

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA	:	CRIMINAL ACTION
	:	
v.	:	
	:	
CHAKA FATTAH, SR.	:	NO. 15-346-1
HERBERT VEDERMAN	:	NO. 15-346-2
BONNIE BOWSER	:	NO. 15-346-5

MEMORANDUM

Bartle, J.

April 4, 2016

The Grand Jury has returned a multi-count indictment against defendants Chaka Fattah, Sr. ("Fattah"), Herbert Vederman ("Vederman"), Robert Brand ("Brand"), Karen Nicholas ("Nicholas"), and Bonnie Bowser ("Bowser"). Also named as unindicted coconspirators are Thomas Lindenfeld ("Lindenfeld") and Gregory Naylor ("Naylor").

Fattah is and was at all relevant times a member of the United States House of Representatives. In 2006 and 2007, while a Congressman, he ran an unsuccessful campaign, "Fattah for Mayor" ("FFM"), to become Mayor of the City of Philadelphia. Vederman acted as finance director for the mayoral campaign. During that time period, Vederman was also a senior consultant in the field of government affairs at a Philadelphia-based law firm. Brand, who is married to one of Fattah's former Congressional staffers, is the founder of Company 2, a for-profit public technology company. Nicholas was at all

relevant times the Chief Executive Officer of Educational Advancement Alliance, a nonprofit entity founded by Fattah, and also managed certain financial affairs for College Opportunity Resources for Education Philly, a second Fattah-founded nonprofit organization. Bowser served as the Philadelphia District Chief of Staff for Fattah's Congressional office and as the treasurer of both FFM and Fattah's Congressional campaign, Fattah for Congress ("FFC"). She also held power of attorney for Fattah personally and assisted him in his personal financial affairs.

The indictment also identifies Naylor and Lindenfeld as coconspirators. Naylor is a former Fattah staffer, a longtime friend of Fattah, and the founder of the political consulting firm Sydney Lei & Associates ("SLA"). Lindenfeld is the founder of the political consulting firm LSG Strategies ("LSG"). Naylor has been charged separately and has pleaded guilty to: one count of misprision of felony under 18 U.S.C. § 4; one count of falsifying, concealing, or covering up by trick, scheme or device a material fact in a matter within the jurisdiction of a department or agency of the United States under 18 U.S.C. §§ 1001(a)(1) and 2; and one count of making a materially false, fictitious, or fraudulent statement or representation in a matter within the jurisdiction of a department or agency of the United States under 18 U.S.C.

§ 1001(a)(2). Lindenfeld has also been charged separately and has entered a plea of guilty on one count of conspiracy to commit wire fraud under 18 U.S.C. §§ 1343, 1346, and 1349.

All five defendants named here are charged with conspiracy to commit racketeering in violation of 18 U.S.C. § 1962(d). In addition, the indictment charges one or more defendants with: conspiracy to commit wire fraud (18 U.S.C. §§ 1343 and 1349); conspiracy to commit honest services wire fraud (18 U.S.C. §§ 1343, 1346, and 1349); conspiracy to commit mail fraud (18 U.S.C. §§ 1341 and 1349); mail fraud (18 U.S.C. § 1341); falsification of records (18 U.S.C. §§ 1519 and 2); conspiracy to commit bribery (18 U.S.C. § 371); bribery (18 U.S.C. §§ 201(b)(1) and 201(b)(2)); bank fraud (18 U.S.C. §§ 1344 and 2); false statements to financial institutions (18 U.S.C. §§ 1014 and 2); money laundering (18 U.S.C. §§ 1957 and 2); money laundering conspiracy (18 U.S.C. § 1956(b)); and wire fraud (18 U.S.C. § 1343).

Now before the court are the following pretrial motions: Bowser's omnibus motion to dismiss (Doc. # 123) insofar as it seeks dismissal of Counts Three through Fifteen, Twenty-Two, and Twenty-Three; Vederman's motion to dismiss (Doc. # 131) insofar as it challenges Count Eighteen as duplicitious; the motion of Fattah to dismiss Counts Five through Ten (Doc. # 134); the motion of Fattah "for the prosecution to

elect dismissal of multiplicitous counts pursuant to the Double Jeopardy Clause" (Doc. # 135); and the motion of Fattah for dismissal of Counts Twenty through Twenty-Three (Doc. # 138).

I.

Under Rule 12(b)(3)(B)(v) of the Federal Rules of Civil Procedure, a defendant before trial may seek dismissal of an indictment or a count contained therein on the ground that it fails to state an offense. In order to state an offense an indictment must comply with Rule 7(c)(1), which mandates that it "must be a plain, concise, and definite written statement of the essential facts constituting the offense charged." Fed. R. Crim. P. 7(c)(1). Detailed allegations or technicalities are not required. United States v. Resendiz-Ponce, 549 U.S. 102, 110 (2007). Our Court of Appeals has held that an indictment states an offense if it:

(1) contains the elements of the offense intended to be charged, (2) sufficiently apprises the defendant of what he must be prepared to meet, and (3) allows the defendant to show with accuracy to what extent he may plead a former acquittal or conviction in the event of a subsequent prosecution.

United States v. Bergrin, 650 F.3d 257, 264 (3d Cir. 2011) (quoting United States v. Kemp, 500 F.3d 257, 280 (3d Cir. 2007)).

An indictment must do more than simply recite in general terms the essential elements of the offense. See id. Similarly, the specific facts alleged in the indictment may not fall beyond the relevant criminal statute. Id. at 264-65. However, "no greater specificity than the statutory language is required so long as there is sufficient factual orientation to permit the defendant to prepare his defense and to invoke double jeopardy in the event of a subsequent prosecution." Kemp, 500 F.3d at 280 (quoting United States v. Rankin, 870 F.2d 109, 112 (3d Cir. 1989)). We take as true all well-pleaded factual allegations in the indictment. United States v. Besmajian, 910 F.2d 1153, 1154 (3d Cir. 1990).

Under Rule 12(b)(3)(B)(i), a defendant may seek dismissal of a duplicitous count in an indictment, that is one that "join[s] two or more offenses." Fed. R. Crim. P. 12(b)(3)(B)(i); see also United States v. Haddy, 134 F.3d 542, 548 (3d Cir. 1988). Duplicity raises a number of dangers to be avoided. As our Court of Appeals has stated:

The purposes of the prohibition against duplicity include: (1) avoiding the uncertainty of whether a general verdict of guilty conceals a finding of guilty as to one crime and a finding of not guilty as to another; (2) avoiding the risk that the jurors may not have been unanimous as to any one of the crimes charged; (3) assuring the defendant adequate notice; (4) providing the basis for appropriate sentencing; and

(5) protecting against double jeopardy in a subsequent prosecution.

United States v. Root, 585 F.3d 145, 154 (3d Cir. 2009) (citing United States v. Shorter, 809 F.2d 54, 58 n.1 (D.C. Cir. 1987); United States v. Margiotta, 646 F.2d 729, 732-33 (2d Cir. 1981)). An assessment of a duplicity argument is necessary to ensure that “fundamental fairness and due process” are not violated. Id.

Nonetheless, our Court of Appeals has cautioned against formalism in resolving assertions of duplicity. In Root, it explained: “a single count of an indictment should not be found impermissibly duplicitous whenever it contains several allegations that could have been stated as separate offenses, but only when the failure to do so risks unfairness to the defendant.” Id.

Similarly problematic are indictments that are “multiplicitous,” that is indictments that “charg[e] the same offense in more than one count.” Multiplicitous indictments risk that a defendant will be subject to “multiple sentences for a single violation, a result prohibited by the Double Jeopardy Clause.” United States v. Pollen, 978 F.2d 78, 83 (3d Cir. 1992) (citing United States v. Stanfa, 685 F.2d 85, 86-87 (3d Cir. 1982)). Rule 12(b)(3)(B)(ii) permits a defendant to

attack an indictment on the ground that it contains multiplicitous counts.

In assessing whether counts in an indictment are multiplicitous, the "basic inquiry . . . is whether proof of one offense charged requires an additional fact that proof of the other offense does not necessitate." Stanfa, 685 F.2d at 87 (quoting United States v. Carter, 576 F.2d 1061, 1064 (3d Cir. 1978)). If the answer is "yes," then the Double Jeopardy Clause is not implicated. Counts are not multiplicitous merely because they are grounded in the same proof, as "[e]vidence which establishes a violation of more than one criminal statute does not necessarily indicate that those statutes proscribe the same offense." United States v. Conley, 37 F.3d 970, 976 (3d Cir. 1994). Significantly, an indictment is not rendered multiplicitous simply because it charges a defendant with an offense and with conspiring to commit the same offense. See, e.g., United States v. Nolan, 718 F.2d 589, 594 n.4 (3d Cir. 1983).

II.

Bowser first seeks dismissal of Count Three on the ground that it fails to state an offense. Count Three charges

Fattah¹ and Bowser with violating 18 U.S.C. §§ 1343, 1346, and 1349 by conspiring to commit honest services wire fraud.

As detailed in the indictment, Fattah offered to compensate Lindenfeld for LSG's work on Fattah's mayoral campaign by using his status as a public official to obtain federal grant funding for Lindenfeld's benefit. At Fattah's direction, Lindenfeld created a nonprofit organization called "Blue Guardians" which purported to engage in coastal environmental conservation efforts. Fattah promised to use his position as a Congressman to obtain an earmark for "Blue Guardians." In exchange for this promise to obtain federal funds, Lindenfeld permitted Fattah to write off his debt to LSG as a campaign contribution. Fattah and Bowser began falsely to document reductions in FFM's debt to LSG on FFM's annual publicly-filed campaign finance reports ("CFRs"). This arrangement enabled Fattah, who lacked the funds to compensate Lindenfeld for LSG's work, to convey a public impression of political strength and viability and to conceal the fact that he was unable to pay certain campaign debts. Count Three charges that this conduct amounted to a conspiracy by Fattah and Bowser

1. Fattah has filed a motion to join in the motions of his codefendants to the extent they seek relief that is also applicable to him. We will therefore consider Fattah to be joining Bowser in seeking dismissal of Count Three. We will do the same in all other instances where Fattah's codefendants seek relief that is also applicable to him.

to execute "a scheme and artifice to defraud and to deprive the citizens of the United States and the 2nd Congressional District of Pennsylvania their right to the honest services" of Fattah in violation of §§ 1343, 1346, and 1349.

Section 1343 makes it unlawful for any person, "having devised . . . any scheme or artifice to defraud, or for obtaining money . . . by means of false or fraudulent pretenses, representations, or promises," to "transmit[] or cause[] to be transmitted by means of wire . . . in interstate or foreign commerce, any writings, signs, signals, pictures, or sounds for the purpose of executing such scheme or artifice." The term "scheme or artifice to defraud" as used in § 1343 "includes a scheme or artifice to deprive another of the intangible right of honest services" through bribes or kickbacks. 18 U.S.C. § 1346; Skilling v. United States, 561 U.S. 358, 408-09 (2010). Section 1349 makes it a crime to conspire to violate § 1343.

According to Bowser, Count Three is flawed because her alleged participation is limited to the filing of the CFRs. Bowser asserts that the CFRs were accurate and were not "false entries" as the Government alleges. The Government has not claimed that FFM's \$130,000 campaign debt to Lindenfeld was illegitimate or that it could not properly be reduced in \$20,000 annual increments. Bowser contends that any "ulterior motive" of Lindenfeld in permitting Fattah to write off the debt does

not render the CFR's false. She adds that the CFRs "are the only alleged 'acts in furtherance' which bring this alleged conspiracy within the applicable five-year statute of limitations." Consequently, if Bowser were correct that the filings of the CFRs were not acts in furtherance of the conspiracy, then the conspiracy charge would be time-barred.

Crucially, two of the three purposes of the conspiratorial agreement alleged in Count Three were to "present FATTAH to the public as a perennially viable candidate . . . who honored his obligations to his creditors and was able to retire his publicly reported campaign debts" and to promote the "political and financial goals" of Fattah "through deception by concealing and protecting the conspirators' activities from detection and prosecution by law enforcement officials and the federal judiciary, as well as from exposure by the news media, through means that included obstruction of justice and the falsification of documents." The indictment alleges that the filing of each of the CFRs submitted by Bowser and Fattah occurred in furtherance of these purposes. By filing campaign finance reports which represented that Lindenfeld and LSG were slowly reducing FFM's debt by forgiving it as \$20,000 annual "contributions in kind," Fattah and Bowser were "concealing and protecting the conspirators' activities" by disguising the fact that the debt forgiveness was in exchange for Fattah's promise

to use his influence to obtain federal funding for Lindenfeld's benefit. This is true whether or not the CFRs accurately reflected the reductions in FFM's debt. What matters is that the filings of the CFRs took place in furtherance of the conspiracy.

For this reason, Bowser's statute-of-limitations argument also fails. The statute-of-limitations clock does not begin to tick for a conspiracy until the last act in furtherance of the conspiracy has taken place. See United States v. Amirnazmi, 645 F.3d 564, 592 (3d Cir. 2011); United States v. Jake, 281 F.3d 123, 130 n.6 (3d Cir. 2002). As explained above, the CFR filings are alleged to have been acts in furtherance of the conspiracy. The most recent of these acts took place on January 31, 2014, only a year and a half before the indictment was handed down and therefore well within the applicable five-year statute of limitations. See 18 U.S.C. § 3282(a).

III.

Bowser also asks us to dismiss Count Four on the ground that it fails to state an offense.² In Count Four, Fattah

2. In her motion, Bowser asks us to dismiss Count Four in its entirety. However, her argument is limited to Count Four's allegations that two campaign creditors were defrauded and contains no discussion of the allegations that the campaigns themselves were defrauded. In her reply brief Bowser clarifies her position that "Count 4 should be dismissed (or the allegations concerning the [creditors] stricken) for failure to state a claim."

and Bowser are charged under 18 U.S.C. §§ 1341 and 1349 with conspiracy to commit mail fraud. In relevant part, § 1341 provides for the punishment of anyone who

having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises . . . for the purpose of executing such scheme or artifice or attempting so to do, places in any post office or authorized depository for mail matter, any matter or thing whatever to be sent or delivered by the Postal Service, or deposits or causes to be deposited any matter or thing whatever to be sent or delivered by any private or commercial interstate carrier . . . or knowingly causes to be delivered by mail or such carrier according to the direction thereon, or at the place at which it is directed to be delivered by the person to whom it is addressed, any such matter or thing. . . .

Section 1349, as mentioned above, makes it unlawful to conspire to violate § 1341.

Count Four describes a conspiratorial agreement between Fattah and Bowser "to knowingly execute and attempt to execute[] a scheme to defraud FFC, FFM, and FFM's creditors including" two of FFM's campaign vendors which are identified as Printer 1 and Law Firm 1. The indictment, at pages 51 through 52, alleges that this agreement had four purposes:

3. [T]o unlawfully use campaign funds by stealing from the campaign accounts of FFC and FFM and funneling those funds through . . . SLA to pay FATTAH's son's student loan debt

4. [T]o present FATTAH to the public as a perennially viable candidate for public office who honored his obligations to his creditors and was able to retire his publicly reported campaign debts.

5. [T]o withhold material information regarding the theft of campaign funds fraudulently used to pay the student debt of FATTAH's son from FFM's legitimate creditors in order to secure agreements from those creditors to forgive portions of various campaign debts owed by FATTAH and his mayoral campaign.

6. [T]o promote FATTAH's political and financial goals through deception by concealing and protecting the conspirators' activities from detection and prosecution by law enforcement officials and the federal judiciary, as well as from exposure by the news media, through means that included obstruction of justice and the falsification of documents.

The scheme detailed in Count Four involved efforts by Fattah and Bowser to misappropriate campaign funds from FFC and FFM and use them to pay the college tuition and student loans of Fattah's son by funneling them through Naylor's company, SLA. Bowser, at Fattah's direction, disbursed funds from the bank account of FFC to the bank account of FFM. Bowser then transferred funds from the FFM account to SLA by signing checks to SLA and placing them in the mail. One of these checks displayed the words "election day expenses" on the memo line. The most recent of the checks from FFM to SLA was dated November 22, 2010. After receiving the funds from FFM, Naylor issued

checks drawn on the account of SLA in order to pay part of the college debt of Fattah's son.

Count Four also recites that Fattah and Vederman, with the assistance of Bowser, subsequently renegotiated FFM's campaign debts with Printer 1 and Law Firm 1, in part by representing that Fattah and FFM did not have and could not raise the funds to repay those debts in full. The indictment charges that the defendants never "disclose[d] to Law Firm 1 or Printer 1 that FATTAH's campaign money was being used to pay off the college debt of FATTAH's son when those funds could have been used to pay down or retire the campaign debt owed" to those vendors. The fact that campaign funds had been used to repay the debts of Fattah's son is characterized in Count Four as "material information."

Fattah and Bowser reduced FFM's debts to Printer 1 and Law Firm 1 on FFM's annual CFRs, the most recent of which was filed in January 2014. They also used the CFRs to disguise the aforementioned scheme to use funds from FFM and FFC to pay the college debts of Fattah's son. Again, these allegedly false CFRs were filed as recently as January 2014.

Bowser urges that Count Three does not adequately allege the offense of mail fraud because no "fraud" actually occurred. The gravamen of her argument is that Printer 1 and Law Firm 1 were not defrauded by the actions of Bowser and her

codefendants because they had no duty to disclose to those creditors that FFC and FFM had expended funds on payments to SLA, which in turn made payments to the creditors of Fattah's son. Under Bowser's interpretation of the facts, there were no "fraudulent pretenses or false representations or promises" made to the victims of the fraud, that is the campaign creditors.

Bowser is right that silence is not necessarily the same as active concealment. However, it is well-established that "fraudulent representations, as the term is used in [§] 1341, may be effected by deceitful statements of half-truths or the concealment of material facts" United States v. Olatunji, 872 F.2d 1161, 1167 (3d Cir. 1989) (quoting United States v. Allen, 554 F.2d 398, 410 (10th Cir. 1977)).

Crucially, Count Four incorporates a paragraph from elsewhere in the indictment which recites that members of the RICO enterprise "with[held] material information" when they failed to "disclose to Law Firm 1 or Printer 1 that FATTAH's campaign money was being used to pay off the college debts of FATTAH's son when those funds could have been used to pay down or retire the campaign debt owed to" those creditors. (Emphasis added.) In addition, one of the conspiracy's alleged purposes was "to withhold material information regarding the theft of campaign funds." (Emphasis added.) Once again, our obligation at this stage is to "take as true all well-pleaded factual allegations

in the indictment," including the allegation that the information withheld was "material." See Besmajian, 910 F.2d at 1154. We must await the presentation of the evidence in this regard.

We also reject Bowser's contention that the mail fraud conspiracy charge falls outside the five-year statute of limitations insofar as it concerns the alleged fraud on Law Firm 1. Bowser points out that FFM's negotiations with Law Firm 1 concluded in or around March 2009, more than six years before the indictment was returned. Although the indictment alleges that the conspirators thereafter filed CFRs disguising the misuse of campaign funds and that this conduct continued into 2014, Bowser urges that "the alleged central objective of the conspiracy - resolving a creditor's debts at less than 100 cents on the dollar - had long been resolved. . . . CFRs filed after the debt resolution are simply irrelevant." It is her position that the CFRs, which bring the conspiracy within the statute of limitations, were not "to further" the conspiracy to defraud Law Firm 1.

In determining whether a conspiracy charge is time-barred, we must distinguish between "acts of concealment done in furtherance of the main criminal objectives of the conspiracy, and acts of concealment done after these central objectives have been attained, for the purpose only of covering

up after the crime.” Grunewald v. United States, 353 U.S. 391, 405 (1957). The former are part of the conspiracy for statute-of-limitations purposes while the latter are not. See id. at 406.

Bowser cites the decision of the Court of Appeals for the Fifth Circuit in United States v. Mann, 161 F.3d 840 (5th Cir. 1998), for the proposition that “acts of concealment are part of the central conspiracy itself where the purpose of the main conspiracy, by its very nature, calls for concealment.” If anything, Mann bolsters the Government’s position. The indictment plainly states that the purposes of the mail fraud conspiracy alleged in Count Four included “present[ing] FATTAH to the public as a perennially viable candidate for public office who honored his obligations to his creditors and was able to retire his publicly reported campaign debts” and “promot[ing] FATTAH’s political and financial goals through deception by concealing and protecting the conspirators’ activities . . . through means that included . . . the falsification of documents, including Campaign Finance Reports.” In other words, the purpose of this alleged conspiracy “by its very nature[] calls for concealment.” Id. at 859. This concealment was accomplished in part through the CFR filings which continued into 2014. The CFR filings were thus “acts of concealment done in furtherance of the main criminal objectives of” the mail

fraud conspiracy charged in Count Four. See Grunewald, 353 U.S. at 405. Bowser's statute-of-limitations argument therefore lacks merit.

IV.

In Counts Five through Ten, Fattah and Bowser are charged with mail fraud under 18 U.S.C. § 1341. They challenge those counts for failure to state an offense. Bowser also argues that Counts Five through Ten are impermissibly duplicitous.

Counts Five through Ten charge Bowser and Fattah in connection with the mailing of certain checks which ultimately provided the funds to pay the college debts of Fattah's son. These checks were also at issue in Count Four. The indictment alleges that Fattah and Bowser, together with "others known and unknown[,] devised a scheme and artifice to defraud and to obtain money and property by means of materially false and fraudulent pretenses, representations, and promises." Counts Five through Ten incorporate by reference other paragraphs of the indictment including paragraph 16(d), which describes "a fraud scheme in which FATTAH used congressional and mayoral campaign funds to pay his son's college debt while simultaneously defrauding creditors of his mayoral campaign through misrepresentations and the withholding of material information." Also incorporated by reference is paragraph 32,

which describes the scheme as one in which Fattah and his codefendants "unlawfully used campaign funds to repay his son's student loan debt."

To execute this scheme, Bowser and Fattah are alleged to have "knowingly placed and caused to be placed [six checks] in an authorized depository for United States Mail, to be sent and delivered by the Postal Service." Five of those checks were drawn on SLA's bank account, made out to the loan servicer Sallie Mae, and signed and mailed by Naylor. They were dated respectively: September 20, 2010; November 8, 2010; November 18, 2010; December 17, 2010; and April 6, 2011. One additional check, dated November 22, 2010, was drawn on FFM's bank account, made out to SLA, and signed and mailed by Bowser. Each of these six mailings constitutes a separate count in the indictment.

As described above, § 1341 criminalizes the actions of anyone who

having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises . . . for the purpose of executing such scheme or artifice or attempting so to do, places in any post office or authorized depository for mail matter, any matter or thing whatever to be sent or delivered by the Postal Service, or deposits or causes to be deposited any matter or thing whatever to be sent or delivered by any private or commercial interstate carrier . . . or knowingly causes to be delivered by mail or such carrier

according to the direction thereon, or at the place at which it is directed to be delivered by the person to whom it is addressed, any such matter or thing

Consistent with this statutory language, our Court of Appeals has explained that proof of mail fraud requires a showing of "(1) the defendant's knowing and willful participation in a scheme or artifice to defraud, (2) with the specific intent to defraud, and (3) the use of the mails . . . in furtherance of the scheme." United States v. Carbo, 572 F.3d 112, 116 (3d Cir. 2009) (quoting United States v. Antico, 275 F.3d 245, 261 (3d Cir. 2001)). While the "use of the mails need not be an essential element of" the alleged scheme, the mailings at issue "must be sufficiently closely related to the scheme to bring the conduct within the ambit of the mail fraud statute" and "the 'scheme's completion [must] depend[] in some way on the charged mailings.'" United States v. Coyle, 63 F.3d 1239, 1244 (3d Cir. 1995) (quoting United States v. Otto, 742 F.2d 104, 108 (3d Cir. 1984)) (alterations in original); see also United States v. Cross, 128 F.3d 145, 150 (3d Cir. 1997).

Bowser and Fattah both challenge Counts Five through Ten on the ground that they fail to allege that the charged mailings were in furtherance of the scheme to defraud.³

3. Neither Fattah nor Bowser argues that the counts fail to satisfy the other two elements of mail fraud, that is the requirements of "(1) the defendant's knowing and willful

According to Bowser, the alleged mailings lack a sufficiently close relationship to the alleged scheme to defraud FFC and FFM. She points out that funds were not taken from FFC and FFM and "used directly to pay any student debts." Instead, the fraud occurred when the funds were transferred from the campaigns to SLA. SLA's subsequent payments to the creditors of Fattah's son, Bowser argues, "did nothing to complete, further or carry out the alleged fraud on the FFC and FFM campaign committees." She concludes that "the mailings paying the student debts were not an essential part of the scheme."

Bowser misapprehends the contours of the charged scheme. In reality, Counts Five through Ten, which incorporate paragraphs from elsewhere in the indictment, describe a fraudulent scheme in which funds from FFC and FFM were used to pay the college debt of Fattah's son "while simultaneously defrauding creditors of [Fattah's] mayoral campaign" The scheme charged is not merely "one to defraud the FFC and FFM campaign committees," as Bowser claims, but also one with the goal of paying the college debt of Fattah's son. The mailing of a check from FFM to SLA for the alleged purpose of paying this debt and the mailing of checks from SLA to the servicer of the loans were all in furtherance of this scheme.

participation in a scheme or artifice to defraud, (2) with the specific intent to defraud" See Carbo, 572 F.3d at 116.

Bowser cites a number of cases which, in her view, stand for the proposition that "post-fraud mailings which are essential to the *continuation* of a scheme and therefore in furtherance of a scheme" must be distinguished "from mailings occurring after the scheme has reached fruition, which are immaterial to the scheme." Bowser, of course, contends that the mailings described in Counts Five through Ten fall into the latter category.

The cases on which she relies are of no help to her. Here, the mailings for which defendants are charged were not made "after the scheme ha[d] reached fruition," but were an essential part of it. This is because the "scheme and artifice to defraud" charged in the mail fraud counts is alleged to have been formulated and carried out in order to use campaign funds to pay Fattah's son's debts. That the scheme is described in some parts of the indictment as one "to defraud FFC, FFM, and FFM's creditors" does not mean that this was its sole purpose. Moreover, the completion of the scheme depended on the charged mailings, without which there would have been no payment of the loans of Fattah's son. See Coyle, 63 F.3d at 1244.

Fattah's argument is slightly different. He contends that the mailings in Counts Five through Ten were not "in furtherance of" a scheme to defraud because they were carried out pursuant to a legal duty. Fattah cites the decision of our

Court of Appeals in Cross, which involved mail fraud convictions based on allegations that a state court judge and certain court employees had conspired to "fix" cases and had "caused the mail to be used to transmit notices of case dispositions." 128 F.3d at 146-48. The Court overturned those convictions. Id. at 152. It reasoned that the mailings at issue "were required by law as a part of the court's exercise of its responsibilities." Id. at 151. In so doing, the Court relied on the 1960 decision of the Supreme Court in Parr, which reasoned that "mailings made or caused to be made under the imperative command of duty imposed by state law" cannot be said to be "criminal under the federal mail fraud statute" 363 U.S. 370, 391 (1960).

Fattah now contends that the checks mailed by Naylor to Sallie Mae are like the mailings at issue in Cross because they were made "in accordance with state law as compensation" for work performed by Fattah's son for SLA's benefit and "would have been made whether or not a conspiracy to defraud" the campaigns ever existed. This argument lacks merit. Fattah has identified no "legal requirement" pursuant to which Naylor and SLA were compelled to pay the college debts of Fattah's son. Furthermore, our task at this stage is simply to determine whether the well-pleaded factual allegations contained in the indictment itself, taken as true, adequately set forth an offense. See Besmajian, 910 F.2d at 1154. Fattah asks us to

look beyond the "four corners" of the indictment, which we cannot do.

Finally, Bowser contends that Counts Five through Ten are duplicitious. The essence of Bowser's argument is that Counts Five through Ten charge her simultaneously "with a conspiracy to commit a mail fraud scheme against creditors and a mail fraud scheme to pay student debts." These, Bowser insists, are "distinct crimes, under separate statutory sections of Title 18, which require proof of different elements."

Bowser appears to be misreading these counts as charging her both with conspiracy and with the substantive offense of mail fraud. In fact, Counts Five through Ten charge her only with mail fraud, an offense which has as an element the existence of "a scheme or artifice to defraud." See Carbo, 572 F.3d at 116. That scheme, as charged in the mail fraud counts, involved efforts to defraud the campaigns in order to pay the college debts of Fattah's son. It is immaterial that Counts Five through Ten incorporate paragraphs from conspiracy counts elsewhere in the indictment. Bowser is charged in Counts Five through Ten with the sole offense of mail fraud, and not, as she argues, with "two or more offenses." Fed. R. Crim. P. 12(b) (3) (B) (i). Counts Five through Ten are not duplicitious.

V.

Fattah and Bowser next challenge Counts Eleven through Fifteen, which charge both of them with falsification of records under 18 U.S.C. §§ 1519 and 2. Fattah claims that Counts Eleven through Fifteen as impermissibly multiplicitous in that they allege the same offenses that are charged in Counts Two and Three. He urges us either to dismiss Counts Eleven through Fifteen or to order the Government to elect whether to dismiss those counts or Counts Two and Three.⁴ Bowser asks us to dismiss Counts Eleven through Fifteen on the ground that they are duplicitous. She also argues that Count Fifteen must be dismissed for failure to allege an offense.

Section 1519 of Title 18 criminalizes the destruction, alteration, or falsification of records when done with the intent to hinder certain federal investigations. It states in relevant part that

[w]hoever knowingly alters, destroys, mutilates, conceals, covers up, falsifies, or makes a false entry in any record, document, or tangible object with the intent to impede, obstruct, or influence the investigation or proper administration of any matter within the jurisdiction of any department or agency of the United States . . . or in relation to or contemplation of

4. Fattah's motion is styled a "Motion for the Prosecution to Elect Dismissal of Multiplicitous Counts Pursuant to the Double Jeopardy Clause." In it, however, he asks that we "dismiss multiplicitous counts in the Indictment pursuant to the Federal Rule of Criminal Procedure 12."

any such matter or case[] shall be fined under this title, imprisoned not more than 20 years, or both.

18 U.S.C. § 2, meanwhile, is the generic "aiding and abetting statute" and provides that "[w]hoever commits an offense against the United States or aids, abets, counsels, commands, induces or procures its commission, is punishable as a principal" and "[w]hoever willfully causes an act to be done which if directly performed by him or another would be an offense against the United States, is punishable as a principal." In each of Counts Eleven through Fifteen, Bowser and Fattah are charged both with the substantive offense of falsification of records in violation of § 1519 and with aiding and abetting one another in the commission of that offense under § 2.

Fattah and Bowser are alleged to have made false entries in FFM campaign filings in an effort to conceal various monetary transactions. Those transactions included: the receipt and repayment of a \$1 million campaign loan to FFM; the misappropriation of federal grant funds in order to repay the loan; the forgiveness of a campaign debt by Lindenfeld in exchange for Fattah's promise to exert his political influence for Lindenfeld's benefit; the forgiveness of a campaign debt by Naylor; and the use of campaign funds to pay the personal expenses of Fattah and his spouse and the college debts of Fattah's son.

Count Eleven charges that in the Cycle Year 2010 CFR, Fattah and Bowser made false entries in: Schedule II, documenting "In-Kind Contributions and Valuable Things Received"; Schedule III, documenting "Statement of Expenditures"; and Schedule IV, documenting "Statement of Unpaid Debts." Counts Twelve through Fourteen allege that Fattah and Bowser made false entries in Schedule II and Schedule IV of the Cycle Year 2011, 2012, and 2013 CFRs, respectively. Finally, Count Fifteen involves allegedly false statements made in a "FEC Form 3." Fattah and Bowser are alleged to have made these false statements "with the intent to impede, obstruct, and influence the investigation and proper administration of a matter, and in relation to and contemplation of such matter," which was within the jurisdiction of the Department of Justice ("DOJ") and the Federal Bureau of Investigation ("FBI").

We first address Fattah's contention that these counts are multiplicitous as they relate to Counts Two and Three.⁵

5. Count Two charges Fattah, Brand, Nicholas, and Bowser with a wire fraud conspiracy under 18 U.S.C. §§ 1343 and 1349. Specifically, these defendants are alleged to have conspired to violate § 1343, the wire fraud statute, by electronically filing false campaign finance statements. Four of these statements are the same statements that serve as the bases for Counts Eleven through Fourteen. Count Three, as noted above, charges Fattah and Bowser with conspiring to commit honest services wire fraud under 18 U.S.C. §§ 1343, 1346, and 1349 in connection with their efforts to conceal on campaign finance reports the fact that Lindenfeld had agreed to forgive certain campaign debts in exchange for Fattah's promise to exert his political influence

Fattah maintains that the falsification of records counts, that is Counts Eleven through Fifteen, "must be proven if the prosecution is to prove the conspiracies to commit wire fraud alleged in" Counts Two and Three. This is incorrect. As the Government points out, Count Two requires proof of a conspiracy to execute a scheme or artifice to defraud. See 18 U.S.C. §§ 1343, 1349. Count Three requires proof of a conspiracy to execute a scheme to deprive Fattah's constituents of his honest services. See id. §§ 1343, 1346, 1349. Counts Eleven through Fifteen, in contrast, require proof not only that Fattah and Bowser made false entries in records, but that they did so "with the intent to impede, obstruct, or influence the investigation or proper administration of any matter within the jurisdiction of any department or agency of the United States." See id. § 1519. In sum, proof of each falsification-of-records count "requires an additional fact that proof of the other offense does not necessitate." See Stanfa, 685 F.2d at 87 (quoting Carter, 576 F.2d at 1064). As a result, Counts Eleven through Fifteen do not put Fattah at risk of double jeopardy. See Pollen 978 F.2d at 83.

for Lindenfeld's benefit. The acts in furtherance of the conspiracy described in Count Three were the electronic filing of five Campaign Finance Reports, four of which are the same acts appearing in Counts Eleven through Fourteen.

Meanwhile, Bowser maintains that Counts Eleven through Fifteen must be dismissed as duplicitous. It is her position that since each incorporates by reference the charging paragraphs of other counts, the "ostensibly [§] 1519 Counts also charge a money and property wire fraud conspiracy (Count 2), an honest services wire fraud conspiracy (Count 3), a mail fraud conspiracy (Count 4), and a mail fraud scheme (Counts 5-10)." However, the language incorporated into Counts Eleven through Fifteen merely provides factual context for those counts. Notwithstanding Bowser's fears to the contrary, there is simply no ambiguity about the offenses with which she and Fattah are charged in Counts Eleven through Fifteen. None of the risks that arise from duplicitous charges is present here, and Bowser's right to "fundamental fairness and due process" is not compromised. See Root, 585 F.3d at 154. Consequently, Bowser's duplicity argument fails as to Counts Eleven through Fifteen.

Finally, we reject the argument raised by Bowser that Count Fifteen does not state an offense. Bowser opines that the filing described in Count Fifteen was "concededly accurate" in that it merely reported the disbursement from FFC to FFM of \$5,000, a sum which, of course, was subsequently transferred to SLA and from there to Sallie Mae. According to Bowser, the FEC Form 3 at issue in Count Fifteen simply documented the transfer

from one campaign to another, and was therefore neither fraudulent nor false.

We reiterate that when reviewing a motion to dismiss, we limit our inquiry to the well-pleaded factual allegations in the indictment. See Besmajian, 910 F.2d at 1154. While Count Fifteen and the incorporated paragraphs do not specify the precise false statement that was purportedly made in the FEC Form 3, it is alleged that Fattah and Bowser "falsified[] and made false entries in" the FEC Form 3. The paragraphs incorporated by reference into Count Fifteen aver that the defendants, including Fattah and Bowser "obstruct[ed] justice by creating . . . false entries in . . . records" and "ma[de] false filings with federal, state, and local election agencies to disguise and conceal illegal contributions and expenditures" Specifically, Overt Act 57, which is incorporated by reference into Count Fifteen, charges that Fattah and Bowser "made false filings with federal, state, and local election agencies to conceal illegal contributions and expenditures" and that these "false filings" included the December 6, 2010 FEC Form 3 filing described in Count Fifteen. In sum, and contrary to Bowser's assertions, the indictment alleges that the FEC Form 3 contained falsehoods. Whether the Government can prove at trial that the statements in the FEC Form 3 were false takes

us beyond the four corners of the indictment and is not for us to decide here.

VI.

Vederman challenges Count Eighteen on the ground that it is impermissibly duplicitous.⁶ Count Eighteen charges Vederman with bribery under 18 U.S.C. § 201(b)(1). He asserts that Count Eighteen improperly charges him with two "episodes" of alleged bribery. According to Vederman, one episode charged involved his payments to Fattah's son and for the benefit of the Fattah family's au pair in 2010, while the second involved his transfer of \$18,000 to Fattah in 2010 as part of what is characterized as a sham car sale. These two episodes, Vederman contends, "are so different in time, scope, participants and nature that they comprise two different offenses," rendering Count Eighteen duplicitous.

We disagree with Vederman's reading of the indictment. As noted above, our Court of Appeals has cautioned that "a single count of an indictment should not be found impermissibly duplicitous whenever it contains several allegations that could have been stated as separate offenses, but only when the failure to do so risks unfairness to the defendant." Root, 585 F.3d

6. We have already addressed Vederman's argument that Count Eighteen fails to state an offense. See, Memorandum and Order dated March 22, 2016 (Doc. # 220) and Memorandum dated March 18, 2016, at 43-46 (Doc. #217) and Order (Doc. #218).

at 154. Whether the conduct described in Count Eighteen took place over an extended period of time makes no difference to our duplicity analysis. Indeed, Count Eighteen incorporates language which describes a "series of payments and things of value" provided by Vederman in exchange for the official acts of Fattah. The acts that Vederman characterizes as "two different crimes" actually make up the "series of payments and things of value" charged in the indictment. Count Eighteen gives rise to no risk of unfairness to Vederman. See id.

VII.

Finally, we address Fattah's challenge to Counts Nineteen⁷ through Twenty-Three, together with Bowser's challenge to Counts Twenty-Two and Twenty-Three. In the Counts at issue, Fattah, Vederman, and Bowser are charged with: bank fraud under 18 U.S.C. §§ 1344 and 2 (Count Nineteen); making false statements to financial institutions under 18 U.S.C. §§ 1014 and 2 (Count Twenty); falsification of records under 18 U.S.C. §§ 1519 and 2 (Count Twenty-One); money laundering under 18 U.S.C. §§ 1957 and 2 (Count Twenty-Two); and money laundering conspiracy under 18 U.S.C. § 1956(h) (Count Twenty-Three).⁸

7. In his motion, Fattah requests dismissal of Counts Twenty through Twenty-Three. However, the memorandum and form of order submitted with the motion also address Count Nineteen.

8. As explained above, 18 U.S.C. § 2 provides that one who aids or abets an offense is punishable as a principal. Counts

Fattah takes the position that the counts are multiplicitous in that each merely charges an element of the crime of bank fraud, with which he is charged in Count Nineteen. Bowser joins Fattah in challenging Counts Twenty-Two and Twenty-Three, urging that they improperly "merge" with Count Sixteen.⁹

Counts Nineteen through Twenty-Three relate to the Government's allegations that Vederman bribed Fattah by giving him certain things of value, including a payment of \$18,000, in exchange for certain official acts that Fattah undertook for Vederman's benefit. The indictment alleges that Vederman paid this \$18,000 bribe on January 13, 2012 by wiring the funds into Fattah's Wright Patman Congressional Federal Credit Union ("Wright Patman") account. He did so pursuant to instructions which Bowser had provided in an email.

According to the indictment, at around the time Vederman completed the \$18,000 transfer to Fattah's Wright Patman account, Fattah and his spouse were in the process of obtaining a mortgage from the Credit Union Mortgage Association ("CUMA") in order to purchase a vacation home. On or about January 17, 2012, five days after the funds were transferred to

Twenty, Twenty-One, and Twenty-Two each charge that Fattah, Vederman, and Bowser committed the relevant substantive offenses while "aided and abetted by one another and others."

9. Count Sixteen charges Fattah, Vederman, and Bowser with conspiracy to commit bribery under 18 U.S.C. § 371.

the Wright Patman account, CUMA emailed Fattah requesting "documentation of source of funds for deposit made 1/13/2012 in the amount of \$18,000. Need to show by paper trail the evidence of where the funds came from." Fattah responded that the funds were the proceeds from the sale of his spouse's Porsche.

The Government alleges that Fattah, Vederman, and Bowser then undertook to disguise the alleged \$18,000 bribe as a car sale. They did so by falsifying a motor vehicle bill of sale purporting to show that Fattah's spouse had sold a Porsche to Vederman and that Vederman had paid \$18,000 for it. On January 17, 2012, Bowser wrote to Vederman, saying: "Hi Herb, the attached document is for your signature. Please sign and email back to me tomorrow, I'll send you a copy of the completed document. [Fattah's spouse] has to get the title and will forward it to you." Attached to Bowser's email was a document labeled "motor vehicle bill of sale." Two days later, on January 19, Bowser obtained a duplicate Certificate of Title for the Porsche, as well as a notarized Assignment of Title. The same day, Fattah emailed CUMA, attaching a completed bill of sale for the Porsche. Fattah's spouse and Vederman had signed the bill of sale as the seller and buyer, respectively. Bowser had signed as a witness. In a separate email, Fattah sent CUMA the duplicate Certificate of Title.

Within approximately two days of receiving these materials, CUMA approved the mortgage on the vacation property. Fattah and his spouse executed a Mortgage Loan Approval Certificate on January 21, 2012. On January 24, 2012, Fattah wired \$25,000 from his Wright Patman account to the escrow account of his attorney for the purchase of the home.

Meanwhile, Fattah and his spouse retained possession of the Porsche. They continued to register, insure, and maintain it in the years following the purported sale to Vederman. As recently as March 2014, law enforcement officials observed the Porsche parked at Fattah's home.

In Count Nineteen, Fattah, Vederman, and Bowser are charged with bank fraud under 18 U.S.C. § 1344 and with aiding and abetting bank fraud under 18 U.S.C. § 2. Count Twenty charges them with making false statements to financial institutions, and with aiding and abetting one another in doing so, under 18 U.S.C. §§ 1014 and 2. The Government alleges that they committed these offenses by scheming to defraud CUMA and by falsely representing to CUMA that the \$18,000 deposit to Fattah's Wright Patman account represented the proceeds of the sale of the Porsche. In Count Twenty-One, the Government alleges under 18 U.S.C. §§ 1519 and 2 that Fattah, Vederman, and Bowser engaged in falsification of records by creating a false bill of sale for the Porsche "with the intent to impede,

obstruct, and influence the investigation and proper administration of a matter, and in relation to and contemplation of such matter, which was within the jurisdiction of" the DOJ and the FBI.

Counts Twenty-Two and Twenty-Three involve allegations that Fattah, Vederman, and Bowser laundered the proceeds of "a scheme to commit bribery, in violation of [18 U.S.C. §] 201" by transferring funds from Fattah's Wright Patman account to an escrow account, and that they conspired to do so. Count Twenty-Two charges them with money laundering, and with aiding and abetting one another in the same, under 18 U.S.C. §§ 1957 and 2. Count Twenty-Three charges them with conspiring, in violation of 18 U.S.C. § 1956(h), to carry out the transaction described in Count Twenty-Two.

Fattah challenges Counts Nineteen through Twenty-Three as multiplicitous. He asserts that the acts charged in these counts essentially "represent an itemization of individual elements of the" bank fraud charged in Count Nineteen, which, if correct, would mean that Count Nineteen can be proven only if each of Counts Twenty through Twenty-Three are proven. Fattah points out that "[p]ractically, [he] is charged separately with communicating with CUMA regarding the sale [of the Porsche], submitting the bill of sale, and using the proceeds [of the sale] to make a required escrow payment." This, according to

Fattah, renders Counts Twenty through Twenty-Three multiplicitous in relation to Count Nineteen.

Once again, Fattah has misapprehended the scope of the prohibition on multiplicitous charges. We reiterate that in the multiplicity analysis the "basic inquiry . . . is whether proof of one offense charged requires an additional fact that proof of the other offense does not necessitate." Stanfa, 685 F.2d at 87 (quoting Carter, 576 F.2d at 1064). As to Counts Nineteen through Twenty-Three the answer is "yes." Count Nineteen requires proof of "a scheme or artifice . . . to defraud a financial institution." See 18 U.S.C. § 1344. Count Twenty requires, among other things, proof of a false statement or report made in order to influence a financial institution. See id. § 1014. Count Twenty-One requires proof that a false record was made in order to impede, obstruct, or influence a federal investigation or matter. See id. § 1519. Count Twenty-Two requires proof of a monetary transaction in criminally derived property. Id. § 1957(a). Finally, Count Twenty-Three requires proof of a conspiracy. Id. § 1956(h). Each of these requirements is specific to the individual count.

Fattah's reliance on United States v. Lemons, 941 F.2d 309 (5th Cir. 1991), is misplaced. There, the defendant challenged his conviction on multiple counts of bank fraud under § 1344, arguing that the counts were multiplicitous. Id. at

316. The Court of Appeals for the Fifth Circuit concluded that the multiple bank fraud convictions were multiplicitous because the indictment described a single "scheme to defraud," and each of the bank fraud counts charged acts in furtherance of the ultimate execution of that scheme. Id. at 318. Here, while Fattah and his codefendants are accused of offenses related to the same facts as the bank fraud, they are not charged multiple times under the bank fraud statute. Contrary to Fattah's assertions, Lemons does not stand for the broad proposition that a defendant may not be charged in a single indictment with carrying out a bank fraud scheme and with offenses arising out of acts that took place in furtherance of that scheme. See generally id.

Bowser advances a similar argument with respect to Counts Twenty-Two and Twenty-Three. She urges that Count Sixteen charges her with "exactly the same conduct" that is the basis for the money-laundering and money-laundering-conspiracy counts. In Count Sixteen, Fattah, Vederman, and Bowser are alleged to have engaged in a bribery conspiracy in violation of 18 U.S.C. § 371. Specifically, they are charged with forming an agreement pursuant to which Vederman provided things of value to Fattah in exchange for official acts performed by Fattah for Vederman's benefit. Counts Twenty-Two and Twenty-Three charge

the same defendants with laundering the bribery proceeds and with conspiring to do so.

Section 1957, under which Fattah, Vederman, and Bowser are charged in Count Twenty-Two, makes it a crime to "knowingly engage[] or attempt to engage[] in a monetary transaction in criminally derived property of a value greater than \$10,000 and is derived from specified unlawful activity."¹⁰ 18 U.S.C. § 1957. As noted above, 18 U.S.C. § 2, under which the defendants are also charged in Count Twenty-Two, concerns liability for aiding and abetting. Section 1956(h) of Title 18, which serves as the basis for Count Twenty-Three, makes it unlawful to conspire to violate § 1957.

At the core of counts Twenty-Two and Twenty-Three is the January 24, 2012 transfer of \$25,000 from Fattah's Wright Patman account to the escrow account of his lawyer. This is the alleged "laundering" of the bribery proceeds.

Bowser points out that Count Sixteen, in which she is charged with involvement in a bribery conspiracy under § 371, and Counts Twenty-Two and Twenty-Three all incorporate the same language from elsewhere in the indictment. That language includes a description of Bowser's efforts to create records

10. Under § 1957, the conduct must take place in the United States or in its special maritime and territorial jurisdiction, or be committed outside such jurisdiction by a "United States person." There is no dispute that the conduct at issue in this case took place in the United States.

purporting to reflect the sale of a Porsche from Fattah's spouse to Vederman. Bowser argues that since both the bribery conspiracy count and the money-laundering counts against her are based on exactly the same set of actions, she cannot be said to have laundered criminally derived property.

We need not reach the merits of Bowser's argument, however. A close reading of Counts Twenty-Two and Twenty-Three reveals that they do not specify that the allegedly laundered funds were the proceeds of the § 371 bribery conspiracy alleged in Count Sixteen. Counts Twenty-Two and Twenty-Three charge that the funds transferred from Fattah's Wright Patman account to the escrow account were "derived from a specified unlawful activity, that is: a scheme to commit bribery, in violation of Title 18, United States Code, Section 201." Under § 201, bribery is a substantive offense. Fattah and Vederman are each charged in Counts Seventeen and Eighteen, respectively, with violating § 201.

We read Counts Twenty-Two and Twenty-Three not to address the proceeds of the bribery conspiracy under § 371 that is charged in Count Sixteen but to address the proceeds of the substantive bribery offenses under § 201 that are charged in Counts Seventeen and Eighteen. Fattah's bribery offense was complete when he accepted things of value from Vederman in exchange for his official acts. He is alleged to have accepted

the \$18,000 payment on or about January 13, 2012. Vederman's bribery offense was complete when he gave Fattah those things of value in exchange for official acts. Again, this occurred on or about January 13, 2012. The indictment alleges that Bowser engaged in laundering the proceeds of these offenses on January 24, 2012 and that she conspired with others to do so. In other words, even if Bowser is correct that the same facts cannot serve as the basis for a conspiracy charge against her and for a charge that she laundered the proceeds of that conspiracy, that is not what has happened here. Instead, Bowser's codefendants are charged with the substantive offense of bribery under § 201, and Bowser is alleged to have been involved in laundering the proceeds of those completed substantive offenses.

Bowser also appears to argue that the indictment does not adequately allege her involvement in the money laundering transaction. We disagree. Again, § 1957 makes it a crime knowingly to "engage[] or attempt to engage[] in a monetary transaction in criminally derived property of a value greater than \$10,000. . . derived from specified unlawful activity." By helping to create documentation of the alleged sham car sale so that Fattah could use the funds received from Vederman to close on his vacation home, Bowser engaged in such a transaction. What is more, Count Twenty-Two also charges her with aiding and abetting the offense of money laundering. Finally, by detailing

her efforts to falsify records of the car sale, the Government has adequately put Bowser on notice of her involvement in the money laundering conspiracy charged in Count Twenty-Three.

Bowser's motion fails insofar as it seeks dismissal of Counts Twenty-Two and Twenty-Three.

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA	:	CRIMINAL ACTION
	:	
v.	:	
	:	
CHAKA FATTAH, SR.	:	NO. 15-346-1
HERBERT VEDERMAN	:	NO. 15-346-2
BONNIE BOWSER	:	NO. 15-346-5

ORDER

AND NOW, this 4th day of April, 2016, for the reasons set forth in the accompanying Memorandum, it is hereby ORDERED that:

(1) the omnibus motion of defendant Bonnie Bowser to dismiss Counts One through Fifteen and Twenty-Two through Twenty-Three (Doc. # 123) is DENIED insofar as it seeks dismissal of Counts Three through Fifteen, Twenty-Two, and Twenty-Three of the Indictment;

(2) the motion of defendant Herbert Vederman "to Dismiss Counts of the Indictment" (Doc. # 131) is DENIED insofar as it seeks dismissal of Count Eighteen as duplicitous;

(3) the motion of defendant Chaka Fattah, Sr. to dismiss Counts Five through Ten of the Indictment (Doc. # 134) is DENIED;

(4) the motion of defendant Chaka Fattah, Sr. "for the Prosecution to Elect Dismissal of Multiplicitous Counts

Pursuant to the Double Jeopardy Clause" (Doc. # 135) is DENIED;
and

(5) the motion of defendant Chaka Fattah, Sr. for
dismissal of Counts Twenty through Twenty-Three of the
Indictment (Doc. # 138) is DENIED.

BY THE COURT:

/s/ Harvey Bartle III

J.