

United States District Court

FOR THE
NORTHERN DISTRICT OF CALIFORNIA

VENUE: SAN FRANCISCO

UNITED STATES OF AMERICA,

V.

ATHENA HARVEN

DEFENDANT(S).

INDICTMENT

18 U.S.C. § 1343 – Wire Fraud;
18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c) – Forfeiture Allegation

A true bill.

/S/ Foreperson of the Grand Jury

Foreman

Filed in open court this 18th day of

July, 2023.

S. Ybarra

Clerk

Bail, \$ SUMMONS


Hon. Alex G. Tse, U.S. Magistrate Judge

FILED

Jul 18 2023

Mark B. Busby
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO

1 ISMAIL J. RAMSEY (CABN 189820)
United States Attorney

7 UNITED STATES DISTRICT COURT
8 NORTHERN DISTRICT OF CALIFORNIA
9 SAN FRANCISCO DIVISION

10 UNITED STATES OF AMERICA,)	CASE NO. 3:23-cr-00219 CRB
11 Plaintiff,)	<u>VIOLATIONS:</u>
12 v.)	18 U.S.C. § 1343 – Wire Fraud;
13 ATHENA HARVEN,)	18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c) –
14 Defendant.)	Forfeiture Allegation
)	SAN FRANCISCO VENUE
)	
)	

17 INDICTMENT

18 The Grand Jury charges:

19 **Introductory Allegations**

20 1. At all times relevant to this Indictment, the defendant,

21 ATHENA HARVEN,

22 was Director of Operations of Together, United, Recommitted, Forever (“TURF”) and President of the
23 San Francisco Junior 49ers (“Junior 49ers”), which both operated in the Northern District of California.

24 2. At all times relevant to this Indictment, TURF was a non-profit organization that
25 provided academic support and employment assistance, among other services, to students in the
26 Sunnydale and Visitacion Valley neighborhoods of San Francisco, California. TURF received funding
27 from, among other sources, the City and County of San Francisco and the United States Department of
28 Housing and Urban Development.

INDICTMENT

1 3. At all times relevant to this Indictment, the Junior 49ers were a non-profit youth football
2 and cheerleading program operating in San Francisco, California. The Junior 49ers were founded in
3 1996 by K.M., TURF’s former Executive Director.

4 4. During a time period covered by this Indictment, HARVEN also owned and operated a
5 bakery called Cups and Cakes Bakery LLC, which was located in San Francisco, California, and which
6 was not affiliated with either TURF or the Junior 49ers.

7 TURF’s Finances & the TURF BofA *0519 Account

8 5. As Director of Operations for TURF, HARVEN had access to, and control over, TURF’s
9 finances, including a Bank of America business checking account with an account number ending in
10 *0519 that was held in the name of “T.U.R.F. San Francisco Jr 49ers” (the “TURF BofA *0519
11 Account”). The TURF BofA *0519 Account was designed to process TURF’s payroll checks and make
12 payroll tax payments to the federal and state tax authorities.

13 6. HARVEN was the only TURF employee with access to the online banking portal for the
14 TURF BofA *0519 Account and the only TURF employee with access to the blank checks associated
15 with that account, which were stored in a locked file cabinet near HARVEN’s desk to which HARVEN
16 had a key.

17 7. Among her other responsibilities, HARVEN was supposed file TURF’s payroll tax
18 returns and make TURF’s payroll tax payments to the federal and state tax authorities.

19 HARVEN’s Personal Bank Accounts

20 8. In addition to her access to, and control over, the TURF BofA *0519 Account, HARVEN
21 maintained several other bank accounts relevant to this Indictment.

22 9. HARVEN controlled, and was the only authorized signatory for, at least three accounts at
23 JPMorgan Chase Bank, N.A.:

24 a. A checking account with an account number ending in *0002 that was opened by
25 HARVEN in January 2012 and held in the name of “Athena Harven” (the “Harven JPMCB
26 *0002 Account”);

27 b. A checking account with an account number ending in *4327 that was opened by
28 HARVEN in November 2014 and held in the name of “SF Jr 49ers” (the “Harven JPMCB *4327

1 Account”); and

2 c. A checking account with an account number ending in *4921 that was opened by
3 HARVEN in July 2015 and held in the name of “SF Jr 49ers.”

4 10. HARVEN also controlled, and was the only authorized signatory for, at least one account
5 at Bank of the West: a checking account with an account number ending in *1027 that was opened by
6 HARVEN in June 2017 and held in the name of “Athena Harven d/b/a Cups and Cakes Bakery” (the
7 “C&CB BotW *1027 Account”).

8 **The Scheme to Defraud**

9 11. Beginning no later than April 2015, and continuing through in or around December 2018,
10 in the Northern District of California and elsewhere, HARVEN knowingly, and with intent to defraud,
11 devised, participated in, and executed a scheme to defraud TURF as to material matters, and to obtain
12 moneys, funds, assets, and other property of TURF by means of materially false and fraudulent
13 pretenses, representations, and promises, and by means of omission and concealment of material facts.

14 12. HARVEN used her access to, and control over, TURF’s finances to embezzle
15 \$256,771.84 from TURF, her employer, by writing herself 119 checks from the TURF BofA *0519
16 Account. All of the 119 handwritten checks were made payable to “Athena Harven,” and most (89) were
17 purportedly for “payroll taxes,” per the memo line. The remainder were for “fees” (1), “payroll” (1), or
18 did not indicate what they were for (28).

19 13. The front of each check was purportedly signed by K.M., the only authorized signatory
20 on the TURF BofA *0519 Account, but K.M. later confirmed that his signature had been forged on
21 many of the checks, even as he acknowledged pre-signing some of the blank checks at HARVEN’s
22 request.

23 14. HARVEN deposited at least 103 of the 119 checks she wrote to herself—which 103
24 checks totaled \$224,533.40—into the bank accounts described in Paragraphs 8 through 10 of this
25 Indictment.

26 15. After depositing the TURF funds primarily earmarked for “payroll taxes” into her
27 personal bank accounts—often when those bank accounts had low or negative balances—HARVEN
28 used the fraudulently obtained funds to enrich herself, including to withdraw cash from ATMs; to pay

1 for travel expenses, rent, utilities, and groceries; to shop online; and to make purchases at various retail
2 stores, restaurants, hotels, casinos, and gas stations.

3 16. HARVEN also used the ill-gotten TURF funds to pay for expenses associated with Cups
4 and Cakes Bakery. For example, HARVEN used TURF funds to pay for her travel to, and lodging and
5 attendance at, the SoFlo Cake & Candy Expo in Miami, Florida, in April and May 2017. HARVEN also
6 spent \$879 at The Cake Queens in San Carlos, CA in December 2017 and \$570 at The Cakewalk in
7 Murrieta, CA in September 2018.

8 17. Eventually, upon realizing it owed more than \$200,000 in unpaid payroll taxes, TURF
9 conducted an internal investigation that uncovered HARVEN's fraud. The investigation revealed that
10 HARVEN had altered TURF's copies of images of many of the canceled checks HARVEN wrote to
11 herself to show the payee as "ADP," a payroll processing company that had previously worked with
12 TURF. In fact, HARVEN was the payee on all 119 of the misappropriated checks comprising the
13 scheme and artifice to defraud.

14 18. The investigation also revealed that HARVEN had intercepted (and hidden from TURF)
15 dozens of communications from the California tax authorities to TURF regarding unpaid taxes. Those
16 communications, which were dated April 2016 to November 2018, included notices of amounts due,
17 notices of tax liens issued, demands for payment, collection notices, and successor liability notices.

18 19. HARVEN told TURF that she had received approval from K.M. to deposit TURF funds
19 into her personal accounts and to send the funds from her personal accounts to K.M. However, K.M.
20 denied authorizing or approving such a scheme, and bank records confirm HARVEN never sent K.M.
21 any money from her personal accounts.

22 20. HARVEN also told TURF that the California tax authorities had mistakenly determined
23 that TURF owed a substantial sum in unpaid taxes. To support that claim, HARVEN concocted a fake
24 email, purportedly from an employee at the Oakland Branch Office of the California Economic
25 Development Department ("EDD"), which claimed that EDD owed TURF a refund of nearly \$80,000 in
26 overpaid taxes.

27 21. When TURF representatives contacted EDD directly, they learned that TURF had not
28 made any payroll tax payments for 2015, 2016, 2017, or 2018. They also learned that the purported

1 sender of the fake email described in Paragraph 20 of this Indictment did not work at EDD’s Oakland
2 Branch Office on the date the email purportedly was sent.

3 22. HARVEN was fired by TURF in December 2018. Not long thereafter, TURF ceased its
4 operations and collapsed due, in part, to a lack of funding and under the weight of hundreds of thousands
5 of dollars in unpaid payroll taxes. Ultimately, the amount of payroll taxes TURF failed to pay from 2015
6 through 2018 closely approximated the \$256,771.84 HARVEN embezzled during that same time period.

7 23. There is no evidence that TURF or HARVEN made any payroll tax payments to the
8 federal or state tax authorities between April 2015 and December 2018. Nor is there any evidence that
9 TURF or HARVEN filed any federal or state payroll tax returns during that time.

10 24. Similarly, there is no evidence that HARVEN ever reimbursed TURF for any of the
11 funds she took from TURF and spent for herself.

12 25. Some of the checks comprising part of the scheme and artifice to defraud are described
13 below.

14 Check Number 1451: August 20, 2018 (\$2,478.14)

15 26. On August 20, 2018, HARVEN deposited a check for \$2,478.14 into the C&CB BotW
16 *1027 Account at a Bank of the West ATM in San Francisco. That check—check number 1451—was:
17 written on the TURF BofA *0519 Account, dated August 17, 2018, made payable to HARVEN, and
18 purportedly for “payroll taxes,” per the memo line.

19 27. When HARVEN deposited check number 1451 into the C&CB BotW *1027 Account,
20 the check was electronically converted and transmitted through Bank of the West servers in Omaha,
21 Nebraska.

22 28. The funds from check number 1451 increased the balance on the C&CB BotW *1027
23 Account from negative \$38.72 to \$2,439.42, and were used in part to pay business rent of \$1,900 for
24 Cups and Cakes Bakery on August 21, 2018—the day after the funds were deposited into the C&CB
25 BotW *1027 Account.

26 29. Moreover, in the nine days following the deposit of check number 1451 into the C&CB
27 BotW *1027 Account, there were substantial debits on that account to PG&E, Recology, Instacart, and
28 SFMTA.

1 30. There were no payments made from the C&CB BotW *1027 Account—or from any of
2 HARVEN’s personal or business accounts—to the federal or state tax authorities at any time between
3 April 2015 and December 2018.

4 Check Number 1465: November 15, 2018 (\$4,360.04)

5 31. On November 15, 2018, HARVEN deposited a check for \$4,360.04 into the Harven
6 JPMCB *4327 Account at a JPMorgan Chase Bank ATM in San Francisco. That check—check number
7 1465—was: written on the TURF BofA *0519 Account, dated November 15, 2018, made payable to
8 HARVEN, and purportedly for “payroll taxes,” per the memo line.

9 32. When HARVEN deposited check number 1465 into the Harven JPMCB *4327 Account,
10 the check was processed via JPMorgan Chase Bank’s mainframe server, which is located in Delaware.

11 33. The funds from check number 1465 increased the balance on the Harven JPMCB *4327
12 Account from \$566.02 to \$4,926.06. In the four days after the deposit of check number 1465 into the
13 Harven JPMCB *4327 Account, HARVEN spent considerable sums from that account at merchants
14 unrelated to TURF or the Junior 49ers, including America’s Best Contacts & Eyeglasses, Victoria’s
15 Secret, Forever 21, Kim’s Pro Nails, and VIP Luggage & Leather.

16 34. There were no payments made from the Harven JPMCB *4327 Account—or from any of
17 HARVEN’s personal or business accounts—to the federal or state tax authorities at any time between
18 April 2015 and December 2018.

19 Check Number 1467: November 19, 2018 (\$4,005.04)

20 35. On November 19, 2018, HARVEN deposited a check for \$4,005.04 into the Harven
21 JPMCB *0002 Account at a JPMorgan Chase Bank ATM in San Francisco. That check—check number
22 1467—was: written on the TURF BofA *0519 Account, dated November 19, 2018, made payable to
23 HARVEN, and purportedly for “payroll taxes,” per the memo line.

24 36. When HARVEN deposited check number 1467 into the Harven JPMCB *0002 Account,
25 the check was processed via JPMorgan Chase Bank’s mainframe server, which is located in Delaware.

26 37. The funds from check number 1467 increased the balance on the Harven JPMCB *0002
27 Account from \$142.70 to \$4,147.74. In the days immediately following the deposit of check number
28 1467 into the Harven JPMCB *0002 Account, HARVEN spent considerable sums from that account at

1 merchants unrelated to TURF or the Junior 49ers, including Victoria’s Secret, Tina Beauty Supply,
2 Val’s Liquor, and Netflix. HARVEN also withdrew \$3,840 in cash the day after the deposit.

3 38. There were no payments made from the Harven JPMCB *0002 Account—or from any of
4 HARVEN’s personal or business accounts—to the federal or state tax authorities at any time between
5 April 2015 and December 2018.

6 Check Number 1472: December 18, 2018 (\$4,014.60)

7 39. On December 18, 2018, HARVEN deposited a check for \$4,014.60 into the Harven
8 JPMCB *0002 Account at a JPMorgan Chase Bank ATM in San Francisco. That check—check number
9 1472—was: written on the TURF BofA *0519 Account, dated December 18, 2018, made payable to
10 HARVEN, and purportedly for “payroll taxes,” per the memo line.

11 40. When HARVEN deposited check number 1472 into the Harven JPMCB *0002 Account,
12 the check was processed via JPMorgan Chase Bank’s mainframe server, which is located in Delaware.

13 41. The funds from check number 1472 increased the balance on the Harven JPMCB *0002
14 Account from \$181.16 to \$4,195.76. In the days immediately following the deposit of check number
15 1472 into the Harven JPMCB *0002 Account, HARVEN spent considerable sums from that account at
16 merchants unrelated to TURF or the Junior 49ers, including Victoria’s Secret, Carter’s, and H&M.
17 HARVEN also withdrew \$800 in cash the day after the deposit.

18 42. Six days after the deposit, on Christmas Eve, HARVEN made additional purchases in
19 Fairfield, California, and Vallejo, California, where she lives (but not where she worked), including at
20 merchants like The Children’s Place, Piercing Pagoda, Hollister, and Soultrans Seafood.

21 43. There were no payments made from the Harven JPMCB *0002 Account—or from any of
22 HARVEN’s personal or business accounts—to the federal or state tax authorities at any time between
23 April 2015 and December 2018.

24 COUNTS ONE THROUGH FOUR: (18 U.S.C. § 1343 – Wire Fraud)

25 44. Paragraphs 1 through 43 of this Indictment are re-alleged and incorporated as if fully set
26 forth here.

27 45. Beginning on a date unknown but no later than April 17, 2015, and continuing through a
28 date unknown but no earlier than December 21, 2018, in the Northern District of California and

1 elsewhere, the defendant,

2 ATHENA HARVEN,

3 knowingly and with the intent to defraud participated in, devised, and intended to devise a scheme and
 4 artifice to defraud as to a material matter, and to obtain money and property by means of materially false
 5 and fraudulent pretenses, representations, and promises, and by means of omission and concealment of
 6 material facts, and for the purpose of executing the aforementioned scheme and artifice to defraud, and
 7 attempting to do so, HARVEN did knowingly transmit and cause to be transmitted in interstate and
 8 foreign commerce, by means of a wire communication, writings, signs, signals, pictures, and sounds,
 9 specifically the following transmissions on or about the dates set forth below, each transmission being a
 10 separate count of the Indictment:

COUNT	APPROX. DATE	DESCRIPTION OF ACT
1	August 20, 2018	HARVEN deposited a check for \$2,478.14—which was written on the TURF BofA *0519 Account; dated August 17, 2018; made payable to HARVEN; and purportedly for “payroll taxes,” per the memo line—into the C&CB BotW *1027 Account at a Bank of the West ATM in San Francisco, California.
2	November 15, 2018	HARVEN deposited a check for \$4,360.04—which was written on the TURF BofA *0519 Account; dated November 15, 2018; made payable to HARVEN; and purportedly for “payroll taxes,” per the memo line—into the Harven JPMCB *4327 Account at a JPMorgan Chase Bank ATM in San Francisco, California.
3	November 19, 2018	HARVEN deposited a check for \$4,005.04—which was written on the TURF BofA *0519 Account; dated November 19, 2018; made payable to HARVEN; and purportedly for “payroll taxes,” per the memo line—into the Harven JPMCB *0002 Account at a JPMorgan Chase Bank ATM in San Francisco, California.
4	December 18, 2018	HARVEN deposited a check for \$4,014.60—which was written on the TURF BofA *0519 Account; dated December 18, 2018; made payable to HARVEN; and purportedly for “payroll taxes,” per the memo line—into the Harven JPMCB *0002 Account at a JPMorgan Chase Bank ATM in San Francisco, California.

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

25 FORFEITURE ALLEGATION: (18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c))

26 The allegations contained in this Indictment are re-alleged and incorporated by reference for the
 27 purpose of alleging forfeiture pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title
 28 28, United States Code, Section 2461(c).

1 Upon conviction for any of the offenses set forth in this Indictment, the defendant,

2 ATHENA HARVEN,

3 shall forfeit to the United States, pursuant to Title 18, United States Code, Section 981(a)(1)(C) and
4 Title 28, United States Code, Section 2461(c), all property, real or personal, which constitutes or is
5 derived from proceeds the defendant obtained directly and indirectly, as the result of those violations,
6 including without limitation the following:

7 1. A forfeiture money judgment in the amount of \$256,771.84, which represents the total
8 value of proceeds obtained directly or indirectly by the defendant from the commission of the offense(s)
9 of conviction.

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

- 11 a. cannot be located upon exercise of due diligence;
- 12 b. has been transferred or sold to, or deposited with, a third party;
- 13 c. has been placed beyond the jurisdiction of the court;
- 14 d. has been substantially diminished in value; or
- 15 e. has been commingled with other property which cannot be divided without
16 difficulty,

17 the United States of America shall be entitled to forfeiture of substitute property pursuant to Title 21,
18 United States Code, Section 853(p), as incorporated by Title 28, United States Code, Section 2461(c).

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1 All pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States
2 Code, Section 2461(c), as well as Federal Rule of Criminal Procedure 32.2.

3
4 DATED: July 18, 2023

A TRUE BILL.

5
6 /s/ Foreperson
7 FOREPERSON

8 ISMAIL J. RAMSEY
9 United States Attorney

10 /s/ Nicholas M. Parker
11 NICHOLAS M. PARKER
12 Assistant United States Attorney