

FILED

4/13/2021

THOMAS G. BRUTON
CLERK, U.S. DISTRICT COURT

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA

v.

SCOTT CARLBERG

No. **1:21-cr-00232**

Violation: Title 18, United States
Code, Section 1343

UNDER SEAL

COUNT ONE

JUDGE CHANG

MAGISTRATE JUDGE HARJANI

The SPECIAL NOVEMBER 2019 GRAND JURY charges:

1. At times material to this indictment:

Individuals and Entities Involved

a. The U.S. Railroad Retirement Board (“RRB”) was an independent agency of the Executive Branch of the United States headquartered in Chicago. The RRB’s primary function was to administer comprehensive retirement, disability, survivor, and unemployment/sickness benefit programs for the nation’s railroad workers and their eligible family members under the Railroad Retirement Act (“RRA”), Title 45 United States Code, Sections 231, *et. seq.*, and Railroad Unemployment Insurance Acts (“RUIA”), Title 45 United States Code, Chapter 11. The RRA replaced the Social Security Act for rail employers and employees.

b. The RRB administered disability benefits to railroad employees who had an occupational disability and were permanently disabled for work in their regular railroad occupation and to railroad employees who were totally and permanently disabled and unable to work in any kind of regular job.

c. In order for a railroad employee to apply for disability benefits, he or she had to complete, among other things, RRB Form AA-1d (Application for Determination of Employee's Disability) and RRB Form AA-1 (Application for Employee Annuity). Both the RRB Forms AA-1d and AA-1 required the applicant to complete certifications. In certain cases, railroad employees completed RRB Form AA-4 (Self-Employment and Substantial Service Questionnaire).

d. On RRB Form AA-1d, applicants had to describe in detail the limitations resulting from their impairment and state when they could no longer work because of their conditions. The signature page of the RRB Form AA-1d reminded an applicant that he or she had to answer these questions truthfully and provided:

I agree to immediately notify the RRB if I work for any employer, railroad or non-railroad, or perform any self-employment work; if my condition improves

I know that if I make a false or fraudulent statement in order to receive benefits from the RRB or if I fail to disclose earnings or report employment of any kind to the RRB, I am committing a crime, which is punishable under Federal law.

e. RRB Forms AA-1d and AA-1 also included certifications that the applicant has received the RRB Booklet Forms RB-1d (Employee Disability Benefits) and RB-9 (Employee and Spouse Annuities, Events That Must Be Reported), which contained, among other things, requirements to notify the RRB if the applicant's condition improved or if the applicant performed any work, including through self-employment, regardless of how much the applicant earned. In pertinent part, the Booklet provided:

“Occupational disability” means one is “permanently disabled” for work in your “regular railroad occupation.”

“Total and permanent disability” means one is “unable to work in any kind of regular job” and “permanently disabled” for any kinds of “regular work.”

“Substantial gainful activity” is, in general, work which results in earnings . . . it also refers to work activity involving the performance of significant physical or mental duties, or a combination of both, which are productive in nature. If you work or are receiving an annuity based on total and permanent disability, or if you have a period of disability or early Medicare, you may be subject to a finding of substantial gainful activity.

“Regular work” is the performance of the full range of material and substantial duties of any regular and gainful employment with any employer. Substantial duties are those that involve significant mental or physical activity even if they are only done part time. Gainful employment is work that is done for pay or profit, or is the kind that is usually done for pay or profit even if no profit is realized.

“Substantial gainful work” is any work generally done for pay or profit that involves performing significant physical or mental duties. Work may be considered substantial even if it is done part time. In evaluating work, consideration is given to job duties, skill, and experience required to do the job, in addition to pay. Although current work may pay less or may be different from previous work, a person may not necessarily be considered disabled.

In any case, all work and earnings by a disability annuitant must be reported promptly to the RRB in order to avoid potential overpayments and penalties. (emphasis in original).

“Disability ends if” you medically recover so that you are able to work, or if you return to work and hold a job whether or not there has been any substantial improvement in your condition.”

If in doubt, report.

f. The RRB’s Disability Benefits Division (the “DBD”), located in Chicago, Illinois, reviewed applications for occupational disability and total and permanent disability, which were submitted by railroad employees. Once an

application was approved, the RRB in Chicago caused benefits payments to be issued by the United States Treasury to a bank account as designated by the applicant.

g. From in or around 1988 to in or around October 31, 2012, defendant SCOTT CARLBERG was an engineer at Soo Line Railroad / Canadian Pacific Railroad.

h. On or about May 2, 2013, CARLBERG submitted an application for occupational disability benefits. CARLBERG signed the certifications accompanying RRB Forms AA-1d and AA-1. The DBD granted CARLBERG's application on or about July 10, 2013 and began causing disability payments to be wired to CARLBERG.

i. On or about July 31, 2014, CARLBERG contacted the RRB and inquired about working and was reminded that he had to report work and was restricted to an earnings limit of \$840 per month while receiving occupational disability benefits.

j. On or about February 25, 2015, CARLBERG submitted a supplemental application for disability benefits with a freeze, which would entitle him to early Medicare benefits. On or about June 30, 2015, the RRB in Chicago sent CARLBERG a Form RL-210 notifying him that it had approved his application for disability benefits with a freeze. The notice informed: "Notify the Railroad Retirement Board (RRB) promptly if your condition improves; if you are working for pay or you are self-employed, regardless of the amount of earnings . . . Your case may

be periodically reviewed to determine whether your condition remains severe enough to prevent any work activity to allow your disability freeze to continue.”

k. On or about March 24, 2015, CARLBERG used funds derived from a settlement with his railroad to purchase a tanning salon (the “Parrot Bay Tanning Salon” or the “Salon”) in Menomonie, Wisconsin, which he placed in the name of Individual A. CARLBERG signed the purchase agreement for the Salon.

l. CARLBERG operated and managed the Salon and its employees between on or about March 24, 2015 and in or around January 2021. Between on or about February 10, 2016 and in or around December 2019, CARLBERG used in excess of \$100,000 in Salon funds to pay down expenses incurred on personal credit cards.

m. Every year, beginning in or around October 2015, the RRB in Chicago sent CARLBERG an RL-4 (Yearly Reminder Letter), which explained his responsibility to report work earnings and events that may affect his right to disability payments and listed events that must be reported immediately to the RRB, including impairment improvement, return to work, performing work, whether for pay or not, including through self-employment, or receipt of anything of value in lieu of salary or wages for any work.

The Scheme to Defraud

2. Beginning no later than in or around March 2015, and continuing through in or around January 2021, in the Northern District of Illinois, Eastern Division, and elsewhere,

SCOTT CARLBERG,

defendant herein, knowingly devised, intended to devise, and participated in a scheme to defraud the RRB and to obtain money and property by means of materially false and fraudulent pretenses, representations, and promises, and by concealment of material facts, as further described below.

3. It was part of the scheme that, in order to receive disability benefits payments to which he was not entitled, CARLBERG made multiple false representations to the RRB and concealed material facts from the RRB concerning his operation and management of the Salon and his receipt of money derived from the operation of the Salon.

4. It was further part of the scheme that, on or about April 23, 2015, CARLBERG submitted an RRB Form AA-4 to the RRB, which falsely represented that he did not work at or own a business. In truth, CARLBERG had purchased the Salon on or about March 24, 2015 and operated and managed the Salon.

5. It was further part of the scheme that, in or around July 2015, CARLBERG submitted a false work statement to the RRB, which indicated that he worked part time at the Salon watering flowers, blowing off the driveway, and cleaning tanning beds. In truth, CARLBERG operated and managed the Salon from in or around March 2015 through and including in or around January 2021.

6. It was further part of the scheme that, on or about April 4, 2016, CARLBERG called the RRB and represented that he was doing work for the Salon, but falsely represented that he was not paid for his work. In truth, on or about

February 10, 2016, CARLBERG began using the Salon's income to, among other things, pay off substantial personal expenses.

7. It was further part of the scheme that, between in or around October 2015 and in or around January 2021, CARLBERG failed to respond to the RRB's Form RL-4 (Disability Reminder Notice) and did not notify the RRB that he was working at the Salon and that he was using the Salon's income to pay off substantial personal expenses.

8. It was further part of the scheme that, in or around 2016, defendant SCOTT CARLBERG changed the registered agent for the Salon from Individual A to Individual B in order to conceal his connection to the Salon from the RRB and to receive disability benefits payments.

9. It was further part of the scheme that, on or about February 24, 2020, CARLBERG falsely represented to a federal agent that his family had sold the Salon in 2019. In truth, CARLBERG's family owned the Salon at the time and continued to own the Salon through January 2021.

10. It was further part of the scheme that, between in or around March 2015 and in or around January 2021, CARLBERG caused the RRB in Chicago to cause the U.S. Treasury to wire to a bank account at Dairy State Bank controlled by CARLBERG disability benefits totaling approximately \$273,974 to which he was not entitled.

11. It was further part of the scheme that CARLBERG concealed, misrepresented, and hid, and caused to be concealed, misrepresented, and hidden,

the existence of the scheme, the purposes of the scheme, and the acts done in furtherance of the scheme.

12. On or about December 1, 2017, at Chicago, in the Northern District of Illinois, Eastern Division, and elsewhere,

SCOTT CARLBERG,

defendant herein, for the purpose of executing the scheme, knowingly caused to be transmitted in interstate commerce by means of a wire communication from the United States Treasury in Kansas City, Missouri to Dairy State Bank in Wisconsin, certain writings, signs, and signals, namely, a wire transfer of disability benefits in the amount of \$3,813.20;

In violation of Title 18, United States Code, 1343.

COUNT TWO

The SPECIAL NOVEMBER 2019 GRAND JURY further charges:

1. Paragraphs 1 through 11 of Count One of this indictment are incorporated here.

2. On or about December 3, 2018, at Chicago, in the Northern District of Illinois, Eastern Division, and elsewhere,

SCOTT CARLBERG,

defendant herein, for the purpose of executing the scheme, knowingly caused to be transmitted in interstate commerce by means of a wire communication from the United States Treasury in Kansas City, Missouri to Dairy State Bank in Wisconsin, certain writings, signs, and signals, namely, a wire transfer of disability benefits in the amount of \$3,889;

In violation of Title 18, United States Code, Section 1343.

COUNT THREE

The SPECIAL NOVEMBER 2019 GRAND JURY further charges:

1. Paragraphs 1 through 11 of Count One of this indictment are incorporated here.

2. On or about December 2, 2019, at Chicago, in the Northern District of Illinois, Eastern Division, and elsewhere,

SCOTT CARLBERG,

defendant herein, for the purpose of executing the scheme, knowingly caused to be transmitted in interstate commerce by means of a wire communication from the United States Treasury in Kansas City, Missouri to Dairy State Bank in Wisconsin, certain writings, signs, and signals, namely, a wire transfer of disability benefits in the amount of \$3,999.50;

In violation of Title 18, United States Code, Section 1343.

COUNT FOUR

The SPECIAL NOVEMBER 2019 GRAND JURY further charges:

1. Paragraphs 1 through 11 of Count One of this indictment are incorporated here.

2. On or about May 1, 2020, at Chicago, in the Northern District of Illinois, Eastern Division, and elsewhere,

SCOTT CARLBERG,

defendant herein, for the purpose of executing the scheme, knowingly caused to be transmitted in interstate commerce by means of a wire communication from the United States Treasury in Kansas City, Missouri to Dairy State Bank in Wisconsin, certain writings, signs, and signals, namely, a wire transfer of disability benefits in the amount of \$3,967.40;

In violation of Title 18, United States Code, Section 1343.

FORFEITURE ALLEGATION

The SPECIAL NOVEMBER 2019 GRAND JURY alleges:

1. The allegations contained in Counts One through Four of this indictment are incorporated here for the purpose of alleging forfeiture pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c).

2. As a result of his violation of Title 18, United States Code, Section 1343 as set forth in the foregoing indictment,

SCOTT CARLBERG,

defendant herein, shall forfeit to the United States, pursuant to Title 18, United States Code, Section 981(a)(1)(C), and Title 28, United States Code, Section 2461(c), any and all right, title and interest in property, real and personal, which constitutes and is derived from proceeds traceable to the charged offenses.

3. The interests of the defendant subject to forfeiture to the United States pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c) include, but are not limited to, approximately \$273,974.

4. If any of the property described above, as a result of any act or omission by defendant: cannot be located upon the exercise of due diligence; has been transferred or sold to, or deposited with, a third party; has been placed beyond the jurisdiction of the Court; has been substantially diminished in value; or has been commingled with other property which cannot be divided without difficulty, the United States of America shall be entitled to forfeiture or substitute property, as

provided in Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c).

A TRUE BILL:

FOREPERSON

Signed by Amarjeet Bhachu
on behalf of the
UNITED STATES ATTORNEY