

DMP:AFM  
F. #2017R00891

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

**CR 17 311**

-----X

UNITED STATES OF AMERICA

INDICTMENT **BRODIE, J.**

- against -

Cr. No. POLLAK, M.J.  
(T. 18, U.S.C., §§ 981(a)(1)(C),  
982(a)(2), 982(b)(1), 1028A(a)(1),  
1028A(b), 1028A(c)(4), 1028A(c)(5),  
1029(a)(5), 1029(c)(1)(A)(ii),  
1029(c)(1)(C), 1029(c)(2), 1343, 1344,  
1349, 2326(1), 2326(2)(B), 2 and 3551  
et seq.; T. 21, U.S.C., § 853(p); T.28,  
U.S.C., § 2461(c))

LORINDO POWELL and  
TAVOY MALCOLM,

Defendants.

-----X

THE GRAND JURY CHARGES:

At all times relevant to this Indictment, unless otherwise indicated:

1. In or about and between January 2006 and May 2017, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendants LORINDO POWELL and TAVOY MALCOLM, together with others, devised, attempted to execute and executed multiple schemes to defraud elderly individuals throughout the United States (the "Intended Victims") and to obtain money and property from them.

I. The Sweepstakes Scheme

2. In one scheme (the "Sweepstakes Scheme"), members of the conspiracy falsely told the Intended Victims that they had won certain sweepstakes contests. It was a further part of the scheme to defraud that the conspiracy members falsely told the Intended Victims that in order to facilitate the release of their sweepstakes prizes, the

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EASTERN DISTRICT  
OF NEW YORK

Intended Victims first needed to send money to the defendants and their co-conspirators by depositing funds in the defendants' bank accounts, by sending interstate and international wire transfers to the defendants and their co-conspirators and by delivering cash in person to the defendants.

3. For example, in or about October 2016, John Doe, who was then an 87-year-old resident of Florida whose identity is known to the Grand Jury, received a telephone call as part of the Sweepstakes Scheme from an individual who falsely told him that he had won money in the Publishers Clearinghouse sweepstakes. The individual told John Doe that, in order to facilitate the release of his prize money, John Doe had to send money to Co-conspirator #1, a resident of Pennsylvania whose identity is known to the Grand Jury. In response to this call, John Doe gave approximately \$7,500 to Co-conspirator #1, approximately \$4,000 of which Co-conspirator #1 then paid to the defendant LORINDO POWELL.

## II. The Identity Theft Scheme

4. In a second scheme (the "Identity Theft Scheme"), members of the conspiracy falsely told the Intended Victims that they needed the Intended Victims' bank account numbers and other financial information to transfer sweepstakes winnings to the Intended Victims. It was further a part of the scheme to defraud that the conspiracy members falsely posed as representatives of financial institutions and requested the Intended Victims' bank account numbers and other personal information for purposes of verification. The conspiracy members subsequently used the bank account information and other personal information to fraudulently obtain credit cards and other access devices, which were then used to make unauthorized purchases and withdrawals.

5. For example, in or about December 2016, a member of the conspiracy contacted Jane Doe #1, who was then a 91-year-old resident of New Jersey whose identity is known to the Grand Jury. By pretending to be a representative of Citibank, the conspiracy members obtained Jane Doe #1's account password, used the password to change Jane Doe #1's address in Citibank's records to their own, and acquired a credit card and debit card in her name, which were then used to make unauthorized purchases and withdrawals.

### III. The Mortgage Scheme

6. In a third scheme (the "Mortgage Scheme"), members of the conspiracy falsely promised the Intended Victims that they would use the funds provided by the Intended Victims to pay the Intended Victims' mortgages for them and to purchase homes for the Intended Victims. Rather than do so, the conspiracy members instead kept the funds for themselves.

7. For example, in or about January 2006, members of the conspiracy began defrauding Jane Doe #2, then a 66-year-old New Jersey resident whose identity is known to the Grand Jury, by falsely promising Jane Doe #2 that if she paid fees to them, they would send her funds generated in connection with the purported distribution of Las Vegas casino winnings to poor nations. As a result of the payments she was making to members of the conspiracy, Jane Doe #2 ultimately became unable to make her mortgage payments. Members of the conspiracy then told Jane Doe #2 that she should pay them instead of her mortgage lender, and they falsely assured her that they would make mortgage payments on her behalf. In or about September 2009, Jane Doe #2 lost her home as a result of those false assurances.

COUNT ONE

(Conspiracy to Commit Wire Fraud and Bank Fraud)

8. The allegations contained in paragraphs one through seven are realleged and incorporated as if fully set forth in this paragraph.

9. In or about and between January 2006 and May 2017, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendants LORINDO POWELL and TAVOY MALCOLM, together with others, did knowingly and intentionally conspire (a) to devise a scheme and artifice to defraud the Intended Victims and to obtain money and property from the them by means of false and fraudulent pretenses, representations, and promises, in connection with the conduct of telemarketing and targeting persons over the age of 55, and for the purpose of executing such scheme and artifice, to transmit and cause to be transmitted writings, signs, signals and sounds by means of wire communication in interstate and foreign commerce, contrary to Title 18, United States Code, Section 1343; and (b) to execute a scheme and artifice to defraud one or more financial institutions, and to obtain moneys, funds, credits and other property owned by, and under the custody and control of, such financial institutions, by means of materially false and fraudulent pretenses, representations and promises, in connection with the conduct of telemarketing and targeting persons over the age of 55, contrary to Title 18, United States Code, Section 1344.

(Title 18, United States Code, Sections 1349, 2326(1), 2326(2)(B) and 3551 et seq.)

COUNTS TWO THROUGH FIVE  
(Wire Fraud)

10. The allegations contained in paragraphs one through seven are realleged and incorporated as if fully set forth in this paragraph.

11. In or about and between January 2006 and May 2017, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendants LORINDO POWELL and TAVOY MALCOLM, together with others, did knowingly and intentionally devise a scheme and artifice to defraud the Intended Victims, and to obtain money and property from them by means of false and fraudulent pretenses, representations, and promises, in connection with the conduct of telemarketing and targeting persons over the age of 55, and for the purpose of executing such scheme and artifice, transmit and cause to be transmitted writings, signs, signals and sounds by means of wire communication in interstate and foreign commerce, as described below:

COUNT	APPROXIMATE DATE	DEFENDANT(S)	DESCRIPTION
TWO	January 7, 2017	MALCOLM and POWELL	Facsimile transmission from MALCOLM in New Jersey to Capital One in Virginia consisting of a letter signed by MALCOLM authorizing deposit in POWELL's account of a check from Jane Doe #1 made payable to MALCOLM
THREE	February 14, 2017	POWELL	Telephone call from POWELL in New Jersey to Barneys in New York ordering shoes with Jane Doe #1's credit card
FOUR	May 8, 2017	MALCOLM and POWELL	Telephone call from MALCOLM in New Jersey to Jane Doe #2 in New York, directing her to deposit \$1,245 in POWELL's Capital One account in connection with the purchase of a new home
FIVE	May 10, 2017	POWELL	Telephone call from POWELL in Nevada to Jane Doe #2 in New Jersey directing her to deposit \$2,800 in POWELL's Capital One account in connection with the purchase of a new home

(Title 18, United States Code, Sections 1343, 2326(1), 2326(2)(B), 2 and 3551 et seq.)

COUNT SIX  
(Bank Fraud)

12. The allegations contained in paragraphs one through seven are realleged and incorporated as if fully set forth in this paragraph.

13. In or about and between December 2016 and April 2017, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the

defendants LORINDO POWELL and TAVOY MALCOLM, together with others, did knowingly and intentionally execute a scheme and artifice to defraud a financial institution, to wit: Citibank, and to obtain moneys, credits and other property owned by and under the control of such financial institution by means of materially false and fraudulent pretenses, representations and promises, in connection with the conduct of telemarketing and targeting persons over the age of 55.

(Title 18, United States Code, Sections 1344, 2 and 3551 et seq.)

COUNT SEVEN  
(Access Device Fraud)

14. The allegations contained in paragraphs one through seven are realleged and incorporated as if fully set forth in this paragraph.

15. In or about February 2017, within the Eastern District of New York and elsewhere, the defendants LORINDO POWELL and TAVOY MALCOLM, together with others, did knowingly and with intent to defraud effect transactions with one or more access devices, to wit: credit cards, issued to one or more other persons, to receive payments and other things of value during a one-year period, the aggregate value of which exceeded \$1,000, in a manner affecting interstate commerce.

(Title 18, United States Code, Sections 1029(a)(5), 1029(c)(1)(A)(ii), 1029(c)(1)(C), 2 and 3551 et seq.)

COUNT EIGHT  
(Aggravated Identity Theft)

16. The allegations contained in paragraphs one through seven are realleged and incorporated as if fully set forth in this paragraph.

17. In or about May 2017, within the Eastern District of New York and elsewhere, the defendants LORINDO POWELL and TAVOY MALCOLM, together with others, during and in relation to the crimes charged in Counts One through Six, did knowingly and intentionally possess and use, without lawful authority, one or more means of identification of another person, to wit: Jane Doe #1, knowing that the means of identification belonged to another person.

(Title 18, United States Code, Sections 1028A(a)(1), 1028A(b), 1028A(c)(4), 1028A(c)(5), 2 and 3551 et seq.)

**CRIMINAL FORFEITURE ALLEGATION  
AS TO COUNTS ONE THROUGH FIVE**

18. The United States hereby gives notice to the defendants that, upon their conviction of any of the offenses charged in Counts One through Five, the government will seek forfeiture, in accordance with Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c), which require any person convicted of such offenses to forfeit any property, real or personal, constituting or derived from proceeds obtained directly or indirectly as a result of such offenses.

19. If any of the above-described forfeitable property, as a result of any act or omission of the defendants:

- (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 21, United States Code, Section 853(p), to seek forfeiture of any other property of the defendants up to the value of the forfeitable property described in this forfeiture allegation

(Title 18, United States Code, Section 981(a)(1)(C); Title 21, United States Code, Section 853(p); Title 28, United States Code, Section 2461(c))

CRIMINAL FORFEITURE ALLEGATION AS TO COUNT SIX

20. The United States hereby gives notice to the defendants that, upon their conviction of the offense charged in Count Six, the government will seek forfeiture in accordance with Title 18, United States Code, Section 982(a)(2), which requires any person convicted of such offense to forfeit any property constituting, or derived from, proceeds obtained directly or indirectly as a result of such offense.

21. If any of the above-described forfeitable property, as a result of any act or omission of the defendants:

- (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 21, United States Code, Section 853(p), as incorporated by Title 18, United States Code, Sections 982(b)(1), to seek forfeiture of any

other property of the defendants up to the value of the forfeitable property described in this forfeiture allegation.

(Title 18, United States Code, Sections 982(a)(2) and 982(b)(1); Title 21, United States Code, Section 853(p))

**CRIMINAL FORFEITURE ALLEGATION AS TO COUNT SEVEN**

22. The United States hereby gives notice to the defendants that, upon their conviction of the offense charged in Count Seven, the government will seek forfeiture in accordance with: (a) Title 18, United States Code, Section 982(a)(2)(B), which requires any person convicted of such offense to forfeit any property constituting, or derived from, proceeds obtained directly or indirectly as a result of such offense; and (b) Title 18, United States Code, Section 1029(c)(1)(C), which requires any person convicted of such offense to forfeit any personal property used or intended to be used to commit the offense.

23. If any of the above-described forfeitable property, as a result of any act or omission of the defendants:

- (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

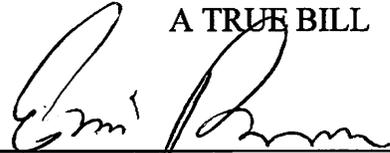
divided without difficulty;

it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 18, United States Code, Sections 982(b)(1) and 1029(c)(2), to seek

forfeiture of any other property of the defendants up to the value of the forfeitable property described in this forfeiture allegation.

(Title 18, United States Code, Sections 982(a)(2), 982(b)(1), 1029(c)(1)(C) and 1029(c)(2); Title 21, United States Code, Section 853(p))

A TRUE BILL

  
\_\_\_\_\_  
FOREPERSON

  
\_\_\_\_\_  
BRIDGET M. RÖHDE  
ACTING UNITED STATES ATTORNEY  
EASTERN DISTRICT OF NEW YORK

F. #2016R01591  
FORM DBD-34  
JUN. 85

No. \_\_\_\_\_

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**UNITED STATES DISTRICT COURT**

EASTERN *District of* NEW YORK

CRIMINAL DIVISION

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THE UNITED STATES OF AMERICA

vs.

*LORINDO POWELL and  
TAVOY MALCOLM,*

Defendants.

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**INDICTMENT**

(T. 18, U.S.C., §§ 981(a)(1)(C), 982(a)(2), 982(b)(1),  
1028A(a)(1), 1028A(b), 1028A(c)(4), 1028A(c)(5),  
1029(a)(5), 1029(c)(1)(A)(ii), 1029(c)(1)(C), 1029(c)(2),  
1343, 1344, 1349, 2326(1), 2326(2)(B), 2 and 3551 et seq.;  
T. 21, U.S.C., § 853(p); T.28, U.S.C., § 2461(c))

*A true bill.*

acting   
Foreperson

Filed in open court this \_\_\_\_\_ day,

of \_\_\_\_\_ A.D. 20 \_\_\_\_\_

\_\_\_\_\_  
Clerk

Bail, \$ \_\_\_\_\_

\_\_\_\_\_  
*Alexander Mindlin, Assistant U.S. Attorney (718) 254-6433*

# CR 17 311 BRODIE, J.

## INFORMATION SHEET

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

POLLAK, M.J.

1. Title of Case: United States v. Lorindo Powell and Tavoy Malcolm
2. Related Magistrate Docket Number(s): N/A
3. Arrest Date: N/A May 11 (Malcolm); May 12 (Powell)
4. Nature of offense(s):  Felony  
 Misdemeanor
5. Related Cases - Title and Docket No(s). (Pursuant to Rule 50.3.2 of the Local E.D.N.Y. Division of Business Rules): N/A
6. Projected Length of Trial: Less than 6 weeks   
More than 6 weeks
7. County in which crime was allegedly committed: Kings  
(Pursuant to Rule 50.1(d) of the Local E.D.N.Y. Division of Business Rules)
8. Was any aspect of the investigation, inquiry and prosecution giving rise to the case pending or initiated before March 10, 2012.<sup>1</sup>  Yes  No
9. Has this indictment/information been ordered sealed?  Yes  No
10. Have arrest warrants been ordered?  Yes  No
11. Is there a capital count included in the indictment?  Yes  No

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 EASTERN DISTRICT  
 OF NEW YORK

BRIDGET M. ROHDE  
ACTING UNITED STATES ATTORNEY

By:   
 Alexander Mindlin  
 Assistant U.S. Attorney  
 (718) 254-6433

<sup>1</sup> Judge Brodie will not accept cases that were initiated before March 10, 2012.

Rec'd  
6/13/17  
 Rev. 10/04/12