

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
WEST PALM BEACH DIVISION**

CASE NO.: 9:19-cv-80315

UNITED STATES OF AMERICA,

Plaintiff,

vs.

SHAMARE A. SMITH,

Defendant.

**UNITED STATES OF AMERICA’S COMPLAINT FOR
PERMANENT INJUNCTION**

Plaintiff, the United States of America (“United States”), through its undersigned counsel, hereby sues Defendant Shamare A. Smith (“Defendant”) and alleges as follows:

INTRODUCTION

1. Starting as early as 2017 and continuing to the present, Defendant has assisted and facilitated a predatory mail and wire fraud scheme that primarily victimizes senior citizens of the United States. Participants in the scheme contact potential victims, falsely claim that those victims have won a sweepstakes or lottery, and thereby induce the victims to transmit money to Defendant to account for taxes and fees purportedly associated with victims’ falsely promised winnings.

2. The United States seeks to prevent continuing and substantial injury to victims of this fraudulent scheme by bringing this action for a permanent injunction and other equitable relief under 18 U.S.C. § 1345 to enjoin the ongoing commission of mail fraud and wire fraud in violation of 18 U.S.C. §§ 1341 and 1343.

JURISDICTION AND VENUE

3. The Court has subject matter jurisdiction over this action under 18 U.S.C. § 1345 and 28 U.S.C. §§ 1331 and 1345.

4. Venue is proper in this district under 28 U.S.C. § 1391(b)(1).

PARTIES

5. Plaintiff is the United States.

6. Defendant is a resident of West Palm Beach, Florida. Defendant engaged, and continues to engage, in the conduct described in this Complaint from within the Southern District of Florida.

FRAUDULENT SCHEME

7. Since at least as early as 2017, Defendant has assisted and facilitated a fraud scheme by accepting victim payments and providing participants of the scheme with access to those payments.

8. Operators of the fraud scheme engage in a sweepstakes or lottery scam. Callers associated with the fraud scheme contact victims, who often are senior citizens, and falsely claim that the victims have won the lottery. Typically, the callers then tell the victim that he or she needs to wire or otherwise transmit money to pay for fees and/or taxes allegedly associated with winning the lottery. These claims are false and fraudulent, as the members of the scheme know the victim has not won the lottery and that there is no need for the victim to wire fees and/or taxes associated with winning the lottery.

9. Since at least 2017, victims have been harmed by the fraudulent scheme facilitated by Defendant. Defendant plays a critical role in the scheme by receiving victim payments by through the mail, and then sending the payments, less a payment to himself, to individuals in Jamaica engaged in the scheme. Defendant sent the payments to Jamaica and to

other individuals located in the United States and associated with the scheme by Western Union, Jamaica National Overseas, and by Zelle, a money transfer service offered by several U.S. banks.

DEFENDANT'S KNOWLEDGE OF FRAUD

10. Upon information and belief, the United States alleges that Defendant has knowledge that his conduct facilitates a mail and wire fraud scheme.

HARM TO VICTIMS

11. Victims suffer financial losses from the mail and wire fraud scheme facilitated by Defendant.

12. The scheme disproportionately affects elderly victims.

13. Absent injunctive relief by this Court, Defendant's conduct will continue to cause injury to victims.

COUNT I
(18 U.S.C. § 1345 – Injunctive Relief)

14. The United States re-alleges and incorporates by reference Paragraphs 1 through 13 of this Complaint as though fully set forth herein.

15. By reason of the conduct described herein, Defendant violated, is violating, and is about to violate 18 U.S.C. §§ 1341 and 1343 by facilitating a scheme and artifice to defraud and obtain money or property by means of false or fraudulent representations with the intent to defraud, and, in so doing, use the United States mails and interstate or foreign wire communications.

16. Upon a showing that Defendant is committing or about to commit mail or wire fraud, the United States is entitled, under 18 U.S.C. § 1345, to seek a permanent injunction restraining all future fraudulent conduct and to any other action that this Court deems just and proper to prevent a continuing and substantial injury to victims.

17. As a result of the foregoing, the Court should enjoin Defendant's conduct under 18 U.S.C. § 1345.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, United States of America, requests of the Court the following relief:

A. That the Court issue a permanent injunction, pursuant to 18 U.S.C. § 1345, ordering that Defendant is restrained from engaging, participating, or assisting in any lottery scam or money transmitting business; and

B. That the Court order such other and further relief as the Court shall deem just and proper.

DATED: March 6, 2019

GUSTAV W. EYLER
Acting Director
Consumer Protection Branch

RICHARD GOLDBERG
Senior Counsel for Complex Litigation
Consumer Protection Branch

By: **LINDA I. MARKS**
Linda I. Marks
Senior Litigation Counsel
Consumer Protection Branch
United States Department of Justice
P.O. Box 386
Washington, D.C. 20044
Tel.: 202-307-0060
Email: linda.marks@usdoj.gov

Counsel for United States of America

Respectfully Submitted,

ARIANA FAJARDO ORSHAN
UNITED STATES ATTORNEY

By: **JAMES A. WEINKLE**
James A. Weinkle
Assistant United States Attorney
Florida Bar No. 0710891
United States Attorney's Office
Southern District of Florida
99 N.E. 4th Street, Suite 300
Miami, Florida 33132
Tel.: 305-961-9290
Email: James.Weinkle@usdoj.gov

Counsel for United States of America

CIVIL COVER SHEET

JS 44 (Rev. 06/17) FLSD Revised 06/01/2017

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.) NOTICE: Attorneys MUST Indicate All Re-filed Cases Below.

I. (a) PLAINTIFFS United States of America

DEFENDANTS Shamare A. Smith

(b) County of Residence of First Listed Plaintiff (EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant Palm Beach (IN U.S. PLAINTIFF CASES ONLY)

(c) Attorneys (Firm Name, Address, and Telephone Number) Linda I. Marks, U.S. Department of Justice, Consumer Protection Branch, P.O. Box 386, Washington, D.C. 20044

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED. Attorneys (If Known)

(d) Check County Where Action Arose: MIAMI-DADE MONROE BROWARD PALM BEACH MARTIN ST LUCIE INDIAN RIVER OKEECHOBEE HIGHLANDS

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- 1 U.S. Government Plaintiff
3 Federal Question (U.S. Government Not a Party)
2 U.S. Government Defendant
4 Diversity (Indicate Citizenship of Parties in Item III)

- Citizen of This State
Citizen of Another State
Citizen or Subject of a Foreign Country
PTF DEF
1 1 Incorporated or Principal Place of Business In This State
2 2 Incorporated and Principal Place of Business In Another State
3 3 Foreign Nation

IV. NATURE OF SUIT (Place an "X" in One Box Only)

- CONTRACT: 110 Insurance, 120 Marine, 130 Miller Act, 140 Negotiable Instrument, 150 Recovery of Overpayment & Enforcement of Judgment, 151 Medicare Act, 152 Recovery of Defaulted Student Loans (Excl. Veterans), 153 Recovery of Overpayment of Veteran's Benefits, 160 Stockholders' Suits, 190 Other Contract, 195 Contract Product Liability, 196 Franchise
REAL PROPERTY: 210 Land Condemnation, 220 Foreclosure, 230 Rent Lease & Ejectment, 240 Torts to Land, 245 Tort Product Liability, 290 All Other Real Property
PERSONAL INJURY: 310 Airplane, 315 Airplane Product Liability, 320 Assault, Libel & Slander, 330 Federal Employers' Liability, 340 Marine, 345 Marine Product Liability, 350 Motor Vehicle, 355 Motor Vehicle Product Liability, 360 Other Personal Injury, 362 Personal Injury - Med. Malpractice
TORTS: 365 Personal Injury - Product Liability, 367 Health Care/Pharmaceutical Personal Injury Product Liability, 368 Asbestos Personal Injury Product Liability
LABOR: 710 Fair Labor Standards Act, 720 Labor/Mgmt Relations, 740 Railway Labor Act, 751 Family and Medical Leave Act, 790 Other Labor Litigation, 791 Empl. Ret. Inc. Security Act
FORFEITURE/PENALTY: 625 Drug Related Seizure of Property 21 USC 881, 690 Other
BANKRUPTCY: 422 Appeal 28 USC 158, 423 Withdrawal 28 USC 157
PROPERTY RIGHTS: 820 Copyrights, 830 Patent, 835 Patent - Abbreviated New Drug Application, 840 Trademark
SOCIAL SECURITY: 861 HIA (1395ff), 862 Black Lung (923), 863 DIWC/DIWW (405(g)), 864 SSID Title XVI, 865 RS1 (405(g))
FEDERAL TAX SUITS: 870 Taxes (U.S. Plaintiff or Defendant), 871 IRS-Third Party 26 USC 7609
OTHER STATUTES: 375 False Claims Act, 376 Qui Tam (31 USC 3729 (a)), 400 State Reapportionment, 410 Antitrust, 430 Banks and Banking, 450 Commerce, 460 Deportation, 470 Racketeer Influenced and Corrupt Organizations, 480 Consumer Credit, 490 Cable/Sat TV, 850 Securities/Commodities Exchange, 890 Other Statutory Actions, 891 Agricultural Acts, 893 Environmental Matters, 895 Freedom of Information Act, 896 Arbitration, 899 Administrative Procedure Act/Review or Appeal of Agency Decision, 950 Constitutionality of State Statutes

V. ORIGIN (Place an "X" in One Box Only)
1 Original Proceeding
2 Removed from State Court
3 Re-filed (See VI below)
4 Reinstated or Reopened
5 Transferred from another district (specify)
6 Multidistrict Litigation Transfer
7 Appeal to District Judge from Magistrate Judgment
8 Multidistrict Litigation - Direct File
9 Remanded from Appellate Court

VI. RELATED/ RE-FILED CASE(S) (See instructions): a) Re-filed Case YES NO b) Related Cases YES NO
JUDGE: DOCKET NUMBER:

VII. CAUSE OF ACTION Cite the U.S. Civil Statute under which you are filing and Write a Brief Statement of Cause (Do not cite jurisdictional statutes unless diversity):
18 U.S.C. § 1345, Anti-Fraud Injunction Statute
LENGTH OF TRIAL via days estimated (for both sides to try entire case)

VIII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$ CHECK YES only if demanded in complaint.
JURY DEMAND: Yes No

ABOVE INFORMATION IS TRUE & CORRECT TO THE BEST OF MY KNOWLEDGE
DATE: March 6, 2019 SIGNATURE OF ATTORNEY OF RECORD: Linda I. Marks

FOR OFFICE USE ONLY RECEIPT # AMOUNT IFP JUDGE MAG JUDGE