

artifice to defraud and for obtaining money and property by means of false and fraudulent pretenses, representations, and promises, would and did transmit and cause to be transmitted by means of wire, radio, and television communication in interstate and foreign commerce, writings, signs, signals, pictures, and sounds for the purpose of executing such scheme and artifice, in violation of Title 18, United States Code, Section 1343.

(Title 18, United States Code, Section 1349)

COUNT TWO

(Wire Fraud)

3. From at least in or about 2013 up to and including at least in or about May 2018, in the Southern District of New York and elsewhere, LATOYA ROBINSON, DASHAWN JOHNSON, and TANYA HATWOOD, the defendants, willfully and knowingly, having devised and intending to devise a scheme and artifice to defraud, and for obtaining money and property by means of false and fraudulent pretenses, representations, and promises, did transmit and cause to be transmitted by means of wire, radio, and television communication in interstate and foreign commerce, writings, signs, signals, pictures, and sounds, for the purpose of executing such scheme and artifice, to wit, ROBINSON, JOHNSON, and HATWOOD, provided to merchants debit cards which each knew had insufficient funds to cover their purchases and then used false bank codes to override the system and falsely inform the merchants that a valid transaction had occurred.

(Title 18, United States Code, Sections 1343 and 2.)

The bases for my knowledge and the foregoing charges are, in part, as follows:

4. I am a Special Agent with the FBI and have been in that position since 1997. While with the FBI, I have participated in many investigations of wire and other types of fraud.

5. I am familiar with the facts and circumstances set forth below from my participation in the investigation of this case, including my participation in interviews and my review of documents and records. Because this Complaint is being submitted for the limited purpose of establishing probable cause, it does not include all the facts that I have learned

during the course of my investigation. Where the contents of documents and the actions, statements, and conversations of others are reported herein, they are reported in substance and in part, except where otherwise indicated.

6. I have spoken with a Vice President (the "Vice President") who works at a company (the "Company"). The Vice President informed me that the Company is one of the largest "acquiring processor" services in the United States. From my conversations with the Vice President and my review of documents and records, I have learned, among other things, the following:

a. When a customer presents a debit card to purchase merchandise at a store, either the customer or the merchant will swipe the card at an electronic card reader. Upon swiping, a signal is sent from the merchant to what is called an acquiring processor, like the Company. The acquiring processor in turn routes the requested purchase from the merchant to the brand of the customer's debit card, and then routes the requested purchase to the underlying bank that issued the debit card. The bank will then verify whether the customer has sufficient funds in the account to cover the requested transaction. The acquiring processor will relay that verification to the brand of the card, and then to the merchant. This process takes just a few seconds.

b. When there are insufficient funds, the card reader will display a message that the transaction request was denied. Many card readers have a functionality, though, which allows someone to input a code which serves to take the card reader offline, overriding the denial message and verifying the transaction.¹

c. Malign actors can take advantage of this functionality by inputting a fictitious code not provided by the issuing bank under the guise of entering a pin code or other authorization code. Even a fictitious code could take the card reader offline, and override a denial message. A malicious customer could present a debit card to a merchant with insufficient funds. After the card is swiped and the card reader displays that the transaction request is denied, the

¹ The Vice President explained, among other things, that this functionality, created by the companies that created the card readers, was originally intended to allow a merchant to call an issuing bank to verify the legitimate identity of the customer who presented the debit card.

customer could then provide a false override code, which would cause the card reader to show that the transaction was authorized. The merchant may then let the customer leave with any merchandise the customer attempted to purchase. The merchant would not learn that the code was fictitious and the transaction invalid until days or even months later, when the acquiring processor tallies the merchant's revenues through the acquiring processor's system. The process by which a customer could take advantage of the functionality is called "forced posting" or "forcing the off." If the merchant let the customer leave the store with the merchandise, the merchant would then have to negotiate with their acquiring processor over which bears the loss. The Vice President informed me that the Company usually requires that the merchant take any loss.

d. The Vice President also explained to me that when a debit card is first swiped at any merchant, wherever located, who uses the Company as its acquiring processor, the Company routes an initial signal electronically from the merchant to a processing center in either Nebraska or Arizona, before then routing the transaction to the debit card brand and in turn the underlying bank. After the underlying bank verifies the transaction, the Company then routes a signal to the debit card brand and back to the merchant.

e. The Vice President estimated that the Company acts as acquiring processor to about 50% of American businesses that use debit cards.

7. I have spoken with a number of merchants and reviewed videos, photographs, and bank records, and have learned, among other things, the following:

a. On or about June 16, 2015, two individuals arrived together at a jewelry store in the Bronx. Both provided identification materials to the merchant ("Merchant-1") which showed that their identities were LATOYA ROBINSON and DASHAWN JOHNSON, the defendants; I have reviewed these materials. I have also reviewed mugshot photographs and driver's license photographs of ROBINSON and JOHNSON, which match the photographs on the identification materials provided to Merchant-1. Store surveillance video shows that two individuals whose appearances match the photographs of ROBINSON and JOHNSON were in the jewelry store that day. I have reviewed records confirming that the jewelry store used the Company as its acquiring processor as of June 2015. According to Merchant-1, both ROBINSON and JOHNSON attempted to purchase merchandise from her store using

debit cards. After Merchant-1 swiped both of the debit cards presented by ROBINSON and JOHNSON, the card reader informed her that the cards had insufficient funds. According to Merchant-1, ROBINSON and JOHNSON informed her that they were victims of identity theft, and needed to input a code in order to properly process their charges. Merchant-1 allowed ROBINSON and JOHNSON to input these codes, after which the card reader said the transactions were authorized. Records from Merchant-1 show that ROBINSON left the store that day with more than \$6,000 in merchandise, and that JOHNSON left the store with more than \$5,000 in merchandise. Bank records and records from Merchant-1 show that the debit cards ROBINSON and JOHNSON used that day had insufficient funds for those transactions. Some time later, Merchant-1 received a notification from the Company that the June 16, 2015 transactions completed by ROBINSON and JOHNSON were fraudulent, and the Company informed Merchant-1 that the jewelry store would have to take the loss.

b. On or about March 17 and March 19, 2016, two individuals arrived together at a liquor store in the Bronx. I have reviewed mugshot photographs and driver's license photographs of ROBINSON and TANYA HATWOOD, the defendants. Store surveillance photos from one of those dates show that two individuals whose appearances match the photographs of ROBINSON and HATWOOD were in the liquor store on that date. I have reviewed records that the liquor store used the Company as its acquiring processor as of March 2016. According to the merchant who serviced ROBINSON and HATWOOD, ("Merchant-2"), on both March 17 and March 19, 2016, ROBINSON attempted to purchase merchandise using a debit card. After Merchant-2 swiped the debit card presented by ROBINSON, the card reader informed him that a code was required. According to Merchant-2, ROBINSON provided a code which was inputted into the card reader. After the code was input, the card reader said the transactions were authorized. Records from Merchant-2 show that ROBINSON received more than \$1,600 in merchandise on those two dates in March 2016. Bank records and records from Merchant-2 show that the debit card ROBINSON used had insufficient funds for those transactions. Some time later, Merchant-2 received a notification from the Company that the March 17 and March 19, 2016 transactions completed by ROBINSON were fraudulent, and the Company informed Merchant-2 that the liquor store would have to take the loss.

c. On or about April 4, 2016, two individuals arrived together at a furniture store in the Bronx. I have reviewed records confirming that the furniture store used the

Company as its acquiring processor as of April 2016. According to a merchant who worked for the furniture store and reviewed the furniture store's records ("Merchant-3"), these two individuals attempted to purchase merchandise that day using debit cards. According to bank records and records from the furniture store, these individuals were ROBINSON and JOHNSON. After the store clerk who serviced them swiped both of the debit cards presented by ROBINSON and JOHNSON, the card reader did not immediately process the transaction. According to the records which Merchant-3 reviewed, both ROBINSON and JOHNSON provided codes that served to take the card reader offline. The transactions then appeared to be authorized. According to the records which Merchant-3 reviewed, the store clerk did not let ROBINSON and JOHNSON leave the stores with the merchandise, however, given how large the purchases were. Bank records and records from Merchant-3 show that the debit cards ROBINSON and JOHNSON presented had insufficient funds for the transactions they had attempted to complete.

d. On or about September 7, 2016, a woman entered a car dealership in the Bronx. She presented identification materials to the merchant ("Merchant-4"), which I have reviewed. As described *supra*, I have reviewed mugshot photographs and driver's license photographs of TANYA HATWOOD, which match the photographs on the identification materials provided to Merchant-4. Merchant-4 informed me that HATWOOD entered the dealership with other people, including a woman who she identified from a photograph as LATOYA ROBINSON. According to Merchant-4, HATWOOD attempted to buy a car, worth around \$6,700, using a debit card. After Merchant-4 swiped the debit card, the card reader informed her that a code was required. According to Merchant-4, HATWOOD convinced her to input a code which she said would allow the charge to proceed. After Merchant-4 entered this code, the card reader said the transaction was authorized. HATWOOD was not allowed to drive the car from the dealership that day, because she needed to prove her insurance. On or about September 10, 2016, HATWOOD returned to car dealership to present her insurance information; she was accompanied by ROBINSON; while there, HATWOOD was also required to pay some miscellaneous fees of approximately \$900 for the car, which she did using the same method that she had performed on September 7. Bank records and records from Merchant-4 show that the debit card HATWOOD used in September 2016 had insufficient funds for the transactions. Some time later, Merchant-4 received a notification from the acquiring

processor used by the car dealership² that the transaction was fraudulent, and Merchant-4 took the initial loss.

e. I have spoken with and reviewed reports written by a detective with the Yonkers Police Department ("Detective-1"), who participated in an interview of a merchant who worked at a jewelry store in Yonkers ("Merchant-5"). According to the reports and Detective-1, a woman entered into the jewelry store on both May 12 and May 13, 2017. Merchant-5 looked at a photo array, and selected LATOYA ROBINSON as the woman.³ Detective-1 reported that the jewelry store used the Company as its acquiring processor as of May 2017. Detective-1 reported that Merchant-5 explained, on each day, ROBINSON sought to purchase jewelry, and used a different debit card on each day. Detective-1 reported that Merchant-5 explained that the card reader informed Merchant-5 that he needed to input a security code; after a code provided by ROBINSON was input, the card reader said the transaction was authorized. In total, ROBINSON left the jewelry store with more than \$32,000 in merchandise. Bank records and records from Merchant-5 show that the debit cards ROBINSON used those days had insufficient funds for the transactions. Some time later, Merchant-5 received a notification from the Company that the May 2017 transactions completed by ROBINSON were fraudulent, and the Company informed Merchant-5 that the jewelry store would have to take the loss.

f. On or about August 7, 2017, a woman entered a car dealership in Brooklyn. She presented identification to the merchant ("Merchant-6"), which I have reviewed. As described *supra*, I have reviewed mugshot photographs and driver's license photographs of ROBINSON, which match the photographs on the identification materials provided to Merchant-6. Store surveillance video shows that a woman matching ROBINSON's appearance was present that day. I have reviewed records that the car dealership used the Company as its acquiring processor as of August 2017. According to Merchant-6, ROBINSON sought to purchase a car worth approximately \$17,000, and used a debit card. The card reader informed Merchant-6 that a code was required. ROBINSON told Merchant-6 that she needed to input a security code; after a code was input, the card reader said the transaction was authorized. ROBINSON returned

² It appears as if car dealership did not use the Company as its acquiring processor.

³ On one of those dates, ROBINSON was accompanied by an unknown male.

the next day with a man to pick up the car she had purchased. The man presented identification to Merchant-6, which I have reviewed. As described *supra*, I have reviewed mugshot photographs and driver's license photographs of JOHNSON, which match the photographs on the identification materials provided to Merchant-6. Store surveillance video shows that JOHNSON was present that day. While ROBINSON was present, JOHNSON presented a debit card to purchase a car worth approximately \$29,000; once again, the card reader informed Merchant-6 that a code was required; after JOHNSON provided the code, the card reader said the transaction was authorized. JOHNSON left and came back to pick up the car on or about August 11, 2017. Bank records and records from Merchant-6 show that the debit cards ROBINSON and JOHNSON used those days had insufficient funds for the transactions. Some time later, Merchant-6 received a notification from the Company that the August 2017 transactions completed by ROBINSON and JOHNSON were fraudulent, and the Company informed Merchant-6 that the car dealership would have to take the loss.⁴

8. I have reviewed bank records which show that LATOYA ROBINSON, DASHAWN JOHNSON, and TANYA HATWOOD, the defendants, committed or attempted to commit forced posting frauds on dozens of other occasions, including in Yonkers, in other locations in Westchester, New York, the Bronx, Queens, Brooklyn, and Nassau Counties in New York State, as well as Massachusetts, Pennsylvania, New Jersey, and Connecticut.

a. I conclude from bank records that a debit card has been used for forced posting fraud when the records show that the user of the debit card made payments to merchants even though there were insufficient funds on the card at the time of the transaction. Some bank records will show that the payments were later reversed; other bank records specifically show that the payments were "forced posted" and thus reversed.

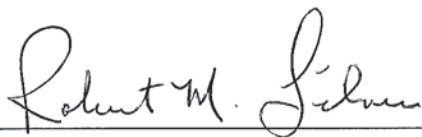
⁴ I have also reviewed documents and spoken to Merchant-6, who informed me that ROBINSON and a man entered into the car dealership on or about August 14, 2017, and attempted to commit forced posting again to purchase automobiles; the car dealership did not allow ROBINSON to take possession of the car until title was obtained, though the man did take possession of the car he had attempted to purchase. Some time later, Merchant-6 learned that the charges made by ROBINSON and the man on August 14, 2017 were not legitimate.

b. In total, the bank records I have reviewed show that ROBINSON has taken or attempted to take more than \$735,000 in merchandise using forced posting; that JOHNSON has taken or attempted to take more than \$203,000 in merchandise using forced posting; and HATWOOD has taken or attempted to take more than \$26,000 in merchandise using forced posting, for a total of more than \$900,000 involving all three defendants. Bank records show that ROBINSON committed or attempted to commit forced posting from some time in October 2013 until as recently as May 2018.

c. Among other charges, the bank records show that in April and May 2017, ROBINSON committed forced posting fraud at four establishments in Mount Vernon on multiple occasions and has taken or attempted to take more than \$3,100 in merchandise.

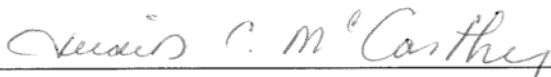
d. I have also interviewed or reviewed reports of interviews of more than 30 merchants, none of whom are located in Nebraska or Arizona, who have each corroborated the bank records and provided detailed information regarding forced posting fraud by ROBINSON, JOHNSON and HATWOOD. I have confirmed that at least 19 of those merchants use the Company as their acquiring processor, which means that signals were initially routed from the store to either Nebraska or Arizona.

WHEREFORE, deponent respectfully requests that a warrant be issued for the arrest of LATOYA ROBINSON, DASHAWN JOHNSON, and TANYA HATWOOD, the defendants, and that they be arrested and imprisoned or bailed, as the case may be.



ROBERT SILVERI
Special Agent
Federal Bureau of Investigation

Sworn to before me this
20 day of JULY, 2018



THE HONORABLE JUDITH C. MCCARTHY
UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT OF NEW YORK