

# United States District Court

FOR THE  
NORTHERN DISTRICT OF CALIFORNIA

VENUE: SAN FRANCISCO

**FILED**  
2013 MAY 16 A 11:31  
RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

v.

## CR 13 314

BRUCE LEE MARSHALL

### WHA

DEFENDANT(S).

## INDICTMENT

VIOLATIONS:

Title 18, United States Code, Section 1341—Mail Fraud;  
Title 18, United States Code, §§ 982(a)(1), 982(a)(3)(E), and  
Title 28, United States Code, § 2461(c)—Forfeiture Allegation

A true bill.

Jennifer R. Fuller  
Foreman

Filed in open court this 16<sup>th</sup> day of May, 2013

Karen L. F. J  
KAREN L. F. J  
Clerk

JOSEPH C. SPERO  
UNITED STATES MAGISTRATE JUDGE

Bail, \$ no pram

AO 257 (Rev. 6/78)

**DEFENDANT INFORMATION RELATIVE TO A CRIMINAL ACTION - IN U.S. DISTRICT COURT**

BY:  COMPLAINT  INFORMATION  INDICTMENT  
 SUPERSEDING

**OFFENSE CHARGED**

Title 18, United States Code, Section 1341 -- Mail Fraud

- Petty
- Minor
- Misdemeanor
- Felony

PENALTY: 20 years imprisonment  
3 years supervised release  
\$250,000 fine  
\$100 special assessment

Name of District Court, and/or Judge/Magistrate Location

NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

**DEFENDANT - U.S.**

BRUCE LEE MARSHALL

DISTRICT COURT NUMBER

**CR 13**

2013 MAY 16  
 11:30 AM  
 CLERK OF DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA  
 RICHMOND  
 WHA

**PROCEEDING**

Name of Complainant Agency, or Person (& Title, if any)

FBI

person is awaiting trial in another Federal or State Court, give name of court

this person/proceeding is transferred from another district per (circle one) FRCrp 20, 21, or 40. Show District

this is a re prosecution of charges previously dismissed which were dismissed on motion of:

U.S. ATTORNEY  DEFENSE

SHOW DOCKET NO.

this prosecution relates to a pending case involving this same defendant

MAGISTRATE CASE NO.

prior proceedings or appearance(s) before U.S. Magistrate regarding this defendant were recorded under

Name and Office of Person Furnishing Information on this form MELINDA HAAG

U.S. Attorney  Other U.S. Agency

Name of Assistant U.S. Attorney (if assigned) Robert David Rees

**IS NOT IN CUSTODY**

Has not been arrested, pending outcome of this proceeding.

1)  If not detained give date any prior summons was served on above charges

2)  Is a Fugitive

3)  Is on Bail or Release from (show District)

Northern District of California, in case CR 09-242 JSW

**IS IN CUSTODY**

4)  On this charge

5)  On another conviction

Federal  State

6)  Awaiting trial on other charges

If answer to (6) is "Yes", show name of institution

Has detainer been filed?  Yes  No

If "Yes" give date filed

DATE OF ARREST

Month/Day/Year

Or... if Arresting Agency & Warrant were not

DATE TRANSFERRED TO U.S. CUSTODY

Month/Day/Year

This report amends AO 257 previously submitted

**ADDITIONAL INFORMATION OR COMMENTS**

**PROCESS:**

SUMMONS  NO PROCESS\*  WARRANT

Bail Amount: \_\_\_\_\_

If Summons, complete following:

Arraignment  Initial Appearance

\* Where defendant previously apprehended on complaint, no new summons or warrant needed, since Magistrate has scheduled arraignment

Defendant Address: \_\_\_\_\_

Date/Time: \_\_\_\_\_ Before Judge: \_\_\_\_\_

Comments: Defendant has appearance scheduled for May 17, 2010 relating to supervised release violation in CR 09-242 JSW

**FILED**  
2013 MAY 16 A 11:30  
RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

1 MELINDA HAAG (CSBN 132612)  
United States Attorney

2  
3  
4  
5  
6  
7

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

11 UNITED STATES OF AMERICA, )  
12 Plaintiff, )  
13 v. )  
14 BRUCE LEE MARSHALL, )  
15 Defendant. )

**CR 13 314**

**VIOLATIONS:** Title 18, United States Code, Section 1341—Mail Fraud; Title 18, United States Code, §§ 982(a)(1), 982(a)(3)(E), and Title 28, United States Code, § 2461(c)—Forfeiture Allegation

(SAN FRANCISCO VENUE)

16  
17

INDICTMENT

19 The Grand Jury charges:

20 Introductory Allegations

21 At all times relevant to this Indictment:

22 1. Defendant, BRUCE LEE MARSHALL, was an individual who resided in and  
23 around San Francisco, California. MARSHALL operated under various business names,  
24 including Touch Fiber Network and Human Engineering Services, also known as HE Services.

25 2. Victim One was an education technology company headquartered in Washington,  
26 D.C. Victim One employed MARSHALL as an operations engineer for one of its subsidiaries.

27 3. Hurricane Electric was an Internet and colocation provider of third party host data  
28 storage services headquartered in Fremont, California.

INDICTMENT

The Scheme to Defraud

1  
2           4.     From no later than approximately July 2010 until approximately August 2011,  
3 MARSHALL devised and executed a material scheme to defraud Victim One and to obtain  
4 money from Victim One by means of materially false and fraudulent pretenses, representations,  
5 and promises and by omissions and concealment of material facts. Specifically, MARSHALL in  
6 his capacity as an employee of Victim One, purported to arrange for Victim One to contract with  
7 Hurricane Electric to receive robust data colocation services and computer servers, when in fact,  
8 Victim One was never a customer of Hurricane Electric. Instead, Victim One unknowingly paid  
9 the money directly to HE Services, a company controlled by MARSHALL, who himself had  
10 contracted with Hurricane Electric for basic data colocation services.

Manner and Means of the Scheme to Defraud

11  
12           5.     MARSHALL purchased data colocation services in the name of Touch Fiber  
13 Network, later Human Engineering Services (HE Services), both companies he created.

14           6.     MARSHALL presented a false contract between Victim One and Hurricane  
15 Electric for data colocation services that was more expansive and more expensive than the  
16 contract for the services he purchased as HE Services. The Hurricane Electric services  
17 MARSHALL purchased as HE Services cost \$1,000 per month. MARSHALL, acting as HE  
18 Services, charged Victim One as much as \$16,500 per month.

19           7.     MARSHALL claimed that a man named Roger Gibson was a certified reseller of  
20 Hurricane Electric services and was Victim One's personal account manager.

21           8.     MARSHALL arranged for another individual to pose as a Hurricane Electric  
22 customer service representative in order to answer Victim One's questions about technical  
23 problems with the service it believed it was receiving from Hurricane Electric.

24           9.     Victim One received false invoices from an email account purportedly held by  
25 Roger Gibson instructing Victim One to send money for colocation services to HE Services. The  
26 checks Victim One sent for each invoice, together totaling over \$100,000, were deposited in an  
27 HE Services bank account created and controlled by MARSHALL.

28           10.    In furtherance of his scheme, MARSHALL made material misrepresentations to,

1 and omitted and concealed material facts from, Victim One and its employees, including the  
2 following:

3 a. MARSHALL falsely claimed that Victim One had a Hurricane Electric  
4 account. He also falsely claimed that a man named Roger Gibson was an authorized Hurricane  
5 Electric reseller and the primary point of contact for Victim One's Hurricane Electric account;

6 b. MARSHALL presented a contract to Victim One, falsely claiming it was  
7 for colocation services with Hurricane Electric. In fact, Hurricane Electric knew nothing of the  
8 contract. Rather, the contract was similar to an actual contract MARSHALL entered into with  
9 Hurricane Electric as Touch Fiber Network and later, HE Services. MARSHALL's contract with  
10 Hurricane Electric provided far less substantial services than the contract MARSHALL presented  
11 to Victim One;

12 c. MARSHALL sent several false invoices to Victim One that purported to  
13 bill it for Hurricane Electric services Victim One never received; and

14 d. When payment on the invoices MARSHALL sent to Victim One was not  
15 timely, MARSHALL falsely claimed that Victim One's Hurricane Electric services could be shut  
16 down.

17 **COUNT ONE:** (18 U.S.C. § 1341 – Mail Fraud)

18 11. Paragraphs 1 through 10 are realleged and incorporated herein by reference.

19 12. On or about July 6, 2011, in the Northern District of California and elsewhere, the  
20 defendant,

21 **BRUCE LEE MARSHALL,**

22 for the purpose of executing a material scheme and artifice to defraud, and to obtain money and  
23 property from Victim One by means of materially false and fraudulent pretenses, representations,  
24 and promises, and by material omissions and concealment of material facts, did knowingly cause  
25 to be transmitted a mailing by United Parcel Service, specifically, a check for \$8,000 payable to  
26 HE Services, in violation of Title 18, United States Code, Section 1341.

27 **FORFEITURE ALLEGATION:** (18 U.S.C. §§ 982(a)(1), 982(a)(3)(E), and 28 U.S.C. §  
28 2461(c))

1 13. The allegations of Count One of this Indictment are realleged and fully  
2 incorporated herein for the purpose of alleging forfeiture pursuant to the provisions of 18 U.S.C.  
3 §§ 982(a)(1), 982(a)(3)(E), and 28 U.S.C. § 2461(c).

4 14. Upon a conviction of the offense alleged in Count One, the defendant,  
5 BRUCE LEE MARSHALL,  
6 shall forfeit to the United States all property constituting and derived from proceeds traceable to  
7 that offense, including but not limited to a sum of money equal to the amount of proceeds  
8 obtained as a result of the offense.

9 11. If any of said property, as a result of any act or omission of the defendant:  
10 (a) cannot be located upon the exercise of due diligence;  
11 (b) has been transferred to, sold to, or deposited with a third person;  
12 (c) has been placed beyond the jurisdiction of the Court;  
13 (d) has been substantially diminished in value; or  
14 (e) has been commingled with other property which cannot be subdivided without  
15 difficulty; any and all interest defendant has in other property shall be vested in the United States  
16 and forfeited to the United States pursuant to Title 21, United States Code, Section 853(p), as  
17 incorporated by Title 28, United States Code, Section 2461(c) and Rule 32.2 of the Federal Rules  
18 of Criminal Procedure.

19  
20 DATED: May 16, 2013

A TRUE BILL.

21  
22 *Jennifer R. Fuller*  
23 FOREPERSON

24 MELINDA HAAG  
United States Attorney

25 *Miranda Kane*

26 MIRANDA KANE  
27 Chief, Criminal Division

28 (Approved as to form: *[Signature]*)  
AUSA Rees