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EASTERN DISTRICT OF CALIFORNIA  
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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 HERBERT ALEXANDER,  
15 Defendant.  
16

CASE NO. 2:16 - CR - 0179 JAM  
18 U.S.C. § 1341 – Mail Fraud (2 Counts);  
18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c) –  
Criminal Forfeiture

17  
18 INDICTMENT

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

20 The Grand Jury charges:

21 HERBERT ALEXANDER,  
22 defendant herein, as follows:

23 INTRODUCTION

24 At all times material herein,

25 1. The State of California Employment Development Department (“EDD”) was the  
26 department of the State of California that administered the Unemployment Insurance (“UI”) program for  
27 the State of California.

28 2. An employer was required to register with the EDD within fifteen days of paying \$100 or

1 more in wages to one or more employees. An employer registered by submitting Form DE-1, the  
2 Registration Form for Commercial Employees. The DE-1 Form included, among other things, spaces  
3 for the company's name, address, number of employees, owner, and type of business. After receiving  
4 the DE-1 from a new employer, the EDD assigned that employer an Employer Account Number (EAN).

5 3. Individuals who were laid off by an employer were eligible to receive UI benefits. The  
6 amount of weekly UI benefits paid to a claimant was based on that claimant's prior earnings. In order to  
7 receive benefits, a UI claimant was required to provide information to the EDD, including the claimant's  
8 name, social security number, and previous employer. Prior to making payment on the claim, the EDD  
9 verified that the claimant had earnings reported to the EDD by his/her employer. Employers reported  
10 wages that they paid their employees to EDD by submitting Wage and Withholding reports, generally,  
11 Form DE-9C.

12 4. When payment for a UI benefit claim was made, federal funds were transmitted through a  
13 series of wire transmissions and other transactions, including at least one interstate wire transmission,  
14 which originated in the Unemployment Insurance Trust Fund at the Federal Treasury in Washington,  
15 D.C. and ended in the State of California. The final wire placed the money at the Bank of America in  
16 Sacramento, California. Such funds were then paid to debit cards in the names of such claimants.  
17 Those debit cards were mailed to an address provided by the claimant.

18 5. As long as wages were reported by an employer, EDD would pay UI benefits even  
19 though the employer may not have paid any payroll taxes to EDD. If no payroll taxes had been paid by  
20 the employer, EDD would attempt to collect the delinquent payroll taxes owed by the employer.  
21 However, an employer's delinquency would not affect a claimant's eligibility for benefits.

22 SCHEME TO DEFRAUD

23 6. Beginning in or about May 2011, and continuing until in or about March 2013, within the  
24 State and Eastern District of California and elsewhere, defendant HERBERT ALEXANDER, and others  
25 known and unknown to the Grand Jury, knowingly devised, intended to devise, and participated in a  
26 material scheme and artifice to defraud EDD and to obtain money from that entity by means of material  
27 false and fraudulent pretenses, representations, and promises, and in connection therewith, caused the  
28 United States mails to be used, to wit: ALEXANDER filed and caused to be filed deficient, false, and

1 fraudulent UI claims with the EDD, and thereby obtained money from the EDD for ALEXANDER and  
2 others to which he and they were not lawfully entitled.

3 WAYS AND MEANS

4 In furtherance of the scheme and artifice to defraud set forth above, defendant HERBERT  
5 ALEXANDER employed, among others, the ways and means described below:

6 7. ALEXANDER, and others known and unknown to the Grand Jury, created a fictitious  
7 employer with the name Lowes Wholesale by submitting information to the EDD. The information  
8 submitted to the EDD included the company name, business address, and owner. In response, the EDD  
9 provided ALEXANDER with an EAN.

10 8. After Lowes Wholesale was created, defendant ALEXANDER created fictitious  
11 employees for that company using identities of other individuals. Some of these individuals were  
12 knowing participants in the scheme while others were victims of identity theft.

13 9. After identifying the identities that would be used for the scheme, defendant  
14 ALEXANDER then used, and caused to be used, the previously provided EAN to submit Wage and  
15 Withholding reports to the EDD Employment Tax Office listing fictitious payments to the fictitious  
16 employees for the fictitious company. The information submitted to the EDD in the DE-9C Wage and  
17 Withholding reports was false and material to the EDD's decision to pay benefits.

18 10. Once having submitted the DE-9C Wage and Withholding Reports, defendant  
19 ALEXANDER contacted, and caused to be contacted, the EDD posing as one of the fictitious laid-off  
20 employees and requested unemployment benefits. At that time, defendant ALEXANDER provided the  
21 employee's name, social security number, and previous employer to the EDD. The information  
22 submitted to the EDD during this claim process was false and material to the EDD's decision to pay  
23 benefits.

24 11. After verifying that earnings had been reported by Lowe's Wholesale for the employee  
25 claiming benefits, the EDD filed the claim and either began mailing checks or sent an EDD Bank of  
26 America debit card to an address provided by the purported claimant, an address usually controlled by  
27 defendant ALEXANDER and others known and unknown to the Grand Jury. During the course of the  
28 claim, benefits were periodically wired into the card by the EDD.

MAILINGS

12. On or about the dates set forth below, for the purposes of executing the scheme and artifice to defraud, and attempting to do so, ALEXANDER knowingly caused the following items to be delivered by mail according to the direction thereon, as charged below:

Count	Date	Mail Matter
1	September 19, 2011	Check No. U41578993 in the name of an individual with the initials D.M. in the amount of \$378 to 448 South Netherton Ave., Stockton, CA 95205
2	September 21, 2011	EDD Debit Card in account ending 7433 in the name of an individual with the initials H.G. to 448 South Netherton Ave., Stockton, CA 95205

In violation of Title 18, United States Code, Section 1341.

FORFEITURE ALLEGATION: [18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c) – Criminal Forfeiture]

1. Upon conviction of one or more of the offenses alleged in Counts One and Two of this Indictment, defendant HERBERT ALEXANDER shall forfeit to the United States of America, pursuant to 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c), all property, real and personal, which constitutes or is derived from proceeds traceable to such violations, including but not limited to the following:

a) A sum of money equal to the amount of proceeds traceable to such offenses, for which defendant is convicted.

2. If any property subject to forfeiture, as a result of the offenses alleged in Counts One and Two of this Indictment, for which defendant is convicted:

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;

///

1 it is the intent of the United States, pursuant to 28 U.S.C. § 2461(c), incorporating 21 U.S.C. § 853(p), to  
2 seek forfeiture of any other property of said defendant, up to the value of the property subject to  
3 forfeiture.

4  
5 A TRUE BILL.

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

7  
8 FOREPERSON

9 

10 PHILLIP A. TALBERT  
Acting United States Attorney

No. \_\_\_\_\_

**UNITED STATES DISTRICT COURT**

*Eastern District of California*

*Criminal Division*

**THE UNITED STATES OF AMERICA**

vs.

**HERBERT ALEXANDER**

**INDICTMENT**

**VIOLATIONS:** 18 U.S.C. § 1341 – Mail Fraud (2 Counts);  
18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c) – Criminal Forfeiture

*A true bill,*

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

-----  
*Foreman.*

*Filed in open court this \_\_\_\_\_ day*

*of \_\_\_\_\_, A.D. 20 \_\_\_\_\_*

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*Clerk.*

**NO BAIL WARRANT PENDING HEARING**

*Carolyn K. Delaney*

**Carolyn K. Delaney  
U.S. Magistrate Judge**

**United States v. Herbert Alexander**  
**Penalties for Indictment**

**Defendant:**

**HERBERT ALEXANDER**

**COUNTS 1-2:**

**VIOLATION:** 18 U.S.C. § 1341 – Mail Fraud

**PENALTIES:** 20 years in prison; or  
Fine of up to \$250,000; or both fine and imprisonment  
Supervised release of 3 years

**SPECIAL ASSESSMENT:** \$100 (mandatory on each count)

**FORFEITURE ALLEGATION:**

**VIOLATION:** 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c) – Criminal Forfeiture

**PENALTIES:** As stated in the charging document