

ORIGINAL

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U.S.D.C. Atlanta

AUG 26 2014

JAMES N. HATTEN, Clerk
By: *B. Han* Deputy Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

UNITED STATES OF AMERICA

v.

ELAINE BOYER

Criminal Information

No. 1:14-CR-317

THE UNITED STATES ATTORNEY CHARGES THAT:

COUNT 1

(Mail Fraud Conspiracy - 18 U.S.C. § 1349)

1. Beginning on a date unknown, but at least by in or about September 2009 to in or about November 2011, in the Northern District of Georgia and elsewhere, defendant ELAINE BOYER as the Commissioner for District 1 of DeKalb County, Georgia, conspired, agreed, and had a tacit understanding with others, to knowingly devise and intend to devise, and to willfully participate in, a scheme and artifice to defraud DeKalb County and to obtain money from DeKalb County, by means of materially false and fraudulent pretenses, representations, and promises, and in executing the scheme and artifice to defraud, knowingly caused mail to be sent and delivered by the United States Postal Service, in violation of Title 18, United States Code, Sections 1341 and 1349.

Background

2. In DeKalb County, Georgia, the Board of Commissioners (“BOC”) serves as the legislative branch of the DeKalb County Government. The BOC is comprised of seven part-time commissioners, who are elected to serve four-year terms.

3. The BOC’s Statement of Values says that its Commissioners will: (a) “strive to give our very best,” (b) “be honest with each other and our stakeholders by communicating openly and professionally,” (c) “strive to ensure all sides have equal consideration,” (d) “adhere to ethical and professional values and behaviors, which include common courtesy, respect, and trust,” and (e) “believe that accountability and fiscal responsibility are essential for public confidence in government.”

4. Each of the seven Commissioners is responsible for the management of their respective offices, which includes controlling the offices’ budget and hiring staff members, contractors, and consultants. In recent years, the operating budget for a Commissioner’s office has been approximately \$250,000 per year. The Commissioners may use their budget only for county-related business.

5. In 1992, BOYER began serving as the Commissioner of District 1, which serves citizens in north DeKalb County, including in Brookhaven, Dunwoody, Tucker, and Smoke Rise, Georgia. Among other responsibilities, BOYER sits on the BOC’s Finance, Budget, and Audit Committee and is the Chairwoman of the Employee Relations and Community Services Committee. BOYER’s term of office expires in 2016.

Scheme to Defraud

6. In or about September 2009, as the Commissioner of District 1, BOYER retained an individual ("Advisor") allegedly to assist her with government consulting and advisory duties on issues that affected her constituents.

7. From September 2009 to November 2011, false invoices were submitted to BOYER's office for consulting services purportedly rendered by Advisor. In fact, Advisor performed no services for BOYER, constituents of District 1, or DeKalb County.

8. BOYER used the false invoices as a basis to authorize payments to Advisor. Based on requisition requests from BOYER, DeKalb County mailed, via the United States Postal Service, approximately 35 checks to Advisor for consulting services that were never performed. In total, DeKalb County paid Advisor more than \$78,000.

9. After being paid by DeKalb County, Advisor funneled approximately 75% of the money received from DeKalb County into BOYER's personal bank account. Between September 2009 and November 2011, Advisor deposited more than \$58,000 in DeKalb County funds into BOYER's personal bank account (while retaining the remainder of the money). In turn, BOYER used the money deposited into her account to pay personal expenses, including purchases at hotels and high-end department stores.

All in violation of Title 18, United States Code, Sections 1341 and 1349.

COUNT 2

(Wire Fraud - 18 U.S.C. § 1343)

10. The United States Attorney re-alleges and incorporates by reference the factual allegations from Paragraphs 1 through 9 of this Information as if fully set forth herein.

11. Beginning on a date unknown, but at least by in or about October 2010 to in or about February 2014, in the Northern District of Georgia and elsewhere, defendant ELAINE BOYER as the Commissioner for District 1 of DeKalb County, Georgia, knowingly devised and intended to devise a scheme and artifice to defraud DeKalb County and to obtain money from DeKalb County by means of materially false and fraudulent pretenses, representations, and promises, and in executing the scheme and artifice to defraud, knowingly caused to be transmitted by means of wire communications in interstate commerce signs, signals, and sounds - that is, credit card electronic payment authorizations, in violation of Title 18, United States Code, Sections 1343.

Scheme to Defraud

12. In her capacity as a Commissioner, DeKalb County issued BOYER a Visa Purchasing Card ("P-Card") to make county-related purchases. On January 14, 2010, BOYER signed a Cardholder Users' Agreement stating she would not use the P-Card to make personal purchases.

13. From October 2010 to February 2014, BOYER made more than 50 personal purchases on her P-Card, including purchasing airline tickets and hotel rooms for herself and her family for personal travel.

14. For example, on or about May 30, 2012, in furtherance of the scheme, BOYER knowingly caused wire communications to be transmitted in interstate commerce – that is, an electronic payment authorization for \$344.60 relating to the purchase of a commercial airline ticket. BOYER subsequently used said airline ticket for travel that was unrelated to her duties as a Commissioner. In total, BOYER made over \$15,000 worth of purchases on her P-Card for personal goods and services.

All in violation of Title 18, United States Code, Section 1343.

Forfeiture Provision

15. Upon conviction for one or more of the offenses alleged in Counts 1 through 2 of this Information, the defendant 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 property constituting or derived from proceeds obtained directly or indirectly as a result of said violations.

16. If, as a result of any act or omission of the defendant, any property subject to forfeiture:

- a. Cannot be located upon the exercise of due diligence;
- b. Has been transferred or sold to, or deposited with, a third person;
- c. Has been placed beyond the jurisdiction of the Court;
- d. Has been substantially diminished in value; or
- e. Has been commingled with other property which cannot be subdivided without difficulty;

the United States intends, pursuant to Title 18, United States Code, Section 982 (b) and Title 21, United States Code, Section 853(p), and Title 28, United States

Code, Section 2461(c), to seek forfeiture of any other property of the defendant up to the value of the forfeitable property.

SALLY QUILLIAN YATES
United States Attorney



JEFFREY W. DAVIS
Assistant United States Attorney
Georgia Bar No. 426418



KURT R. ERSKINE
Assistant United States Attorney
Georgia Bar No. 249953

600 U.S. Courthouse ▪ 75 Spring Street, SW
Atlanta, GA 30303 ▪ 404-581-6000