

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA : INDICTMENT

-v.- : 12 Cr.

PHILLIP SMITH, :  
MELISSA MORTON, :  
WINSTON HARRIS, :  
EUGENE SMITH, :  
FRANCIS HIDALGO, :  
RANDY WHITE, :  
MAHMOUD ABDUL HUSSEIN, :  
a/k/a "Mike," :  
ALI ABDUL HUSSEIN, and :  
FADAL ABDUL HUSSEIN, :  
a/k/a "Tony," :  
Defendants. :

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COUNT ONE  
(Conspiracy to Commit Access Device Fraud)

The Grand Jury charges:

Overview of The Fraudulent Scheme

1. From at least 2008 up to and including in or about January 2012, PHILLIP SMITH, the defendant, was the leader of an identity theft scheme that exploited the names and social security numbers of real persons to fraudulently obtain merchandise, gift cards, and store credits at large retail stores, such as Home Depot, Kohl's, Sears, and Kmart, in the New York City area and elsewhere.

2. In furtherance of the scheme, PHILLIP SMITH, the defendant, obtained stolen identification information of at least two thousand real persons, including, among other things, names, home addresses, and social security numbers, from others. The identifying information obtained by PHILLIP SMITH involved, among other things, employee records, mortgage records, and medical files.

3. At various times relevant to this Indictment, and in furtherance of the fraudulent scheme, PHILLIP SMITH, the defendant, directed others, including MELISSA MORTON, WINSTON HARRIS, and EUGENE SMITH, the defendants, to travel to large retail stores, such as Home Depot, Kohl's, Kmart, and Sears, in the New York City area and in nearby states such as Pennsylvania, New Jersey, and Connecticut. At the stores, MORTON, HARRIS, and EUGENE SMITH, among others, used fake driver's licenses and stolen social security numbers to impersonate the identity theft victims either to obtain access to the victims' store credit accounts or to fraudulently open new accounts for the victims. MORTON, HARRIS, and EUGENE SMITH, among others, then used the victims' credit accounts to fraudulently purchase merchandise and gift cards. After purchasing merchandise, MORTON, HARRIS, and EUEGENE SMITH,

travelled to other branches of the same retailer and returned the merchandise for store credits.

4. At various times relevant to this Indictment, and in furtherance of the fraudulent scheme, PHILLIP SMITH and EUGENE SMITH, the defendants, used stolen checks belonging to other persons to pay the balance on the Kohl's store credit accounts of identity theft victims, thereby allowing PHILLIP SMITH, EUGENE SMITH, and others to make additional fraudulent purchases with the identity theft victims' credit accounts.

5. At various times relevant to this Indictment, and in furtherance of the fraudulent scheme, PHILLIP SMITH, the defendant, sold the fraudulently obtained merchandise, gift cards, and store credits to others, including FRANCIS HIDALGO and RANDY WHITE, the defendants, typically for 60 percent of the face value of the merchandise, gift cards, and store credits. HIDALGO and WHITE then used the merchandise, gift cards, and store credits for their personal use or resold them to others, typically for 70 percent of the face value of those items.

6. From in or about October 2008, up to and including in or about January 2012, the fraud ring led by PHILLIP SMITH, the defendant, caused at least \$1 million in loss to retailers and the financial institutions that operate the customer credit accounts for the retailers.

### Statutory Allegations

7. From at least in or about 2008, up to and including in or about January 2012, in the Southern District of New York and elsewhere, PHILLIP SMITH, MELISSA MORTON, WINSTON HARRIS, EUGENE SMITH, FRANCIS HIDALGO, and RANDY WHITE, the defendants, together with others known and unknown, willfully and knowingly did combine, conspire, confederate, and agree together and with each other to violate Title 18, United States Code, Section 1029(a)(2) and (c)(1)(A)(i).

8. It was a part and an object of the conspiracy that PHILLIP SMITH, MELISSA MORTON, WINSTON HARRIS, EUGENE SMITH, FRANCIS HIDALGO, and RANDY WHITE, the defendants, and others known and unknown, willfully and knowingly, and with intent to defraud, in an offense affecting interstate and foreign commerce, would and did traffic in and use one and more unauthorized access devices during a one-year period, and by such conduct would and did obtain a thing of value aggregating \$1,000 and more during that period, in violation of Title 18, United States Code, Section 1029(a)(2) and (c)(1)(A)(i).

### Overt Acts

9. In furtherance of this conspiracy, and to effect the illegal object thereof, the following overt acts, among others, were committed by PHILLIP SMITH, MELISSA MORTON, WINSTON

HARRIS, EUGENE SMITH, FRANCIS HIDALGO, and RANDY WHITE, the defendants, in the Southern District of New York and elsewhere:

a. In or about November 2008, in or about December 2008, and in or about April 2009, HIDALGO used a total of over \$1,000 in store credits and gift cards that were fraudulently obtained to obtain merchandise at Home Depot stores in New York.

b. On or about September 3, 2009, MORTON and EUGENE SMITH used fake driver's licenses bearing their respective photographs and the stolen identity information of other persons to fraudulently obtain gift cards and merchandise from a Kohl's store.

c. On or about June 17, 2011, HARRIS used a fake driver's license bearing his photograph and the stolen identity information of another person to fraudulently obtain merchandise from Home Depot stores in Orange County, New York and Putnam County, New York.

d. On or about July 17, 2011, WHITE and PHILLIP SMITH discussed, by phone, the purchase of fraudulently obtained store credits and gift cards.

e. On or about July 29, 2011, while in the Bronx, New York, PHILLIP SMITH delivered to WHITE store credits and gift cards that were obtained by fraud.

f. On or about July 30, 2011, PHILLIP SMITH and MORTON travelled together from the Bronx, New York, to various locations in New York State, where, on or about July 30, 2011, and on or about July 31, 2011, MORTON used fake driver's licenses and the stolen identity information of other persons to fraudulently obtain merchandise, store credits, and gift cards from Home Depot stores.

g. On or about August 1, 2011, HIDALGO purchased from PHILLIP SMITH gift cards and store credit receipts worth \$1,190 that had been fraudulently obtained by PHILLIP SMITH from Home Depot stores.

h. On or about August 17, 2011, HARRIS and PHILLIP SMITH discussed, by phone, using a fake driver's license to make fraudulent purchases.

i. On or about January 6, 2012, EUGENE SMITH used a fake driver's license bearing his photograph and the stolen identity information of another person to fraudulently obtain gift cards and merchandise from a Kohl's store.

(Title 18, United States Code, Section 1029(b)(2).)

COUNT TWO

(Conspiracy to Produce False Identification Documents)

The Grand Jury further charges:

10. The allegations contained in Paragraphs 1 through 6 are repeated and realleged as if fully stated herein.

11. At various times relevant to this Indictment, MAHMOUD ABDUL HUSSEIN, a/k/a "Mike," ALI ABDUL HUSSEIN, and FADAL ABDUL HUSSEIN, a/k/a "Tony," the defendants, operated stores located in the Greenwich Village area of New York, New York, where they created and sold fake driver's licenses.

12. At various times relevant to this Indictment, PHILLIP SMITH, the defendant, purchased from MAHMOUD ABDUL HUSSEIN, a/k/a "Mike," the defendant, many fake driver's licenses that had been created by MAHMOUD ABDUL HUSSEIN, ALI ABDUL HUSSEIN, and FADAL ABDUL HUSSEIN, a/k/a "Tony," the defendants. The driver's licenses purchased by PHILLIP SMITH bore the photographs of MELISSA MORTON, WINSTON HARRIS, and EUGENE SMITH, the defendants, among others, but bore the names of identity theft victims and purported to be from several different states. At various times relevant to this Indictment, MORTON, HARRIS, and EUGENE SMITH used the fake driver's licenses to impersonate the identity theft victims and fraudulently

obtain merchandise, gift cards, and store credits from large retail stores, as alleged in Count One of this Indictment.

Statutory Allegations

13. From at least in or about 2008, up to and including in or about January 2012, in the Southern District of New York and elsewhere, PHILLIP SMITH, MELISSA MORTON, WINSTON HARRIS, EUGENE SMITH, MAHMOUD ABDUL HUSSEIN, a/k/a "Mike," ALI ABDUL HUSSEIN, and FADAL ABDUL HUSSEIN, a/k/a "Tony," the defendants, together with others known and unknown, willfully and knowingly did combine, conspire, confederate, and agree together and with each other to violate Title 18, United States Code, Section 1028(a)(1), (b)(1)(A)(ii) & (c)(3)(A).

14. It was a part and an object of the conspiracy that PHILLIP SMITH, MELISSA MORTON, WINSTON HARRIS, EUGENE SMITH, MAHMOUD ABDUL HUSSEIN, a/k/a "Mike," ALI ABDUL HUSSEIN, and FADAL ABDUL HUSSEIN, a/k/a "Tony," the defendants, together with others known and unknown, willfully and knowingly, in an offense affecting interstate and foreign commerce, would and did without lawful authority produce identification documents, authentication features, and false identification documents, to wit, false driver's licenses, in violation of Title 18, United States Code, Section 1028(a)(1), (b)(1)(A)(ii) & (c)(3)(A).

Overt Acts

15. In furtherance of this conspiracy, and to effect the illegal object thereof, the following overt acts, among others, were committed by PHILLIP SMITH, MELISSA MORTON, WINSTON HARRIS, EUGENE SMITH, MAHMOUD ABDUL HUSSEIN, a/k/a "Mike," ALI ABDUL HUSSEIN, and FADAL ABDUL HUSSEIN, a/k/a "Tony," the defendants, in the Southern District of New York and elsewhere:

a. In or about 2008, PHILLIP SMITH and a co-conspirator not named as a defendant herein ("CC-1") obtained fake driver's licenses from MAHMOUD ABDUL HUSSEIN in New York, New York.

b. On or about September 3, 2009, MORTON and EUGENE SMITH used fake driver's licenses bearing their respective photographs and the stolen identity information of other persons to fraudulently obtain gift cards and merchandise from a Kohl's store.

c. On or about June 17, 2011, HARRIS used a fake driver's license bearing his photograph and the stolen identity information of another person to fraudulently obtain merchandise from Home Depot stores in Orange County, New York and Putnam County, New York.

d. On or about August 17, 2011, HARRIS and PHILLIP SMITH discussed, by phone, using a fake driver's license to make fraudulent purchases.

e. On or about September 15, 2011, PHILLIP SMITH and MORTON spoke by telephone and discussed a fake driver's license in another person's name that bears MORTON's photograph.

f. On or about September 29, 2011, MAHMOUD ABDUL HUSSEIN and ALI ABDUL HUSSEIN discussed, by telephone, the creation of a fake Maryland driver's license for PHILLIP SMITH.

g. On or about October 15, 2011, PHILLIP SMITH spoke by telephone with MAHMOUD ABDUL HUSSEIN who was in New York, New York, and discussed the creation of fake driver's licenses from various states.

h. On or about October 15, 2011, MAHMOUD ABDUL HUSSEIN and FADAL ABDUL HUSSEIN spoke by telephone and discussed the creation of fake driver's licenses from various states.

i. On or about October 15, 2011, PHILLIP SMITH visited a store owned by MAHMOUD ABDUL HUSSEIN in New York, New York for the purpose of obtaining fake driver's licenses.

j. On or about January 6, 2012, EUGENE SMITH used a fake driver's license bearing his photograph and the stolen identity information of another person to fraudulently obtain gift cards and merchandise from a Kohl's store.

(Title 18, United States Code, Section 1028(f).)

COUNT THREE  
(Aggravated Identify Theft)

The Grand Jury further charges:

16. The allegations contained in Paragraphs 1 through 6 and Paragraphs 11 through 12 are repeated and realleged as if fully stated herein.

17. From at least in or about 2008, up to and including in or about January 2012, in the Southern District of New York and elsewhere, PHILLIP SMITH, MELISSA MORTON, WINSTON HARRIS, and EUGENE SMITH, the defendants, willfully and knowingly did transfer, possess, and use, without lawful authority, a means of identification of another person, during and in relation to the felony violations enumerated in Title 18, United States Code, Section 1028A(c), to wit, PHILLIP SMITH, MORTON, HARRIS, and EUGENE SMITH conspired to transfer, possess, and use, without authorization, social security numbers and fake driver's licenses in the names of actual persons in connection

with the offenses charged in Count One and Count Two of this Indictment.

(Title 18, United States Code,  
Sections 1028A(a)(1), (c)(4) & 2.)

FORFEITURE ALLEGATION

18. As the result of committing the offenses alleged in Counts One and/or Two of this Indictment, PHILLIP SMITH, MELISSA MORTON, WINSTON HARRIS, EUGENE SMITH, FRANCIS HIDALGO, RANDY WHITE, MAHMOUD ABDUL HUSSEIN, a/k/a "Mike," ALI ABDUL HUSSEIN, and FADAL ABDUL HUSSEIN, a/k/a "Tony," the defendants, shall forfeit to the United States, pursuant to 18 U.S.C. § 982(a)(7), all property, real and personal, that constitutes or is derived, directly and indirectly, from gross proceeds traceable to the commission of the offense(s), including but not limited to the following:

a. A sum of United States currency representing the amount of proceeds obtained as a result of the offenses

b. United States currency in the amount of \$54,000, recovered from 7 Brevoort Drive, Apartment 1A, Pomona, New York.

Substitute Assets Provision

19. If any of the above-described forfeitable property, as a result of any act or omission of PHILLIP SMITH,

MELISSA MORTON, WINSTON HARRIS, EUGENE SMITH, FRANCIS HIDALGO,  
and RANDY WHITE, MAHMOUD ABDUL HUSSEIN, a/k/a "Mike," ALI ABDUL  
HUSSEIN, and FADAL ABDUL HUSSEIN, a/k/a "Tony," the defendants:

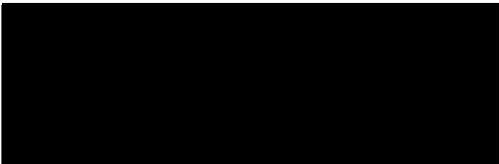
- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third person;
- c. has been placed beyond the jurisdiction of the Court;
- d. has been substantially diminished in value;

or

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

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 defendants up to the value of the above forfeitable property.

(Title 18, United States Code, Section 982.)



Preet Bharara  
PREET BHARARA  
United States Attorney

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SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA

- v -

PHILLIP SMITH,  
MELISSA MORTON,  
WINSTON HARRIS,  
EUGENE SMITH,  
FRANCIS HIDALGO,  
RANDY WHITE,  
MAHMOUD ABDUL HUSSEIN, a/k/a "Mike,"  
ALI ABDUL HUSSEIN, and  
FADAL ABDUL HUSSEIN, a/k/a "Tony,"

Defendants.

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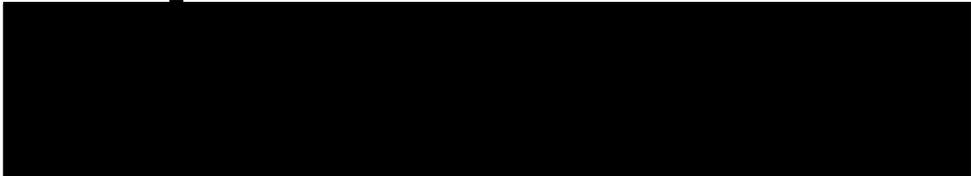
INDICTMENT

12 Cr. \_\_\_\_

(Title 18, United States Code,  
1029(b)(2), 1028(f), and 1028A(a)(1),  
c(4) & 2.)

PREET BHARARA  
United States Attorney.

A TRUE BILL



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