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EASTERN DISTRICT OF CALIFORNIA

IN THE UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA, Plaintiff, v. HOPELYN RHIANNON AUSK, Defendant.	CASE NO. 2:20-cr-0204 JAM 18 U.S.C. § 1341 – Mail Fraud (10 counts); 18 U.S.C. § 1344 – Bank Fraud (3 counts); 18 U.S.C. § 1028A(a)(1) – Aggravated Identify Theft; 18 U.S.C. § 1708 – Possession of Stolen U.S. Mail; 18 U.S.C. § 1704 – Unlawful Possession of Postal Service Keys; 18 U.S.C. § 1512 – Obstruction of Justice; 18 U.S.C. §§ 981(a)(1)(C), 982(a)(2)(A), and 28 U.S.C. § 2461(c) – Criminal Forfeiture

INDICTMENT

COUNTS ONE THROUGH TEN: [18 U.S.C. § 1341 – Mail Fraud]

The Grand Jury charges:

HOPELYN RHIANNON AUSK,

defendant herein, as follows:

INTRODUCTION

At times material:

1. Since 1935, the U.S. Department of Labor's Unemployment Insurance (UI) program has provided unemployment benefits to eligible workers who become unemployed through no fault of their own. This program ensures that at least a significant portion of the necessities of life – most notably food, shelter, and clothing – are met on a weekly basis while the worker seeks employment. UI beneficiaries who meet the requirements of the applicable state law are eligible for this temporary

financial assistance. Each state administers a separate UI program within the guidelines established by Federal law. In the State of California, the Employment Development Department (EDD) administers the UI program for residents and others physically performing work activities in California.

2. Generally speaking, regular UI claimants must be: 1) unemployed through no fault of their own; 2) able and available for work; 3) willing to accept suitable work; and 4) actively seeking work.

3. On March 13, 2020, the President of the United States declared COVID-19 an emergency under the Robert T. Stafford Disaster Relief and Emergency Assistance Act. As a result, Congress passed the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act"), which the President signed into law on March 27, 2020. The CARES Act provides over $2 trillion in economic relief protections to the American people from the public health and economic impacts of COVID-19.

4. Prior to the enactment of the CARES Act, to be eligible for UI administered by EDD, a person must have been employed and worked in California and received at least a certain amount of wages from an employer in the 18 months preceding his/her UI benefits claim. Because of this requirement, self-employed workers, independent contractors, and employees with insufficient earnings were not eligible to receive regular UI benefits.

5. The CARES Act established a new program – Pandemic Unemployment Assistance (PUA) – to provide unemployment benefits during the COVID-19 pandemic to people who do not qualify for regular unemployment insurance benefits including business owners, self-employed workers, independent contractors, and those with a limited work history who are out of business or have significantly reduced their services as a direct result of the pandemic. UI benefits provided under the PUA program are sometimes referred to as PUA benefits.

6. Under the PUA provisions of the CARES Act, a person who is a business owner, self-employed worker, independent contractor, or gig worker can qualify for PUA benefits administered by EDD if he/she previously performed such work in California and is unemployed, partially unemployed, unable to work, or unavailable to work due to a COVID-19-related reason. Examples of non-business-owner occupations that may qualify a person for PUA benefits include realtor, barber, hairstylist, freelance photographer, construction handyman/woman, gardener, and ride-share driver.

7. EDD began accepting applications for PUA benefits on April 28, 2020. To make benefits available as quickly as possible, payments are issued in phases. If a claimant qualifies for PUA benefits, the minimum payments are as follows based on the claim's start date:

> Phase 1: For claims with start dates from February 2 to March 28, 2020, $167 per week for each week the claimant is unemployed due to COVID-19.
>
> Phase 2: For claims with start dates from March 29 to July 25, 2020, $167 plus $600 per week for each week the claimant is unemployed due to COVID-19.
>
> Phase 3: For claims with start dates from July 26 to December 26, 2020, $167 per week for each week the claimant is unemployed due to COVID-19.

8. PUA applicants may be eligible for more than the minimum weekly benefit amount of $167 if their annual income for 2019 reported on the PUA application meets a minimum threshold.

9. A UI claimant can usually collect 26 weeks of regular state UI benefits. The CARES Act provides for additional Pandemic Emergency Unemployment Compensation ("PEUC"), which provides up to 13 weeks of additional payments, for a total of 39 weeks of benefits. PEUC is available to persons who were or are fully or partially unemployed at any time between from March 29 and December 26, 2020. Persons with a regular UI claim, a PUA claim or a PEUC extension filed between March 29 and July 25, 2020, also receive Federal Pandemic Unemployment Compensation ("FPUC"), which is the extra $600 per week.

10. Persons applying for PUA benefits do not need to submit any supporting documents to the EDD with their applications. Claimants enter their total income for the 2019 calendar year on the application. The stated income will be used to pay the minimum benefits of $167 per week. EDD may request documentation to provide proof of the stated income. If the income information provided by the PUA claimant meets an annual earnings threshold of $17,368 or more, the EDD will work as quickly as possible to verify the claimant's income using other resources available to EDD in order to increase the PUA weekly benefit amount.

11. Like regular UI claims, PUA claims can be filed online. When an individual files a PUA claim online, EDD automatically maintains certain information regarding the filing of the claim. This information includes the date and time the claim was submitted, the name of the person for whom the

claim was filed, and the IP address of the computer, or ISP account, that was used to file the claim.

12. A PUA claimant must answer various questions to establish his/her eligibility for PUA benefits. The claimant must provide his/her name, Social Security Number, and mailing address. The claimant must also identify a qualifying occupational status and COVID-19-related reason for being out of work.

13. After it accepts a UI claim, including a claim submitted pursuant to the PUA program, EDD typically deposits UI funds every two weeks to an Electronic Benefit Payment (EBP) debit card administered by Bank of America, which the claimant can use to pay for his/her expenses. The EBP card is sent via the U.S. Postal Service to the claimant at the address the claimant provides in their UI claim. Claimants can activate their debit card over the phone or online, and can use the card to withdraw the UI funds from Automatic Teller Machines (ATMs).

14. When receiving UI benefits, including PUA benefits, a claimant must complete a Continued Claim Form (DE 4581) and certify every two weeks, under penalty of perjury, that he/she remains unemployed and eligible to receive UI benefits. EDD authorizes and deposits payment to the EBP debit card after it receives the Continued Claim Form. At present, weekly PUA benefits typically range from $40 to $450.

15. Defendant HOPELYN RHIANNON AUSK resided at Address 1 Stockton, California, until in or about June 2020. Between in or about June 2020 and September 9, 2020, AUSK resided at Address 2 in Stockton, California.

SCHEME AND ARTIFICE TO DEFRAUD

16. Beginning no later than in or about May 2020, and continuing through on or about September 9, 2020, in the State and Eastern District of California, and elsewhere, AUSK and others known and unknown to the Grand Jury did knowingly devise, intend to devise, and participate in a material scheme and artifice to defraud the State of California, and to obtain money from the State of California by means of materially false and fraudulent pretenses, representations, promises, and the concealment of material facts.

17. The purpose of the scheme was to obtain money from the State of California by submitting fraudulent PUA claims to EDD.

MANNER AND MEANS

In furtherance of the scheme to defraud, the defendant used the following manner and means, among others:

18. AUSK obtained the personally identifying information (PII) of identity theft victims by stealing, harvesting, and purchasing such information from a variety of sources including personal contacts, the Internet, and the dark web. Such PII included without limitation: names, dates of birth (DOBs), Social Security numbers (SSNs), and employment information. AUSK obtained the PII with the intent to pose as the victims, without their knowledge or consent, and use their identities to apply for PUA benefits.

19. AUSK, and other individuals known and unknown to the Grand Jury, then used the victim PII and other information to complete and submit fraudulent claims online with EDD seeking PUA benefits. In each application, she provided material information such as a name, DOB, SSN, residence address, mailing address, and employment status and history. Although much of the claimant PII was associated with real persons, some of the submitted information was false, including, without limitation, the claimants' employment statuses and histories. In the UI benefit applications, she also falsely claimed that the claimant was unemployed due to the COVID-19 "disaster" and "had a definite date to start a job that [was] no longer available as a direct result of the COVID-19 public health emergency." In the applications, AUSK also substituted her home address for the claimants' mailing and residential addresses.

20. The false information reported to EDD on the UI benefit applications was used by EDD to approve and calculate the fraudulent PUA benefits ultimately paid out, and was material to EDD's decision to pay and continue to pay the PUA benefits.

21. For many of AUSK's fraudulent applications, EDD approved the claims and caused PUA benefits to be paid. Upon approval, EDD notified Bank of America, which issued an EDD Bank of America debit card and mailed it to the address provided on the claim, typically AUSK's home address. AUSK then used the debit cards to spend the benefit proceeds, including withdrawing cash and purchasing goods. During the course of the claims, EDD periodically caused additional PUA funds to be wired into the Bank of America accounts associated with the cards mailed to Ausk's address.

MAILINGS

22. On or about the dates set forth below, for the purposes of executing the scheme and artifice to defraud, and attempting to do so, AUSK knowingly caused to be delivered by mail according to her direction thereon the following matters and things:

COUNT	DATE	MAIL MATTER
1	6/11/2020	EDD debit card ending in -4259, administered by Bank of America, mailed to Address 2 in Stockton, California
2	6/19/2020	EDD debit card ending in -7973, administered by Bank of America, mailed to Address 2 in Stockton, California
3	June 2020	EDD debit card ending in -0953, administered by Bank of America, mailed to Address 1 in Stockton, California
4	June 2020	EDD debit card ending in -6494, administered by Bank of America, mailed to Address 2 in Stockton, California
5	7/1/2020	EDD debit card ending in -9338, administered by Bank of America, mailed to Address 2 in Stockton, California
6	7/3/2020	EDD debit card ending in -1408, administered by Bank of America, mailed to Address 2 in Stockton, California
7	7/16/2020	EDD debit card ending in -7529, administered by Bank of America, mailed to Address 2 in Stockton, California
8	8/4/2020	EDD debit card ending in -3066, administered by Bank of America, mailed to Address 2 in Stockton, California
9	8/6/2020	EDD debit card ending in -4782, administered by Bank of America, mailed to Address 2 in Stockton, California
10	8/9/2020	EDD debit card ending in -3286, administered by Bank of America, mailed to Address 2 in Stockton, California

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

COUNTS ELEVEN THROUGH THIRTEEN: [18 U.S.C. § 1344 – Bank Fraud]

The Grand Jury further charges:

HOPELYN RHIANNON AUSK,

defendant herein, as follows:

THE SCHEME AND ARTIFICE TO DEFRAUD

1. Beginning in or about January 2019, and continuing through on or about September 9, 2020, in the County of San Joaquin, State and Eastern District of California, and elsewhere, with others known and unknown to the Grand Jury, Defendant HOPELYN RHIANNON AUSK did knowingly, and with the intent to defraud, execute and attempt to execute a material scheme and artifice to defraud each

financial institution listed below, and to obtain the monies, funds, credits, assets, securities, and other property owned by and under the custody and control of each financial institution by means of materially false and fraudulent pretenses and representations.

MANNER AND MEANS

In furtherance of the scheme and artifice to defraud and to obtain money, funds, credits, assets, securities, and other property, AUSK, and others known and unknown to the Grand Jury, employed, among others, the following manner and means:

2. AUSK used counterfeit U.S. Postal arrow keys and other means to break into U.S. Postal Service mailboxes and receptacles. From those mailboxes and receptacles, AUSK stole U.S. Mail from victim postal customers, all for the purpose of obtaining identity information, financial information, and financial instruments of the victim postal customers.

3. AUSK rifled, profiled, and altered the personal and financial identifying information from the stolen U.S. Mail and other stolen property for the purpose of taking over bank, debit, and credit accounts of the victim postal customers.

4. AUSK negotiated, and attempted to negotiate, financial instruments stolen from victim postal customers' U.S. Mail, including access devices, checks, and other financial instruments, by posing as victims to conduct unauthorized transactions for cash, goods, and services at the expense of federally-insured financial institutions.

EXECUTION OF THE SCHEME AND ARTIFICE TO DEFRAUD

5. On or about the following dates, AUSK knowingly executed and attempted to execute the scheme and artifice to defraud and to obtain the monies, funds, credits, assets, securities, and other property owned by and under the custody and control of the below-listed federally insured financial institution:

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Count	Date	Approx. Amount	Victim Financial Institution and Account	Transaction Description
11	7/26/2019	$2,120.70	Bank of America debit card account ending 5657 and in the name of Victim 1	Defendant fraudulently posed as Victim 1 and used his/her Bank of America debit card to purchase merchandise online from Louis Vuitton for delivery to her home address in Stockton, California.
12	9/2/2019	$426.95	Bank of America debit card account ending 5657 and in the name of Victim 1	Defendant fraudulently posed as Victim 1 and used his/her Bank of America debit card to purchase items at a Safeway store in Stockton, California.
13	11/12/2019	$489.30	Home Depot Citibank (Citigroup) credit card account ending 6065 and in the name of Victim 2	Defendant fraudulently posed as Victim 2 and used his/her Home Depot Citibank credit card to purchase items at a Home Depot store in Stockton, California.

All in violation of Title 18, United States Code, Section 1344.

COUNT FOURTEEN: [18 U.S.C. § 1028A(a)(1) – Aggravated Identity Theft]

The Grand Jury further charges: T H A T

HOPELYN RHIANNON AUSK,

defendant herein, on or about the following dates, in the County of San Joaquin, State and Eastern District of California, and elsewhere, did knowingly transfer, possess, and use, without lawful authority, a means of identification of at least one other person during and in relation to a felony violation of Title 18, United States Code, Section 1344 (bank fraud) as described below:

On or About Date	Description
7/26/2019	Transferred, possessed, and used Victim 1's name and Bank of America debit card and account ending 5657 to purchase merchandise online from Louis Vuitton for delivery to her home address in Stockton, California.
9/2/2019	Transferred, possessed, and used Victim 1's name and Bank of America debit card and account ending 5657 to purchase items at a Safeway store in Stockton, California.
11/12/2019	Transferred, possessed, and used Victim 2's name and Home Depot Citibank (Citigroup) credit card and account ending 6065 to purchase items at a Home Depot store in Stockton, California.

All in violation of Title 18, United States Code, Section 1028A(a)(1).

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<u>COUNT FIFTEEN</u>: [18 U.S.C. § 1708 – Possession of Stolen U.S. Mail]

The Grand Jury further charges: T H A T

HOPELYN RHIANNON AUSK,

defendant herein, on or about May 27, 2020, in the County of San Joaquin, State and Eastern District of California, and elsewhere, did knowingly and unlawfully possess U.S. Mail that had been stolen, taken, and abstracted from a post office, letter box, mail receptacle, mail route, and other authorized depository for mail matter, knowing the same to have been stolen, taken, and abstracted, in violation of Title 18, United States Code, Section 1708.

<u>COUNT SIXTEEN</u>: [18 U.S.C. § 1704 – Unlawful Possession of U.S. Postal Service Keys]

The Grand Jury further charges: T H A T

HOPELYN RHIANNON AUSK,

defendant herein, on or about December 10, 2019, in the County of San Joaquin, State and Eastern District of California, did knowingly and unlawfully possess at least one counterfeit key suited to at least one lock adopted by the U.S. Postal Service and in use on any of the mails and bags thereof, and was to an authorized receptacle for the deposit and delivery of mail matter, with the intent to unlawfully and improperly use and dispose of the same, and to cause the same to be unlawfully and improperly used, in violation of Title 18, United States Code, Section 1704.

<u>COUNT SEVENTEEN</u>: [18 U.S.C. § 1512 – Obstruction of Justice]

The Grand Jury further charges: T H A T

HOPELYN RHIANNON AUSK,

defendant herein, in or about September 2020, in the County of Sacramento, State and Eastern District of California, and elsewhere, did corruptly persuade and attempt to persuade another person, with intent to cause and induce any person to alter, destroy, mutilate, and conceal an object with intent to impair the object's integrity and availability for use in an official proceeding; and otherwise attempted to and did corruptly obstruct, influence, and impede an official proceeding, by warning criminal associates about the existence and course of a criminal investigation and prosecution and directing those criminal associates to delete, destroy, and conceal evidence – in violation of 18, United States Code, Section 1512.

FORFEITURE ALLEGATION: [18 U.S.C. §§ 981(a)(1)(C), 982(a)(2)(A), and 28 U.S.C. § 2461(c) – Criminal Forfeiture]

1. Upon conviction of the offense alleged in Counts One through Ten of this Indictment, defendant HOPELYN RHIANNON AUSK shall forfeit to the United States, 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 violation, including but not limited to the following:

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

2. Upon conviction of one or more of the offenses alleged in Counts Eleven through Thirteen of this Indictment, defendant HOPELYN RHIANNON AUSK shall forfeit to the United States, pursuant to 18 U.S.C. § 982(a)(2)(A), any property constituting or derived from proceeds obtained directly or indirectly, as a result of said violations, including but not limited to the following:

a. A sum of money equal to the amount of proceeds obtained directly or indirectly, as a result of such offenses, for which defendant is convicted.

3. Upon conviction of the offense alleged in Count Fifteen of this Indictment, defendant HOPELYN RHIANNON AUSK shall forfeit to the United States, 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 violation, including but not limited to the following:

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

4. If any property subject to forfeiture as a result of the offenses alleged in Counts One through Fifteen 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;

it is the intent of the United States, pursuant to 18 U.S.C. § 982(b)(1) and 28 U.S.C. § 2461(c), incorporating 21 U.S.C. § 853(p), to seek forfeiture of any other property of said defendant, up to the value of the property subject to forfeiture.

A TRUE BILL.

/s/ Signature on file w/AUSA

FOREPERSON

McGREGOR W. SCOTT
United States Attorney

No. __________

UNITED STATES DISTRICT COURT

Eastern District of California

Criminal Division

THE UNITED STATES OF AMERICA

vs.

HOPELYN RHIANNON AUSK,

I N D I C T M E N T

VIOLATION(S):
18 U.S.C. § 1341 – Mail Fraud (10 counts);
18 U.S.C. § 1344 – Bank Fraud (3 counts);
18 U.S.C. § 1028A(a)(1) – Aggravated Identify Theft;
18 U.S.C. § 1708 – Possession of Stolen U.S. Mail;
18 U.S.C. § 1704 – Unlawful Possession of Postal Service Keys;
18 U.S.C. § 1512 – Obstruction of Justice;
18 U.S.C. §§ 981(a)(1)(C), 982(a)(2)(A), and 28 U.S.C. § 2461(c) – Criminal Forfeiture

A true bill, **/s/ Signature on file w/AUSA**

Foreman.

Filed in open court this 29th *day*

of October, *A.D. 20* 20

/s/ N. Cannarozzi
Clerk.

Bail, $ No service necessary.

JEREMY D. PETERSON
UNITED STATES MAGISTRATE JUDGE

GPO 863 525

United States v. Ausk
Penalties for Indictment

Defendants
HOPELYN RHIANNON AUSK

COUNTS 1–10:

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

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

COUNTS 11 THROUGH 13:

VIOLATION: 18 U.S.C. § 1344 – Bank Fraud

PENALTIES: Up to 30 years in prison; or
Fine of up to $1,000,000; or both fine and imprisonment
Supervised release up to 5 years

COUNT 14:

VIOLATION: 18 U.S.C. § 1028A(a)(1) – Aggravated Identity Theft

PENALTIES: Mandatory 2 years in prison to run consecutive to any other term imposed
Fine of up to $250,000, or both fine and imprisonment
Supervised release of 1 year

COUNT 15:

VIOLATION: 18 U.S.C. § 1708 – Possession of Stolen US Mail

PENALTIES: Up to 5 years in prison; or
Fine of up to $250,000; or both fine and imprisonment
Supervised release up to 3 years

COUNT 16:

VIOLATION: 18 U.S.C. § 1704 – Unlawful Possession of Postal Service Locks and Keys

PENALTIES: Up to 10 years in prison; or
Fine of up to $250,000; or both fine and imprisonment
Supervised release up to 3 years

COUNT 17:

VIOLATION:	18 U.S.C. § 1512 – Obstruction of Justice
PENALTIES:	Up to 20 years in prison; or Fine of up to $250,000; or both fine and imprisonment Supervised release up to 3 years

SPECIAL ASSESSMENT: $100 (mandatory on each count)

FORFEITURE ALLEGATION:

VIOLATION:	18 U.S.C. §§ 981(a)(1)(C), 982(a)(2)(A), and 28 U.S.C. § 2461(c) – Criminal Forfeiture
PENALTIES:	As stated in the charging document