

FILED

MAY 20 2013

UNITED STATES DISTRICT COURT

for the

Eastern District of Arkansas

~~IN OPEN COURT~~
JAMES W. MCCORMACK, CLERK
BY: 
DEPUTY CLERK

United States of America)

v.)

Martha Ann Shoffner)

Case No. 4:13MJ4007 HDY

Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of late 2009 through May 2013 in the county of Jackson and elsewhere in the Eastern District of Arkansas, the defendant(s) violated:

Code Section

Offense Description

18 U.S.C. § 1951(a)

Hobbs Act - Extortion Under Color of Official Right

This criminal complaint is based on these facts:

See attached


Continued on the attached sheet.


Complainant's signature

Richard S. McLain, Special Agent, FBI
Printed name and title

Sworn to before me and signed in my presence.

Date: 05/20/2013


Judge's signature

City and state: Little Rock, Arkansas

H. David Young, U.S. Magistrate Judge
Printed name and title

Affidavit for Complaint

I, RICHARD S. MCLAIN, being duly sworn on oath, depose and state as follows:

I. Introduction

1. I am a Special Agent of the Federal Bureau of Investigation (FBI), United States Department of Justice. I have been employed as a Special Agent with the FBI since March 2008. I am currently assigned to the Little Rock Division of the FBI. I have received training in white collar crime matters to include mail fraud, wire fraud, money laundering, bribery, and public corruption. I was licensed as a certified fraud examiner in June 2012. During my time as a Special Agent, I have participated in numerous investigations of unlawful acts of fraud, bribery, and public corruption, and have conducted or participated in physical and electronic surveillance including the use of court-authorized wiretaps, the execution of search warrants, the execution of seizure warrants, the debriefing of confidential informants, the debriefing of cooperating witnesses, and reviews of consensually monitored conversations.

2. I am personally involved in the investigation of this matter, and I am familiar with all aspects of this investigation. In addition to my personal knowledge, the statements contained in this Affidavit are based in part on: information provided by confidential sources working with the FBI; review of consensually monitored conversations; visual and electronic surveillance; information provided by cooperating witnesses; review of subpoenaed records; and my training and experience and the experience of other Special Agents.

3. This affidavit contains information from consensually monitored conversations. To the extent that consensually monitored conversations are summarized below, those summaries may not include references to all of the topics covered during the course of the conversations that were recorded. In addition, the summaries may not include references to all statements made by the speakers on the topics that are described. Where conversations are quoted, these are preliminary quotations based on review of the recordings. Additionally, the identities of the speakers in the conversations are based on a combination of factors, including surveillance and information from a confidential human source. Additionally, within the conversation, I have added my understanding and/or interpretation of what was said, which is based on my training and experience and on the experience of other Special Agents in the context of this investigation, as well as, based on the understanding of a confidential human source and witnesses cooperating in this investigation.

4. Arkansas State Treasurer MARTHA ANN SHOFFNER (SHOFFNER) is under investigation for knowingly attempting to and conspiring to obstruct, delay and affect in any way and degree commerce by extortion as defined in Title 18, United States Code, Section 1951(b)(2); that is, SHOFFNER obtained cash payments to which SHOFFNER was not entitled from CHS1, with CHS1's consent, knowing that the cash payments were made under color of official right, in return for official acts as Arkansas State Treasurer, namely, that SHOFFNER caused the transfer of a large portion of the State's investment activity to CHS1 in violation of Title 18, United States Code, Section 1951(a).

II. Background of Investigation

5. In or about January 2012, an employee with the Arkansas Treasurer's Office, cooperating with the FBI as a confidential human source (CHS2), advised that SHOFFNER was using one broker over others and was not following historical investment practices of the Treasurer's Office. CHS2 stated the State of Arkansas holds approximately a \$3.5 - \$4 billion portfolio including approximately \$1.5 billion in bonds. I reviewed the Legislative Joint Audit Committee's report dated September 14, 2012, and it showed the Arkansas State Treasury held approximately a \$3.4 billion portfolio in 2009 and a \$3.3 billion portfolio in 2011. This included approximately \$1 billion in bonds in 2009 and \$1.5 billion in bonds in 2011. CHS2 stated that historically, the Treasurer's Office had used approximately 10 brokers throughout the state to execute buy/sell orders in its bond portfolio. Confidential Human Source 3 (CHS3), another broker who had done business with the State of Arkansas, also stated that the Treasurer's Office had historically used approximately 10 brokers. CHS2 further stated that the distribution of the bond portfolio had been relatively even among the brokers and the state usually held the investments until maturity.

6. In mid-2011, CHS2 noticed a major shift in the allocation of the bond portfolio to one broker (CHS1).¹ CHS2 stated that CHS1 invested the largest portion of the state's \$1.5 billion bond portfolio and was allowed access to the information related to the entirety of the state's bond portfolio which had never been shared with a broker before. CHS2 stated that CHS1 was already being used by the state to conduct some of its bond business before the large shift to CHS1 occurred. In mid-2011, CHS2 confronted SHOFFNER about the apparent favoring of one broker over the others and SHOFFNER responded, "they've [the other brokers] done nothing for me" and I just "trust" CHS1. CHS2 also

¹ CHS1 has been given immunity in exchange for his/her cooperation in this case.

confronted CHS1 about the apparent favoritism and CHS1 responded, "I have been very good to Martha."

7. In or about April 2012, a cooperating witness (CW1) previously employed at the Treasurer's Office was interviewed. CW1 advised SHOFFNER began using CHS1 more than other brokers. CW1 believed SHOFFNER began using CHS1 more than other brokers at about the same time SHOFFNER was looking for a new place to live in Little Rock, Arkansas. SHOFFNER had been living for free in a building downtown but the building was going to be sold. SHOFFNER began looking for a place to stay in Little Rock so she would not have to commute from her residence in Newport, Arkansas, on a daily basis. SHOFFNER commented often about her inability to afford a place in Little Rock but SHOFFNER, in fact, moved into a new apartment in Little Rock. CW1 knew, based on his/her relationship with SHOFFNER, that SHOFFNER could not afford the apartment and SHOFFNER often commented about being broke. At about this time in mid-2011, CW1 noticed the major shift in the bond business to CHS1 and believed that CHS1 could be paying for the apartment.

8. I have confirmed through interview of CHS1, as well as business records provided by CHS1 and the State of Arkansas, that the allocation of the State's bond portfolio to CHS1 actually began increasing in or around early 2010.

III. Broker Interview (CHS1)

9. On or about January 18, 2013, the broker (CHS1) was interviewed. CHS1 advised he/she had given two cash campaign contributions to SHOFFNER. The first was a \$2,000 cash payment at a campaign event in Little Rock, Arkansas. The second was in the form of a campaign watch party sponsorship in the amount of approximately \$4,700 in cash. The cash was to cover all the expenses related to the watch party. CHS1 gave the cash to CW1 during the watch party event.

10. CHS1 stated that the day before the interview, January 17, 2013, CHS1 was contacted by an employee of the Treasurer's Office and instructed to go to the back door of the Treasurer's Office around 11:00 a.m. CHS1 appeared as requested and was met by the employee and SHOFFNER. After the employee left CHS1 and SHOFFNER alone, SHOFFNER told CHS1 "you gave me no cash" and "you just sponsored a watch party". It became clear to CHS1, that based on SHOFFNER's comments, SHOFFNER kept the cash he/she provided to CW1 the night of the watch party event.

11. CHS1 said that in approximately the fall of 2009, around the time of the campaign event mentioned in paragraph 9, SHOFFNER began to ask CHS1 for larger gifts. CHS1 believed SHOFFNER was comfortable asking CHS1 for larger gifts because he/she had been giving SHOFFNER smaller gifts prior to that time. In 2009, SHOFFNER asked CHS1 to purchase property for her in Little Rock, Arkansas. CHS1 did not do so because SHOFFNER would be living on the property and his/her name would be on the paperwork for the purchase of the property.

12. After CHS1 did not purchase the property for SHOFFNER, SHOFFNER wanted \$1,000 per month to pay her rent at a location in Little Rock, Arkansas. CHS1 did not think it would be a good idea to meet on a monthly basis because it would look suspicious so he/she recommended they meet every six months. CHS1 told your affiant that this arrangement was for the duration of SHOFFNER's term in office. Initially, CHS1 recalled making four to five cash payments to SHOFFNER. However, after asking CHS1 when the payments began, CHS1 recalled making approximately six cash payments because CHS1 remembers the payments started in either late 2009 or mid 2010. CHS1 recalled the following: Two payments were made to SHOFFNER at the State Capitol; two payments were made to SHOFFNER at her residence in Newport, Arkansas; and, two payments were made to SHOFFNER at SHOFFNER's apartment in Little Rock, Arkansas. CHS1 stated that the most recent payment was made in December 2012. CHS1 stated he/she paid SHOFFNER approximately six cash payments of \$6,000 each in addition to the cash paid for the watch party described in paragraph 9 above. CHS1 believed that four payments were in \$100 bills and that two payments contained both \$100 bills and \$50 bills.

13. In 2012, CHS1 began placing the payment, which had been rolled up, with a pie inside of a pie box purchased from a Little Rock business to conceal the payment being delivered to SHOFFNER. This method of concealing the payment was done the last two times SHOFFNER was paid and both of those payments were at SHOFFNER's residence in Newport, Arkansas.

14. CHS1 began receiving more of the State's bond business after he/she began paying SHOFFNER \$6,000 cash every six months. CHS1 assumed that his/her existing bond business was secure when he/she began paying SHOFFNER, but acknowledged that at the time he/she began making payments, his/her bond business increased in value substantially. CHS1 recognized his/her bond business with the State grew because of the payments he/she made to SHOFFNER. CHS1, through his/her business, purchased bonds for the State of Arkansas through a business in New York. This increase in his/her investment activity was confirmed by CHS1's business records and records from the State of Arkansas.

V. Consensually Recorded Conversation

15. On or about January 19, 2013, CHS1 met with SHOFFNER at her residence in Newport, Arkansas. The meeting had been pre-arranged between CHS1 and SHOFFNER. The conversation that took place during this meeting was consensually recorded. I have reviewed the recording.

16. As part of their conversation on January 19, 2013, CHS1 and SHOFFNER discussed the \$6,000 payments CHS1 had been making to SHOFFNER. SHOFFNER said that she had not told anyone about the cash payments that CHS1 had made to her. During the conversation, SHOFFNER stated that she told the Legislative Audit that she did not accept anything from CHS1. As part of my investigation, I know that SHOFFNER is referring to her testimony before the Arkansas Legislative Joint Auditing Committee on September 17, 2012. As a further part of the conversation between CHS1 and SHOFFNER on January 19, 2013, SHOFFNER stated that nothing in her finances could show anything different. I believe this part of the conversation shows SHOFFNER's plan to deny ever having received cash payments from CHS1 in exchange for bond business and that she lied under oath during a Legislative Joint Auditing Committee hearing about ever receiving any benefit from CHS1. I also understand this conversation to imply that SHOFFNER kept no record of any cash received from her campaign events, or from CHS1's cash payments, and has paid no taxes on the cash received.

17. As a further part of the conversation between CHS1 and SHOFFNER on January 19, 2013, CHS1 questioned whether there was any other broker doing what he/she did and SHOFFNER stated that there was not. My understanding of this part of the conversation is that SHOFFNER is claiming that no other broker had paid cash to her. I have reviewed records from the State of Arkansas, specifically, a report from CHS2 and the Legislative Joint Auditing Committee Special Report dated September 14, 2012, and there is no other broker handling business for the State of Arkansas whose share of the bond portfolio increased as much as much as CHS1's did during the time period at issue.

18. As a further part of the conversation between CHS1 and SHOFFNER on January 19, 2013, CHS1 questioned how SHOFFNER was taking care of her cash and how she spent it and whether it was hard to spend it. SHOFFNER said that each time it was gone in six months or so and responded in the negative as to whether or not anyone ever questioned the \$100 bills. I understand this part of the conversation to be regarding the \$6,000 in cash payments that CHS1 had given SHOFFNER. CHS1 also inquired as to whether anyone has ever questioned SHOFFNER about the cash she uses, particularly the \$100 bills CHS1 had given when making the cash payments. Based on SHOFFNER's response, I believe

she negotiates the \$100 bills in several areas to dispose of it rather than pay a single large amount at any one time.

19. As a further part of the conversation between CHS1 and SHOFFNER on January 19, 2013, CHS1 told SHOFFNER that he/she hopes it can get back to normal after the "smoke" settles. CHS1 told SHOFFNER that he/she is thankful for what he/she has, and SHOFFNER responded that we have two more years and we'll just see what it brings. CHS1 asked SHOFFNER to try to do anything she can to help if it gets to the point where SHOFFNER feels like she has more leeway, and SHOFFNER responded that she will.

20. On May 9, 2013, SHOFFNER called CHS1 and CHS1 recorded part of the conversation. SHOFFNER asked CHS1 to assist her in obtaining a loan to buy property next to her house in Newport, Arkansas, and asked CHS1 if someone else could bid on the property on her behalf so SHOFFNER could keep her name secret in the purchase. CHS1 suggested meeting with SHOFFNER on May 18, 2013, at 11:00 a.m. at SHOFFNER's house in Newport, Arkansas. SHOFFNER agreed to the meeting. As this was approximately six months from the date of the last \$6,000 cash payment, CHS1 took \$6,000 in FBI funds for purposes of making the regular 6 month payment in accordance with the arrangement described in paragraph 12 above.

21. On May 18, 2013, CHS1 met SHOFFNER at her house in Newport, Arkansas. Prior to the meeting, CHS1 was provided technical surveillance equipment to record the meeting. CHS1 was also provided with \$6,000 cash in FBI official government funds. The cash was rolled up and placed into a pie box. During the meeting between CHS1 and SHOFFNER, CHS1 gave the pie box containing the \$6,000 cash to SHOFFNER. After CHS1 left SHOFFNER's house, Special Agents with the FBI executed a search warrant at SHOFFNER's house. The \$6,000 was located in a cigarette pack in SHOFFNER's kitchen. SHOFFNER advised Special Agents of the FBI where she placed the \$6,000.

22. SHOFFNER was interviewed and admitted to receiving multiple \$6,000 cash payments from CHS1. SHOFFNER still had some of the cash from the last \$6,000 payment that CHS1 made and she provided that to the agents. SHOFFNER admitted she knew it was wrong to accept the payments.

22. Based on the aforementioned, I believe SHOFFNER has knowingly attempted to and conspired to obstruct, delay and affect in any way and degree commerce by extortion as defined in Title 18, United States Code, Section 1951(b)(2); that is, SHOFFNER obtained cash payments to which SHOFFNER was not entitled from CHS1, with CHS1's consent, knowing that the cash payments were

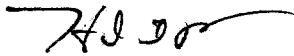
made under color of official right, in return for official acts as Arkansas State Treasurer, namely, that SHOFFNER caused the transfer of a large portion of the State's investment activity to CHS1 in violation of Title 18, United States Code, Section 1951(a).

Further AFFIANT SAYETH NOT.



RICHARD S. MCLAIN
Special Agent
Federal Bureau of Investigation

SUBSCRIBED and SWORN TO before me this
20 day of May, 2013.



Honorable H. David Young
United States Magistrate Judge