

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- - - - - x

UNITED STATES OF AMERICA

:

SEALED

INDICTMENT

- v. -

:

AGNES BERNIER,

:

12 Cr 12 CRIM044

Defendant.

:

- - - - - x

COUNT ONE

(Theft of Government Property)

The Grand Jury charges:

Background

1. New York State Homes and Community Renewal ("NYHCR") oversees the administration of New York State's Section 8 housing programs, which provide more than 100,000 low-income families in New York State with rent subsidies. New York State receives nearly \$1 billion a year from the federal government, through the United States Department of Housing and Urban Development ("HUD"), to administer and pay for the State's Section 8 programs. NYHCR reports directly to HUD in its administration of Section 8 funds, and is responsible for, among other things, performing quality assurance related to New York State's expenditure of Section 8 funds.

2. Residents who receive Section 8 subsidies typically pay 30 percent of their income in rent to a private landlord, and the subsidies cover the rest. It is not uncommon, however, for New York to pay Section 8 recipients larger subsidies than what they are entitled to under the law, both because of fraud - in cases where recipients deliberately provide false information about their income, family composition, or other factors that are used to determine the amount of the subsidy - and because of unreported changes in recipients' incomes or family composition. When such overpayments are discovered, the recipients are required to refund the overpayment amount, usually through a payment plan of no longer than 36 months. Refund payments are required to be made by certified check or money order, payable to the Housing Trust Fund Corporation ("HTFC"), which is the entity within NYCHR that directly funds New York's Section 8 programs. Recipients submit refund payments to their local Section 8 administrators, who then forward the refund payments to the NYHCR office on Beaver Street in New York, New York, for processing and deposit.

3. AGNES BERNIER, the defendant, has been an employee in NYCHR's Beaver Street office since at least 2004. BERNIER is responsible for, among other things, processing the Section 8 refund payments submitted by local Section 8 administrators across New York State.

4. From at least 2004 up through and including December 2011, AGNES BERNIER, the defendant, has used her position at NYCHR to steal more than \$944,000 in Section 8 refund payments intended to be paid to the HTFC. On hundreds of occasions from 2004 through December 2011, BERNIER stole refund payments intended for the HTFC. More specifically, instead of processing refund payment money orders made out to the HTFC, BERNIER wrote her own name over the letters "HTFC" and then deposited the money orders into her personal bank accounts. For example, in December 2011 alone, BERNIER deposited 17 falsified money orders, worth more than \$7,500 in total, into her personal bank account.

Statutory Allegation

5. From at least in or about 2004 up to and including in or about December 2011, in the Southern District of New York and elsewhere, AGNES BERNIER, the defendant, knowingly and willfully did embezzle, steal, purloin, and convert to her use and the use of another, records, vouchers, money and things of value of the United States and a

department and an agency thereof, to wit, the United States Department of Housing and Urban Development, the value of which exceeded \$1,000, and did receive, conceal, and retain the same with intent to convert it to her use and gain, knowing it to have been embezzled, stolen, purloined and converted, to wit, BERNIER stole Section 8 housing subsidy refund payments addressed to HFTC and deposited them into her personal bank accounts.

(Title 18, United States Code, Section 641.)

COUNT TWO

(Bank Fraud)

The Grand Jury further charges:

6. The allegations contained in paragraphs 1-4 of this Indictment are repeated and realleged as if fully set forth herein.

7. From at least in or about 2004 up to and including in or about December 2011, in the Southern District of New York and elsewhere, AGNES BERNIER, the defendant, knowingly and willfully did execute and attempt to execute a scheme and artifice to defraud a financial institution, the deposits of which were then insured by the Federal Deposit Insurance Corporation ("FDIC"), and to obtain moneys, funds, credits, assets, securities, and other property owned by, and under the custody and control of, a financial institution, by

means of false and fraudulent pretenses, representations and promises, to wit, BERNIER presented more than \$944,000 worth of falsified money orders for deposit into her personal bank accounts.

(Title 18, United States Code, Section 1344.)

FORFEITURE ALLEGATION: COUNTS ONE AND TWO

8. As a result of committing the offenses alleged in Counts One and Two of the Indictment, AGNES BERNIER, the defendant, shall forfeit to the United States, pursuant to 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461, all property, real and personal, that constitutes or is derived, directly or indirectly, from gross proceeds traceable to the commission of the said offenses, including but not limited to the following:

a. At least \$944,000 in United States currency, in that such sum in aggregate is property representing the amount of proceeds obtained as a result of the offenses alleged in Counts One and Two of this Indictment.

Substitute Asset Provision

9. If any of the above-described forfeitable property, as a result of any act or omission of the defendant:

(1) cannot be located upon the exercise of due diligence;

(2) has been transferred or sold to, or deposited with, a third person;

(3) has been placed beyond the jurisdiction of the Court;


(4) has been substantially diminished in value; or

(5) has been commingled with other property which cannot be subdivided without difficulty;

it is the intent of the United States, pursuant to 18 U.S.C. § 982(b), to seek forfeiture of any other property of said defendant up to the value of the above forfeitable property.

(Title 18, United States Code, Sections 981 and 982, and Title 28, United States Code, Section 2461.)


FOREPERSON


PREET BHARARA
United States Attorney

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(18 U.S.C. §§ 641 & 1344.)

PREET BHARARA
United States Attorney.

A TRUE BILL


Foreperson.