

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

UNITED STATES OF AMERICA	:	CASE NO. 1109CR 055
v.	:	INDICTMENT
JAMES T. HAMMES	:	18 U.S.C. § 1343
	:	18 U.S.C. § 1957
	:	Notice of forfeiture
	:	HONORABLE _____

COUNTS ONE THROUGH THIRTY-EIGHT

THE GRAND JURY CHARGES THAT:

At all times material to this indictment:

1. Defendant JAMES T. HAMMES was the controller for the Southern Division of G&J Pepsi-Cola Bottlers, Inc. ("G&J "). G&J is a large, privately held manufacturer and distributor of Pepsi products whose corporate headquarters is located in Cincinnati, Ohio. G&J's Southern Division is located at 559 South Forbes Road, Lexington, Kentucky.
2. Defendant JAMES T. HAMMES was responsible for all financial accounting and internal controls for the Southern Division of G&J.
3. C.W. Zumbiel Company ("Zumbiel"), located in Cincinnati, Ohio, is a vendor for G&J. Zumbiel provides wrap materials for G&J's Pepsi products. G&J's accounts payable for Zumbiel was account number xx02.
4. G&J maintained an operating account from which it paid its vendors at US Bank, account number xxx2397.

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3. C.W. Zumbiel Company ("Zumbiel"), located in Cincinnati, Ohio, is a vendor for G&J. Zumbiel provides wrap materials for G&J's Pepsi products. G&J's accounts payable for Zumbiel was account number xx02.
4. G&J maintained an operating account from which it paid its vendors at US Bank, account number xxx2397.

5. Defendant JAMES T. HAMMES maintained a personal bank account, account number xxxx9081 ("personal account"), at Fifth Third Bank, Cincinnati, Ohio. He also maintained a joint brokerage account with his wife at TD Ameritrade, Omaha, Nebraska, account number xxxxx6437 ("brokerage account").

THE SCHEME

6. From in or about 1998 to in or about February 23, 2009, defendant JAMES T. HAMMES, devised and intended to devise a scheme to defraud his employer G & J, and to obtain money, that is approximately \$8,711,282.42, by means of false and fraudulent pretenses, representations, and promises.

MANNER AND MEANS

It was part of the scheme that:

7. As controller, defendant JAMES T. HAMMES supervised G & J's accounts payable to vendors for services they provided to G&J's Southern Division. Defendant HAMMES reviewed invoices and approved payments.

8. Without G&J's knowledge, defendant JAMES T. HAMMES created an unauthorized accounts payable for Zumbiel, account number xx14 ("unauthorized account payable"). Payments issued from this account were not supported by any legitimate invoices or other documentation.

9. Without Zumbiel's knowledge, defendant JAMES T. HAMMES opened an unauthorized bank account in the name of the Zumbiel Company at National City Bank, account number xxxxx1727 ("unauthorized Zumbiel account").

10. Defendant JAMES T. HAMMES submitted approval for G&J checks to be issued from the unauthorized accounts payable. Defendant HAMMES then deposited these checks into the unauthorized Zumbiel account at National City Bank.

11. Within a few days of deposit, defendant JAMES T. HAMMES transferred funds from the unauthorized Zumbiel account to his personal account at Fifth Third Bank where defendant HAMMES accessed the stolen money for his personal use.

12. As part of his personal use, defendant JAMES T. HAMMES transferred stolen G&J funds from his personal account at Fifth Third to his brokerage account at TD Ameritrade though automated clearing house ("ACH") withdrawals.

13. In order to make the ACH withdrawals, defendant JAMES T. HAMMES caused wire communications to be used as the stolen funds were transferred to the brokerage account.

14. From this scheme, defendant JAMES T. HAMMES stole approximately \$8,711,282.42 from his employer G&J.

15. On or about the dates listed below, in the Southern District of Ohio and elsewhere, defendant JAMES T. HAMMES, for the purpose of executing and attempting to execute the scheme described above, and attempting to do so, did knowingly transmit and caused to be transmitted by means of wire communication in interstate commerce the sounds and signals of electronic transmissions used to make the ACH withdrawals from defendant HAMMES' personal account to his brokerage account.

COUNT	DATE	AMOUNT
One	12/22/06	\$100,000.00

Two	1/02/07	\$100,000.00
Three	2/22/07	\$100,000.00
Four	4/05/07	\$100,000.00
Five	4/18/07	\$100,000.00
Six	4/25/07	\$99,900.00
Seven	5/02/07	\$100,000.00
Eight	5/10/07	\$48,700.00
Nine	6/25/07	\$100,000.00
Ten	7/03/07	\$100,000.00
Eleven	7/17/07	\$10,739.98
Twelve	7/18/07	\$80,000.00
Thirteen	7/18/07	\$9,260.02
Fourteen	8/01/07	\$87,000.00
Fifteen	8/30/07	\$100,000.00
Sixteen	9/06/07	\$87,000.00
Seventeen	9/10/07	\$13,000.00
Eighteen	9/13/07	\$48,247.80
Nineteen	1/10/08	\$61,500.00
Twenty	1/18/08	\$90,000.00
Twenty-One	4/24/08	\$100,000.00
Twenty-Two	6/19/08	\$19,000.00
Twenty-Three	6/24/08	\$95,000.00
Twenty-Four	6/26/08	\$100,000.00
Twenty-Five	6/30/08	\$90,000.00
Twenty-Six	7/22/08	\$100,000.00
Twenty-Seven	8/14/08	\$90,000.00
Twenty-Eight	8/14/08	\$100,000.00
Twenty-Nine	9/04/08	\$85,000.00

Thirty	9/04/08	\$100,000.00
Thirty-One	9/10/08	\$195,000.00
Thirty-Two	9/26/08	\$195,000.00
Thirty-Three	11/21/08	\$12,500.00
Thirty-Four	12/18/08	\$185,000.00
Thirty-Five	1/16/09	\$200,000.00
Thirty-Six	1/20/09	\$190,000.00
Thirty-Seven	1/29/09	\$200,000.00
Thirty-Eight	2/18/09	\$190,000.00

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

COUNTS THIRTY-NINE THROUGH SEVENTY-FIVE**THE GRAND JURY FURTHER CHARGES THAT:**

1. Paragraphs 1 - 15 of Count One are realleged here.
2. On or about the dates listed below, in the Southern District of Ohio and elsewhere, defendant JAMES T. HAMMES, did knowingly engage and attempt to engage, in a monetary transaction by and through Fifth Third Bank, a financial institution, affecting interstate commerce, in criminally derived property of a value greater than \$10,000.00, that is the transfer of funds to TD Ameritrade, such property having been derived from a specified unlawful activity, that is wire fraud, in violation of 18 U.S.C. § 1343.

COUNT	DATE	AMOUNT
Thirty-Nine	12/22/06	\$100,000.00
Forty	1/02/07	\$100,000.00
Forty-One	2/22/07	\$100,000.00
Forty-Two	4/05/07	\$100,000.00
Forty-Three	4/18/07	\$100,000.00
Forty-Four	4/25/07	\$99,900.00
Forty-Five	5/02/07	\$100,000.00
Forty-Six	5/10/07	\$48,700.00
Forty-Seven	6/25/07	\$100,000.00
Forty-Eight	7/03/07	\$100,000.00
Forty-Nine	7/17/07	\$10,739.98
Fifty	7/18/07	\$80,000.00
Fifty-One	8/01/07	\$87,000.00
Fifty-Two	8/30/07	\$100,000.00
Fifty-Three	9/06/07	\$87,000.00

Fifty-Four	9/10/07	\$13,000.00
Fifty-Five	9/13/07	\$48,247.80
Fifty-Six	1/10/08	\$61,500.00
Fifty-Seven	1/18/08	\$90,000.00
Fifty-Eight	4/24/08	\$100,000.00
Fifty-Nine	6/19/08	\$19,000.00
Sixty	6/24/08	\$95,000.00
Sixty-One	6/26/08	\$100,000.00
Sixty-Two	6/30/08	\$90,000.00
Sixty-Three	7/22/08	\$100,000.00
Sixty-Four	8/14/08	\$90,000.00
Sixty-Five	8/14/08	\$100,000.00
Sixty-Six	9/04/08	\$85,000.00
Sixty-Seven	9/04/08	\$100,000.00
Sixty-Eight	9/10/08	\$195,000.00
Sixty-Nine	9/26/08	\$195,000.00
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Seventy-One	12/18/08	\$185,000.00
Seventy-Two	1/16/09	\$200,000.00
Seventy-Three	1/20/09	\$190,000.00
Seventy-Four	1/29/09	\$200,000.00
Seventy-Five	2/18/09	\$190,000.00

All in violation of Title 18, United States Code, Section 1957.

NOTICE OF FORFEITURE

THE GRAND JURY FURTHER CHARGES THAT:

1. As a result of the violation of Title 18, United States Code, Section 1343, set forth in Counts One through Thirty-Eight of this indictment, defendant JAMES T. HAMMES 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(c), any property, real or personal, which constitutes or is derived from proceeds traceable to specified unlawful activity, that is, wire fraud, as charged in this indictment, including but not limited to, a sum of money equal to \$8,711,282.42 in United States currency, representing the amount of proceeds obtained as a result of the offense of wire fraud of which the defendant has been charged, and:

(1) \$198,703.82 from Fifth Third Bank account number xxxx9081;

(2) \$500,253.81 from TD Ameritrade brokerage account number xxxxx6437; and

(3) the real property located at 3049 Old Field Road, Lexington, Kentucky.

2. If any of the property subject to forfeiture, as a result of any action or omission of the defendant:

(a) cannot be located upon 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 28, United States Code, Section 2461(c), incorporating Title 21, United States Code, Section 853(p) as incorporated in Title 18, United States Code, Section 982(b)(1), to seek forfeiture of any other property of the defendant up to the value of the property subject to forfeiture.

All pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c).

NOTICE OF FORFEITURE

THE GRAND JURY FURTHER CHARGES THAT:

1. As a result of the violations of Title 18, United States Code, Section 1957, set forth in this indictment, defendant JAMES T. HAMMES shall forfeit to the United States of America any and all property involved in such offenses, and any property traceable to such property, including, but not limited to, the sum of \$8,711,282.42, and

(1) \$198,703.82 from Fifth Third Bank account number xxxx9081;

(2) \$500,253.81 from TD Ameritrade brokerage account number xxxxx6437; and

(3) the real property located at 3049 Old Field Road, Lexington, Kentucky.

2. If any of the property subject to forfeiture, as a result of any act or omission of the defendants:

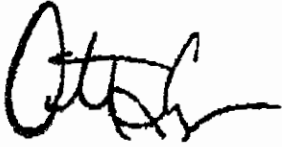
- (a) cannot be located upon the exercise of due diligence;
- (b) has been transferred or sold to, or deposited with, a third party;
- (c) has been placed beyond the jurisdiction of the Court;
- (d) has been substantially diminished in value; or
- (e) has been commingled with other property which cannot be divided without difficulty;

it is the intent of the United States, pursuant to Title 18, United States Code, Section 982(b), incorporating Title 21, United States Code, Section 853(p), to seek forfeiture of any other property of the defendants up to the value of the property subject to forfeiture.

All pursuant to Title 18, United States Code, Section 982.

A TRUE BILL:

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GRAND JURY FOREPERSON



GREGORY G. LOCKHART
UNITED STATES ATTORNEY