

Presented to the Court by the foreman of the Grand Jury in open Court, in the presence of the Grand Jury and FILED in the U.S. DISTRICT COURT at Seattle, Washington.

May 17 20 23
Ravi Subramanian, Clerk
By _____ Deputy

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,
Plaintiff

NO. **CR 23 - 084 TL**

v.

INDICTMENT

NEVIN SHETTY,
Defendant.

The Grand Jury charges that:

COUNTS 1-4

(Wire Fraud)

A. The Scheme to Defraud

1. Beginning at a time unknown, but no later than January 2022, and continuing until in or about May 2022, in King County, within the Western District of Washington, and elsewhere, NEVIN SHETTY devised and intended to devise a scheme to defraud his employer ("Company A"), and to obtain money and property from Company A by means of materially false and fraudulent pretenses, representations, and promises, and the omission and concealment of material facts.

2. The essence of the scheme and artifice to defraud was for SHETTY to

1 enrich himself by secretly transferring \$35 million in Company A corporate funds to a
2 cryptocurrency investment platform that SHETTY owned and operated. SHETTY knew
3 the transfer was contrary to Company A's explicit investment policy and other
4 instructions given to him, and therefore he concealed it from Company A's board of
5 directors and other executives. He made the transfer to bolster his fledgling
6 cryptocurrency venture with its first (and only) outside investor, and to earn large profits
7 for himself from investing Company A's money. SHETTY invested the money in
8 cryptocurrency positions that could have yielded returns of 20 percent or more annually,
9 yet SHETTY intended to pay Company A just 6 percent. He thus stood to benefit by
10 taking most of the yield, and he also could charge Company A management fees. Within
11 a matter of weeks, however, SHETTY lost virtually all of Company A's money. Only
12 then did he tell Company A's executives what he had done.

13 **B. Background**

14 *Company A Hires SHETTY as CFO*

15 3. Company A is a private company headquartered in the Western District of
16 Washington. Company A has raised capital in multiple rounds of funding.

17 4. Company A is incorporated in Delaware.

18 5. Company A hired SHETTY as its chief financial officer in or around March
19 2021.

20 6. As the CFO, SHETTY owed a fiduciary duty to Company A. Company A
21 entrusted SHETTY with, among other things, signatory authority for Company A's bank
22 accounts.

23 *Company A Decides to Move on from SHETTY*

24 7. Soon after hiring SHETTY, Company A's board of directors developed
25 concerns about his competency. By March 2022, with their dissatisfaction with
26 SHETTY's performance having grown, Company A's chief executive officer and chief
27 operating officer told SHETTY that he could not continue as CFO. They agreed that

1 SHETTY would depart Company A in or around June 2022.

2 *Company A Adopts a Written Policy to Manage its Cash*

3 8. Around the same time that it decided to move on from SHETTY, Company
4 A's leadership adopted a new "Treasury Program" for safeguarding the company's cash
5 until it would be used for operating expenses, acquisitions, or other business purposes.

6 9. Under a written "Investment Policy Statement" adopted by the board of
7 directors in March 2022, Company A's cash was to "be invested only in fixed income
8 instruments denominated and payable in U.S. dollars." The policy went on to state that,
9 "[i]n order to minimize the Company's credit risk exposure," only certain investment
10 types were "approved." Approved investment types included money market and deposit
11 accounts, U.S. treasury obligations, U.S. federal agency or government-sponsored
12 enterprises obligations, corporate obligations, commercial paper, and municipal
13 securities. The policy specified minimum credit ratings for corporate obligations,
14 commercial paper, and municipal securities. The policy further stated, "To begin with,
15 the Treasury Program will invest in money market, deposit accounts, and treasury
16 accounts with daily liquidity." "In the future," according to the policy, "if the company
17 decides to invest in other obligations," several criteria had to be met, such as a
18 requirement that any corporate bonds be investment-grade.

19 10. SHETTY helped draft Company A's new investment policy and was fully
20 aware of its adoption. In an email to all members of the board concerning the new policy,
21 on which SHETTY was copied, Company A's chief legal officer wrote, "[Company A]
22 will be utilizing conservative treasury programs with daily liquidity across SVB, Stifel,
23 and Rho (our current operating account). The accounts are fully liquid and the average
24 yield is 40 bps. The attached Investment Policy Statement provides the general
25 framework for this approach." The chief legal officer also noted, "I know Nevin
26 [SHETTY] has spoken with some of you" about this.

1 **C. Manner and Means**

2 The following conduct was part of the scheme and artifice to defraud:

3 ***SHETTY and A.B. Create HighTower***

4 11. SHETTY incorporated a company called HighTower Treasury
5 (“HighTower”) in Delaware on or about February 9, 2022. SHETTY served as president,
6 and another person, A.B., served as chief executive officer. SHETTY and A.B. owned
7 HighTower.

8 12. SHETTY and others prepared marketing materials that described
9 HighTower’s business as “DeFi savings” and “a corporate treasury platform.” DeFi
10 stands for decentralized finance, it refers to an idea among cryptocurrency enthusiasts of
11 conducting financial transactions without third-party intermediaries like brokers. DeFi
12 transactions are meant to occur in cryptocurrency. HighTower purported to offer “corp
13 savings accounts” with market-leading yields, which it claimed it could generate through
14 investing in “a diversified set of decentralized interest-rate protocols.”

15 13. SHETTY and others launched a website for HighTower in or around March
16 2022. Descriptions of HighTower’s business on the website, which SHETTY wrote,
17 extolled the virtues of “DeFi platforms.” According to the site, “DeFi platforms allow
18 investors to lend positions, borrow funds, utilize derivatives, employ insurance, and earn
19 yield.” The site further stated that “HighTower generates yield by deploying capital to
20 these DeFi protocols and collects interest, trading fees, and rewards that we convert back
21 into USD-denominated yields.” Customers of HighTower could access this website as
22 well as an online portal with account statements and other information.

23 ***SHETTY Secretly Invests Company A’s Money in Cryptocurrency through HighTower***

24 14. Between April 1, 2022, and April 12, 2022, after learning that he would not
25 continue as Company A’s CFO, SHETTY secretly, and by means of interstate and
26 foreign wire transmissions, transferred \$35,000,100 of Company A’s money to a bank
27 account belonging to Circle Internet Financial (“Circle”), for the benefit of HighTower.

1 SHETTY had previously registered HighTower for an account with Circle, which is a
2 financial technology company. Deposits at Circle can be held in a cryptocurrency called
3 USD Coin (“USDC”), which is a so-called “stablecoin,” meaning its value is supposed to
4 remain stable over time. Stablecoins can be tied to the value of fiat currencies; in USDC’s
5 case, its value is pegged to the U.S. dollar.

6 15. SHETTY told no one at Company A about his wire transfers to Circle at the
7 time he made them. SHETTY personally visited a Chase bank branch on Mercer Island to
8 order the transfers.

9 16. SHETTY secretly executed a “Treasury Account Agreement” between
10 Company A and HighTower. This agreement, dated March 31, 2022, was signed by
11 SHETTY on behalf of Company A and A.B. on behalf of HighTower. No one at
12 Company A apart from SHETTY knew of this agreement until over a month later. The
13 agreement called Company A’s investment a “Treasury Account,” and described it in
14 various ways, including as an unregistered debt security. For example, according to the
15 agreement, Company A’s invested funds “represent[ed] a direct, unconditional,
16 unsubordinated and unsecured obligation of HighTower Treasury.” The agreement
17 further provided that HighTower would pay Company A interest on its investment
18 (initially set at 6 percent APY), and that any earnings above that rate belonged to
19 HighTower (and therefore partially to SHETTY). The agreement also stated that,
20 although HighTower was not charging service fees at the outset, it had the right to impose
21 fees with thirty days of advanced notice.

22 17. Once SHETTY had Company A’s money at Circle, he proceeded through a
23 series of transactions to invest it (along with smaller amounts contributed by SHETTY
24 and A.B.) in two main ways:

- 25 • First, SHETTY acquired TerraUSD (“UST”). UST was another so-called
26 “stablecoin,” although unlike USDC, UST was not backed by reserves of
27 U.S. dollars or other dollar-denominated assets. Instead, UST was supposed

1 to maintain a peg to the value of the U.S. dollar through an algorithmic
2 relationship with a “sister token” called Luna. SHETTY ultimately
3 deposited approximately 28.8 million UST with the Anchor protocol, which
4 was a DeFi system for lending and borrowing UST. Investors holding UST
5 could deposit it with Anchor, and it would supposedly be lent out to others.
6 Anchor promised as much as 20 percent interest on deposits.

- 7 • Second, SHETTY used over 8 million UST to acquire synthetic assets
8 through Mirror. Mirror was a protocol that allowed investors holding UST
9 to buy digital assets that tracked the prices of other assets. SHETTY bought
10 a variety of mirrored cryptocurrencies and mirrored public equities, such as
11 mirrored Polkadot cryptocurrency and mirrored Twitter stock. Similar to
12 UST, investors could deposit mirrored assets into pools and earn rewards.

13 18. By investing Company A’s money in cryptocurrency through HighTower,
14 SHETTY knowingly defied the board of directors’ intentions for how the company
15 should safeguard its cash. SHETTY also materially misled others about how he would
16 carry out Company A’s new investment policy. On or about February 19, 2022, SHETTY
17 emailed a member of Company A’s board of directors to preview the new policy, which
18 he described as “relatively vanilla.” He said that the company’s treasury program under
19 the new policy would be “fully liquid” and targeting returns in the range of “15bps -
20 40bps.” In fact, he went on to secretly pursue high-yield cryptocurrency investments that
21 were anything but “vanilla.”

22 19. When two members of Company A’s finance team who reported to
23 SHETTY discovered Company A’s HighTower account and discussed it with him in or
24 about April 2022, SHETTY acknowledged the account but omitted material information
25 to conceal the nature of the investments and his self-dealing. He did not tell them that
26 HighTower was his own company, and he did not say that his investments at HighTower
27 involved cryptocurrency. These omissions and half-truths were material. Company A

1 would not have wanted to invest in cryptocurrency, and Company A would not have
2 wanted to pay SHETTY extra money (in the form of HighTower’s carry) to manage its
3 cash when that was already his job as CFO.

4 20. SHETTY composed the HighTower website with numerous misstatements
5 and omissions. Anyone at Company A who looked at the HighTower website or
6 associated customer portal would have found the following material misstatements and
7 omissions, among others:

- 8 • A claim on the website that the “6-month trailing average” annual
9 percentage yield on one of HighTower’s investment offerings was six
10 percent. In truth, HighTower had only just come into existence and did not
11 have a six-month record of paying customers interest.
- 12 • A claim that investing in HighTower presented “no price volatility
13 exposure.” In truth, the value of HighTower’s investments involving
14 stablecoins like UST were highly dependent on the prices of the coins, as
15 the UST crash would demonstrate, and as was acknowledged elsewhere on
16 HighTower’s website.
- 17 • A claim on account statements that Company A’s account with HighTower
18 was a “corporate savings account.” In truth, it was not a savings account,
19 HighTower was not a bank or other financial institution such as a credit
20 union, and deposits with HighTower were not protected against principal
21 loss, such as through the Federal Deposit Insurance Corporation. These
22 facts selectively appeared in places on the HighTower website, but not in a
23 way that cured the misleading nature of the “corporate savings account”
24 label.

25 21. SHETTY used Company A’s funds to give HighTower its first outside
26 investor. HighTower only ever had two other investors: (1) A.B.’s company and (2) an
27 investment fund operated by SHETTY for himself and his friends and family. For these

1 insider investors, unlike Company A, SHETTY intended for HighTower to pay as much
2 as 23 percent interest.

3 22. SHETTY planned to enrich himself at Company A's expense. Under the
4 terms of the secret agreement with Company A, as described above, HighTower stood to
5 earn an interest rate spread that far exceeded Company A's potential returns. Speaking
6 about their profits in a message to A.B. on or about May 5, 2022, SHETTY wrote: "Just
7 on Anchor we have earned \$303K of interest and we owe \$170K = \$133K of revenue in
8 1 month." SHETTY went on to propose redesigning the HighTower website's "front
9 end" to make it "super slick." He explained, "This is too valuable not to. We just need a
10 couple of more customers..." But HighTower attracted no other customers, and within
11 days, its investments started to decline in value.

12 23. When HighTower's investments started to decline in value, SHETTY did
13 not tell his fellow corporate officers and the board members at Company A, who still
14 knew nothing of HighTower. The price of UST dropped below its \$1 peg on or about
15 May 7, 2022, and it moved further downward in the ensuing days. On May 12, 2022,
16 SHETTY wrote to A.B. that he was "[h]oping for a miracle," and still he said nothing to
17 Company A. It was not until May 13, 2022, when UST had lost nearly all its value and
18 the broader Terra ecosystem had essentially collapsed, that SHETTY informed the chief
19 executive officer and chief operating officer of Company A of what he had done. Even
20 then, he did not fully let on his own role at HighTower and other material details.

21 **D. Execution of the Scheme to Defraud**

22 24. On or about the dates set forth below, in King County, within the Western
23 District of Washington, NEVIN SHETTY, for the purpose of executing this scheme and
24 artifice, did knowingly cause to be transmitted by wire communication in interstate and
25 foreign commerce writings, signs, signals, pictures, and sounds, each transmission of
26 which constitutes a separate Count of this Indictment.

Count	Date	Sender	Recipient	Wire Transmission
1	April 1, 2022	Company A's Chase Account No. xxxx-9944	Circle's Silvergate Account No. xxxx-7427	\$100 wire transfer from Washington to outside of Washington
2	April 4, 2022	Company A's Chase Account No. xxxx-9944	Circle's Silvergate Account No. xxxx-7427	\$14,500,000 wire transfer from Washington to outside of Washington
3	April 5, 2022	Company A's Chase Account No. xxxx-9944	Circle's Silvergate Account No. xxxx-7427	\$5,400,000 wire transfer from Washington to outside of Washington
4	April 12, 2022	Company A's Chase Account No. xxxx-9944	Circle's Silvergate Account No. xxxx-7427	\$15,100,000 wire transfer from Washington to outside of Washington

All in violation of Title 18, United States Code, Sections 1343 and 2.

FORFEITURE ALLEGATION

The allegations contained in Counts 1 through 4 of this Indictment are hereby realleged and incorporated by reference for the purpose of alleging forfeiture. Upon conviction of any of the offenses alleged in Counts 1 through 4, NEVIN SHETTY shall forfeit to the United States any property constituting, or derived from, proceeds the defendant obtained directly or indirectly, as a result of the offense. All such property is forfeitable pursuant to Title 18, United States Code, Section 981(a)(1)(C), by way of Title 28, United States Code, Section 2461(c), and includes but is not limited to a sum of money reflecting the proceeds the defendant obtained as a result of the offense.

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1 **Substitute Assets.** If any of the above-described forfeitable property, as a result of
2 any act or omission of the defendant,

- 3 a. cannot be located upon the exercise of due diligence;
- 4 b. has been transferred or sold to, or deposited with, a third party;
- 5 c. has been placed beyond the jurisdiction of the Court;
- 6 d. has been substantially diminished in value; or,
- 7 e. has been commingled with other property which cannot be divided
8 without difficulty,

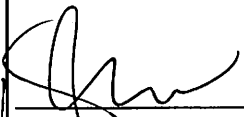
9 it is the intent of the United States to seek the forfeiture of any other property of the
10 defendant, up to the value of the above-described forfeitable property, pursuant to
11 Title 21, United States Code, Section 853(p).

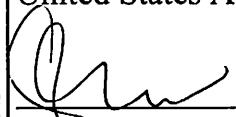
12
13 A TRUE BILL:

14 DATED:

15 *Signature of Foreperson redacted pursuant*
16 *to the policy of the Judicial Conference of*
17 *the United States.*

18 _____
19 FOREPERSON

18 
19 _____
20 NICHOLAS W. BROWN
21 United States Attorney

21 
22 _____
23 SETH WILKINSON
24 Assistant United States Attorney

24 
25 _____
26 PHILIP KORCZYNSKI
27 Assistant United States Attorney