

FILED IN OPEN COURT
U.S.D.C. Atlanta

DEC 13 2018

James N. Hatten, Clerk
Deputy Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

UNITED STATES OF AMERICA

v.

SEAN KELLY

Criminal Information

No. 18-CR-00475

THE UNITED STATES ATTORNEY CHARGES THAT:

Count One
Mail Fraud

1. In or about January 2014 through in or about October 2018, in the Northern District of Georgia and elsewhere, the defendant, SEAN KELLY, with intent to defraud, did knowingly devise and intend to devise a scheme and artifice to defraud, by means of materially false and fraudulent pretenses and representations and by omissions of material facts, well knowing and having reason to know that said pretenses and representations were and would be false and fraudulent when made and caused to be made and that said omissions would be material.

2. During the timeframe of the scheme, KELLY, a registered stockbroker, offered securities and investment advice and marketed his services to a number of individuals including veterans and elderly individuals in assisted living facilities. As part of the scheme to defraud, KELLY falsely told numerous customers that he was investing their money with various entities. But in reality,

KELLY pocketed the funds for himself and forged documents to make it look like he had properly invested victim funds. Rather than invest the money for his clients, he spent the money on mortgage payments, Super Bowl tickets, vacations, and large cash withdrawals. During the timeframe of the scheme, KELLY defrauded numerous victims out of over \$1,000,000.

3. On or about October 11, 2016, in the Northern District of Georgia and elsewhere, the defendant, SEAN KELLY, for the purpose of executing the scheme and artifice to defraud and to obtain money and property by means of false and fraudulent pretenses and representations, did, with intent to defraud knowingly cause a check to be sent and delivered by the U.S. Postal Service and other private and commercial interstate carrier for the purpose of executing such scheme and artifice, namely, a \$6,000 check from victim M.P. to "Lion's Share," an umbrella term for a number of business entities under KELLY's control.

All in violation of Title 18, United States Code, Section 1341.

Count Two
Securities Fraud

4. The factual allegations set forth in Paragraph 2 of this Information are hereby re-alleged and incorporated by reference as if fully set forth herein.

5. From in or about January 2014 through in or about October 2018, in the Northern District of Georgia and elsewhere, the defendant, SEAN KELLY, willfully and knowingly, directly and indirectly, by use of the means and instrumentalities of interstate commerce, and the mails, in connection with the purchase and sale of securities, did use and employ, and cause to be used and

employed, manipulative and deceptive devices and contrivances, in violation of Title 17, Code of Federal Regulations, Section 240.10b-5, by (a) employing devices, schemes and artifices to defraud; (b) making untrue statements of material facts and omitting to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; and (c) engaging in acts, practices, and courses of business which operated and would operate as a fraud and deceit upon persons.

All in violation of Title 15, United States Code, Sections 78j(b) and 78ff; Title 17, Code of Federal Regulations, Sections 240.10b-5.

Forfeiture Provision

6. As a result of committing the offense alleged in Count One, the defendant, SEAN KELLY, shall forfeit to the United States pursuant to Title 18, United States Code, Sections 981(a)(1)(C) and 982(a)(2), and Title 28, United States Code, Section 2461, all property, real and personal, constituting or derived from proceeds traceable to the offense.

7. If, as a result of any act or omission of a defendant, any property subject to forfeiture:

- 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;
- f. the United States intends, pursuant to Title 28, United States Code, Section 2461(c), to seek forfeiture of any other property of said defendant up to the value of the forfeitable property.

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