

UNDER SEAL

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CHARLOTTE, NC

JAN 15 2013

US DISTRICT COURT  
WESTERN DISTRICT OF N

IN UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
CASE NO. 3:13-cr-6-RJC

UNITED STATES OF AMERICA )

BILL OF INDICTMENT

v. )

Violations: 18 U.S.C. § 371

18 U.S.C. § 641

SEMBER LYNN SMATHERS )

18 U.S.C. § 2

THE GRAND JURY CHARGES:

INTRODUCTION

At all times relevant to this Bill of Indictment:

1. Harrington, Moran, and Barksdale, Inc. ("HMBI") was a company that had a management and marketing ("M & M") contract with the United States Department of Housing and Urban Development ("HUD"), and it provided asset management and disposition of HUD real estate owned ("REO") properties in ten states throughout the United States, including North Carolina and South Carolina.
2. Defendant SEMBER LYNN SMATHERS ("SMATHERS") sold real estate with Exit Realty, and, through her employment as a realtor, obtained from HMBI a master key that gave her access to HUD REO houses. SMATHERS was also aware of the vacant HUD REO properties in Charlotte and the surrounding communities in North Carolina and South Carolina.
3. From in or around September 2008 to in or around July 2009, SMATHERS and other persons known and unknown to the Grand Jury ("other persons") used the master key provided by HUD contractor HMBI to conduct "clean outs," in which they unlawfully entered and removed from HUD REO properties household appliances such as refrigerators, stoves, washers and dryers. SMATHERS and other persons then cleaned and sold these household appliances. During the relevant time period, SMATHERS and others usually conducted "clean outs" once or twice each week.
4. From in or around September 2008 to in or around February 2009, SMATHERS and other persons sold household appliances from her home in Shelby, North Carolina. In February 2009 she and another person signed a lease for a building, from which they operated a business called "Cheap Stuff" and sold the household appliances taken from the HUD REO properties, as well as clothes and lawn maintenance equipment. SMATHERS and another person also maintained a storage unit at Uptown Mini Storage

on Highway 18 in Shelby, North Carolina, and they used, among other means, Craig's List, the Shelby Shopper and the Shelby Star to advertise and sell the household appliances.

5. On or about June 17, 2009, SMATHERS and another person conducted a "clean out" at 8418 Glaze Court, then a HUD REO property in Charlotte, North Carolina. As they removed household appliances from this residence, HMBI subcontractors, working at the house, questioned SMATHERS and the other person about the removal of the household appliances. SMATHERS falsely represented that she and the other person were also working as HMBI subcontractors and had been directed by HMBI to remove the appliances when, as she then knew, these statements were not true.

### COUNT ONE

The Grand Jury realleges and incorporates by reference the Introduction in this Bill of Indictment.

From in or around September 2008 to in or around July 2009, in Cleveland and Mecklenburg Counties, within the Western District of North Carolina, and elsewhere,

### **SEMBER LYNN SMATHERS**

and other persons did knowingly, willfully, intentionally, and unlawfully combine, conspire, confederate, and agree together and with each other to commit against the United States the following offense: to embezzle, steal, purloin, knowingly convert to her use or the use of another, sell, convey, and dispose of a thing of value of the United States of America or its departments or agencies, in violation of 18 U.S.C. § 641.

#### Manner and Means of the Conspiracy

It was a part of the conspiracy that SMATHERS and her coconspirators would conduct "clean outs," in which they unlawfully entered and removed from HUD REO properties household appliances and then sold them.

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#### Overt Acts

In furtherance of the conspiracy and to promote its objects, the following overt acts, among others, were committed in the Western District of North Carolina and elsewhere:

- A. From in or around September 2008 to in or around July 2009, SMATHERS possessed and used the master key provided by HMBI to enter HUD REO properties so that she and her coconspirators could conduct "clean outs."
- B. From in or around September 2008 to in or around July 2009, SMATHERS created and maintained a list of HUD REO properties for prospective "clean outs."

- C. From in or around September 2008 to in or around July 2009, SMATHERS and her coconspirators advertised and sold the household appliances they had unlawfully removed from the HUD REO properties.
- D. In February 2009, SMATHERS and a coconspirator leased a building to store the household appliances that they had unlawfully removed from HUD REO properties.
- E. On or about June 17, 2009, SMATHERS and a coconspirator conducted a "clean out" at 8418 Glaze Court, then a HUD REO property in Charlotte, North Carolina.

All in violation of 18 U.S.C. § 371.

**COUNT TWO**

The Grand Jury realleges and incorporates by reference the allegations in the Introduction and preceding Count in the Bill of Indictment.

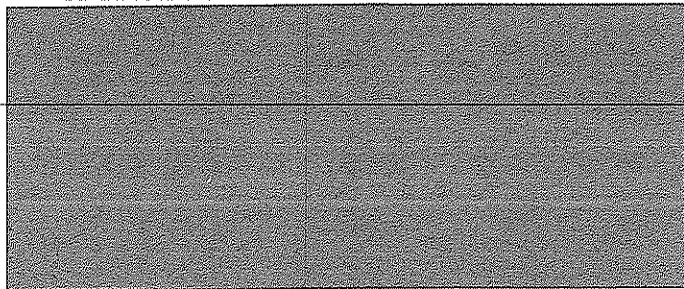
On or about June 17, 2009, in Mecklenburg County, within the Western District of North Carolina, and elsewhere,

**SEMBER LYNN SMATHERS**

and other persons known and unknown to the Grand Jury did and attempted to embezzle, steal, purloin, knowingly convert to her use or the use of another, sell, convey, and dispose of a thing of value of the United States of America or its departments or agencies, that is, household appliances taken from a HUD REO property, and they aided, abetted, counseled, commanded, induced or procured the commission of this offense.

All in violation of 18 U.S.C. §§ 641 and 2.

A TRUE BILL:



ANNE M. TOMPKINS  
UNITED STATES ATTORNEY

  
KENNETH M. SMITH  
ASSISTANT UNITED STATES ATTORNEY

