

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF FLORIDA
PENSACOLA DIVISION**

UNITED STATES OF AMERICA

v.

INDICTMENT

**BENJAMIN DAVID GILLILAND,
WILLIAM HARRY WEST,
KENNETH BRIAN COBB,
DAVID M. BISHARA,
MELODY I. ROSE,
DAVID J. JOHNSON,
JERROLD L. GUNN,
WILLIAM SCOTT DOHAN,
MARK DAVID TALLEY,
PHILLIP L. NESMITH and
JEFFERY ALAN MATZ,**

THE GRAND JURY CHARGES:

COUNT ONE

A. INTRODUCTION

At all times relevant to the indictment:

1. Hammersmith Trust, L.L.C. ("Hammersmith Trust") was a limited liability corporation registered under the laws of the State of Tennessee on October 4, 1996. It was owned by DIVCAP, LTD. and AAH REM No. 2 Pry. L.T.D. **BENJAMIN DAVID**

GILLILAND served as Funds Manager/Secretary of Hammersmith Trust. **WILLIAM SCOTT DOHAN** was a secretary and an authorized signatory for Hammersmith Trust. The address of the principal office of Hammersmith Trust was 5865 Ridgeway Center Parkway, Suite 300, Memphis, Tennessee. The Tennessee entity was dissolved in September 1998, after the creation of Hammersmith Trust, L.L.C. in February 1998 in Nevis, West Indies.

2. Bridgeport Alliance L.L.C. ("Bridgeport") was a limited liability company organized in November 1997 by **BENJAMIN DAVID GILLILAND** and registered under the laws of the State of Florida and the State of Nevada, with its principal office at 4565 Commercial Drive, Suite B, Niceville, Florida. **WILLIAM HARRY WEST** was Bridgeport's chief manager of the Nevada company and the president of the Florida company. **GILLILAND** was the secretary of the Nevada company. **KENNETH BRIAN COBB** was the vice president of the Florida company. **JERROLD L. GUNN** was the compliance officer. Bridgeport contracted with agent/brokers and funneled investors' funds to the investment programs.

3. Microfund, L.L.C. ("Microfund") was a limited liability company registered under the laws of the State of Tennessee with its principal office at 5865 Ridgeway Center Parkway, Suite 300, Memphis, Tennessee. **WILLIAM SCOTT DOHAN** was the director of Microfund. **DAVID J. JOHNSON** was the attorney for Microfund. **BENJAMIN DAVID GILLILAND** was an authorized signatory for Microfund.

4. Landfair Custodial Services, Inc. ("Landfair") was incorporated and registered under the laws of the State of Tennessee with its principal office at 1324 Landfair, #204, Memphis, Tennessee. **MELODY I. ROSE** was the president and registered agent. **ROSE** and **BENJAMIN DAVID GILLILAND** created Landfair to act as an "independent custodian" of Microfund investor funds.

5. Continental Management Group, Inc. ("CMG") was a corporation organized under the laws of the State of Florida with its initial registered office address at 1201 Hays Street, Tallahassee, Florida. CMG's principal address for its board of directors was at 4565 Commercial Drive, Suite C, Bluewater Bay, Florida. **MELODY I. ROSE** was the registered agent and director.

6. Economic Development Corporation ("EDC") was a corporation organized under the laws of the State of Florida with its principal office address at 1950 Bluewater Boulevard, Niceville, Florida. **WILLIAM HARRY WEST** was the registered agent, president and sole director of EDC.

7. American Pacific Bank and Trust, Inc. ("AMPAC") was a corporation which used an address of Woods Centre, Friars Hill Road, P.O. Box W2023, St. John's, Antigua West Indies. **DAVID M. BISHARA** was the president and chief executive officer. AMPAC was not a financial institution organized under the laws of the country of Antigua.

8. Luxor Capital Markets Group ("Luxor") was a corporation organized under the laws of the State of Tennessee. Luxor was founded by **BENJAMIN DAVID GILLILAND**.

9. AAH REM Pty No. 2 Ltd. ("AAH REM") was a company registered under the laws of Australia and controlled by **WILLIAM SCOTT DOHAN**.

10. Sands Point Trust was an entity created by **WILLIAM HARRY WEST** to divert investor funds for his private use. Raymond Hanson was the trustee.

11. Covent Garden was a limited liability company incorporated under the laws of the state of Nevada on March 28, 1997. **BENJAMIN DAVID GILLILAND** was the chief manager and organizer. Covent Garden conducted no legitimate business, but instead was used as a conduit to pay many of **GILLILAND'S** personal expenses.

12. **PHILLIP L. NESMITH** was the president of Atlantic Capital Consulting Corporation ("ACCC") located in Phoenix, Arizona, and the director of Financial Services Management Investment Corporation ("FSMIC").

13. **JERROLD L. GUNN, L.L.B.** was a Canadian attorney located at 938 Borebank Street Winnipeg, Manitoba, Canada. **GUNN** was the legal advisor for Hammersmith, Microfund, Bridgeport, and Landfair. **GUNN** primarily provided legal advice, wrote contracts and screened clients for the investment programs.

14. **MARK DAVID TALLEY** was an attorney practicing law at 1800 Linden Avenue, Memphis, Tennessee. **TALLEY** was a corporate escrow attorney for Luxor.

15. **JEFFERY ALAN MATZ** was an attorney practicing law at 6711 East Camelback Road, Scottsdale, Arizona. **MATZ** was the corporate attorney for United States Holdings and an agent-broker for Hammersmith Trust.

B. CHARGE

From a date uncertain, but at least by January 1996, and continuing thereafter up to and including the date of this indictment, in the Northern District of Florida and elsewhere, the defendants,

**BENJAMIN DAVID GILLILAND,
WILLIAM HARRY WEST,
KENNETH BRIAN COBB,
DAVID M. BISHARA,
MELODY I. ROSE,
DAVID J. JOHNSON,
JERROLD L. GUNN,
WILLIAM SCOTT DOHAN,
MARK DAVID TALLEY,
PHILLIP L. NESMITH
and
JEFFERY ALAN MATZ,**

did knowingly and willfully combine, conspire, confederate and agree together and with other persons, to commit offenses against the United States, that is:

1. to transmit and cause to be transmitted by means of wire communications in interstate and foreign commerce writings, signals, pictures and sounds for the purpose of executing a scheme and artifice to defraud, and to obtain moneys by false and fraudulent pretenses, representations and promises, in violation of Title 18, United States Code, Section 1343; and

2. to offer and sell securities in interstate commerce and by the use of the mails, and in so doing, to employ a device, scheme and artifice to defraud, in violation of Title 15, United States Code, Section 77q.

C. MANNER AND MEANS BY WHICH THE CONSPIRACY WAS CARRIED OUT

It was part of the conspiracy that:

1. **BENJAMIN DAVID GILLILAND** caused the creation of Hammersmith Trust, Microfund and Luxor (also referred to herein as the "trading programs") which purported to be trading programs which offered high yield, low risk investment opportunities for high-dollar investors. In each case, the investment programs were represented to be secret European trading programs to which few had access.

BENJAMIN DAVID GILLILAND called himself the "funds manager," was the primary source of information about the programs and the main contact for investors.

2. As part of this overall fraudulent scheme, **GILLILAND** engaged **WILLIAM HARRY WEST, KENNETH BRIAN COBB** and others, doing business as Bridgeport, to recruit and to screen potential investors and agent/brokers in order to fund the trading programs. Agent/brokers were individuals who solicited other investors into the trading programs. Investors were given wire transmission instructions to send their monies to the programs.

3. Once an individual or entity was engaged in the trading programs as either an investor, an agent, or both, **WEST** and **COBB** executed a number of documents on

behalf of Bridgeport and the trading programs. Those documents, drafted by **JERROLD L. GUNN**, included Bridgeport Client Agreements, Hammersmith Trust Loan Agreements, Declarations of Trust, and Microfund Master Trading Agreements, all of which obligated **GILLILAND** to invest the funds in legitimate trading programs. Those investments were to generate monthly disbursement payments based upon the profits earned by the overseas investment activities.

4. **GILLILAND, WEST, COBB** and others represented to investors that, upon investment, the investors monies were immediately used to purchase, free and clear, secure U.S. Treasury obligations. The defendants further represented that the U.S. Treasury obligations would then be "leveraged" in a secret trading program which would yield a return of 360% per annum or higher.

5. Though the programs and contracts varied slightly between Hammersmith Trust, Microfund and Luxor, the pretenses, misrepresentations and promises remained constant. No investment programs ever existed. The programs were in fact a multi-million dollar "pyramid" scheme, in which latter investors' funds were used to pay former investors to promote the fraud. Throughout the fraud, investors' monies were laundered through a number of different corporate entities and bank accounts until eventually disbursed for the benefit of the defendants. Further, though some investments were labeled as "loans," the defendants were in fact fraudulently selling unregistered securities in violation of United States securities laws.

6. Some of the agent/brokers, including **PHILLIP L. NESMITH** and **JEFFERY ALAN MATZ**, were well aware that the programs were fraudulent, and made false and fraudulent representations to investors in order to earn commission payments.

7. In order for the fraudulent scheme to succeed, the investors had to trust that their investments were secure. In that regard, **DAVID J. JOHNSON** represented himself to be a "trustee" of the funds for the Hammersmith Trust investment program (though no "trust" actually existed), and **MARK DAVID TALLEY** represented himself to be an escrow agent for Luxor. **JOHNSON** and **TALLEY'S** presence in the programs provided added security to investors, who falsely believed that **JOHNSON** was safeguarding their monies. In fact, both **JOHNSON** and **TALLEY** acted at the direction of **GILLILAND** well knowing the false representations which had been made to the investors regarding the security of their investments.

8. Similarly, **MELODY I. ROSE** purported to act as an "independent custodian" of the funds invested in Microfund. Investors were falsely told that her presence in the program provided security in that **ROSE** was bonded and independent of **GILLILAND** and the Microfund program. In fact **ROSE**, acting at the direction of **GILLILAND**, fraudulently made transfers of funds without the knowledge or consent of many investors and fraudulently paid some investors with other investors' funds.

9. **DAVID M. BISHARA** created AMPAC Bank, in part, to assist in the fraudulent scheme's movement of the investors' funds offshore. **GILLILAND** and

BISHARA disbursed much of the investors' monies through AMPAC to other countries. AMPAC, in fact, was merely a bank account at the Bank of Bermuda. AMPAC, in turn, kept a ledger of sub-accounts as to the investors who sent funds to AMPAC's account at Bank of Bermuda.

10. Through CMG, **BISHARA** and **ROSE** also aided **GILLILAND'S** investment scheme by opening offshore corporations and bank accounts for investors. **GILLILAND** eventually required investors to invest through offshore entities in an attempt to avoid United States securities and tax laws.

11. Agents and brokers such as **PHILLIP L. NESMITH** and **JEFFERY ALAN MATZ** perpetuated the fraud by recruiting investors for the trading programs for a fee. **NESMITH** and **MATZ** misrepresented the nature and success of the programs to the investors and continued to solicit potential investors even after problems with prior investments came to their attention.

D. OVERT ACTS

In furtherance of the conspiracy, and to effect the objects thereof, the following overt acts were committed in the Northern District of Florida and elsewhere:

1. In or about late 1996, **PHILLIP L. NESMITH** instructed potential Hammersmith Trust clients/investors to attend a January 1997 seminar in the Bahamas concerning off-shore Estate Planning and Asset Protection hosted by one of **NESMITH'S** and **KENNETH BRIAN COBB'S** companies, FSMIC. **NESMITH** told prospective

clients that if they did not attend the seminar they may not be eligible for their "high yield investment program."

2. On or about October 18, 1996, **DAVID J. JOHNSON** entered an agreement with Hammersmith Trust to "serve as third party trustee and signatory" along with **BENJAMIN DAVID GILLILAND** on the "master account" then located at J.C. Bradford and Company.

3. In or about October 1996, **BENJAMIN DAVID GILLILAND** and **PHILLIP L. NESMITH** persuaded John Papagni and Pam Albion to invest \$600,000.00 in the Hammersmith Trust program. Papagni and Albion invested because **GILLILAND** and **NESMITH** falsely represented to them that there was no risk to their investment, and that their monies were completely secured by U.S. Treasury Bills which had been purchased free and clear.

4. On or about December 6, 1996, **WILLIAM SCOTT DOHAN** and **BENJAMIN DAVID GILLILAND** opened or caused to be opened a securities account at Cohig and Associates in the name of Hammersmith Trust, L.L.C. **DOHAN** was secretary of Hammersmith Trust, L.L.C. and, through AAH REM, 50% owner. This account was the original "master trading account" in which the U.S. Treasury Bills which many investors were told would be purchased in order to secure their investment were supposed to be held.

5. In or around March 1997, both **PHILLIP L. NESMITH** and **BENJAMIN DAVID GILLILAND** solicited Eddie Bacchi to invest in the Hammersmith

Trust program. Bacchi was told that his investment would generate 133% per month guaranteed return. Of this, Bacchi was to receive about 60% per month, with the balance of the return being shared with **NESMITH** and his associates as agent fees. **NESMITH** assured Bacchi that his investment was safe and secure, guaranteed with U.S. Treasury Bills. In fact Bacchi never received a return on his investment as had been promised and he lost his investment.

6. In or around March 1997, Bacchi invested \$100,000.00 on behalf of the Byron W. Bacchi Irrevocable Trust and another \$50,000.00 on behalf of himself, Eddie M. Bacchi, and his wife Virginia M. Bacchi into the Hammersmith Trust program through **PHILLIP L. NESMITH**.

7. In or about mid-1997, **BENJAMIN DAVID GILLILAND** hired **MELODY I. ROSE** to establish Landfair Custodial Services, an entity that he also funded. Landfair purportedly acted as an independent "bonded custodian" for investors in the Microfund investment program. Each investor in the Microfund program would execute a tripartite agreement between the investor, Microfund and Landfair. **DAVID M. BISHARA** also trained **ROSE** to handle the functions of Continental Management Group, an entity whose purpose was to establish off-shore entities.

8. On or about November 19, 1997, **MELODY I. ROSE** and **BENJAMIN DAVID GILLILAND** signed a contract with Dr. Paul Lopez wherein he agreed to invest in the Microfund program. As part of the agreement, **ROSE** promised to hold a U.S. Treasury Bill "in a safety deposit box for the benefit of the aggregation of the Agent's

Clients participating in the program." However, **ROSE** never held any U.S. Treasury Bills as security for the benefit of Lopez.

9. In or about May 1998, **KENNETH BRIAN COBB** and **BENJAMIN DAVID GILLILAND** met with Sid Tweady at the Tampa airport. **COBB** represented that he worked for Bridgeport, which "had a arms-length relationship with Hammersmith." During this meeting both **GILLILAND** and **COBB** falsely assured Tweady that there would be absolutely no risk to his investment as they would be backed 100% by U.S. Treasuries held in the name of the investor.

10. On or about May 7, 1998, **BENJAMIN DAVID GILLILAND** and others caused investor John McGarry to wire transfer \$250,000.00 to the Hammersmith Trust L.L.C. account at Bank One, Colorado, as an investment in the Hammersmith Trust program.

11. On or about May 13, 1998, **KENNETH BRIAN COBB** sent a Declaration of Trust to John McGarry. **COBB** fraudulently told McGarry that Hammersmith Trust had received his funds and had purchased a Treasury Bill, CUSIP ("Committee on Uniform Securities Identification Procedures") number 912795BW0. These representations were false, in that instead of investing McGarry's funds, **GILLILAND** and **COBB** caused McGarry's funds to be disbursed to **WILLIAM SCOTT DOHAN** through his Australian company, AAH REM (\$206,000.00), with the majority of the remaining funds being used to repay other investors (\$37,251.00).

12. In an effort to induce Aydin Kaplan to invest in the Hammersmith program, on or about May 28, 1998, **KENNETH BRIAN COBB** wrote to Kaplan stating that “upon the client’s execution and return of the Hammersmith agreement the Funds Manager and an independent third party trustee (a bonded attorney) will countersign the contract.” **COBB** then stated, “once a clients funds have been received by Hammersmith’s bank the funds are then immediately wired to a regional SEC securities firm for the purchase of a U.S. Treasury Bill.” Based on this assurance, Kaplan invested \$450,000 on June 1, 1998, through **MATZ'** law firm trust account.

13. On or about June 8, 1998, **KENNETH BRIAN COBB** sent a Declaration of Trust to Kaplan informing him that Hammersmith had received the funds and purchased a Treasury Bill, CUSIP number 91281QE16. In fact, contrary to the representations, Kaplan’s funds were never used to purchase a U.S. Treasury Bill but were used to cover an overdrawn bank account and to pay returns to other investors.

14. On or about June 15, 1998, **JEFFERY ALAN MATZ** stated to investors Gary Kneeler and John McGarry that based on his professional and financial experience with Bridgeport Alliance and the parties concerned, he was “able to certify these firms along with their principals as reliable, honest, forthright and highly ethical...I have witnessed situations where substantial business has been refused or rejected by the reason of the slightest hint of tainted money or tainted investor reputations.” **MATZ** stated that he had reviewed the agreements and contracts and that in his professional opinion they were fair and reasonable. **MATZ** also fraudulently reassured each investor that the

investors' funds were collateralized by U.S. Treasury Bills, identified by CUSIP number, as set forth in the Hammersmith Declaration of Trust.

15. On or about June 16, 1998, **KENNETH BRIAN COBB** told Andrew Jackson Glenn, III, that “upon the Client’s execution and return of the Hammersmith agreement the Funds Manager and an independent third party trustee (a bonded attorney) would countersign the contract.” **COBB** then stated, “once a clients funds have been received by Hammersmith’s bank the funds are then immediately wired to a regional SEC securities firm for the purpose of obtaining a U.S. Treasury Bill.”

16. In or about June 1998, **BENJAMIN DAVID GILLILAND, WILLIAM HARRY WEST, KENNETH BRIAN COBB** and **MELODY I. ROSE** told Microfund investors that their money was safe and secure because it was held by an independent custodian, Landfair. The investors were fraudulently told that Landfair was bonded to protect the investors from loss of their investment principal. In fact, Landfair’s bond was purely an employee dishonesty bond which did nothing to protect the investors, Landfair did not operate independently of Bridgeport Alliance and **ROSE** received a substantial salary and other compensation for her services from **GILLILAND**.

17. In June 1998, **MELODY I. ROSE** falsely told a prospective investor that BDO Seidman, “an international company with dozens of offices with hundreds of accountants worldwide,” was acting as the “accounting agent for Landfair and is retained by Microfund to monitor both the services of (sic) Landfair provides as well as the accounting on the transactions itself.”

18. During the summer of 1998, **JEFFERY ALAN MATZ** told investor Elaine Boiko that her money would be "100% secure." In fact, Boiko only received two monthly payments totaling \$30,000 on her \$100,000 investment, and has been unable to secure the return of her principal.

19. On or about June 16, 1998, **BENJAMIN DAVID GILLILAND**, doing business as Hammersmith Trust, executed a Borrowing Agreement with Andrew Jackson Glenn, III, in connection with his investment of \$250,000.00 into the Hammersmith Trust program. The agreement was signed by **GILLILAND** as trust funds manager, and **JOHNSON** as trustee. Contrary to the representations made to Glenn, his funds were not used to purchase U.S. Treasury Bills held at East Brokers International, but rather used to pay other investors and were disbursed to Sands Point Trust.

20. On or about June 20, 1998, in a memorandum to **WILLIAM HARRY WEST** and **KENNETH BRIAN COBB** regarding investor Bo Linne, **JEFFERY ALAN MATZ** stated that "the English place great weight in the statements made by attorneys. He is therefore looking to me for a 'comfort level.'" **MATZ** further stated that he was willing to provide that "comfort level" to investors.

21. On or about June 22, 1998, in a letter to investor Bo Linne, **JEFFERY ALAN MATZ** stated that "I think you are overly concerned about the security of your money . . . I will, as you request, take unconditional responsibility of accepting your funds into my attorney client trust account and ensure that a T-Bill is purchased."

22. On or about June 22, 1998, **BENJAMIN DAVID GILLILAND** and others caused investor A.J. Glenn, III, to wire transfer \$250,000.00 and investor John McGarry to wire transfer \$500,000.00 to the Hammersmith Trust account at Bank One in Colorado as an investment in the Hammersmith Trust program. **GILLILAND** then caused Glenn and McGarry's funds to be disbursed to Sands Point Trust (\$100,000.00), Landfair Custodial Services (\$125,000.00), and to other investors. Contrary to the representations made to Glenn and McGarry, no U.S. Treasury Bill secured their investments.

23. On or about June 24, 1998, **BENJAMIN DAVID GILLILAND** caused investor Dominic Cusumano to wire transfer \$250,000.00 to the Hammersmith Trust account at Bank One, Colorado as an investment in the Hammersmith Trust program. **GILLILAND** then caused Cusumano's funds to be disbursed to **WILLIAM HARRY WEST** through Economic Development Corporation (\$50,000.00) and to other investors. Contrary to the representations made to Cusumano, no U.S. Treasury Bill was purchased to secure his investment.

24. On or about June 30, 1998, **KENNETH BRIAN COBB** sent a Declaration of Trust to Andrew Jackson Glenn, III, informing Glenn that Hammersmith had received his funds and had purchased a U.S. Treasury Bill, CUSIP number 91281QE16. In fact, no U.S. Treasury Bill secured Glenn's investment.

25. On or about July 24, 1998, **BENJAMIN DAVID GILLILAND** and others caused investors John McGarry and Granite Holdings to wire transfer \$250,000.00

and \$700,000.00, respectively, to the Hammersmith Trust account at Bank One, Colorado as investments in the Hammersmith Trust program. Contrary to the representations that had been made to McGarry and Granite Holdings, **GILLILAND** then caused McGarry and Granite Holding's funds to be disbursed to Landfair (\$250,000.00) and to other investors.

26. On or about September 10, 1998, **JERROLD L. GUNN** transmitted a facsimile memorandum to **WEST** and **COBB** referencing contact with potential investor Lawrence Canfield. **GUNN** warned that Canfield's "comments are very suggestive of a person who will make calls to the SEC, NASD, and all other agencies once he receives a Microfund or Hammersmith contract." **GUNN** specifically directed **WEST**, "DO NOT CALL HIM, SPEAK TO HIM OR CONTACT HIM IN ANY FASHION!! I caution you against this in the strongest terms! I do not want a Washington repeat!" **GUNN** alluded to the cease and desist order levied against Bridgeport Alliance by the state of Washington as an example of the consequences of regulatory scrutiny Bridgeport should avoid.

27. On or about September 24, 1998, Vernon and Vera Carlson wired \$100,000.00 in a Landfair account at First American National Bank, Memphis, Tennessee, as an investment in the Microfund program. Contrary to the representations which had been made to the Carlsons, **MELODY I. ROSE**, at the direction of **BENJAMIN DAVID GILLILAND** and **DAVID M. BISHARA**, caused the Carlsons' investment to be wired offshore to the American Pacific Bank and Trust at the Bank of Bermuda in the country of Bermuda.

28. In or about September 1998, **WILLIAM HARRY WEST** instructed **KENNETH BRIAN COBB** and Raymond Hanson to "edit" existing Bridgeport documents in order to remove incriminating information from Bridgeport records.

29. On or about October 1, 1998, **DAVID M. BISHARA** faxed a letter on AMPAC letterhead to **BENJAMIN DAVID GILLILAND**. This letter concerned a \$1,000,000.00 investment by Boltic Services and was also provided to Bo Linne, Boltic's president. **BISHARA** stated that upon credit of the funds to the Hammersmith account, AMPAC "shall purchase a US \$1,000,000.00 Treasury instrument" with a maturity not greater than one year. **BISHARA** stated in part that "such instrument shall be held in your custodial account ... we undertake to redeem the aforementioned instrument at maturity" At approximately the same time, Linne wired \$1,000,000.00 to a Hammersmith AMPAC account located at the Bank of Bermuda.

30. On or about October 2, 1998, **BENJAMIN DAVID GILLILAND** caused investor Granite Holdings to wire transfer \$250,000.00 to the Hammersmith Trust account at Bank One, Colorado, as investment in the Hammersmith Trust program. Contrary to the representations which had been made to Granite Holdings, **GILLILAND** then caused Granite Holdings' funds to be disbursed to another Hammersmith Trust account (\$115,000.00), to other investors, and, on October 5, 1998, back to Granite Holdings as a "profit disbursement" (\$140,000.00).

31. On or about October 7, 1998, **BENJAMIN DAVID GILLILAND**, doing business as Hammersmith Trust, fraudulently issued a Declaration of Trust to Boltic

Services stating that a \$1,000,000.00 U.S. Treasury Bill (CUSIP number 912795CB5) had been purchased and deposited in a "Master Custodial Account with American Pacific Bank and Trust" and that "the said obligations are held by it in trust for the sole ownership of Boltic Services..." In fact, **BISHARA** and **GILLILAND** knew that no such U.S. Treasury instrument was being held by AMPAC on behalf of Linne or Boltic Services.

32. On or about October 23, 1998, **BENJAMIN DAVID GILLILAND** caused investor Hy Associates to wire transfer \$500,000.00 to the Hammersmith Trust account at First American National Bank, Memphis, Tennessee, as an investment in the Hammersmith Trust program. Contrary to the representations made to Hy Associates, **GILLILAND** then caused Hy Associates' investment to be disbursed to **DAVID J. JOHNSON** (\$8,100.00), **JEFFERY ALAN MATZ** (\$121,500.00) and to other investors.

33. On or about November 3, 1998, **JERROLD L. GUNN** transmitted a facsimile letter to Kevin J. Mirecki, attorney for WWST, Limited, a Hammersmith Trust investor, in which **GUNN** misrepresented on behalf of his client, Hammersmith Trust, that "the records indicate that the effective interest rate was 270% and not the 720% reflected due to a typing error." This facsimile was referenced in a reply to **GUNN** from Mirecki dated November 20, 1998.

34. On or about November 3, 1998, as a result of Linne wiring \$1,000,182.00 to **DAVID M. BISHARA** via AMPAC, **BENJAMIN DAVID GILLILAND**, doing business as Hammersmith Trust, issued a Declaration of Trust to Boltic Services stating

that a \$1,000,000.00 U.S. Treasury Bill (CUSIP 912795CC3C) had been purchased and deposited in a “Master Custodial Account with American Pacific Bank and Trust/Wexford Clearing Corp” and that “the said obligations are held by it in trust for the sole ownership of Boltic Services II...” In truth and fact, **BISHARA** and **GILLILAND** knew that no such U.S. Treasury instrument was being held by AMPAC on behalf of Linne or Boltic Services.

35. On or about January 14, 1999, **BENJAMIN DAVID GILLILAND** caused a letter to be faxed to investors Vernon and Vera Carlson. The Carlsons had invested \$100,000.00 through Bridgeport into Microfund pursuant to a Microfund master agreement signed by the Carlsons and **GILLILAND** on behalf of Microfund. In the letter, **GILLILAND** attempted to convince the Carlsons that their investment was safe and profitable by offering explanations for delays in distributing their contracted profits. The Carlsons were told in the letter that they had not been paid because the Microfund “trade group” failed to make so called “pre-holiday trades.” The Carlsons were also told that an “Investment Coordinator,” with whom Microfund had contracted, had elected to forego trading the Microfund account, because it “would have jeopardized the guaranteed 1999 contact with the trading bank.” In the letter, **GILLILAND** also falsely told the Carlsons that Microfund had signed a new contract with their “trading group” which would generate a minimum profitability level of 200 per cent annually and that the Carlsons could expect their first profit disbursement during February of 1999.

36. On or about March 31, 1999, **DAVID J. JOHNSON** signed a letter to investor Sierra Financial Services, L.L.C. falsely confirming that he "remains trustee with joint signature control over the account, and that the securities underlying your investment capital are firmly in place at Hammersmith's brokerage firms."

37. On or about April 15, 1999, **BENJAMIN DAVID GILLILAND** and **MARK DAVID TALLEY** caused the transfer of \$399,765.00 from the Luxor investment account to the Hammersmith Trust Limited account at First American National Bank in Memphis, Tennessee. **GILLILAND** then caused the funds to be disbursed to another Hammersmith Trust account (\$80,000.00), a Microfund account (\$40,000.00), Covent Garden (\$2,000.00) and to other investors.

38. On or about August 25, 1999, **MARK DAVID TALLEY** wrote a letter to investors Vernon and Vera Carlson in which he falsely stated that he received correspondence from the unidentified "trading bank" which stated:

Per your request, please be advised that One million USD (\$1,000,000) in funds invested in our leveraged United States Treasury rental program are on deposit in the trust department of our institution. These funds are currently being held in the form of ten million USD (\$10,000,000 USD) of United States Treasury bills at our custodial bank, Royal Bank of Canada, and can be liquidated, less margin lending costs, at the end of the program. As discussed, we have incurred certain delays regarding the profit payments associated with this transaction but have been assured by our trading partners the problems have been resolved and that future payments should be on time.

We understand that your investors have expressed concern that the program was not working and that their capital may be at risk. Let us assure you with full bank responsibility that the capital is secure and could be made available for refunds within the contract period should you be require (sic) to do so.

39. Between April 1998 and May 1999, **JERROLD L. GUNN** was paid the total amount of \$251,109.36 for his services to Hammersmith Trust, Microfund, Bridgeport, and related entities. The amounts were paid by the following: Hammersmith Trust (\$120,000.00); Covent Garden (\$98,500.00); Microfund (\$29,000.00); Economic Development Corporation (\$2,500.00); and CMG (\$1,109.36).

All in violation of Title 18, United States Code, Section 371.

COUNT TWO

A. Parts A and C of Count One are realleged and incorporated by reference as if fully set forth herein.

B. From a date uncertain, but at least by January 1996, and continuing thereafter up to and including the date of this indictment, in the Northern District of Florida and elsewhere, the defendants,

**BENJAMIN DAVID GILLILAND,
WILLIAM HARRY WEST,
KENNETH BRIAN COBB,
DAVID M. BISHARA,
MELODY I. ROSE,
DAVID J. JOHNSON,
JERROLD L. GUNN,
WILLIAM SCOTT DOHAN,
MARK DAVID TALLEY,
PHILLIP L. NESMITH
and
JEFFERY ALAN MATZ,**

did knowingly and willfully combine, conspire, confederate and agree together and with other persons, to engage in and attempt to engage in monetary transactions affecting

interstate and foreign commerce, and involving criminally derived property of a value of greater than \$10,000, which funds were in fact derived from specified unlawful activity, in violation of Title 18, United States Code, Section 1957.

All in violation of Title 18, United States Code, Section 1956(h).

COUNTS THREE THROUGH THIRTY-SIX

A. Parts A, C and D of Count One are realleged and incorporated by reference as if fully set forth herein.

B. On or about the dates listed below, in the Northern District of Florida and elsewhere, the defendants listed below did knowingly and willfully engage in and attempt to engage in monetary transactions affecting interstate and foreign commerce, that is, wire transmissions between FDIC insured financial institutions, and involving criminally derived property of a value of greater than \$10,000, which funds were in fact derived from specified unlawful activity, that is, wire fraud, as specified below:

COUNT	DATE	DEFENDANTS	TO	FROM	AMOUNT
THREE	02/24/98	GILLILAND WEST	Barnett Bank (used for purchase of house)	Sands Point Trust Barnett Bank Acct. #385378154	\$279,705.92
FOUR	04/03/98	GILLILAND WEST	Bridgeport Alliance L.L.C. Barnett Bank Acct. #3185378023	EFI Disbursement First American Bank Acct. #8000644286	\$125,000.00
FIVE	04/03/98	GILLILAND WEST	Bridgeport Alliance L.L.C. Barnett Bank Acct. #3185378104	Bridgeport Alliance L.L.C. Barnett Bank Acct. #3185378023	\$100,000.00
SIX	04/7/98	GILLILAND BISHARA ROSE	Continental Management Group, Inc. Barnett Bank Acct. #3185283707	AMPAC Holdings Inc. Bank of Bermuda Acct. #1001912261	\$49,500.00
SEVEN	5/26/99	GILLILAND BISHARA WEST	Economic Develop- ment Corp. Barnett Bank Acct. #3185284169	AMPAC Bank of Bermuda Acct. #10109115251	\$45,000.00
EIGHT	06/19/98	GILLILAND WEST	Sands Point Trust Barnett Bank Acct. # 385378154	Hammersmith Trust Bank One Colorado Acct. #191980083	\$50,000.00

COUNT	DATE	DEFENDANTS	TO	FROM	AMOUNT
NINE	06/25/98	GILLILAND WEST	Cash Withdrawal (used for purchase of house	Sands Point Trust Barnett Bank Acct. #385378154	\$175,921.51
TEN	07/16/98	GILLILAND	Microfund L.L.C. Barnett Bank Acct. #3185283723	Microfund L.L.C. First American Bank Acct. #8000665094	\$92,000.00
ELEVEN	07/16/98	GILLILAND	Microfund L.L.C. SouthTrust Bank Acct. #94-419-715	Microfund L.L.C. First American Bank Acct. #8000665094	\$112,000.00
TWELVE	07/20/98	GILLILAND	Covent Garden L.L.C. SouthTrust Bank Acct. #94419726	Microfund L.L.C. SouthTrust Bank Acct. #94419715	\$110,000.00
THIRTEEN	07/20/98	GILLILAND	Covent Garden Barnett Bank Acct. #3185283715	Microfund L.L.C. Barnett Bank Acct. #3185283723	\$90,000.00
FOURTEEN	07/20/98	GILLILAND	Covent Gardens SouthTrust Bank acct. #94- 419-726	Microfund L.L.C. SouthTrust Bank Acct. #94- 419-715	\$110,000.00
FIFTEEN	08/25/98	GILLILAND WEST	Bridgeport Alliance L.L.C. Barnett Bank Acct. #3185378081	Hammersmith Trust L.L.C. Bank One Colorado Acct. #191980083	\$22,275.00

COUNT	DATE	DEFENDANTS	TO	FROM	AMOUNT
SIXTEEN	08/25/98	GILLILAND	Bridgeport Alliance L.L.C. Barnett Bank Acct. #3185378023	Hammersmith Trust L.L.C. Bank One Colorado Acct. #191980083	\$90,000.00
SEVENTEEN	08/25/98	GILLILAND BISHARA ROSE	BISHARA via World Delivery Inc. Bank Audi USA Acct. #708303	Continental Management Group, Inc. Barnett Bank Acct. #3185283707	\$30,000.00
EIGHTEEN	08/27/98	GILLILAND WEST	Paychex Inc. (Payroll taxes)	Bridgeport Alliance L.L.C. Barnett Bank Acct. #3185378023	\$68,208.81
NINETEEN	09/17/98	GILLILAND WEST	Bridgeport Alliance L.L.C. Barnett Bank Acct. #3185378104	Hammersmith Trust L.L.C. Bank One Colorado Acct. #191980083	\$20,000.00
TWENTY	09/18/98	GILLILAND WEST	Bridgeport Alliance L.L.C. Barnett Bank Acct. #3185378023	Bridgeport Alliance L.L.C. Barnett Bank Acct. #3185378104	\$20,000.00
TWENTY- ONE	10/05/98	GILLILAND WEST	Bridgeport Alliance L.L.C. Barnett Bank Acct. #3185378081	Hammersmith Trust L.L.C. Bank One Colorado Acct. #191980083	\$19,500.00

COUNT	DATE	DEFENDANTS	TO	FROM	AMOUNT
TWENTY-TWO	10/07/98	GILLILAND BISHARA WEST	Bridgeport Alliance L.L.C. Barnett Bank Acct. #3185378104	AMPAC Bank of Bermuda Acct. #10109115251	\$80,000.00
TWENTY-THREE	10/08/98	GILLILAND WEST	Bancorp Mortgage Inc. (Payment of Agent Commission)	Bridgeport Alliance L.L.C. Barnett Bank Acct. #3185378081	\$12,000.00
TWENTY-FOUR	10/21/98	GILLILAND WEST	Bridgeport Alliance L.L.C. Barnett Bank Acct. #3185378023	Bridgeport Alliance L.L.C. Barnett Bank Acct. #3185378104	\$20,000.00
TWENTY-FIVE	10/21/98	WEST	Economic Development Corp. Barnett Bank Acct. #3185395677	Bridgeport Alliance Nations Bank Acct. #3185378104	\$80,000.00
TWENTY-SIX	12/02/98	GILLILAND BISHARA	Covent Garden Barnett Bank Acct. #3185283715	AMPAC Bank of Bermuda Acct. #10109115251	\$30,000.00
TWENTY-SEVEN	12/18/98	GILLILAND	Covent Garden Barnett Bank Acct. #3185283715	Hammersmith Trust Barnett Bank Acct. #3185283731	\$10,000.00

COUNT	DATE	DEFENDANTS	TO	FROM	AMOUNT
TWENTY-EIGHT	12/18/98	GILLILAND	Seven Dials Aviation First American Bank Acct. #8000535098	Hammersmith Trust Barnett Bank Acct. #3185283731	\$16,000.00
TWENTY-NINE	12/23/98	GILLILAND BISHARA WEST	Bridgeport Alliance L.L.C. Barnett Bank Acct. #3185378104	AMPAC Bank of Bermuda Acct. #10109115251	\$32,000.00
THIRTY	12/24/98	GILLILAND	Covent Garden Barnett Bank Acct. #3185283715	Hammersmith Trust Barnett Bank Acct. #3185283731	\$100,000.00
THIRTY-ONE	12/24/98	GILLILAND	Hammersmith Trust Barnett Bank Acct. #3185283731	Microfund L.L.C. Barnett Bank Acct. #3185283723	\$100,000.00
THIRTY-TWO	12/24/98	GILLILAND	CIOS (Seven Dials Dec. payment for jet) Independence Bank Acct. #4001672	Covent Garden Barnett Bank Acct. #3185283715	\$78,500.00
THIRTY-THREE	12/29/98	GILLILAND WEST	Bridgeport Alliance L.L.C. Barnett Bank Acct. #3185378023	Bridgeport Alliance L.L.C. Barnett Bank Acct. #3185378104	\$20,000.00
THIRTY-FOUR	01/12/99	GILLILAND	Hammersmith Trust Barnett Bank Acct. #3185283731	Microfund L.L.C. Barnett Bank Acct. #3185283723	\$75,000.00

COUNT	DATE	DEFENDANTS	TO	FROM	AMOUNT
THIRTY-FIVE	01/12/99	GILLILAND	Covent Garden Barnett Bank Acct. #3185283715	Hammersmith Trust Barnett Bank Acct. #3185283731	\$75,000.00
THIRTY-SIX	05/26/99	GILLILAND BISHARA WEST	Economic Develop- ment Corp. Barnett Bank Acct. #3185284169	AMPAC Bank of Bermuda Acct. #10109115251	\$45,000.00

All in violation of Title 18, United States Code, Sections 1957 and 2.

(CRIMINAL FORFEITURE)

1. The allegations contained in Counts Two through Thirty-Six of this Indictment are hereby realleged and incorporated by reference for the purpose of alleging forfeitures to the United States pursuant to the provisions of Title 18, United States Code, Section 982(a)(1).

2. Upon the convictions of any of the violations alleged in Counts Two through Thirty-Six of this Indictment, the defendants,

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JERROLD L. GUNN,
WILLIAM SCOTT DOHAN,
MARK DAVID TALLEY,
PHILLIP L. NESMITH
and
JEFFERY ALAN MATZ,**

shall forfeit to the United States, pursuant to Title 18, United States Code, Section 982(a)(1), any and all property, real or personal, involved in the aforementioned offenses and all property traceable to such property as a result of such violations of Title 18, United States Code, Sections 1956(h) and 1957.

3. If any of the property described above as being 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 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;

it is the intent of the United States, pursuant to Title 18, United States Code, Section 982(b)(1), to seek forfeiture of any other property of said defendants up to the value of the above-described property.

All in violation of Title 18, United States Code, Section 982(a).

A TRUE BILL:

FOREPERSON

P. MICHAEL PATTERSON
UNITED STATES ATTORNEY

DATE

MICHELLE M. HELDMYER
Assistant United States Attorney