

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Criminal Case No.

UNITED STATES OF AMERICA,

Plaintiff,

v.

1. MARK DESMOND FOX,

Defendants.

INDICTMENT

The Grand Jury charges:

At all times relevant to this indictment:

COUNT 1

From a date unknown but no later than the month of July 2016, and continuing thereafter until in or about June 28, 2017, in the State and District of Colorado and elsewhere the defendant, MARK DESMOND FOX, did knowingly and voluntarily conspire and agree with PATRICK ESCH, EDWARD DEAN JAGERS II, and others to commit an offense against the laws of the United States, namely crop insurance fraud, in violation of 18 U.S.C. § 1014.

Manner and Means of Conspiracy

Acting interdependently, the defendant and others, both known and unknown to the grand jury, carried out the conspiracy using the following manner and means:

1. PATRICK ESCH and EDWARD DEAN JAGERS II obtained rainfall index insurance policies from an APPROVED INSURANCE PROVIDER re-insured by the Federal Crop Insurance Corporation, the identity of which is known to the Grand Jury;

2. After obtaining those policies PATRICK ESCH, EDWARD DEAN JAGERS II and MARK DESMOND FOX agreed to tamper with, injure, and commit depredations against government rain gauges within designated zones of responsibility for the purpose of influencing the payment of an indemnity on their rainfall index policies;

3. PATRICK ESCH tampered with, injured and committed depredations against other government rain gauges in his area of responsibility by, among other means, pouring silicone into rain collection mechanisms, cutting wires powering the gauges, disassembling and tiling collection mechanisms, and by hiring MARK DESMOND FOX to tamper with additional gauges;

4. EDWARD DEAN JAGERS II tampered with, injured, and committed depredations against a rain gauge near Lamar, Colorado designated by National Weather Service Identification code KLAA by intentionally placing a metal disc over the rain collection mechanism during precipitation events;

5. MARK DESMOND FOX tampered with, injured and committed depredations against government rain gauges in PATRICK ESCH's area of responsibility by, among other means, covering the rain collection mechanism with a pan, puncturing the precipitation collection mechanism, and pouring water out of the collection mechanisms.

Overt Acts

6. In furtherance of the conspiracy's objective, on or about February 6, 2017, EDWARD DEAN JAGERS II deposited a check from APPROVED INSURANCE PROVIDER for \$74,974.00 representing an indemnity for policy 1027421.

7. In furtherance of the conspiracy's n or about March 21, 2017, MARK DESMOND FOX punched a hole in the collection mechanism of the rain gauge in La Junta, Colorado.

8. On or about March 28, 2017, MARK DESMOND FOX punched a hole in the rain gauge in Ordway, Colorado.

9. In furtherance of the conspiracy's objective, on or about March 28, 2017, PATRICK ESCH put silicone inside the funnel of the rain gauge in Syracuse, Colorado.

10. In furtherance of the conspiracy's objective, on or about March 29, 2017, PATRICK ESCH put silicone inside the funnel of the rain gauge in Coolidge, Kansas.

11. In furtherance of the conspiracy's objective, on or about March 29, 2017, CC-1 placed a pan over the Rain Gauge in Springfield, Colorado.

12. In furtherance of the conspiracy's objective, on or about April 5, 2017, PATRICK ESCH put silicone inside the funnel of the rain gauge in Walsh, Colorado.

13. In furtherance of the conspiracy's objective, on or about April 5, 2017, MARK DESMOND FOX put silicone inside the funnel of the rain gauge in La

Junta, Colorado.

14. In furtherance of the conspiracy's objective, on or about April 11, 2017, MARK DESMOND FOX negotiated a check for \$1,500 provided to him by PATRICK ESCH for his work tampering with rain gauges.

15. In furtherance of the conspiracy's objective, on or about April 11, 2017, MARK DESMOND FOX negotiated a check for \$500 provided to him by PATRICK ESCH for his work tampering with rain gauges.

16. In furtherance of the conspiracy's objective, on or about April 25, 2017, MARK DESMOND FOX negotiated a check for \$500 provided to him by PATRICK ESCH for his work tampering with rain gauges.

17. In furtherance of the conspiracy's objective, on or about June 23, 2017, PATRICK ESCH deposited a check from APPROVED INSURANCE PROVIDER for \$76,197.00 representing an indemnity for policy 1027438.

18. In furtherance of the conspiracy's objective, on or about June 23, 2017, PATRICK ESCH deposited a check from APPROVED INSURANCE PROVIDER for \$728,687.00 representing an indemnity for policy 1027438.

19. In furtherance of the conspiracy's objective, on or about June 23, 2017, PATRICK ESCH deposited a check from APPROVED INSURANCE PROVIDER for \$527,028.00 representing an indemnity for policy 1027438.

20. In furtherance of the conspiracy's objective, on or about June 26, 2017, EDWARD DEAN JAGERS II deposited a check from APPROVED INSURANCE PROVIDER for \$104,647.00 representing an indemnity for policy 1027421.

21. In furtherance of the conspiracy's objective, on or about June 26,

2017, EDWARD DEAN JAGERS II deposited a check from APPROVED INSURANCE PROVIDER for \$27,999.00 representing an indemnity for policy 1027421.

22. In furtherance of the conspiracy's objective, on or about June 28, 2017, PATRICK ESCH deposited a check from APPROVED INSURANCE PROVIDER for \$118,468.00 representing an indemnity for policy 1027438.

23. In furtherance of the conspiracy's objective, on or about June 28, 2017, PATRICK ESCH deposited a check from APPROVED INSURANCE PROVIDER for \$869,356.00 representing an indemnity for policy 1027438.

24. In furtherance of the conspiracy's objective, on or about June 28, 2017, PATRICK ESCH deposited a check from APPROVED INSURANCE PROVIDER for \$627,628.00 representing an indemnity for policy 1027438.

All in violation of Title 18, United States Code, Section 371.

COUNT 2

25. On or about January 17, 2019 in the State and District of Colorado the defendant MARK DESMOND FOX did knowingly make a false entry in a sworn affidavit, a record, document and tangible object, with the intent to impede, obstruct and influence the investigation and proper administration of a criminal investigation that was a matter within the jurisdiction of the United States Department of Agriculture and the United States Department of Justice, departments and agencies of the United States.

All in violation of Title 18, United States Code, Section 1519.

COUNT 3

26. On or about September 12, 2020 in the State and District of Colorado the defendant, MARK DESMOND FOX, with intent to extort from any person any money and other thing of value knowingly deposited in an authorized depository for mail matter and caused to be delivered by the United States Postal Service a letter addressed to Patrick Esch containing a threat to injure Esch's reputation and a threat to accuse another person of a crime, to wit a letter stating among other things

Tell Dean [Jagers] statute of limitation on fraud is date of discovery just in case he was holding his break. I'll give only one warning shot because I really don't' wanna do it its [sic] so foolish. Pay me what owed and that's [sic] it" . . . "Boss, come get me please. If you want me to ease up on Dean I will. But his rich snobby ass needs a reality check and I'd love to hand it to his honky ass. Beggar. Fuck that. Pay me or pay the feds back all that shit Mr. Jagger [sic].

All in violation of Title 18, United States Code, Section 876(d)

COUNT 4

27. On or about September 15, 2020 in the State and District of Colorado the defendant, MARK DESMOND FOX, with intent to extort from any person any money and other thing of value knowingly deposited in an authorized depository for mail matter and caused to be delivered by the United States Postal Service a letter addressed to Patrick Esch containing a threat to injure Esch's reputation and a threat to accuse another person of a crime, to wit a letter stating among other things

So I called Dept of Agriculture. . . . I said I was trying to get

in touch with Mr. Jagger for an unpaid balance . . . I'm still holding to you and I['s] deal. 100%. But Dean [Jagers] ain't shit and it sounds like he's about to catch a federal indictment on some real counts. . . . it's only a matter of time before the FBI come digging at my door and I won't be very favorable for Dean! He either called my bluff or said fuck off. . . . Boss I seriously hope you're in Arizona and for the last 30 days you can't been ignoring me too when all you gotta do is communicate. Because I know for a fact you're getting all of [GIRLFRIEND, whose identity is known to the Grand Jury] text messages and calls. But you're not responding. [GIRLFRIEND] drove to your house twice, her letter on your door was gone indicating you know. Dean said he told you I was in jail (2 weeks ago). I'm still on my word. But I find out you're blowing me off no reason. . . . I won't be nice. Humble Mark. Real shit. So feds know my name now and will come poking around soon. Think I won't hesitate to bust Dean['s] ass in exchange for my own sentence? Beggar . . . \$5,0000. I'll get every bit of it. Btw, let him know how I feel about liars.

All in violation of Title 18, United States Code, Section 876(d)

COUNT 5

28. On or about February 21, 2021 in the State and District of Colorado the defendant MARK DESMOND FOX did corruptly persuade and attempt to persuade another person, GRAND JURY WITNESS whose identity is known to the Grand Jury, with intent to influence GRAND JURY WITNESS's testimony in an official proceeding, a grand jury proceeding, by telling GRAND JURY WITNESS "you don't know nothing about nothing" after being informed that GRAND JURY WITNESS had received a federal grand jury subpoena.

All in violation of 18 U.S.C. § 1512(b)(1)

COUNT 6

29. On or about June 2, 2021 in the State and District of Colorado the

defendant, MARK DESMOND FOX, did corruptly attempt to obstruct, influence and impede an official proceeding, to wit a federal grand jury investigation, by sending a letter to Patrick Esch in which he stated, among other things:

The federal government are targeting you Jager [sic] . . . in a criminal indictment. Conspiracy. Again I am sorry. I can't change anything from jail. Because I have immunity [REDACTED] I can fix it. But not while in custody. I haven't been subpoenaed to the grand jury yet. But my attorneys said I'll be last to go Before indictments roll out. Because of my "Personal knowledge" and if I tried to recant now I'd be cited with perjury and [indecipherable] outside of discovery and they'd just use my proffer agreement. Boss, I can stop it. But I'm going to take a big hit on it, which I already have immunity and have to give? that up. I'm not sure if you tried bonding me out or not but if you do — DON'T DO IT IN YOUR NAME — I can stop and I can help you as I'm the only evidence they have. It cost you nothing to Bond me out. But I won't be able to help from jail. . . . The feds are playing this jail closely. Also your phone and truck are HOT. I can fix this Boss, Believe in me. I already am in line to lose it all. I'm prepared for it. Real Shit. Get me out. Let me show you "fruit of the poisonous tree." Come get me Boss.

All in violation of Title 18, United States Code, Section 1512(c)(2).

COUNT 7

30. On an unknown date in or after March 2021, in the State and District of Colorado, the defendant MARK DESMOND FOX, did corruptly attempt to obstruct, influence and impede an official proceeding, to wit a federal grand jury investigation, by sending a letter to Patrick Esch in which he stated, among other things:

I filed suit with feds. You probably already know . . . since they both testified before grand jury in March. I've yet to be served or subpoenaed. But I'll be reserved as last since I have immunity in place [REDACTED]. Because of the proffer I won't be able to plead 5th. In jail indictment 100% unfolds. They are from what I gathered going to back to all your claims from 2001. The SEC, DOJ & DOA are pining [sic] criminal

conspiracy to get others to Roll on heads of conspiracy and go after money in form of restitution [REDACTED]. I can help, I can defuse this all. But I'd have to lie and forfeit my immunity so you may preserve your freedom. But I won't be able to help you from here. 0%. Be smart boss and trust my word. If not 100 it comes and everyone loses . . . I can stop the indictment if out of reach. Otherwise I'm just pushed inside and you and . . . Jager get hit. They'll be taking conspiracy approach. Carries 10-life sentence. Don't ignore this! . . . My Bond won't cost you a dime. The return in value is extreme polarity for you. I'm already fucked.

All in violation of Title 18, United States Code, Section 1512(c)(2).

FORFEITURE ALLEGATION

31. The allegations contained in Count One of this Information is hereby re-alleged and incorporated by reference for the purpose of alleging forfeiture pursuant to the provisions of Title 18, United States Code, Section 981(a)(1)(C), and Title 28, United States Code, Section 2461(c).

32. Upon conviction of the violation alleged in Count One of this Information involving conspiracy to commit crop insurance fraud, in violation of Title 18, United States, Sections 371 and 1014 the defendant, MARK DESMOND FOX 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 and all of the defendants' right, title and interest in all property constituting and derived from any proceeds the defendant obtained directly and indirectly as a result of such offense, including, but not limited to a forfeiture money judgment.

33. If any of the property described in the paragraphs above, as a result of any act or omission of the defendants:

- a) cannot be located upon the exercise of due diligence;
- b) has been transferred or sold to, or deposited with, a third party;

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;

it is the intent of the United States, pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c), incorporating the provisions of Title 21, United States Code, Section 853(p), to seek forfeiture of any other property of said defendants up to the value of the forfeitable property.

A TRUE BILL:

Ink signature on file in Clerk's office
FOREPERSON

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