

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case:2:12-cr-20497
Judge: Friedman, Bernard A.
MJ: Majzoub, Mona K.
Filed: 07-31-2012 At 04:52 PM
INDI USA V SEALED MATTER (DA)

D-1 XAVIER HICKS,
D-2 JAMES RAMSEY,
D-3 BOBBY PERCY,
D-4 BENJAMIN CARTER,
D-5 DAREARRAUL JACKSON
D-6 JONATHAN GIBSON, and
D-7 ASHLEY PASTERNAK,

Defendants.

_____ /

INDICTMENT

THE GRAND JURY CHARGES:

GENERAL ALLEGATIONS

At all times material to this indictment:

1. Bank of America (BOA) was a financial institution with deposits insured by the Federal Deposit Insurance Corporation.

2. BOA allowed their customers to contact them by telephone to update their accounts and conduct banking transactions. For example, a customer could call to enroll in online banking, to change his or her mailing address, to open new accounts, or to transfer funds between existing accounts. Customers with online banking access could conduct banking transactions via the internet, including transferring funds between existing accounts.

3. **“Personal identifying information”** includes all means of identification such as any name or number that may be used alone or with other information to identify a specific individual, including name, address, social security number, date of birth, account numbers, as well as any other unique personal identifying information.

4. **Account take over fraud** describes one way to invade and loot a legitimate bank account by obtaining and using, without authorization, a victim’s personal identifying information to gain access the victim’s existing bank accounts and conduct unauthorized transactions.

COUNT ONE

(18 U.S.C. § 1349 – Conspiracy to Commit Bank Fraud)

- D-1 XAVIER HICKS
- D-2 JAMES RAMSEY
- D-3 BOBBY PERCY
- D-4 BENJAMIN CARTER
- D-5 DAREARRAUL JACKSON
- D-6 JONATHAN GIBSON
- D-7 ASHLEY PASTERNAK

5. The General Allegations are incorporated into this count by reference.

6. Beginning in and about July 2010, and continuing through in and about April 2012, in the Eastern District of Michigan and elsewhere, defendants XAVIER HICKS (D-1), JAMES RAMSEY (D-2), BOBBY PERCY (D-3), BENJAMIN CARTER (D-4), DAREARRAUL JACKSON (D-5), JONATHAN GIBSON (D-6), and ASHLEY PASTERNAK (D-7), did knowingly and willfully conspire, combine, confederate, and agree with each other and others known and unknown to the Grand Jury to violate Title 18, United States Code, Section 1344, that is, to execute a scheme and artifice to defraud and to obtain money in the

custody and control of Bank of America, by means of materially false and fraudulent pretenses and representations.

Manner and Means

7. **XAVIER HICKS** (D-1) and others known and unknown to the Grand Jury obtained the stolen personal identifying information for true Bank of America account holders (the victim-customers), and used this information to fraudulently access funds contained in their existing bank accounts, in the following manner, among others:

- a. **HICKS** recruited a co-conspirator (the “runner”) to open a new BOA account in the runner’s true name.
- b. Using BOA’s telephone and online banking systems and the stolen personal identifying information of a victim-customer, **HICKS** and others known and unknown to the Grand Jury then opened a joint BOA account in the names of the runner and the victim-customer, without the victim-customer’s knowledge or consent.
- c. Using BOA’s telephone and online banking systems, **HICKS** and others known and unknown to the Grand Jury then transferred funds from the compromised victim-customer’s account into the fraudulent joint account;
- d. Using BOA’s telephone and online banking systems, **HICKS** and others known and unknown to the Grand Jury then transferred the funds from that fraudulent joint account, into the account held solely by the runner;
- e. **HICKS** then directed the runner to withdraw the victim-customer’s money from the account or make purchases with his debit card.

- f. **HICKS** paid runners, including JONATHAN GIBSON (D-4) and ASHLEY PASTERNAK (D-5), for opening BOA accounts and withdrawing funds.
- g. **HICKS** himself also withdrew funds and made purchases using the runners' BOA accounts.
- h. **HICKS** and others known and unknown to the Grand Jury conducted unauthorized online banking transactions against the BOA victim-customer accounts by changing the legitimate e-mail addresses linked to the victim-customers' online banking profiles to an e-mail address controlled or accessible by **HICKS** and others known and unknown to the Grand Jury.

8. **JAMES RAMSEY** (D-2) furthered the fraudulent scheme by recruiting and paying runners, and driving them to various BOA branches to open accounts, to withdraw money and to make purchases using the debit cards connected to the runners' accounts.

9. **BOBBY PERCY** (D-3) furthered the fraudulent scheme by recruiting and paying runners, and driving them to various BOA branches to open accounts. **PERCY** also used the runners' debit cards to withdraw money from ATMs and to make debit card purchases.

10. **BENJAMIN CARTER** (D-4) recruited individuals to act as runners in furtherance of the fraud scheme, and directed them to **HICKS** (D-1), who instructed them in the fraud scheme.

11. **DAREARRAUL JACKSON** (D-5) furthered the fraudulent scheme by driving runners to various BOA branches to open accounts, to withdraw money from inside banks and at ATMs, and to make debit card purchases. **JACKSON** also collected account opening documents and withdrawn money from the runners, and gave it to **HICKS** (D-1) and others known and unknown to the Grand Jury.

12. **JONATHAN GIBSON** (D-6) acted as a runner by opening a BOA account in his name, and by adding his name to another runner's BOA account for the purpose of receiving fraudulent money transfers from a BOA victim-customer's account, in furtherance of the fraud scheme. **GIBSON** then withdrew the fraudulently transferred money from his BOA account from ATMs and made purchases using the debit card linked to his BOA account. **GIBSON** also recruited other individuals to act as runners in furtherance of the fraud scheme.

13. **ASHLEY PASTERNAK** (D-7) acted as a runner by opening BOA accounts in her name, and by allowing other runners to be added to her accounts, in order to receive fraudulent money transfers from a BOA victim-customer's account in furtherance of the fraud scheme. **PASTERNAK** then withdrew the fraudulently transferred money from her BOA account from ATMs and cashed a BOA cashier's check that was purchased with the fraudulently transferred money. **PASTERNAK** also recruited other individuals to act as runners in furtherance of the fraud scheme.

14. All in violation of Title 18, United States Code, Section 1349.

COUNTS TWO THROUGH NINE

(18 U.S.C. §§ 1344, – Bank Fraud, Aiding and Abetting)

15. The General Allegations and allegations in Paragraphs 7 – 13, above, are incorporated into these counts by reference.

16. Beginning in July 2010 and continuing through April 2012, in the Eastern District of Michigan, and elsewhere, defendants **XAVIER HICKS** (D-1), **JAMES RAMSEY** (D-2), **BOBBY PERCY** (D-3), **BENJAMIN CARTER** (D-4), **DAREARRAUL JACKSON** (D-5), **JONATHAN GIBSON** (D-6), and **ASHLEY PASTERNAK** (D-7), devised and executed, and aided and abetted each other and others known and unknown to the Grand Jury in devising and

executing, a scheme to defraud and to obtain money owned by, and in the custody or control of BOA, a federally insured financial institution, by means of false and fraudulent pretenses and representations.

17. Each of the following is a separate count of this Indictment.

COUNT	DATE	DEFENDANT(S)	DESCRIPTION OF EXECUTION	FROM LEGITIMATE BOA ACCOUNT	TO FRAUDULENTLY OPENED JOINT BOA ACCOUNT
2	8/23/10	HICKS (D-1) RAMSEY (D-2)	\$18,000 telephone transfer	-2159 (B.H.)	-5589 (B.H./P.B.)
3	10/26/10	HICKS (D-1) CARTER (D-4) JACKSON (D-5) GIBSON (D-6)	\$19,200 online banking transfer	-2990 (P.S.)	-8619 (P.S./GIBSON)
4	11/12/10	HICKS (D-1) JACKSON (D-5) GIBSON (D-6)	\$35,000 online banking transfer	-5722 (S.W.)	-3425 (S.W./J.S.)
5	11/8/10	HICKS (D-1) CARTER (D-4) JACKSON (D-5) GIBSON (D-6) PASTERNAK (D-7)	\$95,000 online banking transfer	-2613 (T.M.)	-7683 (T.M./K.L.)
6	12/7/10	HICKS (D-1) CARTER (D-4) JACKSON (D-5)	\$39,468 online banking transfer	-0099 (J.M.)	-9040 (J.M./J.B.)
7	1/11/11	HICKS (D-1) JACKSON (D-5) PASTERNAK (D-7)	\$38,021 online banking transfer	-0099 (R.W.)	-9737 (R.W./T.P.)

8	3/2/12	RAMSEY (D-2) PERCY (D-3)	\$58,915 online banking transfer	-0499 (P.D.)	-4676 (P.D./M.E.)
9	3/12/12	PERCY (D-3)	\$56,148 online banking transfer	-3390 (T.M.)	-8331 (T.M./W.C.)

18. All in violation of Title 18, United States Code, Sections 1344 and 2.

THIS IS A TRUE BILL.

Grand Jury Foreperson
GRAND JURY FOREPERSON

BARBARA L. MCQUADE
United States Attorney

s/ Cynthia Oberg
CYNTHIA OBERG
Chief, White Collar Crime Unit
Assistant United States Attorney

s/ Frances Lee Carlson
FRANCES LEE CARLSON
Assistant United States Attorney

Dated:


United States District Court
Eastern District of Michigan

Criminal Case Cov

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NOTE: It is the responsibility of the Assistant U.S. Attorney signing this form to cor

Reassignment/Recusal Information This matter was opened in the USAO prior to August 15, 2008 []

Companion Case Information	Companion Case Number:
This may be a companion case based upon LCrR 57.10 (b)(4) ¹ :	Judge Assigned:
<input type="checkbox"/> Yes <input type="checkbox"/> No	AUSA's Initials: FLC 

Case Title: USA v. Xavier Hicks, et. al.

County where offense occurred : Wayne, Macomb and Oakland

Check One: **Felony** **Misdemeanor** **Petty**

____ Indictment/____ Information --- **no** prior complaint.
 Indictment/____ Information --- based upon prior complaint [Case number:12-MJ-30361 Hicks ,
 11-MJ-30549 Carter]
 ____ Indictment/____ Information --- based upon LCrR 57.10 (d) [Complete Superseding section below].

Superseding Case Information

Superseding to Case No: _____ **Judge:** _____

- Original case was terminated; no additional charges or defendants.
- Corrects errors; no additional charges or defendants.
- Involves, for plea purposes, different charges or adds counts.
- Embraces same subject matter but adds the additional defendants or charges below:

<u>Defendant name</u>	<u>Charges</u>	<u>Prior Complaint (if applicable)</u>
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Please take notice that the below listed Assistant United States Attorney is the attorney of record for the above captioned case.

July 31, 2012

Date



Frances Lee Carlson
Assistant United States Attorney
211 W. Fort Street, Suite 2001
Detroit, MI 48226-3277
Phone: (313) 226-9696
Fax: (313) 226-2873
E-Mail address: frances.carlson@usdoj.gov
Attorney Bar #: P62624

¹ Companion cases are matters in which it appears that (1) substantially similar evidence will be offered at trial, (2) the same or related parties are present, and the cases arise out of the same transaction or occurrence. Cases may be companion cases even though one of them may have already been terminated.