

*DUSA*

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

CRIMINAL NO. 16-cr-20684

HONORABLE AVERN COHN

VIOLATIONS: 18 U.S.C. § 371  
18 U.S.C. § 201(b)(2)  
18 U.S.C. § 1519

vs.

D-2 CLIFTON DIVERS,

Defendant.

\_\_\_\_\_ /

**FIRST SUPERSEDING INDICTMENT**

THE GRAND JURY CHARGES:

D-2 CLIFTON DIVERS

**GENERAL ALLEGATIONS**

1. At all times relevant CLIFTON DIVERS was an employee of the U.S. Department of Homeland Security and was assigned as a Special Agent with the office of U.S. Immigration and Customs Enforcement – Homeland Security

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DETROIT

Investigations in Detroit, Michigan. As a Special Agent, CLIFTON DIVERS was responsible for the enforcement of federal laws governing immigration and border control, among other duties.

2. As a Special Agent, CLIFTON DIVERS was subject to written U.S. Department of Homeland Security policies and procedures for the use of informants in official law enforcement investigations. Those policies included provisions for creating and maintaining in a secure location records for each active informant and for safeguarding all such records for each deactivated informant for a period of 50 years.

3. As a Special Agent, CLIFTON DIVERS was subject to written U.S. Department of Homeland Security policies and procedures for obtaining and documenting immigration benefits, including the granting of a deferred action, provided to any non-citizen alien informants. A deferred action is a discretionary measure to postpone the removal of a non-citizen alien when that individual would otherwise be deported from the United States. A deferred action is typically granted in increments of one year to allow a non-citizen alien to actively assist in an official law enforcement investigation. Upon a determination that the non-citizen alien is no longer actively assisting in an official law enforcement investigation, the deferred action is withdrawn, or is not renewed, and deportation and removal proceedings are recommenced.

4. At all times relevant Charles Busse was an attorney licensed to practice law in the State of Michigan with offices in Rochester Hills, Michigan and, thereafter, in Dearborn, Michigan.

5. At all times relevant Charles Busse provided legal services in connection with immigration proceedings and represented individuals before the U.S. Department of Homeland Security.

6. At all times relevant, person JG owned and operated a business which sold and serviced computer equipment located in Oakland County, Michigan.

**COUNT ONE**

18 U.S.C. § 371  
(Conspiracy to Defraud the United States)

**D-2 CLIFTON DIVERS**

1. The allegations contained in all preceding paragraphs are hereby re-alleged and incorporated by reference in Count One as if fully set forth herein.

2. Beginning in or before June of 2009 and continuing through in or after September of 2015, said dates being approximate, in the Eastern District of Michigan and elsewhere, CLIFTON DIVERS knowingly and intentionally conspired and agreed with Charles Busse, and with other individuals both known and unknown, to defraud the United States and one or more of its agencies and departments, that is, to impair, obstruct and defeat the lawful function of the U.S. Department of Homeland Security by dishonest means.

### **Method, Manner and Means**

3. As part of that conspiracy, Charles Busse collected tens of thousands of dollars in legal fees to counsel and to assist clients in obtaining deferrals of deportation and other immigration benefits by fraud.

4. As part of that conspiracy, Charles Busse fabricated information on alleged criminal activities for use as staged cooperation with federal law enforcement agents when, in fact, the clients had no personal knowledge of the alleged criminal activities.

5. As part of that conspiracy, Charles Busse counseled one or more of his clients to provide false information to federal law enforcement agents and officers to conceal the fact that the client had retained Charles Busse as her or his attorney.

6. As part of that conspiracy, Special Agent CLIFTON DIVERS provided false information to other agents and officers of the U.S Department of Homeland Security to fraudulently obtain deferrals of deportation and other immigration benefits for clients of Charles Busse.

7. As part of that conspiracy, Special Agent CLIFTON DIVERS falsified, removed and destroyed official records of the U.S. Department of Homeland Security relating to clients of Charles Busse.

8. As part of that conspiracy, Charles Busse and Special Agent CLIFTON DIVERS communicated with one another and with other members of the conspiracy by mobile phone and by sending and receiving text messages.

### **Overt Acts**

9. In executing the conspiracy alleged in paragraph 2, a member of the conspiracy did one of the following overt acts for the purpose of advancing or helping the conspiracy.

### **Albanian National KS**

10. In or about June of 2009, Charles Busse received a \$15,000 payment from an Albanian national identified herein as KS. At that time, KS was subject to an Order of Deportation entered by the U.S. Immigration Court.

11. In and after February of 2010, Charles Busse contacted Special Agent CLIFTON DIVERS on behalf of KS.

12. In October of 2010, Special Agent CLIFTON DIVERS sent an email communication to an officer of the U.S. Department of Homeland Security which falsely stated that KS was "assisting" in an official investigation. In fact, in October of 2010 KS was not actively assisting in any official investigation. As a result of the false email from Special Agent CLIFTON DIVERS, KS was not referred for deportation or removal by U.S. Department of Homeland Security.

### **Iraqi Nationals TM and HM**

13. In or about November of 2010, Charles Busse received cash payments totaling \$6,000 from the relatives of two Iraqi nationals identified herein as TM and HM. At that time, TM and HM were being held in the custody of the U.S. Department of Homeland Security pending deportation from the United States.

14. In and after December of 2010, Charles Busse contacted Special Agent CLIFTON DIVERS on behalf of TM and HM.

15. On or about December 13, 2010, Special Agent CLIFTON DIVERS obtained a one-year deferral of deportation for TM and for HM on the basis that they would be able to provide information concerning criminal organizations involved in the manufacturing of fraudulent identification documents.

16. On or about December 15, 2010, Special Agent CLIFTON DIVERS arranged for TM and HM to be released from the custody of the U.S. Department of Homeland Security.

17. On or about January 11, 2011, Special Agent CLIFTON DIVERS obtained official confidential informant status for TM and for HM from the U.S. Department of Homeland Security.

18. On December 12, 2012, Special Agent CLIFTON DIVERS was interviewed by identified agents with the Department of Homeland Security—Office of Inspector General who were investigating possible fraud in connection

with the release of TM and HM and in connection with the use of TM and HM as confidential informants. During that interview Agent CLIFTON DIVERS stated “at no time did I receive money or benefits for assisting [TM and HM].”

19. On March 27, 2013, Special Agent CLIFTON DIVERS removed and destroyed official confidential informant records for TM and for HM, which records were the property of the U.S. Department of Homeland Security.

#### **Albanian National LS**

20. On September 2, 2014, Charles Busse received a cash payment of \$5,000 from an Albanian national identified herein as LS. At that time LS was subject to a final order of deportation entered by the U.S. Immigration Court and was awaiting removal from the United States.

21. On September 9, 2014, Charles Busse received an additional cash payment of \$20,000 from LS.

22. In October of 2014, Charles Busse provided LS with written summaries of information concerning alleged drug trafficking activities previously unknown to LS. Charles Busse counseled and instructed LS to memorize that information so that LS could use it to falsely obtain a deferral of deportation and other immigration benefits from the U.S. Department of Homeland Security.

23. On October 28, 2014, at the request of Charles Busse, Special Agent CLIFTON DIVERS met with LS at the offices of the U.S. Department of Homeland Security in Detroit, Michigan.

24. On October 30, 2014, Special Agent CLIFTON DIVERS falsely told an officer of the U.S. Department of Homeland Security who was responsible for deporting LS that LS was able to provide information on a "group moving dope and money across the border." Special Agent CLIFTON DIVERS also falsely stated that LS was represented by an individual identified herein as attorney RK.

25. On March 24, 2015, Special Agent CLIFTON DIVERS obtained official confidential informant status for LS from the U.S. Department of Homeland Security.

26. On May 14, 2015, Special Agent CLIFTON DIVERS obtained a one-year deferral of deportation for LS on the basis that LS would be able to provide information concerning a criminal organization involved in the importation and distribution of controlled substances.

27. On May 19, 2015, Charles Busse received an additional cash payment of \$5,000 from LS.

28. On or about May 20, 2015, Special Agent CLIFTON DIVERS removed an official U.S. Department of Homeland Security record for LS, which



record identified Charles Busse as counsel for LS, and thereafter replaced that document with a version that falsely identified attorney RK as counsel for LS.

### **Mexican National MCS**

29. In June of 2015, Charles Busse received a cash payment of \$10,000 from the family of a Mexican national identified herein as MCS. At that time, MCS was being held in the custody of the U.S. Department of Homeland Security pending deportation from the United States.

30. In and after June of 2015, Charles Busse provided MCS with written summaries of information concerning alleged drug trafficking activities previously unknown to MCS. Charles Busse counseled and instructed MCS to memorize that information so that MCS could use it to falsely obtain a deferral of deportation from the U.S. Department of Homeland Security.

31. In June of 2015, Charles Busse contacted Special Agent CLIFTON DIVERS on behalf of MCS. Charles Busse and Agent CLIFTON DIVERS thereafter contacted another Special Agent with the Detroit office of Immigration and Customs Enforcement, identified herein as ICE-SA-2. Charles Busse and ICE-SA-2 thereafter met with MCS at a detention facility in Battle Creek, Michigan.

32. On or about July 10, 2015, ICE-SA-2 arranged for a one-year deferral of deportation for MCS on the basis that that MCS would be able to provide

information concerning a criminal organization involved in the distribution of controlled substances and the laundering of criminal proceeds.

33. On or about July 13, 2015, ICE-SA-2 arranged for MCS to be released from the custody of the U.S. Department of Homeland Security.

34. On or about July 14, 2015, ICE-SA-2 initiated the process to obtain official confidential informant status for MCS from the U.S. Department of Homeland Security.

35. In June, July and August of 2015, Charles Busse, Special Agent CLIFTON DIVERS and ICE-SA-2 communicated with one another by mobile phone and by sending and receiving text messages.

All in violation of Title 18, United States Code, Section 371.

### **COUNT TWO**

18 U.S.C. §§ 201(b)(2)(A), (B) and (C)  
(Bribery of Public Official)

#### **D-2 CLIFTON DIVERS**

1. The allegations contained in all preceding paragraphs are hereby re-alleged and incorporated by reference in Count Two as if fully set forth herein.

2. From in or about 2010 through in or about August 2015, in the Eastern District of Michigan, CLIFTON DIVERS, being a public official, did, directly and indirectly, corruptly demand, seek, receive, accept and agree to accept a thing of value, personally and for any other person or entity, in return for being

influenced in the performance of an official act and in return for being influenced to commit and aid in committing and to collude in, and allow, and to make opportunity for the commission of a fraud on the United States, and in return for being induced to do an act and omit to do an act in violation of his official duty, that is, CLIFTON DIVERS received things of value from Charles Busse, directly and indirectly, in exchange for (a) using his official position to obtain deferrals of deportation and other immigration benefits for clients of Charles Busse; (b) committing, aiding, colluding in and allowing fraud on the United States by falsifying government documents and reports and by presenting false and fabricated information to immigration officials to obtain deferrals of deportation and other immigration benefits for clients of Charles Busse; and (c) being induced to act in violation of his official duty to enforce federal laws governing immigration and border control.

All in violation of Title 18, United States Code, Sections 201(b)(2)(A), (B) and (C).

### **COUNT THREE**

18 U.S.C. §§ 201(b)(2)(A) and (C)  
(Bribery of Public Official)

#### **D-2 CLIFTON DIVERS**

1. The allegations contained in all preceding paragraphs are hereby re-alleged and incorporated by reference in Count Three as if fully set forth herein.

2. From in or about August of 2015 through in or after September 2015, in the Eastern District of Michigan, CLIFTON DIVERS, being a public official, did, directly and indirectly, corruptly demand, seek, receive, accept and agree to accept a thing of value, personally and for any other person or entity, in return for being influenced in the performance of an official act and in return for being induced to do an act and omit to do an act in violation of his official duty, that is, CLIFTON DIVERS received one or more things of value from person JG in exchange for (a) using his official position to access electronic databases containing non-public law enforcement information; and (b) being induced to act in violation of his official duty to enforce federal laws governing immigration and border control.

All in violation of Title 18, United States Code, Sections 201(b)(2)(A) and (C).

#### **COUNT FOUR**

18 U.S.C. § 1519

(Destruction of Records in Federal Investigations)

#### **D-2 CLIFTON DIVERS**

1. The allegations contained in all preceding paragraphs are hereby re-alleged and incorporated by reference in Count Four as if fully set forth herein.

2. On or about March 27, 2013, in the Eastern District of Michigan, CLIFTON DIVERS did knowingly alter, destroy, mutilate and conceal records, documents and tangible things, that is, official confidential informant records of the U.S. Department of Homeland Security, with intent to impede, obstruct and influence the proper administration of an official investigation into bribery and conspiracy to defraud the United States, a matter within the jurisdiction of the U.S. Department of Homeland Security – Office of Inspector General, or in relation to or contemplation of any such matter.

All in violation of Title 18, United States Code, Section 1519.

**COUNT FIVE**

18 U.S.C. § 1519

(Falsification of Records in Federal Investigations)

**D-2 CLIFTON DIVERS**

1. The allegations contained in all preceding paragraphs are hereby re-alleged and incorporated by reference in Count Five as if fully set forth herein.

2. On or about May 20, 2015, in the Eastern District of Michigan, CLIFTON DIVERS did knowingly alter, cover up, and falsify records, documents and tangible things, that is, official U.S. Department of Homeland Security records for LS, an Albanian national, with intent to impede,

obstruct and influence the proper administration of a matter within the jurisdiction of the U.S. Department of Homeland Security – Office of Inspector General, or in relation to or contemplation of any such matter.

All in violation of Title 18, United States Code, Section 1519.

**COUNT SIX**

18 U.S.C. § 1519

(Falsification of Records in Federal Investigations)

**D-2 CLIFTON DIVERS**

1. The allegations contained in all preceding paragraphs are hereby re-alleged and incorporated by reference in Count Six as if fully set forth herein.

2. On or about September 28, 2015, in the Eastern District of Michigan, CLIFTON DIVERS did knowingly alter, cover up, and falsify records, documents and tangible things, that is, a business record for one or more things of value that DIVERS received from person JG, with intent to impede, obstruct and influence the proper administration of a matter within the jurisdiction of the U.S.

Department of Homeland Security – Office of Inspector General, or in relation to or contemplation of any such matter.

All in violation of Title 18, United States Code, Section 1519.

THIS IS A TRUE BILL

s/ Grand Jury Foreperson  
GRAND JURY FOREPERSON

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Dated: October 19, 2016