

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

UNITED STATES OF AMERICA : **CRIMINAL NO.** _____
v. : **DATE FILED:** 11/18/2014
TRACEY MCSHANE : **VIOLATIONS:**
: **18 U.S.C. § 1343 (wire fraud – 2 counts)**
: **26 U.S.C. § 7206(1) (filing a false federal**
: **income tax return - 6 counts)**
: **Notice of forfeiture**

INDICTMENT

COUNT ONE

THE GRAND JURY CHARGES THAT:

At all times material to this indictment:

BACKGROUND

1. J.T. was the founder and president Pacer Financial, Inc. (“Pacer”), a privately-held financial services corporation headquartered in Paoli, Pennsylvania. J.T. also owned PF, LLC (“PF”), a management company located in Paoli, Pennsylvania. PF provided staffing, equipment, and other services to Pacer.
2. J.A.T. was the co-owner of Pacer and the wife of J.T. J.T. and J.A.T. maintained a personal “sweep” account with Wells Fargo Bank (the “Wells Fargo account”).
3. Defendant TRACEY MCSHANE was employed as the Director of Financial Operations for Pacer. As the Director of Financial Operations, defendant MCSHANE performed general accounting and bookkeeping tasks, reconciled numerous business accounts and personal accounts of J.T. and J.A.T., and was entrusted with payroll.

THE SCHEME

4. From in or about December 2007 through in or about February 2014, defendant

TRACEY MCSHANE

devised and intended to devise a scheme to defraud J.T. and J.A.T., and to obtain money and property by means of false and fraudulent pretenses, representations, and promises.

MANNER AND MEANS

It was part of that scheme that:

5. Defendant TRACEY MCSHANE had access to the Wells Fargo account belonging to J.T. and J.A.T. for purposes of reconciling the account.

6. In or about December 2007, defendant TRACEY MCSHANE wrongfully began to pay the balances on three of her personal credit cards issued by Bank of America, Capital One, and Discover Card from the Wells Fargo account, without the knowledge, consent or authorization of J.T. or J.A.T.

7. Defendant TRACEY MCSHANE initiated online interstate automated clearing house ("ACH") transfers from the Wells Fargo account to Bank of America, Capital One, and Discover Card on a monthly basis to pay her credit card balances.

8. In order to conceal the fraud, defendant TRACEY MCSHANE created false reconciliation statements of the Wells Fargo account that omitted the ACH transfers to her credit card accounts.

9. Between December 2007 and February 2014, defendant TRACEY MCSHANE stole approximately \$650,194 from the Wells Fargo account to pay her personal credit card bills. Defendant MCSHANE used the Wells Fargo account to pay for charges to

high-end clothing retailers, including Bergdorf Goodman; travel expenses, including a vacation to Mexico; and several hotels, including the Four Seasons in Philadelphia and the Waldorf Astoria in New York. Defendant MCSHANE paid approximately \$40,000 in wedding expenses from the Wells Fargo account, and took cash advances of approximately \$31,000.

10. On or about the date set forth below, in the Eastern District of Pennsylvania, and elsewhere, defendant

TRACEY MCSHANE,

for the purpose of executing the scheme described above, and attempting to do so, caused to be transmitted by means of wire communication in interstate commerce the signal and sound described below:

DATE	DESCRIPTION
11/19/2013	ACH online transfer of approximately \$2,616.83 from Wells Fargo sweep account of J.T. and J.A.T. to Discover Card in payment for credit card account ending 5915.

In violation of Title 18, United States Code, Section 1343.

COUNT TWO

THE GRAND JURY CHARGES FURTHER CHARGES THAT:

BACKGROUND

1. Paragraphs 1 through 3 of Count One are realleged here.
2. Susquehanna Bank was a financial institution headquartered in Lititz, Pennsylvania. Defendant TRACEY MCSHANE maintained an account with Susquehanna Bank.
3. Automatic Data Processing, Inc. ("ADP") was a payroll service provider located in Roseland, New Jersey. PF contracted with ADP to process its payroll.
4. Defendant TRACEY MCSHANE, on a bi-weekly basis, input payroll data for PF and transmitted the payroll data to ADP.
5. J.A.T. reviewed and approved the payroll summary sheet prepared by defendant TRACEY MCSHANE. Defendant MCSHANE made final corrections to the bi-weekly payroll verbally over the phone to an ADP representative. The majority of changes were based on the commissions earned by the sales staff during a given pay period.
6. ADP electronically wired money into the employees' personal checking accounts, including the personal checking account of defendant TRACEY MCSHANE.

THE SCHEME

From in or about July 2010 through in or about February 2014, defendant

TRACEY MCSHANE

devised and intended to devise a scheme to defraud PF, and to obtain money and property by means of false and fraudulent pretenses, representations, and promises.

MANNER AND MEANS

It was part of that scheme that:

1. Defendant TRACEY MCSHANE, without the knowledge, consent, or authorization of J.T. or J.A.T., wrongfully instructed an ADP representative over the telephone to increase her gross pay in amounts ranging from \$500 to approximately \$6,450, during a given pay period.

2. In order to conceal her fraud, defendant TRACEY MCSHANE made these unauthorized changes to her own pay at the same time that she made legitimate changes to the bi-weekly payroll which she was authorized to make based on commission earned by the sales staff.

3. On or about October 15, 2010, defendant TRACEY MCSHANE wrongfully instructed ADP to increase her gross pay by approximately \$1,500. Instead of being paid her proper salary of \$2,019.23, defendant MCSHANE wrongfully increased her gross pay to \$3,519.23.

4. On or about November 11, 2011, defendant TRACEY MCSHANE wrongfully instructed ADP to increase her gross pay by approximately \$1,000. Instead of being paid her proper salary of \$2,123.08, defendant MCSHANE wrongfully increased her gross pay to \$3,123.08.

5. On or about August 31, 2012, defendant TRACEY MCSHANE wrongfully instructed ADP to increase her gross pay by approximately \$1,000. Instead of being paid her proper salary of \$2,230.77, defendant MCSHANE wrongfully increased her gross pay to \$3,230.77.

6. On or about February 15, 2013, defendant TRACEY MCSHANE wrongfully instructed ADP to increase her gross pay by approximately \$3,000. Instead of being paid her proper salary of \$2,230.77, defendant MCSHANE wrongfully increased her gross pay to \$5,230.77.

7. Defendant TRACEY MCSHANE caused ADP to electronically transfer into her Susquehanna Bank account money in excess of her salary to which she was not entitled.

8. Between in or about July 2010 through in or about February 2014, defendant TRACEY MCSHANE wrongfully increased her gross pay by a total of approximately \$98,765.

9. On or about the date set forth below, in the Eastern District of Pennsylvania, and elsewhere, defendant

TRACEY MCSHANE,

for the purpose of executing the scheme described above, and attempting to do so, caused to be transmitted by means of wire communication in interstate commerce the signal and sound described below:

DATE	DESCRIPTION
8/30/2013	Electronic transfer of approximately \$5,669.01 from ADP into the Susquehanna Bank account ending 5475.

In violation of Title 18, United States Code, Section 1343.

COUNTS THREE THROUGH EIGHT

THE GRAND JURY CHARGES FURTHER CHARGES THAT:

1. Paragraphs 1 through 3, and 5 through 9 of Count One are realleged here.
2. Defendant TRACEY MCSHANE falsified information on her personal federal income tax returns, Forms 1040, for the years 2008, 2009, 2010, 2011, 2012 and 2013 by failing to report as income a total of approximately \$650,194 that she misappropriated from the Wells Fargo account belonging to her employers, and used to pay personal expenses that she had charged to three separate credit cards.
3. Defendant TRACEY MCSHANE falsified information on her personal federal income tax returns, Forms 1040, for the calendar years 2011, 2012, and 2013 by failing to report a total of approximately \$11,000 in bonus payments that she received from PF. Defendant MCSANE intentionally mislabeled the bonus check transactions in QuickBooks as payments to various suppliers and contractors so that no IRS Form 1099 form would issue.
4. On or about the dates listed below, in the Eastern District of Pennsylvania, defendant

TRACEY MCSHANE

willfully made and subscribed federal Individual Income Tax Returns, Forms 1040, for the calendar years listed below, each constituting a separate count, which were verified by a written declaration that they were made under the penalty of perjury, which defendant TRACEY MCSHANE did not believe to be true and correct as to every material matter, in that the returns stated that defendant TRACEY MCSHANE's annual income was \$44,032 (2008), \$46,455 (2009), \$51,516 (2010), \$66,029 (2011), \$75,055 (2012), and \$102,826 (2013), when, as

defendant MCSHANE well knew, she had unreported income in the amounts listed below.

Count	Date Return Filed	Tax Year	False Item
3	4/13/2009	2008	Unreported income in the amount of approximately \$70,266.
4	4/7/2010	2009	Unreported income in the amount of approximately \$86,867.
5	2/5/2011	2010	Unreported income in the amount of approximately \$59,542.
6	4/12/2012	2011	Unreported income in the amount of approximately \$79,721.
7	4/15/2013	2012	Unreported income in the amount of approximately \$120,379.
8	4/16/2014	2013	Unreported income in the amount of approximately \$216,679.

All in violation of Title 26, United States Code, Section 7206(1).

NOTICE OF FORFEITURE

THE GRAND JURY CHARGES FURTHER CHARGES THAT:

1. As a result of the violations of Title 18, United States Code, Section 1343 set forth in this information, defendant

TRACEY MCSHANE

shall forfeit to the United States of America any and all property, real or personal, that constitutes or is derived from proceeds traceable to the commission of such offense, including but not limited to the sum of approximately \$759,959.

2. 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 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 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 defendants up to the value of the property subject to forfeiture.

All pursuant to Title 18, United States Code, Section 981(a)(1)(c).

A TRUE BILL:

GRAND JURY FOREPERSON


LANE DAVID MEMEGER
United States Attorney