

IN THE CIRCUIT COURT OF ST. CHARLES COUNTY
STATE OF MISSOURI

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STATE OF MISSOURI,)
)
Plaintiff,)
)
)
)
v.)
)
DARAIN E. ATKINSON,)
)
)
DOB: 1/17/65)
SSN: 515-78-4363)
W/M)
Height: 5'9")
Weight: 170)
)
Defendant)

Case No. _____
Division _____

INDICTMENT

COUNT I

Stealing without Consent – Class B Felony
Mo. Charge Code: 1501899.0

The Grand Jurors of the County of St. Charles, State of Missouri, charge that the Defendant Darain Atkinson in violation of Section 570.030 RSMo, committed the class B felony of stealing, punishable upon conviction under Section 558.011 RSMo, in that from on or about January 3, 2005, to on or about May 3, 2009, in the County of St. Charles, State of Missouri, Defendant, acting in concert with Cory Atkinson, US Fidelis, Inc. f/k/a National Auto Warranty Services, Inc. d/b/a Dealer Services, a corporation, and others, appropriated monies in the form of all or part of refunds due consumers, known and unknown, who purchased vehicle repair coverage under motor vehicle extended service contracts, of a value of at least twenty-five

thousand dollars, which property was owned or provided by such persons, and Defendant appropriated such property without the consent of such persons and with the purpose to deprive them, thereof.

OR IN THE ALTERNATIVE

**Unlawful Merchandising Practices – Class D Felony
Mo. Charge Code: 1904599.0**

The Grand Jurors of the County of St. Charles, State of Missouri, charge that the Defendant Darain Atkinson in violation of Section 407.020.1 and 407.020.3, RSMo, committed the class D felony of unlawful merchandising practices, punishable upon conviction under Sections 558.011 and 560.011 RSMo, in that from on or about January 3, 2005 to on or about May 3, 2009 in the County of St. Charles, State of Missouri, Defendant, acting in concert with Cory Atkinson, US Fidelis, Inc. f/k/a National Auto Warranty Services, Inc. d/b/a Dealer Services, a corporation, and others, in connection with the sale of vehicle repair coverage under motor vehicle extended service contracts in trade and commerce, willfully, knowingly, and with the intent to defraud used and employed the acts and practices of concealing, suppressing and omitting the material fact that US Fidelis, Inc. f/k/a National Auto Warranty Services, Inc. d/b/a Dealers Services intended to withhold fees and charges in excess of amounts stated in the contract.

COUNT II

**Stealing by Deceit – Class B Felony
Mo. Charge Code: 1501899.0**

The Grand Jurors of the County of St. Charles, State of Missouri, charge that Defendant Darain Atkinson in violation of Section 570.030 RSMo, committed the class B felony of stealing

by deceit, punishable upon conviction under Section 558.011 RSMo, in that from on or about January 3, 2005 to on or about May 3, 2009, in the County of St. Charles, State of Missouri, Defendant, acting in concert with Cory Atkinson, US Fidelis, Inc. f/k/a National Auto Warranty Services, Inc. d/b/a Dealer Services, a corporation, and others, appropriated monies of a value of at least twenty-five thousand dollars, which property was owned or provided by consumers, known and unknown, who purchased vehicle repair coverage associated with Auto Life Xtend, Carmor and other vehicle products and Defendant appropriated such property from such persons and with the purpose to deprive them thereof by deceit in that Defendant represented to such persons that all vehicle repairs were covered, which representation was false and known by Defendant to be false and the persons relied on the representation and were induced to part with such property.

COUNT III

Unlawful Merchandising Practices – Class D Felony
Mo. Charge Code: 1904599.0

The Grand Jurors of the County of St. Charles, State of Missouri, charge that Defendant Darain Atkinson in violation of Section 407.020.1 and 407.020.3, RSMo, committed the class D felony of unlawful merchandising practices, punishable upon conviction under Sections 558.011 and 560.011 RSMo, in that from on or about January 3, 2005 to on or about May 3, 2009 in the County of St. Charles, State of Missouri, Defendant, acting in concert with Cory Atkinson, US Fidelis, Inc. f/k/a National Auto Warranty Services, Inc. d/b/a Dealer Services, a corporation, and others, in connection with the sale of vehicle repair coverage under motor vehicle extended service contracts and contracts associated with Auto Life Xtend, Carmor and other vehicle

products, in trade and commerce, willfully, knowingly, and with the intent to defraud used and employed deception, fraud, false pretense, false promise and misrepresentation by falsely implying that the salespersons acting with Defendant and US Fidelis, Inc. f/k/a National Auto Warranty Services, Inc. d/b/a Dealers Services were affiliated with automobile manufacturers and dealers, that the prospective purchaser's factory warranty had expired or was about to expire, and that the company was offering the opportunity to extend or reinstate the manufacturer's warranty.

COUNT IV

Unlawful Merchandising Practices – Class D Felony

Mo. Charge Code: 1904599.0

The Grand Jurors of the County of St. Charles, State of Missouri, charge that Defendant Darain Atkinson in violation of Section 407.020.1 and 407.020.3, RSMo, committed the class D felony of unlawful merchandising practices, punishable upon conviction under Sections 558.011 and 560.011 RSMo, in that from on or about January 3, 2005 to on or about May 3, 2009 in the County of St. Charles, State of Missouri, Defendant, acting in concert with Cory Atkinson, US Fidelis, Inc. f/k/a National Auto Warranty Services, Inc. d/b/a Dealer Services, a corporation, and others, in connection with the sale of vehicle repair coverage under motor vehicle extended service contracts and contracts associated with Auto Life Xtend, Carmor and other vehicle products, in trade and commerce, willfully, knowingly, and with the intent to defraud used and employed deception, fraud, false pretense, false promise and misrepresentation by representing to prospective purchasers, directly or by implication, that all vehicle repairs were covered.

COUNT V

Unlawful Merchandising Practices – Class D Felony
Mo. Charge Code: 1904599.0

The Grand Jurors of the County of St. Charles, State of Missouri, charge that Defendant Darain Atkinson in violation of Section 407.020.1 and 407.020.3, RSMo, committed the class D felony of unlawful merchandising practices, punishable upon conviction under Sections 558.011 and 560.011 RSMo, in that from on or about January 3, 2005 to on or about May 3, 2009 in the County of St. Charles, State of Missouri, Defendant, acting in concert with Cory Atkinson, US Fidelis, Inc. f/k/a National Auto Warranty Services, Inc. d/b/a Dealer Services, a corporation, and others, in connection with the sale of vehicle repair coverage under motor vehicle extended service contracts, in trade and commerce, willfully, knowingly, and with the intent to defraud used and employed deception, fraud, false pretense, false promise and misrepresentation by promising, directly or by implication, that if the consumer cancelled the purchase, the consumer would receive a pro rata refund, when Defendant intended to withhold monies from the pro rata refund.

COUNT VI

Unlawful Merchandising Practices – Class D Felony
Mo. Charge Code: 1904599.0

The Grand Jurors of the County of St. Charles, State of Missouri, charge that Defendant Darain Atkinson in violation of Section 407.020.1 and 407.020.3, RSMo, committed the class D felony of unlawful merchandising practices, punishable upon conviction under Sections 558.011 and 560.011 RSMo, in that from on or about January 3, 2005 to on or about May 3, 2009 in the County of St. Charles, State of Missouri, Defendant, acting in concert with Cory Atkinson, US

Fidelis, Inc. f/k/a National Auto Warranty Services, Inc. d/b/a Dealer Services, a corporation, and others, in connection with the sale of vehicle repair coverage under motor vehicle extended service contracts in trade and commerce, willfully, knowingly, and with the intent to defraud used and employed deception, fraud, false pretense, false promise and misrepresentation by representing, directly or by implication, that the consumer has cancelled his or her purchase of motor vehicle extended service contracts, when, in fact, the purchase was not cancelled and all monies paid were withheld.

COUNT VII

Unlawful Merchandising Practices – Class D Felony
Mo. Charge Code: 1904599.0

The Grand Jurors of the County of St. Charles, State of Missouri, charge that Defendant Darain Atkinson in violation of Section 407.020.1 and 407.020.3, RSMo, committed the class D felony of unlawful merchandising practices, punishable upon conviction under Sections 558.011 and 560.011 RSMo, in that from on or about January 3, 2005 to on or about May 3, 2009 in the County of St. Charles, State of Missouri, Defendant, acting in concert with Cory Atkinson, US Fidelis, Inc. f/k/a National Auto Warranty Services, Inc. d/b/a Dealer Services, a corporation, and others, in connection with the sale of vehicle repair coverage under motor vehicle extended service contracts and contracts associated with Auto Life Xtend, Carmor and other vehicle products, in trade and commerce, willfully, knowingly, and with the intent to defraud used and employed the acts and practices of concealing, suppressing and omitting the material fact that US Fidelis, Inc. f/k/a National Auto Warranty Services, Inc. had no association with automobile manufacturers or dealerships.

COUNT VIII

Unlawful Merchandising Practices – Class D Felony
Mo. Charge Code: 1904599.0

The Grand Jurors of the County of St. Charles, State of Missouri, charge that Defendant Darain Atkinson in violation of Section 407.020.1 and 407.020.3, RSMo, committed the class D felony of unlawful merchandising practices, punishable upon conviction under Sections 558.011 and 560.011 RSMo, in that from on or about January 3, 2005 to on or about May 3, 2009 in the County of St. Charles, State of Missouri, Defendant, acting with in concert with Cory Atkinson, US Fidelis, Inc. f/k/a National Auto Warranty Services, Inc. d/b/a Dealer Services, a corporation, and others, in connection with the sale of vehicle repair coverage under motor vehicle extended service contracts and contracts associated with Auto Life Xtend, Carmor and other vehicle products, in trade and commerce, willfully, knowingly, and with the intent to defraud used and employed the acts and practices of concealing, suppressing and omitting the material fact that the vehicle repair coverage sold by US Fidelis, Inc. f/k/a National Auto Warranty Services, Inc. differed significantly from the original manufacturer’s factory warranty and, in fact, contained liability limits, and other conditions and exclusions from coverage.

COUNT IX

Unlawful Merchandising Practices – Class D Felony
Mo. Charge Code: 1904599.0

The Grand Jurors of the County of St. Charles, State of Missouri, charge that Defendant Darain Atkinson in violation of Section 407.020.1 and 407.020.3, RSMo, committed the class D felony of unlawful merchandising practices, punishable upon conviction under Sections 558.011 and 560.011 RSMo, in that from on or about January 3, 2005 to on or about May 3, 2009 in the

County of St. Charles, State of Missouri, Defendant, acting in concert with Cory Atkinson, US Fidelis, Inc. f/k/a National Auto Warranty Services, Inc. d/b/a Dealer Services, a corporation, and others, in connection with the sale of vehicle repair coverage under contracts associated with Auto Life Xtend, Carmor and other vehicle products, in trade and commerce, willfully, knowingly, and with the intent to defraud used and employed the acts and practices of concealing, suppressing and omitting the material fact that such contracts were, in fact, associated with vehicle products and the performance of the products had no relationship to the coverage under the contract.

COUNT X

Insurance Fraud – Unclassified Felony
Mo. Charge Code: 1977399.0

The Grand Jurors of the County of St. Charles, State of Missouri, charge that Defendant Darain Atkinson in violation of Section 375.144 RSMo, committed the unclassified felony of insurance fraud, punishable upon conviction under Section 375.146 RSMo, in that from on or about August 28, 2005 to on or about May 3, 2009, in the County of St. Charles, State of Missouri, Defendant, acting in concert with Cory Atkinson, US Fidelis, Inc. f/k/a National Auto Warranty Services, Inc. d/b/a Dealer Services, a corporation, and others, in connection with the offer, sale, solicitation and negotiation of contracts of insurance in the form of vehicle repair coverage under contracts associated with Auto Life Xtend and Carmor vehicle products, knowingly and with the purpose to defraud employed deception, devices, schemes and artifices to defraud; made and used misrepresentation, concealment and suppression of material facts; engaged in practices of making false statements of material fact; and engaged in acts, practices, and courses of business which operated as a fraud and deceit upon prospective purchasers by

employing a scheme to defraud consumers by misleading prospective purchasers, directly or by implication, that the salespersons acting with Defendant and US Fidelis, Inc. f/k/a National Auto Warranty Services, Inc. d/b/a Dealers Services were affiliated with automobile manufacturers and dealers, that the prospective purchaser's factory warranty had expired or was about to expire, and that the company was offering the opportunity to extend or reinstate the manufacturer's warranty.

COUNT XI

Insurance Fraud – Unclassified Felony
Mo. Charge Code: 1977399.0

The Grand Jurors of the County of St. Charles, State of Missouri, charge that Defendant Darain Atkinson in violation of Section 375.144 RSMo, committed the unclassified felony of insurance fraud, punishable upon conviction under Section 375.146 RSMo, in that from on or about August 28, 2005 to on or about May 3, 2009, in the County of St. Charles, State of Missouri, Defendant, acting in concert with Cory Atkinson, US Fidelis, Inc. f/k/a National Auto Warranty Services, Inc. d/b/a Dealer Services, a corporation, and others, in connection with the offer, sale, solicitation and negotiation of contracts of insurance in the form of vehicle repair coverage under contracts associated with Auto Life Xtend and Carmor vehicle products, knowingly and with the purpose to defraud employed deception, devices, schemes and artifices to defraud; made and used misrepresentation, concealment and suppression of material facts; engaged in practices of making false statements of material fact; and engaged in acts, practices, and courses of business which operated as a fraud and deceit upon prospective purchasers by employing a device, scheme and artifice to defraud of representing to prospective purchasers, directly or by implication, that all vehicle repairs were covered.

COUNT XII

Insurance Fraud – Unclassified Felony
Mo. Charge Code: 1977399.0

The Grand Jurors of the County of St. Charles, State of Missouri, charge that Defendant Darain Atkinson in violation of Section 375.144 RSMo, committed the unclassified felony of insurance fraud, punishable upon conviction under Section 375.146 RSMo, in that from on or about August 28, 2005 to on or about May 3, 2009, in the County of St. Charles, State of Missouri, Defendant, acting in concert with Cory Atkinson, US Fidelis, Inc. f/k/a National Auto Warranty Services, Inc. d/b/a Dealer Services, a corporation, and others, in connection with the offer, sale, solicitation and negotiation of contracts of insurance in the form of vehicle repair coverage under contracts associated with Auto Life Xtend and Carmor vehicle products, knowingly and with the purpose to defraud employed deception, devices, schemes and artifices to defraud; made and used misrepresentation, concealment and suppression of material facts; engaged in practices of making false statements of material fact; and engaged in acts, practices, and courses of business which operated as a fraud and deceit upon prospective purchasers by employing a practice of concealing and suppressing the material fact that such contracts were, in fact, associated with vehicle products and the performance of the products had no relationship to the coverage under the contract.

COUNT XIII

Insurance Fraud – Unclassified Felony
Mo. Charge Code: 1977399.0

The Grand Jurors of the County of St. Charles, State of Missouri, charge that Defendant Darain Atkinson in violation of Section 375.144 RSMo, committed the unclassified felony of

insurance fraud, punishable upon conviction under Section 375.146 RSMo, in that from on or about August 28, 2005 to on or about May 3, 2009, in the County of St. Charles, State of Missouri, Defendant, acting in concert with Cory Atkinson, US Fidelis, Inc. f/k/a National Auto Warranty Services, Inc. d/b/a Dealer Services, a corporation, and others, in connection with the offer, sale, solicitation and negotiation of contracts of insurance in the form of vehicle repair coverage under contracts associated with Auto Life Xtend and Carmor vehicle products, knowingly and with the purpose to defraud employed deception, devices, schemes and artifices to defraud; made and used misrepresentation, concealment and suppression of material facts; engaged in practices of making false statements of material fact; and engaged in acts, practices, and courses of business which operated as a fraud and deceit upon prospective purchasers by employing a practice of concealing and suppressing the material fact that the vehicle repair coverage under contracts associated with Auto Life Xtend or Carmor vehicle products differed significantly from the original manufacturer's factory warranty and, in fact, contained liability limits and other conditions and exclusions from coverage.

COUNT XIV

Unauthorized Insurance Business – Class D Felony
Mo. Charge Code: 5481699.0

The Grand Jurors of the County of St. Charles, State of Missouri, charge that Defendant Darain Atkinson in violation of Section 375.310.1 and 375.310.4 RSMo, committed the class D felony of transacting unauthorized insurance business, punishable upon conviction under Sections 558.011 and 560.011 RSMo, in that from on or about June 10, 2008 to on or about May 3, 2009, in the County of St. Charles, State of Missouri, Defendant, acting in concert with

Cory Atkinson, US Fidelis, Inc. f/k/a National Auto Warranty Services, Inc. d/b/a Dealer Services, a corporation, and others, knowingly offered, sold, solicited and negotiated contracts of insurance in the form of vehicle repair coverage under contracts associated with Auto Life Xtend and Carmor vehicle products at a time when neither the contract provider, Crescent Manufacturing, LLC, nor the representatives of US Fidelis or National Auto Warranty Services, Inc. d/b/a Dealer Services, were authorized by the Director of Insurance, Financial Institutions and Professional Registration under a certificate of authority or licensure to transact insurance business in the State of Missouri.

PERSISTENT OFFENDER


Defendant is a prior offender under Section 558.016 RSMo. Defendant is also a persistent offender and is punishable by sentence to an extended term of imprisonment under Sections 558.016 and 557.036 RSMo, in that he has been convicted of two or more felonies committed at different times. The felonies are as follows:

1. On or about November 21, 1986, Defendant was convicted of the felonies of theft, forgery and burglary in the District Court of Finney County, Kansas.
2. On or about September 25, 1987, Defendant was convicted of the felony of manufacturing counterfeit Federal Reserve Notes in the United States District Court for the District of Kansas.

NO TRUE BILL

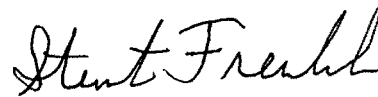
Foreperson

A TRUE BILL



Foreperson

CHRIS KOSTER
Attorney General



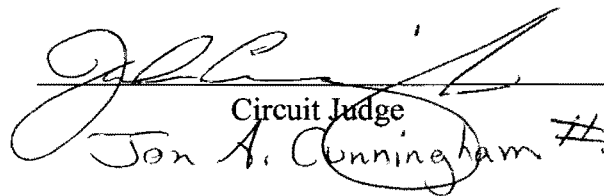
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Special Prosecuting Attorneys

Received and filed on the 10th day of June, 2011, and bail set at \$ _____.



Circuit Judge
Jon A. Cunningham #30398

Range of Punishment:

Counts I (1st Alternative) and II – Class B Prior and Persistent Felony Offender: 5 to 30 years or life in the Department of Corrections.

Counts I (2d Alternative) III, IV, V, VI, VII, VIII, IX and XIV – Class D Prior and Persistent Felony Offender: 1 to 7 years in the Department of Corrections, or up to 1 year in the county jail, and/or up to a fine double the amount of gain, not to exceed \$20,000.

Counts X, XI, XII and XIII – Unclassified Prior and Persistent Felony Offender: 1 to 15 years in the Department of Corrections, and/or a fine up to \$100,000.

WITNESSES

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Nick Condra

Robert Greek Jr.

Eddie Pearl Leverette

Donna Bachie

Yolanda Lira

Jane Gidney

Ronald Frazier

Yvonne Phillips

Joseph Adams Jr.

Dean Scoular

Charlotte Landis

Moses Toole Jr.

Charlotte Arnett

Billie Gardener

Harry Conboy

Additional customers, known and unknown