

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA	:	Hon. Katharine S. Hayden
	:	
v.	:	Criminal No. 08-429
	:	
MAXWELL OWOEYE	:	18 U.S.C. § 1349
RASHEED MUSTAPHA	:	18 U.S.C. § 1341
ADEYEMO POPOOLA and	:	18 U.S.C. § 1956(h)
FARUK ONCEL	:	18 U.S.C. § 1956(a)(1)(B)(i)
	:	18 U.S.C. § 664
	:	18 U.S.C. § 1028A
	:	18 U.S.C. § 2
	:	18 U.S.C. § 982

SUPERSEDING INDICTMENT

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

Count 1 – Conspiracy to Commit Mail Fraud
(18 U.S.C. § 1349)

Background

A. The Defendants

1. At various times relevant to this Indictment:

a. **Defendant Maxwell Owoeeye:** defendant Maxwell Owoeeye resided in or near Hackensack and Newark, New Jersey, while attending a New Jersey university.

b. **Defendant Rasheed Mustapha:** defendant Rasheed Mustapha resided in or near Elizabeth and Orange, New Jersey, while working for Affiliated Computer Services ("ACS") at its facility in or near Little Falls, New Jersey.

c. **Defendant Adeyemo Popoola:** defendant Adeyemo Popoola, also known as "Dave," resided in or near East Orange and Newark, New Jersey.

d. **Defendant Faruk Oncel:** defendant Faruk Oncel resided in or near Paterson, New Jersey.

B. The Coconspirators

2. The defendants' coconspirators, who are not named as defendants herein, included Ozer Bilgi, Gursel Yilmaz, Na'eem Blackston, Terrell Brunson, an individual referred to herein as "J.C." and others. At various times relevant to this Indictment:

a. **Ozer Bilgi:** Ozer Bilgi, also known as "Peter," resided in or near Paterson, New Jersey.

b. **Gursel Yilmaz:** Gursel Yilmaz resided in or near Brooklyn, New York.

c. **Na'eem Blackston:** Na'eem Blackston resided in or near Newark, New Jersey.

d. **Terrell Brunson:** Terrell Brunson resided in or near Newark, New Jersey.

e. **J.C.:** J.C. resided in or near Long Branch, New Jersey.

C. ACS, Hewitt and the 401(k) Plan

3. During in or about 2006, ACS provided support services for certain defined contribution retirement plans within the meaning of the Employment Retirement Income Security Act of 1974 ("ERISA") that were sponsored by another company for its current and former employees (the "401(k) Plans").

4. These support services included a customer call center at ACS's Little Falls, New Jersey facility, where defendant

Rasheed Mustapha was assigned to the team that answered calls from participants in the 401(k) Plans, and an Internet website through which participants in the 401(k) Plans could authorize transactions concerning their accounts.

5. While at ACS, defendant Rasheed Mustapha had access to confidential information concerning participants in the 401(k) Plans. This information included, among other things, 401(k) Plan account numbers and balances, Social Security numbers, dates of birth and home addresses.

6. On or about January 1, 2007, Hewitt Associates, Inc. ("Hewitt") replaced ACS in providing 401(k) Plan support services, including a customer call center and an Internet website.

7. Participants in the 401(k) Plans included G.A., Z.A., Da.D., De.D., A.K., H.P. and S.P. (the "401(k) Plan Participants" or "Participants"), none of whom authorized any of the defendants or the coconspirators to withdraw funds from the Participants' respective 401(k) Plan accounts.

The Conspiracy

8. From in or about March 2006 through in or about September 2007, in the District of New Jersey, and elsewhere, defendants

**Maxwell Owoeye,
Rasheed Mustapha,
Adeyemo Popoola and
Faruk Oncel**

did knowingly and with the intent to defraud conspire with others to devise a scheme and artifice to defraud and obtain money and

property by means of materially false and fraudulent pretenses, representations and promises, which scheme and artifice was in substance and in part as set forth below, and for the purpose of executing such scheme and artifice or attempting to do so, caused to be placed in post offices and authorized depositories for mail matter, matters and things to be sent and delivered by the United States Postal Service, and caused to be deposited matters and things to be sent and delivered by private interstate carriers and commercial interstate carriers, contrary to Title 18, United States Code, Section 1341.

Object of the Conspiracy

9. An object of the conspiracy was to obtain checks from the 401(k) Plans to which the members of the conspiracy were not entitled, deposit those checks into various bank accounts, withdraw the proceeds of those deposits, and distribute those proceeds among the members of the conspiracy.

Manner and Means of the Conspiracy

10. As part of the conspiracy, in March 2006, defendant Rasheed Mustapha obtained employment at ACS. On his employment application, defendant Rasheed Mustapha listed defendant Maxwell Owoye, his cousin, as a reference.

11. As further part of the conspiracy, once employed by ACS, defendant Rasheed Mustapha informed his coconspirators how to obtain from ACS default personal identification numbers ("PINs") for the 401(k) Plan accounts of the 401(k) Plan Partici-

pants, how to change the mailing addresses associated with those accounts, and how to obtain distribution checks from those accounts.

12. As further part of the conspiracy, coconspirators posing as the 401(k) Plan Participants submitted change-of-address requests ("COAs") to ACS during 2006 and to Hewitt during 2007. When submitting the COAs, the coconspirators used such information as the Participants' names, Social Security numbers, birthdates and then-current mailing addresses. In addition, the coconspirators sometimes submitted photocopies of fraudulent drivers' licenses in the Participants' names.

13. As further part of the conspiracy, the new addresses specified in the COAs were for locations in New Jersey, New York, Pennsylvania and elsewhere that defendant Maxwell Owoye, defendant Adeyemo Popoola, Ozer Bilgi and other members of the conspiracy used to direct mail (the "Mail Drops").

14. As further part of the conspiracy, once ACS and Hewitt processed the COAs, coconspirators posing as the 401(k) Plan Participants submitted requests to ACS and Hewitt to terminate the Participants' 401(k) Plan accounts, issue checks for the balances in those accounts (the "401(k) Distribution Checks"), and mail the checks to the Mail Drops. In making these requests, the coconspirators used the PINs and other identification information associated with the Participants' 401(k) Plan accounts.

15. As further part of the conspiracy, coconspirators posing as the 401(k) Plan Participants called the ACS and Hewitt call centers to check on the status of the 401(k) Distribution Checks and provide additional directions to ACS and Hewitt, including to deliver certain of the 401(k) Distribution Checks by overnight courier.

16. As further part of the conspiracy, once the 401(k) Distribution Checks were received at the Mail Drops, defendant Maxwell Owoeye, defendant Adeyemo Popoola, defendant Faruk Oncel, Ozer Bilgi, Gursel Yilmaz, J.C. and others caused the checks to be deposited into various bank accounts that they controlled.

17. As further part of the conspiracy, once the deposited 401(k) Distribution Checks had cleared, defendant Maxwell Owoeye, defendant Adeyemo Popoola, Ozer Bilgi, Gursel Yilmaz, Na'eem Blackston, J.C. and others caused and attempted to cause the proceeds of the checks to be withdrawn and shared with the members of the conspiracy.

In violation of Title 18, United States Code, Section 1349.

Counts 2 through 9 – Mail Fraud
(18 U.S.C. § 1341)

1. The allegations set forth in paragraphs 1 through 7 and 9 through 17 of Count 1 of this Indictment are realleged and incorporated herein.

2. From in or about July 2006 through in or about September 2007, in the District of New Jersey and elsewhere, defendants

**Maxwell Owoeye and
Rasheed Mustapha**

did knowingly and with the intent to defraud devise a scheme and artifice to defraud and obtain money and property by means of materially false and fraudulent pretenses, representations and promises, which scheme and artifice was in substance and in part set forth in paragraphs 3 through 7 and 9 through 17 of Count 1 of this Indictment, and for the purpose of executing such scheme and artifice or attempting to do so, on or about the dates specified by count below caused to be placed in post offices and authorized depositories for mail matter, matters and things to be sent and delivered by the United States Postal Service, and on or about the dates specified by count below caused to be deposited matters and things to be sent and delivered by private interstate carriers and commercial interstate carriers, namely, the 401(k) Disbursement Checks specified by count below:

<u>Count</u>	<u>Date</u>	<u>Check for</u>	<u>From</u>	<u>To</u>	<u>Carrier</u>
2	08/18/06	\$136,452.74	ACS/State Street Bank Jacksonville, Florida	Pembroke Pines, Florida	United Parcel Service
3	09/11/06	\$48,399.25	ACS/State Street Bank Jacksonville, Florida	East Orange, New Jersey	United States Postal Service
4	10/16/06	\$265,113.51	ACS/State Street Bank Jacksonville, Florida	Philadelphia, Pennsylvania	United States Postal Service
5	10/18/06	\$90,755.82	ACS/State Street Bank Jacksonville, Florida	Bohemia, New York	United States Postal Service
6	11/15/06	\$110,923.77	ACS/State Street Bank Jacksonville, Florida	Bohemia, New York	United Parcel Service
7	05/22/07	\$69,127.52	Hewitt/State Street Bank Jacksonville, Florida	Waterford, Connecticut	United States Postal Service
8	06/21/07	\$48,256.14	Hewitt/State Street Bank Jacksonville, Florida	Piscataway, New Jersey	United States Postal Service
9	08/24/07	\$29,878.87	Hewitt/State Street Bank Jacksonville, Florida	Paterson, New Jersey	United Parcel Service

In violation of Title 18, United States Code, Section 1341
and Section 2.

Count 10 - Conspiracy to Commit Money Laundering
(18 U.S.C. § 1956(h))

1. The allegations set forth in paragraphs 1 through 7 and 9 through 17 of Count 1 of this Indictment are realleged and incorporated herein.

2. From in or about July 2006 through in or about September 2007, in the District of New Jersey and elsewhere, defendants

**Maxwell Owoeye and
Rasheed Mustapha**

did knowingly conspire with each other and others, known and unknown, to conduct and attempt to conduct financial transactions which in fact involved the proceeds of a specified unlawful activity, namely mail fraud, knowing that the property involved in the financial transactions represented the proceeds of some form of unlawful activity, and knowing that the transactions were designed in whole and in part to conceal and disguise the nature, location, source, ownership, and control of property that was the proceeds of specified unlawful activity, contrary to Title 18, United States Code, Section 1956(a)(1)(B)(i).

In violation of Title 18, United States Code, Section 1956(h).

Counts 11 through 22 - Money Laundering
(18 U.S.C. § 1956(a)(1)(B)(i) and § 2)

1. The allegations set forth in paragraphs 1 through 7 and 9 through 17 of Count 1 of this Indictment are realleged and incorporated herein.

2. On or about the dates specified by count below, in the District of New Jersey, and elsewhere, defendants

**Maxwell Owoye and
Rasheed Mustapha**

did knowingly conduct, attempt to conduct and cause to be conducted financial transactions in the approximate amounts specified by count below which in fact involved the proceeds of a specified unlawful activity, namely mail fraud, knowing that the source of the property involved in the financial transactions specified by count below represented the proceeds of some form of unlawful activity, and knowing that the transactions were designed in whole and in part to conceal and disguise the nature, location, source, ownership, and control of property that was the proceeds of specified unlawful activity:

<u>Count</u>	<u>Date</u>	<u>Amount</u>	<u>Type</u>	<u>Source</u>	<u>From</u>
11	09/30/06	\$9,500	check	\$48,399.25 401(k) Distribution Check	Wachovia Bank account ending in 4032
12	10/04/06	\$9,500	check	\$48,399.25 401(k) Distribution Check	Wachovia Bank account ending in 4032
13	11/02/06	\$135,000	check	\$265,113.51 401(k) Distribution Check	Liberty Bell Bank account ending in 8891
14	11/02/06	\$50,000	check	\$265,113.51 401(k) Distribution Check	Liberty Bell Bank account ending in 8891

<u>Count</u>	<u>Date</u>	<u>Amount</u>	<u>Type</u>	<u>Source</u>	<u>From</u>
15	11/27/06	\$35,000	check	\$90,755.82 401(k) Distribution Check	M&T Bank account ending in 7680
16	11/27/06	\$55,000	check	\$90,755.82 401(k) Distribution Check	M&T Bank account ending in 7680
17	12/08/06	\$8,000	funds transfer	\$110,923.77 401(k) Distribution Check	JP Morgan Chase account ending in 6479
18	12/11/06	\$10,000	funds transfer	\$110,923.77 401(k) Distribution Check	JP Morgan Chase account ending in 6479
19	06/19/07	\$9,800	cash	\$69,127.52 401(k) Distribution Check	Compass Bank account ending in 3077
20	09/07/07	\$8,500	check	\$29,878.87 401(k) Distribution Check	Commerce Bank account ending in 4392
21	09/10/07	\$9,000	check	\$29,878.87 401(k) Distribution Check	Commerce Bank account ending in 4392
22	09/10/07	\$9,000	check	\$29,878.87 401(k) Distribution Check	Commerce Bank account ending in 4392

In violation of Title 18, United States Code, Section
1956(a)(1)(B)(i) and Section 2.

Counts 23 through 29 – Theft from 401(k) Plan
(18 U.S.C. § 664 and § 2)

1. The allegations set forth in paragraphs 1 through 7 and 9 through 17 of Count 1 are realleged and incorporated herein.

2. From in or about July 2006 through in or about September 2007, in the District of New Jersey and elsewhere, the defendants specified by count below attempted to and did knowingly embezzle, steal and unlawfully and willfully abstract and convert to their own use and the use of others money, funds, property and other assets of the 401(k) Plans – employee benefit plans subject to a provision of title I of ERISA – and funds connected therewith, in the approximate amounts specified by count below, as follows:

Count	Defendants	Victim	Amount
23	Maxwell Owøeye Rasheed Mustapha	G.A.	\$48,399.25
24	Maxwell Owøeye Rasheed Mustapha	Z.A.	\$69,127.52
25	Maxwell Owøeye Rasheed Mustapha	Da.D.	\$265,113.52
26	Maxwell Owøeye Rasheed Mustapha Adeyemo Popoola	De.D.	\$48,256.14
27	Maxwell Owøeye Rasheed Mustapha Faruk Oñcel	A.K.	\$201,679.59
28	Maxwell Owøeye Rasheed Mustapha Adeyemo Popoola	H.P.	\$29,998.87
29	Maxwell Owøeye Rasheed Mustapha	S.P.	\$136,452.74

In violation of Title 18, United States Code, Section 664
and Section 2.

Counts 30 through 36 – Aggravated Identity Theft
(18 U.S.C. § 1028A and § 2)

1. The allegations set forth in paragraphs 1 through 7 and 9 through 17 of Count 1 are realleged and incorporated herein.

2. From in or about July 2006 through in or about September 2007, in the District of New Jersey and elsewhere, the defendants specified by count below did knowingly transfer, possess and use, without lawful authority, means of identification of the persons specified by count below, during and in relation to a federal felony enumerated in 18 U.S.C. § 1028A(c), namely, those predicate felonies specified by count below:

Count	Defendants	Victim	Predicate Felonies
30	Maxwell Owoeye Rasheed Mustapha	G.A.	Counts 3 and 23
31	Maxwell Owoeye Rasheed Mustapha	Z.A.	Counts 7 and 24
32	Maxwell Owoeye Rasheed Mustapha	Da.D.	Counts 4 and 25
33	Maxwell Owoeye Rasheed Mustapha Adeyemo Popoola	De.D.	Counts 8 and 26
34	Maxwell Owoeye Rasheed Mustapha	A.K.	Counts 5, 6 and 27
35	Maxwell Owoeye Rasheed Mustapha Adeyemo Popoola	H.P.	Counts 9 and 28
36	Maxwell Owoeye Rasheed Mustapha	S.P.	Counts 2 and 29

In violation of Title 18, United States Code, Section 1028A and Section 2.

Forfeiture Allegation

1. The allegations contained in all paragraphs of 1 through 7 and 9 through 17 of Count 1 of the Indictment and all paragraphs of Counts 10 through 23 of the Indictment are realleged and incorporated herein by reference for the purpose of noticing forfeiture, pursuant to Title 18, United States Code, Section 982.

2. Pursuant to Title 18, United States Code, Section 982(a)(1), upon conviction of the offenses set forth in Count 10 through 23 of this Indictment, defendants Maxwell Owoye and Rasheed Mustapha shall forfeit to the United States the following property:

a. All right, title, and interest in any and all property involved in the offenses in violation of Title 18, United States Code, Section 1956 and all property traceable to such property, including the following:

i. approximately \$500,000 in United States currency, in that such sum constitutes or is derived, directly or indirectly, from proceeds traceable to the commission of the money laundering offenses; and

ii. a BMW X5 sports utility vehicle, in that such vehicle constitutes or is derived, directly or indirectly, from proceeds traceable to the commission of the money laundering offenses.

3. Pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 18, United States Code, Section 982(b), defendants Maxwell Owoeye and Rasheed Mustapha shall forfeit substitute property, up to the value of the property described in paragraph 2, if, by any act and omission of the defendant, the property described in paragraph 2, or any portion thereof:

a. cannot be located upon the exercise of due diligence,

b. has been transferred to, sold to, or deposited with a third party,

c. has been placed beyond the jurisdiction of the court,

d. has been substantially diminished in value, or

e. has been commingled with other property which cannot be subdivided without difficulty.

All in violation of Title 18, United States Code, Sections 982(a)(1) and 1956.

A TRUE BILL

FOREPERSON

CHRISTOPHER J. CHRISTIE
UNITED STATES ATTORNEY