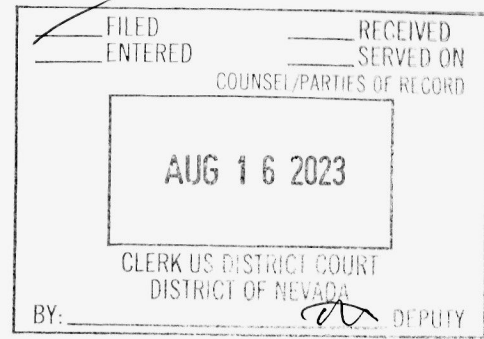




SEALED

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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

DAVID E. BORUCHOWITZ,

Defendant.

**SEALED
CRIMINAL INDICTMENT**

Case No.: 2:23-cr-0149-APG-BNW

VIOLATIONS:

Title 18, United States Code, Section 242--
Deprivation of Rights Under Color of Law
(Count One)

Title 18, United States Code, Section 1343 --
Fraud by Wire (Counts Two thru Five)

Title 18, United States Code, Section 1621 --
Perjury (Count Six)

THE GRAND JURY CHARGES AS FOLLOWS.

At all times relevant to the Indictment:

BACKGROUND

1. Defendant, **DAVID E. BORUCHOWITZ** (“BORUCHOWITZ”), was a resident of the State and Federal District of Nevada and a Deputy Sheriff, serving with the Nye County Sheriff’s Office (“NCSO”), Pahrump, Nevada.

2. As a Deputy Sheriff with the NCSO, defendant was a law enforcement officer authorized under Nevada law to conduct investigations and make arrests for violations of Nevada law.

3. Valley Electric Association (“VEA”) was a Nonprofit Cooperative Corporation formed under Nevada law. VEA sold electricity and broadband services to residents of Nye County, Nevada.

4. “VEA Members” were customers of VEA who, under Nevada law, had certain rights in the corporate affairs of VEA, including the right to vote to elect or remove/recall members of the VEA Board of Directors (“VEA Board”).

5. The VEA Board governed the corporate affairs of VEA, including the hiring and firing of VEA’s Chief Executive Officer (“CEO”).

6. “Recall Petition” was a petition signed by VEA Members to trigger a recall election to remove/recall members of the VEA Board.

7. VEA Members for Change (“VEAMC”) was an informal organization comprised of VEA Members who shared a common objective of obtaining VEA Member signatures for a Recall Petition.

8. Angela Evans (“Evans”) was the CEO of VEA during the time that VEAMC was active.

THE SCHEME AND ARTIFICE TO DEFRAUD

9. On or about and during February 2019, to on or about the end of December 2019, defendant **BORUCHOWITZ**, and others known and unknown to the Grand Jury, aided and abetted by each other, knowingly made, and caused to be made, numerous misrepresentations and omissions of material fact as a part of a scheme to defraud and fraudulently deprive Evans of her job as the CEO of VEA and to obtain a position on the VEA Board.

10. As a further part of the scheme, and to execute the objects of the scheme, defendant **BORUCHOWITZ**, alleged falsely that Evans committed crimes, obtained search warrants based on the false allegations, and arrested Evans based on the false allegations, while fraudulently concealing from the court and others, the nature and extent of his personal interests in VEAMC, the Recall Petition, and the firing of Evans, which interests he was required by law to disclose to the court and all of which were material to the court's decision to authorize search warrants and determine probable cause for search warrants and arrests.

11. As a further part of the scheme, and to execute the objects of the scheme, on or about February 21, 2019, defendant **BORUCHOWITZ** obtained, and caused the obtaining of, court authorization for a warrant to search VEA (hereinafter "Search Warrant I") under false and fraudulent pretenses by, among other things, knowingly misrepresenting and omitting material facts in the search warrant affidavit.

12. As a further part of the scheme, and to execute the objects of the scheme, on or around February 26, 2019, defendant **BORUCHOWITZ** obtained, and caused the obtaining of, court authorization for a second search warrant (hereinafter Search Warrant

1 II) under false and fraudulent pretenses by, among other things, knowingly
2 misrepresenting and omitting material facts in the search warrant affidavit.

3 13. As a further part of the scheme, and to execute the objects of the scheme,
4 on or about February 26, 2019, defendant **BORUCHOWITZ** falsely and fraudulently
5 arrested Evans without a warrant and without probable cause on charges that she
6 embezzled services from VEA. After making the false arrest, the defendant filed a
7 Declaration of Arrest with the court under false and fraudulent pretenses by knowingly
8 misrepresenting and omitting material facts in the Declaration of Arrest.

9 14. As a further part of the scheme, and to execute the objects of the scheme as
10 alleged in Counts Two through Five below, defendant **BORUCHOWITZ** caused video,
11 audio, and written press releases to be issued from the NCSO that publicly announced
12 that Evans was under investigation and arrested for crimes, leaving the false and
13 fraudulent impression that the investigation and arrest were legitimate and authorized by
14 a court of law, when in truth and in fact, the searches and arrest were effected under false
15 and fraudulent pretenses and to further defendant's fraudulent scheme to have Evans
16 fired from her job as CEO.

17 15. As a further part of the scheme, and to execute the objects of the scheme,
18 defendant **BORUCHOWITZ** made such other false, fraudulent, deceptive, and deceitful
19 representations and omissions as necessary to advance the fraudulent scheme, conceal his
20 fraudulent activity from others, avoid detection, advance his pecuniary interests, and
21 cause devastating loss to Angela Evans.
22
23
24

COUNT ONE

Deprivation of Rights Under Color of Law
(Title 18, United States Code, Section 242)

16. Paragraphs 1 through 15 are incorporated herein as though set forth in full.

17. On or about February 26, 2019, in the State and Federal District of Nevada,

DAVID E. BORUCHOWITZ,

defendant herein, while acting under color of law as a Deputy Sheriff of the Nye County Sheriff's Office, Nye County, Nevada, willfully deprived Angela Evans of the right, secured and protected by the Constitution of the United States, to be free from seizure without probable cause, by falsely arresting her on the charge of embezzlement in violation of Nevada law.

All in violation of Title 18, United States Code, Sections 242 and 2.

COUNTS TWO THROUGH FIVE

Fraud By Wire
(Title 18, United States Code, Section 1343)

18. Paragraphs 1 through 15 are incorporated herein as though set forth in full.

19. From in and about February 2019 to in or about December 2019, in the State and Federal District of Nevada and elsewhere,

DAVID E. BORUCHOWITZ,

defendant herein, with others known and unknown to the grand jury, and aided and abetted by each other, did devise, and intend to devise, a material scheme and artifice to defraud, and to obtain money and property by means of materially false and fraudulent pretenses, representation, and promises, as set forth herein, and for the purpose of executing such scheme and artifice, and attempting to do so, did transmit, and cause to be transmitted, by means of wire, radio or television communication in interstate and foreign

commerce such writings, signs, signals, pictures, or sounds, as set forth in each count below.

Count	Date	Interstate Wire	Description
Two	2/22/2019	https://www.facebook.com/nyecountysheriff/videos/247704912842360/	Facebook Post: NCSO Press Release Announcing Search Warrant I
Three	2/25/2019	https://www.facebook.com/nyecountysheriff/videos/248167596070984/	Facebook Post: NCSO Press Release Announcing That Evans Was Under Criminal Investigation.
Four	2/26/2019	https://www.facebook.com/nyecountysheriff/videos/9735744686181029/	Facebook Post: NCSO Press Release Announcing Search Warrant II and the Arrest of Angela Evans
Five	12/20/2019	https://www.facebook.com/nyecountysheriff/videos/448503845841182	Facebook Post: NCSO Press Release Stating Court Found Probable Cause For VEA Searches and Arrest of Angela Evans

All in violation of Title 18, United States Code, Sections 1343 and 2.

COUNT SIX

Perjury

(Title 18, United States Code, Section 1621)

20. On or about the dates stated herein, in the State and Federal District of Nevada,

DAVID E. BORUCHOWITZ,

defendant herein, having duly taken an oath before a person authorized by law to administer oaths, during and in the course of discovery in a federal civil action duly filed in the United States District Court for the District of Nevada as Case No. 2:20-cv-01919-

1 RFB-VEF, a case which Title 28, United States Code, authorizes an oath to be
 2 administered, did declare that he would testify, depose, or certify truly, and that any
 3 written testimony, declaration, deposition, or certificate by him subscribed is true, did
 4 willfully and knowingly and contrary to said oath, state material matter which he did not
 5 then believe to be true.

6 21. The plaintiff in the civil action referenced herein, was conducting duly
 7 authorized discovery of information relevant to the claims alleged in the civil action. On
 8 the dates listed below, defendant **BORUCHOWITZ** provided a written response to an
 9 interrogatory and deposition testimony as follows.

10 Written Interrogatory Number 12:

11 Please state in detail your affiliation with VEA Members for Change
 12 prior to the execution of [Search Warrant II].

13 Written Response subscribed under penalty of perjury by the
 14 defendant on February 23, 2021:

- 15 **a. As a resident of Nye County, I created a Facebook page and logo for the**
 16 **group in or around February 2019. Prior to the [Search Warrant II]**
 17 **execution, I limited/ceased my interaction with VEA Members [for]**
 18 **Change.**

19 During deposition on March 29, 2021, plaintiff asked the following
 20 questions and defendant **BORUCHOWITZ** provided the following
 21 answers under oath:

22 *Question:* In your interrogatory answers and in your testimony today,
 23 you seemed to indicate that prior to the execution of [Search
 24 Warrant II] you stopped interacting with [VEA] Members for
 Change individuals regarding [VEA] Members for Change matters.

- 21 **b. Answer: Yes.**

22 *Question:* When did you stop communicating with [K.J.] regarding
 23 [VEA] Members for Change matters?

- 24 **c. Answer: After that [KPVM-TV] television interview.**

1 *Question:* Do you think [K.J.] had an axe to grind against Angela
2 Evans?

3 **d. Answer: I hesitate to answer because I don't recall a conversation with him**
4 **relating to his relationship with her. I have no recollection, so it would be**
5 **very hard to answer that.**

6 *Question:* Did you ever learn that [K.J.] had been writing letters to the
7 Board threatening them with their demise?

8 **e. Answer: No, I don't think anyone reported that to us.**

9 *Question:* Was the first search that was done on the VEA instigated as
10 a result of a tip from K.J.?

11 **f. Answer: No.**

12 22. The aforesaid responses and testimony of defendant **BORUCHOWITZ** as
13 he then and there well-knew and believed, were false as follows:

- 14 a. Defendant well-knew that on numerous occasions after the KPVM-
15 TV interview, he communicated with others about VEAMC matters.
- 16 b. Defendant well-knew of K.J.'s bias against Evans.
- 17 c. Defendant well-knew that K.J. had demanded the resignation of the
18 VEA Board.
- 19 d. Defendant well-knew that Search Warrant I was instigated as the
20 result of a tip from K.J.

21 **DATED:** this 16th day of August, 2023.

22 **A TRUE BILL:**

23 */S/*
FOREPERSON OF THE GRAND JURY

24 JASON M. FRIERSON
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BIANCA R. PUCCI
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