

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA	:	CRIMINAL NO. <u>09-</u>
v.	:	DATE FILED: <u>April 30, 2009</u>
ANTHONY SMITH	:	VIOLATIONS:
	:	18 U.S.C. § 371 (conspiracy - 1 count)
	:	18 U.S.C. § 1344 (bank fraud - 4 counts)
	:	18 U.S.C. § 1028A (aggravated identity
	:	theft - 5 counts)
	:	18 U.S.C. § 1029(a)(5) (fraud in connection
	:	with access device -1 count)
	:	18 U.S.C. § 2 (aiding & abetting)

INDICTMENT

COUNT ONE

THE GRAND JURY CHARGES THAT:

At all times material to this indictment:

1. Commerce Bank was a financial institution, the deposits of which were insured by the Federal Deposit Insurance Corporation ("FDIC"), certificate number 21140.
2. PNC Bank was a financial institution, the deposits of which were insured by the FDIC, certificate number 6384.
3. Wachovia Bank was a financial institution, the deposits of which were insured by the FDIC, certificate number 33869.
4. From on or about May 22, 2008 through on or about February 9, 2009, in the Eastern District of Pennsylvania, defendant

ANTHONY SMITH

conspired and agreed, with others known and unknown to the grand jury, to commit offenses against the United States, that is, to knowingly execute, and attempt to execute, and aid and abet the execution of, bank fraud, in violation of Title 18, United States Code, Section 1344, and to knowingly and without lawful authority use a means of identification of another person during and in relation to bank fraud, in violation of Title 18, United States Code, Section 1028A(a)(1).

MANNER AND MEANS

5. It was part of the conspiracy that defendant ANTHONY SMITH and others used the names, dates of births, addresses, social security numbers, bank account numbers, and other means of identification of customers of Commerce Bank, Wachovia Bank, and PNC Bank to enrich themselves and defraud these banks by posing as customers of the banks at the teller windows and withdrawing funds from the customers' accounts.

It was further a part of the conspiracy that:

6. Defendant ANTHONY SMITH acted as a "check runner," posing as various bank customers to make fraudulent withdrawals from the bank accounts of those customers. In that capacity, defendant SMITH performed some or all of the following:

a. he received, from Co-Conspirator 1, a person known to the grand jury, and others, known and unknown to the grand jury, personal identifying information for customers of Commerce Bank, Wachovia Bank, and PNC Bank, including the bank customers' names, dates of birth, social security numbers, and bank account numbers;

b. he received, in addition to the bank customers' account information, false photographic identification in the name of each customer;

c. he was instructed by others to make fraudulent withdrawals from the bank accounts of those customers;

d. he was provided by others with transportation to and from the banks to make fraudulent withdrawals from the bank customers' account;

e. he gave the proceeds received from making each fraudulent withdrawal to others; and

f. he was paid for his services for making the fraudulent withdrawals.

7. Defendant ANTHONY SMITH fraudulently obtained, and aided and abetted the obtaining of, more than \$17,990 from the making of fraudulent withdrawals.

OVERT ACTS

In furtherance of the conspiracy, defendant ANTHONY SMITH and others, known and unknown to the grand jury, committed the following overt acts in the Eastern District of Pennsylvania and elsewhere:

1. From on or about May 22, 2008 to on or about June 6, 2008, a Commerce Bank employee, known to the grand jury, used his or her position with Commerce Bank to improperly acquire account information for the Commerce Bank account belonging to C.T., a Montgomery County, Pennsylvania, resident and a person known to the grand jury, as well as account information for other Commerce Bank account holders.

2. The Commerce Bank employee then gave that account information, including account numbers, to persons known and unknown to the grand jury, who used that information to fraudulently obtain money from the accounts of those Commerce Bank account holders.

3. On or about June 2, 2008, defendant ANTHONY SMITH fraudulently withdrew funds in the amount of approximately \$3,200 from C.T.'s Commerce Bank account at a branch located at 8600 Germantown Avenue in Philadelphia, using the account number of, and fraudulent identification in the name of, C.T., which had been provided to defendant SMITH through the Commerce Bank employee and others.

4. On or about June 3, 2008, defendant ANTHONY SMITH attempted to obtain a debit card for the account of Commerce Bank account holder C.T. at a branch located at 2385 West Cheltenham Avenue in Philadelphia, using the account number of, and fraudulent identification in the name of, C.T., which had been provided to defendant SMITH through the Commerce Bank employee and others.

5. On or about the following dates, defendant ANTHONY SMITH fraudulently withdrew funds in the amounts listed below from the account of PNC Bank account holder J.D., a Delaware County, Pennsylvania, resident and a person known to the grand jury, at PNC Bank branches, using the account number of, and fraudulent identification in the name of, J.D., which had been provided to defendant SMITH by others known and unknown to the grand jury:

<u>DATE</u>	<u>LOCATION</u>	<u>AMOUNT OF WITHDRAWAL</u>
11/25/08	Cherry Hill, NJ	\$700
11/25/08	Cherry Hill, NJ	\$800
11/26/08	Cinnaminson, NJ	\$700

6. On or about the following dates, defendant ANTHONY SMITH fraudulently withdrew funds in the amounts listed below from the account of Wachovia Bank

account holder M.J., a Philadelphia resident and a person known to the grand jury, at Wachovia Bank branches, using the account number of, and fraudulent identification in the name of, M.J., which had been provided to defendant SMITH by others known and unknown to the grand jury:

<u>DATE</u>	<u>LOCATION</u>	<u>AMOUNT OF WITHDRAWAL</u>
12/29/08	Glenside, PA	\$760
12/29/08	Philadelphia, PA	\$1,720
12/29/08	Philadelphia, PA	\$910
12/31/08	Glenside, PA	\$1,700
12/31/08	Philadelphia, PA	\$1,700

7. On or about January 29, 2009, defendant ANTHONY SMITH fraudulently withdrew funds in the amounts listed below from the account of Wachovia Bank account holder M.W., a Bucks County, Pennsylvania, resident and a person known to the grand jury, at Wachovia Bank branches, using the account number of, and fraudulent identification in the name of, M.W., which had been provided to defendant SMITH by others known and unknown to the grand jury:

<u>DATE</u>	<u>LOCATION</u>	<u>AMOUNT OF WITHDRAWAL</u>
01/29/09	Morrisville, PA	\$1,950.38
01/29/09	Trenton, NJ	\$1,950.38
01/29/09	Trenton, NJ	\$1,950.38

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

COUNT TWO

THE GRAND JURY FURTHER CHARGES THAT:

1. Paragraphs 1 and 5 through 7, and Overt Acts 1 through 4 of Count One are incorporated here.
2. From on or about June 2, 2008 to on or about June 3, 2008, in the Eastern District of Pennsylvania, defendant

ANTHONY SMITH

knowingly executed and attempted to execute, and aided and abetted the execution of, a scheme to defraud Commerce Bank, and to obtain monies owned by and under the care, custody, and control of that bank by means of false and fraudulent pretenses, representations, and promises.

THE SCHEME

3. Defendant ANTHONY SMITH used stolen account information and false identification documents of C.T., an account holder of Commerce Bank, to fraudulently withdraw money from the account of C.T. and share the proceeds with others.
4. In furtherance of the scheme, on or about June 2, 2008, at a Commerce Bank branch in Philadelphia, defendant ANTHONY SMITH made a fraudulent withdrawal in the amount of \$3,200 from the Commerce Bank account of C.T.
5. In furtherance of the scheme, on or about June 3, 2008, at a Commerce Bank branch in Philadelphia, defendant ANTHONY SMITH attempted to obtain a debit card for the account of, and in the name of, C.T.

All in violation of Title 18, United States Code, Sections 1344 and 2.

COUNT THREE

THE GRAND JURY FURTHER CHARGES THAT:

From on or about June 2, 2008 to on or about June 3, 2008, in the Eastern District of Pennsylvania, defendant

ANTHONY SMITH

knowingly and without lawful authority, possessed and used, and aided and abetted the possession and use of, a means of identification of another person, that is, the name and identifying information of C.T., during and in relation to bank fraud.

In violation of Title 18, United States Code, Sections 1028A(a)(1), (c)(5) and 2.

COUNT FOUR

THE GRAND JURY FURTHER CHARGES THAT:

1. Paragraphs 2 and 4 through 7, and Overt Act 5 of Count One are incorporated here.
2. On or about November 25, 2008, in the Eastern District of Pennsylvania and elsewhere, defendant

ANTHONY SMITH

knowingly executed and attempted to execute, and aided and abetted the execution of, a scheme to defraud PNC Bank, and to obtain monies owned by and under the care, custody, and control of that bank by means of false and fraudulent pretenses, representations, and promises.

THE SCHEME

3. Defendant ANTHONY SMITH used stolen account information and false identification documents of J.D, a person known to the grand jury and an account holder of PNC Bank, to fraudulently withdraw money from the account of J.D. and share the proceeds with others.
4. In furtherance of the scheme, defendant ANTHONY SMITH made the following fraudulent withdrawals from the PNC Bank account of J.D.:

<u>DATE</u>	<u>LOCATION</u>	<u>AMOUNT OF WITHDRAWAL</u>
11/25/08	Cherry Hill, NJ	\$700
11/25/08	Cherry Hill, NJ	\$800
11/26/08	Cinnaminson, NJ	\$700

All in violation of Title 18, United States Code, Sections 1344 and 2.

COUNT FIVE

THE GRAND JURY FURTHER CHARGES THAT:

On or about November 25 and November 26, 2008, in the Eastern District of Pennsylvania and elsewhere, defendant

ANTHONY SMITH

knowingly and without lawful authority, transferred, possessed and used, and aided and abetted the transfer, possession and use of, a means of identification of another person, that is, the name and identifying information of J.D., during and in relation to bank fraud.

In violation of Title 18, United States Code, Sections 1028A(a)(1), (c)(5) and 2.

COUNT SIX

THE GRAND JURY FURTHER CHARGES THAT:

On or about November 25, 2008, in Philadelphia, Pennsylvania, in the Eastern District of Pennsylvania, defendant

ANTHONY SMITH

knowingly and with the intent to defraud, effected a transaction with an access device, that is, a Best Buy credit card, with an account number ending in 3853, in the name of J.D., a person known to the grand jury, to obtain things of value aggregating \$1,000 or more during a one-year period, for a total of at least \$3,156, thereby affecting interstate commerce.

In violation of Title 18, United States Code, Section 1029(a)(5).

COUNT SEVEN

THE GRAND JURY FURTHER CHARGES THAT:

1. Paragraphs 3 and 5 through 7, and Overt Acts 6 and 7 of Count One are incorporated here.
2. On or about November 25, 2008, in the Eastern District of Pennsylvania and elsewhere, defendant

ANTHONY SMITH

knowingly executed and attempted to execute, and aided and abetted the execution of, a scheme to defraud Wachovia Bank, and to obtain monies owned by and under the care, custody, and control of that bank by means of false and fraudulent pretenses, representations, and promises.

THE SCHEME

3. Defendant ANTHONY SMITH used stolen account information and false identification documents of M.J. and M.W., persons known to the grand jury and account holders of Wachovia Bank, to fraudulently withdraw money from the accounts of M.J. and M.W. and share the proceeds with others.
4. In furtherance of the scheme, on the following dates, defendant ANTHONY SMITH made fraudulent withdrawals in the amounts listed below from the Wachovia Bank accounts of M.J and M.W.:

<u>DATE</u>	<u>LOCATION</u>	<u>ACCOUNT HOLDER</u>	<u>AMOUNT OF WITHDRAWAL</u>
12/29/08	Glenside, PA	M.J.	\$760
12/29/08	Philadelphia, PA	M.J.	\$1,720
12/29/08	Philadelphia, PA	M.J.	\$910

12/31/08	Glenside, PA	M.J.	\$1,700
12/31/08	Philadelphia, PA	M.J.	\$1,700
01/29/09	Morrisville, PA	M.W.	\$1,950.38
01/29/09	Trenton, NJ	M.W.	\$1,950.38
01/29/09	Trenton, NJ	M.W.	\$1,950.38

All in violation of Title 18, United States Code, Sections 1344 and 2.

COUNT EIGHT

THE GRAND JURY FURTHER CHARGES THAT:

Between on or about December 29, 2008 and on or about December 31, 2008, in the Eastern District of Pennsylvania and elsewhere, defendant

ANTHONY SMITH

knowingly and without lawful authority, transferred, possessed and used, and aided and abetted the transfer, possession and use of, a means of identification of another person, that is, the name and identifying information of M.J., during and in relation to bank fraud.

In violation of Title 18, United States Code, Sections 1028A(a)(1), (c)(5) and 2.

COUNT NINE

THE GRAND JURY FURTHER CHARGES THAT:

Between on or about January 29, 2009, in the Eastern District of Pennsylvania and elsewhere, defendant

ANTHONY SMITH

knowingly and without lawful authority, transferred, possessed and used, and aided and abetted the transfer, possession and use of, a means of identification of another person, that is, the name and identifying information of M.W., during and in relation to bank fraud.

In violation of Title 18, United States Code, Sections 1028A(a)(1), (c)(5) and 2.

COUNT TEN

THE GRAND JURY FURTHER CHARGES THAT:

1. Citizens Bank was a financial institution, the deposits of which were insured by the FDIC, certificate number 57282.
2. On or about October 22, 2008, in the Eastern District of Pennsylvania, defendant

ANTHONY SMITH

knowingly attempted to execute a scheme to defraud Citizens Bank, and to obtain monies owned by and under the care, custody, and control of that bank by means of false and fraudulent pretenses, representations, and promises.

THE SCHEME

3. Defendant ANTHONY SMITH used stolen account information of a company referred to here as C.B.A., which did business in Delaware County, Pennsylvania, and was an account holder of Citizens Bank, to attempt to fraudulently withdraw money from C.B.A.'s account and share the proceeds with others.

4. In furtherance of the scheme, on or about October 22, 2008, at a Bank of America Bank branch in Morristown, Pennsylvania, defendant ANTHONY SMITH attempted to deposit a fraudulent check drawn on the Citizens Bank account of C.B.A. in the amount of \$1,578 into the Bank of America account of C.B., a Montgomery County, Pennsylvania resident and a person known to the grand jury

All in violation of Title 18, United States Code, Sections 1344 and 2.

COUNT ELEVEN

THE GRAND JURY FURTHER CHARGES THAT:

On or about October 22, 2008, in the Eastern District of Pennsylvania, defendant

ANTHONY SMITH

knowingly and without lawful authority, possessed and used, and aided and abetted the possession and use of, a means of identification of another person, that is, the name and identifying information of C.B., during and in relation to bank fraud.

In violation of Title 18, United States Code, Sections 1028A(a)(1), (c)(5) and 2.

NOTICE OF FORFEITURE

THE GRAND JURY FURTHER CHARGES THAT:

1. As a result of the violations of Title 18, United States Code, Sections 1344 and 1029, set forth in this indictment, defendant

ANTHONY SMITH

shall forfeit to the United States of America any property, real or personal, that constitutes or is derived from proceeds traceable to the commission of such offenses, as charged in this indictment, including, but not limited to, the sum of \$21,146.

2. If any of the property subject to forfeiture, as a result of any act or omission of the defendant:

- (a) cannot be located upon the exercise of due diligence;
- (b) has been transferred or 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 divided without difficulty;

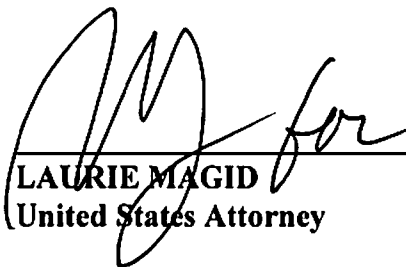
it is the intent of the United States, pursuant to Title 18, United States Code, Section 982(b),

incorporating Title 21, United States Code, Section 853(p), to seek forfeiture of any other property of the defendant up to the value of the property subject to forfeiture.

All pursuant to Title 18, United States Code, Section 982(a)(2).

A TRUE BILL:

GRAND JURY FOREPERSON



LAURIE MAGID
United States Attorney