FILED
UNITED STATES DISTRICT COURT
ALBUQUERQUE, NEW MEXICO
FEB 26 2014
MATTHEW J. DYKMAN
CLERK

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	CRIMINAL NO. 14-595LH
	)	
vs.	)	Counts 1-14: 18 U.S.C. § 1343: Wire Fraud;
	)	
MICHELLE SMITH,	)	
	)	Counts 15-18: 18 U.S.C. § 1028A: Aggravated Identity Theft.
Defendant.	)	

INDICTMENT

The Grand Jury charges:

Introduction

1. Allstate Workplace Division and American Heritage Life Insurance, hereinafter collectively referred to as "Allstate," provide a variety of accident, life and health insurance policies to individual subscribers.

2. Allstate pays brokers a commission for each Allstate insurance policy the broker sells. Specifically, as soon as Allstate receives a new policy enrollment, Allstate pays the broker an advance commission amounting to a percentage of six months' worth of premiums on the insurance policy. If, however, the enrollee cancels the policy or otherwise fails to pay premiums for six months, the broker must return the advance commission to Allstate.

3. Wells Insurance Agency, hereinafter "Wells," is an exclusive broker for Allstate. Wells' offices are located in Farmington and Gallup, in San Juan County, in the District of New Mexico.

4. At all times relevant to this Indictment, the defendant, **MICHELLE SMITH**, was employed by Wells as an insurance agent to sell Allstate insurance policies in the District of New

Mexico and elsewhere. Wells paid the defendant, **MICHELLE SMITH**, up to 70% of the advance commissions she generated by submitting Allstate insurance policy enrollments.

Counts 1-14

5. Beginning on or about August 1, 2009, and continuing through May 3, 2010, both dates being inclusive and approximate, in San Juan County, in the District of New Mexico, and elsewhere, the defendant, **MICHELLE SMITH**, with intent to defraud, knowingly and unlawfully devised and intended to devise a scheme and artifice to defraud Allstate and Wells, and to obtain money, funds and other property from Allstate and Wells by means of materially false and fraudulent pretenses, representations and promises, and by material omissions, and for the purpose of executing and attempting to execute the scheme and artifice caused writings, signs, and signals to be transmitted by means of wire communications in interstate commerce.

The Scheme and Artifice to Defraud

6. The purpose of the scheme and artifice was to obtain advance commissions through the use of materially false representations by submitting fraudulent policy enrollments.

7. The defendant, **MICHELLE SMITH**, having previously worked as an insurance sales agent for American Family Life Assurance Company (AFLAC), began working at Wells as an Allstate insurance sales agent in August 2009.

8. The defendant, **MICHELLE SMITH**, completed her Allstate training in November 2009 and began submitting enrollments for Allstate insurance policies.

9. Between about November 2009 and May 2010, the defendant, **MICHELLE SMITH**, as part of the scheme and artifice to defraud, submitted enrollments in the name of approximately 150 different enrollees, each enrolled in one or more policies, for a total of approximately 505 Allstate insurance policy enrollments.

10. The approximately 505 policy enrollments the defendant, **MICHELLE SMITH**, submitted to Allstate caused Allstate to issue approximately $324,568 to Wells in advance commission payments. Of this amount, Wells paid the defendant, **MICHELLE SMITH**, approximately $128,371 between November 9, 2009, and approximately April 30, 2010.

11. As part of the scheme and artifice to defraud, the defendant, **MICHELLE SMITH**, submitted insurance policy enrollment forms to Allstate in the names of individuals who had not purchased insurance from Allstate that had forged signatures on them. The forms falsely represented that the individuals wished to purchase insurance from Allstate.

12. As a further part of the scheme and artifice, the forms also contained numerous errors and inaccuracies which served to make the scheme more difficult to detect.

13. Allstate did not receive premium payments regarding the policies the defendant, **MICHELLE SMITH**, submitted to Allstate.

Execution of the Scheme

14. On or about the dates listed below, within the District of New Mexico and elsewhere, the defendant, **MICHELLE SMITH**, for the purpose of executing and in order to effect the above-described scheme and artifice to defraud Allstate and Wells, and to obtain the monies and property of Allstate and Wells by means of materially false and fraudulent pretenses, representations and promises, and by material omissions, knowingly caused to be transmitted by means of wire communications in interstate commerce any writings, signs and signals, that is, banking wire transfers of monies as described below:

Count	Date	Approx. Amount	Description
1	11/6/09	$2012	Allstate wire transfer direct deposit #596420 to Wells
2	11/13/09	$5404	Allstate wire transfer direct deposit #597097 to Wells

3	11/20/09	$8198	Allstate wire transfer direct deposit #597832 to Wells
4	11/30/09	$8669	Allstate wire transfer direct deposit #598603 to Wells
5	12/18/09	$9580	Allstate wire transfer direct deposit #607696 to Wells
6	12/23/09	$14306	Allstate wire transfer direct deposit #608520 to Wells
7	1/8/10	$9263	Allstate wire transfer direct deposit #621859 to Wells
8	1/22/10	$43947	Allstate wire transfer direct deposit #622724 to Wells
9	1/31/10	$12899	Allstate wire transfer direct deposit #623202 to Wells
10	2/5/10	$29631	Allstate wire transfer direct deposit #629578 to Wells
11	2/28/10	$31208	Allstate wire transfer direct deposit #630958 to Wells
12	3/26/10	$68656	Allstate wire transfer direct deposit #639841 to Wells
13	3/31/10	$58197	Allstate wire transfer direct deposit #640327 to Wells
14	4/2/10	$22261	Allstate wire transfer direct deposit #647656 to Wells

In violation of 18 U.S.C. § 1343.

Counts 15-18

15. On or about the dates specified below, in San Juan County, in the District of New Mexico, and elsewhere, the defendant, **MICHELLE SMITH**, did knowingly use, possess and transfer, without lawful authority, a means of identification of another person; that is, the defendant used, possessed and transferred the name, address, telephone number, Social Security Number, date of birth, and signature of persons known to the grand jury whose initials are provided below, during and in relation to felony violations of 18 U.S.C. § 1343 as described below:

Count	Statute Violated	Violation Described in Count	Person	Approximate Date
15	18 U.S.C. § 1343	2	C.C.	11/12/09

Count	Statute Violated	Violation Described in Count	Person	Approximate Date
16	18 U.S.C. § 1343	8	S.B.	1/22/10
17	18 U.S.C. § 1343	11	B.H.	2/19/10
18	18 U.S.C. § 1343	12	M.G.	3/26/10

In violation of 18 U.S.C. § 1028A(a)(1).

Forfeiture Allegation

Counts 1 through 14 of this Indictment are re-alleged and incorporated by reference into this section for the purpose of alleging forfeiture to the United States pursuant to 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461.

Upon conviction of any of offense in violation of 18 U.S.C. § 1343, the defendant, **MICHELLE SMITH**, shall forfeit to the United States pursuant to 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461 any property, real or personal, which constitutes or is derived from proceeds traceable to such violation, or a conspiracy to commit such offense.

The property to be forfeited to the United States includes, but is not limited to, the following:

MONEY JUDGMENT:

A sum of money, including any interest accruing to the date of the judgment, representing the amount of money constituting, or derived from, proceeds obtained directly or indirectly, as the result of each offense for which the defendant is convicted.

SUBSTITUTE ASSETS:

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

A. Cannot be located upon exercise of due diligence;

B. Has been transferred or sold to, or deposited with, a third person;

C. Has been placed beyond the jurisdiction of the Court;

D. Has been substantially diminished in value;

E. Has been commingled with other property which cannot be subdivided without difficulty.

It is the intent of the United States, pursuant to 21 U.S.C. § 853(p), as incorporated by 18 U.S.C. § 982(b) and 28 U.S.C. § 2461(c), to seek forfeiture of any other property of the defendant up to the value of the forfeitable property described above.

A TRUE BILL:

/s/

FOREPERSON OF THE GRAND JURY

Assistant United States Attorney

2/24/2014 10:52 AM