

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA

:
:
:
:
:
:
:
:
:

CRIMINAL NO.

1:11-CR-54

v.

FLOYD MARTIN and
SUSAN MARTIN

Defendants.

FILED
SCRANTON

FEB 22 2011

PER  DEPUTY CLERK

INDICTMENT

Introduction

1. In or about February 2009, the U.S. Department of Agriculture, Office of Inspector General (USDA-OIG), Animal & Plant Health Inspection Service (APHIS), and Animal Care (AC), initiated an investigation into possible violations of the Animal Welfare Act Standards and Regulations. The USDA-OIG is responsible for conducting investigations involving fraud, waste, and abuse in the programs and operations of the USDA. This investigation involved Floyd and Susan MARTIN, sole owners and operators of Chestnut Grove Kennel, located in Shippensburg, Pennsylvania.

2. From September 2005 through April 2010, Floyd MARTIN, d/b/a/ Chestnut Grove Kennel, was licensed by the USDA as a Class-B Dog Dealer, authorized to sell live dogs to research facilities for research purposes. Susan MARTIN, the wife of Floyd MARTIN, was listed on the license application as an individual authorized to conduct business on behalf of Chestnut Grove Kennel.

3. As a USDA Class-B Dealer, Floyd MARTIN was permitted to sell "random sourced" dogs to research facilities. "Random sourced" dogs were dogs obtained from persons who were not licensed to sell live dogs. During the time period alleged in this Indictment, Floyd and Susan MARTIN, unlawfully obtained hundreds of live dogs from unlicensed individuals and thereafter sold the dogs to research facilities.

4. Animal Welfare Regulations provide that an unlicensed individual can sell dogs for research purposes provided two requirements are met: (1) the individual may not sell more than 24 dogs per year; and (2) the individual must certify in writing to the USDA that the dogs sold were born and raised on the individual's premises. An APHIS Form 7006 (Record of Disposition) is required by 7 U.S.C. § 2131 - 2156 for each dog.

5. At all times relevant to this Indictment, Floyd and Susan MARTIN primarily purchased dogs from two unlicensed dealers, hereinafter referred to as co-conspirator #1 and co-conspirator #2. Since both co-conspirators were unlicensed, they were permitted to sell dogs for research purposes only if the dogs were born and raised on their own premises. Also, they were not permitted to sell more than 24 dogs per year.

6. The MARTINS were required to complete a USDA APHIS Form 7006 for each dog they obtained from an unlicensed person. The MARTINS were required to keep the Form 7006 relating to each dog and were required to provide a copy of the record to the research facility that ultimately purchased the dog.

7. The MARTINS typically earned hundreds of dollars in profit from the sale of each dog to a research facility. The MARTINS typically paid co-conspirators #1 and #2 approximately \$50 - \$75 for each dog they sold to the MARTINS.

THE GRAND JURY FURTHER CHARGES:

COUNT ONE

**(18 U.S.C. § 371 - Conspiracy to Commit Aggravated Identity Theft,
Mail Fraud, and False Statements)**

8. Paragraphs 1-7 of this Indictment are hereby incorporated by reference, as though fully set forth herein.

9. Between September 2005 and April 2010, within the Middle District of Pennsylvania, and elsewhere, the defendants,

**FLOYD MARTIN
and
SUSAN MARTIN**

along with others, both known and unknown to the Grand Jury, conspired, combined, confederated, and agreed together with each other to commit the following offenses against the United States:

(a) Aggravated Identity Theft, in violation of 18 U.S.C. §1028A(a), in that the defendants did knowingly transfer, possess, and use without lawful authority a means of identification of another person, knowing that it was the means of identification of another person, in relation to the commission of additional felonies;

(b) Mail Fraud, in violation of 18 U.S.C. §1341, in that the defendants devised a material scheme and artifice to defraud and obtain money and property by means of false and fraudulent pretenses, representations and promises, and for the purpose of executing such scheme

and artifice, did knowingly cause to be sent and delivered by the U.S. Postal Service checks and other documents; and

(c) False Statements, in violation of 18 U.S.C. §1001, in that the defendants did willfully and knowingly make, in a matter within the jurisdiction of the USDA, a department or agency of the United States, a false writing and document knowing the same contained a materially false, fictitious, and fraudulent statement.

Manner and Means

10. In order to circumvent the law and increase their profits, Floyd and Susan MARTIN, along with others both known and unknown to the Grand Jury, engaged in a conspiracy to make unlawful sales of dogs appear lawful.

(a) To maximize their profit, the MARTINS needed other co-conspirators, to provide a constant supply of dogs, well beyond the 24 dog per year limit each was permitted to supply.

(b) During the existence of the conspiracy, the MARTINS' co-conspirators obtained hundreds of dogs from a variety of sources, both known and unknown. Dogs were obtained from sources in Pennsylvania, Illinois, Kentucky, Maryland, North Carolina, Ohio, South Carolina, Virginia and West Virginia. The co-conspirators then sold the dogs to the MARTINS.

(c) Floyd and Susan MARTIN, along with their co-conspirators, falsely used the names of various family members and acquaintances on USDA certification statements to make it appear that the MARTINS' co-conspirators sold fewer than 25 dogs to the MARTINS during any one year period. In fact, the MARTINS' co-conspirators sold more than 50 dogs to the MARTINS during each year covered by this Indictment.

11. Certain persons whose identities were falsely used had no knowledge of the scheme to steal their identities. At least one individual was deceased at the time a certification statement falsely indicates he sold 24 dogs to the MARTINS. Some family members and friends of the MARTINS' co-conspirators knowingly offered their identities for use.

12. Floyd MARTIN, along with others both known and unknown to the Grand Jury, also engaged in a scheme to alter records of previous sales of dogs to Chestnut Grove Kennel by making false entries on existing certification statements which purported to reflect additional transfers of dogs to Chestnut Grove Kennel by the persons named on the certification statements. In fact, the persons identified on the certification statements never made such additional transfers of dogs. Dogs were falsely added to existing certification statements in situations where the unlicensed individuals identified on the forms had previously purportedly supplied dogs to Chestnut Grove Kennel but had not reached their yearly limit of 24 dogs.

13. As part of the scheme and artifice to defraud, Floyd MARTIN prepared at least 18 materially false Certificates of Veterinary Inspections (CVIs) on which he identified animals purportedly examined and listed dates on which the examinations purportedly took place. In fact, many of the animals had never been examined. This resulted in the shipment of animals with unknown health conditions to federally regulated research facilities.

14. The MARTINS often paid their co-conspirators by check issued by one or both of the MARTINS from a joint checking account they maintained.

(a) Between approximately April 2006 and April 2009, the MARTINS paid one co-conspirator, known to the Grand Jury, approximately \$13,154.00 for dogs he sold to the MARTINS.

(b) Between approximately April 2006 through February 2010, the MARTINS paid another co-conspirator, known to the Grand Jury, approximately \$40,924 for dogs he sold to the MARTINS.

(c) Often, the MARTINS' co-conspirators dropped off dogs at the MARTINS' kennel when the MARTINS were not at home or late at night. When that occurred, the MARTINS would pay their co-conspirators by check the next time they were at the kennel or the MARTINS would remit payment through the mail. When the MARTINS needed more dogs, Floyd MARTIN would often call one or more of his co-conspirators to ask them to gather more dogs.

15. In furtherance of the scheme, the MARTINS caused research facilities to mail checks to the MARTINS in payment for dogs sold to the facilities by Chestnut Grove Kennel. Susan and Floyd MARTIN deposited these checks into their joint bank accounts.

16. From September 2005 through April 2010, the MARTINS received checks from research facilities totaling hundreds of thousands of dollars which represented proceeds of the unlawful agreement between the MARTINS and their co-conspirators. The checks were mailed to the MARTINS through use of the United States Postal Service.

Sample Mailings

(a) On or about August 14, 2007, the MARTINS caused a research facility to mail check no. 295057 in the amount of \$1,935.00 from New York to Chestnut Grove Kennel, in Shippensburg, Pennsylvania.

(b) On or about December 5, 2007, the MARTINS caused a research facility to mail check no. 10187073 in the amount of \$5,497.50 from Maryland to Chestnut Grove Kennel in

Shippensburg, Pennsylvania.

(c) On or about April 15, 2008, the MARTINS caused a research facility to mail check no. 213801 in the amount of \$2,250.00 from New Jersey to Chestnut Grove Kennel in Shippensburg, Pennsylvania.

(d) On or about October 17, 2008, the MARTINS caused a research facility to mail check no. 311627 in the amount of \$3,600.00 from New York to Chestnut Grove Kennel in Shippensburg, Pennsylvania.

Overt Acts

17. On multiple occasions between September of 2005 and March of 2010, Floyd MARTIN, along with others both known and unknown to the Grand Jury, knowingly falsified certification statements and knowingly forged signatures on verification forms.

18. On or about June 25, 2007, Floyd MARTIN, along with others both known and unknown to the Grand Jury, caused a certification statement to be prepared that was materially false in that it contained a statement that D.B. had sold dogs to Chestnut Grove Kennel which dogs had been "born and raised" by D.B., when in fact D.B. did not sell the dogs to Chestnut Grove Kennel nor were the dogs "born and raised" by D.B.

19. On or about June 8, 2007, Floyd MARTIN, along with others both known and unknown to the Grand Jury, caused a certification statement to be prepared that was materially false in that it contained a statement that E.H., Jr. had sold dogs to Chestnut Grove Kennel which dogs had been "born and raised" by E.H., Jr., when in fact E.H., Jr. did not sell the dogs to Chestnut Grove Kennel nor were the dogs "born and raised" by E.H., Jr., who was deceased on

the date of the purported sale.

20. On or about June 19, 2007, Floyd MARTIN, along with others both known and unknown to the Grand Jury, caused a certification statement to be prepared that was materially false in that it contained a statement that E.H., Jr., Jr. had sold dogs to Chestnut Grove Kennel which dogs had been "born and raised" by E.H., Jr., when in fact E.H., Jr. did not sell the dogs to Chestnut Grove Kennel nor were the dogs "born and raised" by E.H., Jr., who was deceased on the date of the purported sale.

21. On or about June 26, 2007, Floyd MARTIN, along with others both known and unknown to the Grand Jury, caused a certification statement to be prepared that was materially false in that it contained a statement that D.C. had sold dogs to Chestnut Grove Kennel which dogs had been "born and raised" by D.C., when in fact D.C. did not sell the dogs to Chestnut Grove Kennel nor were the dogs "born and raised" by D.C.

22. On or about April 5, 2008, Floyd MARTIN, along with others both known and unknown to the Grand Jury, caused a certification statement to be prepared that was materially false in that it contained a statement that T.M. had sold dogs to Chestnut Grove Kennel which dogs had been "born and raised on my premises," when in fact T.M. did not sell the dogs to Chestnut Grove Kennel nor were the dogs "born and raised" on his premises.

23. On or about April 12, 2008, Floyd MARTIN, along with others both known and unknown to the Grand Jury, caused a certification statement to be prepared that was materially false in that it contained a statement that T.M. had sold dogs to Chestnut Grove Kennel which dogs had been "born and raised on my premises," when in fact T.M. did not sell the dogs to Chestnut Grove Kennel nor were the dogs "born and raised" on his premises.

24. On or about June 2, 2008, Floyd MARTIN, along with others both known and unknown to the Grand Jury, caused a certification statement to be prepared that was materially false in that it contained a statement that S.S. had sold dogs to Chestnut Grove Kennel which dogs had been "born and raised on my premises," when in fact S.S. did not sell the dogs to Chestnut Grove Kennel nor were the dogs "born and raised" on her premises.

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

THE GRAND JURY FURTHER CHARGES:

COUNT TWO

(18 U.S.C. §§ - 1028A and 2 - Aggravated Identity Theft; Aiding and Abetting)

25. The Introduction and all previous counts are hereby incorporated by reference as though set forth fully herein.

26. On or about September 2005 through April 2010, in the Middle District of Pennsylvania and elsewhere, the defendants,

**FLOYD MARTIN
and
SUSAN MARTIN**

aiding and abetting one another and aided and abetted by one another, did knowingly, intentionally and unlawfully use without lawful authority, a means of identification of another person, during and in relation to the crime of mail fraud, knowing that the means of identification was that of another person, for example,

27. On or about June 8, 2007 and on June 19, 2007, Floyd MARTIN, along with

others both known and unknown to the Grand Jury, caused a certification statement to be prepared that was materially false in that it contained a statement that E.H. Jr. had sold dogs to Chestnut Grove Kennel which dogs had been "born and raised" by E.H. Jr., when in fact E.H. Jr. did not sell the dogs to Chestnut Grove Kennel nor were the dogs "born and raised" by E.H. Jr., who was deceased on the date of the purported sale. The fraudulent use of the identity of E.H. Jr. caused a research facility to mail a check to the MARTINS via U.S. Postal Service.

28. On or about June 25, 2007, Floyd MARTIN, along with others both known and unknown to the Grand Jury, caused a certification statement to be prepared that was materially false in that it contained a statement that D.B. had sold dogs to Chestnut Grove Kennel which dogs had been "born and raised" by D.B., when in fact D.B. did not sell the dogs to Chestnut Grove Kennel nor were the dogs "born and raised" by D.B. The fraudulent use of the identity of D.B. caused a research facility to mail a check to the MARTINS via U.S. Postal Service.

29. On or about October 13, 2007, November 29, 2007, and December 5, 2007, Floyd MARTIN, along with others both known and unknown to the Grand Jury, caused a certification statement to be prepared that was materially false in that it contained a statement that D.Z. had sold dogs to Chestnut Grove Kennel which dogs had been "born and raised" by D.Z., when in fact D.Z. did not sell the dogs to Chestnut Grove Kennel nor were the dogs "born and raised" by D.Z. The fraudulent use of the identity of D.Z. caused a research facility to mail a check to the MARTINS via U.S. Postal Service.

30. On or about September 11, 2007, Floyd MARTIN, along with others both known and unknown to the Grand Jury, caused a certification statement to be prepared that was materially false in that it contained a statement that S.T. had sold dogs to Chestnut Grove Kennel

which dogs had been "born and raised" by S.T., when in fact S.T. did not sell the dogs to Chestnut Grove Kennel nor were the dogs "born and raised" by S.T. The fraudulent use of the identity of S.T. caused a research facility to mail a check to the MARTINS via U.S. Postal Service.

In violation of Title 18, United States Code, Sections 1028A and 2.

THE GRAND JURY FURTHER CHARGES:

COUNT THREE

(18 U.S.C. §§ 1341 and 2 - Mail Fraud; Aiding and Abetting)

31. The Introduction and all previous counts are hereby incorporated by reference as though set forth fully herein.

32. On or about September 2005 through April 2010, in the Middle District of Pennsylvania and elsewhere, the defendants,

**FLOYD MARTIN
and
SUSAN MARTIN**

aiding and abetting one another and aided and abetted by one another, did devise the above scheme and artifice to defraud, and for obtaining money and property by means and false and fraudulent pretenses, representations, and promises, for the purpose of executing and in order to effect the scheme and artifice to defraud and obtain money and property by false pretenses, did knowingly cause to be sent, delivered, and moved by the United States Postal Service, checks

from multiple research facilities, including the following:

33. On or about February 6, 2008, the MARTINS caused a research facility to mail check no. 10217827 in the amount of \$3,748.57 from Maryland to Chestnut Grove Kennel in Shippensburg, Pennsylvania.

34. On or about June 26, 2008, the MARTINS caused a research facility to mail check no. 10302946 in the amount of \$991.66 from Maryland to Chestnut Grove Kennel in Shippensburg, Pennsylvania.

35. On or about April 30, 2009, the MARTINS caused a research facility to mail check no. 318442 in the amount of \$3,150.00 from New York to Chestnut Grove Kennel in Shippensburg, Pennsylvania.

36. On or about April 8, 2008, the MARTINS caused a research facility to mail check no. 213502 in the amount of \$400.00 from New Jersey to Chestnut Grove Kennel, in Shippensburg, Pennsylvania.

In violation of Title 18, United States Code, Sections 1341 and 2.

THE GRAND JURY FURTHER CHARGES:

COUNT FOUR

(18 U.S.C. § 1001 - False Statements)

37. The Introduction and all previous counts are hereby incorporated by reference as though set forth fully herein.

38. On or about September 2005 through April 2010, in the Middle District of Pennsylvania and elsewhere, the defendant,

FLOYD MARTIN

did willfully and knowingly make and cause to be made, and use and cause to be used, in a matter within the jurisdiction of a department or agency of the United States, a false writing and document, knowing the same to contain a materially false, fictitious, and fraudulent statement, to wit: on his annual applications for re-licensing with the U.S. Department of Agriculture, APHIS Form 7003, the defendant did willfully and knowingly submit false, fictitious and fraudulent gross dollar amounts of income derived from the regulated business, knowing full well that his annual gross dollar amount was higher, to wit: Floyd Martin submitted an APHIS Form 7003 for the year 2007 which contained fraudulent gross dollar amounts derived from the regulated activity.

In violation of Title 18, United States Code, Section 1001.

FORFEITURE ALLEGATION
(18 U.S.C. § 982)

39. The Introduction and all previous Counts are hereby incorporated by reference, as though fully set forth herein, for the purpose of alleging forfeiture to the United States pursuant to the provisions of Title 18, United States Code, Section 982.

40. As a result of the offenses alleged in the within Indictment, the defendants,

FLOYD MARTIN
and
SUSAN MARTIN

shall forfeit to the United States all property, real and personal, involved in the aforesaid offenses, and all property traceable to such property, including, but not limited to, the following:

41. The sum of \$500,000; and

42. Real property owned by Floyd and Susan MARTIN, d/b/a Chestnut Hill Kennel, located at 120 Chestnut Grove Road, Shippensburg, Pennsylvania;

If any of the property described above, as a result of any act or omission of the defendant,

(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 divided without difficulty,

the United States of America shall be entitled to forfeiture of substitute property pursuant to Title 21, United States Code, Section 853(p).

A TRUE BILL

2/22/11
Date



Peter J. Smith
PETER J. SMITH
United States Attorney