

FILED

JUN 02 2016

CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
BY _____
DEPUTY CLERK

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8 IN THE UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA

10
11 UNITED STATES OF AMERICA,
12 Plaintiff,
13 v.
14 MARK MERRILL REYNOLDS,
15 Defendant.
16

CASE NO. 1:16 CR 00081 LJO SKO

VIOLATION: 18 U.S.C. § 669 -
Embezzlement and Misapplication In Connection
with Health Care; 18 U.S.C. § 1341 - Mail Fraud
(14 Counts); 18 U.S.C. § 1956(a)(1)(B)(i) - Money
Laundering (5 Counts); 18 U.S.C. §§ 982(a)(2) and
982(a)(7) - Criminal Forfeiture

17 INDICTMENT

18 COUNT ONE: [18 U.S.C. § 669 - Embezzlement and Misapplication in Connection with Health Care]

19 The Grand Jury charges:

20 MARK MERRILL REYNOLDS,
21 defendant herein, as follows:

22 1. INTRODUCTION

23 At all times relevant to this indictment:

24 1. Ben-E-Lect and Ben-E-Lect of Visalia, (“Ben-E-Lect”) were California corporations
25 which operated in Fresno and Tulare Counties, State and Eastern District of California. Ben-E-Lect
26 was a California Third Party Administrator licensed by the California Department of Insurance to collect
27 charges or premiums from, or to adjust or settle claims on behalf of, residents of California in
28 connection with health insurance coverage.

1 2. Defendant MARK MERRILL REYNOLDS was the President and sole shareholder of
2 Ben-E-Lect.

3 3. Ben-E-Lect's role was to process health care claims on behalf of clients using their
4 clients' funds paid into an account known as the Ben-E-Lect Employer Elect account. Under California
5 law, Ben-E-Lect was required to hold funds in the Ben-E-Lect Employer Elect account in a fiduciary
6 capacity. Under California law, Ben-E-Lect was required to maintain, deposit, and withdraw clients'
7 funds from the Ben-E-Lect Employer Elect account only for specific purposes, none of which included
8 business operational expenses or personal gain.

9 4. Ben-E-Lect's clients were small to medium sized businesses which purchased high
10 deductible, fully insured group medical plans from independent insurance carriers, and then self-insured
11 beneficiaries for amounts up to the amount of the high deductible. These companies hired Ben-E-Lect
12 to process health care claims paid out of this self-insurance on their behalf. During this period, Ben-E-
13 Lect serviced over 3,200 clients across 22 states.

14 5. Ben-E-Lect provided its clients with an Administrative Service Agreement which stated,
15 among other things, that Ben-E-Lect would establish and maintain a bank account to fund the payment
16 of plan benefits on behalf of the clients. The clients agreed to maintain a certain dollar amount in the
17 account, which was referred to as the client's "claim account," but which was actually a virtual sub-
18 account with the Ben-E-Lect Employer Elect account. The funds within the client's claim account were
19 to be used only to process and pay claims. When needed, Ben-E-Lect would send clients
20 "Replenishment Letters" asking them to remit payment to Ben-E-Lect, sometimes referred to as "Plan
21 Benefit Funding Payments," to maintain the target amount in their claim account.

22 II. EMBEZZLEMENT AND THE SCHEME TO DEFRAUD

23 6. Beginning on or about December 30, 2008 through on or about March 28, 2014, in the
24 Eastern District of California, defendant MARK MERRILL REYNOLDS, with intent to defraud,
25 knowingly and willfully embezzled, stole, and converted without authority to the use of Ben-E-Lect, his
26 spouse M.R., and others known and unknown who were not the rightful owners or beneficiaries of the
27 account, and intentionally misapplied moneys, funds, securities, premiums, credits, property, and other
28 assets of, the Ben-E-Lect Employer Elect account, a health care benefit program as defined in Title 18,

1 United States Code, Section 24(b),

2 7. During this time period, MARK MERRILL REYNOLDS used and spent funds held in
3 trust in the Ben-E-Lect Employer Elect account for unauthorized uses, including business operating
4 expenses, employee salaries and commissions of Ben-E-Lect; personal mortgage payments on houses in
5 Carmel, Shaver Lake, and Fresno; personal vehicle loan payments on a Cadillac Escalade, Ford Edge,
6 and Lexus; American Express credit card payments for charges made by the defendant's wife, M.R.;
7 purchase of a partial ownership (30%) of Employer Network, LLC, a payroll company; and a deposit
8 into a personal investment account at Morgan Stanley Smith Barney.

9 8. All the funds diverted from the Ben-E-Lect Employer Elect account were first moved
10 into different accounts, both business and personal accounts, before being used and transferred
11 elsewhere, with the intent to conceal and disguise the nature, location, source, ownership and control of
12 the funds knowing that the property involved represented the proceeds of some form of unlawful
13 activity.

14 9. During this time period, MARK MERRILL REYNOLDS illegally withdrew and
15 transferred funds from the Ben-E-Lect Employer Elect account in the approximate amount of
16 \$6,089,584, and reimbursed that account in the approximate amount of \$1,613,584, netting a loss in that
17 account of approximately \$4,476,000.

18 All in violation of Title 18, United States Code, Section 669.

19 COUNTS TWO THROUGH FIFTEEN: [18 U.S.C. § 1341 – Mail Fraud]

20 The Grand Jury further charges:

21 MARK MERRILL REYNOLDS,
22 defendant herein, as follows:

23 10. Paragraphs 1 through 9 of this Indictment are re-alleged and incorporated by reference as
24 if fully set forth herein.

25 11. Beginning at a time unknown to the Grand Jury, but no later than on or about December
26 30, 2008, and continuing to on or about March 28, 2014, in the State and Eastern District of California
27 and elsewhere, defendant MARK MERRILL REYNOLDS and others known and unknown to the Grand
28 Jury, did knowingly devise and intend to devise a scheme and artifice to defraud customers of Ben-E-

1 Lect and to obtain money by means of materially false and fraudulent pretenses, representations and
 2 promises, specifically to obtain deposits into the Ben-E-Elect Employer Elect Account (x4229) by fraud
 3 and false statements.

4 12. On or about the dates set forth below, in the State and Eastern District of California, and
 5 elsewhere, defendant MARK MERRILL REYNOLDS, for the purpose of executing and attempting to
 6 execute said scheme and artifice to defraud and to obtain money by means of materially false and
 7 fraudulent pretenses, representations and promises, placed and caused to be placed in a post office and
 8 authorized depository for mail matter, to be sent and delivered by the United States Postal Service, and
 9 deposited and caused to be deposited to be sent and delivered by a private and commercial interstate
 10 carrier, and knowingly caused to be delivered by mail and by a private and commercial interstate carrier
 11 according to the directions thereon, the following items:

Count	Date	Sent Via U.S. Mail To:	Item Sent
TWO	8/3/2011	45111 Fern Ave. Lancaster, CA 93534	Replenishment letter
THREE	2/1/2012	2707 Aurora Rd. Mariposa, CA 95338	Replenishment letter
FOUR	2/1/2012	695 Town Center Dr. Ste 700 Costa Mesa, CA 92626	Replenishment letter
FIVE	2/6/2012	1690 Aston Street Irvine, CA 92618	Replenishment letter
SIX	2/7/2012	1930 Palmar Point Way #101 Carlsbad, CA 92008	Replenishment letter
SEVEN	3/7/2012	1930 Palmar Point Way #101 Carlsbad, CA 92008	Replenishment letter
EIGHT	7/6/2012	4403 Bear Mountain Blvd. Bakersfield, CA 93313	Replenishment letter
NINE	9/5/2012	1930 Palmar Point Way #101 Carlsbad, CA 92008	Replenishment letter
TEN	1/3/2013	1011 Camino De Rio S 600 San Diego, CA 92108	Replenishment letter
ELEVEN	2/5/2013	25007 Anza Dr. Valencia, CA 91355	Replenishment letter
TWELVE	3/1/2013	909 N. Sepulveda Blvd. # 320 El Segundo, CA 90245	Replenishment letter
THIRTEEN	5/7/2013	1930 Palmar Point Way #101 Carlsbad, CA 92008	Replenishment letter

1	FOURTEEN	6/5/2013	115 Woodmere Rd. Folsom, CA 95630	Replenishment letter
2	FIFTEEN	6/6/2013	162 Harbor Pittsburg, CA 94565	Replenishment letter

4 All in violation of Title 18, United States Code, Section 1341.

5 COUNTS SIXTEEN THROUGH TWENTY: [18 U.S.C. § 1956(a)(1)(B)(i) – Money Laundering]

6 The Grand Jury further charges:

7 MARK MERRILL REYNOLDS,

8 defendant herein, as follows:

9 13. Paragraphs 1 through 9 and 11 through 12 of this Indictment are re-alleged and
10 incorporated by reference as if fully set forth herein

11 14. On or about the dates set forth below, in the State and Eastern District of California,
12 defendant MARK MERRILL REYNOLDS knowingly conducted, and attempted to conduct, financial
13 transactions affecting interstate and foreign commerce, to wit, bank transfers, and checks deposited and
14 written, which involved the proceeds of a specified unlawful activity, to wit, mail fraud as set forth
15 above in violation of 18 U.S.C. § 1341, with the intent to conceal and disguise the nature, location,
16 source, ownership and control of property believed to be proceeds of the specified unlawful activity and
17 that while conducting and attempting to conduct such financial transaction, knew that the property
18 involved in the financial transaction, that is, monetary instruments in the amounts set forth below,
19 represented the proceeds of some form of unlawful activity:

20	Count	Date	Monetary Transaction	Bank
21	SIXTEEN	1/27/2012	Bank transfer of \$96,000 from Ben-E- Elect Employer Elect Account (x4229) to Ben-E-Lect of Visalia Account (x6142)	Bank of the West account in the name of Ben-E-Lect of Visalia

1 2 3 4	SEVENTEEN	1/27/2012	Bank transfer of \$40,000 from Ben-E-Elect Employer Elect Account (x4229) to Ben-E-Lect Account (x8437)	Bank of the West account in the name of Ben-E-Lect
5 6 7 8 9	EIGHTEEN	1/27/2012	Deposit of Check (#500609) in the amount of \$25,000 drawn on Ben-E-Lect Account (x8437) and deposited into personal Bank of America Account (x0650) in the name of Mark and M.R.	Bank of America account in the name of Mark and M.R.
10 11 12 13	NINETEEN	2/6/2012	Bank transfer of \$50,000 from Ben-E-Lect Employer Elect Account (x4229) to Mark Reynolds/Overflow Account (x4388)	Bank of the West account in the name of Mark Reynolds/Overflow Account
14 15 16 17	TWENTY	12/23/2013	Bank transfer of \$180,000 from Ben-E-Lect Employer Elect Account (x4229) to Ben-E-Lect Account (x8437)	Bank of the West account in the name of Ben-E-Lect

18 All in violation of Title 18, United States Code, Section 1956(a)(1)(B)(i).

19 **FORFEITURE ALLEGATION:** [18 U.S.C. §§ 982(a)(2) and 982(a)(7) - Criminal Forfeiture]

20 15. The allegations contained in Count One are hereby re-alleged and incorporated by
21 reference for the purpose of alleging forfeitures pursuant to Title 18, United States Code, Section
22 982(a)(7).

23 16. Upon conviction of the offenses alleged in Counts One through Fifteen of this
24 Indictment, the defendant MARK MERRILL REYNOLDS shall forfeit to the United States, pursuant to
25 Title 18, United States Code, Section 982(a)(7), any property, real or personal, involved in such offense,
26 or any property traceable to such property, and property that constitutes or is derived, directly or
27 indirectly, from gross proceeds traceable to the commission of the offense, including but not limited to
28 the following:

- 1 a. Real property located at 39145 Checkerbloom Lane, Shaver Lake, California,
- 2 Fresno County, APN: 130-45-503;
- 3 b. Approximately \$182,611.57 held in Bank of the West account ending ****8437
- 4 in the name of Ben-E-Lect;
- 5 c. Approximately \$4,762.82 held in Bank of the West account ending ****6142 in
- 6 the name of Ben-E-Lect;
- 7 d. Approximately \$14,906.44 held in Bank of America Account ending ****0650 in
- 8 the name of Mark M. Reynolds and M.R.;
- 9 e. Approximately \$18,690.28 held in Bank of America account ending ****8768 in
- 10 the name of Ben-E-Lect; and
- 11 f. A 2010 Cadillac Escalade, VIN #1GYUKJEF7AR277346, California License
- 12 #6NRK908; and,
- 13 g. A sum of money equal to the amount of money involved in the offenses, for
- 14 which defendant is convicted.

15 17. Upon conviction of one or more of the offenses alleged in Counts Sixteen through
16 Twenty of this Indictment, defendant MARK MERRILL REYNOLDS shall forfeit to the United States,
17 pursuant to 18 U.S.C. § 982(a)(1), all property, real or personal, involved in such offenses, and any
18 property traceable to such property, including but not limited to the following:

- 19 a. Real property located at 39145 Checkerbloom Lane, Shaver Lake, California,
- 20 Fresno County, APN: 130-45-503;
- 21 b. Approximately \$182,611.57 held in Bank of the West account ending ****8437
- 22 in the name of Ben-E-Lect;
- 23 c. Approximately \$4,762.82 held in Bank of the West account ending ****6142 in
- 24 the name of Ben-E-Lect;
- 25 d. Approximately \$14,906.44 held in Bank of America Account ending ****0650 in
- 26 the name of Mark M. Reynolds and M.R.;
- 27 e. Approximately \$18,690.28 held in Bank of America account ending ****8768 in
- 28 the name of Ben-E-Lect; and

- 1 f. A 2010 Cadillac Escalade, VIN #1GYUKJEF7AR277346, California License
2 #6NRK908; and,
3 g. A sum of money equal to the amount of money involved in the offenses, for
4 which defendant is convicted.

- 5 18. If any of the property described above, as a result of any act or omission of the defendant:
6 a. cannot be located upon the exercise of due diligence;
7 b. has been transferred or sold to, or deposited with, a third party;
8 c. has been placed beyond the jurisdiction of the court;
9 d. has been substantially diminished in value; or
10 e. has been commingled with other property which cannot be divided without
11 difficulty,

12 the United States of America shall be entitled to forfeiture of any other property of the defendants, up to
13 the value of the property subject to forfeiture, including but not limited to a personal forfeiture money
14 judgment, pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 18, United
15 States Code, Section 982(b).

16
17 A TRUE BILL

18 **/s/ Signature on file w/AUSA**

19 _____
FOREPERSON

20 PHILLIP. A. TALBERT
Acting United States Attorney

21 **KIRK E. SHERRIFF**

22 By _____

23 KIRK SHERRIFF
Assistant U.S. Attorney
Chief, Fresno Office
24
25
26
27
28

No. _____

UNITED STATES DISTRICT COURT

Eastern District of California

Criminal Division

FILED

JUN 02 2016

CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
BY CAJ
DEPUTY CLERK

THE UNITED STATES OF AMERICA

vs.

MARK MERRILL REYNOLDS

INDICTMENT

1:16 CR 00081 LJO SKO

VIOLATION(S): 18 U.S.C. § 669 -Embezzlement and Misapplication In Connection with Health Care; 18 U.S.C. § 1341 – Mail Fraud (14 Counts); 18 U.S.C. § 1956(a)(1)(B)(i) – Money Laundering (5 Counts); 18 U.S.C. §§ 982(a)(2) and 982(a)(7) – Criminal Forfeiture

A true bill,

151

Foreman.

Filed in open court this _____ day

of _____, A.D. 20 _____

Clerk.

Bail, \$ _____

NO BAIL WARRANT

E. P. [Signature]

DEFENDANT INFORMATION RELATIVE TO A CRIMINAL ACTION -- IN U.S. DISTRICT COURT

BY COMPLAINT INFORMATION INDICTMENT
 SUPERSEDING: Case No.

Name of District Court, and/or Judge/Magistrate Judge Location (City)
EDCA

OFFENSE CHARGED

Please see Indictment

PLEASE SEE INDICTMENT

- Petty
- Minor
- Misdemeanor
- Felony

DEFENDANT -- U.S. vs.
MARK MERRILL REYNOLDS

Address { 1: 16 CR 00081 LJO SKO

Birth Date { Male Alien
 Female (if applicable)

(Optional unless a juvenile)

Place of offense
FRESNO

U.S.C. Citation
Please see Indictment

PROCEEDING

Name of Complainant Agency, or Person (& Title, if any)

CHET JOHNSTON - FBI

person is awaiting trial in another Federal or State Court, give name of court

this person/proceeding is transferred from another district per FRCrP 20 21 40. Show District

this is a reprosecution of charges previously dismissed which were dismissed on motion of:
 U.S. Att'y Defense

this prosecution relates to a pending case involving this same defendant

prior proceedings or appearance(s) before U.S. Magistrate Judge regarding this defendant were recorded under

SHOW
DOCKET NO.

MAGISTRATE
JUDGE CASE NO.

Name and Office of Person
Furnishing Information on
THIS FORM

LYNETTE DIXON

U.S. Att'y Other U.S. Agency

Name of Asst. U.S.
Att'y (if assigned)

MARK J. MCKEON

FORFEITURE ALLEGATION

DEFENDANT

IS NOT IN CUSTODY

- 1) Has not been arrested, pending outcome of this proceeding
If not detained, give date any prior summons was served on above charges
- 2) Is a Fugitive
- 3) Is on Bail or Release from (show District)

IS IN CUSTODY

- 4) On this charge
- 5) On another conviction
- 6) Awaiting trial on other charges } Fed'l State
If answer to (6) is "Yes," show name of institution

Has detainer been filed? Yes No
If "Yes," give date filed
Mo. Day Year

DATE OF ARREST

Or... if Arresting Agency & Warrant were not Federal

DATE TRANSFERRED TO U.S. CUSTODY

Mo. Day Year

This report amends AO 257 previously submitted

ADDITIONAL INFORMATION OR COMMENTS

NO BAIL WARRANT


AUSA INITIALS

PENALTY SLIPS

DEFENDANT: MARK MERRILL REYNOLDS

COUNT ONE: Embezzlement
VIOLATION: 18 U.S.C. § 669
PENALTY: Maximum 10 years imprisonment
Maximum fine of \$250,000
Or both
3 Year TSR

COUNT TWO THROUGH FIFTEEN: Mail Fraud
VIOLATION: 18 U.S.C. § 1341
PENALTY: Maximum 20 years imprisonment
Maximum fine of \$250,000
Or both
3 Year TSR

COUNT SIXTEEN THROUGH TWENTY: Money Laundering
VIOLATION: 18 U.S.C. § 1951(a)(1)(B)(i)
PENALTY: Maximum 20 years imprisonment
Maximum fine of \$500,000 or twice the value of the property
involved in the transaction, whichever is greater.
Or both
3 year TSR

FORFEITURE ALLEGATION: Criminal Forfeiture
VIOLATION: 18 U.S.C. §§ 982 (a)(2) and 982(a)(7)
PENALTY: As stated in Indictment