

Eastern District of Kentucky
FILED

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AT LEXINGTON
ROBERT R. CARR
CLERK U.S. DISTRICT COURT

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY
CENTRAL DIVISION
LEXINGTON**

UNITED STATES OF AMERICA

V.

INDICTMENT NO. 5:17-cr-17-JmH

DEBRA MUSE

* * * * *

THE GRAND JURY CHARGES:

INTRODUCTION

1. DEBRA MUSE, defendant herein, and others worked together to defraud the United States of America through the filing of false insurance claims ultimately reimbursed by the United States Department of Agriculture, by making false statements and reports in connection with the federal crop insurance program.

STATUTORY AND REGULATORY BACKGROUND

2. In 1938, Congress passed the Federal Crop Insurance Act ("Act"), 7 U.S.C. § 1501 *et seq.*, in order to promote the economic stability of agriculture in the United States through, in part, a system of crop insurance.

3. In furtherance of this purpose, Congress established the Federal Crop Insurance Corporation ("FCIC"), which was authorized to insure crop losses due to drought, flood, or other natural disaster, as determined by the Secretary of United States Department of Agriculture ("USDA"). 7 U.S.C. § 1503, 1508. Tobacco, wheat, corn, and

soybeans were among the crops for which insurance was authorized under the Act. 7 U.S.C. § 1518.

4. The Act only authorized the extension of insurance coverage to producers, that is, a person or entity with a bona fide insurable interest in a crop as either an owner-operator, landlord, tenant, or sharecropper. 7 U.S.C. § 1520. Farmers are producers. A crop insurance policy under the Act provided payments to a farmer when bad weather (freeze, drought, etc.) or other such naturally occurring events caused the harvest for the farm to be less than the amount specified in the insurance contract, or written policy agreement. These policies are referred to as multi-peril crop insurance (“MPCI”) policies.

5. Farmers who opt to insure their crop are required to take out insurance policies prior to the growing season. Farmers generally do not pay their policy premiums until the growing season has ended and when the farmer knows whether or not his or her yield (i.e., the amount of crop harvested from a specific farm) justified an insurance claim. If the farmer makes a claim under his or her crop insurance policy, then the insurance premium is typically deducted from the amount paid out to the farmers under the policy.

6. Under the crop insurance program, eligible farmers are paid benefits based, in part, on factual representations as to the amount of crop harvested and sold and the cause of loss.

7. The insurance coverage, also called the guarantee, and premiums of coverage are based on four or more years of production records for a particular crop

grown by a farmer on a specific farm designated by its unique Farm Serial Number (“FSN”). This means that the farmer’s actual production history (“APH”) determines the insurance policy’s guarantee, based on how much of that crop the farmer has produced on that FSN during each of the four years immediately preceding the year for which insurance is sought. 7 U.S.C. § 1508. If a farmer has produced that crop for more than four years, the guarantee will be based upon production history of those preceding years, but no more than ten years of production history will be used. 7 U.S.C. § 1508. A new producer is a person who has not actively engaged in farming of the crop sought to be insured in the county for more than two years. 7 C.F.R. § 400.52. New producers are given an estimated production yield based upon the county average production for the crop for the past 4 years. See 7 C.F.R. §§ 400.52(m), 400.52(p) and 400.55(b)(6).

8. A farmer can elect to insure tobacco crop up to 75% of the APH guarantee. If a farmer elects 75% coverage on his tobacco crop, that farmer needs to sustain crop damage in excess of 25% to trigger a claim payment.

9. The Risk Management Agency (“RMA”) is an agency of the USDA that supervises the FCIC and administers all programs authorized under the Act. 7 U.S.C. § 6933. Most crop insurance is sold by approved private insurance companies, called Approved Insurance Providers (“AIPs”), through an insurance agent working on behalf of the AIP. AIPs are reinsured by the FCIC/RMA under provisions established in a Standard Reinsurance Agreement (“SRA”), a contract between the AIPs and RMA. The FCIC/RMA also pays, or subsidizes, a portion of the premium paid by the farmer.

10. The insurance agent obtains basic information from the producer pertaining to the crop to be insured. This information is reported on forms the producer sends to his or her agent. The producer and agent acknowledge on these forms that failure to report completely and accurately may void the applicant's crop insurance policy and may result in criminal or civil false claims actions. The crop insurance agent forwards this information through the insurance company to FCIC/RMA. This information, including the APH report and report of acreage, is used to calculate the premium to be paid by the producer for the insurance, and is also used to calculate the indemnity in the event of a loss claim.

11. The insured producer must initially and annually provide an Acreage Report for the reinsurance company. The Acreage Report identifies, among other things, the number of insurable acres planted, date of planting, share in the crop, and crop location. The producer certifies on this report that failure to report completely and accurately may result in the voiding of the applicant's crop insurance contract and may result in criminal or civil false claims actions.

12. Insured producers seeking repayment for loss or damage to their crop are required to file a Notice of Probable Loss to notify the AIP of the damage or loss and the cause of loss. By signing the Notice of Probable Loss, the insured reports the type of crop that was damaged, the cause of the damage or loss, the date of the damage, the location of the crop that was lost, the intended action in that location, and other information.

13. Farmers often elect to take their crop to harvest even after the crop has

sustained damage. A Production Worksheet is used to record the amount of harvested production to include crop sales, quality assessments, and harvest appraisals, among other things, to ascertain the production to count, or actual yield, used in determining the indemnity due. The producer certifies on this report that failure to report completely and accurately may result in the voiding of the applicant's crop insurance contract and may result in criminal or civil false claims actions.

14. Insured producers are required to retain documentation related to their crop from planting through the disposition of their crop, including receipts for seed and other expenditures. Insured producers may be required to submit or produce this documentation to support their claim for indemnification.

15. The FCIC tobacco crop provisions provide for quality loss adjustment should the burley tobacco crop sustain damage reducing the quality of the crop. RMA's procedures for burley tobacco rely on grades assigned by Agriculture Marketing Service ("AMS") graders using USDA Official Standard Grades. The lowest grade quality is a No Grade ("NOG"). A loss that reduces the quality, or grade, of the tobacco can result in an increased indemnity.

16. According to RMA established procedures, if the producer believes he or she has a potential loss of quality, he or she must determine which bales of tobacco need to be graded. The Tobacco Administration Grading Service ("TAGS") was established to facilitate the grading process and provide scheduling services via telephone or a website. A producer with a potential loss of quality can schedule an inspection with the AMS

grader by contacting TAGS. The producer may ask his or her crop insurance agent for assistance in scheduling an inspection. The producer is charged a fee for the grading process. The producer receives a unique Grading Confirmation Number (“GCN”) intended to track the bales graded. AMS electronically transmits the GCN information to RMA. Tobacco bales designated as NOG receive the highest discount factor resulting in a higher amount of loss, and thus, higher indemnities. The grade, weights, and other relevant information is transmitted to the appropriate insurance company to complete the claim.

17. When a loss is paid on a crop insurance policy, the loss is calculated by the AIP and paid to the producer, often through the agent. Pursuant to the SRA, the AIP is reimbursed by the FCIC/RMA.

FACTUAL BACKGROUND

18. At all times relevant hereto, DEBRA MUSE was a resident of Wallingford, Kentucky.

19. DEBRA MUSE has contracted with Rural Community Insurance Services (“RCIS”) as a crop insurance agent since 1995. RCIS engages in, among other things, the business of providing crop insurance services to the agriculture community. RCIS contracts with the RMA to provide federally-backed MPCCI policies. RCIS executed an SRA with RMA. As a crop insurance agent, MUSE helps agricultural producers obtain crop insurance and file the necessary documents to claim an insurable loss.

20. At all relevant times, DEBRA MUSE acted as a crop insurance agent for,

among others, clients B.O., R.M., and J.H.

21. DEBRA MUSE has also been employed as a seasonal worker since 2001 at Clays Tobacco Warehouse, located in Mt. Sterling, Kentucky. Clays Tobacco Warehouse accepts tobacco for purchase and resale. As part of her employment responsibilities for Clays Tobacco Warehouse, MUSE is responsible for entering information into a tobacco software program that tracks the purchase, sale, and shipment of tobacco.

22. Phillip Morris International, RJ Reynolds, and Golden Burley are all companies that, among other things, purchase burley tobacco from sources for processing and production of tobacco products. These companies contract with farmers to buy a set poundage of tobacco from that farmer. If a farmer fails to produce the amount of poundage that he or she has contracted to provide to a purchasing company, his or her contract may be reduced in poundage or may not be renewed the following year. Tobacco contracts with companies such as Phillip Morris International, RJ Reynolds, and Golden Burley are valuable to farmers and highly sought after in the agricultural community.

COUNT 1
18 U.S.C. § 371

23. From in or about late 2014 through in or about early 2015, in Montgomery County, in the Eastern District of Kentucky, and elsewhere,

DEBRA MUSE

and others knowingly and willfully conspired and agreed together and with each other, to commit an offense against the United States, that is, making false statements and reports

for the purpose of influencing in any way the actions of the FCIC, and companies the FCIC reinsures, upon an application, advance, commitment, loan, and insurance agreement or application for insurance or a guarantee, in violation of 18 U.S.C. § 1014.

PURPOSE OF THE CONSPIRACY

24. It was the purpose of the conspiracy to profit through the filing of false and fictitious insurance claims and the sale of unreported tobacco.

MANNER AND MEANS

25. In furtherance of the conspiracy, DEBRA MUSE, along with others known and unknown, employed the following manner and means:

- a. Acting in her capacity as a crop insurance agent, DEBRA MUSE obtained or caused to be obtained federal crop insurance policies for her client farmers through RCIS.
- b. Co-conspiring farmers, at the urging of and with help from DEBRA MUSE, then filed, or caused to be filed, false crop insurance claims in various ways.
- c. Example 1: Hiding Tobacco. Because MUSE's client farmers produced good tobacco for sale and also claimed an insurable loss to the same crop, MUSE and the co-conspiring farmers conspired to hide some or all of the farmers' good quality tobacco in a variety of ways, including (1) by providing the farmer clients fraudulent shipping documents that made it appear as though the farmer client purchased the good quality tobacco from Clays Tobacco Warehouse that he in fact produced, and (2) by arranging for the sale of the

good quality tobacco the client farmer produced for cash to a co-conspiring tobacco warehouseman.

- d. Co-conspiring farmers profited under the scheme because they were paid twice for each pound of tobacco: once through the false crop insurance claim, and also through the sale of the unreported hidden tobacco. DEBRA MUSE profited by collecting the original insurance commission and by retaining and expanding the business of her crop insurance clients and securing business for her employer, Clays Tobacco Warehouse.
- e. MUSE and the co-conspiring farmers who sold the unreported hidden tobacco misrepresented the truth of their farming operations in a variety of documents that were submitted to the AIPs. For example, documents including applications, reports of APH, acreage reports, and claim forms, made and submitted in support of crop insurance coverage and claims, failed to identify the true amount of tobacco produced and misrepresented the existence and extent of any actual loss.
- f. Example 2: Yield Shifting. In some instances, the co-conspiring farmers falsely allocated loss and harvest amounts on Production and Yield Reporting Forms and Production Worksheet reports by “yield shifting”, that is, falsely reporting that the farmer had harvested very small quantities of tobacco from the insured farm for which a claim was being filed and falsely reporting the actual production from the insured farm as being produced on other farms or

by other entities.

- g. Example 3: Inflating damage to harvested crop. MUSE arranged for tobacco to be graded by AMS graders at Clays Tobacco Warehouse in the name of her client farmers, and each received a poor quality or NOG grade. However, the poor quality tobacco bales presented to the AMS graders in MUSE's client farmers' names did not, in whole or in part, actually belong to the client farmers. The low quality or NOG grades assigned to the tobacco were then submitted along with the crop insurance claim of loss in order to support a falsely inflated amount of loss.

OVERT ACTS

26. In furtherance of the conspiracy, and to effect the object thereof, at least one of the co-conspirators committed at least one of the following overt acts, among others, in the Eastern District of Kentucky:

CLIENT #1

- a. On or about January 15, 2015, co-conspiring farmer B.O. sold approximately 3,848 pounds of tobacco to Philip Morris.
- b. In or about January 2015, MUSE provided B.O. with a fraudulent shipping report from Clays Tobacco Warehouse dated January 9, 2015. The fraudulent shipping report made it appear as though B.O. had purchased the 3,848 pounds of tobacco sold to Phillip Morris from Clays Tobacco Warehouse, when in fact he had produced the tobacco himself.

- c. On or about January 7, 2015, January 21, 2015 and February 4, 2015, DEBRA MUSE arranged for B.O. to sell approximately 5,500 pounds of tobacco for cash at Clays Tobacco Warehouse.
- d. In or about February 2015, MUSE brought B.O. cash, approximately \$1 per pound, for the tobacco he sold at Clays Tobacco Warehouse.
- e. In or about February 2015, MUSE provided B.O. with paperwork indicating that the tobacco he sold had been given a NOG grade, when in fact MUSE and B.O. knew that the tobacco sold by B.O. at Clays Tobacco Warehouse was not NOG tobacco.
- f. On or about March 13, 2015, B.O. submitted and caused to be submitted a crop insurance claim that falsely inflated the amount of tobacco loss he suffered.
- g. On or about March 17, 2015, B.O. and MUSE caused an insurance indemnity payment in the total amount of \$6,144 to be paid to B.O., which was reimbursed by RMA.

CLIENT #2

- h. In or about late 2014 through early 2015, co-conspiring farmer R.M. sold approximately 25,448 pounds of tobacco to RJ Reynolds and Golden Burley.
- i. In or about late 2014 through early 2015, MUSE arranged for R.M. to sell approximately 8,000 to 10,000 pounds of tobacco for cash at Clays Tobacco Warehouse.
- j. In or about late 2014 through early 2015, MUSE provided R.M. with

fraudulent sales bills indicating that R.M.'s sales to Clays Tobacco Warehouse were the only tobacco sales R.M. had from the 2014 crop year, when in fact R.M. sold good quality tobacco he had himself produced to RJ Reynolds and Golden Burley.

- k. In or about late 2014 through early 2015, MUSE arranged for tobacco to be graded on R.M.'s behalf at Clays Tobacco Warehouse, which received a NOG grade, when in fact MUSE and R.M. knew that the tobacco sold by R.M. at Clays Tobacco Warehouse was not NOG tobacco. Moreover, Muse and R.M. knew that the sales bills stated that R.M. had more tobacco graded than he had actually taken to Clays Tobacco Warehouse.
- l. On March 20, 2015, R.M. submitted and caused to be submitted a crop insurance claim that falsely inflated the amount of tobacco loss he suffered.
- m. On or about April 1, 2015, R.M. and MUSE caused an insurance indemnity payment in the total amount of \$139,456 to be paid to R.M., which was reimbursed by RMA.

CLIENT #3

- n. On or about February 4, 2015, and February 11, 2015, MUSE provided J.H. with a fraudulent sales bill stating that J.H. sold approximately 11,000 pounds of tobacco to Clays Tobacco Warehouse in crop year 2014, when in fact J.H. never sold any tobacco crop to Clays Tobacco Warehouse in crop year 2014.
- o. MUSE also arranged for tobacco to be graded in J.H.'s name, which resulted in

a false grade report showing that all tobacco allegedly sold by J.H. to Clays Tobacco Warehouse was NOG tobacco.

- p. On March 24, 2015, J.H. submitted a fraudulent claim of loss to RCIS claiming an inflated crop loss amount based upon the false grade report and sales bill, which triggered his eligibility to receive an indemnity payout for the loss to his crop.
- q. On or about March 26, 2015, J.H. and MUSE caused an insurance indemnity payment in the total amount of \$23,651 to be paid to J.H., which was reimbursed by RMA.

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

COUNTS 2 THROUGH 8
18 U.S.C. § 1014
18 U.S.C. § 2

27. Paragraphs 1-26(a-g) in Count One above are re-alleged and incorporated herein by reference.

28. On or about the dates listed below, in Montgomery County, in the Eastern District of Kentucky, and elsewhere,

DEBRA MUSE,

aided and abetted by others, knowingly made false statements and reports for the purpose of influencing in any way the action of the FCIC, and companies the FCIC reinsures, upon an application, advance, commitment, loan, and insurance agreement or application for insurance or a guarantee, to wit:

Count	Date	False Statement
2	January 7, 2015	False sales bill showing that B.O. sold 2,472 pounds of tobacco at auction at Clays Tobacco Warehouse, when in fact B.O. did not sell this amount of tobacco at Clays Tobacco Warehouse at auction on this date
3	January 7, 2015	False grade report that indicated that B.O. had 2,472 pounds of tobacco graded at Clays Tobacco Warehouse that received a NOG grade, when in fact B.O. did not have this amount of NOG tobacco graded at Clays Tobacco Warehouse in crop year 2014
4	January 9, 2015	False shipping report that B.O. purchased tobacco from Clays Tobacco Warehouse, when in fact B.O. produced that tobacco himself and did not purchase it from Clays Tobacco Warehouse
5	January 21, 2015	False sales bill showing that B.O. sold 2,016 pounds of tobacco at auction at Clays Tobacco Warehouse, when in fact B.O. did not sell this amount of tobacco at Clays Tobacco Warehouse at auction on this date
6	January 21, 2015	False grade report that indicated that B.O. had 2,016 pounds of tobacco graded at Clays Tobacco Warehouse that received a NOG grade, when in fact B.O. did not have this amount of NOG tobacco graded at Clays Tobacco Warehouse in crop year 2014
7	February 4, 2015	False sales bill showing that B.O. sold 2,536 pounds of tobacco at auction at Clays Tobacco Warehouse, when in fact B.O. did not sell this amount of tobacco at Clays Tobacco Warehouse at auction on this date
8	February 4, 2015	False grade report that indicated that B.O. had 2,536 pounds of tobacco graded at Clays Tobacco Warehouse that received a NOG grade, when in fact B.O. did not have this amount of NOG tobacco graded at Clays Tobacco Warehouse in crop year 2014

All in violation of Title 18, United States Code, Section 1014.

COUNTS 9 THROUGH 24

18 U.S.C. § 1014

18 U.S.C. § 2

29. Paragraphs 1-26(h-m) in Count One above are re-alleged and incorporated

herein by reference.

30. On or about the dates listed below, in Montgomery County, in the Eastern District of Kentucky, and elsewhere,

DEBRA MUSE,

aided and abetted by others, did knowingly make false statements and reports for the purpose of influencing in any way the action of the FCIC, and companies the FCIC reinsures, upon an application, advance, commitment, loan, and insurance agreement or application for insurance or a guarantee, to wit:

Count	Date	False Statement
9	January 28, 2015	False sales bill that made it appear that R.M. sold 8,979 pounds of tobacco at Clays Tobacco Warehouse at auction, when in fact he did not sell that amount of tobacco at Clays Tobacco Warehouse at auction on this date
10	January 28, 2015	False grade report that made it appear as though 8,979 pounds of tobacco graded in R.M.'s name received a NOG grade, when in fact R.M. did not have this amount of NOG tobacco graded at Clays Tobacco Warehouse in crop year 2014
11	February 4, 2015	False sales bill that made it appear that R.M. sold 6,954 pounds of tobacco at Clays Tobacco Warehouse at auction, when in fact he did not sell that amount of tobacco at Clays Tobacco Warehouse at auction on this date
12	February 4, 2015	False grade report that made it appear as though 6,954 pounds of tobacco graded in R.M.'s name received a NOG grade, when in fact R.M. did not have this amount of NOG tobacco graded at Clays Tobacco Warehouse in crop year 2014
13	February 4, 2015	False sales bill that made it appear that R.M. sold 7,052 pounds of tobacco at Clays Tobacco Warehouse at auction, when in fact he did not sell that amount of tobacco at Clays Tobacco Warehouse at auction on this date
14	February 4, 2015	False grade report that made it appear as though 7,052 pounds of tobacco graded in R.M.'s name received a NOG grade, when in fact R.M. did not have this amount of NOG tobacco graded at Clays Tobacco Warehouse in crop year 2014
15	February	False sales bill that made it appear that R.M. sold 1,202 pounds

	11, 2015	of tobacco at Clays Tobacco Warehouse at auction, when in fact he did not sell that amount of tobacco at Clays Tobacco Warehouse at auction on this date
16	February 11, 2015	False grade report that made it appear as though 1,202 pounds of tobacco graded in R.M.'s name received a NOG grade, when in fact R.M. did not have this amount of NOG tobacco graded at Clays Tobacco Warehouse in crop year 2014
17	February 11, 2015	False sales bill that made it appear that R.M. sold 1,183 pounds of tobacco at Clays Tobacco Warehouse at auction, when in fact he did not sell that amount of tobacco at Clays Tobacco Warehouse at auction on this date
18	February 11, 2015	False grade report that made it appear as though 1,183 pounds of tobacco graded in R.M.'s name received a NOG grade, when in fact R.M. did not have this amount of NOG tobacco graded at Clays Tobacco Warehouse in crop year 2014
19	February 11, 2015	False sales bill that made it appear that R.M. sold 2,434 pounds of tobacco at Clays Tobacco Warehouse at auction, when in fact he did not sell that amount of tobacco at Clays Tobacco Warehouse at auction on this date
20	February 11, 2015	False grade report that made it appear as though tobacco graded in R.M.'s name received a NOG grade, when in fact R.M. did not have NOG tobacco graded at Clays Tobacco Warehouse in crop year 2014
21	February 11, 2015	False sales bill that made it appear that R.M. sold 1,509 pounds of tobacco at Clays Tobacco Warehouse at auction, when in fact he did not sell that amount of tobacco at Clays Tobacco Warehouse at auction on this date
22	February 11, 2015	False grade report that made it appear as though 1,509 pounds of tobacco graded in R.M.'s name received a NOG grade, when in fact R.M. did not have this amount of NOG tobacco graded at Clays Tobacco Warehouse in crop year 2014
23	March 4, 2015	False sales bill that made it appear that R.M. sold 4,392 pounds of tobacco at Clays Tobacco Warehouse at auction, when in fact he did not sell that amount of tobacco at Clays Tobacco Warehouse at auction on this date
24	March 4, 2015	False grade report that made it appear as though 4,392 pounds of tobacco graded in R.M.'s name received a NOG grade, when in fact R.M. did not have this amount of NOG tobacco graded at Clays Tobacco Warehouse in crop year 2014

All in violation of Title 18, United States Code, Section 1014.

COUNTS 25 THROUGH 28

18 U.S.C. § 1014

18 U.S.C. § 2

31. Paragraphs 1-26(n-q) in Count One above are re-alleged and incorporated herein by reference.

32. On or about the dates listed below, in Montgomery County, in the Eastern District of Kentucky, and elsewhere,

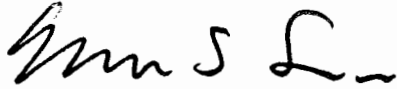
DEBRA MUSE,

aided and abetted by others, did knowingly make false statements and reports for the purpose of influencing in any way the action of the FCIC, and companies the FCIC reinsures, upon an application, advance, commitment, loan, and insurance agreement or application for insurance or a guarantee, to wit:

Count	Date	False Statement
25	February 4, 2015	False sales bill stating that J.H. sold approximately 6,321 pounds of tobacco at Clays Tobacco Warehouse, when in fact J.H. never sold any tobacco at Clays Tobacco Warehouse in crop year 2014
26	February 4, 2015	False grade reports that made it appear as though J.H. had NOG tobacco graded at Clays Tobacco Warehouse in his name, when in fact J.H. had no tobacco graded at Clays Tobacco Warehouse for crop year 2014
27	February 11, 2015	False sales bill stating that J.H. sold approximately 5,171 pounds of tobacco at Clays Tobacco Warehouse, when in fact J.H. never sold any tobacco at Clays Tobacco Warehouse in crop year 2014
28	February 11, 2015	False grade report that made it appear as though J.H. had NOG tobacco graded at Clays Tobacco Warehouse in his name, when in fact J.H. had no tobacco graded at Clays Tobacco Warehouse for crop year 2014

All in violation of Title 18, United States Code, Section 1014.

A TRUE BILL



CARLTON S. SHIER, IV
ACTING UNITED STATES ATTORNEY

PENALTIES

COUNT 1: Imprisonment for not more than 5 years, fine of not more than \$250,000 and supervised release for not more than 3 years.

COUNTS 2-28: Imprisonment for not more than 30 years, fine of not more than \$1,000,000, and supervised release for not more than 5 years.

PLUS: Mandatory special assessment of \$100 per count.

PLUS: Restitution, if applicable.