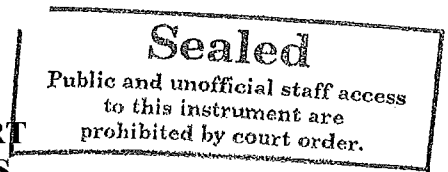


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION



Unsealed 1-12-12

UNITED STATES OF AMERICA

v.

JACK F. ABERCIA,
WELDON KENNETH WIENER, and
MICHAEL BUTLER

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§
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§
§

CRIMINAL NO. H-12-

12-010

FILED UNDER SEAL

INDICTMENT

THE UNITED STATES GRAND JURY CHARGES THAT:

United States Courts
Southern District of Texas
FILED

INTRODUCTION:

JAN 10 2012

At all times material to this Indictment,

David J. Bradley, Clerk of Court

1. The Office of the Precinct One Constable for Harris County, Texas, was and is an agency of a state or local government that received federal assistance in excess of \$10,000 during each of the one-year periods beginning January 1, 2010, and ending December 31, 2010, and beginning January 1, 2011, and ending December 31, 2011, and for any one-year period enveloping any of the overt acts identified below.

2. Jack F. Abercia ("ABERCIA") was and is a resident of the Southern District of Texas and was and is the elected Precinct One Constable for Harris County, Texas. ABERCIA was and is an agent of the Office of the Precinct One Constable for Harris County, Texas, whose duties include the lawful enforcement of state law, without bias, prejudice, personal enrichment, or self gain.

3. Weldon Kenneth Wiener ("WIENER") was and is a resident of the Southern District of Texas and was and is the Lieutenant Constable for Harris County, Texas, Precinct One. WIENER

was and is an agent of the Office of the Precinct One Constable for Harris County, Texas, whose duties include the lawful enforcement of state law, without bias, prejudice, personal enrichment, or self gain.

4. Michael Butler ("BUTLER") was and is a resident of the Southern District of Texas and was and is the Office Chief for the Harris County, Texas, Precinct One Constable's Office. Butler was and is an agent of the Office of the Precinct One Constable for Harris County, Texas, whose duties include the lawful enforcement of state law, without bias, prejudice, personal enrichment, or self gain.

5. The Houston Police Department had and has computers for law enforcement use, providing access to various databases, such as the National Crime Information Center ("NCIC").

6. NCIC was and is a database maintained by the Federal Bureau of Investigation, which is a department or agency of the United States, and the NCIC collects and maintains records relating to criminal histories of millions of people as well as persons and vehicles sought by law enforcement agencies nationwide. Access to the NCIC database was and is restricted to law enforcement officers authorized to access it for law enforcement purposes only. Law enforcement officers are not allowed to access the NCIC database for any reason other than in the performance of their official duties. Before any law enforcement officer is allowed to access the NCIC database, he/she must receive training in security and privacy awareness. Only after successfully completing such training, will an officer be issued a password and be permitted access to the NCIC database. Each officer has a unique password, such that his/her NCIC database use may be tracked and monitored.

COUNT ONE
(CONSPIRACY)

Paragraphs 1-6 of this Indictment are incorporated herein by reference.

From in or about June of 2010, and continuing thereafter until in or about November of 2011, in the Southern District of Texas and elsewhere and within the jurisdiction of the Court, defendants

JACK F. ABERCIA,
WELDON KENNETH WIENER, and
MICHAEL BUTLER

knowingly and willfully conspired and agreed together and with each other, and with others known and unknown to the grand jury, to do the following:

A. intentionally access or cause to be accessed a computer in a manner exceeding defendants' access authority and thereby obtain information from a department or agency of the United States, that is, information contained in the NCIC database, and to do so for the purpose of private financial gain, in violation of Title 18, United States Code, Sections 1030(a)(2)(B) and (c)(2)(B)(i); and

B. corruptly solicit, demand, accept and agree to accept a thing of value from a person, intending to be influenced and rewarded in connection with a transaction and series of transactions of the Office of the Precinct One Constable for Harris County, Texas, involving \$5,000 or more, during any one-year period in which the Office received federal funding of \$10,000 or more, in violation of Title 18, United States Code, Section 666(a)(1)(B).

MANNER AND MEANS OF THE CONSPIRACY

A. It was a part of the conspiracy that defendants would and did identify opportunities

to make private financial gains through their official positions and through the operation of the Constable's Office.

B. It was a part of the conspiracy that defendant ABERCIA would and did enlist his employees to perform personal errands for himself on Harris County time.

C. It was a part of the conspiracy that defendants would and did identify companies that might need or desire NCIC background checks to be conducted on prospective employees;

D. It was further a part of the conspiracy that one or more of the defendants would and did accept money from representatives of those companies in return for running or arranging to have run the needed or desired NCIC background checks;

E. It was further a part of the conspiracy that one or more of the defendants would and did run or arrange to have the NCIC background checks run in return for the money;

F. It was further a part of the conspiracy that defendants would and did identify other opportunities to profit from their official positions, as those opportunities presented themselves;

G. It was further a part of the conspiracy that defendants otherwise would seek out other ways to profit from their official positions and from the operation of the Constable's office; and

H. It was further a part of the conspiracy that one or more of the defendants would and did solicit and accept money in return for official acts of discretion, including the hiring of a deputy constable who otherwise would not have been hired.

OVERT ACTS

In furtherance of the conspiracy and to effect the objects of the conspiracy, the following overt acts, among others, were committed in the Southern District of Texas and elsewhere and within the jurisdiction of the Court:

A. On or about July 2, 2010, defendant BUTLER received \$5,000 in cash from an unindicted co-conspirator, to be given to defendant ABERCIA, in return for ABERCIA's hiring of John Doe as a deputy constable.

B. On or about July 2, 2010, defendant BUTLER delivered \$3,000 of the cash he had received from an unindicted co-conspirator to defendant ABERCIA, keeping \$2,000 for himself.

C. On or about November 3, 2011, defendant BUTLER informed a confidential source that ABERCIA solicited and accepted money in return for running NCIC background checks on various companies' prospective employees.

D. On or about November 7, 2011, defendant ABERCIA accepted from the confidential source \$3,000 in cash in return for running NCIC background searches on four purported prospective employees of a power washing company operated by the confidential source's mother.

E. On or about November 7, 2011, defendant ABERCIA instructed defendant WIENER to have the NCIC searches run.

F. On or about November 7, 2011, defendant WIENER reported the results of the searches to the confidential source.

G. On or about November 9, 2011, defendant ABERCIA accepted from the confidential source \$3,000 in cash in return for running NCIC background searches on three more purported prospective employees of a power washing company operated by the confidential source's mother.

H. On or about November 9, 2011, defendant ABERCIA instructed defendant WIENER to have the second round of NCIC searches run.

I. On or about November 10, 2011, defendant WIENER reported the results of the second round of searches to the confidential source.

J. On or about November 14, 2011, defendant ABERCIA accepted from the confidential source \$3,000 in cash in return for running NCIC background searches on five more purported prospective employees of a power washing company operated by the confidential source's mother.

K. On or about November 14, 2011, defendant ABERCIA instructed defendant WIENER to have the third round of NCIC searches run.

L. On or about November 15, 2011, defendant WIENER reported the results of the third round of searches to the confidential source.

In violation of Title 18, United States Code, Section 371.

COUNTS TWO – TWELVE

(EXCEEDING AUTHORIZED COMPUTER ACCESS)

Paragraphs 1-6 of this Indictment are incorporated herein by reference.

On or about the dates stated below, in the Southern District of Texas and elsewhere and within the jurisdiction of the Court,

JACK F. ABERCIA

and

WELDON KENNETH WIENER,

defendants herein, did intentionally access and aid, abet, counsel, command, induce and procure another to access a computer in a manner that exceeded the defendants' authority, and thereby obtained information from a department or agency of the United States, to wit: information contained in the NCIC database, and such computer access was for the purpose of private financial gain, as follows:

COUNT	DATE	SUBJECT	ACTIONS PERFORMED
2	Nov. 7, 2011	Person A	CCH Summary, Wanted Check, Driver History
3	Nov. 7, 2011	Person B	CCH Summary, Wanted Check, Driver History
4	Nov. 7, 2011	Person C	CCH Summary, Wanted Check, Driver History
5	Nov. 7, 2011	Person D	CCH Summary, Wanted Check
6	Nov. 9, 2011	Person E	CCH Summary, Wanted Check, Driver History
7	Nov. 9, 2011	Person F	CCH Summary, Wanted Check
8	Nov. 15, 2011	Person G	CCH Summary, Wanted Check
9	Nov. 15, 2011	Person H	CCH Summary, Wanted Check
10	Nov. 15, 2011	Person I	CCH Summary, Wanted Check
11	Nov. 15, 2011	Person J	CCH Summary, Wanted Check
12	Nov. 15, 2011	Person K	CCH Summary, Wanted Check

In violation of Title 18, United States Code, Sections 1030(a)(2)(B) and (c)(2)(B)(i), and 2.

COUNT THIRTEEN

(RECEIPT OF BRIBE BY AGENT OF ORGANIZATION RECEIVING FEDERAL FUNDS)

On or about July 2, 2010, in the Southern District of Texas and elsewhere and within the jurisdiction of the Court,

JACK F. ABERCIA

and

MICHAEL BUTLER,

defendants herein, did corruptly solicit, demand, accept and agree to accept a thing of value from a

person, intending to be influenced and rewarded in connection with a transaction and series of transactions of the Office of the Precinct One Constable for Harris County, Texas, involving \$5,000 or more, during any one-year period in which the Office received federal funding of \$10,000 or more, and did aid and abet another in doing the same.


In violation of Title 18 United States Code, Sections 666(a)(1)(B) and 2.

A TRUE BILL.

ORIGINAL SIGNATURE ON FILE

FOREPERSON OF THE GRAND JURY

KENNETH MAGIDSON
UNITED STATES ATTORNEY

A handwritten signature in black ink, appearing to read "Michael J. Wynne", is written over a horizontal line.

MICHAEL J. WYNNE
ASSISTANT U.S. ATTORNEY
SPECIAL PROSECUTIONS SECTION