



THE UNITED STATES
DEPARTMENT of JUSTICE

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United States Attorney's Office
Western District of North Carolina

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**TWO BUSINESSMEN PLEAD GUILTY TO WIRE FRAUD CONSPIRACY FOR
ORCHESTRATING LARGE-SCALE INVESTMENT SCHEME**

CHARLOTTE, N.C. – Marlin Hershey, 53, and Dana Bradley, 53, both of Cornelius, North Carolina, appeared before U.S. Magistrate Judge David C. Keesler and pleaded guilty to wire fraud conspiracy for orchestrating a large-scale investment scheme, announced Dena J. King, U.S. Attorney for the Western District of North Carolina.

North Carolina Secretary of State Elaine F. Marshall and Robert M. DeWitt, Special Agent in Charge of the Federal Bureau of Investigation (FBI), Charlotte Division, join U.S. Attorney King in making today's announcement.

According to filed court documents and the plea hearings, from approximately 2009 to 2021, Hershey and Bradley conspired to defraud numerous victims who invested in two unregistered securities offerings promoted by the defendants, Performance Retire on Rentals, LLC (Performance Retire), and Distressed Lending Fund (DLF). As the defendants admitted in court today, both projects eventually failed causing significant losses to investors.

As reflected in court documents, to induce investors to invest their money, Hershey and Bradley provided victims with investment materials for the two securities offerings that contained false and misleading statements and did not disclose material information. For example, Hershey and Bradley failed to disclose that they received commission-like payments based on the amount of investments they sold. In fact, the defendants often provided investors with offering materials that represented the opposite – that nobody would be paid a commission in connection with the investments. Contrary to their statements, the defendants received payments that were typically 10% of an investor's initial investment and often received an additional payment when an investor extended an investment. In this manner, Hershey and Bradley received hundreds of thousands of dollars in undisclosed payments from the sale of securities. Filed documents also show that, in addition to these payments, the defendants received regular undisclosed "management" fees from Performance Retire and DLF.

According to court records, Hershey and Bradley also failed to disclose to investors other material information, including negative information about the defendants' backgrounds and the financial woes faced by some of the entities for which they were soliciting investments. To the contrary, because the defendants often solicited the same group of investors to invest in the various projects, the defendants took steps to conceal such financial difficulties by making undisclosed loans to various entities so that the entities could, in turn, make their required interest payments to investors. Hershey and Bradley also solicited new investors and used the new investors' money to repay the loans and to make Ponzi-style payments to previous

investors. In addition, the defendants sent to investors periodic performance reports that failed to disclose material information about the status and health of their investments.

In 2019, investors learned for the first time that the projects in which they had invested were in financial distress and could no longer meet their significant obligations to investors.

After entering their guilty pleas the defendants were released on bond. The wire fraud conspiracy charge carries a maximum sentence of 20 years in prison and a \$250,000 fine. A sentencing date has not been set.

In making today's announcement U.S. Attorney King thanked the Securities Division of the North Carolina Secretary of State and the FBI for leading the joint investigation.

Assistant U.S. Attorneys Daniel Ryan and Taylor Stout, of the U.S. Attorney's Office in Charlotte, are prosecuting the case.

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