

FILED
UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

18 JAN 17 PM 2:37
CLERK-LAS CRUCES

UNITED STATES OF AMERICA,

Plaintiff,

vs.

LORI V. WHITAKER,

Defendant.

CRIMINAL NO. 18-161 RB

Counts 1-75: 18 U.S.C. § 1343: Wire Fraud.

INDICTMENT

The Grand Jury charges:

At all times relevant to this Indictment:

Introduction

1. The Otis Mutual Domestic Water Consumers and Sewage Works Association ("the Association"), located in Otis, New Mexico, was a New Mexico non-profit special-purpose government association that provided potable water and a wastewater system to more than 4,300 people in Otis.
2. The Association served residential areas in Otis and rural residents with livestock and other agricultural industries. All of the Association's customers were voting members of the Association.
3. The Association was overseen by a volunteer board of directors ("the Board") that the Association's members elected annually. The Board consisted of a President, a Vice President, a Secretary-Treasurer, and two other Directors. The Board hired a Manager and an Office Manager who handled the Association's daily operations.
4. The Association maintained multiple bank accounts. The Association used one account with Western Commerce Bank, designated as the "Payroll Account," into which the

Association deposited all member payments and out of which the Association paid its employees.

5. **LORI V. WHITAKER** was the Association's Office Manager from around 2003 until she resigned on or about April 18, 2017. **LORI V. WHITAKER** was responsible for controlling the Association's finances. Her duties included opening mail, processing accounts payable and receivable, signing checks, and maintaining the Association's financial information through the use of its QuickBooks accounting software. Among other accounts, she had access to the Association's Payroll Account.

The Scheme to Defraud

6. In or around 2015, **LORI V. WHITAKER** encouraged the Board to obtain credit cards for **LORI V. WHITAKER**, the Board members, and other Association employees. The Association opened a Spark Visa Signature Business account with Capital One Bank, N.A. ("the Capital One Account"), and **LORI V. WHITAKER** received a credit card linked to that account. Although the Association did not promulgate any formal policies or procedures governing use of the Association credit cards, the Capital One Account was only intended for use on expenses related to Association business.

7. Capital One mailed the Association's monthly account statements to the Association's post office box. The statements listed each transaction on the Capital One Account and the individual card associated with that transaction. For example, a monthly statement would provide the heading "TRANSACTIONS FOR LORI V. WHITAKER #7358" followed by all of the transactions initiated by the card issued to **LORI V. WHITAKER**.

8. As the Association's Office Manager, **LORI V. WHITAKER** received, opened, and filed each monthly account statement for the Capital One Account. She was also responsible for paying the Capital One Account's monthly bill.

9. In or around March of 2015, and continuing until in around February of 2017, **LORI V. WHITAKER** embezzled funds from the Association for her personal use.

10. **LORI V. WHITAKER** executed the scheme to defraud in at least two ways.

11. One way in which **LORI V. WHITAKER** executed the scheme to defraud the Association was by using her Capital One Account credit card for personal purposes unrelated to Association business. Specifically, **LORI V. WHITAKER** used her Capital One Account credit card to obtain cash advances and initiate other charges at casinos across multiple states including, but not limited to, the transactions charged in Counts 1 - 75 below. The cash advances and other casino charges totaled, with associated fees, approximately \$800,000.

12. The Capital One Account began with a cash-advance limit of \$5,000 on the card issued to **LORI V. WHITAKER**. Over time, **LORI V. WHITAKER** increased both the frequency and the magnitude of the cash-advance activity on her card. In or around July of 2015, **LORI V. WHITAKER** increased the cash-advance limit on her card from \$5,000 to \$10,000 to accommodate her increased activity.

13. A second way in which **LORI V. WHITAKER** executed the scheme to defraud the Association was by paying the balance on the Capital One Account through frequent online transfers from the Payroll Account to the Capital One Account.

14. The Board did not authorize **LORI V. WHITAKER** to initiate cash advances on the Capital One Account for personal purposes, to initiate charges on the Capital One Account

for personal purposes, or to transfer money from the Association's Payroll Account to pay for transactions made for personal purposes

Counts 1 - 75

Paragraphs 1 through 14 of the Indictment are incorporated as though set forth herein.

For the purpose of executing the scheme and artifice described herein to defraud, on or about the dates set forth below, in the District of New Mexico and elsewhere, the defendant, **LORI V. WHITAKER**, knowingly and fraudulently transmitted and caused to be transmitted in interstate commerce, by means of wire communications, certain writings, signs, signals, and sounds, as follows:

Count	Date	Description	Amount	Transaction Type ¹
1	03/27/2015	Casino Apache Travel Center	\$ 416.00	Charge
2	03/27/2015	Inn of the Mountain Gods	\$ 416.00	Charge
3	04/02/2015	Black Gold Zia Park	\$ 428.00	Charge
4	04/10/2015	Capital One Online Payment	\$ 1,288.86	Payment
5	10/02/2015	Inn of the Mountain Gods	\$ 665.60	Charge
6	10/02/2015	Inn of the Mountain Gods	\$ 665.60	Charge
7	10/02/2015	Inn of the Mountain Gods	\$ 894.40	Charge
8	10/03/2015	Inn of the Mountain Gods	\$ 894.40	Charge
9	10/03/2015	Inn of the Mountain Gods	\$ 852.80	Charge
10	10/03/2015	Inn of the Mountain Gods	\$ 790.40	Charge

¹ "Charges" were cash advances or other charges on the Capital One Account at the described location, and "Payments" were transfers from the Payroll Account to the Capital One Account.

11	10/04/2015	Casino Apache Travel Center	\$ 478.40	Charge
12	10/04/2015	Inn of the Mountain Gods	\$ 665.60	Charge
13	10/04/2015	Inn of the Mountain Gods	\$ 915.20	Charge
14	10/04/2015	Capital One Online Payment	\$ 1,810.89	Payment
15	10/08/2015	Black Gold Zia Park	\$ 680.00	Charge
16	10/09/2015	Black Gold Zia Park	\$ 495.00	Charge
17	10/11/2015	Buffalo Thunder Casino	\$ 681.79	Charge
18	10/12/2015	Camel Rock Casino	\$ 602.00	Charge
19	10/12/2015	Buffalo Thunder Casino	\$ 724.40	Charge
20	10/12/2015	Capital One Online Payment	\$ 8,493.72	Payment
21	11/17/2015	Isleta Casino and Resort	\$ 724.99	Charge
22	11/17/2015	Isleta Casino and Resort	\$ 1,549.99	Charge
23	11/17/2015	Isleta Casino and Resort	\$ 684.99	Charge
24	11/17/2015	Isleta Casino and Resort	\$ 1,059.99	Charge
25	11/17/2015	Isleta Casino and Resort	\$ 1,059.99	Charge
26	11/18/2015	Isleta Casino and Resort	\$ 1,709.99	Charge
27	11/19/2015	Sandia Resort and Casino	\$ 1,906.99	Charge
28	11/20/2015	Sandia Resort and Casino	\$ 1,866.99	Charge
29	11/20/2015	Sandia Resort and Casino	\$ 1,726.99	Charge
30	11/20/2015	Capital One Online Payment	\$ 1,487.90	Payment
31	11/21/2015	Camel Rock Casino	\$ 903.00	Charge
32	11/21/2015	Buffalo Thunder Casino	\$ 511.34	Charge

33	11/21/2015	Buffalo Thunder Casino	\$ 681.79	Charge
34	11/21/2015	Sandia Resort and Casino	\$ 1,301.99	Charge
35	11/22/2015	Buffalo Thunder Casino	\$ 511.34	Charge
36	11/22/2015	Capital One Online Payment	\$ 8,551.78	Payment
37	12/10/2015	Sandia Resort and Casino	\$ 2,086.99	Charge
38	12/10/2015	Sandia Resort and Casino	\$ 1,886.99	Charge
39	12/10/2015	Sandia Resort and Casino	\$ 2,086.99	Charge
40	12/11/2015	Sandia Resort and Casino	\$ 1,301.99	Charge
41	12/11/2015	Sandia Resort and Casino	\$ 1,101.99	Charge
42	12/14/2015	Capital One Online Payment	\$ 8,844.10	Payment
43	12/14/2015	Black Gold Zia Park	\$ 680.00	Charge
44	12/30/2015	Capital One Online Payment	\$ 7,529.76	Payment
45	01/01/2016	Black Gold Zia Park	\$ 2,000.00	Charge
46	01/01/2016	Black Gold Zia Park	\$ 2,000.00	Charge
47	02/12/2016	Casino Apache Travel Center	\$ 1,248.00	Charge
48	02/12/2016	Inn of the Mountain Gods	\$ 1,913.00	Charge
49	02/13/2016	Inn of the Mountain Gods	\$ 1,684.80	Charge
50	02/13/2016	Inn of the Mountain Gods	\$ 1,872.00	Charge
51	02/14/2016	Camel Rock Casino	\$ 1,290.00	Charge
52	02/16/2016	Capital One Online Payment	\$ 8,279.27	Payment
53	07/08/2016	Inn of the Mountain Gods	\$ 1,664.00	Charge
54	07/09/2016	Inn of the Mountain Gods	\$ 1,664.00	Charge

55	07/09/2016	Inn of the Mountain Gods	\$ 1,872.00	Charge
56	07/09/2016	Inn of the Mountain Gods	\$ 1,664.00	Charge
57	07/09/2016	Inn of the Mountain Gods	\$ 1,248.00	Charge
58	07/09/2016	Inn of the Mountain Gods	\$ 1,248.00	Charge
59	07/09/2016	Inn of the Mountain Gods	\$ 2,080.00	Charge
60	07/10/2016	Inn of the Mountain Gods	\$ 1,456.00	Charge
61	07/12/2016	Capital One Online Payment	\$ 15,746.64	Payment
62	09/30/2016	Sandia Resort and Casino	\$ 2,086.99	Charge
63	09/30/2016	Sandia Resort and Casino	\$ 2,290.99	Charge
64	09/30/2016	Sandia Resort and Casino	\$ 2,912.00	Charge
65	09/30/2016	Sandia Resort and Casino	\$ 2,086.99	Charge
66	09/30/2016	Sandia Resort and Casino	\$ 612.99	Charge
67	10/02/2016	Capital One Online Payment	\$ 10,387.39	Payment
68	01/27/2017	Casino Apache Travel Center	\$ 1,872.00	Charge
69	01/27/2017	Inn of the Mountain Gods	\$ 3,120.00	Charge
70	01/28/2017	Casino Apache Travel Center	\$ 2,080.00	Charge
71	01/28/2017	Inn of the Mountain Gods	\$ 2,288.00	Charge
72	01/28/2017	Inn of the Mountain Gods	\$ 3,120.00	Charge
73	01/28/2017	Inn of the Mountain Gods	\$ 2,080.00	Charge
74	01/29/2017	Inn of the Mountain Gods	\$ 3,328.00	Charge
75	02/03/2017	Capital One Online Payment	\$ 14,944.01	Payment

In violation of 18 U.S.C. § 1343.

Forfeiture Allegation

Counts 1 through 75 of this Indictment are incorporated as part of this section of the Indictment as if fully re-alleged herein for the purpose of alleging forfeiture to the United States pursuant to 18 U.S.C. § 982(a)(2)(A) and 28 U.S.C. § 2461.

Upon conviction of any offense in violation of 18 U.S.C. § 1343, the defendant, **LORI V. WHITAKER**, 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 the result of such violation(s).

The property to be forfeited to the United States includes but is not limited to the following:

MONEY JUDGMENT

A sum of money equal to at least \$800,000 in U.S. currency, including any interest accruing to the date of the judgment, representing the amount of money constituting or derived from proceeds of the offense.

A TRUE BILL:

/s/

FOREPERSON OF THE GRAND JURY


Assistant United States Attorney

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