

**FILED**  
IN CLERK'S OFFICE  
US DISTRICT COURT E.D.N.Y.

★ JUN 28 2018 ★

BROOKLYN OFFICE

JMK/WK:HDM  
F. #2018R00422

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK  
- - - - - X

UNITED STATES OF AMERICA

- against -

HARRIS LANDGARTEN,

Defendant.

- - - - - X

THE GRAND JURY CHARGES:

INDICTMENT

**CR 18 - 00328**

Cr. No. (T. 18, U.S.C., §§ 981(a)(1)(C), 1343,  
1348, 1512(c)(2), and 3551 et seq.;  
T. 21, U.S.C., § 853(p); T. 28, U.S.C.,  
§ 2461(c))

**GARAUFIS, J.**

**KUO, M.J.**

INTRODUCTION

At all times relevant to this Indictment, unless otherwise indicated:

I. The Defendant and Relevant Individuals and Entities

1. The defendant HARRIS LANDGARTEN was a resident of Glen Head, New York, and was the general partner and commodity pool operator of Tradeanedge Members Fund L.P. (the "Fund"). LANDGARTEN operated the Fund from approximately July 2014 to March 2017.

2. The Fund was a Delaware private investment limited partnership and commodity pool, which was operated by the defendant HARRIS LANDGARTEN out of his residence in Glen Head, New York. The Fund and LANDGARTEN were subject to oversight by the Commodity and Futures Trading Commission (the "CFTC").

3. John Doe #1, an individual whose identity is known to the Grand Jury, was a resident of the United Kingdom and Malta. John Doe #1 was a limited partner and

investor in the Fund. In or about 2014, John Doe #1 invested approximately \$50,000 in the Fund.

4. John Doe #2, an individual whose identity is known to the Grand Jury, was a resident of Brooklyn, New York. John Doe #2 was a limited partner and investor in the Fund. In or about 2014, John Doe #2 invested approximately \$25,000 in the Fund.

5. John Doe #3, an individual whose identity is known to the Grand Jury, was a resident of Bangor, Maine. John Doe #3 was a limited partner and investor in the Fund. In or about 2014, John Doe #3 invested approximately \$75,000 in the Fund.

## II. The Fraudulent Scheme

6. From approximately July 2014 to March 2017, the Fund had only three investors, John Doe #1, John Doe #2 and John Doe #3 (collectively, the “Investors”), who invested a total of approximately \$150,000 in the Fund as described above. Periodically, the defendant HARRIS LANDGARTEN prepared and sent each investor a statement that purportedly set forth that investor’s monthly investment balance (the “Balance Statements”).

7. The Balance Statements, however, did not disclose that between approximately July 2014 and September 2016, the defendant HARRIS LANDGARTEN spent more than \$100,000 of the Fund’s assets to pay for, among other things, personal expenditures, including a home security alarm, a home phone system, LANDGARTEN’s and his wife’s personal cellular telephones, cable television and internet service bills, and LANDGARTEN’s online book subscription. LANDGARTEN additionally made an undisclosed \$1,250 monthly payment to himself from the Fund’s assets.

8. Accordingly, the Balance Statements that the defendant HARRIS LANDGARTEN prepared and sent the Investors falsely overstated the value of the Investors’

assets in the Fund. For example, the Balance Statements that LANDGARTEN prepared and sent to the Investors falsely represented that the Fund held \$101,036.58 in assets on February 29, 2016. In reality, as LANDGARTEN well knew, the Fund held only \$36,543.86 in assets on February 29, 2016. Similarly, the Balance Statements that LANDGARTEN prepared and sent to the Investors falsely represented that the Fund held \$97,222.34 in assets on March 31, 2016, when, in reality, as LANDGARTEN well knew, the Fund held only \$28,680.95 in assets on March 31, 2016.

### III. The Defendant's Attempt to Obstruct Justice

9. On or about March 31, 2016, John Doe #1 e-mailed the defendant HARRIS LANDGARTEN a written notice of withdrawal of John Doe #1's investment in the Fund. In approximately April 2016 and May 2016, LANDGARTEN promised to wire John Doe #1 \$33,366.88, a sum that LANDGARTEN falsely represented to be the value of John Doe #1's remaining assets in the Fund on March 31, 2016. LANDGARTEN wired \$1,000 to John Doe #1. However, LANDGARTEN never wired the remaining balance of \$32,366.88 to John Doe #1.

10. On or about May 19, 2016, John Doe #1 filed a complaint against the defendant HARRIS LANDGARTEN with the Financial Industry Regulatory Authority ("FINRA") and the National Futures Association ("NFA"), in connection with LANDGARTEN's refusal to return John Doe #1's investment in the Fund. FINRA and NFA referred the matter to the CFTC. On or about August 17, 2016, the CFTC initiated a formal investigation into LANDGARTEN's conduct, entitled "Landgarten, Harris; Tradeanedge Members Fund L.P." (the "CFTC Proceeding"), with authority to issue subpoenas, pursuant to an Omnibus Order, entitled "In Re Certain Persons Engaged in Fraud with Respect to Pooled

Investments and/or Managed Accounts.” As part of the CFTC Proceeding, the CFTC served LANDGARTEN with subpoenas for documents and testimony regarding the Fund. On or about October 5, 2016, pursuant to a CFTC subpoena, LANDGARTEN provided in-person testimony to officers of the CFTC at the CFTC’s offices in New York, New York.

11. Between approximately January 2017 and March 2017, during the CFTC Proceeding, the defendant HARRIS LANDGARTEN and officers of the CFTC communicated multiple times, by telephone and e-mail, about a potential settlement. While LANDGARTEN was communicating with the CFTC, he also contacted John Doe #1 by telephone and e-mail. On or about and between approximately March 7, 2017 and March 10, 2017, LANDGARTEN proposed to John Doe #1, in Skype calls and e-mails, that John Doe #1: (a) withdraw his complaint from the CFTC, and (b) file an affidavit with the CFTC stating that John Doe #1 was “not deceived or defrauded or in any way misled” by the defendant. LANDGARTEN further asserted that LANDGARTEN would return John Doe #1’s purported \$33,366.88 investment in the Fund only if John Doe #1 withdrew his CFTC complaint against LANDGARTEN. On or about March 10, 2017, John Doe #1 rejected LANDGARTEN’s demands.

COUNT ONE  
(Commodities Fraud)

12. The allegations contained in paragraphs one through 11 are realleged and incorporated as if fully set forth in this paragraph.

13. In or about and between July 2014 and March 2017, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendant HARRIS LANDGARTEN did knowingly and intentionally execute and attempt to execute a scheme and artifice (1) to defraud one or more persons, to wit: John Doe #1, John Doe #2 and

John Doe #3, in connection with any commodity for future delivery, to wit: in connection with investments in the Tradeanedge Members Fund L.P., and (2) to obtain, by means of one or more materially false and fraudulent pretenses, representations and promises, money and property in connection with the purchase of sale of one or more commodities for future delivery.

(Title 18, United States Code, Sections 1348 and 3551 et seq.)

COUNTS TWO AND THREE  
(Wire Fraud)

14. The allegations contained in paragraphs one through 11 are realleged and incorporated as if fully set forth in this paragraph.

15. In or about and between July 2014 and March 2017, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendant HARRIS LANDGARTEN did knowingly and intentionally devise a scheme and artifice to defraud and to obtain money and property by means of one or more materially false and fraudulent pretenses, representations and promises.

16. On or about the dates set forth below, for the purpose of executing such scheme and artifice, and attempting to do so, the defendant HARRIS LANDGARTEN transmitted and caused to be transmitted, by means of wire communication in interstate and foreign commerce, writings, signs, signals, pictures and sounds, as set forth below:

<u>Count</u>	<u>Date</u>	<u>Description</u>
TWO	March 29, 2016	Email from the Eastern District of New York to John Doe #1, in the United Kingdom, providing false Balance Statements for the Tradeanedge Members Fund L.P.
THREE	May 8, 2016	Email from the Eastern District of New York to John Doe #1, in the United Kingdom, providing false Balance Statements for the Tradeanedge Members Fund L.P.

(Title 18, United States Code, Sections 1343 and 3551 et seq.)

COUNT FOUR

(Attempt to Obstruct an Official Proceeding)

17. The allegations contained in paragraphs one through 11 are realleged and incorporated as if fully set forth in this paragraph.

18. In or about and between January 2017 and March 2017, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendant HARRIS LANDGARTEN did knowingly and intentionally attempt to corruptly obstruct, influence and impede an official proceeding, to wit: the CFTC proceeding entitled “Landgarten, Harris; Tradeanedge Members Fund L.P.”

(Title 18, United States Code, Sections 1512(c)(2) and 3551 et seq.)

CRIMINAL FORFEITURE ALLEGATION

19. The United States hereby gives notice to the defendant that, upon his conviction of any of the offenses charged in Counts One through Three, the government will seek forfeiture in accordance with Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c), which require any person convicted of such offenses to forfeit any property, real or personal, constituting, or derived from, proceeds obtained directly or indirectly as a result of such offenses.

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

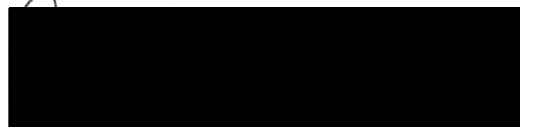
- (a) cannot be located upon the exercise of due diligence;
- (b) has been transferred or sold to, or deposited with, a third party;
- (c) has been placed beyond the jurisdiction of the court;
- (d) has been substantially diminished in value; or
- (e) has been commingled with other property which cannot be

divided without difficulty;


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 defendant up to the value of the forfeitable property described in this forfeiture allegation.

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

A TRUE BILL



FOREPERSON



RICHARD P. DONOGHUE  
UNITED STATES ATTORNEY  
EASTERN DISTRICT OF NEW YORK

F. #2018R00422  
FORM DBD-34  
JUN. 85

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**UNITED STATES DISTRICT COURT**

EASTERN *District of* NEW YORK

CRIMINAL DIVISION

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THE UNITED STATES OF AMERICA

vs.

*HARRIS LANDGARTEN,*

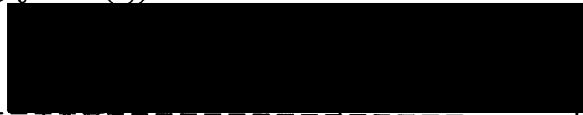
Defendant.

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**INDICTMENT**

(T. 18, U.S.C., §§ 981(a)(1)(C), 1343, 1348, 1512(c)(2), and 3551 et seq.;  
T. 21, U.S.C., § 853(p); T. 28, U.S.C., § 2461(c))

*A true bill.*



*Foreperson*

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*Filed in open court this* \_\_\_\_\_ *day,*  
*of* \_\_\_\_\_ *A.D. 20* \_\_\_\_\_

*Clerk*

*Bail, \$* \_\_\_\_\_

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*Hiral Mehta, Assistant U.S. Attorney (718) 254-7000*