

Approved:

Jared Lenow
JARED LENOW
Assistant United States Attorney

Before: THE HONORABLE MICHAEL H. DOLINGER
United States Magistrate Judge
Southern District of New York

14 MAG 939

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UNITED STATES OF AMERICA

:
: SEALED
: COMPLAINT

-v-

: Violations of 18 U.S.C.
: §§ 641, 1920

CHARLES WALWYN,

:
: COUNTY OF OFFENSE:
: NEW YORK

Defendant.

:
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SOUTHERN DISTRICT OF NEW YORK, ss.:

ERIC SHEEN, being duly sworn, deposes and says that he is a Special Agent with the United States Postal Service, Office of the Inspector General, and charges as follows:

COUNT ONE

1. From at least in or about July 29, 2013, up to and including at least in or about January 12, 2014, in the Southern District of New York and elsewhere, CHARLES WALWYN, the defendant, willfully and knowingly did falsify, conceal, and cover up material facts, and did make false, fictitious, and fraudulent statements and representations, and did make and use false statements and reports knowing the same to contain false, fictitious, and fraudulent statements and entries in connection with an application for and receipt of compensation and other benefits and payment under Title 5, United States Code, Sections 8102 et seq., which benefits exceeded \$1000, to wit, WALWYN submitted applications for federal worker's compensation benefits in which he stated falsely that he did not have employment outside of his federal job during the time he claimed such benefits, when in fact he did.

(Title 18, United States Code, Section 1920.)

COUNT TWO

2. From at least in or about July 29, 2013, up to and including at least in or about January 12, 2014, in the Southern District of New York and elsewhere, CHARLES WALWYN, the defendant, willfully and knowingly did embezzle, steal, purloin, and convert to his own use and the use of another, money and things of value of the United States and of a department and agency thereof, and did receive, conceal, and retain the same with intent to convert it to his own use and gain, knowing it to have been embezzled, stolen, purloined, and converted, to wit, WALWYN fraudulently obtained federal worker's compensation benefits to which he was not entitled.

(Title 18, United States Code, Section 641.)

The bases for my knowledge and for the foregoing charges are, in part, as follows:

3. I am a Special Agent with the United States Postal Service ("USPS"), Office of the Inspector General. I have been personally involved in the investigation of this matter, and I base this affidavit on that personal experience, as well as on my conversations with other law enforcement agents and my examination of various reports and records. Because this affidavit is being submitted for the limited purpose of establishing probable cause for the offenses cited above, it does not include all the facts that I have learned during the course of the investigation. Where the contents of conversations of others are reported herein, they are reported in substance and in part.

The Regulatory Scheme

4. Based on my knowledge and experience derived from this investigation and from my participation in prior investigations into federal worker's compensation fraud, I know the following:

a. The Federal Employees' Compensation Act ("FECA"), 5 U.S.C. § 8102 et seq., provides compensation to federal employees for injuries sustained during the performance of their workplace duties. An employee may be disabled, and therefore eligible to collect FECA benefits, either due to a sudden, "traumatic injury" or due to a physical or mental condition that develops over time (an "occupational disease").

b. Under the statute, an employee who is totally disabled due to a workplace injury and has no dependents is entitled to benefits equivalent to 66.66 percent of his federal salary during the period of his disability. An employee is totally disabled if, following his injury, he has no capacity to earn wages or work in any position. If an employee without dependents is only partially disabled, his FECA benefits are limited to 66.66 percent of the difference between his federal salary and his residual wage-earning capacity. FECA benefits are untaxed.

c. FECA benefits are administered by the Office of Workers' Compensation Programs ("OWCP"), a division of the Department of Labor ("DOL"). The OWCP District Office that processes FECA claims for residents of New Jersey, New York, Puerto Rico, and the Virgin Islands is located in Manhattan, New York.

d. In order to receive FECA benefits, a federal employee who suffers a work-related traumatic injury must first complete, sign, and submit to the OWCP a form entitled "Federal Employee's Notice of Traumatic Injury and Claim for Continuation of Pay/Compensation" (a "Form CA-1"). The Form CA-1 requires the employee to describe the nature of the injury for which he is seeking benefits and the circumstances under which he sustained it. By signing the Form CA-1, the claimant certifies, "under penalty of law," inter alia, that the injury upon which the claim is based "was sustained in the performance of duty as an employee of the United States Government." Form CA-1 advises the employee who submits it that:

Any person who knowingly makes any false statement, misrepresentation, concealment of fact or any other act of fraud to obtain compensation as provided by the FECA or who knowingly accepts compensation to which that person is not entitled is subject to civil or administrative remedies as well as felony criminal prosecution and may, under appropriate criminal provisions, be punished by a fine or imprisonment or both.

e. Under DOL regulations, a federal employee who sustains a work-related injury that is successfully treated, but later experiences a spontaneous return of debilitating symptoms, is entitled again to obtain FECA benefits. In such circumstances, the employee must file a "Notice of Recurrence" (a "Form CA-2a").

f. Upon the filing of a Form CA-1 or a Form CA-2a, the federal employer must continue the disabled employee's regular pay during any periods of disability, up to a combined maximum of 45 calendar days for any single injury. In order to obtain compensation beyond this 45 day period, the employee must file a "Claim for Compensation Due to Traumatic Injury or Occupational Disease" (a "Form CA-7"). The Form CA-7 does not permit the claimant to request benefits for prospective periods of disability. Thus, in order to receive benefits on a schedule that replicates his normal pay cycle, the claimant must generally file a new Form CA-7 every two weeks. An employee receiving benefits in this manner is said to be on the "daily role."

THE PRESENT INVESTIGATION

WALWYN Files for FECA Benefits

5. I have reviewed documents maintained by the United States Postal Service ("USPS") and OWCP regarding CHARLES WALWYN, the defendant. From these documents I know that:

a. Since 2005, WALWYN has been employed by the USPS as a letter carrier in Selden, New York.

b. On or about July 15, 2009, WALWYN completed, signed, and filed with OWCP in Manhattan a Form CA-1. On that document, WALWYN claimed to have sustained an injury to his neck and right arm when he was reaching backwards from a mail truck to place mail in a mailbox. He stated that he had sustained a pull and tingle on the right side of neck, and that he had no strength or control of his right arm.

c. After filing his Form CA-1 in 2009, WALWYN began to draw FECA benefits and stopped reporting to work. WALWYN returned to work with the USPS in a limited duty capacity on or about July 9, 2013, but once again stopped working on or about October 9, 2013.

d. For the time period on or about July 13, 2013 to on or about January 10, 2014, WALWYN completed, signed and filed with the OWCP in Manhattan 13 Form CA-7s. These Forms are dated, respectively: July 29, 2013; August 11, 2013; August 25, 2013; September 9, 2013; September 23, 2013; October 7, 2013; October 22, 2013; November 20, 2013 (two forms); December 2, 2013; December 15, 2013; December 30, 2013; and January 12, 2014. On each of the 13 Forms, WALWYN indicated that he had not worked for any employer during the prior two-week time period

and had not been self-employed or involved in any business enterprise during that time period.

e. Between on or about July 29, 2013 and on or about January 12, 2014, WALWYN received FECA benefits totaling at least \$9,500.

WALWYN Works as an Adjunct Lecturer

6. I have reviewed documents maintained by the State University of New York Maritime College ("SUNY Maritime College") in the Bronx, New York regarding CHARLES WALWYN, the defendant. From these documents I have learned the following:

a. WALWYN has been employed as an Adjunct Lecturer in the Global Business and Transportation Department of SUNY Maritime College since in or about 2003.

b. Between on or about July 31, 2013 and on or about December 31, 2013, WALWYN, was issued ten paychecks by SUNY Maritime College totaling \$11,027.02. WALWYN was working in his capacity as an Adjunct Lecturer during that time period.

7. From reviewing documents maintained by USPS and OWCP regarding CHARLES WALWYN, the defendant, I know that the first time that WALWYN disclosed his work at SUNY Maritime College on a Form CA-7 was on January 26, 2014, approximately one month after a subpoena for records relating to WALWYN was served on SUNY Maritime College.

WALWYN Works as a Substitute Teacher

8. I have reviewed documents maintained by Middle Country School District ("MCSD") in Centereach, NY, regarding CHARLES WALWYN, the defendant. From these documents I have learned that WALWYN worked as a Substitute Teacher at MCSD on October 21, 23, and 25, 2013, and received payroll checks from MCSD on or about November 8, 2013 for \$96.97, and on or about November 22, 2013 for \$290.90.

9. From reviewing documents maintained by USPS and OWCP regarding CHARLES WALWYN, the defendant, I know that WALWYN has never disclosed his work at MCSD on a Form CA-7.

WHEREFORE, the deponent respectfully requests that a warrant issue for the arrest of CHARLES WALWYN, the defendant, and that he be arrested and imprisoned, or bailed, as the case may be.



ERIC SHEEN
Special Agent
United States Postal Service
Office of the Inspector General

Sworn to before me this
2nd of May 2014



THE HONORABLE MICHAEL H. DOLINGER
United States Magistrate Judge
Southern District of New York

UNITED STATES DISTRICT COURT

for the

Southern District of New York

United States of America
v.
CHARLES WALWYN

Case No.

14 MAG 939

Defendant

ARREST WARRANT

To: Any authorized law enforcement officer

YOU ARE COMMANDED to arrest and bring before a United States magistrate judge without unnecessary delay

(name of person to be arrested) CHARLES WALWYN

who is accused of an offense or violation based on the following document filed with the court:

- Indictment, Superseding Indictment, Information, Superseding Information, Complaint, Probation Violation Petition, Supervised Release Violation Petition, Violation Notice, Order of the Court

This offense is briefly described as follows:

False statements in connection with an application for federal compensation and other benefits, in violation of 18 U.S.C. § 1920; theft of government funds, in violation of 18 U.S.C. § 641.

Date: 05/02/2014

Issuing officer's signature

City and state: New York, New York

HON. MICHAEL H. DOLINGER, U.S. Magistrate Judge
Printed name and title

Return

This warrant was received on (date) , and the person was arrested on (date)
at (city and state)

Date:

Arresting officer's signature

Printed name and title