



THE UNITED STATES  
DEPARTMENT of JUSTICE

United States Attorney Dena J. King  
United States Attorney's Office  
Western District of North Carolina

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**TWO MEN ARE FACING FEDERAL CHARGES IN CONNECTION WITH MULTI-MILLION DOLLAR INVESTMENT SCHEME**

CHARLOTTE, N.C. – Two Cornelius, North Carolina residents are facing federal charges in connection with a multi-million dollar investment scheme, announced Dena J. King, U.S. Attorney for the Western District of North Carolina. A federal grand jury returned a criminal indictment this week against Marlin Hershey and Dana Bradley, both 52, charging them with mail and wire fraud conspiracy, mail fraud, securities fraud, and money laundering conspiracy. The indictment was unsealed this morning following Hershey's appearance in court.

North Carolina Secretary of State Elaine F. Marshall and Robert R. Wells, 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 allegations contained in the indictment, from approximately 2009 to 2021, Hershey and Bradley induced dozens of victims to invest millions of dollars in unregistered securities offerings, promoted by the defendants through Performance Holdings and other entities controlled by the defendants and other individuals, including Performance Retire on Rentals, LLC, Distressed Lending Fund, LCC, Moteng Funding, LLC and Southeast Lot Acquisitions, LLC, among others.

The indictment alleges that the investment materials Hershey and Bradley provided to victim investors in connection with these securities offerings contained false and/or misleading statements and failed to disclose material information. For example, the indictment alleges that the offering materials failed to disclose that the defendants received commissions based on the amount of investments they sold, and often provided investors with offering materials that represented the opposite – that nobody would be paid a commission in connection with the investments. In fact, the indictment alleges, the defendants received commissions that were typically 10% of an investor's initial investment and often received an additional commission when an investor extended an investment. In this manner, Hershey and Bradley were paid millions of dollars in undisclosed commissions from the sale of securities. In addition to the commissions, the indictment also alleges that the defendants received regular undisclosed "management" fees from the various entities.

According to allegations in the indictment, as part of the scheme, 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. The indictment also alleges that Hershey and Bradley solicited new investors and, contrary to representations they made to the investors, used the new investors' money to repay the loans and previous investors. The defendants also allegedly sent to investors periodic reports about the status of the investments that failed to include material negative information.

According to the indictment, in 2019, investors learned that several of the projects in which they had invested were in financial distress and could no longer meet their obligations to investors, which totaled several million dollars.

Hershey was released on bond following his court hearing. Bradley will have his first court appearance on Monday, April 25, 2022. The mail and wire fraud conspiracy charge and the mail fraud charge each carry a maximum prison term of 20 years and a \$250,000 fine. The securities fraud charge carries a maximum prison term of 20 years and a \$5 million fine. And the maximum prison term for money laundering conspiracy charge is 10 years and a \$500,000 fine.

The indictment also includes a notice of forfeiture, which gives notice that the defendants must forfeit to the United States all of the property involved in the offenses charged in the indictment. The government will pursue a forfeiture money judgment in the amount of at least \$7.5 million which the government contends constitutes the proceeds of the violations alleged in the indictment.

All the charges contained in the indictment are allegations. The defendants are presumed innocent until proven guilty beyond reasonable doubt in a court of law.

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 Graham Billings, of the U.S. Attorney's Office in Charlotte, are in charge of the prosecution.

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