

-----X
:
UNITED STATES OF AMERICA
:
-v- INFORMATION
:
STEVEN DESTEFANO, 12 Cr.
:
Defendant.
:
-----X

(Conspiracy to Commit Health Care Fraud and Mail Fraud)

1. STEVEN DESTEFANO, the defendant, was an electrician for the Long Island Railroad (the "LIRR") who retired with an LIRR pension in or about November 2006, at age 55, after accumulating over 21 years of railroad employment. After retirement, DESTEFANO sought and obtained disability benefits from the United States Railroad Retirement Board (the "RRB"). For the last full year he worked (2005), DESTEFANO received approximately \$53,000 in salary and another \$47,000 in overtime payments from the LIRR. In 2011, he received approximately \$20,000¹ in LIRR pension payments and approximately \$33,700 from his RRB disability annuity.

¹ In 2011, the LIRR paid approximately \$7,000 of DESTEFANO's \$20,000 in retirement benefits directly to DESTEFANO's ex-wife per a court order.

"Disability Application") that a knee injury rendered him unable to perform his railroad job, and that certain daily activities were "hard" for him to perform. In truth and in fact, no medical condition prevented DESTEFANO from performing his railroad job, and in fact DESTEFANO worked over 1,100 hours of overtime in his last full year before retiring. DESTEFANO submitted an application to the RRB for a disability annuity not because a disability genuinely prevented him from working but rather because he was about to lose his job at the LIRR and instead wanted to retire in a manner that would maximize his retirement income.

3. In connection with his retirement, STEVEN DESTEFANO, the defendant, consulted a "facilitator" known for assisting LIRR retirees fraudulently to obtain a disability annuity from the RRB in exchange for a fee ("Facilitator 1"). Facilitator 1, a co-conspirator who is not named as a defendant herein, referred DESTEFANO to a Board-certified orthopedist also known for fraudulently assisting LIRR retirees in obtaining a disability annuity from the RRB ("Doctor 1"). DESTEFANO went to see Doctor 1, a co-conspirator not named as a defendant herein, not in order to obtain legitimate medical care, but rather to receive a "disability narrative" in support of his false and fraudulent Disability Application. Doctor 1 falsely claimed in

his narrative, which was submitted to the RRB, that "it is a detriment for [DESTEFANO] to continue in [his] occupation."

4. STEVEN DESTEFANO, the defendant, paid Facilitator 1 approximately \$1,200 for Facilitator 1's participation in the scheme, and paid Doctor 1, a co-conspirator not named as a defendant herein, approximately \$750 for his participation in the scheme.

5. On the day of his retirement, with the assistance of his co-conspirators, including Facilitator 1 and Doctor 1, STEVEN DESTEFANO, the defendant, applied for and obtained an occupational disability annuity from the RRB. In order to obtain these benefits, DESTEFANO and his co-conspirators made a number of false and fraudulent statements to the RRB, including that DESTEFANO was unable to perform his railroad job because of a medical condition.

6. As a result, STEVEN DESTEFANO, the defendant, has fraudulently obtained approximately \$183,107 in RRB disability benefits to date. If DESTEFANO'S fraud was not discovered, he would have received a total of approximately \$292,963 in disability benefits from the RRB from his retirement through age 65.

Statutory Allegations

7. From at least in or about 2006 up to and including at least in or about 2011, in the Southern District of New York and elsewhere, STEVEN DESTEFANO, the defendant, and others known and unknown, combined, conspired, confederated and agreed together and with each other to violate Title 18, United States Code, Sections 1341 and 1347.

8. It was a part and an object of the conspiracy that STEVEN DESTEFANO, the defendant, and others known and unknown, having devised and intending to devise a scheme and artifice to defraud, and for obtaining money and property by means of false and fraudulent pretenses, representations and promises, for the purpose of executing such scheme and artifice and attempting so to do, would and did place in a post office and authorized depository for mail matter, a matter and thing to be sent and delivered by the Postal Service, and would and did deposit and cause to be deposited a matter and thing to be sent and delivered by a private and commercial interstate carrier, and would and did take and receive therefrom, a matter and thing, and would and did knowingly cause to be delivered by mail and such carrier according to the direction thereon, and at the place at which it is directed to be delivered by the person to whom it is addressed, a matter and thing, in violation of Title 18, United States Code, Section 1341.

9. It was further a part and an object of the conspiracy that STEVEN DESTEFANO, the defendant, and others known and unknown, knowingly and willfully, would and did execute, and attempt to execute, a scheme and artifice to defraud a health care benefit program and to obtain, by means of false and fraudulent pretenses, representations, and promises, any of the money and property owned by, and under the custody and control of, a health care benefit program, in connection with the delivery of and payment for health care benefits, items, and services, in violation of Title 18, United States Code, Section 1347.

(Title 18, United States Code, Section 1349.)

COUNT TWO

(Conspiracy to Defraud the RRB)

The United States Attorney further charges:

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

11. From at least in or about 2006, up to and including in or about 2011, in the Southern District of New York and elsewhere, STEVEN DESTEFANO, the defendant, and others known and unknown, would and did make and present to a person and officer in the civil, military, and naval service of the United States, and to a department and agency thereof, a claim upon and against the United States and a department and agency thereof,

knowing such claim to be false, fictitious, and fraudulent, to wit, the defendant and his co-conspirators would and did defraud the RRB by making false and fraudulent statements in order to obtain disability benefits to which they were not entitled, in violation of Title 18, United States Code, Section 287.

Overt Acts

12. In furtherance of the conspiracy and to effect the illegal object thereof, STEVEN DESTEFANO, the defendant, and others known and unknown, committed the following overt acts, among others, in the Southern District of New York and elsewhere:

a. On or about October 24, 2006, Doctor 1 signed a "disability narrative" regarding STEVEN DESTEFANO.

b. On or about November 1, 2006, STEVEN DESTEFANO signed an application for RRB disability benefits.

c. On or about March 6, 2011, STEVEN DESTEFANO mailed and caused to be mailed to the RRB's office in Manhattan, New York a Continuing Disability Update Report, known as a form G-254A (the "Disability Recertification"), affirming that, during the period from March 1, 2007 to March 6, 2011, his disability had remained the same.

(Title 18, United States Code, Section 371.)

COUNT THREE
(False Claims)

The United States Attorney further charges:

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

14. From at least in or about 2006, up to and including in or about 2011, in the Southern District of New York and elsewhere, STEVEN DESTEFANO, the defendant, made and presented to a person and officer in the civil, military, and naval service of the United States, and to a department and agency thereof, a claim upon and against the United States and a department and agency thereof, knowing such claim to be false, fictitious, and fraudulent, to wit, DESTEFANO defrauded the RRB by making false and fraudulent statements in order to obtain disability benefits to which he was not entitled.

(Title 18, United States Code, Sections 287 and 2.)

COUNT FOUR
(Mail Fraud)

The United States Attorney further charges:

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

16. On or about March 6, 2011, in the Southern District of New York and elsewhere, STEVEN DESTEFANO, the defendant, having devised and intending to devise a scheme and

artifice to defraud, and for obtaining money and property by means of false and fraudulent pretenses, representations and promises, for the purpose of executing such scheme and artifice and attempting so to do, placed in a post office and authorized depository for mail matter, a matter and thing to be sent and delivered by the Postal Service, and deposited and caused to be deposited a matter and thing to be sent and delivered by a private and commercial interstate carrier, and took and received therefrom, a matter and thing, and knowingly caused to be delivered by mail and such carrier according to the direction thereon, and at the place at which it is directed to be delivered by the person to whom it is addressed, a matter and thing, to wit, on March 6, 2011, DESTEFANO, as part of a scheme to obtain disability benefits to which he was not entitled, mailed and caused to be mailed a Disability Recertification, to the RRB's offices in Manhattan, New York.

(Title 18, United States Code, Sections 1341 and 2.)

FORFEITURE ALLEGATIONS

17. As the result of conspiring to commit the offenses alleged in Counts One, Two, Three and Four of this Information, STEVEN DESTEFANO, 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 and indirectly, from gross proceeds traceable to the commission of the offenses.

Substitute Assets Provision

18. If any of the above-described forfeitable property, as a result of any act or omission of STEVEN DESTEFANO, 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) and 21 U.S.C. § 853(p), to seek forfeiture of any other property of said defendant up to the value of the above forfeitable property, to wit, \$[].

(Title 18, United States Code, Section 981;
Title 21, United States Code, Section 853(p);
Title 28, United States Code, Section 2461)

A handwritten signature in dark ink, appearing to read "Preet Bharara", is written over a horizontal line.

PREET BHARARA

United States Attorney