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8 IN THE UNITED STATES DISTRICT COURT  
9 EASTERN DISTRICT OF CALIFORNIA

11 UNITED STATES OF AMERICA,  
12 Plaintiff,  
13 v.  
14 MATTHEW M. PIERCEY,  
15 Defendant.

CASE NO. 2:20-CR-00211-TLN  
GOVT.'S DETENTION MEMORANDUM  
  
DATE: November 17, 2020  
TIME: 2:00 p.m.  
COURT: Hon. Carolyn K. Delaney

17 I. INTRODUCTION

18 Matthew Piercey has been charged with witness tampering, wire fraud, mail fraud, and  
19 concealment money laundering in connection with a \$35 million investment fraud scheme that ran from  
20 2015 through 2020. Piercey should be detained pending trial based on his demonstrated flight risk and  
21 the serious risk that he will attempt to obstruct justice. As described below, he already attempted to flee  
22 from arresting agents this morning and was only arrested after a highway chase and approximately 25  
23 minutes spent in Lake Shasta with an underwater submersible device. Furthermore, he has engaged in a  
24 pattern of attempting to tamper with witnesses. There are no conditions, or combination of conditions,  
25 of release that can assure Piercey's appearance and eliminate the serious risk that Piercey will obstruct  
26 or attempt to obstruct justice.

27 From at least 2016 to 2020, Piercey's primary if not sole occupation has been running the Family  
28 Wealth Legacy and Zolla investment companies. Piercey often paid off his lines of credit, credit cards,

1 and personal and business expenses with investor funds, and his companies did not generate revenue  
2 sufficient to cover overhead and expenses while still paying investors the returns they were promised or  
3 otherwise led to expect. Piercey entered a pattern of paying old investors lulling payments with new  
4 investor funds, while making various false and misleading statements, half-truths, and omissions to raise  
5 new money and to hide the constant downward financial spiral.

6 **II. FACTS SUPPORTING DETENTION**

7 **A. Piercey already fled from arresting agents, has access to cash and a history of**  
8 **placing large amounts of money in others' names, and has significant family ties in**  
9 **Illinois.**

10 When FBI agents attempted to arrest Piercey in Redding this morning, he fled by car. First, he  
11 led law enforcement on a vehicle chase that went off-road twice in residential neighborhoods including  
12 next to an apartment complex, and then later onto Interstate 5 northbound. Law enforcement tracked  
13 Piercey's vehicle from the air during the chase. Then, Piercey abandoned his truck near the edge of  
14 Lake Shasta, pulled something out of it, and swam into Lake Shasta. Piercey spent some time out of  
15 sight underwater where law enforcement could only see bubbles. He remained in the frigid water for  
16 approximately 25 minutes. When Piercey finally emerged from the lake, law enforcement discovered  
17 that he had a Yamaha 350LI underwater submersible device:



1 Law enforcement arrested Piercey at that point, approximately an hour after their initial contact in  
2 Redding. Law enforcement arranged for an ambulance so that medical personnel could evaluate him  
3 after his time in the lake. Both medical personnel and Piercey himself informed law enforcement that he  
4 was fine. Law enforcement also obtained dry clothes from Piercey's wife, and took those clothes to  
5 Piercey before departing with him for Sacramento. We continue to learn the details of Piercey's  
6 activities while fleeing from law enforcement this morning, and we may be prepared to proffer  
7 additional details at the hearing.

8 Although Piercey did stay in the Eastern District of California since learning about this  
9 investigation and even after his house and person were searched pursuant to warrants, circumstances  
10 have changed, as demonstrated by his behavior when law enforcement attempted to arrest him this  
11 morning. Piercey now stands charged with 31 felony counts for a fraud scheme with a loss amount of  
12 approximately \$35 million. With a base offense level of 7, a 22-level increase for that loss, and the  
13 enhancements like applicable to Piercey in this case, the government preliminarily calculates his total  
14 offense level as 47 before acceptance.<sup>1</sup> The low end of the advisory Sentencing Guidelines range at  
15 offense level 47 is life. USSG Ch. 5, Part A.

16 Before, as he remained here into 2019 and 2020, Piercey was continuing to lull investors and  
17 continuing to raise at least some money that covered lulling payments and other personal and business  
18 expenses. However, evidence tends to indicate that ability to raise additional new funds may be drying  
19 up. For example, in August 2020, Piercey tried to get the small remainder of one investment wired to a  
20 Family Wealth Legacy bank account he still controlled. In his email requesting this wire, Piercey wrote,  
21 "I have some emergency expenses and could be in a very dangerous position for myself and my family  
22 if I am unable to rapidly meet these obligations in the next week or two." In addition, Piercey is not  
23 likely to remain in town in the hope of being successful with raising further investor money after the  
24 public filing of the indictment against him.

25 In 2018 Piercey learned of the government's investigation from investors contacted by the FBI.

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26  
27 <sup>1</sup> See USSG §§ 2X1.1, 2B1.1(a)(1), 2B1.1(l), 2B1.1(b)(2)(B)(substantial financial hardship to  
28 five or more victims); 2B1.1(b)(10)(C)(sophisticated means); 2B1.1(b)(17)(A) (over \$1 million in gross  
receipts from financial institutions); 2B1.1(b)(20)(A)(enhancement for violation of securities law);  
3B1.1(a) (leadership); 3C1.1 (obstruction of justice).

1 Part of his response was to find a bank account in someone else's name where he could funnel investor  
2 funds. In 2019 Piercey convinced an acquaintance to let him start using Company 3's bank account to  
3 receive and disburse investor funds using false pretenses. Company 3 was not a financial services  
4 company and Piercey's name was not on its bank account. In 2019 and 2020, Piercey caused  
5 approximately \$2 million in investor funds to go into Company 3's bank account, and subsequently  
6 caused the substantial majority of those funds to be dissipated rapidly, including through lulling  
7 payments to prior investors, payments on his lines of credit and credit cards, two \$50,000 cash  
8 withdrawals, and a \$200,000 payment to the firm of Piercey's prior lawyer.

9 Prior to coming to California in 2016, Piercey lived in Illinois, and he still has close family there.  
10 At the end of July 2020, police in Urbana, Illinois made contact with Piercey in a hospital after he had  
11 put his arms through the windshield of a passing car. Piercey told police that the people in the car had  
12 stolen approximately \$100,000 cash from Piercey's vehicle. Piercey told police he had the \$100,000  
13 cash because he was looking for real estate. Piercey further stated that the money was entrusted to him,  
14 that he had a company, and that an accountant tells him if the money is all his or is owned by others.

15 **B. In 2020 Piercey has engaged in misleading and obstructive conduct toward multiple**  
16 **potential witnesses.**

17 In March 2020, Piercey learned that grand jury subpoenas had been issued to multiple investors  
18 and engaged in a series of misleading actions that ultimately included the three attempted witness  
19 tampering counts in the indictment. ECF 1, Counts 27-29. For example, despite having just committed  
20 years of Ponzi scheme fraud and more recently using Company 3's account in furtherance of it, Piercey  
21 sent emails to investors suggesting the subpoenas were instead due to his outreach to the President with  
22 a bold proposal to rescue the country's banking system. One such March 20, 2020 email from Piercey  
23 to Investor 9 read:

24 Back in January, I compiled some unique-perspective research about bank  
25 safety. The Federal Reserve Board asked the question, "What would  
26 happen to banks if there was a Global Shock event?" ... The unfortunate  
27 reality of the recent Global Financial Shock has poured rocket fuel on the  
28 urgency of this critical situation. *The only way out is for Banks to open  
Zolla accounts and stop the bleeding.* I have already sent this letter to  
President Trump, and I would encourage you to send this to President  
Trump as well here: [whitehouse.gov/contact](https://whitehouse.gov/contact) [feel free to copy/paste or  
drop it in the mail]. In light of our emboldened focus to rescue the banking

1 system, be advised I anticipate potential new levels of regulatory scrutiny.  
2 If you have any connections or contact with government workers please  
let me know.

3 Four days later on March 24, 2020, Piercey sent the following in emails to Investors 7 and 8, tending to  
4 confirm that he wanted investors to believe the grand jury subpoenas were due to his supposed efforts to  
5 rescue the nation's banking system:

6 As you may recall, my firm has been a vocal proponent of an executive  
7 order from the Office of President Donald Trump that would compel the  
8 Big Banks to open institutional accounts that offer greater yield and  
9 liquidity. We take the strong and unapologetic stance that the  
COVID-19 related Bank losses can be corrected and remedied by this  
commonsense approach, which will provide greater liquidity and yield  
than what the Banks are currently doing.

10 One of the reasons you received a subpoena [sic] might be because of our  
11 firm's bold position and philosophy. ... We do not know why the  
government chose the timing of this COVID-19 pandemic to add this  
12 stress of the subpoena to your life ...

13 As time went on in late March and April 2020, Piercey committed attempted witness tampering  
14 as described Counts 27-29 of the Indictment:

Count	Piercey's Conduct
27	Seeking to dissuade Individuals 2 and 3 from responding to a grand jury subpoena to Company 3, and making misleading statements regarding the grand jury subpoena.
28	Seeking to dissuade Investor 14 from responding to a grand jury subpoena and making misleading statements about who would handle responding to the subpoena.
29	Stating that Investor 7 had the option to disregard a grand jury subpoena, and claiming that Investor 7 would be in breach of his arrangement with Family Wealth Legacy to provide materials.

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22 As a result of Piercey's attempted witness tampering, Individuals 2 and 3 did not produce documents  
23 until over a month after the date on their subpoena related to Company 3, and Investor 14 did not  
24 produce documents until over two months after date on his subpoena. Among other things, while  
25 Piercey was attempting to tamper with Individuals 2 and 3, he was getting the last of the nearly  
26 \$775,000 from victim Investors 12 and 13 into Company 3's bank account and causing it to be spent in  
27 ways contrary to what Piercey had represented. It was near the end of this sequence in April 2020 that  
28 Piercey directed Individual 2 to place \$50,000 in cash withdrawn from Company 3's account at a

1 specified dead drop in the Redding area.

2 In June 2020, Piercey also tried to discourage Investor 3 from contacting authorities when  
3 Piercey put off her request to liquidate investments. During a lengthy text exchange in which Piercey  
4 said it would be “a month or 2” before Investor 3 could supposedly get her funds, Investor 3 said she  
5 would contact authorities and Piercey responded as shown in the second text below:

6 Completely unacceptable.  
7 I will be contacting  
8 [REDACTED] along with the  
9 authorities tomorrow. The  
10 lack of transparency,  
11 contact information and  
12 outrageous liquidation  
13 time has led me to the  
14 conclusion that I have  
15 been scammed.

16  
17 you do not want to do that,  
18 when good people are  
19 trying to help you in good  
20 faith to the best of their  
21 ability

22  
23 The text exchange occurred in June 2020, after Piercey started claiming he had stepped back from his  
24 responsibilities at Family Wealth Legacy in favor of a new manager. This tends to show that regardless  
25 of what he claims is his role at the company now, Piercey remains committed to using his contacts with  
26 potential witnesses to attempt to obstruct justice.

1 **III. PIERCEY SHOULD BE DETAINED**

2 **A. Legal Standard**

3 Bail hearings generally proceed by proffer and the rules of evidence do not apply. 18 U.S.C. §  
4 3142(f). The defendant has the right to call witnesses and to cross-examine government witnesses, if the  
5 government elects to call any. 18 U.S.C. § 3142(f).

6 The court must order a defendant detained if the court finds that conditions cannot be imposed  
7 that will assure the defendant's appearance, or there is a serious risk that defendant will obstruct or  
8 attempt to obstruct justice. 18 U.S.C. § 3142(e) and (f)(2)(B). The burden with respect to the flight risk  
9 prong is preponderance of the evidence. *United States v. Aitken*, 898 F.2d 104, 107 (9th Cir. 1990).  
10 With respect to danger, the government bears the burden by clear and convincing evidence. 18 U.S.C.  
11 § 3142(f); *United States v. Motamedi*, 767 F.2d 1403 (9th Cir. 1995). The government's burden with  
12 respect to the risk that a defendant will obstruct or attempt to obstruct justice appears unclear, but at  
13 least two courts seem to have treated it implicitly as subject to the same clear and convincing standard  
14 applicable to danger. *See United States v. Manafort*, 897 F.3d 340, 344 and n.1 (D.C. Cir. 2018); *United*  
15 *States v. Petersen*, 557 F. Supp. 2d 1124, 1133 (E.D. Cal. 2008).

16 **B. The Factors in 18 U.S.C. 3142(g) Support Detention**

17 The Bail Reform Act sets out several factors the Court should consider in reaching its decision  
18 regarding detention and release: (1) the nature and circumstances of the offense charged, including  
19 whether it is a crime of violence or drug offense; (2) the weight of the evidence against the defendant;  
20 (3) the history and characteristics of the defendant, including ties to the community, past conduct, and  
21 employment history; and (4) the nature and seriousness of the danger to any person or the community  
22 that would be posed by the person's release. 18 U.S.C. § 3142(g).

23 First, the offenses charged in this case are serious and long running, and have decimated the  
24 retirement accounts of numerous victims who put their trust in Piercey. Piercey's attempted witness  
25 tampering is insidious given his long-running knowledge of the investigation and his continuation of the  
26 scheme through adapted means. Second, the evidence in this case is strong. Investor interviews,  
27 documents, and bank records show the falsity of the representations Piercey made throughout the  
28 investment life cycles at Family Wealth Legacy and Zolla, and show the fraud became even more brazen

1 when Piercey started using Company 3's account in 2019 and 2020. Third, Piercey's attempt to flee  
2 from arresting agents this morning is a clear demonstration of the serious flight risk that he poses.  
3 Compounding that flight risk, the FBI's investigation tends to indicate that Piercey has had no other  
4 meaningful employment over the last 4-5 years other than running investment fraud Ponzi schemes, that  
5 he has potential access to large amounts of cash, and that he has significant family ties in Illinois.  
6 Fourth and finally, there is a significant risk that Piercey will continue to obstruct justice or attempt to  
7 obstruct justice if he is released.

8 **IV. CONCLUSION**

9 For the foregoing reasons, the government respectfully requests that the defendant be detained as  
10 a flight risk and because he presents a serious risk of obstructing justice or attempting to obstruct justice.  
11

12 Dated: November 16, 2020

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