

INDICTMENT

Conspiracy §97-1-1 - 3 Counts
Embezzlement; Fraud committed
in Public Office §97-11-31
Fraudulent Statements §97-7-10

CIRCUIT COURT NO. 20-49-AHW

FILED

THE STATE OF MISSISSIPPI

Circuit Court

FIRST DISTRICT, HINDS COUNTY

FEB 04 2020

January Term, A.D., 2020

ZACK WALLACE, CIRCUIT CLERK

First Judicial District

BY _____ D.C. of Hinds County

The Grand Jurors of the State of Mississippi, taken from the body of good and lawful persons of the First Judicial District of Hinds County, in the State of Mississippi, elected, impanelled, sworn and charged to inquire in and for said District, County and State aforesaid, in the name and by the authority of the State of Mississippi, upon their oath present: That

John Davis

while acting in concert and/or aiding, assisting or encouraging another or others,
to-wit: Brett Dibiase, Gregory Latimer Smith, Nancy Whitten New and others known and
unknown to the grand jury

In said District, County and State

COUNT I

on, about and between the 11th day of February, 2019 and the 11th day of July 2019, in the county aforesaid and within the jurisdiction of this Court, the said defendant being a male human being above the age of eighteen (18) years, whose date of birth is March 2, 1968, did willfully, unlawfully, and feloniously entered into a conspiracy with Nancy Whitten New, and others known and unknown to the grand jury, to commit the crime of embezzlement in violation of §97-23-19, To-wit: John Davis, all while acting as the Executive Director of the Mississippi Department of Human Services, conspired with Nancy Whitten New, the Executive Director of the Mississippi Community Education Center, a private non-profit entity responsible for distributing public grant funds received from the State of Mississippi, and others known and unknown to the grand jury, to convert funds owned by the Mississippi Community Education Center, to the benefit of Brett Dibiase, by conspiring to transfer funds owned by the Mississippi Community Education Center, from their bank account, Regions Bank Account Number 0035997729, in a series of multiple transaction, into bank accounts owned by Rise in Malibu, a drug treatment clinic located in Malibu, California, which transferred funds were used to pay for Brett Dibiase's inpatient drug treatment at Rise in Malibu, California, all occurring within the jurisdiction of this court and in violation of Section 97-1-1 and Section 97-23-19, Mississippi Code Annotated (1972, as amended);

COUNT II

on, about and between the 11th day of February, 2019 and the 11th day of July 2019, in the county aforesaid and within the jurisdiction of this Court, the said defendant being a male human

being above the age of eighteen (18) years, whose date of birth is March 2, 1968, did willfully, unlawfully, and feloniously entered into a conspiracy with Nancy Whitten New, and others known and unknown to the grand jury, to commit the crime of Mail Fraud in violation of §97-19-83, To-wit: John Davis, all while acting as the Executive Director of the Mississippi Department of Human Services, conspired with Nancy Whitten New, the Executive Director of the Mississippi Community Education Center, a private non-profit entity responsible for distributing public grant funds received from the State of Mississippi, and others known and unknown to the grand jury, devised or intended to devise a scheme or artifice to defraud the Mississippi Community Education Center, and to obtain money, property or services for Brett Dibiase, from Rise in Malibu, a drug treatment clinic located in Malibu, California, by means of a false or fraudulent pretenses, represented or promised, for the purpose of executing such scheme or artifice or attempting so to do, conspired to transmit or caused to be transmitted by mail, telephone, newspaper, radio, television, wire, electromagnetic waves, microwaves, or other means of communication or by person, any writings, signs, signals, pictures, sounds, data, or other matter across state jurisdictional lines, all occurring within the jurisdiction of this court and in violation of Section 97-19-83, Mississippi Code Annotated (1972, as amended);

COUNT III

based upon a series of acts connected together and constituting parts of a common scheme and plan, said John Davis, being a male human being above the age of eighteen (18) years, whose date of birth is March 2, 1968, did, on or about and between the 1st day of November, 2018, and the 22nd day of February, 2019, willfully, unlawfully, and feloniously entered into a conspiracy with Brett Dibiase, Gregory Latimer Smith, and others known and unknown to the grand jury, to commit the crime of embezzlement; fraud committed in public office in violation of §97-11-31 To-wit: John Davis, all while acting as the Executive Director of the Mississippi Department of Human Services, conspired with Brett Dibiase, Gregory Latimer Smith, and others known and unknown to the grand jury, to defraud the Mississippi Department of Human Services, a department of the State of Mississippi, to obtain forty-eight thousand dollars, \$48,000.00 in payment from the public funds of the State of Mississippi, to be paid to Brett Dibiase, doing business as Restore2, LLC, utilizing a series of false and fraudulent claims, for the payment of a professional services contract between Brett Dibiase, doing business as Restore2, LLC, and the Mississippi Department of Human Services, knowing that Brett Dibiase failed to satisfy the requirements of the professional service agreement and that the invoice submitted by Brett Dibiase, doing business as Restore2, LLC, were false, fraudulent and untrue, all occurring within the jurisdiction of this court and in violation of Section 97-1-1 and Section 97-11-31, Mississippi Code Annotated (1972, as amended);

COUNT IV

based upon a series of acts connected together and constituting parts of a common scheme and plan, said John Davis, being a male human being above the age of eighteen (18) years, whose date of birth is March 2, 1968, did, on or about and between the 1st day of November, 2018, and the 22nd day of February, 2019 willfully, unlawfully, and feloniously, all while acting as the Executive Director of the Mississippi Department of Human Services, while acting in concert and/or aiding, and assisting Brett Dibiase, Gregory Latimer Smith, and others known and unknown

to the grand jury, perpetrated a fraud upon the Mississippi Department of Human Services, a department of the State of Mississippi, to obtain forty-eight thousand dollars, \$48,000.00 in payment from the public funds of the State of Mississippi, to be paid to Brett Dibiase, doing business as Restore2, LLC, utilizing a series of false and fraudulent claims, for the payment of a professional services contract between Brett Dibiase, doing business as Restore2, LLC, and the Mississippi Department of Human Services, knowing that Brett Dibiase failed to satisfy the requirements of the professional service agreement and that the invoices submitted by Brett Dibiase, doing business as Restore2, LLC, were false, fraudulent and untrue, all occurring within the jurisdiction of this court and in violation of Section 97-11-31, Mississippi Code Annotated (1972, as amended); and,

COUNT V

based upon a series of acts connected together and constituting parts of a common scheme and plan, John Davis, being a male human being above the age of eighteen (18) years, whose date of birth is March 2, 1968, did, on or about and between the 1st day of November, 2018, and the 22nd day of February, 2019, willfully, unlawfully, and feloniously, with intent to defraud the State of Mississippi or any department, agency, office, board, commission, county, municipality or other subdivision of the state or local government, knowingly and willfully falsified, concealed or covered up by trick, scheme or device, a material fact, or made a false, fictitious and fraudulent statements or representations, or made or used any false writing or document knowing that the same contained false, fictitious and fraudulent statements or entries, To-wit: John Davis, all while acting as the Executive Director of the Mississippi Department of Human Services, while acting in concert and/or aiding, and assisting Brett Dibiase, Gregory Latimer Smith and others known and unknown to the grand jury, falsified documents, invoices, books, reports, ledgers, and concealed and covered up by trick that Brett Dibiase, doing business as Restore2, LLC, failed to complete the requirements of his professional service agreement with the Mississippi Department of Human Services and that the invoices submitted to the Mississippi Department of Human Services reflecting the same were false, fraudulent and untrue all for the purpose of defrauding the Mississippi State Department of Human Services into paying Brett Dibiase, doing business as Restore2, LLC, forty-eight thousand dollars, \$48,000.00 in payment from the public funds of the State of Mississippi, for work that Brett Dibiase, doing business as Restore2, LLC, failed to do, all occurring within the jurisdiction of this court and in violation of Section 97-7-10, Mississippi Code nnotated (1972, as amended).

All of the above, Count I, Count II, Count III, Count IV and Count V being contrary to the form of the statute in such cases made and provided, and against the peace and dignity of the State of Mississippi.

Endorsed: A True Bill

Foreman of the Grand Jury

Assistant District Attorney