

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION**

CASE NO.: 1:18-CV-25270

UNITED STATES OF AMERICA,

Plaintiff,

vs.

NICOLE PALACINO,

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 Nicole Palacino (“Defendant”) and alleges as follows:

INTRODUCTION

1. Starting as early as April 2018 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 a relative of each victim has been involved in an emergency situation, and induce the victims to transmit money to Defendant purportedly to resolve the emergency.

2. The United States seeks to prevent continuing and substantial injury to victims of the 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)(3).

PARTIES

5. Plaintiff is the United States.

6. Defendant is a resident of Miami, 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 April 2018, 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 family emergency scam, sometimes known as a “grandparent scam.” Callers associated with the fraud scheme contact victims, who typically are senior citizens, and falsely claim that a relative of each victim is involved in an urgent or emergency situation. Usually, the victim is told that the victim’s grandchild or other relative has been arrested and that the victim needs to wire money to post bond or bail and to secure the release of the victim’s relative. These claims are false and fraudulent, as the members of the scheme know, in that the victim’s relative has not been arrested and there is no need for the victim to wire money to secure the release of his or her relative.

9. Since at least April 2018, victims have been harmed by the fraudulent scheme facilitated by Defendant. Defendant plays a critical role in the scheme by receiving victim payments into her bank account and providing individuals engaged in the scheme with access to the funds in her bank account.

DEFENDANT’S KNOWLEDGE OF FRAUD

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

HARM TO CONSUMERS

11. Victims in the United States 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 to 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. Because Defendant is committing and about to commit mail and 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 family emergency 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: December 17, 2018

GUSTAV W. EYLER
Acting Director
Consumer Protection Branch

JILL P. FURMAN
Deputy Director
Consumer Protection Branch

By: s/ Richard Goldberg
Richard Goldberg
Senior Counsel for Complex Litigation
Consumer Protection Branch
United States Department of Justice
P.O. Box 386
Washington, DC 20044
Tel.: 202.307-2532
Fax: 202.514.8742
Email: richard.goldberg@usdoj.gov

Counsel for United States of America

Respectfully Submitted,

ARIANA FAJARDO ORSHAN
UNITED STATES ATTORNEY

By: s/ 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
Fax : 305.530.7139
Email: James.Weinkle@usdoj.gov

Counsel for United States of America

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 Nicole Palacino

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

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

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

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

Attorneys (If Known)

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

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

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

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

- PTF DEF
Citizen of This State [] 1 [] 1
Citizen of Another State [] 2 [] 2
Citizen or Subject of a Foreign Country [] 3 [] 3
Incorporated or Principal Place of Business In This State [] 4 [] 4
Incorporated and Principal Place of Business In Another State [] 5 [] 5
Foreign Nation [] 6 [] 6

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

Grid of categories for nature of suit: CONTRACT, REAL PROPERTY, CIVIL RIGHTS, PERSONAL INJURY, TORTS, PRISONER PETITIONS, LABOR, IMMIGRATION, FORFEITURE/PENALTY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES.

V. ORIGIN (Place an "X" in One Box Only)

- [X] 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 [X] NO b) Related Cases [] YES [X] NO

VII. CAUSE OF ACTION 18 U.S.C. § 1345, Anti-Fraud Injunction Statute

VIII. REQUESTED IN COMPLAINT: LENGTH OF TRIAL via days estimated (for both sides to try entire case)

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 [] DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: [] Yes [X] No

ABOVE INFORMATION IS TRUE & CORRECT TO THE BEST OF MY KNOWLEDGE DATE December 16, 2018 SIGNATURE OF ATTORNEY OF RECORD

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading 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. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

I. (a) Plaintiffs-Defendants. Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) Attorneys. Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

II. Jurisdiction. The basis of jurisdiction is set forth under Rule 8(a), F.R.C.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.

United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked. Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; federal question actions take precedence over diversity cases.)

III. Residence (citizenship) of Principal Parties. This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

IV. Nature of Suit. Nature of Suit. Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).

V. Origin. Place an "X" in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Refiled (3) Attach copy of Order for Dismissal of Previous case. Also complete VI.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate judge's decision.

Remanded from Appellate Court. (8) Check this box if remanded from Appellate Court.

VI. Related/Refiled Cases. This section of the JS 44 is used to reference related pending cases or re-filed cases. Insert the docket numbers and the corresponding judges name for such cases.

VII. Cause of Action. Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553

Brief Description: Unauthorized reception of cable service

VIII. Requested in Complaint. Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.

Demand. In this space enter the dollar amount (in thousands of dollars) being demanded or indicate other demand such as a preliminary injunction.

Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

Date and Attorney Signature. Date and sign the civil cover sheet.