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UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,)	CR No. 11-
)	
Plaintiff,)	<u>I N F O R M A T I O N</u>
)	
v.)	[18 U.S.C. § 1341: Mail Fraud]
)	
THOMAS L. MITCHELL,)	
)	
Defendant.)	
)	
)	
)	

The United States Attorney charges:
[18 U.S.C. § 1341]

A. INTRODUCTION

1. At all times relevant to this Information, defendant THOMAS L. MITCHELL ("MITCHELL") was a resident of Los Angeles County, within the Central District of California.

2. In or about January 1993, defendant MITCHELL formed and began serving as a trustee of the Adivanala AA Investment Trust (the "AAA Trust"). Defendant MITCHELL caused the AAA Trust to

1 issue promissory notes to investors. Neither the AAA Trust nor
2 its promissory notes were registered with the United States
3 Securities and Exchange Commission ("SEC").

4 3. In or about 1998, defendant MITCHELL formed a Nevada
5 corporation called AB3, Inc. ("AB3"). Defendant MITCHELL caused
6 AB3 to issue promissory notes to investors. Neither AB3 nor its
7 promissory notes were registered with the SEC.

8 4. In or about October 2000, defendant MITCHELL formed and
9 began serving as Managing Partner of Mitchell, Porter & Williams,
10 Inc. ("MPW"), a purported investment advisory firm based in Los
11 Angeles, California. In or about 2005, defendant MITCHELL caused
12 MPW to be registered as an investment adviser with the SEC under
13 the Investment Advisers Act of 1940.

14 B. THE SCHEME TO DEFRAUD

15 5. Beginning on an unknown date, but no later than in or
16 about 1995, and continuing through in or about June 2010, in
17 Los Angeles County, within the Central District of California,
18 and elsewhere, defendant MITCHELL, together with others known and
19 unknown to the United States Attorney, knowingly and with intent
20 to defraud, devised, participated in, and executed a scheme to
21 defraud individuals who were retired or close to reaching
22 retirement age (the "retiree victims") as to material matters,
23 and to obtain money and property from the retiree victims by
24 means of material false and fraudulent pretenses,
25 representations, and promises, and the concealment of material
26 facts.

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1 6. The scheme to defraud operated, in substance, in the
2 following manner:

3 a. Defendant MITCHELL marketed MPW to the retiree
4 victims, many of whom had been employed by the Los Angeles County
5 Metropolitan Transportation Authority as transit operators.

6 b. Soliciting the retiree victims in person and by
7 telephone, mail, and e-mail, defendant MITCHELL convinced the
8 retiree victims to transfer their retirement funds from their
9 employers' 401(k) or other retirement plans to reputable
10 retirement account custodians. Defendant MITCHELL then caused
11 the retiree victims to transfer their retirement funds from the
12 retirement account custodians to bank accounts that defendant
13 MITCHELL controlled.

14 c. To convince the retiree victims to transfer their
15 retirement funds to defendant MITCHELL's control, defendant
16 MITCHELL held himself out as an experienced and successful
17 investment advisor and falsely promised the retiree victims that
18 they would earn high returns on the purported investments that
19 MPW offered.

20 d. Defendant MITCHELL further gave the retiree
21 victims false assurances regarding the safety of their principal
22 investments, including promising the retiree victims that they
23 would not lose their investment principal. Defendant MITCHELL
24 also assured the retiree victims that his "primary objective" was
25 to "preserve" their "hard-earned principal." Defendant MITCHELL
26 told at least one retiree victim that her principal was federally
27 insured up to \$250,000, when it was not.

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1 e. To further create the false appearance that the
2 retiree victims' retirement funds were safe and secure, defendant
3 MITCHELL: (i) created and caused the AAA Trust and AB3 to issue
4 promissory notes to the retiree victims that falsely promised to
5 repay principal amounts equal to the amounts of funds the retiree
6 victims transferred to defendant MITCHELL, and (ii) transferred
7 those purported promissory notes to the retiree victims' accounts
8 with the retirement account custodians.

9 f. The purported AAA Trust and AB3 promissory notes
10 created by defendant MITCHELL falsely promised, among other
11 things, to pay fixed or variable interest rates between
12 approximately 9% and 12.5% per year. Another investment option
13 offered by defendant MITCHELL was a "balanced account" that
14 purported to allow the retiree victims to earn 20% annual
15 compounded growth for a fixed term without any interest payments.

16 g. Defendant MITCHELL made various false
17 representations to the retiree victims regarding how he would
18 invest the money that they invested with him through the
19 purported AAA Trust and AB3 promissory notes or "balanced
20 account" investments. Defendant MITCHELL told some of the
21 retiree victims that he would invest their money in bonds, and he
22 told others that he would invest their money in real estate or
23 stocks.

24 h. The retirement account custodial firms that held
25 the purported AAA Trust and AB3 promissory notes periodically
26 sent account statements to the retiree victims. Defendant
27 MITCHELL provided the custodial firms with false monthly
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1 investment income data that the firms included in the retiree
2 victims' account statements. Based on the illusory principal
3 amounts included in the purported AAA Trust and AB3 promissory
4 notes that defendant MITCHELL created and issued, and the false
5 investment income data that defendant MITCHELL supplied to the
6 custodial firms, the retiree victims' account statements
7 included, among other things, the purported market values of the
8 purported AAA Trust and AB3 promissory notes and the purported
9 investment income that the account holders had earned on their
10 purported investments. Additionally, based on the illusory
11 principal amounts that defendant MITCHELL included in the
12 purported AAA Trust and AB3 promissory notes, the custodial firms
13 typically reported in their account statements that the total
14 market values of the purported AAA Trust and AB3 promissory notes
15 equaled the total amount of funds the retiree victims had
16 transferred to defendant MITCHELL.

17 i. The various representations described above in
18 paragraphs 6(c) through 6(h) were false and misleading, as
19 defendant MITCHELL then well knew, in that: (i) defendant
20 MITCHELL did not intend to and did not actually invest any
21 significant amount of the retiree victims' money in stocks,
22 bonds, or any other legitimate investments; (ii) defendant
23 MITCHELL did not earn legitimate investment returns at the rates
24 he had guaranteed and caused to be reported to the retiree
25 victims in the custodial firms' account statements;
26 (iii) defendant MITCHELL could not guarantee the retiree victims
27 that they would not lose their investment principal or otherwise
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1 assure the victims that their investment principal was safe
2 because defendant MITCHELL was not placing their money in low-
3 risk investments or taking any steps to protect their principal;
4 and (iv) neither defendant MITCHELL nor the custodial firms held
5 total funds or assets equal to the values of the retiree victims'
6 principal investments, as defendant MITCHELL caused the custodial
7 firms to report to the victims.

8 j. Instead of investing the retiree victims' funds in
9 the manner he had represented and promised, defendant MITCHELL
10 misappropriated virtually all the money he collected from the
11 retiree victims, causing them to lose their principal
12 investments. To deceive and lull the retiree victims into
13 believing that he was running a legitimate investment advisory
14 firm and earning significant investment returns, defendant
15 MITCHELL siphoned money he collected from later victims to make
16 "Ponzi" payments to earlier victims in the form of purported
17 principal and investment returns. Defendant MITCHELL also
18 deliberately misappropriated a substantial amount of the victims'
19 retirement money by converting the funds to his personal use to
20 live a lavish lifestyle. Defendant MITCHELL used the retiree
21 victims' money to, among other things, lease an expensive
22 apartment, purchase or lease three luxury automobiles, take
23 expensive vacations, eat at expensive restaurants, and purchase
24 tickets to sporting events and shows. Defendant MITCHELL never
25 disclosed any of this information to any retiree victim.

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1 k. During the course of his fraudulent scheme,
2 defendant MITCHELL collected approximately \$15 million from as
3 many as 150 retiree victims, causing them to lose approximately
4 \$7.1 million.

5 C. USE OF THE MAILS

6 7. On or about April 29, 2010, within the Central District
7 of California and elsewhere, defendant MITCHELL, for the purpose
8 of executing, and attempting to execute, the above-described
9 scheme to defraud, caused the following item to be placed in an
10 authorized depository for mail matter and to be sent and
11 delivered by the United States Postal Service, according to the
12 directions thereon: an Individual Retirement Account statement
13 reporting the purported total market value of victim W.E.T.'s
14 assets and the purported investment income victim W.E.T. had
15 earned, sent from Trust Company of America in Englewood,
16 Colorado, to victim W.E.T. in Los Angeles, California.

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