


Approved: 
KEDAR S. BHATIA / CATHERINE E. GHOSH
Assistant United States Attorneys

Before: THE HONORABLE KEVIN NATHANIEL FOX
United States Magistrate Judge
Southern District of New York

21 MAG 103

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: UNITED STATES OF AMERICA : SEALED COMPLAINT
: :
: : Violations of
-v.- : 18 U.S.C. §§ 287, 1028A,
: 1343, and 2
SALLY SPINOSA, :
: COUNTY OF OFFENSE:
Defendant. : NEW YORK
: :
-----X

SOUTHERN DISTRICT OF NEW YORK, ss.:

CHRISTOPHER M. PROUT, being duly sworn, deposes and says that he is a Special Agent with the United States Department of Justice, Office of the Inspector General ("DOJ-OIG"), and charges as follows:

COUNT ONE
(False Claims Act)

1. On or about August 28, 2018, in the Southern District of New York and elsewhere, SALLY SPINOSA, the defendant, made and presented to the Department of Justice a claim upon and against the United States, knowing that the claim was false, fictitious, and fraudulent, to wit, SPINOSA submitted a claim to the September 11th Victim Compensation Fund (the "VCF") stating that she was entitled to compensation based on fraudulent documentation and false representations about the amount of time she spent at a qualifying site.

(Title 18, United States Code, Sections 287 and 2)

COUNT TWO
(Wire Fraud)

2. From in or about October 2006 up to and including in

or about August 2018, in the Southern District of New York and elsewhere, SALLY SPINOSA, the defendant, 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, SPINOSA, in order to gain financial and medical benefits to which she was not entitled, made and caused to be made false representations to the VCF and the World Trade Center Health Program via interstate communications about her presence at the Fresh Kills Landfill after September 11, 2001.

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

COUNT THREE

(Aggravated Identity Theft)

3. On or about September 15, 2014, in the Southern District of New York and elsewhere, SALLY SPINOSA, the defendant, knowingly did transfer, possess, and use, without lawful authority a means of identification of another person, during and in relation to a felony violation enumerated in Title 18, United States Code, Section 1028A(c), to wit, SPINOSA caused a fraudulent affidavit purportedly bearing the signature of a former supervisor ("Officer-1") to be used in connection with and in furtherance of the fraud scheme alleged in Count Two when, in fact, Officer-1 had not signed or authorized the signing of the affidavit.

(Title 18, United States Code, Sections 1028A and 2)

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

4. I have been involved in the investigation of this matter, and I base this affidavit on that experience, as well as on my conversations with other law enforcement agents, and my examination of various reports and records. I have worked as a Special Agent with DOJ-OIG for approximately six years, and before that I worked as a Special Agent with the United States Department of Housing and Urban Development, Office of the Inspector General, for approximately six years. As a Special Agent, I have investigated numerous cases involving benefits fraud and misrepresentations to federal agencies. Because this

affidavit is being submitted for the limited purpose of demonstrating 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.

5. As set forth below, SALLY SPINOSA, the defendant, was an officer in the New York City Police Department ("NYPD"), and worked for many years as a Sergeant in the investigations unit of the Patrol Services Bureau of Staten Island (the "Staten Island Investigations Unit") including during the terrorist attacks in New York City on September 11, 2001 (the "September 11th Attacks"). In the years after the September 11th Attacks, Congress created benefits programs to aid law enforcement officers and others who were exposed to health risks as a result of the September 11th Attacks and the ensuing recovery efforts. As described in more detail below, SPINOSA made a series of false statements to the September 11th Victim Compensation Fund ("VCF") and the World Trade Center Health Program ("WTCHP") in order to receive benefits to which she was not entitled. Namely, SPINOSA falsely and materially overstating the amount of time she worked in the recovery effort at the Fresh Kills Landfill in Staten Island, New York (the "Landfill"). Despite claiming she spent hundreds of hours at the Landfill in the year after the September 11th Attacks - which made her eligible to receive various benefits and monetary compensation - SPINOSA actually spent little or no time at the Landfill. In addition, SPINOSA submitted a fraudulent affidavit in support of her VCF claim, purportedly but not in fact signed by one of her supervisors at the Staten Island Investigations Unit.

**The September 11th Victim Compensation Fund and
the World Trade Center Health Program**

6. Based on my communications with employees at the VCF, my review of records from the VCF, and my review of publicly available documents, I have learned, in substance and in part, the following about the VCF:

a. The VCF was created by Congress in September 2001 to provide compensation for any individual who suffered physical harm or was killed as a result of either the September 11th Attacks or the debris removal and recovery efforts that took place in the immediate aftermath of the Attacks. The VCF originally operated from in or about 2001 to in or about 2004, and has operated continuously since 2011. The VCF is funded through appropriations from Congress.

b. Among other things, the VCF considers claims for non-economic losses - akin to compensation for pain and suffering - arising out of exposure at certain disaster and recovery sites between September 11, 2001, and May 30, 2002. To establish eligibility for compensation, a claimant must show that he or she (1) has a qualifying medical condition, and (2) had sufficient "presence" at one of the enumerated sites, which include the Landfill.¹ The VCF determines whether a claimant had sufficient presence by applying guidelines created by the WTCHP (the "WTCHP Guidelines"). The WTCHP Guidelines require a claimant to show a certain exposure based on the number of hours present at a particular work site, the location, and the time frame after September 11, 2001.² The VCF also requires at least two proof-of-presence documents that support the duration of exposure stated by the claimant, which can include, among other things, NYPD logs, recovery site sign-in sheets, or affidavits from individuals attesting to a claimant's presence at the site. The presence requirement generally ensures that a claimant had sufficient exposure at a disaster or recovery site to make it likely that their medical condition occurred as a result of their presence at the site, rather than some other cause.

c. Claimants may establish their eligibility for the VCF by one of two methods: the private physician program or the WTCHP. The private physician program requires a claimant to submit their medical information from their own physician and proof-of-presence documents directly to the VCF, which will then determine whether a claimant has a qualifying medical condition and meets the WTCHP Guidelines for the presence requirement. Alternatively, and as described in more detail below, a claimant may apply to the WTCHP for WTCHP benefits. The WTCHP then

¹ The VCF and WTCHP claims processes described herein were the processes in place when SALLY SPINOSA, the defendant, submitted her claims. The claims processes have changed over time in ways that are not relevant to SPINOSA's conduct in this case.

² For example, a claimant engaged in construction activities in a heavily dust-contaminated area in late-September 2001 would be required to show that he or she was at the contaminated area for at least 24 hours in total. A claimant who engaged in construction activities in a contaminated area with a visible but light layer of dust or debris, or where there was the smell of smoke or chemicals, in October and November 2001 would be required to show he or she was at the contaminated area for at least 160 hours in total.

conducts its own review of a claimant's eligibility based on the WTCHP Guidelines and exam by a WTCHP-authorized physician, and, if satisfied, issues a letter certifying that a claimant has certain medical conditions that are covered for treatment (a "WTCHP Condition Certification Letter"). If the WTCHP certifies a claimant's condition, this is generally sufficient to establish a claimant's eligibility for VCF benefits. Specifically, if the WTCHP certifies a claimant's medical condition, the VCF will defer to the WTCHP's determination that the claimant had sufficient exposure.³

d. Once a claimant establishes his or her eligibility to VCF benefits, the claim proceeds to the compensation award stage. The VCF determines the amount of the award based on the specific conditions, and severity of those conditions, for which the claimant is eligible. VCF rules state that any VCF award is offset by money a claimant received from private lawsuits related to the September 11th Attacks.⁴

³ Based on my communications with employees at the VCF and the WTCHP, my review of records from the VCF and WTCHP, and my review of publicly available documents, I have learned, in substance and in part, that a WTCHP Condition Certification Letter is generally sufficient to establish VCF eligibility, but there are minor differences in criteria between the VCF and WTCHP. Accordingly, the VCF needs to confirm that any claimant with a WTCHP Condition Certification Letter also meets the VCF-specific criteria. For example, the VCF and WTCHP eligible exposure sites are similar but not identical. Accordingly, even if the WTCHP certifies a claimant's medical condition, the VCF still has to independently confirm that the claimant had sufficient exposure at a VCF-eligible site. The Landfill was an eligible site for both VCF compensation and WTCHP benefits.

⁴ Based on my review of records provided by the WTC Captive Insurance Company, Inc. and publicly available records, I have learned that on or about October 20, 2006, SALLY SPINOSA, the defendant, filed a civil complaint in the United States District Court for the Southern District of New York as part of a broader multi-district litigation regarding the September 11th Attacks. *See Sally Spinosa and Richard Spinosa v. 1 World Trade Center LLC et al.*, 06 Civ. 12546 (AKH), 21 Misc. 100 (AKH). On March 21, 2008, SPINOSA filed an amended complaint in the same action (the "Amended Complaint"). In the Amended Complaint, SPINOSA wrote that "[i]n the period from 9/20/2001 to 8/1/2002," she

7. Based on my communications with employees at the WTCHP, my review of records from the WTCHP, and my review of publicly available documents, I have learned, in substance and in part, the following about the WTCHP:

a. The WTCHP is a program established by federal law that provides, among other things, monitoring and medical treatment benefits for individuals who have or may develop health conditions due to exposure at disaster or recovery sites tied to the September 11th Attacks. The WTCHP is funded through appropriations from Congress.

b. The WTCHP provides no-cost monitoring and diagnostic care for a wide set of individuals with even minimal exposure at relevant sites. Individuals who develop medical conditions related to their exposure may then seek to have their conditions "certified" by the WTCHP, which would make them eligible for extensive treatment benefits through the WTCHP.

c. The first step in enrolling in WTCHP monitoring and diagnostic care is to complete an "exposure assessment" interview, in which a WTCHP employee asks the claimant a number of questions about his or her exposure and work at the disaster or recovery sites and records the claimant's answers on an "Exposure Assessment Form." After the assessment, the claimant could be deemed eligible for monitoring and diagnostic care. If the claimant wants to have one or more conditions certified for treatment benefits, he or she then meets with a WTCHP-authorized physician who will determine whether the claimant has a certifiable medical condition. This physician determines if the claimant has a qualifying medical condition based on the physician's medical examination, and determines if the claimant has sufficient exposure based on the Exposure Assessment Form and any other records available to the physician.

d. If the WTCHP physician determines that the claimant has a certifiable condition, the physician will complete a form outlining his or her medical findings and review of the claimant's exposure form (the "WTCHP Physician Determination Form"), which attests that "I have determined that the member's exposure to airborne toxins, other hazards, or adverse conditions resulting from the September 11, 2001

"worked for the New York Police Department (NYPD) as a Sergeant" at the Landfill. SPINOSA wrote that she was at the Landfill for "[a]pproximately 2 hours per day; for [a]pproximately 40 days total." In or about 2010, SPINOSA settled the lawsuit and received a settlement of approximately \$46,362.30.

terrorist attacks is substantially likely to be a significant factor in aggravating, contributing to, or causing this condition(s)."

e. The WTCHP Physician Determination Form is then transmitted to reviewers at the WTCHP who review the physician's findings and, if satisfactory, issue a WTCHP Condition Certification Letter. With that certification, a claimant can receive no-cost medical treatment and medication to treat his or her certified condition. As set forth above, a claimant could also submit the WTCHP Condition Certification Letter to the VCF to satisfy the VCF's eligibility requirement and receive a VCF monetary award.

SPINOSA's Work During the Relevant Times

8. Based on my review of NYPD personnel records and my communication with other law enforcement officers, I have learned, in substance and in part, the following regarding SALLY SPINOSA, the defendant:

a. From in or about July 1986 until in or about July 2019, SPINOSA worked as an officer with the NYPD. From in or about January 2000 until the end of her time at the NYPD, SPINOSA was a Sergeant with the NYPD and assigned to the Staten Island Investigations Unit. Among other things, that unit investigated violations of rules and protocols by NYPD officers.

b. SPINOSA gave birth to a child on or about February 6, 2002. While she was pregnant, SPINOSA was placed on limited duty from on or about August 24, 2001, until on or about December 25, 2001. When an officer is placed on limited duty, the officer will typically do much of his or her work in the office and little work on patrol or in the field.

c. From on or about December 26, 2001, to on or about April 22, 2002, SPINOSA was on leave and not working.

SPINOSA's VCF and WTCHP Claims

9. As set forth below, between 2010 and 2018, SALLY SPINOSA, the defendant, made and caused to be made a series of misrepresentations to the VCF and WTCHP that materially overstated the time she spent at the Landfill in order to fraudulently obtain monetary awards and benefits from the VCF and WTCHP.

10. Based on my communications with employees at the VCF

and the WTCHP and my review of records from the VCF and WTCHP, I have learned, in substance and in part, the following about SALLY SPINOSA's, the defendant's, VCF and WTCHP claims:

a. On or about April 6, 2010, SPINOSA participated in a WTCHP Exposure Assessment interview (the "2010 Exposure Assessment"). WTCHP records show that during the interview, SPINOSA claimed, among other things, the following:

i. SPINOSA worked at the "WTC rescue and recovery effort" from September 12, 2001, to September 1, 2002.

ii. SPINOSA worked on the recovery efforts each day from September 12-30, 2001; all 31 days in October 2001; 20 days between November 1, 2001, and December 31, 2001; and 60 days between January 1, 2002, and June 30, 2002. She worked for an average of 2 hours per day, *i.e.*, a total of 260 hours.

iii. SPINOSA worked on the World Trade Center recovery efforts as an employee of the NYPD, not as a volunteer.

iv. In September 2001, SPINOSA's work consisted of "supervising the dumping of the remains of bodies." SPINOSA came in contact with human remains during each period from September 2001 to June 2002. She also came into contact with mold and chemicals.

v. SPINOSA washed her hands "sometimes" while working at the site, "never" changed into non-work clothes before leaving the site, and "never" took a shower before leaving the site. SPINOSA "never" wore a respirator or dust/surgical/disposable mask while working at the Landfill. SPINOSA did not wear a respirator because there were "none available." SPINOSA wore gloves "some of the time" while working at the Landfill and did not wear any protective clothing.

vi. However, as set forth below, SPINOSA was on limited duty between on or about August 24, 2001, and December 25, 2001, and records show that during that time, she rarely, if ever, visited the Landfill. Furthermore, SPINOSA was not working at all between on or about December 26, 2001, and April 22, 2002.

b. On or about the same day that SPINOSA completed the 2010 Exposure Assessment, she also had a medical examination by a WTCHP physician. The physician's notes from that meeting show that SPINOSA said she "was in 12 months in landfills in [Staten Island]." However, as set forth below, SPINOSA was

rarely, if ever, present at the Landfill during this period of time.

c. On or about July 11, 2010, SPINOSA participated in a telephone intake interview conducted by an intake specialist at the WTCHP. WTCHP records show that during the interview, SPINOSA stated, among other things, that she did not work at the Landfill between September 11 and 14, 2001; worked 15 hours at the Landfill between September 15 and 30, 2001; worked 130 hours at the Landfill between October 1 and December 31, 2001; and worked 320 hours at the Landfill between January 1 and July 31, 2002. As set forth below, in fact, SPINOSA was rarely, if ever, present at the Landfill during this period of time.

d. On or about October 24, 2011, SPINOSA met with a WTCHP physician. The physician's notes from that meeting show that SPINOSA said she was "at Arthur Kill Landfill 9/18/2001 until 3/2002" and that she was there "to supervise."

e. On June 27, 2014, SPINOSA submitted a claim to the VCF stating that she was entitled to compensation for non-economic losses as a result of her work at the Landfill (the "2014 VCF Claim"). SPINOSA's claim was submitted to the VCF by a particular law firm (the "Law Firm") based in Manhattan.

f. In her 2014 VCF Claim, SPINOSA repeatedly stated that she worked at the Landfill every day from September 20, 2001, to November 20, 2001, for two hours each day (the "VCF Claimed Period"). For her medical conditions, SPINOSA claimed to have asthma, gastroesophageal reflux disorder ("GERD"), and chronic sinusitis, among other conditions, all arising out of her exposure at the Landfill following the September 11th Attacks. The 2014 VCF Claim included signed attestations in which SPINOSA certified, among other things, that "this application and any documents provided in support of this claim are true and accurate to the best of my knowledge."

g. On September 15, 2014, after the VCF requested supporting documents, SPINOSA submitted two "proof of presence" documents. The first document was an affidavit purportedly authored by an NYPD officer who, according to the affidavit, supervised SPINOSA following the September 11th Attacks ("Officer-1" and the "Officer-1 Affidavit"). In the Officer-1 Affidavit, Officer-1 ostensibly wrote that Officer-1 personally witnessed SPINOSA at the Landfill between September 11, 2001, and September 11, 2002, and that Officer-1 and SPINOSA "frequently visited the [Landfill] in accordance to supervise

subordinates." As set forth below, Officer-1 in fact never authorized or signed the Officer-1 Affidavit, and did not "frequently visit" the Landfill with SPINOSA or travel to the landfill with SPINOSA to "supervise subordinates."

h. The second proof of presence document was an affidavit signed by another NYPD officer who, according to the affidavit, worked with SPINOSA following the September 11th Attacks ("Officer-2" and the "Officer-2 Affidavit"). In particular, in the Officer-2 Affidavit, Officer-2 wrote that Officer-2 personally witnessed SPINOSA at the Landfill between September 11, 2001, and September 11, 2002, and that Officer-2 and SPINOSA "made numerous visits to the landfill." Although it was not disclosed in the Officer-2 Affidavit, Officer-2 and SPINOSA were in a romantic relationship at the time Officer-2 signed the Officer-2 Affidavit.

i. On or about October 21, 2015, the VCF sent SPINOSA a letter denying her claim because her "exposure time frame [did] not meet the threshold as set by the WTC Health Program." Specifically, in her 2014 VCF Claim, SPINOSA had stated there was heavy dust at the Landfill from September 15-30, 2001, and light dust from October 1, 2001, to November 20, 2001. Based on those assertions, the WTCHP Guidelines required her to show presence at the Landfill for at least 24 hours from September 15-30, 2001, or at least 160 hours from September 15, 2001, to July 31, 2002. However, in the 2014 VCF Claim, SPINOSA only claimed to have spent a total of 22 hours at the Landfill in the shorter period (less than the 24 hours required) and only a total of 124 hours in the longer period (less than the 160 hours required).

11. Based on my review of non-privileged correspondence between individuals at the Law Firm and SALLY SPINOSA, the defendant, produced by the Law Firm in response to a grand jury subpoena, I have learned, in substance and in part, the following:

a. On or about August 13, 2015, approximately two months before SPINOSA's VCF claim was denied, an administrator at the Law Firm (the "Law Firm Administrator") emailed SPINOSA to remind her that her VCF claim was pending and that SPINOSA was "attempting the Private Physician route." The Law Firm Administrator added that SPINOSA should let the Law Firm know if any of her conditions had been certified by the WTCHP because that was another way to satisfy the VCF's eligibility requirements. Specifically, the Law Firm Administrator stated that "[t]he Private Physician Packet and WTCHP certification

letter are ways to have your WTC-illnesses found eligible by the Victim Compensation Fund." The Law Firm Administrator also made clear that "[t]he ultimate goal is to have your conditions found eligible by the VCF through one of the above processes. Once you are found eligible by the VCF, your claim will move on to compensation."

b. On July 25, 2016, after SPINOSA's VCF claim was denied, the Law Firm Administrator sent an email to others at the Law Firm asking if they had spoken to SPINOSA regarding the denial and stating that "I am sending her a letter today and requesting she enroll in the WTCHP."

12. Based on my communications with employees at the WTCHP and my review of records from the WTCHP, I have learned, in substance and in part, the following regarding SALLY SPINOSA's, the defendant's, WTCHP claims:

a. Beginning in or about 2017, SPINOSA took steps to have certain medical conditions certified by the WTCHP.

b. On or about January 31, 2017, SPINOSA met with a particular physician who, among other things, was trained and authorized to make certification decisions for WTCHP (the "Physician"). Records from the WTCHP and the Physician show that during the interview, SPINOSA stated, among other things, that she was "assigned at the SI landfill a few days after the collapse." Based on my training and experience, I believe that the "SI landfill" is a reference to the Landfill, and the "collapse" is a reference to the September 11th Attacks. Records show that SPINOSA further stated she was at the Landfill "supervising NYPD officers," "was never given a mask to wear," and "was at the SI Landfill for 4-5 months." As the reason for SPINOSA's visit, the Physician wrote that SPINOSA "[h]as asthma and would like to be considered for certification." The Physician directed SPINOSA to have certain tests completed and then return for another meeting. On May 22, 2017, SPINOSA had another meeting with the Physician.

c. On or about July 11, 2017, the Physician completed a WTCHP Physician Determination Form (the "2017 WTCHP Physician Determination Form"). In the form, the Physician concluded that SPINOSA had asthma and chronic rhinosinusitis and had sufficient exposure under the WTCHP Guidelines. The Physician recommended that both conditions be certified by the WTCHP. Regarding SPINOSA's exposure, the Physician wrote the following:

NYPD officer, sergeant at the time of the WTC events. She was assigned at the SI landfill to supervise other NYPD officers from 9/12/2001 to June 30th, 2002 for a total of 260 hours. She was not sent to GZ [Ground Zero] as she was pregnant. The vast majority of the time, was spent at the SI Landfill location. She was never given a mask to wear.

d. In the 2017 WTCHP Physician Determination Form, the Physician attested that he had "determined that [SPINOSA's] exposure to airborne toxins, other hazards, or adverse conditions resulting from the September 11, 2001 terrorist attacks is substantially likely to be a significant factor in aggravating, contributing to, or causing" the certified conditions, *i.e.*, asthma and chronic rhinosinusitis. The Physician also wrote that "[b]ased on a reasonable degree of medical certainty, [SPINOSA's] chronic rhinitis and asthma are related to WTC debris exposure."

e. As set forth above, after a physician issues a determination letter, such as the 2017 WTCHP Physician Determination Form, it is reviewed by supervisors in the WTCHP who confirm that a claimant meets the WTCHP's requirements.

f. On or about August 2, 2017, the WTCHP issued a WTCHP Condition Certification Letter certifying SPINOSA's asthma and chronic rhinosinusitis for treatment benefits (the "2017 WTCHP Condition Certification Letter").

g. After these two conditions were certified, SPINOSA sought to have a third condition - GERD - certified. On or about February 13, 2018, SPINOSA had another meeting with the Physician. On or about July 10, 2018, the Physician completed a WTCHP Physician Determination Form concluding that SPINOSA also had GERD and recommending that this condition be also be certified (the "2018 WTCHP Physician Determination Form").

h. On or about August 8, 2018, the WTCHP issued a second WTCHP Condition Certification Letter certifying SPINOSA's GERD for treatment benefits (the "2018 WTCHP Condition Certification Letter").

13. Based on my communications with the Physician and my conversations with other law enforcement officers who have communicated with the Physician, I have learned, in substance and in part, that the Physician has met with many patients to evaluate those individuals for WTCHP certification. Although the

Physician does not specifically recall the steps he took to certify SALLY SPINOSA, the defendant's, medical conditions, his practice is to rely exclusively on the Exposure Assessment form and other documents provided by the WTCHP when deciding whether a patient meets the exposure requirements. The Physician does not do any independent research about the patient's exposure, or ask his patients to provide supporting documentation.

14. Based on my review of WTCHP records and my communications with WTCHP employees, I have learned that between in or about November 2017 and in or about April 2018, the WTCHP paid for three of SALLY SPINOSA, the defendant's, medical visits. Likewise, between in or about October 2017 and April 2020, the WTCHP paid for certain medication prescribed to SPINOSA. The WTCHP paid for these visits and medication because SPINOSA had sought and received certification for treatment benefits, as described above.

15. Based on my communications with employees at the VCF and the WTCHP, my review of records from the VCF and WTCHP, and my review of telecommunications provider records, I have learned, in substance and in part, the following regarding SALLY SPINOSA's, the defendant's, renewed VCF claim:

a. As noted above, on or about October 21, 2015, the VCF denied the claim submitted by SALLY SPINOSA, the defendant, because it failed to meet the necessary hours requirement.

b. On or about August 11, 2017, SPINOSA submitted a "conditions amendment" to the VCF. A conditions amendment is a request for the VCF to reconsider an original application but this time for additional medical conditions. To support her amendment, SPINOSA submitted the 2017 WTCHP Condition Certification Letter, showing the WTCHP had certified her asthma and chronic rhinosinusitis. As set forth above, where the WTCHP certified a condition, the VCF relied on the WTCHP's determination that a claimant had sufficient exposure.

c. On August 28, 2018, SPINOSA submitted another conditions amendment, this time submitting her 2018 WTCHP Condition Certification Letter.

d. VCF records show that several of SPINOSA's VCF claims documents were submitted by the Law Firm using the VCF's online portal, including her 2017 and 2018 WTCHP Condition Certifications Letters. VCF records and internet service provider records show that the 2018 WTCHP Condition Certification Letter was submitted to the VCF by a particular

individual at the Law Firm from the Law Firm's office in Manhattan, New York.

e. At this time, SPINOSA's VCF claim is still pending.⁵

SPINOSA's Misrepresentations to the VCF and WTCHP

16. Through my investigation, I have learned that SALLY SPINOSA, the defendant, made and caused to be made multiple misrepresentations to the VCF and the WTCHP about the duration and nature of her time at the Landfill after the September 11th Attacks. As set forth above, SPINOSA stated in her 2010 Exposure Assessment that she worked for approximately two hours per day at the Landfill every day from September 12 to October 31, 2001, 20 days in November and December 2001, and 60 days from January 2002 to June 2002, *i.e.*, 260 hours in total. SPINOSA stated in her 2014 VCF Claim that she worked at the Landfill every day from September 20, 2001, to November 20, 2001, for two hours each day, *i.e.*, 124 hours in total. In particular, SPINOSA stated that she worked at the Landfill every day, for sixty-two consecutive days, including weekends. For the reasons set forth below, I believe these statements falsely and materially overstated the time that SPINOSA spent at the Landfill. In fact, SPINOSA actually spent little time, if any, at the Landfill during these periods.

17. As noted above, SALLY SPINOSA, the defendant, was placed on limited duty from August 24, 2001, to December 25, 2002, during her pregnancy. Based on my communications with officers who supervised the Staten Island Investigations Unit in 2001 and 2002, and several officers who worked in the same unit during that time period, I have learned, in substance and in part, that officers in the Staten Island Investigations Unit who were on limited duty were largely confined to in-office work. For example, if an officer on limited duty had to interview a witness, the witness would travel to the Staten Island Investigations Unit office or the interview would be conducted by another officer who was not on limited duty.

18. Based on my review of records from the Staten Island Investigations Unit, I have learned, in substance and in part,

⁵ Based on my communications with an individual who works at the VCF, I have learned that SPINOSA would likely be eligible for a VCF award of approximately \$20,000 to \$35,000, based on her eligible medical conditions and information presently known about the severity of those conditions.

the following regarding the reported movements of SALLY SPINOSA, the defendant:

a. In 2001 and 2002, the Staten Island Investigations Unit maintained a daily "movement log" (the "Movement Log"). Officers were required to record in the Movement Log times and destinations if they left the office during their tour.

b. Although the Movement Logs for a portion of the time between September 20, 2001, and November 20, 2001 (that is, the VCF Claimed Period), no longer exist, I and other law enforcement officers have reviewed Movement Logs that have been retained for 27 out of the 62 days covering the VCF Claimed Period.

c. The Movement Logs reviewed show that, consistent with her limited duty status, SPINOSA rarely left the office and never left the office to visit the Landfill. By contrast, the Movement Logs show several entries for other officers coming and going throughout the day. In some instances, the Movement Logs show other officers (and not SPINOSA) visiting "omega post," which I am aware, based on my communications with members of the Staten Island Investigations Unit, is a reference to the Landfill. The Movement Logs also show officers (but not SPINOSA) traveling to the 123rd Precinct, where the Landfill is located.

d. SPINOSA only left the Staten Island Investigations Unit office on four days among the 27 days for which Movement Logs are available: twice to get a meal; once for an investigation in a part of Staten Island far from the Landfill; and once for poll duty on the day of the New York City primary election. Consistent with SPINOSA's limited duty status, there is no travel shown for SPINOSA on the other twenty-three days for which Movement Logs have been located, and no travel on any day to the "omega post," the 123rd Precinct, or the Landfill.

19. Based on my review of NYPD records from the Landfill and my communications with other law enforcement officers who have reviewed NYPD records from the Landfill, I have learned, in substance and in part, the following regarding records maintained at the Landfill:

a. The NYPD maintained various records from the Landfill in 2001 and 2002, including thousands of pages of daily sign-in sheets, daily roster sheets, and medical questionnaires completed by NYPD officers working at the Landfill. For example,

there are roster sheets for every day during the VCF Claimed Period, which list work done by every detail at the Landfill. There are also "supervisor sign-in sheets" where sergeants and lieutenants signed in each day.

b. A review of these records shows no mention of SALLY SPINOSA, the defendant, working or being present at the Landfill.

20. Based on my communications with a particular NYPD officer ("Officer-3"), I have learned, in substance and in part, the following:

a. Officer-3 was a supervisor in the Staten Island Investigations Unit in 2001 and 2002. Officer-3 supervised SALLY SPINOSA, the defendant, during this period.

b. Officer-3 stated that during the NYPD's recovery effort at the Landfill, the Staten Island Investigations Unit did little work at the Landfill. However, he recalled that the unit did have at least two minor investigations at the Landfill, including one in which Officer-3 was the investigator. For Officer-3's investigation at the Landfill, Officer-3 traveled to the Landfill several times. Staten Island Investigations Unit officers may also have been sent to the Landfill periodically by their captain.

c. Officer-3 recalled that SPINOSA was pregnant at the time of the September 11th Attacks. Because SPINOSA was pregnant, she would have been principally assigned to in-office work, and would not have been assigned to work that exposed her to hazardous conditions, such as work at the Landfill, even after the September 11th Attacks.

21. Based on my communications with a particular NYPD officer ("Officer-4"), I have learned, in substance and in part, the following:

a. Officer-4 was a supervisor in the Staten Island Investigations Unit in 2001 and 2002. Officer-4 supervised SALLY SPINOSA, the defendant, during this period.

b. Officer-4 stated that he was not aware of any investigations at the Landfill or any work being done there by officers in the Staten Island Investigations Unit.

c. SPINOSA was pregnant around the time of the September 11th Attacks, and thus would have been placed on

limited duty. As an officer on limited duty, SPINOSA would have been largely restricted to in-office work.

22. Based on my communications with Officer-1, I have learned, in substance and in part, the following:

a. Officer-1 was a supervisor in the Staten Island Investigations Unit in 2001 and 2002. Officer-1 supervised SALLY SPINOSA, the defendant, during this period.

b. Officer-1 stated that during the time following the September 11th Attacks when the NYPD had a sustained presence at the Landfill, the Staten Island Investigations Unit attempted to send at least one member of the unit to the Landfill each day. This was done so the NYPD could show there were investigators present at the site and deter possible misconduct. However, responsibility for going to the Landfill was shared among members of the Staten Island Investigations Unit, and no member would be required to go there daily or for any sustained period of time, like the 62 consecutive days claimed by SPINOSA in her 2014 VCF Claim or the 130 days claimed by SPINOSA in her 2010 Exposure Assessment.

c. Furthermore, Officer-1 was aware that SPINOSA was pregnant at the time of the September 11th Attacks, and thus would have been placed on limited duty. As an officer on limited duty, SPINOSA would have been largely restricted to in-office work, and would not have been assigned to work at the Landfill, even after the September 11th Attacks.

23. Based on my communications with an officer who supervised the NYPD's recovery effort at the Landfill ("Officer-5"), I have learned, in substance and in part, the following:

a. From on or about September 11, 2001, to on or about August 9, 2002, the NYPD used a portion of the Landfill to sort debris that accumulated in lower Manhattan following the September 11th Attacks. From the beginning of the NYPD recovery effort, officers knew that the debris being brought to the Landfill contained toxins. Officers working in the recovery effort were given protective gear and were asked to complete medical questionnaires during their time working at the Landfill.

b. For that reason, officers at heightened medical risks - including those who were pregnant - did not work at the Landfill. Officer-5 was not aware of any NYPD officers who were openly pregnant working at the Landfill.

c. The NYPD Detective Bureau or the NYPD Internal Affairs Bureau were responsible for conducting investigations into officer misconduct at the Landfill. Accordingly, it would have been unusual and noteworthy for an officer from the Staten Island Investigations Unit to spend a substantial amount of time conducting investigations at the Landfill.

24. Accordingly, I believe SALLY SPINOSA's, the defendant's, statements to the VCF and the WTCHP about the duration of her exposure were false, and SPINOSA's statements to the WTCHP about the nature of her exposure were also false. As noted above, after SPINOSA's VCF claim was initially denied, she went to the WTCHP and ultimately obtained the 2017 and 2018 WTCHP Condition Certification Letters based on misrepresentations about her presence at the Landfill. In addition to obtaining WTCHP payments for medical visits and prescription drugs, SPINOSA submitted her WTCHP certification letters to the VCF in another effort to secure a VCF monetary award.

The Fraudulent Officer-1 Affidavit

25. Based on my review of VCF records, I have learned that on or about September 15, 2014, SALLY SPINOSA, the defendant, through the Law Firm, submitted the Officer-1 Affidavit as a proof-of-presence document to support her presence at the Landfill during the VCF Claimed Period. As noted above, in the affidavit, Officer-1 ostensibly wrote that he personally witnessed SPINOSA at the Landfill between September 11, 2001, and September 11, 2002, and that Officer-1 and SPINOSA "frequently visited the [Landfill] in accordance to supervise subordinates." The Officer-1 Affidavit was notarized by a particular individual (the "Notary").

26. Based on my communications with Officer-1 and my review of statements by Officer-1, I have learned, in substance and in part, the following:

a. At some point after Officer-1 retired from the NYPD in or about 2007, SALLY SPINOSA, the defendant, contacted him about signing a proof-of-presence document for her. Officer-1 asked SPINOSA to provide support for her claimed presence at the Landfill. SPINOSA never provided that support to Officer-1, and never raised the topic with him again.

b. The handwriting in the affidavit does not appear to be Officer-1's, and the signature on the affidavit does not match Officer-1's true signature.

c. Officer-1 did not "frequently visit[]" the Landfill with SPINOSA, and he did not go there with her to "supervise subordinates."


d. Officer-1 knows the Notary but has not seen the Notary since many years before 2014 (when the Officer-1 Affidavit was notarized).

27. Accordingly, I believe the Officer-1 Affidavit, submitted by SALLY SPINOSA, the defendant, in support of her VCF Claim, was not signed or authorized by Officer-1 despite bearing Officer-1's signature.

WHEREFORE, deponent respectfully requests that a warrant be issued for the arrest of SALLY SPINOSA, the defendant, and that she be arrested, and imprisoned or bailed, as the case may be.

s/Christopher M. Prout by KNF, USMJ
CHRISTOPHER M. PROUT
Special Agent
Office of the Inspector General
United States Department of Justice

Sworn to me through the transmission of this Complaint by reliable electronic means (telephone), pursuant to Rule 4.1 of the Federal Rules of Criminal Procedure, This 6th day of January, 2020


THE HONORABLE KEVIN NATHANIEL FOX
UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT OF NEW YORK