

UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

UNITED STATES OF AMERICA,

v.

DONALD DEAN SEYBOLD,

Defendant.

) No: CR 09- 183 - BR

) INDICTMENT

) [18 U.S.C. §§ 1343, 981(a)(1)(D);
) 28 U.S.C. § 2461(c)]

) UNDER SEAL

THE GRAND JURY CHARGES:

COUNTS 1-9

Wire Fraud

18 U.S.C. § 1343

1. On or about the period from about 2004 through about March 11, 2009, in the State and District of Oregon, **DONALD DEAN SEYBOLD**, while owner and operator of Ernst Corp., doing business as the Ernst and Ernst Collectors Gallery, with locations in Cannon Beach, Oregon and Seaside, Oregon, (Ernst Corp.), and others, known and unknown to the grand jury, did knowingly and intentionally devise a material scheme to defraud investors and customers of the Ernst Corp., and to obtain money and property from those investors and customers, by materially false and fraudulent pretenses, representations and promises (scheme). The purpose of the scheme was to get money and property from those investors and customers by falsely representing that he was buying and reselling art on their behalf for a profit. It was part of the

scheme that:

2. **SEYBOLD** falsely represented that he was engaged in the purchase and resale of art and art packages for investment and profit.

3. **SEYBOLD** falsely represented to investors that they could purchase and resell art and art packages for a specified profit to existing buyers who had already secured the sale with a credit card, when in fact the art, art packages and buyers were fictitious.

4. **SEYBOLD** knowingly and fraudulently caused investors to pay money to Ernst Corp. to invest in the fictitious art transactions referred to above.

5. In order to lull investors, and delay discovery of his fraud, **SEYBOLD** falsely represented to investors that he would reinvest the fictitious profits the investors had purportedly made from the resale of art or art packages into other works of art or art packages when, in fact, the profits were fictitious.

6. In order to lull investors, and delay discovery of his fraud, **SEYBOLD** fraudulently used money obtained from later investors to pay off earlier investors, while falsely representing to later investors that he was investing the money in art or art packages, and falsely representing to earlier investors that the money was profit from the purchase and resale of art.

7. **SEYBOLD** also sold art on consignment for artists and investors, falsely representing that he would pay the artists and investors their shares of the profits after the sale of the art, but instead fraudulently used the proceeds from any consignment sales to pay off other investors.

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8. As a means of further delaying discovery of his fraud, **SEYBOLD** knowingly issued checks to investors that were drawn on accounts with insufficient funds.

9. **SEYBOLD** caused losses to investors of at least \$3,200,000.00.

10. On or about the date listed below for each count, in the State and District of Oregon, **DONALD DEAN SEYBOLD**, defendant herein, and others, known and unknown to the grand jury, having devised and intending to devise the material scheme described herein, did knowingly transmit and cause to be transmitted by means of wire communication, in interstate commerce, writings, signs, signals, pictures, and sounds, to wit: the interstate wire transfer of funds in the amount listed below for each count from a credit card account ending in 5093, in the name of an investor designated by the initials FH and located at Chase Bank USA in Wilmington, Delaware, through the First Data Corporation's electronic credit card processing service host located in Omaha, Nebraska, to one of two merchant accounts for the Ernst Corp. ending in 4322 and 5248, located at the Bank of Astoria in Cannon Beach, Oregon, for the purpose of executing said scheme and attempting to do so; all in violation of Title 18, United States Code, Section 1343.

<u>Count</u>	<u>Date</u>	<u>Reference Number (last four digits)</u>	<u>Amount</u>
1	10/13/2008	0583	\$38,000
2	10/20/2008	3222	\$38,000
3	01/04/2009	2781	\$21,000
4	01/06/2009	2686	\$21,000
5	01/11/2009	3002	\$20,000
6	02/16/2009	Discontinued	\$20,000

11. On or about the date listed below for each count, in the State and District of Oregon, **DONALD DEAN SEYBOLD**, defendant herein, and others, known and unknown to the grand jury, having devised and intending to devise the material scheme described herein, did knowingly transmit and cause to be transmitted by means of wire communication, in interstate commerce, writings, signs, signals, pictures, and sounds, to wit: the interstate wire transfer of funds in the amount listed below for each count from a credit card account ending in 2276, in the name of an investor designated by the initials SH and located at Chase Bank USA in Wilmington, Delaware, through the First Data Corporation's electronic credit card processing service host located in Omaha, Nebraska, to one of two merchant accounts for the Ernst Corp. ending in 4322 and 5248, located at the Bank of Astoria in Cannon Beach, Oregon, for the purpose of executing said scheme and attempting to do so; all in violation of Title 18, United States Code, Section 1343.

<u>Count</u>	<u>Date</u>	<u>Reference Number (last four digits)</u>	<u>Amount</u>
7	11/13/2008	3042	\$18,100
8	01/04/2009	2773	\$20,000
9	02/18/2009	Discontinued	\$15,000
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FORFEITURE ALLEGATION

Upon conviction of one or more of the offenses alleged in Counts 1-9, Wire Fraud, of this Indictment, defendant **DONALD DEAN SEYBOLD** shall forfeit to the United States pursuant to Title 18, United States Code, Section 981(a)(1)(D) and Title 28, United States Code, Section 2461(c) any property, real or personal, which represents or is traceable to the gross receipts obtained, directly or indirectly, from a violation of 18 U.S.C. 1343, including but not limited to:

(a) Approximately \$3,200,000.00 in proceeds, that is a sum of money representing the amount of gross receipts obtained, directly or indirectly, as a result of the offense of wire fraud, Title 18, United States Code, Section 1343, as alleged in the above listed Counts;

(b) Approximately 2,000 pieces of fine art, including but not limited to, paintings, prints, sculptures, plates, and books;

(c) A time share property interest in the Grand Desert Tower 3 Resort, located at 4570 Koval Lane in Las Vegas, Nevada 89109, and purchased from Fairfield Resorts, Inc.

(d) A 1944 Willy's Jeep, modified and restored, bearing Washington License 249CRG, with Vehicle Identification Number MB453369.

(e) A 2005 Toyota Scion Sports Utility Vehicle, bearing Oregon License 772DDA, with Vehicle Identification Number JTLKT 334350219174.

If more than one defendant is convicted of an offense, said defendants are jointly and severally liable. If any of the above-described forfeitable property, as a result of any act or omission of the defendant(s):

(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) as incorporated by Title 18, United States Code, Section 982(b), to seek forfeiture of any other property of said defendants up to the value of the forfeitable property described above.

Dated this 13th day of May 2009.

A TRUE BILL.

~~OFFICIATING FOREPERSON~~

Presented by:

KARIN J. IMMERGUT
United States Attorney
District of Oregon


HANNAH HORSLEY
Assistant United States Attorney