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JAN 3 - 2013

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

AT 2:30 _____ M
WILLIAM T. WALSH, CLERK

UNITED STATES OF AMERICA	:	Crim. No. <u>13-09 (FSH)</u>
	:	
v.	:	18 U.S.C. §§ 371, 641, and 2
	:	42 U.S.C. § 408(a)(4)
DAVID MARTIN DISNEY	:	
	:	<u>I N D I C T M E N T</u>

The Grand Jury in and for the District of New Jersey, sitting at Newark, charges:

BACKGROUND

1. At all times relevant to this Indictment, defendant DAVID MARTIN DISNEY was a resident of New Jersey and the President of DM Disney & Associates, a private detective firm.

2. From in or about 2002 through in or about July 2008, unindicted coconspirator "S.G." was an employee of DM Disney & Associates and, for most of that time period, involved in a romantic relationship with defendant DISNEY.

3. The United States Social Security Administration ("SSA") is a department and agency of the United States that is, among other things, responsible for administering the Disability Insurance Benefits Program ("DIB").

COUNT ONE

(Conspiracy)

The Conspiracy

4. Paragraphs 1 through 3 of this Indictment are realleged and incorporated by reference as if set out in full herein.

5. From on or about September 23, 2003 through on or about November 21, 2008, in the District of New Jersey and elsewhere, defendant DISNEY did knowingly and intentionally combine, conspire, confederate, and agree with S.G., and others, to commit the following offenses against the United States:

a. to knowingly and wilfully conceal and fail to disclose employment as a private investigator with the fraudulent intent to secure DIB payments in a greater amount than was due or when no payment was authorized, contrary to Title 42, United States Code, Section 408(a)(4); and

b. to embezzle, steal, purloin, and convert to his own use and the use of others, money of value exceeding \$1,000 of the United States and of a department and agency thereof, namely, approximately \$144,000 in DIB payments from the SSA on behalf of both defendant DISNEY and his children, and to receive, conceal, and retain the same with intent to convert it to his own use and gain, knowing it to have been embezzled, stolen, purloined, and converted, contrary to Title 18, United States Code, Section 641.

Object of the Conspiracy

6. The object of the conspiracy was to secure money from the SSA in the form of DIB payments to which defendant DISNEY was not entitled.

Manner and Means of the Conspiracy

7. To achieve the object and purpose of the conspiracy, defendant DISNEY and S.G. used the following manner and means, among others:

a. It was a part of the conspiracy that defendant DISNEY applied for DIB payments alleging that he became unable to work on January 30, 2003, due to a head injury, when in fact he continued to work and earn income not reported to the SSA, to fraudulently secure DIB payments in a greater amount than was due or when no payment was authorized.

b. It was a further part of the conspiracy that defendant DISNEY and S.G. represented to SSA that DISNEY could not manage his own financial affairs due to his injury so that SSA would pay DISNEY's DIB payments to S.G.

c. It was a further part of the conspiracy that defendant DISNEY and S.G. represented to SSA that as of January 8, 2007, DISNEY was earning substantially less income than he was in fact earning, to fraudulently secure DIB payments in a greater amount than was due or when no payment was authorized.

Overt Acts

8. In furtherance of the conspiracy and to accomplish its unlawful object, the following overt acts, among others, were committed within the District of New Jersey and elsewhere:

9. On or about June 13, 2003, defendant DISNEY filed an application to renew his New Jersey Private Detective License on which he stated that he was President of and worked at DM Disney & Associates, a private detective firm.

10. On or about September 23, 2003, defendant DISNEY filed an Application for Disability Insurance Benefits with the SSA, claiming that, as of January 30, 2003, he was disabled and unable to work. By filing the application, defendant DISNEY agreed to notify the SSA if there was any improvement in his medical condition or if he regained the ability to work and earn income of any kind.

11. On or about September 23, 2003, defendant DISNEY submitted a Disability Report-Adult to the SSA, wherein he represented that he became unable to work as of January 30, 2003, and that he had not worked since January 30, 2003 and was earning no income. By signing the form, defendant DISNEY acknowledged his obligation to report to SSA if he began working and earning income of any kind.

12. Due to the filing of the forms described in paragraphs 10 and 11 above and based on the information provided therein, defendant DISNEY and S.G. caused the SSA to determine that defendant DISNEY was entitled to DIB payments on or about May 1, 2004. As a result, defendant DISNEY received monthly DIB payments for both himself and his two children from in or about

June 1, 2004 through on or about November 21, 2008, which incorporated retroactive disability payments dating from in or around July 2003.

13. On or about October 30, 2003, S.G. filed a Third Party Function Report with the SSA on behalf of defendant DISNEY in which S.G. represented that DISNEY could not work and could not handle his own finances.

14. On or about November 3, 2003, defendant DISNEY completed an Activities of Daily Living Questionnaire, filed with the SSA, in which he represented that S.G. handled all of his financial matters, shopping, meal preparation, household maintenance, and transportation.

15. Due to the filing of the forms described in paragraphs 13 and 14 above and based on the information provided therein, defendant DISNEY caused the SSA determine that defendant DISNEY's DIB payments would be sent to S.G.

16. On or about January 13, January 23, February 9, March 18, April 9, and April 14, 2004, defendant DISNEY performed approximately 68.5 hours of surveillance on behalf of a DM Disney & Associates client, for which he was paid more than \$6,800.

17. On or about April 8, 2004, and at defendant DISNEY's request, S.G. completed a Request to be Selected as Payee Application for the benefits payable to defendant DISNEY in which

S.G. represented that defendant DISNEY could not care for himself.

18. On or about June 4, 2004, defendant DISNEY completed a State of New Jersey Application to Purchase a Handgun, on which he represented that he was employed as a private detective.

19. On or about May 20, 2005, defendant DISNEY testified before the New York State Workers' Compensation Board on behalf of a DM Disney & Associates client, for which he was paid approximately \$750.

20. On or about September 2, September 23, October 22, and October 23, 2004; March 10, March 14, June 7, June 10, and June 11, 2005; and June 1 and June 8 2006, defendant DISNEY performed approximately 125 hours of surveillance for a DM Disney & Associates client, for which he was paid more than \$11,000.

21. On or about February 18, 2005, defendant DISNEY signed an application to renew his New Jersey Private Detective License on which he stated that he was President of and worked at DM Disney & Associates, a private detective firm; defendant DISNEY signed the form under penalty of perjury and swore it before S.G., a notary public of New Jersey.

22. On or about January 18, 2006, defendant DISNEY testified before the Industrial Accident Board in Wilmington, Delaware on behalf of a DM Disney & Associates client, for which he was paid approximately \$750.

23. On or about January 20, 2007 defendant DISNEY signed an application to renew his New Jersey Private Detective License on which he stated that he was President of and worked at DM Disney & Associates, a private detective firm; defendant DISNEY signed the form under penalty of perjury and swore it before S.G., a notary public of New Jersey.

24. On or about January 24, 2007, defendant DISNEY and S.G. completed a Continuing Disability Review report filed with the SSA, in which they represented that DISNEY continued to be disabled, but had begun working approximately 15 to 20 hours a week for DM Disney & Associates as of January 8, 2007, and that he was paid \$10 per hour.

25. On or about January 7, January 11, January 15, January 25, January 27, January 30, February 2, July 22, July 24, August 29, September 2, October 25, and November 12, 2007 defendant DISNEY performed approximately 150.5 hours of surveillance for a DM Disney & Associates client, for which he was paid more than \$19,800.

26. On or about June 10, 2008, defendant DISNEY testified before the Court of Common Pleas in Philadelphia, Pennsylvania, on behalf of a DM Disney & Associates client, for which he was paid more than \$1,200.

27. From on or about September 23, 2003 through on or about November 21, 2008, although defendant DISNEY's employment and

substantial work activity made him ineligible for DIB payments, defendant DISNEY failed to advise the SSA of such employment and work, which caused the SSA to continue to send to defendant GOLDMAN monthly disability payments to which defendant DISNEY was not entitled, which totaled approximately \$144,000.

All in violation of Title 18, United States Code, Section 371.

COUNT TWO

(Social Security Disability Fraud)

1. Paragraphs 1, 2, 3, and 7 through 26 of Count One of this Indictment are realleged and incorporated by reference as if set out in full herein.

2. From in or about September 2003 through in or about November 2008, in the District of New Jersey and elsewhere, the defendant DISNEY, in a matter within the jurisdiction of the Social Security Administration, having knowledge of events affecting DISNEY's initial and continued right to Disability Insurance Benefits, knowingly and intentionally concealed and failed to disclose such events with an intent to fraudulently secure payment in a greater amount than what was due, or when no payment was authorized.

In violation of Title 42, United States Code, Section 408(a)(4), and Title 18, United States Code, Section 2.

COUNT THREE

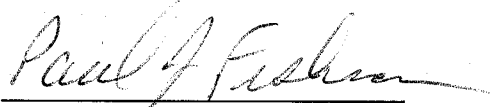
(Theft of Government Property)

1. Paragraphs 1, 2, 3, and 7 through 26 of Count One of this Indictment are realleged and incorporated by reference as if set out in full herein.

2. From in or about September 2003 through in or about November 2008, in the District of New Jersey and elsewhere, defendant DISNEY did knowingly and intentionally embezzle, steal, purloin, and convert to his own use and the use of others, a record, voucher, money, and thing of value exceeding \$1,000 of the United States and of a department and agency thereof, namely, approximately \$144,000 in DIB payments from the SSA on behalf of both defendant DISNEY and his children, and did receive, conceal, and retain the same with intent to convert it to his own use and gain, knowing it to have been embezzled, stolen, purloined, and converted.

In violation of Title 18, United States Code, Sections 641 and 2.

A TRUE BILL



PAUL J. FISHMAN
United States Attorney

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District of New Jersey

UNITED STATES OF AMERICA

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DAVID MARTIN DISNEY

INDICTMENT FOR

18 U.S.C. §§ 371, 641 and 2
42 U.S.C. § 408(a) (4)

PAUL J. FISHMAN

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(Ed. 1/97)

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