

U.S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

FILED

NOV - 9 2016

CLERK, U.S. DISTRICT COURT
By _____
Deputy

ORIGINAL

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

UNITED STATES OF AMERICA

v.

NO.

KENNY JAMES DAVIS (01)

4 - 16 CR-268 - 0

INDICTMENT

The Grand Jury Charges:

A. Introduction

At all times material to this Indictment:

1. Defendant **Kenny James Davis** resided in and/or operated out of the Northern District of Texas. **Davis** claimed to have extensive experience in multi-level marketing and direct sales businesses.
2. IAMAA was an assumed name registered with the Dallas County Clerk's Office in Dallas, Texas, during April 2010 by **Davis**.
3. iamaaDIRECT, LLC was a limited liability corporation registered with the Texas Secretary of State in April 2011, with **Davis** named as the Registered Agent, Managing Member and President, and with a business address in the Northern District of Texas.
4. To The Nines, LLC, was a limited liability corporation registered with the Texas Secretary of State in May 2011, with **Kenny J. Davis** named as the Organizer and President, and with a business address in the Northern District of Texas.

5. **Davis**, doing business as IAMMA, maintained a business bank account at First Convenience Bank with an address in the Northern District of Texas.

6. GoDaddy is a company that provided website registrar and domain services for tothenines.com beginning in December 2010, and continuing until at least December 2012.

B. Scheme and Artifice

7. Beginning in or before November 2010, and continuing thereafter until in or around January 2012, in the Northern District of Texas, and elsewhere, defendant **Kenny James Davis** did knowingly devise a scheme and artifice to defraud and to obtain money and property from individuals by means of materially false and fraudulent pretenses, representations and promises and, for the purpose of executing the scheme and artifice, to cause a matter and thing to be placed in an authorized depository for mail matter to be sent and delivered by the United States Postal Service, a violation of 18 U.S.C. § 1341, and transmitted and caused to be transmitted, by wire, in interstate and foreign commerce, certain writings, signs, signals, pictures, and sounds, a violation of 18 U.S.C. § 1343.

8. The following manner and means were used to accomplish the objectives of the fraudulent scheme:

- a. Around November 2010, **Davis** solicited an individual, N.J., who was involved in the women's shoe business, to enter into an agreement to create

a multi-level marketing program to sell women's fashion shoes. **Davis** claimed to have extensive experience in the multi-level marketing/direct sales business and falsely claimed to be financially successful. **Davis** claimed he had the business and financial experience but needed N.J. for her experience and contacts in the shoe industry.

- b. **Davis** negotiated a joint venture contract with N.J. in November 2010, wherein he agreed to provide her with complete financial disclosures, including the sharing of monthly financial reports and figures, which he never did. At **Davis**'s request, N.J. used her business connections to acquire a small number of shoes to be used in the sales program.
- c. In his effort to convince N.J. that he was successful, **Davis** misrepresented his work experience and his financial status. In February 2011, **Davis** sent an email to N.J. falsely claiming that one of his businesses earned gross revenue of \$4 million in 2010.
- d. **Davis** created business entities including IAMAA; iamaaDIRECT, LLC; and To The Nines, which were used in the scheme.
- e. In promoting his marketing program to potential investors (referred to as consultants in the program), **Davis** claimed that the business model of To The Nines was a "Proven Business Model." The marketing program allowed investors to pay between \$99 to \$5000 to become a consultant. According to **Davis**, the consultant would be able to sell designer/fashion

shoes to clients using a website **Davis** would create. The consultant would receive a commission from shoes that clients would purchase from the website. In addition, the consultant would receive a bonus for each person recruited to become a consultant.

- f. While **Davis** claimed to investors that he had “15 years” in Direct Sales,” he failed to disclose to potential investors that he was convicted in 2004 of a federal felony offense related to his involvement in a multi-level marketing fraud scheme.
- g. **Davis** caused the creation of a brochure provided to all investors that falsely claimed To The Nines would provide a website that would allow investors and their clients to order women’s fashion shoes 24 hours a day, seven days a week.
- h. During April 2011, **Davis** leased office space at 1621 West Crosby Road, Suite 112, Carrollton, Texas, in the Northern District of Texas, for use in running the business operation. In obtaining the lease, **Davis** falsely claimed that iamaaDIRECT had total income of \$1.4 million in 2010.
- i. **Davis** falsely claimed to employees that he was successful in his previous multilevel marketing ventures and had made millions of dollars. In addition, **Davis** falsely claimed to investors and employees of To The Nines that investors’ (consultants’) funds were not used to start the business.

- j. Davis purchased very few shoes that were made available for investors to sell. After numerous complaints by investors that there were no shoes, in July 2011, Davis caused the sending of an email to investors falsely claiming 74 cases of shoes in 22 styles had been ordered by To The Nines.
- k. In about September 2011, after it became apparent to investors that To The Nines was failing, and they began requesting refunds of their investments, Davis caused the creation of a refund request document that was emailed to investors. This email was designed to lull investors into believing they were going to be given a refund by Davis, when in fact, no funds were available in business bank accounts to pay investor refunds.
- l. On November 10, 2011, Davis caused the sending of an email to investors that falsely claimed refunds were being calculated by an outside accounting firm and that arrangements had been made with new investment partners to eliminate the debt created by refund requests.
- m. In November 2011, after receiving refund requests from investors, Davis caused the sending of an email, confirming receipt of refund requests from investors, for the purpose of lulling investors into believing they would receive a refund.
- n. As a result of Davis's fraudulent representations and omissions, between about January 2011, and about September 2011, more than 300 investors paid in excess of \$620,000 to purchase consultant interests. Davis used a

large portion of the funds received from investors for his personal expenses and other expenses unrelated to the shoe program.

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COUNT 1
Mail Fraud
(Violation of 18 U.S.C. § 1341)

The Grand Jury realleges and incorporates the allegations of the Introduction and Scheme and Artifice sections of this Indictment as though set forth herein.

On or about November 15, 2011, in the Northern District of Texas, and elsewhere, defendant **Kenny James Davis**, for the purpose of executing and attempting to execute the described scheme and artifice to defraud and to obtain money by means of material false and fraudulent pretenses and representations, did knowingly and with intent to defraud, caused to be placed in an authorized depository for mail matter, and moved by the United States Postal Service, a letter containing a Termination and Refund Form from EM in Weatherford, Texas, to an address in Dallas, Texas.

In violation of 18 U.S.C. § 1341.

COUNTS 2 -12
Wire Fraud
(Violation of 18 U.S.C. § 1343)

The Grand Jury realleges and incorporates the allegations of the Introduction and Scheme and Artifice sections of this Indictment as though set forth herein.

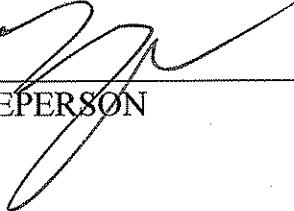
On or about the dates listed below, in the Northern District of Texas, and elsewhere, defendant **Kenny James Davis**, for the purpose of executing and attempting to execute the described scheme and artifice to defraud and to obtain money by means of materially false and fraudulent pretenses and representations, caused to be transmitted by means of wire communication in interstate commerce, writings, signs, signals, pictures, and sounds, that is, emails, documents, and a facsimile pertaining to the refund request process, each transmission constituting a separate count, as follows:

Count	Date	Item Wired	From	To
2	11/10/2011	Email from To The Nines related to a Refund Process and Qualification Form, received by BB	Dallas, Texas	Weatherford, Texas
3	11/10/2011	Email from To The Nines related to a Refund Process and Qualification Form, received by KG	Dallas, Texas	Colleyville, Texas
4	11/10/2011	Email from To The Nines related to a Refund Process and Qualification Form, received by JJ	Dallas, Texas	Graham, Texas
5	11/10/2011	Email from To The Nines related to a Refund Process and Qualification Form, received by EM	Dallas, Texas	Weatherford, Texas

Count	Date	Item Wired	From	To
6	11/10/2011	Email from To The Nines related to a Refund Process and Qualification Form, received by LS	Dallas, Texas	Broomfield, Colorado
7	11/10/2011	Email from To The Nines related to a Refund Process and Qualification Form, received by TW	Dallas, Texas	Austin, Texas
8	11/14/2011	Email from To The Nines confirming receipt of refund request, received by BB	Dallas, Texas	Weatherford, Texas
9	11/14/2011	Email from To The Nines confirming receipt of refund request, received by KG	Dallas, Texas	Colleyville, Texas
10	11/14/2011	Email from To The Nines confirming receipt of refund request, received by TW	Dallas, Texas	Austin, Texas
11	11/30/2011	Facsimile from LS to To The Nines with Termination and Refund Form	Broomfield, Colorado	Dallas, Texas
12	01/05/2012	Email from To The Nines related to refund update status, received by BB	Dallas, Texas	Weatherford, Texas

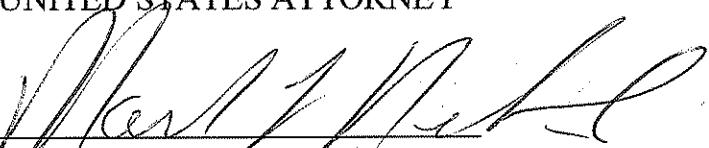
In violation of 18 U.S.C. § 1343.

A TRUE BILL



FOREPERSON

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FOR THE NORTHERN DISTRICT OF TEXAS
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INDICTMENT

18 U.S.C. § 1341
Mail Fraud
1 Count

18 U.S.C. § 1343
Wire Fraud
11 Counts

A true bill rendered

FORT WORTH

FOREPERSON

Filed in open court this 9th day of November, 2016.

Warrant to be Issued

UNITED STATES MAGISTRATE JUDGE
No Criminal Matter Pending