

c. Charles McAllister was the biggest shareholder and an officer of BDI during the course of the scheme. McAllister was the only person who could authorize the purchase of precious metals from wholesalers to fulfill orders at BDI. During the course of the scheme, BDI purchased precious metals from Dillon Gage, Hereaus, and other wholesale distributors.

d. BDI had customers located throughout the United States. BDI allowed customers to buy and sell precious metals over the Nucleo platform operated by BDI. BDI charged both the buyer and seller a fee of 1% for each transaction over the website. BDI allowed customers to utilize IRA accounts when participating on the Nucleo exchange. All transactions involving BDI were conducted in the Western District of Texas, where BDI maintained a physical presence.

e. BDI maintained a vault in Austin, Texas, in the Western District of Texas, to store precious metals. The precious metals stored in the vault were not segregated by customer, but maintained in pools for access by BDI.

f. BDI also engaged in the sale of precious metals from its own account through a service they identified as catalog sales. BDI monitored current bullion prices and offered catalog items at "real-time" prices. BDI was obligated to purchase or obtain the bullion it offered via the catalog immediately after receiving the purchase request and money from a customer. According to the website, a customer had the option of taking immediate delivery of the bullion ordered or he could store it with BDI. During the course of the scheme, the number of catalog sales greatly increased the number of precious metal transactions through BDI and its exchange.

g. BDI maintained electronic account information that allowed customers to check their precious metal account balances. BDI also allowed customers to maintain cash balances with BDI to facilitate future purchases of precious metals. The electronic account statements established by BDI purportedly showed each customer his balance for both cash and precious metal accounts, but BDI commingled customer funds and bullion with company funds and bullion during the course of the scheme.

h. As part of the scheme to defraud, BDI utilized the pool of precious metal maintained in the vault for its own purposes. Rather than make immediate purchases of precious metals as represented to the customer and promised on the website, BDI used the money received from its customers to fund its business operations, invest in other companies, and pay personal expenses of McAllister during the course of the scheme.

i. During the course of the scheme, BDI communicated electronically with customers throughout the United States regarding orders to buy and sell precious metals. Wire payments from customers to buy and sell precious metals were issued to BDI throughout the course of the scheme.

THE SCHEME

2. Beginning at least as early as January 2009 and continuing until in or about July 2015, McAllister, aided and abetted by others, devised and intended to devise a scheme and artifice to defraud and to obtain money and property by means of false and fraudulent pretenses, representations and promises.

3. It was part of the scheme and artifice that McAllister, through BDI, would solicit individuals to purchase and/or sell precious metals. McAllister, through BDI, made false and

fraudulent promises, representations, material omissions and pretenses in connection with the scheme to defraud.

4. It was part of the scheme and artifice that McAllister, through BDI, fraudulently acquired cash and assets for the following purposes:

- a. to apply to the personal use and benefit of McAllister and his family;
- b. to maintain an ongoing or expanding scheme in which he failed to purchase precious metals as directed by customers; and
- c. to make payments and investments to benefit other businesses and entities not authorized by the customers of BDI.

5. It was part of the scheme and artifice that McAllister, through BDI, transmitted and caused to be transmitted by others, including customers and those working on behalf of McAllister, by wire communications in interstate commerce, writings, signals, signs, pictures and sounds to and from the Western District of Texas to locations outside of the State of Texas. These wire communications included, but were not limited to, the following:

- a. telephone calls;
- b. email communications via the internet;
- c. electronic communications involving the clearing of checks and other financial transactions through the Federal Reserve banking system;
- d. transfer by wire and electronic means of funds between financial institutions located outside the State of Texas and financial institutions in the Western District of Texas.

6. It was part of the scheme and artifice that McAllister, through BDI, represented that the funds obtained from individual customers would be used to purchase precious metals on behalf of the customer and either shipped directly to the customer or stored in BDI's vault. Contrary to this representation, McAllister, through BDI, spent the money on BDI corporate expenses, other

investment activities, and McAllister's own personal use and benefit.

7. It was part of the scheme and artifice that customers were lulled into the false belief that precious metals had been purchased and were stored in BDI's vault, when, in truth and fact, customer funds were used to pay for corporate expenses, investments in other entities, or applied by McAllister for his own and his family's personal use and benefit.

COUNT ONE

Wire Fraud

[18 U.S.C. § 1343 and 18 U.S.C. § 2]

8. Paragraphs 1 through 7 above are re-alleged and incorporated as though fully set forth here.

9. From at least as early as January 2009 and continuing until in or about July 2015, in the Western District of Texas and elsewhere, Charles McAllister, aided and abetted by others known and unknown to the Grand Jury, having devised and intended to devise a scheme and artifice to defraud, as set forth above, to obtain money and property by means of false, misleading, and fraudulent pretenses, representations, and promises, and omissions of material facts, did knowingly cause to be transmitted by wire, radio, or television communication in interstate and foreign commerce, a wire transfer of funds, constituting and containing a writing, sign, signal, picture, and sound, for the purpose of executing and attempting to execute said scheme and artifice, on or about the date set forth below:

Count	Date (on or about)	Description of Wire Transmission
1	April 13, 2015	A wire transaction in the amount of \$97,364 drawn on a Credit Suisse Securities account in New York, New York was deposited to BDI's Wells Fargo Bank Account xxx3787 in Austin, Texas, for the purchase of 80 Canadien Maple Platinum Coins.
2	June 17, 2015	A wire transaction in the amount of \$11,998 drawn on a Community America Credit Union Account in Kansas City, Missouri, and deposited to BDI's Wells Fargo Bank Account xxx3787 in Austin, Texas, for the purchase of silver coins.

All in violation of 18 U.S.C. § 1343 and 18 U.S.C. § 2.

COUNT THREE

**Engaging in Monetary Transaction in Criminally Derived Property
[18 U.S.C. § 1957]**

10. Paragraphs 1 through 7 above are re-alleged and incorporated as though fully set forth here.

11. On or about the dates set forth below, in the Western District of Texas and elsewhere, Charles McAllister, did knowingly engage and attempt to engage in a monetary transaction in criminally derived property of a value greater than \$10,000, which property was derived from specified unlawful activity, namely, Wire Fraud, contrary to 18 U.S.C. § 1343:

Count	Date	Description of Monetary Transaction
3	July 2, 2015	A transfer in the amount of \$12,000 drawn on BDI's Wells Fargo Bank Account xxx3787 in Austin, Texas, to Nucleo Staffing, LLC, at Wells Fargo Bank Account xxx9352.

In violation of 18 U.S.C. § 1957.

NOTICE OF GOVERNMENT'S DEMAND FOR FORFEITURE

I.

Wire Fraud Violations and Forfeiture Statutes

[18 U.S.C. § 1343 subject to forfeiture pursuant to 18 U.S.C. § 981(a)(1)(C)]

As a result of the foregoing criminal violations set forth in Counts One, Two, and Three, the United States gives notice to Defendant Charles McAllister of its intent to seek the forfeiture of the below-described property upon conviction and pursuant to FED. R. CRIM. P. 32.2 and 18 U.S.C. § 981(a)(1)(C), which is made applicable to criminal forfeiture by 28 U.S.C. § 2461(c). Section 981 provides:

18 U.S.C. § 981. Civil Forfeiture

(a)(1) The following property is subject to forfeiture to the United States:

* * *

(C) Any property, real or personal, which constitutes or is derived from proceeds traceable to . . . any offense constituting "specified unlawful activity" (as defined in section 1956(c)(7) of this title), or a conspiracy to commit such offense.

This Notice of Demand for Forfeiture includes, but is not limited, to the property described in the paragraphs below.

II.

Money Laundering Violations and Forfeiture Statutes

[18 U.S.C. § 1957 and subject to forfeiture pursuant to 18 U.S.C. § 982(a)(1)]

As a result of the foregoing criminal violation as set forth in Count Four, the United States gives notice to Defendant Charles McAllister of its intent to seek the forfeiture of the below-described property upon conviction and pursuant to FED. R. CRIM. P. 32.2 and 18 U.S.C. § 982(a)(1), which states the following:

18 U.S.C. § 982. Criminal Forfeiture

(a)(1) The court, in imposing sentence on a person convicted of an offense in violation of section 1956, 1957, or 1960 of this title, shall order that the person forfeit to the United States any property, real or personal, involved in such offense, or any property traceable to such property.

This Notice of Demand for Forfeiture includes, but is not limited to, the property described in the paragraphs below.

**III.
Money Judgment**

A sum of money equal to **\$16,186,212.56** representing the amount of proceeds obtained directly or indirectly as a result of the violations set forth in Counts One through Three and representing the amount of property involved in the violations for which Defendant CHARLES MCALLISTER is liable.

**IV.
Substitute Assets**

If any of the properties described above, as a result of any act or omission of Defendant Charles McAllister:

- 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 of America to seek the forfeiture of any other property owned by Defendant Charles McAllister up to the value of said Money Judgment as substitute assets, pursuant to FED. R. CRIM. P. 32.2 and 21 U.S.C. § 853(p).

A TRUE BILL:

ORIGINAL SIGNATURE

REDACTED PURSUANT TO

FOIPA PERSON OF THE GRAND JURY
E-GOVERNMENT ACT OF 2002

JOHN F. BASH,
UNITED STATES ATTORNEY

BY:


DANIEL D. GUESS
Assistant United States Attorney