

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

-v-

VANCE MOORE II, and
WALTER NETSCHI,

Defendants.

09 CRIM 881
INDICTMENT

09 Cr.

COUNT ONE

(Conspiracy To Commit Wire Fraud)

The Grand Jury charges:

Relevant Persons and Entities

1. At all times relevant to this Indictment, VANCE MOORE II, the defendant, held himself out as the owner and/or manager of various companies, including ATM Financial Services, LLC ("ATM Financial Services"), a Delaware company.

2. At all times relevant to this Indictment, WALTER NETSCHI, the defendant, held himself out as the owner, president, and/or manager of various companies, including 36 Main Street LLC ("36 Main"), a Nevada company.

The Scheme To Defraud

3. From in or about 2005 through in or about January 2008, VANCE MOORE II and WALTER NETSCHI, the defendants, and others known and unknown, perpetrated a scheme to defraud investors by soliciting millions of dollars of funds under false

pretenses, failing to invest investors' funds as promised, and misappropriating and converting the investors' funds to the defendants' own benefit without the knowledge or authorization of the investors. To execute the scheme, MOORE and NETSCHI, solicited over \$80 million in funds from investors for the purported purchase of thousands of Automated Teller Machines ("ATMs") purportedly placed in various retail locations around the country. In truth and in fact, MOORE and NETSCHI knew when they collected these funds that the promises on which the fund-raising was based were false. In truth and in fact, these funds were not used to purchase ATMs as promised by MOORE and NETSCHI. They were used to further the fraudulent scheme and to enrich MOORE and NETSCHI at the expense of the investors. Although MOORE and NETSCHI entered into contracts with various investors reflecting that the investors collectively had purchased approximately 4,000 ATMs, in truth and in fact approximately 90 percent of these machines either simply did not exist or were never owned by MOORE or NETSCHI and hence could not legitimately have been sold by them to any investor.

4. The structure of the investment in ATMs proposed by VANCE MOORE II and WALTER NETSCHI, the defendants, to investors, either directly or through intermediaries, was broadly as follows:

- a. NETSCHI, through one of his companies, would sell individual ATMs or groups of ATMs (called an "ATM portfolio") to an investor (either to an individual investor or through an investment vehicle, hereinafter referred to as an "investor"), that were purportedly placed in various retail locations around the country, including convenience stores, gas stations, malls, and hotels;
- b. the investor would enter into various processing and/or maintenance agreements with MOORE's company, ATM Financial Services, which would purportedly be responsible for processing, operating and maintaining the ATMs;
- c. ATM Financial Services would also purportedly enter into lease agreements with the retail owners where the ATMs were located for the placement of the ATMs, and those lease agreements would be assigned by ATM Financial Services to the investor;
- d. the ATMs were supposed to generate a revenue stream for the investors based on the fees charged by the ATM to each customer for each

withdrawal of cash, less various fees charged for the operation and maintenance of the ATM, including fees charged by MOORE's company, ATM Financial Services;

- e. the price at which NETSCHI (through one of his companies) sold the ATMs typically depended, at least in part, on the purported transaction history of the ATMs; that is, the number of withdrawals each ATM had in prior months multiplied by the amount of the fees charged - factors which tended to vary from location to location;
- f. prior to purchasing an ATM or ATM portfolio, MOORE (through his company, ATM Financial Services) would purportedly perform "due diligence" on the ATMs; that is, he and his company claimed to verify the ATMs' transaction histories and then provide this information to the investor, either directly, or through NETSCHI, or through another intermediary; and
- g. throughout the investor's ownership of and investment in the ATMs, MOORE would send via e-mail or mail either directly, through

NETSCHI, or through another intermediary, monthly reports listing purported transaction histories and fees for the ATMs, and MOORE would cause to be transmitted from ATM Financial Services monthly payments in the amount of the monthly revenue owing to the investors based on these purported monthly reports.

5. In order to induce investors to invest in the purported ATM investment opportunity, VANCE MOORE II and WALTER NETSCHI, the defendants, made various false representations concerning NETSCHI's and MOORE's roles in the acquisition of the ATMs. For example, NETSCHI represented to certain investors that he was responsible for negotiating the acquisition of ATMs and ATM portfolios, when in truth and in fact NETSCHI did not negotiate the acquisition of any ATMs or ATM portfolios. NETSCHI and MOORE further represented to numerous investors that MOORE's company, ATM Financial Services, was in the business of servicing, processing, and maintaining ATMs, and that MOORE's company would perform independent pre-acquisition due diligence on the transaction history of each ATM. In truth and in fact, to the extent that any machines sold to investors were ever acquired by NETSCHI, they were acquired directly from MOORE, and there was never any independent check on the transaction history of any

ATM. These representations were material to at least some investors who believed that a separation between the economic interest of the seller of the ATMs on the one hand, and the individual or entity performing the pre-acquisition due diligence on the machines on the other hand, was important to ensuring the accuracy of the reported transaction histories of the ATMs. As noted above, an ATM's transaction history was an important factor in determining both the price of the ATM and the future revenue stream that the ATMs would likely provide to the investor.

6. From in or about 2005 through in or about December 2007, VANCE MOORE II and WALTER NETSCHI, the defendants, through their companies, signed or caused to be signed agreements purportedly reflecting the sale (and maintenance) of approximately 4,000 ATMs to various investors. In truth and in fact, however, the majority of these ATMs were never in fact purchased by MOORE's or NETSCHI's companies. Approximately 90 percent of the machines that were purportedly sold to investors either did not exist, or were owned by other companies unrelated to MOORE or NETSCHI (referred to herein as the "Third-Party Companies"); neither MOORE nor NETSCHI nor any of the purported investors had any actual ownership interest (or any other interest) in these ATMs. Furthermore, the monthly reports that MOORE sent to investors either directly, through NETSCHI, or through another intermediary, related to ATMs that either did not

exist or that were owned by the Third-Party Companies, and not by the investors who were told by MOORE and NETSCHI that the investors owned the machines. MOORE also transmitted by wire to the investors monthly payments reflecting the purported amounts owed to investors based on the revenue stream from the ATMs. In truth and in fact, these monies were not revenues from ATMs, but were simply monies received by NETSCHI from new investors (or new investments from existing investors), which were then transferred by NETSCHI to MOORE's companies.

7. As noted above, in furtherance of the fraudulent scheme, VANCE MOORE II, the defendant, created and transmitted, either directly, or through WALTER NETSCHI, the defendant, or through another intermediary, fictitious reports as to transaction histories of ATMs and their monthly revenue streams. MOORE additionally made numerous misrepresentations to investors who noticed discrepancies in the monthly reports or inquired about problems concerning ATMs they believed they had bought from NETSCHI. For example, in or about the fall of 2006, an investor ("Investor 1") visited the location of an ATM in Florida that he had purportedly purchased from NETSCHI's company (36 Main) and which was purportedly being serviced by MOORE's company. Investor 1 could not find the ATM and was informed by the hotel that was supposed to have the machine on-site that no such machine existed. MOORE falsely represented to the investor that

the ATM in question had been relocated to another store in Florida.

8. In or about late 2005 or early 2006, another investor ("Investor 2") advised WALTER NETSCHI, the defendant, of specific problems with the ATMs that Investor 2 had purportedly purchased from NETSCHI. Among other things, Investor 2 informed NETSCHI that a particular lease with a retailer as to the placement of an ATM had been purportedly signed by an employee of the retailer who had ceased to work with the retailer years before the lease was signed. Investor 2 also told Netschi that another machine purported to be generating revenue in the months after the retail store in which the ATM was located was destroyed by hurricane Katrina.

9. In or about July 2007, VANCE MOORE II, the defendant, through his company ATM Financial Services, stopped paying the monthly revenues to the investors that were due to them on their purported investments in the ATMs. MOORE made various false representations regarding the reasons for the supposed "delay" in payment. For example, in or about July 2007, MOORE falsely represented to an investor that the delay in the monthly payments was due to a problem with a bank through which the funds were supposed to have been wired. Similarly, in or about December 2007 and January 2008, MOORE falsely represented to various investors that the delay in payments was due to ATM

Financial Services switching to a new software and the problems that ATM Financial Services was experiencing with this new software.

10. In or about December 2007 and January 2008, following months of non-payment to investors by ATM Financial Services of their monthly revenue, VANCE MOORE II and WALTER NETSCHI, the defendants, took steps to solicit additional funds from new investors so as to continue the fraudulent scheme. Specifically, MOORE created fictitious documents regarding a portfolio of ATMs purportedly worth over \$13 million, and NETSCHI falsely represented to potential investors that he owned a portfolio of ATMs worth over \$13 million.

11. From in or about 2005 through in or about January 2008, as part of the fraudulent scheme, VANCE MOORE II and WALTER NETSCHI, the defendants, caused investors to transfer money to companies owned and controlled by NETSCHI and then to companies owned and controlled by MOORE. The defendants then used portions of the money that their victims had invested to pay for their own personal expenses, among other things.

Statutory Allegations

12. From in or about 2005 through in or about January 2008, in the Southern District of New York and elsewhere, VANCE MOORE II and WALTER NETSCHI, the defendants, and others known and unknown, unlawfully, willfully, and knowingly did

combine, conspire, confederate, and agree together and with each other to commit offenses against the United States, to wit, wire fraud, in violation of Title 18, United States Code, Section 1343.

13. It was a part and object of the conspiracy that VANCE MOORE II and WALTER NETSCHI, the defendants, and others known and unknown, unlawfully, willfully, and knowingly, having devised and intending to devise a scheme and artifice to defraud and for obtaining money and property by means of false and fraudulent pretenses, representations, and promises, would and did transmit and cause to be transmitted by means of wire, radio, and television communication in interstate and foreign commerce, writings, signs, signals, pictures, and sounds for the purpose of executing such scheme and artifice, in violation of Title 18, United States Code, Section 1343.

Overt Acts

14. In furtherance of the conspiracy and to effect its illegal object, VANCE MOORE II and WALTER NETSCHI, the defendants, committed the following overt acts, among others, in the Southern District of New York and elsewhere:

a. On or about November 14, 2005, MOORE and NETSCHI made false representations over a telephone to investors located in New York, New York, regarding a proposed investment in ATMs.

b. On or about September 6, 2006, NETSCHI made false representations to an investor in New York, New York regarding NETSCHI's and MOORE's roles in an investment in ATMs.

c. On or about May 15, 2006, MOORE made false representations to an investor who was visiting MOORE in Leesburg, Florida, regarding MOORE's ATM business.

(Title 18, United States Code, Section 1349.)

COUNTS TWO THROUGH TEN

(Wire Fraud)

The Grand Jury further charges:

15. The allegations contained in paragraphs 1 through 11 above, are hereby repeated, realleged and incorporated by reference as if fully set forth herein.

16. From in or about 2005 through in or about January 2008, in the Southern District of New York and elsewhere, VANCE MOORE II and WALTER NETSCHI, the defendants, unlawfully, willfully, and knowingly, having devised and intending to devise a scheme and artifice to defraud, and for obtaining money and property by means of false and fraudulent pretenses, representations, and promises, would and did transmit and cause to be transmitted by means of wire, radio, and television communication in interstate and foreign commerce, writings, signs, signals, pictures, and sounds for the purpose of executing such scheme and artifice, to wit, MOORE and NETSCHI caused

investors to wire transfer the approximate dollar amounts on or about the dates and from accounts at the banks indicated below, to an account in the name of 36 Main at a bank located in Mount Dora, Florida:

COUNT	APPROXIMATE DATE	ACCOUNT MONEY TRANSFERRED FROM
TWO	March 17, 2006	Wire transfer of \$1,062,400 from JPMorgan Chase, in New York, New York
THREE	April 27, 2006	Wire transfer of \$1,950,000 from Citibank, N.A., in New York, New York
FOUR	May 12, 2006	Wire transfer of \$630,800 from Citibank, N.A., in New York, New York
FIVE	June 29, 2006	Wire transfer of \$1,073,000 from Citibank, N.A., in New York, New York
SIX	July 17, 2006	Wire transfer of \$607,200 from JPMorgan Chase, in New York, New York
SEVEN	July 27, 2006	Wire transfer of \$1,469,500 from Citibank, N.A., in New York, New York
EIGHT	September 5, 2006	Wire transfer of \$1,975,500 from Citibank, N.A., in New York, New York
NINE	September 29, 2006	Wire transfer of \$1,381,500 from Citibank, N.A., in New York, New York
TEN	August 14, 2007	Wire transfer of \$9,751,333 from LaSalle Bank in Chicago, Illinois

(Title 18, United States Code, Sections 1343 and 2.)

FORFEITURE ALLEGATION

17. As the result of committing the wire fraud offenses in violation of Title 18, United States Code, Sections 1349 and 1343, alleged in Counts One through Ten of this Indictment, VANCE MOORE II and WALTER NETSCHI, the defendants,

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, all property, real and personal, that constitutes or is derived from proceeds traceable to the commission of the offenses, including, but not limited to, the following:

a. At least 80 million dollars in United States currency, in that such sum in aggregate is property representing the amount of proceeds obtained as a result of the charged wire fraud offenses.

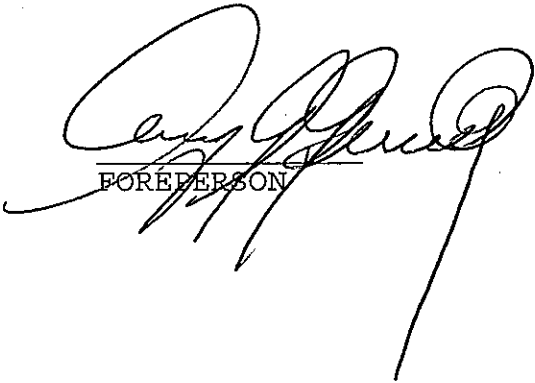
Substitute Asset Provision

18. If any of the above-described forfeitable property, 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 21,
United States Code, Section 853(p), to seek forfeiture of any
other property of the defendants up to the value of the
forfeitable property described above.

(Title 18, United States Code, Section 981(a)(1)(C);
Title 21, United States Code, Section 853(p);
and Title 28, United States Code, Section 2461.)



FOREPERSON

Preet Bharara
PREET BHARARA
United States Attorney

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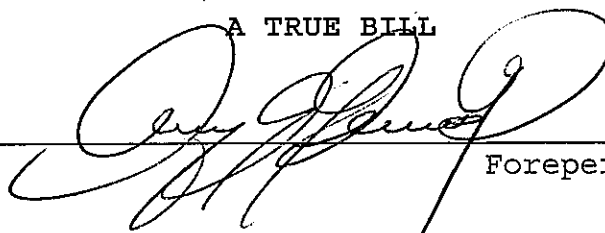
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(18 U.S.C. §§ 1349, 1343, and 2.)

PREET BHARARA

United States Attorney.

A TRUE BILL



Foreperson.
