

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF KENTUCKY  
CENTRAL DIVISION  
LEXINGTON

Eastern District of Kentucky  
**FILED**  
DEC 07 2018  
AT LEXINGTON  
ROBERT R. CARR  
CLERK U.S. DISTRICT COURT

UNITED STATES OF AMERICA

V.

INDICTMENT NO. 5:18-cr-176-DCR

JOHN JEROME O'HARA

\* \* \* \* \*

**THE GRAND JURY CHARGES:**

**BACKGROUND**

1. At all relevant times, JOHN JEROME O'HARA was a resident of Lexington, Kentucky, in the Eastern District of Kentucky.
2. At all relevant times, O'HARA functioned as attorney-in-fact for his mother, S.T., pursuant to a Power of Attorney executed on or about June 14, 2014. Pursuant to the Power of Attorney, O'HARA was authorized to deposit money collected on behalf of S.T. and to pay any of S.T.'s bills, accounts, or debts.
3. The Power of Attorney did not authorize O'HARA to make gifts of S.T.'s property or financial assets to himself or others.
4. In or about February 2013, S.T. was admitted to the assisted living facility of Wesley Manor Community Living in Louisville, Kentucky, due to the evident onset of Alzheimer's disease in S.T. During her time at Wesley Manor, S.T.'s condition worsened. S.T. was unable to make financial decisions on her own.

5. Beginning in June 2014, when O'HARA became S.T.'s attorney-in-fact under the Power of Attorney, S.T. maintained a sizeable balance in her three bank accounts and received approximately \$7,000 in monthly income from Social Security and other investments, and her basic living expenses at Wesley Manor amounted to approximately \$7,400 per month. S.T. also owned a residence in Lexington, Kentucky, where O'HARA lived and was responsible for bills and payments.

6. Between June 11, 2014 and February 1, 2018, O'HARA failed to pay all the money S.T. owed for living expenses at Wesley Manor, causing other family members to pay out in excess of \$100,000 to keep her residence there. He also failed to make mortgage payments on the S.T. residence in Lexington, Kentucky, which went into foreclosure in March of 2018.

7. Instead of making payments for the use and benefit of S.T., O'HARA misused S.T.'s funds for his own benefit. Beginning in June of 2014, and continuing until January 15, 2018, O'HARA, purporting to act as S.T.'s attorney-in-fact pursuant to the Power of Attorney, wrote checks to himself, his family, cash, and other entities for such expenses as school fees, child support, and vacation expenditures from S.T.'s accounts. Then, in July of 2014 and continuing until February 1, 2018, O'HARA, purporting to act as S.T.'s attorney-in-fact pursuant to the Power of Attorney, electronically transferred funds into Chase Bank accounts \*2275 and \*5762 belonging to O'HARA, and then used those funds to pay for personal expenses, including cell phone plans, credit card payments, youth soccer fees, and entertainment. In making these gifts and expenditures, O'HARA was at all times acting in his own interest and not in the best interests of his mother, S.T.

**COUNTS 1-10**  
**18 U.S.C. § 1344(2)**

8. The allegations contained in paragraphs 1 through 7 of the Indictment are incorporated by reference as if fully restated and set forth herein.

9. From on or about June 28, 2014, and continuing through January 15, 2018, in Fayette County, in the Eastern District of Kentucky, and elsewhere,

**JOHN JEROME O'HARA**

knowingly executed a scheme and artifice to obtain, by means of materially false and fraudulent pretenses, representations, promises, and concealment of material facts, money and funds from S.T.'s accounts under the custody and control of Chase Bank, a financial institution insured by the Federal Deposit Insurance Corporation.

**MANNER AND MEANS**

The manner and means used to accomplish the objectives of the scheme included, among others, the following:

10. O'HARA abused his authority as S.T.'s attorney-in-fact and his access to S.T.'s financial accounts to use S.T.'s funds for unauthorized purposes.

11. O'HARA caused himself to be named as a signatory on one of S.T.'s accounts as the attorney-in-fact. O'HARA wrote checks drawn on S.T.'s accounts at Chase Bank and made payable to "cash," to himself, to his daughter, or for personal expenses. Some of these checks he signed as "POA."

12. O'HARA falsely represented that he was acting in S.T.'s interests under the Power of Attorney, when in truth and in fact O'HARA withdrew the money from S.T.'s accounts

for his own personal benefit.

13. O'HARA did not disclose to Chase Bank that he was using S.T.'s money for his own personal benefit.

### EXECUTION OF THE SCHEME

14. On or about the dates listed below, in Fayette County, in the Eastern District of Kentucky, and elsewhere,

#### **JOHN JEROME O'HARA,**

for the purpose of executing the scheme described above, and in order to effect the objects thereof, did knowingly write and cause to be deposited or cashed the following checks drawn on S.T.'s accounts at Chase Bank.

| <b>Count</b> | <b>Payee</b>           | <b>Amount</b> | <b>Check</b> | <b>54199301</b> | <b>Date</b> |
|--------------|------------------------|---------------|--------------|-----------------|-------------|
| <b>1</b>     | John O'Hara            | \$6,000       | 5541         | 54199301        | 6/28/2014   |
| <b>2</b>     | John O'Hara            | \$9,000       | 5533         | 54199301        | 7/3/2014    |
| <b>3</b>     | John O'Hara            | \$9,500       | 5535         | 54199301        | 7/8/2014    |
| <b>4</b>     | John O'Hara            | \$6,500       | 5536         | 54199301        | 7/11/2014   |
| <b>5</b>     | K.O.                   | \$8,500       | 5537         | 54199301        | 7/18/2014   |
| <b>6</b>     | Anchorage Yacht/Tennis | \$1,264.48    | 5692         | 54199301        | 2/16/2015   |
| <b>7</b>     | Amzac                  | \$195.00      | 5639         | 54199301        | 3/25/2015   |
| <b>8</b>     | Cash                   | \$1,500       | 5695         | 54199301        | 3/26/2015   |
| <b>9</b>     | Beaumont Middle School | \$450.00      | 5703         | 54199301        | 12/3/2015   |
| <b>10</b>    | Joy O'Hara             | \$1,500       | 5612         | 54199301        | 1/15/2018   |

Each in violation of Title 18, United States Code, Section 1344(2).

#### **COUNT 11-14** **18 U.S.C. § 1343**

15. The allegations contained in paragraphs 1 through 7 of the Indictment are incorporated by reference as if fully restated and set forth herein.

16. From on or about July 29, 2014, and continuing through on or about February 1,

2018, in Fayette County, in the Eastern District of Kentucky, and elsewhere,

**JOHN JEROME O'HARA**

did devise and intend to devise a scheme to defraud and to obtain money and property by means of materially false and fraudulent pretenses, representations, promises, and concealment of material facts.

**MANNER AND MEANS**

The manner and means used to accomplish the objectives of the scheme included, among others, the following:

17. O'HARA abused his authority as S.T.'s attorney-in-fact and his access to S.T.'s financial accounts to use S.T.'s funds for unauthorized purposes.

18. O'HARA used his access to S.T.'s Chase Bank accounts to make over one hundred electronic transfers to his or his family's personal bank accounts. He used this money for personal expenses. O'HARA further used his access to S.T.'s Chase Bank accounts to make hundreds of electronic transfers directly to third parties, for payments of bills and other personal matters.

19. O'HARA failed to make necessary payments on behalf of S.T. and did not disclose his use of S.T.'s funds to make personal expenditures to S.T.

**EXECUTION OF THE SCHEME**

20. On or about the dates listed below, in Fayette County, in the Eastern District of Kentucky, and elsewhere,

**JOHN JEROME O'HARA**

for the purpose of executing the scheme described above, and in order to effect the objects thereof, did knowingly cause to be transmitted by means of wire communication in interstate commerce the items listed below:

| <b>Count</b> | <b>Date and Description</b>  |
|--------------|--|
| <b>11</b>    | August 22, 2014 transfer of \$5,800 to Chase Bank Account *2275, in the sole custody and control of John Jerome O'Hara.                                  |
| <b>12</b>    | July 18, 2016 ACH payment of \$250.00 to Cingular Wireless account in the name of John Jerome O'Hara, through Cingular Wireless's online payment system. |
| <b>13</b>    | September 6, 2016 transfer of \$4,800 to pay off Chase Credit Card *1251, belonging to John Jerome O'Hara.   |
| <b>14</b>    | November 14, 2016 payment of \$462.78 to Time Warner Cable account in the name of John Jerome O'Hara, through Time Warner Cable's online payment system. |

Each in violation of Title 18, United States Code, Section 1343.

**COUNT 15**  
**18 U.S.C. § 1029(a)(5)**

21. The allegations contained in paragraphs 1 through 7 of the Indictment are incorporated by reference as if fully restated and set forth herein.

22. On or about August 22, 2014, in Fayette County, in the Eastern District of Kentucky, and elsewhere,

**JOHN JEROME O'HARA**

did knowingly and with the intent to defraud, effect transactions with an access device, that is an account number and other means of account access that can be used to obtain money issued to another person, S.T., to obtain funds, from July 29, 2014, until July 23, 2015, of a value exceeding \$80,000, said conduct affecting interstate commerce by causing financial

institutions to send wires across state lines to effectuate said transactions, all in violation of 18 U.S.C. § 1029(a)(5) and (c)(1)(A)(ii).

**COUNT 16**  
**18 U.S.C. § 1029(a)(5)**

23. The allegations contained in paragraphs 1 through 7 of the Indictment are incorporated by reference as if fully restated and set forth herein.

24. On or about April 12, 2016, in Fayette County, in the Eastern District of Kentucky, and elsewhere,

**JOHN JEROME O'HARA**

did knowingly and with the intent to defraud, effect transactions with an access device, that is an account number and other means of account access that can be used to obtain money issued to another person, S.T., to obtain funds, from August 4, 2015, until August 1, 2016, of a value exceeding \$70,000, said conduct affecting interstate commerce by causing financial institutions to send wires across state lines to effectuate said transactions, all in violation of 18 U.S.C. § 1029(a)(5) and (c)(1)(A)(ii).

**COUNT 17**  
**18 U.S.C. § 1029(a)(5)**

25. The allegations contained in paragraphs 1 through 7 of the Indictment are incorporated by reference as if fully restated and set forth herein.

26. On or about September 6, 2016, in Fayette County, in the Eastern District of Kentucky, and elsewhere,

**JOHN JEROME O'HARA**

did knowingly and with the intent to defraud, effect transactions with an access device, that is an account number and other means of account access that can be used to obtain money issued to another person, S.T., to obtain funds, from August 10, 2016, until August 9, 2017, of a value exceeding \$75,000, said conduct affecting interstate commerce by causing financial institutions to send wires across state lines to effectuate said transactions, all in violation of 18 U.S.C. § 1029(a)(5) and (c)(1)(A)(ii).

**COUNT 18**  
**18 U.S.C. § 1029(a)(5)**

27. The allegations contained in paragraphs 1 through 7 of the Indictment are incorporated by reference as if fully restated and set forth herein.

28. On or about September 25, 2017, in Fayette County, in the Eastern District of Kentucky, and elsewhere,

**JOHN JEROME O'HARA**

did knowingly and with the intent to defraud, effect transactions with an access device, that is an account number and other means of account access that can be used to obtain money issued to another person, S.T., to obtain funds, from August 14, 2017, until February 1, 2018, of a value exceeding \$39,000, said conduct affecting interstate commerce by causing financial institutions to send wires across state lines to effectuate said transactions, all in violation of 18 U.S.C. § 1029(a)(5) and (c)(1)(A)(ii).



**FORFEITURE ALLEGATIONS**

**18 U.S.C. § 981(a)(1)(C)**

**18 U.S.C. § 982(a)**

**28 U.S.C. § 2461(c)**

29. The allegations contained in paragraphs 1 through 22 of the Indictment are hereby realleged and incorporated by reference for the purpose of proposing the forfeiture allegations pursuant to 18 U.S.C. § 981(a)(1)(C), 18 U.S.C. § 981(a), and 28 U.S.C. § 2461(c).

30. Upon conviction of the offenses in violation of 18 U.S.C. §§ 1029, 1343, and 1344 set forth in Counts 1-15 of this Indictment, JOHN JEROME O'HARA shall forfeit to the United States of America, pursuant to 18 U.S.C. § 981(a)(1)(C), 18 U.S.C. § 981(a), and 28 U.S.C. § 2461(c), any property, real or personal, which constitutes or is derived from proceeds traceable to the offenses, including the following:

**MONEY JUDGMENT:**

\$332,149.95 representing the approximate gross proceeds derived from the offenses.

31. If any of the property described above, as a result of any act or omission of JOHN JEROME O'HARA:

- 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,

the United States of America shall be entitled to forfeiture of substitute property pursuant to 21 U.S.C. § 853(p), as incorporated by 28 U.S.C. § 2461(c).

All pursuant to 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c).

**A TRUE BILL**

  
\_\_\_\_\_  
**FOREPERSON** 8



**ROBERT M. DUNCAN JR.**  
**UNITED STATES ATTORNEY**

**PENALTIES**

**COUNTS 1-10:** Imprisonment for not more than thirty years, a fine of not more than \$1,000,000 or twice the amount of loss, and supervised release for not more than five years.

**COUNTS 11-14:** Imprisonment for not more than twenty years, a fine of not more than \$250,000, and supervised release for not more than three years.

**COUNT 15-18:** Imprisonment for not more than 15 years, a fine of not more than \$250,000, and supervised release for not more than three years.

**PLUS:** Forfeiture of all listed property.

**PLUS:** Mandatory special assessment of \$100 per count.

**PLUS:** Restitution, if applicable.