acting through Sweetwater Investments, registered Limited Partnerships called Sweetwater Income Flood, LP and Sweetwater Income Flood QP, LP (collectively "Income Flood LP") with the Washington Secretary of State for the purpose of solicitation and investment of Sweetwater Investments clients' funds in a private investment fund ("Income Flood Fund").

1 3. At all material times, client monies invested in the Income Flood Fund
2 were held in a trading account, first at Deutsche Bank, and later at Raymond James.

3 **B. The Scheme and Artifice to Defraud**

4 4. Beginning at a date uncertain, but no later than 2007, and continuing
5 through on or about October 11, 2018, at Redmond and elsewhere, within the Western
6 District of Washington, the defendant, DENNIS GIBB, knowingly devised and intended
7 to devise a scheme and artifice to defraud investors and to obtain money and property by
8 means of materially false and fraudulent pretenses, representations, and promises.

9 5. The essence of the scheme and artifice to defraud was that DENNIS GIBB
10 induced individuals to invest significant sums of money into the Income Flood Fund for
11 purposes of growing their money through DENNIS GIBB's trading of securities.
12 DENNIS GIBB then converted these funds to the use of Sweetwater Investments and his
13 own personal use by withdrawing the funds directly from the brokerage houses that held
14 the Income Flood Fund without client consent. To conceal these thefts from his clients
15 and prolong the life of the fraud, DENNIS GIBB provided the victim investors with
16 quarterly statements, which falsely reflected that their account balances in the Income
17 Flood Fund had grown and that he had charged minimal advisor fees. During the course
18 of the scheme, DENNIS GIBB defrauded at least fifteen investors of approximately \$3
19 million.

20 **C. Manner and Means**

21 6. It was a part of the scheme and artifice to defraud that, in or about 2007,
22 DENNIS GIBB opened an account at Deutsche Bank for a Sweetwater Investments, Inc.
23 account. In July 2009, DENNIS GIBB transferred the balance of this account to another
24 account at Deutsche Bank in the name of Sweetwater Income Flood LP. DENNIS GIBB
25 transferred custody of the Sweetwater Income Flood LP account to Raymond James in or
26 about September 2016. For purposes of this Information, the account, as it existed in all
27 brokerage houses, will be referred to as the Income Flood LP account.
28

1 7. It was part of the scheme and artifice to defraud that DENNIS GIBB
2 maintained sole authority to make trades on the Income Flood LP account and to request
3 withdrawals from the Income Flood LP account.

4 8. It was part of the scheme and artifice to defraud that, between 2007 and
5 2018, DENNIS GIBB solicited investors in the Income Flood Fund. The various verbal
6 and written solicitations for the Income Flood Fund included false information about the
7 current balance of the Income Flood Fund, the rate of return of the fund, the involvement
8 and titles of various named investment professionals, and whether the fund was audited,
9 among other things. Over the existence of the Income Flood Fund, Gibb solicited
10 approximately 25 investors, who invested more than \$7 million. Investors in the Income
11 Flood Fund became limited partners in Income Flood LP with a fractional share
12 ownership based on the size of their investment.

13 9. It was further part of the scheme and artifice to defraud that DENNIS GIBB
14 transferred money from the Income Flood LP account to the Sweetwater Investments
15 bank account, first at Washington Federal Bank, and later at Banner Bank. DENNIS
16 GIBB used these funds for Sweetwater Investments' business expenses and DENNIS
17 GIBB's personal expenses, including mortgage and car payments. During the period of
18 the fraud, DENNIS GIBB stole more than \$3 million from the Income Flood Fund.

19 10. It was further part of the scheme and artifice to defraud that DENNIS GIBB
20 emailed monthly Income Flood Fund updates to investors, which stated a monthly,
21 quarterly, and yearly return, all of which were false in that they omitted the losses
22 incurred by investors due to DENNIS GIBB's theft of funds from the Income Flood
23 Fund.

24 11. It was further part of the scheme and artifice to defraud that, to conceal his
25 thefts from the Income Flood Fund, DENNIS GIBB falsified the investors' balances in
26 the Income Flood Fund in quarterly account statements that DENNIS GIBB emailed to
27 investors.

28 **D. Execution of the Scheme and Artifice to Defraud**

1 12. On or about June 21, 2018, at Redmond and elsewhere, within the Western
2 District of Washington, DENNIS GIBB, for the purpose of executing this scheme and
3 artifice to defraud investors and for obtaining money and property by materially false and
4 fraudulent pretenses, representations, and promises and attempting to do so, did
5 knowingly transmit and cause to be transmitted writings, signs, signals and sounds by
6 means of wire, radio, and television communication in interstate commerce, namely, a
7 wire transfer from Sweetwater Income Flood L.P., account number ending in 581, at
8 Alex Brown, Raymond James, in the State of Florida, to Sweetwater Investment's
9 checking account number ending in 8212 at Banner Bank in the State of Washington, in
10 the amount of \$25,000.00.

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

12 **Count 2**
13 **(Falsification of Records in Connection with SEC Examination)**

14 13. Beginning no later than May 30, 2018, the United States Securities and
15 Exchange Commission (SEC) began an examination of Sweetwater Investments. The
16 purpose of the examination was to assess Sweetwater Investment's compliance with SEC
17 rules and regulations for Registered Investment Advisors.

18 14. Beginning on or about May 30, 2018, and continuing until on or about
19 October 11, 2018, at Redmond, within the Western District of Washington, and
20 elsewhere, defendant DENNIS GIBB did knowingly conceal, omit material facts from,
21 cover up, and falsify a record and document; to wit, a spreadsheet and written responses
22 to the Securities and Exchange Commission showing the Income Flood Fund had been
23 liquidated, with the intent to impede, obstruct, and influence the investigation and proper
24 administration of a matter within the jurisdiction of the United States Securities and
25 Exchange Commission, an agency of the United States; to wit, the 2018 SEC
26 examination of Sweetwater Investments.

27 All in violation of Title 18, United States Code, Section 1519.
28

FORFEITURE ALLEGATION

15. The allegations contained in Count 1 of this Information are hereby realleged and incorporated by reference for the purpose of alleging forfeiture pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, 2461(c).

16. Upon conviction of the offense alleged in Count 1, Defendant DENNIS GIBB shall forfeit to the United States any property, real and personal, which constitutes or is derived from, proceeds traceable to the commission of the offense, including but not limited to, a sum of money representing the proceeds he obtained as a result of the offense.

17. If any of the forfeitable property described above, as a result of any act or omission of the defendant:

- 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;


1 it is the intent of the United States, pursuant to Title 21, United States Code, Section
2 853(p), as incorporated by Title 28, United States Code, Section 2461(c), to seek the
3 forfeiture of any other property of the defendant, up to the value of the above-described
4 forfeitable property.

5 DATED this 25th day of March, 2019.

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