

UNITED STATES DISTRICT COURT

DISTRICT OF CONNECTICUT

GRAND JURY N-04-1

UNITED STATES OF AMERICA

Criminal No.

v.

VIOLATION: 18 U.S.C. §§ 1341 [Mail
Fraud] and 1957 [Money Laundering]

RONALD K. GARNETT
a/k/a “MICHAEL MONTGOMERY”

INDICTMENT

The Grand Jury charges:

COUNTS ONE THROUGH TEN

(18 U.S.C. §§ 1341, 2)

[Mail Fraud]

At all times relevant to this indictment:

1. Defendant RONALD K. GARNETT also known as MICHAEL MONTGOMERY (“GARNETT”) was a resident of California.
2. GARNETT acted as president and principal officer of Heartland Asset Management Inc., a Nevada Corporation; Heartland Asset Management LLC, a Delaware Limited Liability Company; and other Heartland Limited Partnerships (collectively referred to as the “Heartland Partnerships”); all of which conducted business from a location in Irvine California and used the addresses of 18400 Von Karman Ave., Suite 605, Irvine, California 92612 and 7600 Fay Avenue, Suite H-170, La Jolla, California 92037.
3. GARNETT controlled bank accounts at numerous financial institutions, including the Bank of America (BoA) which is engaged in, and the activities of which affect, interstate and foreign commerce.

4. GARNETT acting as president and principal officer of Heartland Asset Management Inc., Heartland Asset Management LLC and the Heartland Partnerships, conducted business throughout the United States, in among other places, the State of Connecticut, specifically by placing telephone calls, mailing correspondence, and transferring funds to individuals located in the District of Connecticut.

THE SCHEME TO DEFRAUD

5. Beginning in or about January 1998 and continuing until at least August 2000, in the District of Connecticut, and elsewhere, GARNETT knowingly and with intent to defraud, devised a scheme to defraud, and to obtain money and property by means of materially false and fraudulent pretenses, representations and promises, and the concealment of material facts.

6. It was part of the scheme and artifice to defraud and to obtain money and property by false and fraudulent pretenses that the following would and did occur, in the District of Connecticut and elsewhere:

a. defendant falsely represented to investors, orally and in writing, that he worked for an investment firm called Heartland Asset Management that managed money for investors.

b. defendant falsely represented to investors, orally and in writing, that their money would be invested in private investment funds managed by Heartland Asset Management, that the funds operated like mutual funds, and that the investors' money would be placed into targeted investments, involving key initiatives within specific markets and industries.

c. defendant falsely represented, orally and in writing, that investor funds would be placed into various business area or sector funds including, the travel sector, biomedical sector, and the computer and “high tech” sector.

d. defendant solicited individuals to invest by falsely representing that the investment funds into which that their money would be placed, had earned significant high rates of return for the prior three years; including the representations that certain Heartland funds had earned 68.35%, 68.58%, and 71.73% over a three-year span and that some funds had achieved returns of more than 100% over a one year time span.

e. defendant falsely represented, orally and in writing, that the Heartland funds were highly rated by Morningstar, Inc., a well known mutual fund rating service, and that some of the Heartland funds had received a five star rating from Morningstar, Inc.

f. defendant solicited individuals to invest by sending literature to the investors detailing the purported investments and the positive past performance of the Heartland funds.

g. defendant told investors that he did not charge a management fee unless the investment funds performed at a profit and that he would only earn a management fee of 5% of the profits earned.

h. After receiving the investors' funds, defendant misrepresented to investors the true use of their funds, and used the U.S. Mails, interstate commercial couriers, and interstate wires to provide investors with bogus monthly account statements that falsely indicated that their investments had generated significant earnings. These monthly

account statements falsely showed that the accounts were earning significant returns, thus, furthering the scheme by lulling investors into believing their funds were safe, secure, and earning promised returns, preventing the discovery of the true use of investors' funds, forestalling legal action, and enticing investors to provide additional funds to defendant.

7. It was further part of the scheme that GARNETT caused investors to send him more than \$2.5 million by interstate wire and by check and thereafter failed to invest the money as promised. GARNETT did not place investors' money into investments as represented, but instead diverted investors' funds for his own personal use and benefit, including paying business expenses, and making lulling payments to investors to create the appearance that the investments were safe, secure, and had been invested as promised.

MANNER AND MEANS OF THE SCHEME AS TO INVESTOR S.Y.N.

8. In carrying out the scheme, GARNETT engaged in and caused others to engage in the following fraudulent and deceptive acts, practices, and devices, among others in relation to investor victim S.Y.N., whose identity is known to the grand jury:

a. In the summer of 1999, GARNETT, using the alias Michael Montgomery, spoke with S.Y.N., who was in Michigan, over the phone from California, discussed the purported investments with S.Y.N. and made an appointment for S.Y.N. to meet with him in California.

b. On or about September 18, 1999, S.Y.N. traveled to California and met with defendant at the offices of Heartland Asset Management at 18400 Von Karman Avenue, Suite 605, Irvine California. At the meeting, GARNETT, again using the alias Montgomery,

told S.Y.N., among other representations, that Heartland Asset Management operated investment funds, that the Heartland Private Equity Fund invested in stocks such as Dell, Microsoft and Nokia, had a 112% return over the last year, and a 68% return over the previous three years. GARNETT showed S.Y.N. various pamphlets listing Heartland's purported performance.

c. After the meeting, S.Y.N. received a letter via U.S. Mail dated September 22, 1999, from Heartland Asset Management that discussed investment strategy and Heartland's past investment performance.

d. After reviewing the information provided and based on the representations made to him, S.Y.N., on various occasions between September 1999 and February 2000, invested \$1,525,000 with GARNETT by way of official bank checks drawn against a Trust account made payable and endorsed to Heartland Asset Management, for investment into the funds about which GARNETT had made the above-described representations.

e. GARNETT made the Heartland Asset Management investment funds appear legitimate, safe and secure to S.Y.N. by, among other ways, providing him bogus monthly statements setting forth purported profits.

f. GARNETT did not invest the funds he received from S.Y.N. as had been represented, but instead deposited the funds into a bank account in the name of Heartland Asset Management at BoA and commingled the funds with those of other investor victims. GARNETT used the commingled funds for his own purposes including paying business expenses and making lulling payments to other investors.

MANNER AND MEANS OF THE SCHEME AS TO INVESTOR L.J.P.

9. In carrying out the scheme, GARNETT engaged in and caused others to engage in the following fraudulent and deceptive acts, practices, and devices, among others in relation to investor victim L.J.P., whose identity is known to the grand jury:

a. In December 1998, GARNETT, using the alias Michael Montgomery, spoke with L.J.P. over the telephone to her residence in San Diego, California. GARNETT recommended L.J.P. invest in the “Heartland Asset Management Growth and Value Fund” and told L.J.P. that this fund mainly invested in well known companies listed on the NASDAQ Stock Exchange such as Intel, Cisco, and Sun Microsystems. GARNETT told L.J.P. that the investment was totally liquid, that the Growth and Value Fund was going to generate an annual return of 60%.

b. After the conversation, L.J.P. received a letter via U.S. Mail dated December 18, 1998, from Heartland Asset Management, signed with the name Michael Montgomery, that discussed investment strategy and included materials about Heartland Asset Management and Heartland’s Growth and Value Fund.

c. After reviewing the materials and based on the representations made, L.J.P., on various occasions from December 1998 to December 1999 invested a total of \$61,000 with GARNETT by way of checks sent via U.S. Mail made payable to Heartland Asset Management for investment into the funds about which GARNETT had made the above-described representations.

d. GARNETT made the Heartland Asset Management investment funds appear legitimate, safe and secure to L.J.P. by, among other ways, providing her bogus monthly

statements setting forth purported profits.

e. GARNETT did not invest the funds he received from L.J.P. as he represented, but instead deposited the funds into a bank account in the name of Heartland Asset Management at BoA and commingled the funds with those of other investor victims. GARNETT used the commingled funds for his own purposes including paying business expenses and making lulling payments to other investors.

MANNER AND MEANS OF THE SCHEME AS TO INVESTOR T.L.J.

10. In carrying out the scheme, GARNETT engaged in and caused others to engage in the following fraudulent and deceptive acts, practices, and devices, among others in relation to investor victim T.L.J., whose identity is known to the grand jury:

a. In September 1999, an individual who identified himself as Pete Peterson contacted T.L.J. by telephone while T.L.J. was in his office in Hartford, Connecticut. Peterson told T.L.J. that he, Peterson, was a representative of a financial services company called Heartland Asset Management and that Heartland Asset Management was a private investment firm that managed money for investors and placed investors money into different mutual funds. Peterson told T.L.J. that the Equity Fund managed by Heartland Asset Management had consistently yielded returns of 60%-70% over a three-year period.

b. After the conversation, Heartland Asset Management sent T.L.J. a letter dated September 14, 1999, via the commercial interstate courier Federal Express to his address at 92 Weston St. # 2, Hartford, Connecticut, 06120-1518. The letter discussed Heartland Asset Management and included materials about Heartland Asset Management and Heartland's Private Client Services.

c. After reviewing the information T.L.J. had a second telephone conversation with Peterson during which T.L.J. expressed doubt about investing with Heartland Asset Management. Peterson said he would have the fund manager call T.L.J. to discuss the investment portfolio.

d. Shortly thereafter, GARNETT called T.L.J. and identified himself as Michael Montgomery, the fund manager at Heartland Asset Management. GARNETT told T.L.J., among other things, that the Heartland Asset Management Equity Fund was a professionally managed growth portfolio and that the fund would invest in securities issued by blue chip companies, technology companies, and companies listed on NASDAQ. On this call, the so called "fund manager" also told T.L.J. that Heartland Asset Management would not charge a fee if the fund did not generate a profit but only charged a fee equal to 5 percent of the profits earned at the end of each year.

e. Based on the representations made, T.L.J., on various occasions from October 1999 to April 2000, invested a total of \$60,000 with GARNETT by way of checks sent via U.S. Mail drawn on an account at Peoples Bank and made payable to Heartland, Heartland Asset Management, and Heartland Equity Fund for investment into the funds about which GARNETT had made the above-described representations.

f. GARNETT made the Heartland Asset Management investment funds appear legitimate, safe and secure to T.L.J. by, among other ways, providing bogus monthly statements setting forth purported profits.

g. GARNETT did not invest the funds he received from T.L.J. as had been represented, but instead deposited the funds into a bank account in the name of Heartland Asset

Management at BoA and commingled the funds with those of other investor victims.

GARNETT used the commingled funds for his own purposes including paying business expenses and making lulling payments to other investors.

MANNER AND MEANS OF THE SCHEME AS TO INVESTOR B.G.C.

11. In carrying out the scheme, GARNETT engaged in and caused others to engage in the following fraudulent and deceptive acts, practices, and devices, among others in relation to investor victim B.G.C., whose identity is known to the grand jury:

a. In or about January 1998, an individual who identified herself as calling on behalf of Heartland Asset Management contacted B.G.C. by telephone while he was at his home in Madison, Connecticut. The woman told B.G.C. that she was a representative of Heartland Asset Management and was calling on behalf of Michael Montgomery. The woman asked if B.G.C. would like to speak with Montgomery about investments.

b. B.G.C. spoke over the phone from Madison, Connecticut, to an individual from Heartland Asset Management who identified himself as Michael Montgomery.

GARNETT, using the alias Michael Montgomery, told B.G.C. that the firm Heartland Asset Management managed money on an institutional basis for brokerage firms and was venturing into the market to manage funds for private investors. Montgomery told B.G.C. that Heartland picked strong well-managed companies to invest in, that the investment funds had very good results, and that they did not charge a fund management fee unless the fund performed at a profit and would charge 5% commission fee on the overall fund gain.

c. After the conversation, Heartland Asset Management sent B.G.C. information that discussed Heartland Asset Management and the purported performance of

Heartland Asset Management's Funds.

d. After reviewing the information and based on the representations made, B.G.C. on various occasions between March 1998 and November 1998, invested a total of approximately \$299,000 with GARNETT on behalf of himself and his family, by way of checks and wire transfers sent to Heartland Asset Management for investment into the funds about which GARNETT had made the above-described representations. The funds were drawn from investments held at Independent Twist Corporation and from an account at Webster Bank. Webster Bank is engaged in, and the activities of which affect, interstate and foreign commerce.

e. GARNETT made the Heartland Asset Management investment funds appear legitimate, safe and secure to B.G.C. by, among other ways providing him bogus monthly statements setting forth purported profits.

f. GARNETT did not invest the funds he received from B.G.C. as represented, but instead deposited the funds into a bank account in the name of Heartland Asset Management at BoA, and commingled the funds with those of other investor victims. GARNETT used the commingled funds for his own purposes including paying business expenses and making lulling payments to other investors.

g. GARNETT made the Heartland Asset Management investment funds appear legitimate, safe and secure to B.G.C. by, among other ways, by making periodic payments from about September 1998 to June 2000, totaling more than \$60,000, purportedly as a return of a portion of his and his family's investments, but which were in reality monies diverted from investment funds provided by other investor victims.

THE EXECUTION OF THE SCHEME AND ARTIFICE

12. On or about the dates set forth below, in the District of Connecticut and elsewhere, GARNETT, for the purpose of executing and attempting to execute the aforementioned scheme and artifice to defraud and to obtain money and property by means of false and fraudulent pretenses, representations, and promises, did, with intent to defraud, cause to be placed in a United States Post Office or other authorized depository for mail matter, items to be sent and delivered by the United States Postal Service according to the directions thereon, and caused to be deposited items to be sent and delivered by private and commercial interstate carriers, each making a deposit a separate count of the indictment:

Count	Date	Sender	Addressee	Item
1	Sept. 14, 1999	Heartland Asset Management	T.L.J. Allstate Fire Sprinkler 92 Weston St. #2 Hartford CT. 06120	Letter enclosing Heartland investment package
2	Oct. 20, 1999	T.L.J.	Heartland Asset Management 18400 Von Karman Ave. Suite 605 Irvine CA 92612	Heartland Asset Management Investment Agreement and \$25,000 check to Heartland check #6596
3	Nov. 23, 1999	T.L.J.	Heartland Asset Management 18400 Von Karman Ave. Suite 605 Irvine CA 92612	\$25,000 check to Heartland Equity Fund check #6640

4	Feb. 2, 2000	Heartland Asset Management	B.G.C. FBO S.W.C. 66 Welsweep Drive Madison CT. 06443	Heartland Client Statement for period 1/1/00-1/31/00 account #23039803007 identifying account representative as Michael Montgomery
5	Mar. 1, 2000	Heartland Asset Management	FBO B.G.C. 66 Welsweep Drive Madison CT. 06443-2301	Heartland Client Statement for period 2/1/00-2/29/00 account #02039803005 identifying account representative as Michael Montgomery
6	Mar. 16, 2000	Ronald Garnett Heartland Asset Management	B.G.C. 66 Welsweep Drive Madison CT. 06443-2301	Letter dated March 16, 2000, discussing suitability and Suitability Verification Questionnaire.
7	Mar. 16, 2000	Ronald Garnett Heartland Asset Management	S.P.C. 66 Welsweep Drive Madison CT. 06443-2301	Letter dated March 16, 2000, discussing suitability and Suitability Verification Questionnaire.
8	April 1, 2000	Heartland Asset Management	FBO S.P.C. 66 Welsweep Drive Madison CT. 06443-2301	Heartland Client Statement for period 3/1/00-3/31/00 account #19039803006 identifying account representative as Michael Montgomery
9	May 1, 2000	Heartland Asset Management	FBO B.G.C. 66 Welsweep Drive Madison CT. 06443-2301	Heartland Client Statement for period 4/1/00-4/30/00 account #02039803005 identifying account representative as Michael Montgomery

10	June 16, 2000	Greg McKinney Heartland Asset Management	FBO B.G.C 66 Welsweep Drive Madison CT. 06443-2301	Enclosing a Check # 1320 in the amount of \$30,000 from the Heartland Asset Management account #1101308649 at Bank of America payable to B.G.C
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All in violation of Title 18, United States Code, Sections 1341 and 2.

COUNTS ELEVEN AND TWELVE

(18 U.S.C. §§ 1957, 2)

[Money Laundering]

1 - 4. The Grand Jury repeats and realleges the allegations contained in paragraphs 1- 4 of counts one through ten as though set out in full in these counts.

5 - 11. The Grand Jury repeats and realleges the allegations contained in paragraphs 5-11 of counts one through ten as describing the scheme and artifice to defraud and to obtain money and property by means of materially false and fraudulent pretenses, representations, and promises, as though set out in full in these counts.

12. On or about the dates listed for each count below, GARNETT did knowingly engage and attempt to engage in monetary transactions in criminally derived property of a value greater than \$10,000, all involving financial institutions which are engaged in, and the activities of which affect, interstate commerce, such property having been derived from specified unlawful activity, that is mail fraud (18 U.S.C. § 1341) as follows:

<u>Count</u>	<u>Date</u>	<u>Amount</u>	<u>Monetary Transaction</u>
9	May 16, 2000	\$20,000	Check # 2008 in the amount of \$20,000 from the Heartland Asset Management account #0599505417 at Bank of America payable to B.G.C. and deposited in Webster Bank in Connecticut
10	Jun. 16, 2000	\$30,000	Check # 1320 in the amount of \$30,000 from the Heartland Asset Management account #1101308649 at Bank of America payable to B.G.C and deposited in Webster Bank in Connecticut

All in violation of Title 18, United States Code, Sections 1957 and 2.

A TRUE BILL

FOREPERSON

KEVIN J. O' CONNER
UNITED STATES ATTORNEY

KARI A. DOOLEY
ASSISTANT UNITED STATES ATTORNEY

MICHAEL S. McGARRY
ASSISTANT UNITED STATES ATTORNEY