

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

UNITED STATES OF AMERICA

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§
§

v.

NO: 6:22-CR-00007-JCB

DEREK ROBERT HAMM

a/k/a D. Wayne Hamm II

a/k/a Wayne Hamm

a/k/a D. Wayne H.

a/k/a DW Hamm

a/k/a RD Hamm

FACTUAL BASIS

Investigation by the Federal Bureau of Investigation has disclosed the following facts, which I accept as true and correct, establishing that I, the defendant, **Derek Robert Hamm**, violated 18 U.S.C. § 1343, wire fraud; 18 U.S.C. § 498, use of a forged military discharge certificate; 18 U.S.C. § 704(b), fraudulently holding myself out to be a recipient of military medals or decorations; 18 U.S.C. § 1957, engaging in a monetary transaction with criminally derived property; and 18 U.S.C. § 922(g)(1), being a felon in possession of a firearm and ammunition:

1. I am the same person charged in the indictment in this case.
2. I reside in Flint, Texas.
3. I was the owner and operator of a Texas limited liability company called Hamm's Oilfield Goods and Services between 2011 and 2021.
4. I was the owner and operator of a Texas limited liability company called Continental Instruments between 2017 and 2021.

5. I acknowledge that Texas National Bank, JP Morgan Chase, Austin Bank, and Wells Fargo are all “financial institutions” as defined by Title 18, United States Code, Section 20.

6. I acknowledge that I made numerous false representations to business partners and potential clients to convince them to invest money with me or my companies, Hamm’s Oilfield Goods and Services and Continental Instruments.

7. I falsely told potential investors that I was related to Harold Hamm, a billionaire oilman in Oklahoma who is the Chairman and Founder of Continental Resources, Inc. In reality, I am not related to Mr. Harold Hamm.

8. I also presented myself as a decorated war hero. I claimed to have been a sergeant in the United States Army and a “special operator for the Army Special Forces.” I claimed that I spent ten years in the Army with the 1st Battalion, 5th Group, Delta Company, and had served multiple tours of duty in Iraq, Afghanistan, and in other Middle Eastern countries. I claimed to be a “master Airborne Soldier” with 258 combat jumps while serving in the Army. I also held myself out as having received the Distinguished Service Cross, the Silver Star Medal, the Bronze Star Medal, and the Purple Heart for my service. I also claimed that I attended the United States Military Academy at West Point and graduated in 2003.

9. In reality, I never received a Purple Heart, a Silver Star, a Bronze Star, or a Distinguished Service Cross. I was never promoted to Sergeant. I was never a member of the Army Special Forces. I never went to Airborne school. I never attended or graduated from West Point.

10. I admit that I submitted false information to the Department of Veterans Affairs (“VA”) in an effort to receive enhanced disability benefits, including benefits for post-traumatic stress disorder (“PTSD”).

11. When I submitted my first claim to the VA in 2016, I claimed that I witnessed a fellow soldier suffer an injury on September 1, 2002, near Baghdad, Iraq. In reality, I did not deploy to Iraq until February 2003. Although a soldier in my company was injured during a rocket attack, I was not present when he was injured. In that same claim for benefits, I claimed to have suffered a hand injury that required 97 stitches. In reality, I never suffered any severe hand injury or any similar injuries during my deployment to Iraq.

12. When I met with a doctor in Tyler, Texas in 2016 for my evaluation for PTSD, I told her that I had served in the special forces as a sniper and weapons specialist and that I had participated in 11 special operations missions. I also told the doctor that I had witnessed a fellow soldier get hit by a mortar shell and that his intestines spilled to the ground. I told the doctor that I personally helped that soldier pick up his intestines, and that I provided him medical care until he was Medevac’d out of the tent. All of these statements were false.

13. Based on these false statements, the VA assigned me a disability rating of 70% in 2017.

14. When the VA attempted to lower my disability rating from 70% to 50% in 2020, I submitted false statements to contest that changed rating. I told the VA that I was

not able to work due to physical and mental injuries even though I was physically and mentally capable of working.

Count One

15. From in or about May 2016, and continuing through in or about June 2018, the exact dates being unknown, in the Eastern District of Texas, and elsewhere, I convinced members of Company 1 to invest money with Hamm's Oilfield Goods and Services by means of materially false and fraudulent pretenses, representations, and promises.

16. In early 2016, I met with investors of Company 1, a limited liability company, concerning a potential investment. Company 1 consisted of members J.M. and B.M. located in Tyler, Texas; J.P. and E.P. located in Cornelius, North Carolina; and K.A.G, located in Mooresville, North Carolina. The company was formed to raise money for a trust for the minor daughter of J.M. and B.M. due to her diagnosis of a serious medical condition. Money earned by Company 1 would fund the lifetime medical care that the minor daughter would require.

17. I told members of Company 1 of an investment opportunity for Hamm's Oilfield Rentals, LLC to construct machines called "sand separators" for use in the oil industry. I told members of Company 1 that Hamm's Oilfield would build the machines for Company 1, work out rental contracts with oil companies such as Marathon Oil and Apache Oil, and Company 1 would then receive monthly rental income from the rental of the machines.

18. Based on my representations and our agreement, Company 1 wired \$200,000.00 from Texas National Bank to Hamm's Oilfield's JP Morgan Chase bank account on May 25, 2016.

19. Between May 2016 and June 2018, I would communicate with members of Company 1 by way of cell phone text messages. Some of the text messages went to members of Company 1 who resided in other states.

20. I stipulate and acknowledge that cell phone text messages I sent to members of Company 1 residing in other states constitute wire communications sent in interstate commerce.

21. On or about April 3, 2017, I sent a text message from Texas to Company 1's representative J.P. in North Carolina concerning the status of the manufacture of the sand separators that Company 1 had paid to be constructed. The text message falsely stated the status of the manufacture-of-sand-separator project.

22. I sent the April 3, 2017, text message and other text messages to members of Company 1 with a specific intent to defraud them.

23. Hamm's Oilfield Goods never built any new sand separators as contemplated by the agreement with Company 1.

24. Despite Company 1's demand for the return of its \$200,000 investment, I refused to return the money. I agree and stipulate that my conduct caused a substantial financial hardship to at least one victim.

Count Two

25. From in or about October 2020, and continuing through in or about September 2021, in the Eastern District of Texas, and elsewhere, I convinced J.O.1 and J.O.2 to invest money based on materially false and fraudulent pretenses, representations, and promises.

26. In October 2020, I presented false investment opportunities to J.O.1 and J.O.2. I told them that I owned thousands of oil wells and that my uncle was billionaire oilman Harold Hamm, owner of Continental Resources, Inc. These statements were false.

27. When I was selling the investment opportunity to J.O.1 and J.O.2, I told them that I was a decorated combat veteran and that I had received a Purple Heart, Silver Star, and Bronze Star for my service.

28. During a golf outing on October 22, 2020, I told J.O.1 about an investment opportunity for new oil leases in East Texas. I told J.O.1 that many oil lease owners were selling their interests in wells to avoid further losses. I told J.O.1 that I had recently purchased 700 East Texas wells and that I knew of two more oil leases, the Allison and Williams leases, that were going on sale that very day. In reality, I had already entered into a business relationship with the owners of the Allison and Williams leases for myself in July 2020.

29. I told J.O.1 that there were 23 wells between the two leases that would be available for purchase. I explained that the leases would require investments of \$800,00.00 from both myself and J.O.1, that the Williams lease would require additional

funds of \$225,000.00 each, and the Allison lease would require additional funds of \$350,000.00 to rework equipment and to redrill some of the already existing wells. I assured J.O.1 that following these initial investments and improvements, both the Allison and Williams leases would begin producing enough oil for them to make their money back by March 2021. In reality, there were 15 wells between the Allison and Williams leases, and I was already receiving production revenue from the actual lease operator.

30. I told J.O.1 that I would equally match his investments for the Allison and Williams leases, and we would be partners. Of the 100% purported interest in those leases, I would own 42.5%, J.O.1 would own 42.5%, and the mineral rights owner would retain 15%.

31. On October 23, 2020, I told J.O.1 that the required initial investment increased from \$800,000.00 to \$850,000.00. J.O.1 wired \$850,000.00 from Wells Fargo bank account ending in 5190 to Austin National Bank account ending in 8078, belonging to Continental Instruments, LLC. I did not possess \$850,000.00 of personal funds—nor did Continental—to match J.O.1's investment, and I never matched \$850,000.00 J.O.'s investment.

32. I stipulate and acknowledge that the wire transfer from J.O.1's Wells Fargo account to Continental's Austin bank account constitutes a wire communication sent in interstate commerce.

33. Over the next several months, I continued to obtain investments from J.O.1 for the Allison and Williams leases. Communicating largely through text messages, I would notify J.O.1 of varying amounts of lease-related expenses that had arisen. J.O.1

would respond by paying his 50% share of each expense by wiring money from his Wells Fargo bank account to Continental's account at Austin Bank. Between October 23, 2020 and May 17, 2021, J.O.1 wired me a total of \$1,457,500.00 from his Wells Fargo account to Continental's Austin Bank account. In total, between October 2020 and October 2021, I requested J.O.1 and J.O.2 to send me \$3,200,000.00.

34. In reality, J.O.1 and J.O.2 never received any ownership interest in the Allison or Williams leases. I never identified them in any paperwork submitted by me or on my behalf to the Texas Railroad Commission concerning production of the Allison and Williams leases. I also made repeated false statements to J.O.1 claiming that I had paid my half of the expense—contributing an equal amount as J.O.1 to the project. In reality, the expenses I paid for improving the leases were generally a mere fraction of what I told J.O.1.

35. I never paid any oil royalties to J.O.1 and J.O.2.

36. I caused the October 23, 2020 wire transfer from J.O.1's Wells Fargo account by means of false and fraudulent pretenses, with a specific intent to defraud J.O.1 and J.O.2. I agree and stipulate that my conduct caused a substantial financial hardship to at least one victim.

Count Fourteen

37. On or about May 7, 2020, I used and unlawfully exhibited a falsely altered certificate of discharge from the military of the United States, that is, a DD Form 214, that states in pertinent part that I had served in the 2nd Battalion of the 5th Special Forces

Group, that I had completed Airborne and Special Forces training schools, and that I had earned several military awards, including the Bronze Star Medal.

38. I presented the forged DD214 to the 114th District Court of Smith County, Texas at a sentencing hearing in Cause No. 114-1295-19, *State of Texas v. Derek Hamm*.

39. At the time I presented the DD214, I knew that it had been falsely altered to represent military service, achievements, and accomplishments that I had not actually performed or earned.

Count Sixteen

40. Beginning in May 2016 and continuing until approximately December 2021, I held myself out to be a recipient of the Distinguished Service Cross, the Silver Star Medal, and the Purple Heart.

41. I held myself out to be a recipient of these military medals or decorations with the intent to obtain money, property, and other tangible benefits.

42. All of the times I held myself out to be a recipient of these military medals and decorations, I knew that I was not an actual recipient of the Distinguished Service Cross, the Silver Star Medal, and the Purple Heart.

Count Seventeen

43. Beginning in October 2020, I knowingly laundered proceeds of a wire fraud scheme based in the Eastern District of Texas.

44. On or about October 26, 2020, I engaged in a monetary transaction by, through, and to a financial institution affecting interstate commerce, in criminally derived property of a value greater than \$10,000.00.

45. Specifically, I engaged in a monetary transaction involving the transfer of \$66,303.13 from Continental Instrument's checking account at Austin Bank to Susan Robinson Jewelry.

46. The funds transferred from Continental Instruments' checking account at Austin Bank to Susan Robinson Jewelry were derived from wire fraud in violation of 18 U.S.C. § 1343.

47. I knew the monetary transaction involved property criminally derived from wire fraud in violation of 18 U.S.C. § 1343.

48. The monetary transaction took place in the United States.

Count Thirty-Two

49. On or about December 15, 2021, in Flint, Smith County, in the Eastern District of Texas, I knowingly possessed firearms, including an SKS 7.62 x 39mm Rifle, Model Sporter, with One (1) Magazine, and ammunition, including 1,261 rounds of 7.62 X 39mm Russian Ammunition. In addition, I knowingly possessed all the firearms and ammunition listed in the Indictment. I agree and stipulate that I possessed at least 25 but not more than 99 firearms.

50. Pursuant to a lawfully obtained federal search warrant, law enforcement officers lawfully searched my home as 12291 Southhaven in Flint, Texas. Officers discovered and seized the above-referenced firearm and ammunition, along with all the other firearms and ammunition identified in the Indictment, stored at my home.

51. I admit and stipulate that, at the time I possessed the firearm and ammunition listed above, and all of the firearms and ammunition listed in the indictment,

I knew I was a convicted felon, having been previously convicted of an offense punishable by a term of imprisonment exceeding one year, specifically:

Theft of Property, a State Jail Felony, Cause No. 114-1295-19, 114th District Court of Smith County, Texas, on May 7, 2020.

52. I admit and stipulate that I knowingly possessed the firearms and ammunition as a convicted felon in or affecting interstate or foreign commerce. I admit that the United States could prove that the firearms and ammunition I possessed had been previously shipped or transported in interstate commerce. I admit and stipulate that, as part of this offense conduct, I possessed at least one semiautomatic firearm that is capable of accepting a large capacity magazine.

The Montana Scheme

53. From in or about May 2018, and continuing through in or about January 2020, in the Eastern District of Texas, and elsewhere, I convinced C.J. to invest money based on materially false and fraudulent pretenses, representations, and promises.

54. In May 2018, I presented false investment opportunities to C.J. I told him that I was a successful oilman and that my uncle was billionaire oilman Harold Hamm, Chairman of Continental Resources, Inc.

55. During my negotiations and business dealings with C.J. and his colleague, I told them that I was a decorated combat veteran and that I had received a Purple Heart for my service.

56. C.J. produced mud motors for use in the oil industry. I told C.J. that I had connections in the oil industry and had opportunities to ship his mud motors to oil

production sites in overseas locations such as Saudi Arabia. I represented to C.J. that I had arranged for a multi-million dollar contract with an oil producer to use mud motors that C.J. had produced.

57. Based on my representations and the agreement with C.J., C.J. wired a total of \$625,000 to Continental's JP Morgan Chase account in May and July 2018.

58. I stipulate and acknowledge that the wire transfer from C.J.'s Wells Fargo account to Continental's JP Morgan Chase bank account constitutes a wire communication sent in interstate commerce.

59. In reality, I had no contacts in Saudi Arabia and I never marketed the mud motors in Saudi Arabia or anywhere else. There was no contract with any oil company anywhere to purchase and use C.J.'s mud motors.

60. Despite C.J.'s demand for the return of his \$625,000 investment, I refused to return the money.

Summary

61. I am pleading guilty to Counts One, Two, Fourteen, Sixteen, Seventeen, and Thirty-Two in this case because I am guilty of the violations alleged. I have had an opportunity to consult with an attorney and I am satisfied with the advice and counsel provided to me. I acknowledge that these acts violated 18 U.S.C. § 1343; 18 U.S.C. § 498; 18 U.S.C. § 704(b); 18 U.S.C. § 1957; and 18 U.S.C. § 922(g)(1). I hereby stipulate that the facts described above are true and correct, and I accept them as the uncontested facts of this case.

62. I stipulate and agree to forfeit any and all interest I may have in the property listed in the forfeiture allegation in the Bill of Particulars (Dkt. No. 19) and in Paragraph 8 of the Plea Agreement to the United States because the property constitutes contraband, instrumentalities of my offenses, or proceeds traceable to the illegal activity described in the indictment or was used or intended for use to facilitate the offense described in the indictment.

Dated: 05/31/2022



DEREK ROBERT HAMM
Defendant

I have reviewed this Factual Basis with the defendant. Based on these discussions, I am satisfied that he understands the terms and effect of the Factual Basis and has signed it voluntarily.

Dated: 31/MAY/22



THAD DAVIDSON
Attorney for Defendant

