

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

UNITED STATES OF AMERICA

CRIMINAL NUMBER: 14-

v.

DATE FILED:

**ABDOULAYE DIALLO,
d/b/a "Brothers Food Market"
LASSANA NIANGHANE,
a/k/a "the Purse Man"**

VIOLATIONS:
18 U.S.C. § 371 (conspiracy -1 count)
18 U.S.C. Section 1343 (wire fraud - 5
counts)
7 U.S.C. § 2024(b) (unlawful use,
transfer, acquisition and possession of
SNAP benefits - 5 counts)
18 U.S.C. § 2 (aiding and abetting)
Notice of forfeiture

INDICTMENT

COUNT ONE (Conspiracy to Commit SNAP Benefit

Fraud and Wire Fraud) THE GRAND JURY CHARGES THAT:

At all times material to this indictment:

1. Defendant ABDOULAYE DIALLO owned and operated Brothers Food Market ("Brothers"), a retail grocery store located at 3516 Germantown Avenue, Philadelphia, PA 19140.
2. Defendant LASSANA NIANGHANE, also known as "the Purse Man," was a vendor who sold womens' purses, among other items, on the sidewalk near Germantown and Cheltenham Avenues in Philadelphia PA.
3. The United States Department of Agriculture ("USDA") was an agency of

the United States. The USDA administered the Supplemental Nutrition Assistance Program ("SNAP"), formerly known as the food stamp program, through the Food and Nutrition Service ("FNS"), an office within USDA.

4. SNAP'S goal was to assist state governments in alleviating hunger and malnutrition among low and middle-income families by increasing their food-purchasing power and ability.

5. The Pennsylvania Department of Public Welfare ("DPW") was an agency within the executive branch of the Pennsylvania state government. DPW administered the federally-funded SNAP in Pennsylvania on behalf of USDA.

6. Regulations promulgated by USDA mandated that retail business participants in SNAP were prohibited from accepting SNAP benefits for the purchase of ineligible food items. Such prohibited items included alcoholic beverages, tobacco products, pet food, household supplies, prepared foods and hot foods.

7. Regulations promulgated by USDA mandated further that SNAP benefits could not, under any circumstances, be purchased or sold in exchange for cash, a practice commonly known as "discounting" or "cash-back."

8. In order for a retail business such as a grocery store to participate in SNAP, that store's owner had to submit to FNS a Food Stamp Program Application, FNS Form 252, which disclosed, among other things, the store owner's identity and certain background information.

9. The Form FNS 252 further required the store owner to certify that he or she had provided truthful and complete information on the form; acknowledge that if he or she provided false information to FNS, the application could be withdrawn or denied; and accept responsibility on behalf of the store for violations of the SNAP regulations by the owner or any

employee of the store. Specifically, the Form FNS 252 required the store owner to acknowledge that trading cash for SNAP benefits was a violation of SNAP regulations. Finally, by signing the Form FNS-252, the store owner certified that he or she had read and understood the conditions of participating in the SNAP program, and agreed to follow the SNAP program statute and regulations.

10. USDA distributed SNAP benefits to individual beneficiaries through electronic benefit transfer ("EBT") cards, which functioned like debit cards. The amount of the SNAP benefits to which a beneficiary was entitled was electronically posted to the beneficiary's account on a monthly basis.

11. Each SNAP EBT card had a magnetic strip on the back encoded with information identifying the SNAP beneficiary and the beneficiary's account.

12. When accepting a SNAP EBT card in payment for SNAP-eligible food items, the participating store cashier would first calculate the SNAP subtotal of the total price of the items purchased. The cashier or the beneficiary would then swipe the EBT card through a card reader or point-of-sale terminal to begin the transaction. The beneficiary would then enter his or her secret PIN number into a keypad; the sale was authorized if sufficient funds were available in the beneficiary's SNAP account.

13. When using the EBT card method in a lawful manner, each transaction was for the exact dollar amount of the SNAP-eligible food items. The participating store gave no change back to the SNAP beneficiary.

14. J.P. Morgan Electronic Financial Services Corporation ("JPMorgan EFS"), whose Retail and Field Support Office was located in Tampa, Florida, acted as the financial

intermediary for USDA and DPW by processing, approving and electronically transferring funds from SNAP recipients' accounts to the SNAP merchants' accounts.

15. JP Morgan EFS employed FISERV, a computer software processing company, to assist JPMorgan EFS with the electronic processing tasks associated with the administration of SNAP for the USDA and DPW. FISERV's computer servers which processed the electronic SNAP financial information were located in Texas and Oregon.

16. All electronic transmissions from SNAP merchants in Pennsylvania traveled by interstate wire signals to FISERV's computer servers in either Texas or Oregon.

17. In the latter part of 2013, Xerox Corporation ("Xerox"), which is based in Texas, replaced JPMorgan EPS as the financial intermediary for USDA and DPW, taking over processing, approving and electronically transferring funds from SNAP recipients' accounts to the SNAP merchants' accounts. Xerox used Wells Fargo Bank as the financial institution for fund routing purposes.

18. On or about July 17, 2006, defendant ABDOULAYE DIALLO applied for his grocery store, Brothers Food Market, to become a participating SNAP merchant, by completing a Form FNS-252. In his application, defendant DIALLO stated that he anticipated selling approximately \$151,800 in SNAP-approved food products each year. This estimated amount did not include other foods which could not be purchased under SNAP.

19. On or about October 17, 2006, defendant ABDOULAYE DIALLO filed a Retailer Settlement Authorization Form with JPMorgan EFS, granting JPMorgan EFS the authority to make debits and credits against Brother's bank account (Wachovia Bank N.A. account xxxxxx4384).

20. From in or about June 2011 through in or about May 2012, defendant ABDOULAYE DIALLO, on behalf of Brothers, requested SNAP reimbursements of \$313,209. This amount was approximately \$161,409 more than the annual SNAP sales that defendant DIALLO had estimated in his Form FNS-252 application to USD A.

21. From in or about June 2012 through in or about May 2013, defendant ABDOULAYE DIALLO, on behalf of Brothers, requested SNAP reimbursements of \$462,201. This amount was approximately \$310,401 more than the annual SNAP sales that defendant DIALLO had estimated in his Form FNS-252 application to USD A.

22. From in or about June 2013 through in or about May 2014, defendant ABDOULAYE DIALLO, on behalf of Brothers, requested SNAP reimbursements of \$386,829. This amount was approximately \$ 235,209 more than the annual SNAP sales that defendant DIALLO had estimated in his Form FNS-252 application to USD A.

23. During the period of June 2011 through May 2014, the total SNAP reimbursements submitted to USDA by defendant ABDOULAYE DIALLO on behalf of Brothers totaled approximately \$1,162,239 which was \$706,839 more than the total SNAP sales of \$455,400 that DIALLO had estimated that Brothers would make in those three years, based on defendant DIALLO's estimate of annual SNAP sales of \$151,800 in his form FNS-252 application to USDA.

24. From on or about September 2011 through in or about June 2014, at Philadelphia, in the Eastern District of Pennsylvania, and elsewhere, defendants

**ABDOULAYE DIALLO,
d/b/a "Brothers Food Market," and
LASSANA NIANGHANE,
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conspired and agreed, together and with others known and unknown to the grand jury, to commit offenses against the United States, that is, to knowingly use, acquire, possess, and aid and abet the use, acquisition and possession of SNAP Access devices, that is PA Access Cards, in a manner contrary to the federal statutes and regulations governing the SNAP program in violation of Title 7, United States Code, Section 2024(b), and to commit wire fraud, in violation of Title 18, United States Code, Section 1343.

MANNER AND MEANS It

was part of the conspiracy that:

25. Defendant LASSANA NIANGHANE, a/k/a "the Purse Man," acted as the "contact" person for SNAP beneficiaries seeking to make illegal sales of their SNAP benefits to defendant ABDOULAYE DIALLO, d/b/a Brothers Food Market, in exchange for cash.

26. Rather than accompanying the EBT card-holders to Brothers Food Market, defendant LASSANA NIANGHANE telephoned defendant ABDOULAYE DIALLO and relayed to defendant DIALLO the particulars of the proposed sales.

27. After learning the balance of funds available on a beneficiary's EBT card by speaking with defendant ABDOULAYE DIALLO, defendant LASSANA NIANGHANE gave the card holder the amount of cash requested, up to half of the balance of SNAP benefits available on the EBT card, keeping the other half as profit to the defendants.

28. The defendants knowingly used, transferred, acquired and possessed SNAP benefits in a manner contrary to law and applicable regulations by unlawfully purchasing SNAP benefits from individual SNAP beneficiaries in exchange for cash and for which the defendants charged the beneficiaries substantial commissions or fees.

29. The defendants presented and submitted unlawful "discounted" SNAP transactions for redemption to USDA, through its clearinghouse, JPMorganEFS and later, Xerox.

30. By means of false and fraudulent representations, the defendants induced USDA to fund the redemption of SNAP benefits presented and submitted, and to transfer those funds to Brothers Food Market's bank accounts which accounts were designated to receive SNAP redemptions from USDA, through J.P. Morgan EFS and Xerox.

In furtherance of the conspiracy, defendants committed the following overt acts, among others, in the Eastern District of Pennsylvania, and elsewhere:

OVERT ACTS

1. On or about September 10, 2011, defendant LASS AN A NIANGHANE caused Brothers Food Market to electronically transmit, through interstate wires, a SNAP redemption request for \$299.99 which was deducted from a USDA-controlled PA Access EBT card. From this amount, defendant NI ANGHANE gave an undercover police officer \$150 in cash in exchange for the SNAP benefits. Through interstate wire transmission, \$299.99 in SNAP proceeds were deposited into the business bank account of Brothers Food Market, controlled by defendant ABDOULAYE DIALLO.

2. On or about October 5, 2011, defendant LASSANA NIANGHANE caused Brothers Food Market to electronically transmit through interstate wires, a SNAP redemption request for \$300 which was deducted from a USDA-controlled PA Access EBT card. From this amount, defendant NIANGHANE gave an undercover police officer \$150 in cash in exchange for the SNAP benefits. Through interstate wire transmission, \$300 in SNAP proceeds were

deposited into the business bank account of Brothers Food Market, controlled by defendant ABDOULAYE DIALLO.

3. On or about October 5, 2011, defendant LASSANA NIANGHANE caused Brothers Food Market to electronically transmit through interstate wires, a SNAP redemption request for \$498 which was deducted from a USDA-controlled PA Access EBT card. From this amount, defendant NIANGHANE gave a cooperating government witness \$250 in cash in exchange for the SNAP benefits. Through interstate wire transmission, \$498 in SNAP proceeds were deposited into the business bank account of Brothers Food Market, controlled by defendant ABDOULAYE DIALLO.

4. On or about November 9, 2011, defendant LASSANA NIANGHANE caused Brothers Food Market to electronically transmit through interstate wires, a SNAP redemption request for \$399.99 which was deducted from a USDA-controlled PA Access EBT card. From this amount, defendant NIANGHANE gave an undercover police officer \$200 in cash in exchange for the SNAP benefits. Through interstate wire transmission, \$399.99 in SNAP proceeds were deposited into the business bank account of Brothers Food Market, controlled by defendant ABDOULAYE DIALLO.

5. On or about May 7, 2012, defendant LASSANA NIANGHANE caused Brothers Food Market to electronically transmit through interstate wires, a SNAP redemption request for \$299.99 which was deducted from a USDA-controlled PA Access EBT CARD. From this amount, defendant NIANGHANE gave a cooperating government witness \$150 in cash in exchange for the SNAP benefits. Through interstate wire transmission, \$299.99 in SNAP proceeds were deposited into the business bank account of Brothers Food Market, controlled by defendant ABDOULAYE DIALLO.

6. On or about October 15, 2012, defendant LASSANA NIANGHANE caused Brothers Food Market to electronically transmit through interstate wires, a SNAP redemption request for \$529.99 which was deducted from a USDA-controlled PA Access EBT card. From this amount, defendant NIANGHANE gave a cooperating government witness \$260 in cash in exchange for the SNAP benefits. Through interstate wire transmission, \$529.99 in SNAP proceeds were deposited into the business bank account of Brothers Food Market, controlled by defendant ABDOULAYE DIALLO.

7. On or about October 25, 2013, defendant LASSANA NIANGHANE caused Brothers Food Market to electronically transmit through interstate wires, a SNAP redemption request for \$300 which was deducted from a USDA-controlled PA Access EBT card. From this amount, defendant NIANGHANE gave a cooperating government witness \$150 in cash in exchange for the SNAP benefits. Through interstate wire transmission, \$300 in SNAP proceeds were deposited into the business bank account of Brothers Food Market, controlled by defendant ABDOULAYE DIALLO.

8. On or about June 10, 2014, defendant LASSANA NIANGHANE caused Brothers Food Market to electronically transmit through interstate wires, a SNAP redemption request for \$529.97 which was deducted from a USDA-controlled PA Access EBT card and a Delaware EBT card. From this amount, defendant NIANGHANE gave an undercover agent \$265 in cash in exchange for SNAP benefits. Through interstate wire transmission, \$529.97 in SNAP proceeds were deposited into the business bank account of Brothers food Market, controlled by defendant ABDOULAYE DIALLO.

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

COUNTS TWO THROUGH SIX (Wire Fraud)

THE GRAND JURY FURTHER CHARGES THAT:

1. Paragraphs 1 through 23 and 25 through 31, and Overt Acts 1 through 8 of Count One are incorporated here.

THE SCHEME

2. From on or about September 10, 2011, to on or about June 10, 2014, in the Eastern District of Pennsylvania and elsewhere, defendants

**ABDOULAYE DIALLO,
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devised and intended to devise a scheme to defraud the United States Department of Agriculture and to obtain money and property by means of false and fraudulent pretenses, representations and promises.

MANNER AND MEANS

It was part of the scheme that:

3. The defendants took part in the manner and means described in Paragraphs 25 through 27 of Count One.

4. On or about the dates set forth below, in the Eastern District of Pennsylvania and elsewhere, defendants

**ABDOULAYE DIALLO,
d/b/a "Brothers Food Market," and
LASSANA NIANGHANE,
a/k/a "the Purse Man,"**

for the purpose of executing the scheme and artifice to defraud, knowingly transmitted and caused to be transmitted in interstate commerce, by means of wire communications, certain writings, signs and signals, that is, electronic claims for redemption of SNAP benefits, which claims were from Brothers Food Market in Philadelphia PA, to J.P.MorganEFS/FISERV and Xerox, the financial intermediaries for SNAP for DPW, located in a state other than the Commonwealth of Pennsylvania:

COUNT	DATE OF WIRE TRANSMISSION (ON OR ABOUT)	INTERSTATE WIRE TRANSMISSION ORIGINATING IN THE EASTERN DISTRICT OF PENNSYLVANIA
2	September 10,2011	PA Access Card interstate wire transaction (SNAP) in the amount of \$299.99
3	October 5,2011	PA Access Card interstate wire transaction (SNAP) in the amount of \$300
4	October 5,2011	PA Access Card interstate wire transaction (SNAP) in the amount of \$498
5	November 9,2011	PA Access Card interstate wire transaction (SNAP) in the amount of \$399.99
6	June 10,2014	PA Access Card interstate wire transaction (SNAP) in the amount of \$529.97

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

COUNTS SEVEN THROUGH ELEVEN (SNAP Benefit Fraud)

THE GRAND JURY FURTHER CHARGES THAT:

1. Paragraphs 1 through 23 and 25 through 31, and Overt Acts 1 through 8 of Count One are incorporated here.
2. On or about the dates set forth in each of the counts below, in the Eastern District of Pennsylvania and elsewhere, defendants

**ABDOULAYE DIALLO,
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LASSANA NIANGHANE,
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knowingly used, transferred, acquired and possessed, SNAP benefits having a value greater than \$100 in a manner contrary to the provisions of Chapter 51, of Title 7, United States Code, Section 2024(b) and Chapter II, part 271 *et seq* of Title 7, Code of Federal Regulations, that is, the defendants knowingly and unlawfully exchanged SNAP benefits for cash by processing a SNAP transaction with a PA Access Card in the amounts listed below:

COUNT	ON OR ABOUT DATE	UNLAWFUL USE, TRANSFER, ACQUISITION AND POSSESSION OF SNAP BENEFITS
7	September 10, 2011	Using the EBT system to transfer, acquire and possess \$299 from a PA Access Card. The card holder was <u>given \$150 in cash.</u>
8	October 5, 2011	Using the EBT system to transfer, acquire and possess \$300 from a PA Access Card. The card holder was <u>given \$150 in cash.</u>
9	October 5, 2011	Using the EBT system to transfer, acquire and possess \$498 from a PA Access Card. The card holder was <u>given \$250 in cash.</u>
10	November 9, 2011	Using the EBT system to transfer, acquire and possess \$399 from a PA Access Card. The card holder was <u>given \$200 in cash.</u>

COUNT	ON OR ABOUT DATE	UNLAWFUL USE, TRANSFER, ACQUISITION AND POSSESSION OF SNAP BENEFITS
11	June 10,2014	Using the EBT system to transfer, acquire and possess \$529 from a PA Access Card. The card holder was given \$265 in cash.

All in violation of Title 7, United States Code, Section 2024(b) and Title 18, United States Code, Section 2.

NOTICE OF FORFEITURE #1

THE GRAND JURY FURTHER CHARGES THAT:

1. As a result of the violations of Title 18, United States Code, Section 1343, as set forth in Counts 2 through 6 of this indictment, defendants

**ABDOULAYE DIALLO,
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LASSANA NIANGHANE,
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shall forfeit to the United States all property, real or personal, involved in the commission of the offenses and all property traceable to such property.

2. The property to be forfeited includes, but is not limited to, a forfeiture money judgment in the amount of the proceeds of the violations alleged in Counts 2 through 6 of this indictment.

3. 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 the due diligence;
- b. has been transferred to 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 subdivided without difficulty,

it is the intent of the United States, pursuant to Title 28, United States Code, Section 2461(c), 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 28, United States Code, Section 2461(c) and Title 18, United States Code, Section 981(a)(1)(C).

NOTICE OF FORFEITURE #2

THE GRAND JURY FURTHER CHARGES THAT:

1. As a result of the violations of Title 7, United States Code, Section 2024(b), as set forth in Counts 7 through 11 of this indictment, defendants

**ABDOULAYE DIALLO,
d/b/a "Brothers Food Market," and
LASSANA NIANGHANE,
a/k/a "the Purse Man"**

shall forfeit to the United States all property, real or personal, involved in the commission of the offenses and all property traceable to such property.

2. The property to be forfeited includes, but is not limited to, a forfeiture money judgment in the amount of the proceeds of the violations alleged in Counts 7 through 11 of this indictment

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

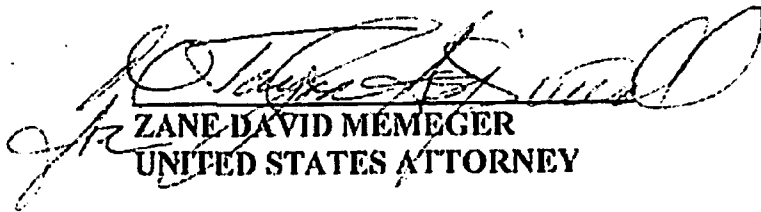
- a. cannot be located upon the exercise of due diligence;
- b. has been transferred to or sold to, or deposited with a third party;
- c. has been placed beyond the jurisdiction of the court;
- d. has been substantially diminished in value; or
- e. has been commingled with other property which cannot be subdivided without difficult,

it is the intent of the United States, pursuant to Title 28, United States Code, Section 2461(c), incorporating Title 21, United States Code, Section 853(p), to seek forfeiture of any other property of the defendant up to the value of property subject to forfeiture.

Pursuant to Title 7, United States Code, Section 2024(1), Title 18, United States,
Section 981(a)(1)(C), and Title 28, United States Code, Section 2461(c).

A TRUE BILL:

GRAND JURY FOREPERSON



ZANE DAVID MEMEGER
UNITED STATES ATTORNEY