

FILED
Apr 21, 2022
CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

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8 IN THE UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA

10 UNITED STATES OF AMERICA,
11
12 Plaintiff,
13 v.
14 VINCENT ELLIOT PORTER,
15 Defendant.

CASE NO. 1:22-cr-00113-JLT-SKO
18 U.S.C. § 1343 – Wire Fraud (8 Counts); and
18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461 –
Criminal Forfeiture

16
17 INDICTMENT

18 COUNTS ONE THROUGH EIGHT: [18 U.S.C. § 1343 – Wire Fraud]

19 The Grand Jury charges:

20 VINCENT ELLIOT PORTER,

21 defendant herein, as follows:

22 A. Parties and Entities

23 1. At all times relevant to this Indictment, Vincent Elliot PORTER (“the defendant”) was a
24 resident of Stanislaus County, in the State and Eastern District of California.

25 2. At all times relevant to this Indictment, the defendant owned and controlled Porter Auto
26 Dealership Inc., aka Porter Automotive Dealership Inc., and Porter Auto Group, L.P., auto dealership
27 companies located and doing business in Stanislaus County, San Joaquin County, and Tuolumne
28 County, in the State and Eastern District of California.

1 3. From approximately 2013 to October 2016, the defendant owned and operated Lodi
2 Chrysler Dodge Jeep Ram, an automotive dealership located in Lodi, California, in the State and Eastern
3 District of California.

4 4. From approximately February 2016 to August 2017, the defendant owned and operated
5 Sonora Chrysler Dodge Jeep Ram, an automotive dealership located in Sonora, California, in the State
6 and Eastern District of California (“Sonora Chrysler Dodge Jeep Ram”, and together with “Porter Auto
7 Dealership Inc., aka Porter Automotive Dealership Inc.”, and “Porter Auto Group, L.P.,” each an “Auto
8 Dealership Business” and, collectively, the “Auto Dealership Businesses.”).

9 **SCHEME TO DEFRAUD**

10 5. Beginning on a date unknown to the Grand Jury, but not later than in or about November
11 2011, and continuing to a date unknown but not earlier than November 2017, within the State and
12 Eastern District of California, and elsewhere, the defendant did knowingly devise and intend to devise a
13 material scheme and artifice to defraud others of money, and to obtain money from such individuals by
14 means of materially false and fraudulent pretenses, representations, and promises.

15 **MANNER AND MEANS OF SCHEME TO DEFRAUD**

16 6. During the above-described time period, the defendant executed the scheme and artifice
17 to defraud by the following manner, means, and acts, among others:

18 7. The defendant individually, and in his capacity as an owner of the Auto Dealership
19 Businesses, solicited prospective investors to provide funds for his business operations. The defendant
20 falsely represented he would use the funds for the Auto Dealership Businesses. The defendant
21 guaranteed investors 10%, 12%, or 15% rates of return. To some investors, he described the investment
22 as “risk free” and falsely claimed the investors would be covered by the defendant’s million-dollar
23 insurance policies.

24 8. In furtherance of the fraud scheme, the defendant falsely represented to the investors that
25 he would use their money to invest in the Auto Dealership Businesses, and often for a specific business
26 purpose, such as to provide short term liquidity or to serve as a “bridge loan” until further investment
27 dollars could be received. The defendant’s statements about the intended use of the funds, the short-
28 term nature of the investment, and the defendant’s financial situation were material to the investors.

1 9. In furtherance of the fraud scheme, the defendant had investors wire money to business
2 bank accounts he controlled, such as Wells Fargo Bank accounts ending in 9565, 3868, and 5122, and
3 had investors provide him with personal and cashier's checks that he deposited into those business bank
4 accounts. The defendant then used funds from these accounts for personal purposes rather than for the
5 business purposes that were the stated purpose of the investments.

6 10. In furtherance of the fraud scheme, the defendant provided investors with documents,
7 including promissory notes and insurance documents to provide investors with a false sense of security
8 that their investments were backed by collateral. In fact, as the defendant knew, the investors'
9 investments were not backed by collateral and the defendant had not added any investor as a beneficiary
10 on any insurance policy.

11 11. In furtherance of the scheme to defraud, the defendant misrepresented material details to
12 investors about his and the Auto Dealership Businesses' financial condition. He also falsely claimed the
13 investments would be short term and would yield a positive rate of return for the investors, and falsely
14 advertised the exclusivity of the investment opportunity.

15 12. Instead of using the investor funds solely for the Auto Dealership Businesses as he
16 represented, the defendant frequently used investor funds on personal expenses. The defendant spent
17 investor funds on travel to golf resorts such as Pebble Beach, visits to high end hotels such as the Ritz
18 Carlton, and numerous trips to Las Vegas, the Napa Valley, and other luxury locations. The defendant
19 also used the investor funds to purchase expensive clothing and wine for himself, to make improvements
20 to his home, and to pay monthly stipends to himself and his family for their own personal use.

21 13. In furtherance of the scheme to defraud, and to prevent and delay investors from
22 discovering the scheme, the defendant also at times made monthly payments ("lulling payments") to
23 existing investors using new investor funds. The defendant did not disclose to new investors that he
24 would be using their money to pay back prior investors. In furtherance of the scheme, at times when the
25 defendant did not have enough money to pay investors back their funds when due, he also made
26 additional false statements and representations to investors, such as claiming that he was owed money
27 by others, was close to completing a new financial deal, was expecting a transfer from a Euro-
28 denominated investment, and was expecting a transfer from a family member in England, and other

1 purported excuses that were not true.

2 14. For example, starting in 2013 and continuing for the next approximately 2-3 years, the
3 defendant solicited in excess of \$1 million in investments from M.R. and L.R. for the Auto Dealership
4 Businesses. He fraudulently told M.R. and L.R. that the two investors would make a significant amount
5 of money, that they would be partners in the Auto Dealership Businesses, that investments by them
6 would be short term and would pay a fixed rate of monthly return, and that the investment opportunity
7 was limited to them and one other partner. Following these misrepresentations, M.R. and L.R. provided
8 several investments totaling over \$1 million. As the defendant knew at the time he made the
9 misrepresentations, however, he had no present ability to pay back M.R. and L.R., and, thus, the loans
10 would not be short term. The defendant instead used the investment money for unauthorized purposes,
11 including to pay back prior investors, to take large cash withdrawals for personal purposes, and
12 otherwise to pay for personal expenses.

13 15. By late 2016, as Defendant knew, Fiat Chrysler Automobiles (FCA)'s lender refused to
14 lend Porter money and Porter's dealership line of credit was put in hold status (aka assignment status),
15 such that FCA could not give Porter any funds and instead needed to assign any credits to the
16 dealership's floor plan lender. Porter's Wells Fargo bank accounts frequently were overdrawn and his
17 checks frequently were being returned "NSF" (non-sufficient funds).

18 16. In another example, in November 2016, the defendant solicited prospective investor J.S.
19 for a "bridge loan." The defendant misrepresented to J.S. that he needed the money to provide short
20 term financing between the sale of Lodi Chrysler Dodge Jeep Ram, and the starting of Sonora Chrysler
21 Dodge Jeep Ram, falsely promised J.S. fixed monthly payments of 10% interest, and provided J.S. a
22 promissory note that memorialized the agreement. J.S. then provided the defendant with a \$200,000
23 cashier's check. In July 2017, the defendant approached J.S. again, told him he needed an additional
24 short-term loan and falsely represented that he "had money coming in," as the defendant had purportedly
25 recently sold a company, and would be able to repay both loans right away. Following those
26 misrepresentations, J.S. provided the defendant another cashier's check in the amount of \$125,000. As
27 the defendant knew when he made the misrepresentations, however, he had not recently sold a business,
28 did not have money coming in, and did not have any immediate plan or ability to repay the loans. The

1 defendant then spent J.S.'s money to pay back prior investors and on personal expenses, including
2 writing checks to his wife, paying a personal car loan, paying his personal credit card, and paying his
3 landscaper.

4 17. As late as in 2017, the defendant continued to solicit new investments even though, as the
5 defendant well knew, he had no means to pay back investors, because his bank accounts were frequently
6 overdrawn, Sonora Chrysler Dodge Jeep Ram's credit line with its lender had been frozen, and neither
7 the defendant nor his business had any new, legitimate funding sources, and the defendant and his
8 businesses had millions of dollars in outstanding liabilities. The defendant falsely stated to investors
9 that Sonora Chrysler Dodge Jeep Ram was growing even though, as he well knew, FCA was discussing
10 with the defendant the potential sale of Sonora Chrysler Dodge Jeep Ram and/or termination of his
11 dealership agreement.

12 18. At all relevant times in carrying out the scheme, the defendant acted with the intent to
13 defraud.

14 19. As a result of his conduct during the aforementioned scheme, the defendant defrauded
15 investors of more than \$8,000,000.

16 **THE WIRES**

17 20. On or about the dates set forth below, in the State and Eastern District of California and
18 elsewhere, for the purpose of executing the scheme and artifice to defraud set forth above, the defendant,
19 with the intent to defraud, caused to be transmitted by means of wire and radio communication in
20 interstate commerce the following writings, signs, signals, pictures and sounds:
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COUNT	APPROXIMATE DATE	DESCRIPTION
ONE	05/08/2017	Wire transfer by investor R.G. of \$11,000 processed through Birmingham, Alabama to Wells Fargo Bank account ending in 9565 in Oakdale, California
TWO	05/08/2017	Wire transfer by investor R.G. of \$32,000 processed through Birmingham, Alabama to Wells Fargo Bank account ending in 3868 in Sonora, California
THREE	05/08/2017	Wire transfer by investor R.G. of \$36,000 processed through Birmingham, Alabama to Wells Fargo Bank account ending in 5122 in Sonora, California
FOUR	05/27/2017	Clearing of a \$15,000 Farmers & Merchants Bank check #2289 (received from investor B.H. and deposited in Wells Fargo Bank account ending 3868 in California) processed by interstate wire transmission through Wells Fargo Bank servers in Shoreview, Minnesota to Wells Fargo Bank account ending 3868 in Sonora, California.
FIVE	05/30/2017	Clearing of a \$35,000 Farmers & Merchants Bank check #2290 (received from investor B.H. and deposited in Wells Fargo Bank account ending 5122 in California) processed by interstate wire transmission through Wells Fargo Bank servers in Shoreview, Minnesota to Wells Fargo Bank account ending 5122 in Sonora, California.

1 2 3 4 5	SIX	7/13/2017	Clearing of a \$125,000 Central Valley Community Bank cashier's check #59480 (received from investor J.S. and deposited in Wells Fargo Bank account ending 9565 in California) processed by interstate wire transmission through Wells Fargo Bank servers in Shoreview, Minnesota to Wells Fargo Bank account ending 9565 in Oakdale, California.
6 7 8 9	SEVEN	8/18/2017	Clearing of a \$22,000 Oak Valley Community Bank cashier's check #1013890 (received from investor J.D.S. and deposited in Wells Fargo Bank account ending 9565 in California) processed by interstate wire transmission through Wells Fargo Bank servers in Shoreview, Minnesota to Wells Fargo Bank account ending 9595 in Oakdale, California.
10 11 12 13 14	EIGHT	11/14/2017	Clearing of a \$14,000 Bank of the West cashier's check # 1002572119 (received from investors R.B. and P.B. and deposited in Wells Fargo Bank account ending 9565 in California) processed by interstate wire transmission through Wells Fargo Bank servers in Shoreview, Minnesota to Wells Fargo Bank account ending 9565 in Oakdale, California.

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

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17 FORFEITURE ALLEGATION: [18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461 – Criminal
18 Forfeiture]

19 1. Upon conviction of one or more of the offenses alleged in Count One through Eight of
20 Indictment, defendant VINCENT ELLIOT PORTER shall forfeit to the United States pursuant to Title
21 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c), all
22 property, real and personal, which constitutes or is derived from proceeds traceable to such violations.

23 2. If any property subject to forfeiture, as a result of the offenses alleged in Counts One
24 through Eight of this Indictment, for which defendant is convicted:

- 25 a. cannot be located upon the exercise of due diligence;
- 26 b. has been transferred or sold to, or deposited with, a third party;
- 27 c. has been placed beyond the jurisdiction of the Court;

1 d. has been substantially diminished in value; or

2 e. has been commingled with other property which cannot be divided without
3 difficulty;

4 it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), as
5 incorporated by Title 28, United States Code, Section 2461(c), to seek forfeiture of any other property of
6 defendant, up to the value of the property subject to forfeiture.

7 A TRUE BILL.

8 /s/ Signature on file w/AUSA

9
10 FOREPERSON

11 PHILLIP A. TALBERT
12 United States Attorney

KIRK E. SHERRIFF

13 By: KIRK E. SHERRIFF
14 Assistant U.S. Attorney
15 Chief, Fresno Office
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CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

No. _____

SEALED

UNITED STATES DISTRICT COURT

Eastern District of California

Criminal Division

1:22-cr-00113-JLT-SKO

THE UNITED STATES OF AMERICA

vs.

VINCENT PORTER,

INDICTMENT

VIOLATION(S): 18 U.S.C. § 1343 – Wire Fraud – 8 counts; 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c) – Criminal Forfeiture

A true bill,

/s/

Foreman.

Filed in open court this _____ day

of _____, A.D. 20 _____

Clerk.

Bail, \$ __ PLEASE ISSUE NO-BAIL WARRANT __

Eric P. Gray

United States v. Vincent PORTER
Penalties for Indictment

COUNT 1-6:

VIOLATIONS: 18 U.S.C. § 1343 – Wire Fraud

PENALTIES: Maximum 20 years prison; or
Fine of up to \$250,000; or both fine and imprisonment
Maximum 3 years supervised release

SPECIAL ASSESSMENT: \$100 (mandatory on each count)

FORFEITURE ALLEGATION:

VIOLATION: 18 U.S.C. § 981(a)(1)(C), and 28 U.S.C. § 2461(c) – Criminal Forfeiture

PENALTIES: As stated in the charging document

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

BY COMPLAINT INFORMATION INDICTMENT
 SUPERSEDING: Case No.

OFFENSE CHARGED

See Indictment

- Petty
- Minor
- Misdemeanor
- Felony

Place of offense
STANISLAUS COUNTY

U.S.C. Citation
See Indictment

Name of District Court, and/or Judge/Magistrate Judge Location (City)
UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

DEFENDANT -- U.S. vs.
VINCENT PORTER

Address {

Birth Date

- Male Alien
- Female (if applicable)

(Optional unless a juvenile)

PROCEEDING

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

JUSTIN BADGER - FBI

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

this person/proceeding is transferred from another district per FRCrP 20 21 40. Show District

this is a reprosecution of charges previously dismissed which were dismissed on motion of:
 U.S. Att'y Defense

this prosecution relates to a pending case involving this same defendant

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

SHOW
DOCKET NO.

MAGISTRATE
JUDGE CASE NO.

DEFENDANT

IS NOT IN CUSTODY

- 1) Has not been arrested, pending outcome of this proceeding
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
- 6) Awaiting trial on other charges } Fed'l State
If answer to (6) is "Yes," show name of institution

Has detainer been filed? Yes No } If "Yes," give date filed
Mo. Day Year

DATE OF ARREST

Or ... if Arresting Agency & Warrant were not Federal
Mo. Day Year

DATE TRANSFERRED TO U.S. CUSTODY

This report amends AO 257 previously submitted

Name and Office of Person
Furnishing Information on

THIS FORM

STACEY MEDINA

U.S. Att'y Other U.S. Agency

Name of Asst. U.S.
Att'y (if assigned)

JEFFREY SPIVAK

ADDITIONAL INFORMATION OR COMMENTS

ADD FORFEITURE UNIT (Check if Forfeiture Allegation)

PLEASE ISSUE NO-BAIL WARRANT