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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

UNITED STATES OF AMERICA,

Plaintiff,

v.

TORRENCE ROBINSON,

Defendant.

No. 16 Civ. 7793

COMPLAINT

Plaintiff United States of America, by its attorney, Preet Bharara, United States Attorney for the Southern District of New York, alleges upon information and belief for its complaint as follows:

INTRODUCTION

1. This is a civil action brought by the United States of America, on behalf of its agency the Social Security Administration (“SSA”), under the False Claims Act, 31 U.S.C. § 3729 *et seq.*, and common law theories of conversion, payment by mistake of fact, and unjust enrichment.

2. This case arises from payments of Social Security Title II Retirement benefits (“Retirement Benefits”) wrongfully retained by Torrence Robinson (“Defendant”).

3. Defendant, who shared a joint bank account with his father, Eugene Robinson, had access to Retirement Benefits issued to his father after he died. Instead of informing SSA that his

father had died, Defendant continued to collect and misappropriate his deceased father's Retirement Benefits for many years, from June 8, 1999 until November 5, 2013. By retaining these payments, Defendant violated Section 3729(a)(1)(G) of the False Claims Act. Additionally, equity requires that these payments be returned to the United States.

JURISDICTION AND VENUE

4. This Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1345.

5. Venue is proper in the Southern District of New York pursuant to 28 U.S.C. § 1391(b), because Defendant resides within the Southern District of New York and Defendant's father, the SSA beneficiary at issue, resided within the Southern District of New York and his address of record with SSA was within the Southern District of New York during all of the years in which payments of the Retirement Benefits at issue were made.

PARTIES

6. Plaintiff is the United States of America, on behalf of its agency the Social Security Administration.

7. Defendant is an individual who resides at 27 Max Place, New Windsor, New York 12553. Defendant's father resided at 10 West 135th Street, Apt. 2F, New York, New York 10037 at the time of his death, and this was his address of record with SSA throughout the years during which payments of the Retirement Benefits at issue were made.

FACTS

8. Title II Retirement Benefits function as a government retirement plan, administered by SSA. In order to be entitled to these benefits, a wage earner must have a minimum of ten quarters of work, during which the wage earner contributed to Social Security by paying Federal

Insurance Contributions Act (“FICA”) taxes. Widows or widowers and minor surviving children of a deceased wage earner who is entitled to Title II Retirement Benefits are also entitled to these benefits. The benefits do not transfer to adult children of beneficiaries upon death.

9. Eugene Robinson, Defendant’s father, received Retirement Benefits under his own Social Security number and was entitled to the Retirement Benefits based on his personal history of qualifying work and contributing tax payments. Because he received the Retirement Benefits by virtue of this qualification, and not because of any disability, there was no continuing recertification requirement to confirm Eugene Robinson’s continued entitlement to receive the benefits.

10. Eugene Robinson received these Retirement Benefits in the form of monthly direct deposits into a bank account to which Defendant had access.

11. Eugene Robinson died on June 8, 1999.

12. SSA received no notification of his death, from Defendant or otherwise.

13. Throughout the period from June 8, 1999 until November 5, 2013, SSA continued to deposit Eugene Robinson’s monthly Retirement Benefits into the account to which Defendant had access. These deposits totaled approximately \$214,994.00. All of this money was misappropriated by Defendant.

14. Defendant was aware that the monthly payments of Retirement Benefits were intended for his deceased father, yet he neither informed SSA of his father’s death nor returned the payments to SSA.

15. SSA suspended the payment of Retirement Benefits meant for Eugene Robinson on November 5, 2013, after failing to receive a response to a letter sent to him.

16. SSA first learned of the death of Eugene Robinson on or about February 20, 2014.

FIRST CLAIM - FALSE CLAIMS ACT, 31 U.S.C. § 3729(a)(1)(G)

17. The allegations in paragraphs 1 through 16 are repeated and realleged as though set forth fully in this paragraph.

18. Defendant knowingly concealed or knowingly and improperly avoided or decreased an obligation to pay or transmit money or property to the United States.

19. By virtue of Defendant's retention of the Retirement Benefits belonging to the United States, the United States has suffered damages and therefore is entitled to treble damages under the False Claims Act, to be determined at trial, plus a civil penalty of \$5,500 to \$11,000 for each violation.

SECOND CLAIM - CONVERSION

20. The allegations in paragraphs 1 through 19 are repeated and realleged as though set forth fully in this paragraph.

21. Defendant exercised control or dominion over property of the United States (the Retirement Benefits), without authorization and in derogation of the United States' rights.

22. The United States is entitled to recover the payments of the Retirement Benefits, over which the Defendant wrongly exercised control or dominion, with interest.

THIRD CLAIM - MONEY PAID UNDER MISTAKE OF FACT

23. The allegations in paragraphs 1 through 22 are repeated and realleged as though set forth fully in this paragraph.

24. SSA paid the Retirement Benefits at issue in this case to Eugene Robinson under the belief that he was alive.

25. This belief was material to SSA's decision to pay the payments, because SSA would not have paid such payments to a deceased recipient.

26. Because the payments of the Retirement Benefits were made upon a material and erroneous belief, SSA is entitled to recover them in full and with interest.

FOURTH CLAIM - UNJUST ENRICHMENT

27. The allegations in paragraphs 1 through 26 are repeated and realleged as though set forth fully in this paragraph.

28. Defendant was enriched as a result of the payments of the Retirement Benefits to his deceased father in the form of the funds that Defendant retained.

29. Defendant's enrichment was unjust because he was not entitled to these funds and the funds never would have been paid if SSA had known that the recipient was deceased.

30. Defendant's enrichment was at SSA's expense.

31. Under these circumstances, equity and good conscience require that the payments of the Retirement Benefits to Defendant's deceased father be returned to SSA, in full and with interest.

WHEREFORE, plaintiff the United States requests that judgment be entered in its favor and against Defendant as follows:

(a) On the First Claim for Relief, for treble the amount of the United States' damages plus civil penalties for each violation;

(b) On the Second Claim for Relief, for return of all funds over which Defendant exercised control or dominion and held contrary to the wishes of the United States, plus costs and pre- and post-judgment interest;

(c) On the Third Claim for Relief, for return of all funds paid by mistake, plus costs and pre- and post-judgment interest;

(d) On the Fourth Claim for Relief, for return of all funds by which Defendant was unjustly enriched, plus costs and pre- and post-judgment interest; and

(e) Granting the United States such further relief against Defendant as the Court may deem proper.

Dated: New York, New York
October 5, 2016

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