

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION

UNITED STATES OF AMERICA

v.

No. 4:21-CR-289-O

HOLLIS MORRISON GREENLAW (1)  
BENJAMIN LEE WISSINK (2)  
CARA DELIN OBERT (3)  
JEFFREY BRANDON JESTER (4)

**AMENDED<sup>1</sup> MOTION FOR ORDER AUTHORIZING ALTERNATIVE  
PROCEDURES FOR VICTIM NOTIFICATION**

The United States of America (“the government”), by and through the undersigned Assistant United States Attorneys, respectfully moves this Court for entry of an Order authorizing the government to use alternative procedures to notify victims in the above-captioned case under the Crime Victim’s Right Act, Section 3771 of Title 18.

**BACKGROUND**

On October 15, 2021, the Grand Jury returned a ten-count Indictment against defendants Hollis Morrison Greenlaw, Benjamin Lee Wissink, Cara Delin Obert, and Jeffrey Brandon Jester. (Dkt.1.) The Indictment charged the following: Count One – Conspiracy to Commit Wire Fraud Affecting a Financial Institution; Count Two – Conspiracy to Commit Securities Fraud; and Counts Three through Ten – Securities

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1 On December 9, 2021, the government filed a Motion for Order Authorizing Alternative Procedures for Victim Notification that was opposed by the defendants. (Dkt. 121). On December 16, 2021, the defendants filed a response in opposition. (Dkt. 151). In their response, the defendants argued the “investors are not ‘crime victims’ under the Crime Victims’ Rights Act,” and that the “notification procedures improperly risk[ed] tainting the jury pool with adverse pretrial publicity and compromising the UDF Executives’ right to a fair trial.” (Dkt. 151). The government’s December 9<sup>th</sup> motion was not addressed prior to trial. The defendants’ concern of “tainting the jury” is no longer present. Therefore, and because a sentencing date is scheduled, the government files an amended motion.

Fraud. (Dkt. 1). On October 19, 2021, all defendants made their first appearance in federal court, were arraigned, and pled not guilty to the Indictment. (Dkt. 17). On January 21, 2022, following a six-day trial, the jury returned a verdict of guilty for all four defendants and all counts in the Indictment. (Dkt. 298).

The charges concerned a scheme to defraud using investment fund entities. (Dkt. 1). That is, the defendants offered UDF III, IV, and V as companies that would provide loans to residential housing developers, to the public for investment.<sup>2</sup> (*Id.*). At trial, it was shown that the defendants used money obtained from investors and financial institutions to issue loans to the developers. (*Id.*). Investors in the funds were led to believe that the developers would be required to pay back the loans with interest, which would then be used to pay distributions to the investors. (*Id.*). However, because developers were not repaying loans quickly enough, the defendants began raising money via subsequent Fund entities, e.g. UDF IV and V, and used the cash from those later-created funds, to pay distributions to Fund III and IV investors. (*Id.*).

### ANALYSIS

The Crime Victims' Rights Act ("CVRA"), codified at 18 U.S.C. § 3771, provides certain rights to victims in federal criminal proceedings. That is, the CVRA provides that, "[i]n any court proceeding involving an offense against a crime victim, the court shall ensure that the crime victim is afforded" rights described therein. *See* § 3771(b).

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<sup>2</sup> The Indictment generically referred to the Fund entities as Funds III, IV, and V. (Dkt. 1). In pleadings in this case, the defendants specifically identified the name of the various entities. (Dkts. 34 – 37, 44, 62 – 64, 66, 71, 96, 98, 101, 104, 106, 109 – 111). Further, the defendants collectively referred to themselves as the "UDF Executives." (*Id.*). At trial, it was shown that the entities generically referred to as the Fund entities were UDF III, IV, and V.

Among these rights is the right to “reasonable, accurate, and timely notice” of public court proceedings. *See* § 3771(a). The CVRA requires “[o]fficers and employees of the Department of Justice and other departments and agencies of the United States engaged in the detection, investigation, or prosecution of crime . . . [to] make their best efforts to see that crime victims are notified of, and accorded, the rights described in subsection [3771](a).” *See* § 3771(c)(1). The CVRA defines a crime victim as “a person directly and proximately harmed as a result of the commission of a Federal offense . . . .” *See* § 3771(e)(2)(A). Importantly, the CVRA recognizes that for crimes involving multiple victims, the Court has discretion to adopt procedures to accord victim rights without unduly interfering with the criminal proceedings. Subsection 3771(d)(2) provides:

In a case where the court finds that the number of crime victims makes it impracticable to accord all of the crime victims the rights described in subsection (a), the court shall fashion a reasonable procedure to give effect to this chapter that does not unduly complicate or prolong the proceedings.

The CVRA places no limitations on the alternative procedures that a court may fashion other than the procedures be reasonable to effectuate the act and that they “not unduly complicate or prolong the proceedings.” *Id.*

In this case, there are approximately 30,000 investors who are victims under the CVRA. Because of this volume, giving every potential victim individualized notice required by § 3771(a) would be impracticable, and the government does not currently

have an ability to provide individual notice to this number of victims.<sup>3</sup> Further, due to the age of the address information available to the government, the contact information for the 30,000 individuals is dated and may therefore no longer be accurate. Therefore, the United States proposes to use—with the Court’s permission—the Department of Justice’s website for large cases, <http://justice.gov/largecases>, to direct victims to a case-specific website where all required notices would be posted. Upon entry of the proposed Order, the United States would also issue a press release informing individuals and entities who believe that they may be victims to access the Department of Justice website for more information.<sup>4</sup>

Ample precedent exists to use alternative notification procedures under the CVRA in such a situation. In fact, in other cases where the government could not determine precisely which entities and individuals would qualify as victims under 18 U.S.C. § 3771(d)(2) and large numbers of such potential victims were involved, courts have routinely permitted the United States to use alternative methods to notify potential victims. *See, e.g., United States v. Bondarenko*, No. 2:17-CR-306-JCP-PAL, 2018 WL 1413972, at \*2 (D. Nev. 2018) (granting government’s motion to notify victims pursuant to the CVRA via the Justice Department’s website in case involving the “large-scale trafficking of compromised credit card data”); *United States v Babich*, 301 F. Supp. 3d 213, 217–18 (D. Mass. 2017) (granting government request for alternative notification

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<sup>3</sup> The undersigned have been informed that the vendor the government currently has access can only accommodate approximately 25,000 victims.

<sup>4</sup> Subsequent to sentencing, post-sentencing victim notification will be provided through the Bureau of Prisons’ website, [www.bop.gov](http://www.bop.gov).

procedures in healthcare fraud prosecution but with restrictions on the information to be conveyed to potential victims); *United States v. Merrill*, No. 14-40028-TSH, 2014 WL 6387368, at \*2 (D. Mass November 14, 2014) (similar); *United States v. Saferstein*, No. 07-CR-557, 2008 WL 4925016, at \*3–4 (E.D. PA. November 18, 2008).

In addition to the aforementioned, the United States will send a copy of the Order to known broker-dealers and financial advisors, who offered UDF III, IV, and V to their clients, so that the broker-dealers and financial advisors can provide the information to their clients who invested in the fund. As noted above, the contact information the government has for the victims is dated; however, the government has reason to believe that the broker-dealers and financial advisors, whose clients invested in the funds, will likely have more up to date and accurate contact information for the victims.

As noted above, on December 9, 2021, the government filed a Motion for Order Authorizing Alternative Procedures for Victim Notification that was opposed by the defendants. (Dkt. 121). On December 16, 2021, the defendants filed a response in opposition. (Dkt. 151). In their response, the defendants argued the “investors are not ‘crime victims’ under the Crime Victims’ Rights Act,” and that the “notification procedures improperly risk[ed] tainting the jury pool with adverse pretrial publicity and compromising the UDF Executives’ right to a fair trial.” (Dkt. 151). The defendants’ concern of “tainting the jury” is no longer present.

On February 8, 2022, the undersigned contacted defense counsel prior to filing this Amended Motion, to obtain the defendants’ position. Defense counsel for defendant Greenlaw and Obert notified the government that they oppose the government’s Motion.

However, Section 3771(d)(1) “Enforcement and Limitations” provides,

(1) Rights.—The crime victim or the crime victim’s lawful representative, and the attorney for the Government may assert the rights described in subsection (a). *A person accused of the crime may not obtain any form of relief under this chapter.*

(emphasis added). Based upon the defendants’ prior filings, the government anticipates the defendants will argue at their sentencing that the investors in UDF III, IV, and V are not victims under the CVRA. And the government will argue the investors are victims because they were “directly and proximately harmed as a result of the commission of a Federal offense[s]” for which the defendants have now been convicted. *See* § 3771(e)(2)(A). If the Court determines that the investors were “directly and proximately harmed as a result of the commission of a Federal offense[s],” then the investors are entitled to “be notified of, and accorded, the rights described in subsection [3771](a).” *See* § 3771(c)(1).

### **PROPOSED NOTICE AND PROCESS**

If the Court approves the use of alternative notification on the Department of Justice’s website for large cases, the government proposes that the Notice on the large case website would state the following:

On January 21, 2021, a jury convicted defendants Hollis Morrison Greenlaw, Benjamin Lee Wissink, Cara Delin Obert, and Jeffrey Brandon Jester of conspiracy to commit wire fraud, conspiracy to commit securities fraud and eight substantive counts of securities fraud. Between January 2011 and December 2015, the defendants engaged in a scheme to defraud using investment fund entities known as United Development Funding III LP, United Development Funding IV, and United Development Funding Income Fund V (collectively “UDF entities”). The UDF entities were based out of Grapevine, Texas.

A hyperlink to the Northern District of Texas United States Attorney's Office page would be included on the Department of Justice's website for large cases. Attached as Exhibit A is the information that would be included on the NDTX's website. Beyond that which is included in Exhibit A, the United States Attorney's Office would also provide updated court information, as necessary. Additionally, as described above, the United States will provide a copy of the Order and the same Exhibit A notice to all known broker-dealers and advisors who offered UDF III, IV, and V to their clients.

Accordingly, the government respectfully requests that the Court authorize the use of alternative notification methods to meet the government's obligations under the CVRA.

Respectfully submitted,

CHAD E. MEACHAM  
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**CERTIFICATE OF CONFERENCE**

I hereby certify that on February 8, 2022, I sent an email to the below counsel. Counsel for defendant Greenlaw and Obert notified the government that they oppose the government's motion.

Paul Pelletier, attorney for Hollis Greenlaw;

Guy Lewis, attorney for Benjamin Wissink;

Neal Stephens, attorney for Cara Obert; and

Jeff Ansley, attorney for Brandon Jester.

/s/ Tiffany H. Eggers

TIFFANY H. EGGERS

Assistant United States Attorney

**CERTIFICATE OF SERVICE**

I hereby certify that on February 10, 2022, I electronically filed the foregoing document with the Clerk of Court for the United States District Court for the Northern District of Texas using the electronic filing system of the Court. The electronic case filing system will send a notice of filing to all the attorneys of record who have consented to such service.

/s/ Tiffany H. Eggers

TIFFANY H. EGGERS

Assistant United States Attorney



**United States v. Hollis Morrison Greenlaw et al. (Case No. 4:21-CR-00289-O)**  
**United Development Funding Entities**

**Court Assigned**

This case is assigned to the U.S. District Court for the Northern District of Texas, Eldon B. Mahon Federal Courthouse, 501 W. 10<sup>th</sup> Street, Room 201, Fort Worth, Texas 76102. The case is assigned to U.S. District Court Judge Reed O'Connor.

**Summary of Offenses**

On October 19, 2021, defendants Hollis Morrison Greenlaw, Benjamin Lee Wissink, Cara Delin Obert, and Jeffrey Brandon Jester were arraigned on a federal Indictment charging one count of Conspiracy to Commit Wire Fraud Affecting a Financial Institution, one count of Conspiracy to Commit Securities Fraud, and eight counts of Securities Fraud and Aiding and Abetting, in violation of federal law. All defendants appeared before United States Magistrate Judge Jeffrey L. Cureton in Fort Worth, Texas, pled not guilty, and were released on conditions of release pending trial.

The Indictment alleged that from on or about January 1, 2011, through on or about December 29, 2015, the defendants Greenlaw, Wissink, Obert, and Jester, and others, led by Greenlaw, engaged in a scheme to defraud using investment fund entities known as United Development Funding III LP, United Development Funding IV, and United Development Funding Income Fund V (collectively "UDF entities"). The UDF entities were presented as companies that would provide loans to residential housing developers who needed funds to build residential developments. Utilizing money obtained from investors and financial institutions, Greenlaw, Wissink, and others caused loans to be issued to developers for residential developments. As part of the UDF entities' investment opportunity, investors were led to believe that the residential housing developers, who obtained loans from the UDF entities, would be required to pay back the loans with interest, which money would then serve as the source of distributions paid to the investors. However, developers were not paying loans obtained from UDF III quickly enough, thereby leaving UDF III without sufficient cash to pay distributions to investors from its own revenues. At the direction of the defendants, UDF IV began raising money from investors using representations that the funds would be used to provide loans to developers. However, cash raised from UDF IV investors was used to repay loans previously issued to developers in UDF I and UDF III, and to pay distributions to UDF III investors. Thereafter, UDF V was created in a similar manner and loans issued by it were used to repay loans previously issued to developers by UDF III and IV. Further, UDF V's investors' money was used to pay distributions to UDF III and IV's investors, and pay other UDF III financial obligations.

A jury trial on these charges was held between January 12 and January 20, 2022. On January 21, 2022, the jury returned a guilty verdict for each defendant and all counts in the Indictment.

### **Scheduled Court Hearings**

The defendants are scheduled for sentencing on May 20, 2022 at 9:00 am in Fort Worth, Texas, before United States District Judge Reed O'Connor at the Eldon B. Mahon Federal Courthouse, 2<sup>nd</sup> Floor Courtroom at 501 W. 10<sup>th</sup> Street, Fort Worth, Texas 76102.

Note: Please check the Court's updated protocol pertaining to COVID-19 for information on courthouse access and policies. The Court's updated COVID-19 guidance is available here: <https://www.txnd.uscourts.gov/>.

### **Victims Impacted**

If you believe you are an investor who was harmed by the defendants' actions described above, you may submit a victim impact statement orally and/or in writing at the sentencing hearing. A sample Victim Impact statement is provided in the below link. So that Victim Impact Statements are received in a timely manner, please submit your Victim Impact Statement to the following email address [USATXN.UDFVictims@usdoj.gov](mailto:USATXN.UDFVictims@usdoj.gov) by **March 14, 2022**.

### ***Victim Impact Statement Link***

### **Court Documents**

*United States v. Hollis Morrison Greenlaw et al.* – Indictment, Verdict Form, and Sentencing Scheduling Order.

### **Victim Information**

Pursuant to the Crime Victims' Rights Act, 18 U.S.C. § 3771, the Department of Justice is required to provide notice to individuals who may have been harmed as a direct result of the criminal offenses of which a defendant has been convicted. In this context, "harmed" is defined broadly and is not limited to monetary loss. This office uses the Victim Notification System ("VNS") and other methods, including web pages and press releases, to ensure potential victims receive timely notice of public events related to a case. For more information, go to <https://www.justice.gov/usao/resources/crime-victims-rights-ombudsman/victims-rights-act>.

A different federal law, the Mandatory Victim Restitution Act ("MVRA"), 18 U.S.C. § 3663A, governs restitution in this case. Restitution is a determination by the judge that a victim is entitled to monetary compensation for losses suffered as a direct result of a crime for which a defendant has been convicted. It is not a guarantee of payment. Under the MVRA, if a defendant is convicted of a crime carrying restitution as a penalty, the

judge at sentencing determines who is a victim and in what amount they are entitled to restitution. In cases involving property crimes, including the fraud offenses with which the defendants are charged, restitution may generally only be awarded for the value of the property lost by the victim as a direct result of a defendant's crime of conviction less the value of any property returned to the victim. Victims may also be entitled to restitution for expenses incurred while participating in the criminal investigation or prosecution or traveling to court proceedings for the case, such as lost income, childcare, transportation, and other expenses. Restitution is generally not available for medical care, pain and suffering, emotional distress, or lost income caused by the defendant's conduct, except in the limited context described above.