

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MISSOURI  
WESTERN DIVISION

UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, )  
 ) No. 10-00131-01-CR-W-FJG  
 v. )  
 )  
 DENNY RAY HARDIN, )  
 )  
 Defendant. )

MOTION FOR DETENTION

The United States of America, by and through its undersigned counsel, moves this Court, pursuant to 18 U.S.C. § 3142(f), to order the detention of defendant DENNY RAY HARDIN, on the ground that there is no condition or combination of conditions of release that will reasonably assure the defendant's appearance or the safety of the community. The United States provides the following in support of this motion:

1. On May 5, 2010, a grand jury in the Western District of Missouri returned a 21-count indictment against defendant DENNY RAY HARDIN alleging that HARDIN devised an expansive scheme to defraud based on his production and mailing of false and fraudulent financial instruments that he called "Bonded Promissory Notes." The indictment alleges 11 counts of creating fictitious financial obligations in violation of 18 U.S.C. § 514; four counts of mail fraud affecting a financial institution in violation of 18 U.S.C. § 1341; and six counts of mail fraud in violation of 18 U.S.C. § 1341.

2. At the time of his indictment, HARDIN was incarcerated by the State of Missouri relating to a 2006 felony conviction for Tampering with a Judicial Proceeding. That conviction

related to a statement HARDIN made regarding harming a State of Missouri judge and demolishing that judge's courtroom.

3. The offenses alleged in the current indictment were all committed while HARDIN was either on probation or in custody for the 2006 Tampering conviction. While conducting his fraud scheme, HARDIN received numerous letters from federal agencies stating that his activities were unlawful and was told directly by state and federal law enforcement that his activities were unlawful, but HARDIN continued his scheme unabated. When HARDIN was taken into custody for a probation violation in August 2009, he directed others to continue his scheme from prison.

4. HARDIN routinely failed to comply with the conditions of his State of Missouri probation. Beyond committing the offenses alleged in the present indictment while on probation, HARDIN also refused to submit to drug testing, marijuana and ammunition were found in HARDIN's home, and HARDIN represented himself to be an attorney for a another person in a criminal proceeding in Ray County, Missouri.

5. Beginning in or about February 2009 and continuing until the present, HARDIN has maintained a website to market his fraud scheme. That website contains statements purported to be by HARDIN that he will continue his fraud scheme upon release and that his ultimate goal is the overthrow of the United States government. Witness interviews indicate that persons all across the country became aware of HARDIN and corresponded with him because of his website.

6. If, following a hearing, "the judicial officer finds that no condition or combination of conditions will reasonably assure the appearance of the person as required and the safety of any other person and the community," then the judicial officer must order the defendant detained pending the trial. 18 U.S.C. § 3142(e). A finding that no condition or combination of conditions will

reasonably assure the safety of the community must be supported by clear and convincing evidence. 18 U.S.C. § 3142(f). A finding that no condition or combination of conditions will reasonably assure the defendant's appearance, however, must only be established by a preponderance of the evidence. *United States v. Orta*, 760 F.2d 887, 891 (8th Cir.1985).

7. Based on the factors set forth in 18 U.S.C. § 3142(g), the defendant DENNY RAY HARDIN is both a flight risk and danger to the community. The specific factors present in this case establishing these two grounds for detention are in substance the following.

8. The nature and circumstances of the offense alleged warrant detention. *See* 18 U.S.C. § 3142(g)(1). HARDIN committed the offense while on probation with the State of Missouri. HARDIN refused to comply with the terms of his probation and, even while in custody for probation violations and after numerous verbal and written admonishments by law enforcement, HARDIN continued his fraud scheme. HARDIN has given every indication he wishes to continue his scheme upon release.

9. The weight of the evidence is extremely strong that HARDIN committed the offenses alleged. *See* 18 U.S.C. § 3142(g)(2). The evidence includes statements made by HARDIN to law enforcement, statements made by victims and attempted victims of his fraud, documentary evidence obtained from the victims, documentary evidence obtained from search warrants executed for a notebook containing HARDIN's business records and for his home, electronic evidence obtained from search warrants executed on his computers and other digital media, and electronic evidence obtained from a search warrant executed on the hosting service for his website.

10. The history and characteristics of the defendant indicate that he is a threat to the community and risk of flight. *See* 18 U.S.C. § 3142(g)(3). HARDIN committed his fraud fully

aware that it is illegal and that his activities were under investigation by federal law enforcement. He has repeatedly shown no regard for the orders or requirements of courts or the legal system. He has indicated that he will continue to commit fraud and continue to violate the laws of the United States, and there are no conditions of release that will prevent him from harming the community. Further, HARDIN's fraud scheme spread coast to coast through his website, and he would have knowledge of sympathetic persons throughout the country, which creates a definite risk of flight.

11. The substantial extent of the defendant's fraud demonstrates the nature and seriousness of the danger to the community that would be posed by his release. *See* 18 U.S.C. § 3142(g)(4). Danger to the community is not limited to physical dangerousness or violence; economic dangerousness also must be considered. *United States v. Reynolds*, 956 F.2d 192 (9th Cir. 1992)(affirming district court's denial of bail pending appeal and holding that danger to the community can be based on a finding of economic or pecuniary harm). HARDIN claims to have issued over 2,000 Bonded Promissory notes worth over \$100,000,000. He has defrauded purchasers of his notes out of thousands of dollars for his worthless services, and constantly attempts to defraud creditors out of tens, if not hundreds, of thousands of dollars. The economic harm from his activities are not trivial. Further, as his 2006 conviction for Tampering demonstrates, HARDIN has made violent threats in the past, and his release would create the risk of similar threats in the future.

12. Based on the foregoing, there is clear and convincing evidence that there are no conditions that the Court could place on the defendant's release that would reasonably assure the defendant's appearance in Court or the safety of the community.

WHEREFORE, based on the foregoing, the United States requests that the Court hold a Detention Hearing in accordance with 18 U.S.C. § 3142(f), and following such hearing, order the detention of the defendant.

Respectfully submitted,

Beth Phillips  
United States Attorney

*/s/ Brian P. Casey*

Brian P. Casey  
Assistant United States Attorney

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing was delivered on May 10, 2010, to the CM-ECF system of the United States District Court for the Western District of Missouri, and a copy of the foregoing will be hand-delivered to the defendant at his first appearance before a judicial officer.

*/s/ Brian P. Casey*

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Brian P. Casey