

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA, CRIMINAL NO. 03-80660

Plaintiff, FILED: 3/11/04

v. HONORABLE: NANCY G. EDMUNDS

D-4 BOBBY KEITH MOSER,

Defendant.

/

VIOLATIONS: 18 U.S.C. § 371
18 U.S.C. § 1341
18 U.S.C. § 1343
18 U.S.C. § 1956(h)
18 U.S.C. § 1503
18 U.S.C. § 1623
OFFENSES: Conspiracy to Commit Wire
Fraud & Mail Fraud
Mail Fraud
Wire Fraud
Conspiracy to Commit
Money Laundering
Obstruction of Justice
False Declaration Before a
Grand Jury

SUPERSEDING INDICTMENT

The Grand Jury charges:

GENERAL ALLEGATIONS

1. During the period covered by this Indictment, BOBBY KEITH MOSER, the defendant, was an attorney licensed to practice in Arkansas and at all times relevant, lived in Little Rock, Arkansas.
2. An audio-visual company located in Troy, Michigan was in the business of buying licensing rights from television and movie programmers and

packaging these properties for retail sale as videotapes and DVDs.

3. From at least as early as January 2000 through November 12, 2001, the president of the audio-visual company (“company executive”) maintained residences in both Little Rock, Arkansas and in Royal Oak, Michigan, which is located within the Eastern District of Michigan.

COUNT ONE—CONSPIRACY TO COMMIT WIRE FRAUD & MAIL FRAUD
(18 U.S.C. § 371)

I
DEFENDANT AND CO-CONSPIRATORS

4. BOBBY KEITH MOSER is hereby made a defendant on this charge.
5. Various individuals and corporations not made defendants in this Indictment, participated as co-conspirators in the offense charged and performed acts and made statements in furtherance thereof.

II
DESCRIPTION OF THE OFFENSE

6. From at least as early as May 8, 2000 until at least November 12, 2001, the exact dates being unknown to the grand jury, within the Eastern District of Michigan, and elsewhere, the defendant and his co-conspirators, both known and unknown to the grand jury, did unlawfully, willfully, and knowingly combine, conspire, confederate, and agree together and with each other to commit offenses against the United States of America, to wit, to violate Title 18, United States Code, Sections 1341 and 1346, and Title 18, United States

Code, Sections 1343 and 1346, all in violation of Title 18 United States Code Section 371.

7. It was a part and an object of the conspiracy that the defendant and others, having willfully devised a scheme to defraud which deprived the audio-visual company of its intangible right to the honest services of the company executive and permitted the company executive to obtain money by means of false and fraudulent pretenses, for the purpose of executing such scheme and artifice, caused to be delivered by private and commercial interstate carriers as well as by the United States Postal Service (USPS), letters, documents or other mail matter according to the direction thereon to the persons to whom they were addressed, in violation of Title 18, United States Code, Sections 1341 and 1346.
8. It was a part and an object of the conspiracy that the defendant and others, having willfully devised a scheme to defraud which deprived the audio-visual company of its intangible right to the honest services of the company executive and permitted the company executive to obtain money by means of false and fraudulent pretenses, for the purpose of executing such scheme and artifice transmitted or caused to be transmitted by means of wire communications in interstate commerce, certain writings, signs, signals or sounds, in violation of Title 18 United States Code, Sections 1343 and 1346.

III
THE MANNER AND MEANS BY WHICH
THE CONSPIRACY WAS CARRIED OUT

9. The manner and means by which the conspiracy was sought to be accomplished included, among others, the following:
 - A. During meetings and telephone calls, soliciting money, commonly referred to as “kickbacks,” from vendors seeking multi-year, multi-million dollar contracts with the audio-visual company in exchange for the company executive’s favorable support in obtaining and retaining contracts with the audio-visual company;
 - B. Obtaining money, commonly referred to as “kickbacks,” from vendors seeking multi-year, multi-million dollar contracts with the audio-visual company in exchange for the company executive’s favorable support in obtaining and retaining contracts with the audio-visual company;
 - C. Retaining the money, commonly referred to as kickbacks, for the beneficial use of the conspirators;
 - D. Meeting the vendors out of the presence of other employees of the audio-visual company;
 - E. Placing telephone calls, including interstate telephone calls, to vendors to discuss the payment of kickbacks;
 - F. Meeting with conspirators to discuss and advance the scheme;

- G. Meeting with conspirators to discuss how to avoid detection;
- H. Placing telephone calls among conspirators to discuss and advance the scheme;
- I. Sending and receiving letters, documents and other mail matter via interstate mail carriers and the USPS pertaining to the scheme to defraud; and
- J. Traveling across state lines to discuss the payment of kickbacks with vendors.

IV
OVERT ACTS

- 10. In furtherance of the conspiracy and to effectuate the illegal objects thereof, the defendant and others committed the following overt acts, among others, in the Eastern District of Michigan and elsewhere.
- 11. On or about May 8, 2000, the company executive met the president of a Michigan company (“Vendor One”) that was seeking a long-term contract with the audio-visual company.
- 12. During dinner, the company executive solicited money from Vendor One in exchange for the executive’s support of Vendor One’s business relationship with the audio-visual company.
- 13. Over the next few weeks, the company executive and Vendor One’s president participated in a series of discussions, both in person and over the telephone,

in which they negotiated the terms under which Vendor One would pay kickbacks to the company executive.

14. As a result of these discussions, Vendor One agreed to pay the company executive \$712,000.
15. On or about May 23, 2000, the company executive caused Vendor One in Michigan to issue a check for \$140,000 as its first payment.
16. Beginning in June 2000, Vendor One paid the company executive \$18,000 each month.
17. In December 2000, Vendor One and the company executive agreed to spread a \$140,000 balloon payment due in late December 2000 or early January 2001 out over the next 12 months, resulting in Vendor One paying \$29,667 each month from January 2001 until the end of the conspiracy.
18. On or about June 4, 2001, the company executive met for dinner in the Los Angeles, California area with the president of a California company (“Vendor Two”), which was seeking a multi-year, multi-million dollar contract with the audio-visual company. During dinner, the company executive solicited \$1 million from Vendor Two in exchange for the executive’s favorable support in Vendors Two’s contract negotiations with the audio-visual company.
19. After the meeting, the company executive met with another conspirator and told him that he believed that Vendor Two would pay him \$1 million.

20. On or about July 5, 2001, the company executive placed an interstate telephone call from Michigan to California to Vendor Two to discuss further the \$1 million kickback.
21. On or about July 9, 2001, the defendant met with his co-conspirators at the offices of the defendant in Little Rock, Arkansas. During the meeting, the conspirators discussed and advanced the scheme to defraud.
22. On or about July 12, 2001, the defendant forwarded from his office in Little Rock, Arkansas, to the attorneys for Vendor Two in California, via facsimile and via Federal Express, documents detailing a proposed plan for the payment of the kickbacks, including a fraudulently signed "consulting" agreement.
23. On or about July 13, 2001, Vendor Two rejected the solicitation for the \$1 million kickback payment and informed the conspirators that conditioning the award of the multi-year, multi-million dollar contract award on the \$1 million kickback payment was illegal.
24. After being rejected by Vendor Two, the conspirators met to discuss rejection. During the meeting, the defendant instructed the other conspirators to lie low to avoid detection.
25. On or about September 17, 2001, the company executive met the president of a Michigan company ("Vendor Three"), which also was seeking a multi-year,

multi-million dollar contract with the audio-visual company, for dinner.

During dinner, the company executive solicited Vendor Three for a \$2 million kickback payment in exchange for the executive's favorable support in Vendors Three's contract negotiations with the audio-visual company.

26. Soon thereafter, on or about September 18, 2001, the president of Vendor Three called the company executive to confirm that the company executive was conditioning his support of Vendor Three on the \$2 million payment.
27. On or about September 28, 2001, the company executive and other co-conspirators met at the offices of the defendant in Little Rock, Arkansas to discuss and advance the scheme to defraud.
28. On or about October 5, 2001, the defendant placed a telephone call from Little Rock to Vendor Three in Michigan to arrange a meeting in Michigan to discuss the payment of a kickback.
29. On or about October 9, 2001, the defendant traveled from Arkansas to Michigan to meet with Vendor Three in furtherance of the scheme to defraud.
30. On or about October 9, 2001, the defendant met the president of Vendor Three for dinner to discuss the payment of a kickback. During the conversation, the defendant guaranteed Vendor Three's president that no one would go to jail if everyone kept their mouth shut.
31. On or about November 8, 2001, the defendant caused to be delivered to

Vendor Three in Michigan, via a Federal Express shipment from Arkansas, a letter outlining how the payments were to be made.

32. On or about November 9, 2001, the defendant in Arkansas had a telephone conversation with Vendor Three in Michigan, discussing the proposed \$2 million kickback.

V
JURISDICTION

33. The combination and conspiracy charged in this Count was carried out, in part, within the Eastern District of Michigan within the five years preceding the return of this Indictment.

ALL IN VIOLATION OF TITLE 18, UNITED STATES CODE, SECTION 371

COUNT TWO—MAIL FRAUD
(18 U.S.C. §§ 1341, 1346)

34. BOBBY KEITH MOSER is hereby made a defendant on this charge.
35. The General Allegations and paragraph 25 of this Indictment are repeated, realleged, and incorporated in Count Two with the same force and effect as if fully set forth in this Count.
36. Beginning on or about May 8, 2000, and continuing at least until November 12, 2001, the exact dates being unknown to the Grand Jury, the company executive willfully devised, along with the defendant and others, a scheme to defraud which deprived the audio-visual company of its intangible right to

the honest services of the company executive and permitted him to obtain or seek to obtain money by means of false or fraudulent pretenses, in violation of Title 18, United States Code, Sections 1341 and 1346.

37. It was a part of the scheme to defraud that the company executive solicited and received monies from vendors that were seeking to obtain multi-year, multi-million dollar contracts from the audio-visual company in exchange for the executive's support in obtaining the contracts. Through the scheme, the executive obtained or sought to obtain more than \$3.5 million in monies, commonly referred to as kickbacks.
38. For the purposes of executing the scheme to defraud and attempting to do so, on or about November 8, 2001, the defendant knowingly caused to be delivered a matter by a private or commercial interstate carrier according to the direction thereon, specifically, the defendant caused to be delivered a letter and its attachment to Vendor Three via Federal Express from Arkansas to Michigan.
39. The scheme to defraud charged in this Count was carried out, in part, within the Eastern District of Michigan within the five years preceding the return of this Indictment.

ALL IN VIOLATION OF TITLE 18, UNITED STATES CODE,
SECTIONS 1341 and 1346

COUNT THREE-WIRE FRAUD

(18 U.S.C. §§ 1343, 1346)

40. BOBBY KEITH MOSER is hereby made a defendant on this charge.
41. The General Allegations and paragraph 25 of this Indictment are repeated, realleged, and incorporated in this Count Three with the same force and effect as if fully set forth in this Count.
42. Beginning on or about May 8, 2000, and continuing at least until November 12, 2001, the exact dates being unknown to the Grand Jury, the company executive willfully devised, along with the defendant and others, a scheme to defraud which deprived the audio-visual company of its intangible right to the honest services of the company executive and permitted him to obtain or seek to obtain money by means of false or fraudulent pretenses, in violation of Title 18, United States Code, Sections 1343 and 1346.
43. It was a part of the scheme to defraud that the company executive solicited and received monies from vendors that were seeking to obtain multi-year, multi-million dollar contracts from the audio-visual company in exchange for the executive's support in obtaining the contracts. Through the scheme, the executive obtained or sought to obtain more than \$3.5 million in monies, commonly referred to as kickbacks.
44. For the purposes of executing the scheme to defraud, on or about October 5, 2001, the defendant knowingly transmitted or caused to be transmitted by

means of wire in interstate commerce, certain signs, signals or sounds, specifically, the defendant, who was in Arkansas, participated in a telephone conversation with Vendor Three, who was in Michigan, in which the defendant arranged to meet with Vendor Three to discuss the payment of a kickback.

45. The scheme to defraud charged in this Count was carried out, in part, within the Eastern District of Michigan within the five years preceding the return of this Indictment.

ALL IN VIOLATION OF TITLE 18, UNITED STATES CODE,
SECTIONS 1343 and 1346

COUNT FOUR-WIRE FRAUD
(18 U.S.C. §§ 1343, 1346)

46. BOBBY KEITH MOSER is made a defendant on this charge.
47. The General Allegations and paragraphs 25, 42 and 43 of this Indictment are repeated, realleged, and incorporated in this Count Four with the same force and effect as if fully set forth in this Count.
48. For the purposes of executing the scheme to defraud, on or about November 9, 2001, the defendant knowingly transmitted or caused to be transmitted by means of wire in interstate commerce, certain signs, signals or sounds, specifically, the defendant participated in a telephone conversation from Arkansas with Vendor Three in Michigan, in which they discussed the

payment of a kickback.

49. The scheme to defraud charged in this Count was carried out, in part, within the Eastern District of Michigan within the five years preceding the return of this Indictment.

ALL IN VIOLATION OF TITLE 18, UNITED STATES CODE,
SECTIONS 1343 and 1346

COUNT FIVE-CONSPIRACY TO COMMIT MONEY LAUNDERING
(18 U.S.C. § 1956(h))

50. The General Allegations of this Indictment are repeated, realleged, and incorporated in this Count Five with the same force and effect as if fully set forth in this Count.

I
DEFENDANT AND CO-CONSPIRATORS

51. BOBBY KEITH MOSER is hereby made a defendant on this charge.
52. Various individuals and corporations, not made defendants in this Indictment, participated as co-conspirators in the offense charged and performed acts and made statements in furtherance thereof.

II
DESCRIPTION OF THE OFFENSE

53. From at least as early as May 2000 and continuing through until at least November 12, 2001, the exact dates being unknown to the grand jury, within the Eastern District of Michigan, and elsewhere, the defendant and other

unnamed co-conspirators did knowingly combine, conspire, confederate and agree together and with each other to commit certain offenses under Title 18, United States Code, Section 1956, as follows: to conduct and attempt to conduct such financial transactions affecting interstate commerce, which such transactions involved the proceeds and the anticipated proceeds of specified unlawful activities, namely, a scheme to commit mail fraud (18 U.S.C. § 1341) and a scheme to commit wire fraud (18 U.S.C. § 1343) more fully described in paragraphs 54-64 below, knowing that the transactions were designed in whole or in part to conceal and disguise the nature, source, ownership, and control of the proceeds of the specified unlawful activities and that while conducting and attempting to conduct such financial transactions knew that the property involved in the financial transactions represented the proceeds and anticipated proceeds of some form of unlawful activity, in violation of 18 U.S.C. § 1956(a)(1)(B)(i).

III THE SCHEME TO DEFRAUD

54. At least as early as May 8, 2000, the company executive and others willfully devised a scheme to defraud by obtaining or soliciting to obtain kickbacks from vendors seeking to obtain contracts from the audio-visual company. The company executive conditioned his favorable support in the contract negotiations and the execution of any contract awarded on the payment of a

kickback. The company executive demanded the vendors pay him without any authorization from his superiors. In doing so, he sought to obtain money through false or fraudulent pretenses.

55. Beginning in May 2000, the company executive solicited and obtained a kickback from Vendor One, located in Michigan, seeking to do business with the audio-visual company in exchange for the company executive's continued support during the contract negotiations with the audio-visual company and in fulfilling the contract after its award.
56. Vendor One agreed to pay the company executive the kickback and made payments in excess of \$592,000 prior to the termination of the scheme to defraud.
57. At least as early as June 4, 2001, the company executive solicited Vendor Two for a kickback. Vendor Two was seeking to obtain a multi-year, multi-million dollar contract with the audio-visual company. The company executive conditioned his favorable support in the contract negotiations on the payment of a \$1 million kickback.
58. On or about July 5, 2001, the company executive placed an interstate telephone call from Michigan to California to Vendor Two to discuss the kickback. This was one of a series of interstate telephone calls placed by the company executive to Vendor Two in furtherance of the scheme to defraud.

59. On or about July 9, 2001, the defendant and the conspirators discussed in Little Rock, Arkansas the scheme to defraud.
60. On or about July 13, 2001, Vendor Two rejected the solicitation for the \$1 million kickback payments and informed the conspirators that conditioning the award of the multi-year, multi-million dollar contract award on the \$1 million kickback payment was illegal.
61. The company executive solicited Vendor Three, located in Michigan, in September 2001, for a \$2 million kickback in exchange for the company executive's favorable support in ongoing contract negotiations between Vendor Three and the audio-visual company for a multi-year, multi-million dollar contract.
62. On or about October 9, 2001, the defendant flew from Arkansas to Michigan to meet with Vendor Three in furtherance of the scheme to defraud. During the meeting, the defendant explained that if Vendor Three paid the \$2 million kickback, Vendor Three would receive the multi-year, multi-million dollar contract from the audio-visual company and conversely Vendor Three understood that if it did not pay, it would not obtain the contract.

63. On or about November 8, 2001, the defendant caused to be delivered a letter and its attachment to Vendor Three via Federal Express from Arkansas to Michigan.
64. Vendor Three refused to pay the \$2 million kickback and reported the illegal conduct to the audio-visual company in early November 2001, which led to the termination of the company executive and the end of the scheme to defraud.

IV MANNER AND MEANS OF THE CONSPIRACY

65. The manner and means by which the conspiracy was sought to be accomplished included, among others, the following:
 - A. Having monies paid or seeking to have monies paid to corporations rather than to the company executive in order to conceal and disguise the nature, source, ownership, and control of the proceeds of the specified unlawful activity;
 - B. Using phony consulting contracts to conceal and disguise the nature, source, ownership, and control of the proceeds of the specified unlawful activity;
 - C. Meeting to discuss who would be solicited for kickbacks, and to discuss strategies to conceal and disguise the source, ownership, and control of the proceeds of the specified unlawful activity;
 - D. Discussing over the telephone the progress of the kickback solicitations;

- E. Purposely misidentifying the presidents of corporations purportedly doing consulting work in order to conceal and disguise the ownership and control of the proceeds of the specified unlawful activity;
- F. Establishing multiple financial accounts to receive and distribute the kickback monies received or expected to be received in order to conceal and disguise the nature, source, ownership, and control of the proceeds of the specified unlawful activity;
- G. Establishing phony financial relationships between the company executive and other conspirators to conceal and disguise the distribution of the proceeds of the specified unlawful activity, further concealing the nature, source, ownership, and control of the proceeds.

V
JURISDICTION

- 66. The combination and conspiracy charged in this Count was carried out, in part, within the Eastern District of Michigan within the five years preceding the return of this Indictment.

ALL IN VIOLATION OF TITLE 18, UNITED STATES CODE, SECTION 1956(h)

COUNT SIX– OBSTRUCTION OF JUSTICE
(18 U.S.C. § 1503)

- 67. BOBBY KEITH MOSER is hereby made a defendant on this charge.
- 68. Beginning in May 2002 and continuing through at least until December 18,

2002, the defendant did corruptly influence, obstruct and impede or endeavor to influence, obstruct and impede the due administration of justice by, among other things, manufacturing or altering or directing the manufacturing or altering of documents produced in response to a federal grand jury subpoena issued from a grand jury sitting in the Eastern District of Michigan, in violation of Title 18, United States Code, Section 1503.

69. During its investigation, a grand jury sitting in the Eastern District of Michigan that was investigating alleged criminal conduct, including the conduct charged in Counts One through Five above, issued a subpoena duces tecum to a particular company, hereinafter referred to as Company A.
70. The defendant identified himself as the document custodian for Company A and produced documents called for by the subpoena on behalf of Company A.
71. Pursuant to the instructions in the grand jury subpoena, the defendant elected to provide the documents directly to the Department of Justice in several stages beginning as early as June 2002, and continuing until at least December 18, 2002, for presentation to the grand jury.
72. At some point after receiving the grand jury subpoena, the exact dates being unknown to the grand jury, the defendant corruptly altered and produced for presentation to the grand jury several Company A documents called for by the grand jury subpoena. These documents, which include a power of attorney

falsely executed in favor of the defendant, were altered to conceal and mislead the grand jury in its investigation of the defendant's illegal conduct, including his conduct in Counts One through Five of this Indictment.

73. At some point after receiving the grand jury subpoena, the exact dates being unknown to the grand jury, the defendant corruptly manufactured or directed to be manufactured and then produced for presentation to the grand jury several other Company A documents called for by the grand jury subpoena. These documents, which include a number of promissory notes, were manufactured or backdated to conceal and mislead the grand jury in its investigation of the defendant's illegal conduct.
74. The conduct charged in this Count was carried out, in part, within the Eastern District of Michigan within the five years preceding the return of this Indictment.

ALL IN VIOLATION OF TITLE 18, UNITED STATES CODE, SECTION 1503

COUNT SEVEN—FALSE DECLARATION BEFORE A GRAND JURY
(18 U.S.C. § 1623)

75. BOBBY KEITH MOSER is hereby made a defendant on this charge.

76. On or about December 18, 2002, the exact date being unknown to the grand jury, pursuant to the instructions in a grand jury subpoena issued to Company A by a grand jury sitting in the Eastern District of Michigan, the defendant signed an “Affidavit of Compliance” under oath or under penalty of perjury.
77. On or about December 18, 2002, the defendant produced for presentation to the grand jury sitting in the Eastern District of Michigan the “Affidavit of Compliance” for Company A.
78. In the “Affidavit of Compliance,” the defendant declared that all the documents produced to the grand jury “were made at or near the time identified on each particular document, were made by, or based on information transmitted from, a person with knowledge, were kept in the course of a regularly conducted business activity, and were made as part of the regular practice of that business activity.”
79. That declaration was false in that the defendant knowingly submitted some documents to the grand jury that he knew were not made at or near the time identified on each particular document or were not made or kept in the ordinary course of business.
80. The declaration was material to the grand jury’s investigation.
81. The false declaration charged in this Count was produced for presentation to

a grand jury sitting in the Eastern District of Michigan within the five years preceding the return of this Indictment.

ALL IN VIOLATION OF TITLE 18, UNITED STATES CODE, SECTION 1623

Dated: 3/11/04

A TRUE BILL: "/s/"

FOREPERSON

"/s/"
R. HEWITT PATE
Assistant Attorney General

"/s/"
SCOTT M. WATSON
Chief, Cleveland Field Office

"/s/"
JAMES M. GRIFFIN
Deputy Assistant Attorney General

"/s/"
KEVIN C. CULUM
[3460--MT]

"/s/"
SCOTT D. HAMMOND
Director of Criminal Enforcement

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JEFFREY G. COLLINS
United States Attorney
Eastern District of Michigan

"/s/"
ALAN GERSHEL
Criminal Chief, E.D. Michigan

Dated: March 11, 2004