
**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

UNITED STATES OF AMERICA : Hon. James B. Clark, III
 : :
 : Mag. No. 15-3055
 : :
RICHARD H. McSHANE : **CRIMINAL COMPLAINT**

I, Michael Coccaro, being duly sworn, state the following is true and correct to the best of my knowledge and belief:

SEE ATTACHMENT A

I further state that I am a Special Agent for the Social Security Administration, Office of the Inspector General, and that this complaint is based on the following facts:

SEE ATTACHMENT B

continued on the attached page and made a part hereof.



Michael Coccaro, Special Agent
Social Security Administration
Office of the Inspector General

Sworn to before me and subscribed in my presence,
February 20, 2015, at Newark, New Jersey



HON. JAMES B. CLARK, III
United States Magistrate Judge

ATTACHMENT A

Count One
(Theft of Government Funds)

From in or about August 2005 through in or about October 2012 in the District of New Jersey and elsewhere, defendant

RICHARD H. McSHANE

did knowingly and intentionally embezzle, steal, purloin and convert to his use and the use of others, without authority, money of the United States, that is, approximately \$82,161, in Social Security Administration retirement benefits to which he was not entitled.

In violation of Title 18, United States Code, Section 641 and Section 2.

Counts Two through Five
(Wire Fraud)

On or about the dates set forth below, in the District of New Jersey and elsewhere, defendant

RICHARD H. McSHANE

did knowingly devise and intend to devise a scheme and artifice to defraud, and for obtaining money or property by means of false and fraudulent pretenses, representations and promises, transmitted and caused to be transmitted by means of wire, radio, or television communication in interstate commerce, writings, signs, signals, pictures and sounds for the purpose of executing a scheme or artifice to defraud by causing the Social Security Administration to transmit by means of wire communications approximately \$82,161.00, including those transfers referenced below, each constituting a separate count of this Complaint.

| Count | Approximate Date | Description |
|--------------|-------------------------|---|
| 2 | May 23, 2012 | Wire of approximately \$1,023.00 from the Kansas City Regional Financial Center, Bureau of the Fiscal Service (the "KSFC"), in Missouri on behalf of the Social Security Administration (the "SSA"), to the 2000 Account in New Jersey. |
| 3 | June 27, 2012 | Wire of approximately \$1,023.00 from the KSFC in Missouri on behalf of the SSA, to the 2000 |

| | | |
|---|-----------------|---|
| | | Account in New Jersey. |
| 4 | July 25, 2012 | Wire of approximately \$1,023.00 from the KSFC in Missouri on behalf of the SSA, to the 2000 Account in New Jersey. |
| 5 | August 22, 2012 | Wire of approximately \$1,023.00 from the KSFC in Missouri on behalf of the SSA, to the 2000 Account in New Jersey. |

In violation of Title 18, United States Code, Section 1343 and Section 2.

ATTACHMENT B

I, Michael Coccaro, am a Special Agent with the Social Security Administration, Office of the Inspector General. I am fully familiar with the facts set forth herein based on my own investigation, my conversations with other law enforcement officers, and my review of reports, documents, and items of evidence. Where statements of others are related herein, they are related in substance and part. Since this complaint is being submitted for a limited purpose, I have not set forth each and every fact that I know concerning this investigation. Where I assert that an event took place on a particular date, I am asserting that it took place on or about the date alleged.

Overview of Representative Payee Requirements

1. The United States Social Security Administration (“SSA”) is an independent agency of the United States government whose primary responsibility is to administer Social Security, a social insurance program consisting of retirement, disability, and survivor benefits. Social security benefits are intended only for the specific beneficiary.

2. SSA retirement benefits provide monthly payments to a retired wage earner and/or to the spouse or child of a retired wage earner, based on the Social Security record of the wage earner who paid sufficient Social Security taxes. A child under the age of 18 may receive social security benefits if the child has a parent who is retired and who is entitled to social security benefits.

3. When SSA determines that a beneficiary cannot manage his or her benefits, as in the case of a child, SSA chooses a representative payee (“rep payee”) to use the payments for the beneficiary’s needs. The rep payee is responsible for receiving and spending benefits on the beneficiary's behalf, and has the authority to decide how benefits will be spent on the beneficiary’s behalf. SSA typically will appoint a responsible parent to act as the rep payee for a beneficiary who is a minor.

4. A rep payee is required to maintain a dedicated bank account for the beneficiary’s SSA benefits. A rep payee may not spend the beneficiary’s funds in a way that would leave the beneficiary without necessary items or services, such as housing, food, clothing, and medical care. A rep payee for a minor beneficiary is required, among other things, to notify SSA immediately if a change in circumstances occurs, such as a change in the beneficiary’s residence or if the beneficiary is no longer in the custody or care of the rep payee. Such a change in circumstances may affect the rep payee’s eligibility to receive benefits on behalf of the

beneficiary. SSA benefits paid to rep payees typically were sent on a monthly basis by check or wire transfer issued to the rep payee.

5. During the relevant time period, wire and mail payments made by SSA to rep payees were disbursed by the Bureau of Fiscal Service (BFS), a bureau of the United States Department of Treasury, from one of BFS's three (3) locations: Kansas City, Missouri; San Francisco, California; and Philadelphia, Pennsylvania.

Background

6. At all times relevant herein, Richard H. McShane (the "defendant") resided or maintained a post office box in New Jersey.

7. On or about July 19, 2000, the defendant married Renata Voytsitska-McShane ("Renata McShane").

8. On July 8, 2003, John Doe was born in Livingston, New Jersey, to the defendant and Renata McShane.

9. In or about August 2003, Renata McShane applied for benefits on behalf of John Doe, who was eligible to receive SSA benefits because he was less than 18 years of age and a child of the defendant, who was retired and entitled to SSA benefits. The application was granted and SSA appointed Renata McShane the rep payee for John Doe.

10. From on or about August 2003 to on or about August 2004, SSA payments were sent to Renata McShane as rep payee for John Doe.

The Fraudulent Scheme

11. On or about August 1, 2004, Renata McShane and John Doe were involved in a car accident that resulted in the death of Renata McShane. John Doe suffered severe, traumatic brain injury and was hospitalized for approximately one year. Shortly after the accident, John Doe's maternal grandparents (the "maternal grandparents") traveled from their home in Ukraine to New Jersey. The maternal grandparents are Ukrainian citizens residing in Ukraine.

12. Shortly after the death of Renata McShane, the defendant filed an application with SSA to become the rep payee for John Doe. The application was granted and, beginning in about October 2004, the defendant, as rep payee for John Doe, began receiving funds from SSA in amounts between \$606.00 and \$1,069.00 per month. Accordingly, the defendant was required to use or save the funds for the benefit of John Doe.

13. On or about July 13, 2005, John Doe was discharged from a hospital in New Jersey. Upon discharge, the maternal grandparents accompanied John Doe to Ukraine, where he remains. I reviewed travel records provided to me by Homeland Security Investigations/United States Immigration and Customs Enforcement for John Doe and confirmed that, on or about July 13, 2005, John Doe left the United States via Newark Liberty International Airport. John Doe arrived in Ukraine on July 14, 2005. The records show no return travel or re-entry to the United States by John Doe.

14. From in or about July 2005 through in or about October 2012, approximately \$82,161.00 in SSA funds were sent by SSA to the defendant as rep payee for John Doe. The SSA funds were transmitted via wire transfer to an account ending in 2000 at Valley National Bank, located in New Jersey (the "2000 Account"). The 2000 Account was controlled by the defendant. The defendant has not used these funds for the care or maintenance of John Doe.

15. Since at least July 13, 2005, the maternal grandparents have been the primary caretakers for John Doe. The maternal grandparents have resided with John Doe in Ukraine since on or about July 13, 2005, and provide for John Doe's basic needs, including food, clothing, shelter, and medical care. As a result of the car accident, John Doe suffered permanent and life-threatening injuries, including partial paralysis in his upper and lower extremities. John Doe, now age 12, cannot speak coherently, walk unassisted, feed himself, turn his body over, or use the bathroom unassisted. The maternal grandparents have received little or no financial assistance from the defendant for the care and maintenance of his son, John Doe.

16. During the relevant time period, SSA required that the defendant state whether John Doe resided with him. For the periods 2006 through 2011, the defendant represented to SSA in writing that John Doe resided with him, despite the fact that John Doe resided in Ukraine with his maternal grandparents since about July 14, 2005. For the period November 1, 2008 through October 31, 2009, the defendant noted in a SSA Verification Form that John Doe was "currently returning from visit with grandparents."

17. Ukraine appears on the Social Security Administration's Restricted Countries list. SSA identified Ukraine, among other countries, as requiring a special procedure that permits the payment of benefits to certain eligible beneficiaries. Additionally, the beneficiary would not have been paid through a representative payee and the benefits would have been suspended if the beneficiary were unable to manage his or her own affairs. The recipient's monthly benefits resume once the beneficiary no longer resides in a restricted country. Consequently, no Social Security benefits should have been paid for the benefit of John Doe while he resided in Ukraine.