IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, v. INTERNET RESEARCH AGENCY, LLC, *et al*., Defendants.	CRIMINAL NUMBER: 1:18-cr-00032-DLF

DEFENDANT CONCORD MANAGEMENT AND CONSULTING LLC'S MOTION TO DISMISS THE INDICTMENT

Pursuant to Rule 12(b)(1) and 12(b)(3) of the Federal Rules of Criminal Procedure, Defendant Concord Management and Consulting LLC ("Defendant" or "Concord"), by and through undersigned counsel, respectfully moves to dismiss the Indictment, ECF No. 1, in its entirety. As set forth more fully in the accompanying memorandum of points and authorities, the Indictment should be dismissed for the following reasons:

1. The Indictment fails to allege the crime of a defraud conspiracy that interferes with a lawful governmental function under 18 U.S.C. § 371 against Concord.
2. The Indictment fails to allege the requisite *mens rea* to support the § 371 conspiracy to defraud charge against Concord.
3. The Indictment's application of § 371's conspiracy to defraud clause is unconstitutionally vague as to Concord.
4. The Indictment fails to allege deprivation of government property as required under a proper construction of § 371 (for preservation only).

A proposed order is filed with this Motion.

Dated: July 16, 2018

Respectfully submitted,

CONCORD MANAGEMENT
AND CONSULTING LLC

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MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF DEFENDANT CONCORD MANAGEMENT AND CONSULTING LLC'S MOTION TO DISMISS THE INDICTMENT

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I. PRELIMINARY STATEMENT

> "[W]e caution the government that seeking criminal penalties for violations of [laws regulating foreign nationals' political contributions or expenditures] will require proof of defendant's knowledge of the law." *Bluman v. Fed. Election Comm'n*, 800 F.Supp.2d 281, 292 (D.D.C. 2011) (citing *United States v. Moore*, 612 F.2d 698, 702–04 (D.C. Cir. 2010) (Kavanaugh, J., concurring)), *aff'd,* 568 U.S. 1104 (2012). "There are many aliens in this country who no doubt are unaware of the statutory ban on foreign *expenditures* . . . ." *Id.*
>
> "[P]rosecution under [the Federal Election Commission Act's ("FECA")] criminal provision requires proof that the defendant was aware that his or her conduct was generally unlawful. When the conduct is charged under Section 371, however, the proof must also show that the defendant intended to disrupt and impede the lawful functioning of the FEC. Indeed, the crux of a Section 371 FECA case is intent on the part of the defendant to thwart the FEC. That is a higher factual burden than is required under 18 U.S.C. § 1001, and is arguably a greater factual burden than is required by Section 30109(d)." U.S. Dep't of Justice, *Federal Prosecution of Election Offenses* at 163 (Dec. 2017 8th Ed.), *available at* https://www.justice.gov/criminal/file/1029066/download.[1]

Faced with this clear and unambiguous case law and guidance, the Special Counsel's one-count indictment in this case against Concord Management and Consulting LLC ("Concord") for conspiracy to defraud under 18 U.S.C. § 371 was drafted in an attempt to plead around the massive burden on the Special Counsel to charge and prove, among other things, that: (1) Concord was aware of the existence of the Federal Election Commission ("FEC") and knew that a complex and technical scheme of U.S. election laws prohibited certain specific expenditures for political purposes by foreign nationals (while allowing others); (2) the FEC administered these complex and technical prohibitions by requiring reports to be filed in certain instances; (3) Concord or some other person or entity was required in this case to file some type of report; (4) in making any expenditures prohibited by the FEC, Concord intended to thwart the

[1] Substantially similar language first appeared in the DOJ Manual over 10 years ago. *See* Ex. A, excerpts from U.S. Dep't of Justice, *Federal Prosecution of Election Offenses* at 188 (May 2007 7th Ed.), *available at* https://www.justice.gov/sites/default/files/criminal/legacy /2013/ 09/30/electbook-rvs0807.pdf.

FEC by failing itself—or causing another to fail—to file such a report; and (5) Concord engaged in such conduct willfully. The Indictment contains no such allegations with respect to Concord.

Instead, this Indictment is unprecedented; never before has a foreign corporation such as Concord, with no presence in the United States, been charged criminally for allegedly funding the political speech of individuals on social media, at rallies, or in advertisements during a U.S. presidential election campaign. Furthermore, Title 18 § 371's defraud prong has never been used to charge a conspiracy to interfere with the government function of administering an election where political speech, as opposed to political contributions, is the target of the indictment. In short, the Special Counsel found a set of alleged facts for which there is no crime. Instead of conceding that truth, however, the Special Counsel attempts to create a make-believe crime that is in fact no crime at all, much less one with the requisite *mens rea* of willfulness.

To begin with, there is no federal law prohibiting "interference" in a U.S. election. *See* Indictment ("Ind.") ¶¶ 2-3, 7 (ECF No. 1). Nor is there any federal law making it a crime to conspire to do so. Just as critically, there is no federal election law or regulation prohibiting any person or group of persons, whether American or foreign, acting independently of a political candidate, from conveying political speech on social media, at political rallies, or in advertisements available for viewing in the United States. Further, there is no law or regulation requiring that any such speech be accurate or truthful or that any U.S. or foreign person truthfully or accurately identify herself or himself when engaging in such speech—when it comes to political speech, one is free to pretend to be whomever he or she wants to be and to say whatever he or she wants to say. *See United States v. Alvarez*, 567 U.S. 709, 722 (2012) (holding statute prohibiting false statements about the Medal of Honor to be unconstitutional). The Special

Counsel concedes these facts by the absence in the Indictment of any statutory or regulatory citations other than § 371 itself.

Faced with the reality that no criminal offense covered the alleged conduct, the Special Counsel crafted an Indictment accusing Concord of "recommend[ing] personnel" and "overs[eeing]" activities, receiving budgets listing certain expenditures for advertisements promoting "social media groups," and providing "funding" from unspecified sources and for unspecified purposes. Ind. ¶¶ 11, 35. While the Special Counsel claims that this alleged conduct somehow interferes with the lawful functions of a United States agency in violation of the defraud prong of § 371, as noted above, no other statute or regulation is cited in Count One of the Indictment at all, let alone one that criminalizes this alleged conduct or prohibits the political speech that resulted from it. And the Special Counsel further maintains that Concord is responsible for this contrived crime despite the lack of any allegations that Concord had any knowledge of any FEC, Department of Justice ("DOJ"), or Department of State ("DOS") statutes or regulations. The lack of specificity in a charge is particularly fatal where, as here, protected political speech is implicated, because in this country we have long believed that:

> "We are not afraid to entrust the American people with unpleasant facts, foreign ideas, alien philosophies, and competitive values. For a nation that is afraid to let its people judge the truth and falsehood in an open market is a nation that is afraid of its people."[2]

In this case, where the Indictment alleges a conspiracy to defraud that purportedly interferes with the complex and technical statutory schemes that regulate U.S. elections and makes a felony out of a foreign national's alleged funding of conduct that includes protected

[2] John F. Kennedy, *Remarks on the 20th Anniversary of the Voice of America,* Department of Health, Education, and Welfare, Feb. 26, 1962, *available at* http://www.presidency.ucsb.edu/ws/?pid=9075.

speech, the Special Counsel was required to allege that Concord knew that its funding constituted a violation of law and intended that its conduct defraud the FEC and DOJ.[3]

But those allegations are absent and what remains is an unconstitutionally vague conspiracy charge that will not support an exercise of prosecutorial authority. "Today's vague laws . . . can invite the exercise of arbitrary power . . . by leaving the people in the dark about what the law demands and allowing prosecutors and courts to make it up." *Sessions v. Dimaya*, 138 S. Ct. 1204, 1223–24 (2018) (Gorsuch, J., concurring in part and concurring in the judgment). Concord respectfully requests that this Court check the arbitrary exercise of that power here and dismiss this defective Indictment.

II. THE INDICTMENT MAKES NO SPECIFIC INTENT ALLEGATIONS AS TO CONCORD WITH RESPECT TO ANY STATUTE OR REGULATION

The Indictment begins with broad and acontextual statements that the United States, through its departments and agencies, regulates the activities of foreign individuals and entities to counteract "foreign influence" on U.S. elections. Ind. ¶ 1. It more particularly states that U.S. law bans foreign nationals from making certain expenditures or financial disbursements for the purpose of influencing federal elections, and further bars agents of any foreign entity from engaging in political activities within the U.S. without first registering with the Attorney General. *Id.* It also notes that the law requires certain foreign nationals seeking entry into the U.S. to obtain a visa by providing truthful information to the government. *Id.* The FEC, the DOJ, and the DOS are alleged to be charged with enforcing these laws (*id.*); the FEC with

[3] The Indictment states that certain co-defendants obtained visas to enter the U.S. by claiming they were traveling for pleasure, and thus defrauded the DOS. *See* Ind. ¶ 30. But Concord is not alleged to have known anything about the visa application process or the representations made by the co-defendants.

respect to the reporting of expenditures (*id.* ¶ 25), the DOJ with respect to registrations with the Attorney General (*id.* ¶ 26), and the DOS with respect to visas (*id.* ¶ 27).

After these precatory observations, the Indictment describes defendant Internet Research Agency, labelled as "the Organization," which allegedly is engaged in operations "to interfere with elections and political processes." *Id.* ¶ 2. It then lists "Individuals" as defendants who allegedly work for the Organization in carrying out its operations. *Id.* These listed individual defendants are alleged to have "knowingly and intentionally conspired with each other . . . to defraud the United States by impairing, obstructing, and defeating the lawful functions of the government through fraud and deceit for the purpose of interfering with the U.S. political and electoral processes, including the presidential election of 2016." *Id.*

Concord is not named in the first two paragraphs. Rather, the first allegations regarding Concord appear in the next paragraph, where Yevgeny Viktorovich Prigozhin, and companies "he controlled, including Defendants Concord Management and Consulting LLC[,]" are alleged to have spent funds "to further the Organizations operations and to pay the other Defendants . . ." for their work in the Organization. *Id.* ¶ 3.

Concord is next mentioned in the Indictment's first count, labelled "Conspiracy to Defraud the United States." In one paragraph, Concord is designated as the Organization's "primary source of funding for its interference operations." It is also alleged that Concord "controlled funding, recommended personnel, and oversaw" the Organization's activities "through reporting and interaction" with Organization management. *Id.* at ¶ 11. No specificity is provided, however, on what any of these actions actually relate to or what Concord knew or believed in undertaking them.

The Indictment goes on to describe the "Manner and Means" of the alleged conspiracy and its "Overt Acts," none of which mention Concord, except that it purportedly was aware that "Organization-controlled social media groups" were spending money on social media sites. *Id.* ¶ 35. All other allegations are made generally as to all "Defendants," including those concerning tracking social media behavior of persons in the United States, creating hundreds of social media accounts that were used to develop fictitious U.S. personas into leaders of public opinion, concealing the identities of the social media and other web posters, and using the fictitious accounts and persons to make political advertisements and posts to influence the 2016 U.S. presidential election. *Id.* ¶¶ 4, 6, 28, 29, 32, 48, and 52.

III. THE INDICTMENT PROVIDES NO ACTUAL NOTICE OF ANY ARGUABLY APPLICABLE STATUTES AND REGULATIONS.

As far as arguably applicable statutes or regulations are concerned, the Indictment provides no actual notice of the complex statutes and regulations upon which it is based. Count One lacks any citation to any statute or regulation other than 18 U.S.C. § 371. The Indictment does not allege that any of the Defendants, including Concord, made any unlawful campaign "contributions" or "donations." Rather, the Indictment alleges generally that foreign nationals are prohibited from "making certain expenditures or financial disbursements for the purpose of influencing federal elections." Ind. ¶¶ 1, 7. It also alleges that foreign nationals are prohibited from making "any contributions, expenditures, independent expenditures, or disbursements for electioneering communications," and that persons who make "certain independent expenditures" are required to report those expenditures to the FEC. *Id.* ¶ 25. Once again, no specificity is

provided on what the "certain independent expenditures" might be. Nor is Concord or any other Defendant alleged to have made an unlawful expenditure.[4]

The Indictment further alleges that U.S. law prohibits "any foreign entity from engaging in political activities within the United States" without registering with the Attorney General. Ind. ¶¶ 1, 7 26. But only "foreign agents" of "foreign principals" are required to register under the Foreign Agents Registration Act ("FARA"), 22 U.S.C. §§ 611(c), 612(a), and the Indictment does not allege that Concord fits either definition—indeed, it is impossible to determine who the Special Counsel claims failed to register.[5]

IV. LEGAL STANDARDS

A. Motion To Dismiss Indictment

"A party may raise by pretrial motion any defense, objection, or request that the court can determine without a trial on the merits." Fed. R. Crim. Proc. 12(b)(1). This includes "a defect in the indictment or information" such as "lack of specificity" and "failure to state an offense." *Id.* 12(b)(3)(B)(iii) & (v). "In ruling on a motion to dismiss for failure to state an offense, a district court is limited to reviewing the *face* of the indictment and, more specifically, the *language used* to charge the crimes." *United States v. Sunia*, 643 F. Supp. 2d 51, 60 (D.D.C. 2009) (internal quotations and citation omitted).

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[4] While prohibitions do exist at 52 U.S.C. §§ 30121(a)(1)(C) and 30104(f) regarding certain funding, foreign nationals are not barred from issue advocacy through political speech such as what is described in the Indictment—they are only precluded from willfully making expenditures that expressly advocate the election or defeat of a particular candidate. *See Bluman*, 800 F. Supp. 2d at 284, 292. Furthermore, FEC regulations expressly carve out from the definition of "electioneering communications" an exemption for communications—like those allegedly at issue here—that are transmitted over the internet. *See* 11 C.F.R. § 100.29(c)(1).

[5] If Concord is a foreign principal, it was not required to register and cannot be charged with conspiracy to fail to register. *See* 22 U.S.C. §§ 611(c), 612(a); *Gebardi v. United States*, 287 U.S. 112, 123 (1932). And if Concord is an "agent" of a foreign principal, the Indictment fails to allege who the foreign principal actually was.

A "'valid indictment must: (1) allege the essential facts constituting the offense[,] (2) allege each element of the offense, so that fair notice is provided[,] and (3) be sufficiently distinctive that a verdict will bar a second prosecution for the same offense.'" *Sunia*, 643 F. Supp. 2d at 77 (citations and emphasis omitted). "[T]he first requirement … has its origins in the Grand Jury Clause," while the "second and third requirements … derive from the notice requirement of the Sixth Amendment and the Double Jeopardy clause of the Fifth Amendment, respectively." *Id.* at 77–78 (citation omitted). As this Court recently explained:

> No less an authority than the Supreme Court of the United States has repeatedly explained that careful drafting in the language of the indictment is essential because the Fifth Amendment requires that criminal prosecutions be limited to the unique allegations of the indictments returned by the grand jury[,] and that [t]he precise manner in which an indictment is drawn cannot be ignored, because an important function of the indictment is to ensure that, in case any other proceedings are taken against [the defendant] for a similar offen[s]e, ... the record [will] sho[w] with accuracy to what extent he may plead a former acquittal or conviction[,].

United States v. Hillie, 227 F. Supp. 3d 57, 70 (D.D.C. 2017) (internal quotations and citations omitted). Thus, "'[t]o allow the prosecutor, or the court, to make a subsequent guess as to what was in the minds of the grand jury at the time they returned the indictment would deprive the defendant' of the 'protection which the guaranty of the intervention of a grand jury was designed to secure[,] [f]or a defendant could then be convicted on the basis of facts not found by, and perhaps not even presented to, the grand jury which indicted him.'" *Sunia*, 643 F. Supp. 2d at 77 (quoting *Russell v. United States*, 369 U.S. 749, 770 (1962)).

"When testing the sufficiency of the charges in an indictment, 'the indictment must be viewed as a whole and the allegations [therein] must be accepted as true at this stage of the proceedings." *Hillie*, 227 F. Supp. 3d at 71 (citation omitted). "The key question is whether the allegations in the indictment, if proven, are sufficient to permit a jury to conclude that the defendant committed the criminal offense as charged." *Id.* (citation omitted). "[A]n indictment

not framed to apprise the defendants with reasonable certainty[ ] of the nature of the accusation against him is defective, although it may follow the language of the statute." *Id.* (internal quotations and citations omitted).

B. Conspiracy To Defraud

The Indictment does not exist in a vacuum. It involves a purported conspiracy to defraud under § 371 that allegedly implicates federal elections and political speech. As discussed in more detail below, in these circumstances, extra care must be exercised in analyzing the Indictment's allegations to ensure that only unlawful conduct driven by criminal intent is charged and punished. And where, as here, complex and technical regulatory schemes are implicated and free speech considerations also are in play, even greater rigor is called for in examining the Indictment's charges and in requiring the proper level of *mens rea* to support a felony offense.

Conspiracy is an "'elastic, sprawling and pervasive offense,' whose development exemplifies, in Judge Cardozo's phrase, the 'tendency of a principle to expand itself to the limit of its logic'—and perhaps beyond." *United States v. Borelli*, 336 F.2d 376, 380 (2d Cir. 1964) (Friendly, J.) (quoting *Krulewitch v. United States*, 336 U.S. 440, 445 (1949) (Jackson, J. concurring)). Indeed, the terms "conspiracy" and "defraud," when used together, have a "peculiar susceptibility to a kind of tactical manipulation which shields from view very real infringements on basic values of our criminal law." Abraham S. Goldstein, *Conspiracy to Defraud the United States*, 68 Yale L.J. 405, 409 (1959) *available at* https://heinonline.org/HOL/Page?handle=hein.journals/ylr68&div=32&id=&page=&collection=journals; *see also id.* at 461–63 ("defraud" has been subject to "an unprecedented degree of judicial expansion" rendering conspiracy to defraud the United States "a Kafkaesque crime"). Courts must therefore be closely attuned to the government's "attempts to broaden the already

pervasive and wide-sweeping nets of conspiracy prosecutions." *Grunewald v. United States*, 353 U.S. 391, 404 (1957). And the Supreme Court has explicitly "warned" that such efforts to expand the conspiracy net should be met with "disfavor." *Id.*

There is no better example of this dangerous expansion than the application of § 371's defraud clause—as in this case—to judicially created "*Klein*" conspiracies aimed at using dishonest means to interfere with "lawful governmental functions." *See United States v. Klein*, 247 F.2d 908, 916 (2d Cir. 1957). In that 60-plus-year-old ruling, the Second Circuit—following the Supreme Court's decision in *Hammerschmidt v. United States*, 265 U.S. 182 (1924)—held that § 371 criminalizes conspiracies not only directed at "cheating … the government out of property or money" but also those aimed at "interfer[ing] with or obstruct[ing] one of [the government's] lawful governmental functions by deceit, craft or trickery, or at least by means that are dishonest.'" *Id.* at 916 (quoting *Hammerschmidt*, 265 U.S. at 188).[6]

With that judicial gloss, § 371's defraud clause has proven to be "a very broad provision, which subjects a wide range of activity to potential criminal penalties." *United States v. Caldwell*, 989 F.2d 1056, 1059 (9th Cir. 1993). It thus is no surprise that § 371 today remains the same "darling of the modern prosecutor's nursery" it was more than 90 years ago. *Harrison v. United States*, 7 F.2d 259, 263 (2d Cir. 1925) (L. Hand, J.). It is, however, "regrettable that prosecutors should recurrently push to expand the limits of [§ 371] in order to have it encompass more and more activities which may be deeply offensive or immoral or contrary to state law but which Congress has not made federal crimes." *United States v. Licciardi*, 30 F.3d 1127, 1133

[6] The D.C. Circuit has never endorsed *Klein* and has only cited it once for a single statement of law regarding double-jeopardy principles in the context of a multi-count indictment—not for its § 371 defraud-clause analysis or holding. *See United States v. McDaniel*, 538 F.2d 408, 414 (D.C. Cir. 1976).

(9th Cir. 1994). Consequently, the usual "'danger [of injustice] inherent in a criminal conspiracy charge'" is especially heightened for a *Klein* conspiracy charge because the "vagueness of the concept of interfering with a proper government function" carries with it "a special capacity for abuse . . . ." *United States v. Goldberg*, 105 F.3d 770, 775 (1st Cir. 1997) (quoting *Dennis v. United States*, 384 U.S. 855, 860 (1963)); *see also United States v. Barker Steel Co., Inc.*, 985 F.2d 1136, 1137 (1st Cir. 1993) (Breyer, C.J., concurring in denial of rehearing *en banc*) (expressing concern with broad interpretations of § 371 that would "permit prosecutors to cast their criminal net too wide").

In particular, *Klein* conspiracy cases raise a precipitous "danger that prosecutors may use [§ 371] to punish activity not properly within the ambit of the federal criminal sanction." *United States v. Shoup*, 608 F.2d 950, 955–956 (3d Cir. 1979); *see also United States v. Minarik*, 875 F.2d 1186, 1191 (6th Cir. 1989) (observing that the "problem" of "loose interpretations of criminal fraud statutes which allow the fact situation to define the crime . . . is particularly acute under the 'defraud' clause of § 371 because *Hammerschmidt* stripped the word 'defraud' of its common law roots . . . ."); *United States v. Rosenblatt*, 554 F.2d 36, 41 n.6 (2d Cir. 1977) (noting the "[t]he potential for abuse in allowing the government to manipulate prosecution by easy access to the conspiracy-to-defraud clause is clear"). Therefore, "indictments under the broad language of the general conspiracy statute must be scrutinized carefully as to each of the charged defendants because of the possibility, inherent in a criminal conspiracy charge, that its wide net may ensnare the innocent as well as the culpable." *Dennis*, 384 U.S. at 860 (citations omitted); *see also Caldwell*, 989 F.2d at 1061 (cautioning against reading § 371's defraud clause to "forbid all things that obstruct the government, or require citizens to do all those things that could make the government's job easier").

This cautionary approach to § 371 defraud conspiracies aligns with basic constitutional requirements of fair notice. "A fundamental principle in our legal system is that laws which regulate persons or entities must give fair notice of conduct that is forbidden or required." *Fed. Commc'ns Comm'n v. Fox Television Stations, Inc.*, 567 U.S. 239, 253 (2012) (citation omitted). Specifically, "'[t]he prohibition of vagueness in criminal statutes[]' . . . is an 'essential' of due process, required by both 'ordinary notions of fair play and the settled rules of law.'" *Dimaya*, 138 S. Ct. at 1212 (2018) (citations omitted); *see also Fox Television Stations*, 567 U.S. at 253 ("This requirement of clarity in regulation is essential to the protections provided by the Due Process Clause of the Fifth Amendment.") (citation omitted). It "guarantees that ordinary people have 'fair notice' of the conduct a statute proscribes" and "guards against arbitrary or discriminatory law enforcement by insisting that a statute provide standards to govern the actions of police officers, prosecutors, juries, and judges." *Dimaya*, 138 S. Ct. at 1212 (citations omitted).

Relatedly, the courts effectuate these constitutionally guaranteed fair notice principles through the "rule of lenity," "a sort of 'junior version of the vagueness doctrine,'" which directs that criminal statutes be applied "only to conduct clearly covered." *United States v. Lanier*, 520 U.S. 259, 266 (1997) (citations omitted); *see also Yates v. United States*, 135 S. Ct. 1074, 1088 (2015) (plurality op.) (invoking the rule that ambiguity should be resolved in favor of lenity). Like the void-for-vagueness doctrine, "the rule of lenity ensures that criminal statutes will provide fair warning concerning conduct rendered illegal and strikes the appropriate balance between the legislature, the prosecutor, and the court in defining criminal liability." *Liparota v. United States*, 471 U.S. 419, 427 (1985). And the rule goes hand in hand with the need for a *mens rea* requirement. *See id.* at 427 ("[R]equiring *mens rea* is in keeping with our longstanding

recognition of the principle that 'ambiguity concerning the ambit of criminal statutes should be resolved in favor of lenity.'") (citations omitted); *United States v. U.S. Gypsum Co.*, 438 U.S. 422, 437 (1978) (noting Court's previous reliance on the rule of lenity as a basis for "read[ing] a state-of-mind component into" a criminal statute).

Section 371 defraud conspiracy cases raise manifest concerns that bring the rule of lenity to bear. As the Supreme Court noted in its most recent treatment of § 371's defraud clause, "ambiguity concerning the ambit" of the clause "should be resolved in favor of lenity." *Tanner v. United States*, 483 U.S. 107, 131 (1987). The *Tanner* Court "warned against loose interpretations of criminal fraud statutes which allow the fact situation to define the crime." *Minarik*, 875 F.2d at 1191; *see also United States v. Haga*, 821 F.2d 1036, 1040 n.17 (5th Cir. 1987) (reversing defraud conspiracy conviction where charge would have required "imparting such infinite elasticity to the second branch of section 371 [so as to] fl[y] in the face of rules governing the construction of penal statutes").

These overarching constitutional considerations are all in play as it relates to the Indictment before this Court. Concord is charged as a co-conspirator for a contrived crime not specifically defined in any statute, without notice and under a standard known only to the Special Counsel. Our Constitution will not tolerate a felony charge like this one; nor should this Court.

V. ARGUMENT

A. The Indictment Against Concord Should Be Dismissed Because It Fails To Allege The Crime Of A Defraud Conspiracy That Interferes With A Lawful Governmental Function Under § 371.

The Special Counsel's single charged count against Concord arises under § 371's conspiracy to defraud provision and its judicially created proscription against such conspiracies that "interfere with lawful governmental functions." But the fatal structural flaw in the Indictment here is that it provides no indication of what is meant—under statute or regulation—

by a "lawful governmental function" as it relates to the FEC, the DOJ, or the FECA and FARA statutes referenced obliquely in the Indictment's allegations.

What falls within a "lawful function," of course, cannot exist only in the abstract or be locked up in the fertile mind of the Special Counsel, shrouded in secrecy. It must be discernable to the outside world at the time a criminal indictment is handed down. *See Dimaya*, 138 S. Ct. at 1212 (due process "guarantees that ordinary people have 'fair notice' of the conduct a statute proscribes") (citations omitted); *Williams v. United States*, 458 U.S. 279, 286 (1982) (courts are "reluctant to base an expansive reading [of criminal statutes] on inferences drawn from subjective and variable 'understandings'").[7] To pass muster here, therefore, the Indictment would have to specify just how it is Concord interfered with a lawful governmental function that is embodied in a particular provision of the FECA or FARA and subject to enforcement by federal agencies. That cannot be a matter of guesswork or speculation. This Court must be able to say with certainty that the Indictment's allegations spell out with particularity how and why Concord has violated the law. *See Sunia*, 643 F. Supp. 2d at 80 (indictment cannot stand where court "would have to 'guess as to what was in the minds of the grand jury at the time they returned the indictment,' . . . . [A]n exercise [that] is not permitted by the Fifth Amendment'") (citations omitted). There is no such certainty in this case.

As for the statutes and regulations that conceivably regulate a foreign national's participation in a U.S. election and that are referred to but not cited in the Indictment, they are

[7] Just as surely, the Special Counsel's expansive construction of "lawful function"—secret or otherwise—is entitled to no deference from this Court. *See Crandon v. United States*, 494 U.S. 152, 177 (1990) (Scalia, J., concurring) (while the DOJ "has a very specific responsibility to determine for itself what this [criminal] statute means, in order to decide when to prosecute[,] we have never thought that the interpretation of those charged with prosecuting criminal statutes is entitled to deference").

narrowly drawn and there is no indication that Concord could violate them, actually violated them, knew they were being violated, agreed with anyone to help violate them, or even knew what the statutes and regulations were or what they required or proscribed. *See In re Sealed Case*, 223 F.3d 775, 779 (D.C. Cir. 2000) (explaining that "there can be no finding of conspiracy" to commit an offense or defraud under § 371 based on election-law violations where the underlying wrongful "transaction described by the government does not violate FECA"). Concord is, in short, accused of being a co-conspirator in a felonious attempt to obstruct the functioning of a federal election without any identified or recognized statutory offense or any allegation of conscious criminal intent directed at the United States. And, of course, Concord could not be guilty of felony conspiracy based strictly on ***lawful*** conduct, whether or not that lawful conduct was concealed from the government. *See Bordenkircher v. Hayes*, 434 U.S. 357, 363 (1978) ("To punish a person because he has done what the law plainly allows him to do is a due process violation of the most basic sort.") (citation omitted).

Turning to the Indictment's specific allegations as to Concord, there is more guesswork and speculation. There is nothing in any statute or regulation promulgated by the FEC or DOJ that makes a felony out of providing funding to a foreign "Organization" for unspecified purposes related to unspecified elections or for "recommend[ing] personnel" to that Organization or for "overs[eeing] its activities" or reviewing budgets concerning unspecified advertising expenditures. Ind. ¶ 11, 35. None of that, without more, is criminal conduct, much less criminal conduct that interferes with the lawful function of administering a U.S. election.

Undeterred, the Special Counsel asserts that the Indictment charges Concord with interference with the FEC or DOJ "to make determination[s] one way or the other." *See* Ex. B, Excerpted Pages of the Transcript of June 15, 2018 Hearing ("Hr'g Tr.") at 8:18–19 (ECF No.

41). But the Indictment offers no elaboration of what any such determinations would be about or what is "one way" as opposed to the "other." In short, the Indictment does not identify the "governmental function" at issue. It would be preposterous to charge a felony with that sort of declaration divorced from any regulatory function at all. Still undeterred, as the Special Counsel would have it, for a valid § 371 defraud conspiracy, he need only prove that Concord had general knowledge that a "regulatory apparatus . . . designed to prevent foreign influence from operating in a covert undisclosed manner that can thwart the political system . . . exists, it's out there." *Id.* 10:21–22. But there is no certainty here either.

These hopelessly vague assertions the Special Counsel makes about knowledge concerning the "regulatory apparatus" are not alleged anywhere in the Indictment. More fundamentally, bare "covert" "thwart[ing]" of the "regulatory apparatus" governing a U.S. election will not support a § 371 defraud conspiracy. In the absence of allegations specifically showing that Concord intended to interfere, or entered a conspiracy to interfere, with a lawful function relating to a U.S. election in a deceitful and dishonest manner, there is no basis for a § 371 defraud conspiracy charge whether elections were interfered with or not. *See, e.g., Licciardi*, 30 F.3d at 1132 (finding that the government failed to prove the *mens rea* required for a § 371 defraud conviction when it made no effort to show the defendant conspired to cause false information be provided to a government agency, noting "[t]hat the incidental effects of [defendant's] actions would have been to impair the functions of the [agency] does not confer upon him the *mens rea* of accomplishing that object."); *Caldwell*, 989 F.2d at 1060–61 (the defendant has to engage in deceitful and dishonest activity or agree to conspire using deceitful and dishonest activity to impair a government function; impairment alone is not enough—it is not what makes the conduct wrongful).

There is, in short, a yawning gap between the specific allegations in this Indictment and what otherwise is necessary to charge Concord with a felony. The Special Counsel is purporting to charge Concord in the absence of any intent and for undertaking a conspiracy that is not prohibited by any identified regulatory function carried into effect by the FEC or DOJ under some specific statute. There is, however, no basis to charge anyone, including a foreign national, as a co-conspirator without a wrongful intent to engage in unlawful conduct specified in some statutory or regulatory scheme. Yet that is exactly what the Special Counsel is attempting here, evoking Judge Kavanaugh's admonition, in speaking for this Court in *Bluman*:

> [W]e caution the government that seeking criminal penalties for violations of [law regulating foreign nationals' political contributions or expenditures] will require proof of defendant's knowledge of the law. There are many aliens in this country who no doubt are unaware of the statutory ban on foreign *expenditures* . . . .

Bluman, 800 F. Supp. 2d at 292 (Kavanaugh, J.) (citing *Moore*, 612 F.3d at 702–04).

Simply put, whatever largess might exist in reading an indictment, it does not give the government, through a special counsel or otherwise, the right to pursue a foreign national for allegedly criminal conduct residing only in the mind of the drafter of the charge. The vague allegations aimed at Concord in this Indictment will not sustain a felony charge under § 371's defraud prong and, as a result, the Indictment must be dismissed.

B. The Indictment Against Concord Should Be Dismissed Because It Fails To Allege The Requisite *Mens Rea* To Support The § 371 Conspiracy To Defraud Charge Against Concord.

The specific allegations in the Indictment also fail to allege a § 371 defraud conspiracy charge for an independent but equally fundamental reason—it fails to allege the required criminal intent. The Special Counsel has asserted, in writing and orally, that his Indictment under § 371, despite the DOJ's prosecutorial guidelines, need not charge Concord with willful conduct and that his Indictment does not do so. In his view, the needed unlawful intent is

something short of that, although there is no assurance on what it is.[8] But he is wrong as a matter of law.

Section 371 does not, by its terms, contain a specific *mens rea* requirement. But it is well settled that "'wrongdoing must be conscious to be criminal,'" and the Supreme Court thus applies a "rule of construction" interpreting "'criminal statutes to include broadly applicable scienter requirements, even where the statute by its terms does not contain them.'" *Elonis v. United States*, 135 S. Ct. 2001, 2003 (2015) (citations omitted). In the context of conspiracy generally, the law imposes a heightened *mens rea* standard of specific intent. As the D.C. Circuit has explained, the "'law of inchoate offenses such as attempt and conspiracy[]'" requires a "'heightened mental state [which] separates criminality itself from otherwise innocuous behavior.'" *United States v. Childress*, 58 F.3d 693, 707 (D.C. Cir. 1995) (quoting *United States v. Bailey*, 444 U.S. 394, 405 (1980)). Thus, "conspiracy is a 'specific intent' crime[]" that, at a minimum, "requires proof of specific intent to . . . advance or further the unlawful object of the conspiracy.'" *Id.* at 707–08 (citation omitted); *see also United States v. Wilson*, 160 F.3d 732, 737 (D.C. Cir. 1998) (conspiracy requires "'an agreement . . . to commit a specific offense, " and "'knowing[] participat[ion] in the conspiracy with the intent to commit the offense'") (citation and omitted). Moreover, where, as here, a § 371 *Klein* conspiracy alleges interference with the

[8] At a June 15, 2018 hearing on Concord's Motion for *In Camera* Inspection of Legal Instructions to the Grand Jury (ECF No. 11), counsel for the Special Counsel argued that the DOJ Guidelines are "a little cryptic and ambiguous" but are "susceptible to [a] reading" that willfulness is an element of a § 371 charge. Hr'g Tr. 10:19–21. He went on to state, however, that the Guidelines' articulation of the requisite *mens rea* is "not the litigating position of the United States," and instead pointed to a 2016 brief submitted by the DOJ to the U.S. Court of Appeals for the First Circuit signed by the Assistant Attorney General for the Criminal Division. Hr'g Tr. 10:21–11:8. As best undersigned counsel can determine, that brief is the one submitted in *United States v. Morosco*, 822 F.3d 1 (1st Cir. 2016), where the First Circuit rejected the United States' position and approved an instruction that included willfulness. *See infra* pp. 27–28.

enforcement of complex, reticulated statutory functions carried out through conduct implicating First Amendment considerations, the *mens rea* specifically required is "willfulness"—a standard that includes "knowledge of the law[s]" that define those functions. *Bluman*, 800 F. Supp. 2d at 292. There are no such allegations here and the Indictment must be dismissed for this reason also.

1. The Special Counsel was required—but failed—to allege that Concord acted with the requisite willful intent.

a. Controlling legal principles require the Special Counsel to show that Concord acted willfully.

As the Supreme Court has made clear, the increasing "proliferation of statutes and regulations sometimes ma[kes] it difficult for the average citizen to know and comprehend the extent of the duties and obligations imposed by. . . ." law. *Cheek v. United States*, 498 U.S. 192, 199-200 (1991). The Supreme Court thus generally requires a showing of "willfulness" in criminal cases where complex or technical statutes are implicated. *Id.* at 201 (in criminal tax cases, "willfulness" requires the government "to prove that the law imposed a duty on the defendant, that the defendant knew of this duty, and that he voluntarily and intentionally violated that duty"); *Ratzlaf v. United States*, 510 U.S. 135, 149 (1994) (in criminal cash-deposit "structuring" cases, "willfulness" requires knowledge of the legal duty and a violation of it).[9] This heightened *mens rea* showing applies with particular force in this case.

[9] In *Bryan v. United States*, 524 U.S. 184 (1998), the Supreme Court declined to apply the *Cheek/Ratzlaf* definition of "willful" principally because there was no "danger of convicting individuals engaged in apparently innocent activity" since the "jury found that this petitioner knew that his conduct was unlawful" and the statute was not complex or technical—it proscribed selling firearms without a license. *Id*. at 195. The Court thus construed "willful" to mean that the defendant "acted with knowledge that his conduct was unlawful"—though not "that the defendant was aware of the specific provision of the tax code that he was charged with violating." *Id.* at 193–94. *Bryan* thus does not control here, though under any circumstances, the Special Counsel at the very least would have to meet the *Bryan* standard in this case.

Here, the Special Counsel has charged a newly conjured up election-law felony of conspiracy predicated on a highly technical web of election, campaign-finance, and foreign-agent registration laws. "Campaign finance regulations now impose 'unique and complex rules' on" regulated parties. *Citizens United v. Fed. Election Comm'n*, 558 U.S. 310, 334 (2010). Indeed, as the D.C. Circuit's decision in *In re Sealed Case*, 223 F.3d 775 (D.C. Cir. 2000), illustrates, the FECA provisions applicable to foreign nationals are particularly arcane, leading two judges of this Court to issue rulings on those provisions later reversed by the court of appeals.

For its part, "FARA is a complex and broadly worded criminal statute. . . . The breadth of the statute, its criminal penalties, the absence of interpretive guidance, and the growing attention paid to the 1930s era law by federal prosecutors combine to create dangerous and difficult-to-manage risks for multinational companies, lobbying firms, and public relations firms." Covington, Election and Political Law, *A Review of Pending FARA Reform Bills* 1 (Mar. 15, 2018) available at https://www.cov.com/-/media/files/corporate/publications/2018/03/a_review_of_pending_fara_reform_bills.pdf. Just as "[t]here are many aliens in this country who no doubt are unaware of the statutory ban on foreign *expenditures*," *Bluman*, 800 F. Supp. 2d at 292, there are many aliens—inside this country and out—who no doubt are unaware of the complex and technical requirements of campaign-finance laws, the FECA, and the FARA. This complexity alone supports a heightened *mens rea* standard for a foreign national who is implicated in a conspiracy that is not even based on an existing statutory requirement.

But the need for a heightened showing of willfulness is even more manifest given the extant constitutional problems raised by § 371 defraud conspiracy charges implicating core political speech. *See Skilling v. United States*, 561 U.S. 358, 406 (2010) ("'[t]he elementary rule

is that every *reasonable construction* must be resorted to, in order to save a statute from unconstitutionality'") (citation omitted). There is no question under the First Amendment regarding "the primary importance of speech itself to the integrity of the election process[,]" *Citizens United*, 558 U.S. at 334, especially "political" speech, which "'occupies the highest rung of the hierarchy of First Amendment values[.]'" *Janus v. Am. Fed'n of State, Cnty., and Mun. Emps., Council 31*, 138 S. Ct. 2448, 2476 (2018) (citations omitted). Any "intrusion by the government into the debate over who should govern goes to the heart of First Amendment values." *Az. Free Enter. Club's Freedom Club PAC v. Bennett*, 564 U.S. 721, 750 (2011). The First Amendment also "extends equally to the right to receive information . . . ." *Allentown Mack Sales & Serv., Inc. v. NLRB*, 522 U.S. 359, 386–87 (1998). At bottom,

> [w]hen Government seeks to use its full power, including the criminal law, to command where a person may get his or her information or what distrusted source he or she may not hear, it uses censorship to control thought. This is unlawful. The First Amendment confirms the freedom to think for ourselves.

Citizens United, 558 U.S. at 356. "When speech is involved," moreover, "rigorous adherence to" fair notice "requirements . . . is necessary to ensure that ambiguity does not chill protected speech." *Fox Television Stations*, 567 U.S. at 253–54; *see also Buckley v. Valeo*, 424 U.S. 1, 41 n.48 (1976) ("[V]ague laws may not only trap the innocent by not providing fair warning or foster arbitrary and discriminatory application but also operate to inhibit protected expression by inducing citizens to steer far wider of the unlawful zone . . . than if the boundaries of the forbidden areas were clearly marked") (citations and internal quotation marks omitted); *Campaign Legal Ctr. v. Fed. Election Comm'n*, No. 1:16–cv–00752 (TNM), 2018 WL 2739920, at *8 (D.D.C. June 7, 2018) (in the election context, "vagueness and notice concerns carry special weight, since courts must be especially vigilant to prevent the chilling of First Amendment speech").

Given the Indictment's allegations, the indiscriminate application of § 371 to Concord "risk[s] the lack of fair warning and related kinds of unfairness" that has led the Supreme Court "to 'exercise' interpretive 'restraint'" when determining the reach of a criminal statute. *Marinello v. United States*, 138 S. Ct. 1101, 1108 (2018) (citations omitted); *see also id.* at 1109 (noting that Court has "'traditionally exercised restraint in assessing the reach of a federal criminal statute'") (citation omitted); *see also Dimaya*, 138 S. Ct. at 1212; *Fox Television Stations*, 567 U.S. at 253; *supra* at Part IV.B. A vague description of the requisite intent in a criminal case "cannot be squared with the beyond-a-reasonable-doubt standard applicable in criminal trials or with the need to express criminal laws in terms ordinary persons can comprehend." *Burrage v. United States*, 571 U.S. 204, 134 S. Ct. 881, 892 (2014) (citation omitted).

The result compelled by these overarching constitutional principles with respect to a § 371 defraud conspiracy is plain enough: where an indictment purports to charge in a complex and technical regulatory environment like U.S. elections and likewise threatens to sweep in core political speech as part of the offense, the indictment must spell out how and why the targeted individual or entity knew it was violating the law. Given the vagueness of the § 371 "*Klein*" conspiracy as charged, and the serious constitutional concerns it raises, the Special Counsel must, at a minimum, show that Concord knew what "lawful governmental functions" it was allegedly impeding or obstructing and how the relevant laws described those functions. Still more particularly, the Special Counsel was required to allege facts in the Indictment to show that Concord knew about the relevant statutory schemes—the so-called "regulatory apparatus" referred to by the Special Counsel at the June 15, 2018 hearing—and, by dishonest and deceitful means, conspired to impede specific statutes or regulations that are a part of that apparatus and

thereby interfered with the lawful functioning of the 2016 presidential election. *Supra* at Part V.A.

Seemingly, until this case, the government itself agreed that election-based conspiracies like the one charged here required a showing of willfulness as just described. In its recently updated "Guidelines for Federal Prosecution of Election Offenses," the DOJ made clear that charges of conspiracy to defraud under § 371 based on election offenses require proof that the defendant "was aware that his or her conduct was generally unlawful" *and* "***must also show*** that the defendant intended to disrupt and impede the lawful functioning of the FEC." *See* Dep't of Justice, *Federal Prosecution of Election Offenses*, 162–63 (Dec. 2017 8th Ed.) (the "DOJ Guidelines") (emphasis added). Thus, the Guidelines require proof that the defendant intended to disrupt and impede the FEC *in addition to* willfulness, defined as the awareness of unlawfulness required for an underlying offense of FECA.

The Guidelines specifically note that this standard is "a higher factual burden than is required under 18 U.S.C. § 1001," which requires proof that a defendant act "knowingly and willfully; that is, the defendant intended to cause the recipient to record false statements and knew, generally, that making such a false statement as unlawful." *Id.* at 162–63. While the DOJ Guidelines were updated in December 2017, this position has remained constant for at least ten years. *See* Ex. A, Dep't of Justice, *Federal Prosecution of Election Offenses*, 187–88 (May 2007 7th Ed.) (excerpt containing substantially similar language as the Eighth Edition). The Guidelines are, moreover, consistent with Judge Kavanaugh's opinions in *Bluman* and *Moore*. *See Bluman*, 800 F. Supp. 2d at 292 ("[W]e caution the government that seeking criminal penalties for violations of [laws regulating foreign nationals' political contributions or expenditures] will require proof of defendant's knowledge of the law."); *Moore*, 612 F.3d at 704

(Kavanaugh, J., concurring) (explaining that "the Supreme Court's precedents arguably require district courts in § 1001 cases to give a willfulness instruction that requires proof that the defendant knew his conduct was a crime").

In reviewing indictments brought by the government under § 371's conspiracy to defraud clause in the FEC context, time and again the government followed through on the DOJ Guidelines and alleged "willfulness" consistent with the Guidelines.[10] Yet now, the Special

[10] *See, e.g.,* Ex. C, Indictment at 5, ¶ 11, *United States v. Hopkins*, 916 F.2d 207 (5th Cir. 1990) (No. 3–89–008) (charging that defendants "knowingly and willfully combined, agreed, and conspired, together and with others, both known and unknown to the Grand Jury, to [] defraud the United States, in particular the Federal Election Commission, of and concerning its right to have its business and affairs conducted free from deceit, dishonesty, unlawful impairment, and obstruction"); Ex. D, Indictment at 4, ¶ 10, *United States v. Hsia*, 24 F. Supp. 2d 63 (D.D.C. 1998), *rev'd in part, appeal dismissed in part*, 176 F.3d 517 (D.C. Cir. 1999) (No. 98–0057) (charging that defendants "did knowingly and willfully combine, conspire, confederate, and agree with and among each other and with persons known and unknown to the grand jury, to defraud the United States and, in particular, the FEC and INS, agencies of the United States, by impairing, obstructing, impeding, and defeating the FEC's and INS's lawful functions and duties, in violation of Title 18, United States Code, Section 371"); Ex. E, Indictment at 6, ¶ 18, *United States v. Mariani,* 212 F. Supp. 2d 361 (M.D. Pa. 2002) (No. 97–225) (charging that defendants "did knowingly and willfully combine, conspire, confederate and agree together and with each other. . .to defraud the United States by impairing, impeding, defeating and obstructing the lawful functions and duties of the FEC in violation of Title 18, United States Code, Section 371"); Ex. F, Indictment at 3, ¶ 7(a), *United States v. Turner*, No. 06-0026, 2006 WL 1980252 (D.D.C. July 12, 2006) (charging that defendants "did combine, conspire, confederate, agree, and have a tacit understanding to knowingly and willfully defraud the United States by impairing, impeding, defeating the lawful functions and duties of the OPM and the FEGLI program"); Ex. G, Information at 3–4, ¶¶ 6, 8–10, *United States v. Mathis-Gardner*, 110 F. Supp. 3d 91 (D.D.C. 2015) (No. 11–100) (charging that defendant "did knowingly and unlawfully combine, conspire, confederate, and agree with other persons, both known and unknown to the United States, to defraud the United States by. . . .[k]nowingly and willfully provid[ing]. . . false and fraudulent information, documents, and representations").

While the government did not specifically charge "willfulness" in its § 371 defraud charges in *United States v. Kanchanalak*, 41 F. Supp.2d 1 (D.D.C. 1999) and *United States v. Trie*, 21 F. Supp.2d 7 (D.D.C. 1998), *see infra* at pp. 28-29, the indictments in those cases both charged other counts that included willfulness, so the juries in both cases presumably were given "willfulness" instructions. *See* Ex. H, Superseding Indictment at 24, ¶ 2, and 27, ¶ 2, *United States v. Kanchanalak* (charging substantive FECA violations and causing false statements, all of which included willfulness); Ex. I, Indictment at 28, ¶ 2, 31, ¶ 2, *United States v. Trie* (charging (continued)

Counsel walks away from that settled departmental practice to avoid what he cannot allege or prove.

The Special Counsel likely will offer the rejoinder that Concord is trying to convert his charged defraud conspiracy under § 371 into one charged under the statute's "offense" prong because the FECA and FARA statutes that govern contributions and registration invoke a willfulness requirement.[11] But that rejoinder is misdirected. For one thing, to the extent these particular statutes in the relevant regulatory schemes provide for a willfulness burden of proof, that is in keeping with constitutional principles and provides further support for the burden that must overlay § 371 defraud conspiracies built on such schemes. The existence of that statutory burden, in any event, certainly provides no reason to ***lower*** the bar where a defraud conspiracy is concerned and, more fundamentally, the bar cannot be lowered.

For another, if anyone is blurring the line between § 371's offense and defraud clauses, it is the Special Counsel—on the one hand, he vaguely suggests Concord has conspired to interfere with the government's administration of the FECA and FARA statutory schemes; on the other, he says he is not charging Concord with violating those schemes. Hr'g Tr. 8:14-19. The reason for this approach seems clear—to try to evade the willfulness standard that must be met to show violations of the FECA and FARA provisions referenced in an offense-clause conspiracy case. But allowing this would permit offense-clause cases to be routinely charged as defraud-clause cases, and Congress could not have intended to draft a criminal statute like § 371 that creates two distinct ways the criminal offense could be committed, but where one could potentially swallow up the other. *See Wisconsin Cent. Ltd. v. United States*, 138 S. Ct. 2067, 2073 (2018) (rejecting

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false statements and aiding and abetting, and conspiracy to obstruct justice, all of which included willfulness).

[11] *See* 22 U.S.C. § 618(a); 52 U.S.C. § 30109(d).

government's interpretation of two distinct terms in statute that would "simply obliterate" the distinction thus "promis[ing] a graver surplusage problem of its own"); *Minarik*, 875 F.2d at 1193 (underscoring courts' "responsibility to keep that definition [of 'defraud' under § 371] from engulfing the statute itself and obliterating the carefully drawn relationship between the two clauses" in § 371).

In this case, for reasons that are as immutable as they are profound, proof of willfulness must be shown. And, since the requisite allegations are missing from the Indictment against Concord, the Indictment as to Concord should be dismissed.

b. Existing case law supports the need for a willfulness showing here.

No case has specifically addressed whether a willfulness *mens rea* is required in a § 371 defraud conspiracy case like this one. But that is only because of the novelty of this Indictment. In circumstances where, as here, complex regulations are implicated against a foreign national with no presence in the United States, and the threat of punishing innocent conduct is extant, courts frequently have expressed the need for a heightened *mens rea* requirement. And even in those cases favored by the Special Counsel in his prior briefing, which he erroneously believes serve to relax the standard for criminal intent—requiring only some vague proof that Concord knew "on some level" the existence of some unspecified "regulatory apparatus" governing foreign nationals who participate in some fashion in United States elections (Hr'g Tr. 9:17–22)—the concerns over the proof of *mens rea* are evident, just as they should be in any conspiracy case. It is simply impossible for any person, whether a foreign national or a U.S. citizen, to have any knowledge of, let alone understand, the Special Counsel's imaginary "on some level" *mens rea* standard. Further, none of the cases relied upon by the Special Counsel provide any reason not to impose a willfulness requirement in this case.

Starting with the cases that require a heightened *mens rea* requirement, this Court in *Bluman*, 800 F. Supp. 2d at 292, explicitly "caution[ed] the government that seeking criminal penalties for violations of [laws regulating foreign nationals' political contributions or expenditures] will require proof of defendant's knowledge of the law." *See also Moore*, 612 F.3d at 704 (Kavanaugh, J., concurring) (explaining that "the Supreme Court's precedents arguably require district courts in [18 U.S.C.] § 1001 cases to give a willfulness instruction that requires proof that the defendant knew his conduct was a crime").

The First Circuit has issued two relevant decisions on the requisite *mens rea* requirement in § 371 defraud conspiracy cases. First, in *United States v. Monteiro*, 871 F.2d 204 (1st Cir. 1989), the court of appeals affirmed a jury instruction in a § 371 defraud-clause case based on tax offenses that required willfulness, defined as:

> [A]ct[ing] or participat[ing] voluntarily and intentionally, and with specific intent to do something the law forbids, or with the specific intent to fail to do something the law requires to be done; that is to say, to act or participate with the bad purpose either to disobey or to disregard the law. So if a Defendant, or any other person, with an understanding of the unlawful character of a plan, knowingly encourages, advises or assists, for the purpose of furthering the undertaking or scheme, he thereby becomes a willful participant-a conspirator.

Id. at 208. The instruction is consistent with the standard Concord advances here. It requires the alleged co-conspirator to willfully and knowingly join a conspiracy that is aimed at deceitfully and dishonestly interfering with something the co-conspirator knows the law forbids.

The Special Counsel previously argued to this Court that its *mens rea* position was consistent with that of the DOJ asserted in a brief filed in *United States v. Morosco*, 822 F.3d 1 (1st Cir. 2016). Hr'g Tr. 11:5–8. There, the First Circuit approved an instruction in a § 371 defraud case resting on interference "with the proper operation of [a HUD] program." *Morosco,* 822 F.3d at 20. The court recognized that with charges related to the HUD statute—as is true in

this context—there was a danger that innocent conduct would be criminalized through undisciplined use of a § 371 defraud charge. The court therefore approved an instruction—as it had in *Monteiro*—that included a willfulness requirement on two levels; one for joining the conspiracy and a second for interfering with and obstructing the proper operation of the HUD program with the purpose of disregarding or disobeying the law. Importantly, the court refused to accept DOJ's argument that willfulness was not required for a § 371 defraud charge, characterizing DOJ's argument as "interesting as the government's thought may be." *Id.* at 20–21.

By the same token, in *United States v. Trie*, even though the conspiracy to defraud count did not use the word "willful," this Court required willfulness as part of a criminal indictment under § 371 in the context of an alleged election conspiracy. 21 F. Supp. 2d 7, 15 (D.D.C. 1998). In count one of the indictment there, the government alleged that the defendant conspired to defraud the United States under § 371 by making various fraudulent contributions without satisfying applicable reporting obligations. *Id*. at 13. Defendant moved to dismiss the § 371 count on grounds that the government was required to prove the defendant knew of the reporting obligations. Based in part on the complexity of the federal election laws invoked and its concern—consistent with due process—that innocent conduct might be ensnared, the court concluded that the government was required to show the "defendant knew of the [political party] treasurers' reporting obligations, that he attempted to frustrate those obligations, and that he knew his conduct was unlawful." *Id*. at 14.

The Third Circuit's decisions in *United States v. Curran*, 20 F.3d 560 (3d Cir. 1994) and *United States v. Alston*, 77 F.3d 718 (3d Cir. 1996), likewise support a willfulness requirement in a case like this one. In *Curran*, the Third Circuit applied the *Ratzlaf* standard in the context of a

§ 371 defraud conspiracy to interfere with the FEC. There, the defendant was convicted of conspiring to defraud the United States under § 371 by interfering with the FEC's reporting requirements, in addition to substantive offenses of causing election campaign treasurers to submit false reports to the FEC under 18 U.S.C. §§ 2(b) and 1001. *Curran*, 20 F.3d at 562.

The Third Circuit vacated the convictions, finding that the heighted willfulness standard in *Ratzlaf* applied because the conduct of making a contribution in the name of another is "not obviously evil or inherently bad." *Curran*, 20 F.3d at 569 (internal quotations omitted). Thus, the lower court's jury instruction that merely contained the word "willfully" was deficient. *Id*. at 569–71. Rather, a jury must find the defendant agreed to commit an unlawful act combined with intent to commit the underlying offense. *Id*. at 571. The court also prescribed that on remand "the instructions on intent as to the conspiracy count must track those applicable to the substantive counts." *Id*. The concerns that drove *Curran* to its holding on the offense prong are the same ones that drive the analysis on the defraud prong in this case.

Two years later, in *Alston,* 77 F.3d 713, the Third Circuit again applied the heightened willfulness standard to a § 371 defraud conspiracy in the context of structuring transactions. The government argued that the § 371 defraud conspiracy charge did not require the *Ratzlaf* level of *mens rea* because the defendant was guilty of participating in a "*Klein*" conspiracy, which, it contended, does not require proof of knowledge of illegality. *Id*. at 715, 720. The court rejected the government's position, finding it could not discern any difference between the government's "defraud scenario" and the substantive structuring offense for which the defendant had been acquitted. *Id*. at 720. The court held that "to obtain a conviction under either the 'defraud' or 'offense' clauses of § 371, the government had to prove that Alston knew that his structuring activities were illegal." *Id*. at 721. *Alston*, like *Curran*, finds ready analogy to this case.

Finally, in *Licciardi*, 30 F.3d 1127, the defendant grape broker allegedly defrauded a wine producer and was charged under the conspiracy to defraud clause of § 371 because of the regulatory involvement of a federal agency, the Bureau of Alcohol, Tobacco, and Firearms ("ATF"), in the wine industry. *Id.* at 1128–29. The court applied a willfulness standard to the § 371 defraud conspiracy explaining: "It might have been easy for the government to establish that Licciardi was familiar with the federal regulations on the labelling of wine and that it was a necessary part of his plan of deceit that [the defrauded wine producer] provide information to the government that would frustrate these regulations[,]" but the government did not do so. *Id*. at 1132[12]; *see also United States v. Nersesian*, 824 F.2d 1294 (2d Cir. 1987) (holding that government had to prove in § 371 defraud-clause case that defendant "had specific knowledge of the reporting requirements and intended to cause them to be evaded") (citations omitted). That level of familiarity likewise is precisely what is required in this case.

Nevertheless, and as noted, the Special Counsel has insisted that a § 371 conspiracy to defraud can be proved as to Concord without any evidence of willfulness—that is, without any evidence that Concord acted with a deceitful and dishonest intent to impede any specific "regulatory functions" or in knowing that those "regulatory functions" applied to United States elections. *See* ECF No. 20 at 10-11 & n.4 (discussing cases). But none of the cases the Special Counsel cites in his effort to water down the *mens rea* requirement are on point. Each one, on its own facts, demands a showing of *mens rea* in a § 371 conspiracy to defraud that goes beyond a

[12] The Ninth Circuit ultimately upheld the § 371 conspiracy to defraud conviction based on a second related substantive conspiracy conviction for which, the court found, there was sufficient evidence of *mens rea*. *See Licciardi*, 30 F.3d at 1133. No such basis exists for the § 371 defraud conspiracy charge against Concord.

vacuous claim that a defendant knew it was interfering with a lawful governmental function, labeled generically here as a "regulatory apparatus," related to a "United States election."

For example, the D.C. Circuit's decision in *United States v. Davis*, 863 F.3d 894 (D.C. Cir. 2017), does not speak to the *mens rea* issue. The court there merely stated that the government had to show that a defendant "knowingly agreed," and there was no dispute over *mens rea*. For another, *United States v. Hsia*, 176 F.3d 517 (D.C. Cir. 1999), likewise does not address the *mens rea* needed in this case and does not compel the conclusion that a willfulness standard is not required. There, the government brought a six-count indictment against defendant for causing false statements to be made to the FEC in connection with political contributions—one count for conspiracy to defraud under § 371 and five substantive counts under 18 U.S.C. §§ 2 and 1001. The district court dismissed the latter five counts but refused to dismiss the § 371 count, and the government appealed.

On appeal, the D.C. Circuit reversed the dismissal of the five substantive counts for making false statements in violation of 18 U.S.C. §§ 2 and 1001, concluding that under those provisions, "the government need not prove that Hsia knew her acts to be unlawful[.]" *Hsia*, 176 F.3d at 522. Rather, the court found, the government need only show that the defendant knew that the statements were false and the defendant intentionally caused the statements to be made by another. *Id*.[13] The court did not, however, render any substantive ruling on the § 371 count—which defendant had cross-appealed—finding instead that it lacked jurisdiction to consider it.

[13] Even this finding, beside the point in this § 371 case, is on shaky ground, as Judge Kavanaugh pointed out in *Moore*, 612 F.3d at 704 (Kavanaugh, J., concurring) (noting that "*Hsia* referenced a 1994 Third Circuit opinion [*Curran*] that predated the Supreme Court's clarifying decisions in *Bryan* and later cases," and that, as a result, *Hsia*'s *mens rea* ruling may need to be reconsidered). Judge Kavanaugh went on to say that "in a case where the issue is raised, the Supreme Court's precedents arguably require district courts in § 1001 cases to give a willfulness instruction that requires proof that the defendant knew his conduct was a crime." *Id*.

Id. at 526–27. And in fact, the underlying indictment alleged that all of the defendant's alleged violations were knowing ***and*** willful. *See United States v. Hsia*, 24 F. Supp. 2d 14, 20–21 (D.D.C. 1998); *see also* Ex. D, *Hsia* Indictment, *supra* note 10 at 4, ¶ 10. Further, more recently in *Bluman*, this Court made clear that seeking criminal penalties for violation of FECA's prohibition on certain conduct by foreign nationals requires proof of the defendant's knowledge of the law. *Bluman*, 800 F. Supp. 2d at 292.

Beyond this, the analysis in *Hsia* was narrowly drawn around political contributions—the specific subject of a statute—and involved a series of actions by the defendant to find straw donors and funnel money with the intent to avoid the statutory requirements. While the government was not required to prove that the defendant knew her conduct was unlawful, it did require a *mens rea* consistent with § 371's defraud prong; that is, that she knew that she was intentionally causing others to make false statements for the purpose of evading what the contribution statute required. *Hsia*, 176 F.3d at 522; *see also Hsia*, 24 F. Supp. 2d at 21 (noting charge required proof of knowledge and willfulness).

Another trio of cases cited by the Special Counsel (Doc. No. 20 at 10)—*United States v. Coplan*, 703 F.3d 46 (2d Cir. 2012), *United States v. Khalife*, 106 F.3d 1300 (6th Cir. 1997) and *United States v. Jackson*, 33 F.3d 866 (7th Cir. 1994) (cited at ECF No. 20 at 10)—are tax-avoidance conspiracy cases that, like *Hsia*, do not provide that a willfulness standard must be rejected in this context. *Coplan*, for example, involved tax evasion using tax shelters that the defendant knew concealed information from the Internal Revenue Service ("IRS") that was required to be disclosed and thus made false statements on a tax return. To sustain a conspiracy conviction, the court noted that the substantive offense required a willful non-payment with the intent to evade a lawful tax payment. All the co-conspirators, moreover, needed to possess that

intent and the court reversed the conviction of the targeted co-conspirator (Shapiro) precisely because the proof did not show that he had the specific intent to violate the law. The court's evaluation of the evidence is in keeping with the *mens rea* requirement Concord urges.[14]

As for *Khalife* and *Jackson*, neither case implicates the regulatory complexities or free speech considerations that exist in a case like this one. And they also do not give the government a free pass on the *mens rea* requirement, either. Both cases involved concealment of material facts resulting in the filing of false tax returns. Although neither case required proof that the defendant knew it was violating the particular underlying substantive statute for purposes of a § 371 defraud conspiracy, both required proof that each co-conspirator agreed to accomplish an illegal objective against the United States and had the specific intent to impede lawful tax collection.[15] *See Khalife*, 106 F.3d at 1303; *Jackson*, 33 F.3d at 872

Unlike these cases, there are no allegations specific to Concord that it violated any statutory provision or regulation governing U.S. elections, that it knew of any statutes regulating U.S. elections, or that it joined a conspiracy with an awareness that any such statute or regulation would be violated. Concord stands accused of interfering with the proper functioning of a U.S. election, but in contrast with *Hsia*, *Coplan*, *Khalife*, or *Jackson*, the Indictment makes no attempt to explain what is meant by proper functioning in light of the FECA, the FARA, or any other statute or regulation. Again, "proper functioning" cannot simply be administration of underlying statutes, because if that was the case, every violation of federal law would also be a § 371

[14] Indeed, as for *Coplan* specifically, it is more notable for Judge Cabranes's cogent deconstruction for the Second Circuit of the viability of *Klein* conspiracies under the plain text of § 371, discussed more fully below. *Infra* at Part V.D.

[15] At the June 15 hearing, the Special Counsel also invoked *United States v. Kanchanalak*, 41 F. Supp. 2d 1 (D.D.C. 1999), where the court laid out the elements of proof for a § 371 defraud conspiracy. But nothing in that case addressed, much less rejected, the need to prove willfulness in an election cases like this one.

defraud conspiracy, thereby improperly "obliterat[ing]," § 371's distinct use of "offense" and "defraud." *Wisconsin Cent. Ltd.*, 138 S. Ct. at 2073. *See also Minarik*, 875 F.2d at 1193 (courts must reject interpretation of "defraud" that would "engulf[] the statute itself and obliterat[e] the carefully drawn relation between the two clauses"). Nor, moreover, is concealment alone—without interference with "lawful governmental functions"—a § 371 "*Klein*" defraud conspiracy, especially where the covert activity involves speech. And there are no allegations on how it was that Concord, a foreign national, knew something unlawful was going on or that its conduct was furthering an unlawful purpose with respect to any program or statutory scheme overseen by the United States. None of the Special Counsel's cited cases endorse that result and this Court should not do so either.

In this proceeding, specific allegations showing willfulness are necessary to ensure that Concord is being charged because it knew it was violating a law relating to U.S. elections. Otherwise, it is threatened with punishment for conduct that does not defraud the United States in violation of § 371 in the manner the Indictment generically claims. This is also why Concord previously sought discovery of the grand jury instructions and why it is imperative that this Court find that willfulness is a required element of the Special Counsel's proof.

2. The Special Counsel was required—but failed—to allege that Concord specifically targeted the United States or its agencies.

Requiring willfulness alone is not sufficient to save this Indictment—the Special Counsel also must point to allegations that Concord specifically intended, through its alleged conduct, to defraud the United States itself, or one of its agencies. *See Tanner*, 483 U.S. at 130 (a § 371 conspiracy to defraud is "most importantly" defined by the "*target* of the conspiracy"). But as to Concord, the Indictment alleges only that it provided funding for unspecified purposes to foreign persons, recommended personnel, and reviewed budgets containing advertising expenditures

apparently linked to those persons, but with no indication that Concord specifically targeted the United States or its agencies in undertaking that conduct. And whether Concord could have surmised or even intended that its alleged conduct might influence those who voted in the 2016 presidential election is beside the point. Influencing voters is one thing and targeting the federal government or its agencies is another—the difference is fatal to this Indictment under *Tanner* and its progeny. Section 371 defraud conspiracies extend only to those who act with the specific intent of targeting the United States and its exercise of its sovereign and lawful functions.

Thus, as the Supreme Court explained in *Tanner*, "[t]he conspiracies criminalized by § 371 are defined not only by the nature of the injury intended by the conspiracy, and the method used to effectuate the conspiracy but also—and most importantly—by the *target* of the conspiracy." *Id.* at 130. "Section 371 covers conspiracies to defraud 'the United States or any agency thereof,' a phrase that [even] the Government concedes fails to describe [private parties]." *Id.* Following *Tanner*, courts repeatedly have acknowledged that the purported deception of the United States government "has to be a *purpose* or *object* of the conspiracy, and not merely a foreseeable consequence of the conspiratorial scheme." *Goldberg*, 105 F.3d at 773 (citing *Dennis*, 384 U.S. at 861). It is not enough that the defendant allegedly conspired to take some generic action or even conspired to defraud a private actor and, in doing either, engaged in deception that foreseeably hindered the government's lawful functions. To the contrary, there is no criminal violation of § 371 unless an object of the conspiracy was the use of deception to interfere with the government's lawful function.

Three post-*Tanner* cases—*Licciardi*, 30 F.3d 1127, *United States v. Mendez*, 528 F.3d 811 (2008), and *United States v. Pappathanasi*, 383 F. Supp. 2d 289 (D. Mass. 2005)—illustrate this particular limitation. *Licciardi* involved a grape broker's conspiracy to defraud wine

producers by passing off less expensive wine grapes as more expensive varieties. *Licciardi*, 30 F.3d at 1129–30. As part of the fraudulent scheme, the broker had grape growers remove the field tags from the inferior grapes so they could more easily be passed off as their more expensive counterparts. *Id.* The scheme impaired the ATF's lawful regulatory function because the wineries were required to use field tags to file reports with the ATF and because the scheme caused the wineries to sell wines that were mislabeled with the wrong grape type in violation of federal regulations the ATF was charged with enforcing. *Id.* at 1129, 1131. While the grape broker had been convicted of conspiracy to defraud under § 371, the Ninth Circuit concluded that the conviction under the theory the government had advanced was erroneous because the government had not established that the broker had the requisite *mens rea* required under *Tanner*. *Id.* at 1132. The Ninth Circuit noted that the defendant "was far from innocent morally or in terms of the law of California[,]" but explained that under *Tanner* that was not the issue. *Id.* at 1131–32. To the contrary, the question before it was whether there was evidence of a conspiracy to defraud to the United States government—something the government had failed to establish at trial. *Id.* The court nevertheless went on to affirm the conviction on alternative grounds because there was sufficient evidence of a second unlawful object of the conspiracy—namely, an intent to commit mail fraud. *Id.* at 1132.

Mendez, in turn, involved a truck driver who had conspired to use a fraudulent qualification record to obtain a commercial driver's license from the State of Florida. *Mendez*, 528 F.3d at 813–14. The driver's fraud ultimately impaired the United States Department of Transportation's ("DOT") lawful function because it had the effect of allowing the defendant to circumvent the DOT's minimum rules and regulations for obtaining a commercial driver's license. *Id.* at 814–15. Although the defendant had been convicted of conspiracy to defraud

under § 371 based upon the facts to which he had stipulated, the Eleventh Circuit vacated the conviction as "precisely what the *Tanner* Court meant to prevent." *Id.* at 815. It found significant that the "facts to which the parties stipulated do not show that [the defendant] even knew the federal government was involved in the issuance of Florida [commercial driver's licenses], let alone that the United States was the ultimate intended target of [the defendant's] conduct." *Id.* It thus reasoned that "under *Tanner*, there was no basis for the district court to find that [the defendant] was guilty beyond a reasonable doubt of defrauding the United States under 18 U.S.C. § 371." *Id.* at 815–16.

For its part, *Pappathanasi* involved a kickback scheme between executives at a creamery and Dunkin' Donut franchisees whereby the creamery would inflate invoices to the franchisees and then give the franchisees "rebates" of the excess charges back to franchisees in the form of unreported checks and cash. *Pappathanasi*, 383 F. Supp. 2d. at 290. The government had charged that this scheme amounted to a conspiracy to defraud the United States by helping the franchisees defraud the IRS by overstating expenses and understating income. *Id.* at 291. The district court, however, concluded that the charge had to be dismissed because the government was unable to come up with sufficient evidence to establish that the object of the alleged conspiracy was a scheme to defraud the IRS by helping franchisees misreport information to the IRS and evade their tax obligations. *Id.* at 291–92. While the court acknowledged that there was evidence that some franchisees had indeed used the kickback scheme for this purpose, that was not sufficient as the government was required to "prove the purpose of the conspiracy was to interfere with the proper functioning of the IRS and that any fraud was not merely a foreseeable consequence of a conspiratorial agreement." *Id.* at 291–93. Because the government's evidence of any such direct intent to interfere with the IRS's function was lacking, the court granted

defendants' motion for acquittal and dismissed the § 371 charge. *Id.* at 294–95.

Together, these cases demonstrate how, following the Supreme Court's holding in *Tanner*, a § 371 conspiracy to defraud requires more than just conduct, even fraud, which ultimately can be linked to an impairment of a lawful function of the United States government. Rather, an object of the conspiracy must be the specific intent to defraud the United States government or its agencies and an element of the charge is that the defendant committed to engage in fraud that it knew would be specifically directed at the United States government or its agencies and was and intended to interfere with the government's lawful function. Those specific allegations are, however, missing from the Indictment as to Concord. Dismissal of the Indictment is required for this independent reason as well.

C. The Indictment Against Concord Should Be Dismissed Because The Special Counsel's Application Of § 371's Defraud Clause Is Unconstitutionally Vague.

As noted above, according to the Special Counsel, to sustain the Indictment, he need only show that, through "deceptive acts," Concord interfered with some undescribed government "regulatory apparatus … that exists to root out foreign influence on the United States's [sic] processes[.]" Hr'g Tr. 9:6–13; *see also supra* at Part V.A. With respect to those "processes," moreover, he maintains that Concord need only have known "that there is in the United States, on some level, regulation that's designed to prevent foreign influence from operating in a covert, undisclosed manner that can thwart the political system." Hr'g Tr. 9:8–21. Adoption of this standard in this case would not, however, pass constitutional muster. Indeed, any jury instruction articulating this standard would authorize the government to prosecute anyone for conspiring to do anything that the government unilaterally determines—after the fact—"interferes" with its myriad "functions." That is not and cannot be the law and the Indictment should be dismissed for this reason also.

To begin with, how could anyone, let alone a foreign national company with no presence in the United States, be on notice of a prosecutor or court created a "some level" of intent requirement? And beyond that: what "regulatory apparatus," what "foreign influence on the United States's [sic] [political] processes … without adequate disclosure," what "covert manner?" And with respect to these euphemisms, what level of knowledge and intent to deceive is required and with respect to what? The Special Counsel's vacuous articulation plainly defies, on every level, the "discernable meaning" a criminal statute like § 371 must have—"'after if not before it is judicially construed'" (*Tanner*, 483 U.S. at 132 (quoting *Dixson v. United States*, 465 U.S. 482, 512 (1984) (O'Conner J., dissenting))—to support a felony conspiracy conviction.

Specifically, the Due Process Clause requires more and precludes criminal punishment under a criminal law that "fails to give ordinary people fair notice of the conduct it punishes, or so standardless that it invites arbitrary enforcement." *Johnson v. United States*, 135 S. Ct. 2551, 2556 (2015) (citation omitted); *see also Dimaya*, 138 S. Ct. at 1212 (same); *Giaccio v. Pennsylvania*, 382 U.S. 399, 402–03 (1966) ("arbitrary enforcement" means that a law leaves government actors "free to decide, without any legally fixed standards, what is prohibited and what is not in each particular case"). The void-for-vagueness "doctrine is a corollary of the separation of powers—requiring that Congress, rather than the executive or judicial branch, define what conduct is sanctionable and what is not." *Dimaya*, 138 S. Ct. at 1212 (citation omitted); *see also United States v. Bass*, 404 U.S. 336, 348 (1971) ("[B]ecause of the seriousness of criminal penalties, and because criminal punishment usually represents the moral condemnation of the community, legislatures and not courts should define criminal activity.").

Pursuant to this bedrock constitutional directive, the Supreme Court has "become accustomed to using the Due Process Clause to invalidate" or strictly construe criminal statutes

"on the ground of 'vagueness.'" *Johnson*, 135 S. Ct. at 2566–67 (Thomas, J., concurring) (citing cases); *see also Dimaya*, 135 S. Ct. at 1212; *McDonnell v. United States*, 136 S. Ct. 2355, 2367 (2016); *Yates*, 135 S. Ct. at 1074. This Court should do the same and reject the Special Counsel's charge that Concord engaged in a criminal conspiracy to defraud the United States by interfering with some amorphous and undefined "lawful governmental function" or the government's "regulatory apparatus" in the context of a U.S. election.

First, even on its face, "the defraud clause of section 371[,]" with its judicially engrafted interference with "lawful governmental function" prong, "has a special capacity for abuse because of the vagueness of the concept of interfering with a proper government function." *Goldberg*, 105 F.3d at 775. "Lawful governmental function" is not self-defining and could be construed expansively to extend to all the myriad ways in which the government regulates and operates on a daily basis. *See Caldwell*, 989 F.2d at 1060 ("The federal government does lots of things, more and more every year, and many things private parties do can get in the government's way."). And it goes without saying that any "Government promise[] to use" § 371's defraud clause "responsibly" is no basis to uphold its application to Concord in this case. *United States v. Stevens*, 559 U.S. 460, 480 (2010) (citation omitted).

Second, that the "interference with lawful governmental function" was written into § 371 by the courts only exacerbates the vagueness concerns here. Statutory detail in defining crimes is required not just to protect individual due process rights—it is also to ensure that it is Congress, not the courts or the executive branch, which creates and defines federal crimes. *See Liparota*, 471 U.S. at 424 (federal crimes are "solely creatures of statute"); *Lanier*, 520 U.S. at 267 n.6 ("Federal crimes are defined by Congress, not the court") (citations omitted). "[L]egislators may not 'abdicate their responsibilities for setting the standards of the criminal

law,' by leaving to judges the power to decide "'the various crimes includable in [a] vague phrase[.]'" *Dimaya*, 138 S. Ct. at 1227 (Gorsuch, J., concurring) (quoting *Smith v. Goguen*, 415 U.S. 566, 575 (1974); *Jordan v. De George*, 341 U.S. 223, 242 (1951) (Jackson, J., dissenting)). "For 'if the legislature could set a net large enough to catch all possible offenders, and leave it to the courts to step inside and say who could be rightfully detained, and who should be set at large[,] [t]his would, to some extent, substitute the judicial for the legislative department of government.'" *Id.* (citation omitted).

Third, while the Supreme Court has acknowledged that statutory "clarity at the requisite level may be supplied by judicial gloss on an otherwise uncertain statute," *Lanier*, 520 U.S. at 266 (citations omitted), "due process bars courts from applying a novel construction of a criminal statute to conduct that neither the statute nor any prior judicial decision has fairly disclosed to be within its scope," *id.* at 266 (citations omitted), and adding clarity to a statute "by judicial gloss" is no license to courts to insert language into a statute that Congress did not put there. *See Mercy Hospital, Inc. v. Azar*, 891 F.3d 1062, 1070 (D.C. Cir. 2018) ("We can only interpret statutes, not rewrite them."). Here, the Supreme Court, in *Hammerschmidt*, extended § 371 beyond its text to encompass fraud conspiracies that are not within the statute's ambit and where there is no apparent support for that construction in the history or text in the first place. Quite the contrary: as Judge Cabranes explained at length in *Coplan*, 703 F.3d 46, Congress elected only to use the term "defraud," which at common law had a settled, narrow meaning: "to deprive another of property rights by dishonest means." *Id.* at 59; *McNally v. United States*, 483 U.S. 350, 358 (1987) (common-law fraud required wronging another "in his property rights by dishonest methods or schemes").

Fourth, these concerns are acute here given the dangerous First Amendment implications—both for speakers and listeners—of the Special Counsel's charge and allegations in the context of a U.S. presidential campaign. *Supra* at Part V.B.1.a. "When the criminal penalty at issue applies to activity that furthers First Amendment interests, . . . the court is obliged to review the challenged enactment" and its application "with particular care." *United States v. Thomas*, 864 F.2d 188, 194 (D.C. Cir. 1988) (Starr, J.); *see also Campaign Legal Ctr.*, 2018 WL 2739920, at *8 (in the election context, "vagueness and notice concerns carry special weight, since courts must be especially vigilant to prevent the chilling of First Amendment speech"). "Indeed, when the [application of law] threatens exercises of otherwise permissible First Amendment rights, [it] must provide more notice and allow less discretion than for other activities." *Thomas*, 864 F.2d at 194 (citation omitted); *see also Bryant v. Gates*, 532 F.3d 888, 893 (D.C. Cir. 2008) ("Our concern about vagueness is elevated when the law regulates speech because it may 'operate to inhibit protected expression by inducing citizens to steer far wider of the unlawful zone than if the boundaries of the forbidden areas were clearly marked.'") (citation omitted). Vagueness problems are "particularly treacherous where, as here, the violation of its terms carries criminal penalties and fear of incurring these sanctions may deter those who seek to exercise protected First Amendment rights." *Buckley*, 424 U.S. at 76–77.

Ultimately, whatever may have been true on other fact patterns, the extension of § 371's defraud prong in the manner contemplated by the Special Counsel lacks any basis in the statute's text, is not determinable, *ex ante*, by a foreign national like Concord, contains no discernable definition of "interference with a lawful governmental function" in the context of a U.S. election, raises serious First Amendment concerns and, as a result, that will not pass constitutional muster. The Supreme Court's recent decision in *McDonnell*, 136 S. Ct. 2355, makes the point.

There, the Supreme Court unanimously rejected the government's vague and expansive interpretation of the term "official act" in the federal bribery statute. Unlike here, the statutory text included the term "official act" and even provided a definition. But that did not satisfy the Court, which proceeded to adopt a narrow, specific, and discernable definition of the term, consistent with constitutional vagueness concerns. "[U]nder the Government's interpretation," the Court reasoned, "'official act' is not defined 'with sufficient definiteness that ordinary people can understand what conduct is prohibited,' or 'in a manner that does not encourage arbitrary and discriminatory enforcement.'" *McDonnell*, 136 S. Ct. at 2373 (citation omitted). The "'standardless sweep'" of the government's reading, the Court continued, could subject public officials "to prosecution, without fair notice, for the most prosaic interactions[,]" and "'[i]nvoking so shapeless a provision to condemn someone to prison'" raised serious due process concerns that could be avoided with a "more constrained interpretation[.]" *Id.* (citations omitted). So too here. The Special Counsel's proposed "standardless sweep" cannot support this Indictment any more than it could in *McDonnell*. Any effort to embrace the Special Counsel's approach here would compel dismissal of the Indictment as well.

D. The Indictment Against Concord Should Be Dismissed Because It Fails To Allege Deprivation Of Government Money Or Property As Required Under A Proper Construction Of § 371 (For Preservation Only).

Finally, although the Supreme Court held in *Hammerschmidt* that § 371 extends to conspiracies to defraud aimed at interfering with "lawful governmental functions" even where the government is not deprived of "property or money," that atextual interpretation is plainly wrong as a matter of statutory construction, *see Coplan*, 703 F.3d at 59–62; has been eroded by more recent Supreme Court decisions that hew more closely, as they should, to the text of criminal statutes, *id.*; and is entitled to minimal, if any, *stare decisis* effect at the Supreme Court.

Although the Court may deem itself presently bound by the holding in *Hammerschmidt*, Concord raises this challenge here to preserve it for any later appellate proceedings in the case.

Judge Cabranes's analysis in *Coplan* cogently makes the case. Surveying the history of § 371 and its defraud clause, he demonstrated that not long after the enactment of § 371's predecessor, the Supreme Court "described the prohibited fraud as 'any fraud against [the United States]. It may be against the coin, or consist in cheating the government of its land or other property.'" *Coplan*, 703 F.3d at 59 (quoting *United States v. Hirsch*, 100 U.S. 33, 35 (1879)). This, in turn, was fully consistent with Congress's use of the term "defraud," whose settled common-law meaning was "to deprive another of property rights by dishonest means." *Id.* at 59 (citations omitted); *see also Universal Health Servs., Inc. v. U.S. ex rel. Escobar*, 136 S. Ct. 1989, 1999 (2016) (noting "settled principle of interpretation that, absent other indication, Congress intends to incorporate the well-settled meaning of the common-law terms it uses" and that "the term 'fraudulent' is a paradigmatic example of a statutory term that incorporates the common-law meaning of fraud") (citations omitted).

It nevertheless was true, Judge Cabranes acknowledged, that since *Hirsch*, the Supreme Court had expanded § 371 to include *Klein* conspiracies. *Coplan*, 703 F.3d at 60. For its part, the government in *Coplan* rested its defense of that expansive construction not on any principle of statutory construction but, rather, on *stare decisis* and the fact that the Supreme Court had not overruled *Hammerschmidt*. And ultimately, because bound by *Hammerschmidt* and *Dennis*, Judge Cabranes was forced to reject the defendants' challenge to the scope of "defraud," despite the identified "infirmities in the history and deployment of the statute[.]" *Id.* at 61.

Concord acknowledges *Hammerschmidt* and *Dennis*, which the Supreme Court has not overturned. It therefore makes this argument to preserve it on appeal, if necessary. While *stare*

decisis could lead the Supreme Court to maintain its adherence to *Hammerschmidt* and *Dennis*, *see Pearson v. Callahan*, 555 U.S. 223, 233 (2009) (noting that "considerations of *stare decisis* weigh heavily in the area of statutory construction, where Congress is free to change this Court's interpretation of its legislation") (citation omitted), there are good reasons, given the deficiencies in the Court's reasoning in those cases, to believe it will—and should—not. *Id.* at 234 (*stare decisis* not properly accorded where a precedent or rule "was 'badly reasoned' or . . . has proved to be 'unworkable[]'") (citation omitted); *see also Johnson*, 135 S. Ct. at 2563 ("*[S]tare decisis* does not matter for its own sake. It matters because it 'promotes the evenhanded, predictable, and consistent development of legal principles. Decisions under [§ 371's *Klein* conspiracy gloss] have proved to be anything but evenhanded, predicable, or consistent.") (citation omitted).

VI. CONCLUSION

The Indictment of Concord cannot withstand scrutiny under controlling law and should be dismissed.

Dated: July 16, 2018

Respectfully submitted,

CONCORD MANAGEMENT
AND CONSULTING LLC

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EXHIBIT A:

Excerpts from Dep't of Justice, *Federal Prosecution of Election Offenses* (May 2007, 7th Ed.)

Defendant Concord Management and Consulting LLC's
Motion to Dismiss the Indictment
United States v. Internet Research Agency LLC, et al.,
Criminal Action No. 18-00032-DLF

Federal Prosecution of Election Offenses

Seventh Edition

May 2007

(Revised August 2007)

Written by:

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- the defendant acted knowingly and willfully; that is, the defendant intended to cause the recipient of political contributions to record false statements concerning their source. However, the government does *not* have to prove that the defendant was aware of the statutory requirements and prohibitions of FECA, that he purposefully violated the Act, or that he was aware of the federal agency's interest in the matter falsified. Proof that the defendant "acted deliberately and with knowledge that the representation was false" is sufficient. *United States v. Hopkins*, 916 F.2d at 214.

(b) Conspiracy to defraud the United States. 18 U.S.C. § 371

The "conspiracy to defraud" approach to FECA crimes is based on *Hammerschmidt v. United States*, 265 U.S. 182 (1924), which held that a conspiracy to defraud the United States under Section 371 includes a conspiracy "to interfere with or obstruct one of [the federal government's] lawful governmental functions by deceit, craft, or trickery, or at least by means that are dishonest." *Id.* at 188. *See also Dennis v. United States*, 384 U.S. 855, 861 (1966); *Haas v. Henkel*, 216 U.S. 462, 469 (1910).

This conspiracy theory, as applied to the functioning of the FEC, is as follows: the FEC, an agency of the United States, has the principal statutory duties of enforcing FECA's campaign financing prohibitions and disclosure requirements and providing the public with accurate information regarding the source and use of contributions to federal candidates and expenditures supporting federal candidates. 2 U.S.C. §§ 437c, 437d. To perform these duties

the FEC must receive accurate information from the candidates and political committees that are required to file reports under the Act. A scheme to infuse patently illegal funds into a federal campaign, such as by using conduits or other means calculated to conceal the illegal source of the contribution, thus disrupts and impedes the FEC in the performance of its statutory duties.

As previously stated, prosecution under FECA's criminal provision requires proof that the defendant was aware of the substantive FECA requirement he or she violated, and that he or she violated it notwithstanding this active awareness of wrongdoing. *National Right to Work Committee v. Federal Election Commission*, 716 F.2d 1401 (D.C. Cir. 1983); *AFL-CIO v. Federal Election Commission*, 628 F. 2d 97 (D.C. Cir. 1980). However, when the conduct is charged under Section 371, the proof must also show that the defendant intended to disrupt and impede the lawful functioning of the FEC. Indeed, the crux of a Section 371 FECA case is an intent on the part of the defendant to thwart the FEC. That is a higher factual burden than is required under 18 U.S.C. § 1001 in all but the Third Circuit, and is arguably a greater factual burden than is required by Section 437g(d).

The use of Section 371 in this manner has been approved by the Third and Fifth Circuits. *United States v. Curran*, 20 F.3d 560 (3d Cir. 1994); *United States v. Hopkins*, 916 F.2d 207 (5th Cir. 1990).

5. Public Financing Crimes Relating to Presidential Campaigns

The anti-fraud provisions of the Presidential Primary Matching Payment Account Act, 26 U.S.C. §§ 9031-9042, and the Presidential Election Campaign Fund Act, 26 U.S.C. §§ 9001-9012,

EXHIBIT B:

Excerpts from Transcript of June 15, 2018 Hearing (Docketed at ECF No. 41)

Defendant Concord Management and Consulting LLC's
Motion to Dismiss the Indictment
United States v. Internet Research Agency LLC, et al.,
Criminal Action No. 18-00032-DLF

BEFORE THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,	
	Case Number 18-CR-32
Plaintiff,	
vs.	
	Washington, D.C.
CONCORD MANAGEMENT AND CONSULTING LLC,	Jun 15, 2018 10:03 a.m.
Defendant.	

TRANSCRIPT OF STATUS HEARING
BEFORE THE HONORABLE DABNEY L. FRIEDRICH
UNITED STATES DISTRICT JUDGE

APPEARANCES:

For the Government:	JEANNIE S. RHEE, AUSA MICHAEL R. DREEBEN, AUSA L. RUSH ATKINSON, AUSA RYAN K. DICKEY, AUSA U.S. Department of Justice Special Counsel's Office 950 Pennsylvania Avenue N.W. Washington, D.C. 20530 202-616-0900
For the Defendant Concord Management and Consulting LLC:	ERIC A. DUBELIER, ESQ. KATHERINE J. SEIKALY, ESQ. Reed Smith LLP 1301 K Street N.W. Suite 1000, East Tower Washington, D.C. 20005 202-414-9291
Official Court Reporter:	SARA A. WICK, RPR, CRR U.S. Courthouse, Room 4704-B 333 Constitution Avenue N.W. Washington, D.C. 20001 202-354-3284

Proceedings recorded by stenotype shorthand.
Transcript produced by computer-aided transcription.

the transcripts. We're not asking for the evidence that was put in.

THE COURT: I know. You're asking for me to look in camera, and I appreciate that that's a limited request.

However, there is -- breaching the secrecy of the grand jury, it's not an easy thing to do. And I don't think you've made a showing at this point, without even winning on the argument that willfulness is an essential element, that I need to go there.

MR. DUBELIER: Your Honor, I understand your position. I respectfully disagree with you, but I understand the position you're arguing. And if we have to renew this at a later time and we will tee it up with respect to the motion to dismiss, we will do that as well.

THE COURT: Okay. Thank you, Mr. Dubelier.

MR. DUBELIER: Thank you very much, your Honor. I appreciate it.

THE COURT: Mr. Dreeben?

MR. DREEBEN: Good morning, your Honor.

THE COURT: Good morning. Let me ask you, I know we're not getting into the merits today and deciding the ultimate issue. But I'm curious, with respect to the conspiracy to defraud the FEC and the conspiracy to defraud the DOJ with respect to the Foreign Agents Registration Act, what is the government's position on what ultimately the government must

prove to the jury?

MR. DREEBEN: So the government's position on that, your Honor, is that we need to prove a conspiracy to defraud the United States. We do not need to prove a criminal violation of the underlying statute, and the elements of the underlying statutes that your Honor has referred to are not an ingredient in the case.

It's well-established in D.C. Circuit law, in the *Kanchanalak* campaign finance case that Judge Friedman handled that the elements of a conspiracy to defraud the United States are formation of a conspiracy, the intent to obstruct, impede, or interfere with functions of the government through deceit and an overt act. Those are the elements that we need to establish.

It's a different crime because it's not saying that they necessarily were required to file with the FEC or that they were required to register with the Department of Justice. What it is saying is that the deception interfered with the regulatory functions of those agencies to make the determination one way or the other.

THE COURT: But don't you have to show, on some level, maybe not a knowledge of the particular legal provisions that underlie the FECA and the FARA allegations, the specific statutory provisions, while they may not need to know that, don't they have to, on some level, in having an intent to defraud, have some knowledge that they are doing something

wrong?

MR. DREEBEN: Well, the wrongfulness of the act consists of using deception to impair the government's functions. They do have to have a purpose. It doesn't have to be the major purpose or the exclusive purpose of deceiving the government to impede its functions. It could range all the way up to they know that they're violating the law, but it could also be that we know that the government has a regulatory apparatus that exists to root out foreign influence on the United States's processes, political processes without adequate disclosure. And thwarting that process through deceptive acts is a way of impeding the regulatory functions of the United States.

THE COURT: Do they have to have some knowledge of how that regulatory apparatus works to do that?

MR. DREEBEN: Very little, I think. What they need to have is an intent to impair the regulatory apparatus. They need to know that there is in the United States, on some level, regulation that's designed to prevent foreign influence from operating in a covert, undisclosed manner that can thwart the political system. There's a ban on foreign involvement in federal elections. It has specific details. There's a requirement under the Foreign Agents Registration Act to make disclosure before acting in certain specified political ways in the United States.

I don't think the defendants here have to know the details of how that works. What they have to know is that it exists, it's out there. If they were unmasked as Russian agents posing as Americans intervening in the political system, their entire project would have failed. They needed to fly under the radar screen.

We've alleged that they engaged in a variety of deceptive acts, ranging from lying on visa applications, to using proxy servers in the United States to make their activities appear as if they were going on here, to posing as U.S. citizens, real U.S. persons in interacting with campaigns. All of those means of deception were both aimed at the political sphere and aimed at avoiding regulatory oversight by the United States government.

THE COURT: Okay. Mr. Dreeben, is your position here inconsistent with the DOJ Policy Memorandum on Election Crimes that suggests that the government needs to prove that the defendant was aware that his or her conduct was unlawful?

MR. DREEBEN: To the extent that that document, which I think is a little cryptic and ambiguous, is read that way, and I agree that it's susceptible to that reading, that's not the litigating position of the United States. We've taken the position in briefs in opposition in the United States Supreme Court and in litigating cases around the country that the elements of a conspiracy to defraud are what I said.

I think that that manual, it gestures towards the idea that you both need to show the elements of a campaign finance violation and an intent to interfere with the government. To the extent that it's read that way, it isn't the position of the United States. The position of the United States is what we have said explicitly to the Supreme Court, to the First Circuit in a brief that was signed by the Assistant Attorney General for the Criminal Division in 2016.

Willfulness is not an element of a 371 violation. There are not cases that describe it as an element of a 371 violation. There's a legion of cases that describe the elements as I have and have specifically said you don't need to have an underlying illegality in a conspiracy to defraud. The wrongful conduct is deceiving the United States to thwart its regulatory objectives.

So if I were writing the election manual, I think I would write it a little bit differently, but I don't think it ever comes out and says willfulness is an element. It's a description of, perhaps, an overly cautious approach to litigating these cases. It's not the position that the government takes in its legal filings.

THE COURT: If there comes a time to instruct the jury on this, is the instruction with respect to the objects that involve the DOJ and the FEC in any way different than that that involves the State Department?

MR. DREEBEN: I don't think that it is, because in

each case it's not a question of whether the defendant was violating the substantive offense. We could have charged a conspiracy to violate specific substantive statutes. We chose to indict a conspiracy to defraud the United States that has multiple objectives and multiple means, all of which consist in deception.

So I would not suggest that the Court deviate from the standard jury instructions that focus on the elements of defrauding the United States as opposed to getting into the elements of the underlying crime. That is one of the reasons why conspiracy to defraud the United States differs from the underlying offenses.

And again, Judge Friedman's opinion in *Kanchanalak* goes into this in some detail. When the D.C. Circuit has recited the elements of a conspiracy to defraud in the *Treadwell* and *Davis* cases that we've cited, it doesn't say anything about underlying offenses. Willfulness is not an express element of Section 371. I think my friend would have the burden of persuading the Court that there should be an implied element only as applied to certain kinds of activities in 371. That doesn't appear on the face of the statute. That's a very disfavored way to read criminal provisions as fluctuating in their meaning depending on the underlying conduct and reading elements in that aren't on the face of the statute.

The one point that I would like to respond to, if I may,

your Honor, is my opponent's suggestion that we've conceded what we said to the grand jury. We have not conceded anything about what we did in front of the grand jury. I agree with your Honor that piercing grand jury secrecy requires a particularized need and overcoming the presumption of regularity about grand jury proceedings. And it is something of a slippery slope to say let's get into the grand jury proceedings, let's just start with an in-camera review of jury instructions.

The grand jury instructions, even if -- assuming there were some error in the grand jury instructions, it doesn't justify dismissal of the indictment unless it's prejudicial, and that would inevitably lead to the question of was there an injurious influence on the grand jury proceedings which, by analogy to the way a jury instruction error is analyzed for harmlessness at the petit jury stage, you would have to look at the evidence and say would any reasonable grand jury, given the evidence, have returned the indictment notwithstanding any potential error in the prosecutor's description of the offense. And that really opens up the entire grand jury proceeding.

So it's fine for Concord to say hey, we're just asking for a very modest step here, but that modest step has no legal significance unless you are prepared to go further and really open up the grand jury proceedings to review.

And I agree with your Honor on sequencing. The cases that have typically denied motions for inspection of grand jury

instructions have said look, the indictment is valid on its face. The defendant has a burden of coming forward with some evidence to overcome the presumption of regularity. That's usually pretty hard to do. Occasionally, it has been done.

Here, I don't think there's anything. It's just a reliance on a legal theory. And if your Honor decides the legal theory in our favor, then I think it erases their claim.

THE COURT: And if I decide in their favor, do you think at that point they have a basis for me to look at the grand jury --

MR. DREEBEN: What we would have to persuade your Honor at that point is, if you concluded that willfulness or knowledge of illegality is an element, we would have to then go back to the indictment and point to provisions from which it could be inferred that the jury found that. It doesn't say willfulness expressly. That's clear. And if we lost that battle, you would dismiss the indictment, and there would be no need to look at the grand jury minutes.

So I don't really get their argument at this stage. They've said that they're going to make a motion to dismiss on the merits. They haven't fully briefed it. They're not asking your Honor to decide it. We're ready to brief it when the time comes. If your Honor resolves it one way or the other, I think that it will moot out the need to consider this motion.

THE COURT: Okay. Thank you, Mr. Dreeben.

EXHIBIT C:

Indictment from *United States v. Hopkins*, Criminal Action No. 89-00008-G (N.D. Tex.)

Defendant Concord Management and Consulting LLC's
Motion to Dismiss the Indictment
United States v. Internet Research Agency LLC, et al.,
Criminal Action No. 18-00032-DLF

FORM OBD-34
SEP 1978
WARRANT TO ISSUE FOR
EACH DEFENDANT

No. _____

UNITED STATES DISTRICT COURT

NORTHERN District of TEXAS

DALLAS Division

THE UNITED STATES OF AMERICA

vs.

ROBERT H. HOPKINS, JR.
E. MORTEN HOPKINS
JOHN W. HARRELL

INDICTMENT

18 USC 371; 1001,2; 657,2; 1006,2 - Conspiracy; Concealment and Covering Up by Scheme and Device; Misapplication; False Entries

47 COUNTS

A true bill.

_____
Foreman.

DALLAS

Filed in open court this _____ *day*

of _____ *, A.D. 19*_____

_____
Clerk.

WARRANT TO ISSUE FOR EACH DEFENDANT
Bail, $ _____

Wm. T. Sanderson Jr.
UNITED STATES ~~DISTRICT JUDGE~~ Magistrate

No Magistrate Complaint

GPO 863 525

IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF TEXAS

DALLAS DIVISION

UNITED STATES OF AMERICA	*	CR 3-89-008 -G
	*	
v.	*	CRIMINAL NO. _____
	*	
ROBERT H. HOPKINS, JR.	*	
E. MORTEN HOPKINS	*	
JOHN W. HARRELL	*	

INDICTMENT

The Grand Jury charges:

COUNT 1

Conspiracy
[18 U.S.C. §371]

A. INTRODUCTION

At times material to this indictment:

1. From in or about March 1982 through in or about December 1984, National Mortgage Corporation of America ("National") was a corporation organized under the laws of the State of Arkansas and doing business in the State of Texas; defendant ROBERT H. HOPKINS, JR. ("ROBERT HOPKINS"), was a principal shareholder and Chairman of the Board of Directors of National and his brother, defendant E. MORTEN HOPKINS ("MORTEN HOPKINS"), was President of National.

2. From in or about July 1982 through in or about June 1983, defendant ROBERT HOPKINS was a principal shareholder and

Chairman of the Board of Directors of Big Country Savings ("Big Country"), a corporation organized under the laws of the State of Texas, and defendant JOHN W. HARRELL ("JOHN HARRELL") was President of Big Country.

3. Commodore Savings Association ("Commodore") was a corporation organized under the laws of the State of Texas in or about June 1983. Commodore resulted from the merger of Big Country with First Security Savings of Abilene, Texas. Defendant ROBERT HOPKINS was a principal shareholder and Chairman of the Board of Directors of Commodore from in or about June 1983 through in or about October 1985. Defendant JOHN HARRELL was Vice-Chairman of the Board of Directors and Chief Executive Officer of Commodore from in or about July 1983 through in or about October 1985. He became Chairman of the Board of Directors of Commodore in or about October 1985. Defendant MORTEN HOPKINS succeeded defendant JOHN HARRELL as Vice-Chairman of the Board of Directors of Commodore in or about October 1985.

4. National Political Action Committee ("NPAC") was a political action committee ("PAC") formed in or about April 1980 and terminated in or about April 1984. NPAC was subject to the reporting provisions and campaign financing prohibitions of the Federal Election Campaign Act ("FECA").

5. From in or about April 1984 through in or about June 1986, defendant ROBERT HOPKINS controlled an account with Commodore named "Robert H. Hopkins, Jr., Custodian for Various Employees." Deposits made into this account were used for

financial contributions in support of, or in opposition to, various individuals seeking elective office at the local, state, and federal levels. This financial activity was subject to the reporting provisions, and the campaign financing prohibitions, contained in the FECA more fully described immediately below:

a. PACs which financially supported candidates for federal offices were required by the FECA, and in particular Section 434 of Title 2, United States Code, to file periodic reports with the Federal Election Commission, which reports were to accurately reflect the identities of all individuals and entities which had given in excess of $200.00 to each such political committee in any given calendar year.

b. The FECA, and in particular Section 441a of Title 2, United States Code, prohibited, and rendered illegal, contributions to any federal candidate from any person that exceeded $1000.00 in connection with any election. For the purpose of this limitation on campaign contributions, the FECA, in particular Section 441a(a)(8) of Title 2, United States Code, provided that any and all payments to a political committee on behalf of a candidate were to be treated as contributions to that candidate.

c. The FECA, and in particular Section 441b of Title 2, United States Code, forbade, and rendered illegal, contributions and expenditures from the treasury assets of corporations made in connection with the nomination or election of candidates to federal offices.

d. The FECA, and in particular Section 441f of Title 2, United States Code, forbade, and rendered illegal, contributions to the campaigns of federal candidates that were made in the names of individuals other than the person responsible for the contribution in question.

6. In or about December 1984, Commodore acquired NMCA and on or about January 1, 1985, National was renamed Commodore Financial Services Corporation ("Commodore Financial"). Defendant ROBERT HOPKINS was a principal shareholder and Chairman of the Board of Directors of Commodore Financial from its beginning through in or about June 1986.

7. East Texas First Political Action Committee ("ETF-PAC") was a PAC which was subject to the reporting provisions and campaign financing prohibitions of the FECA.

8. The Federal Election Commission was an agency of the United States entrusted with the authority and responsibility to detect, investigate, and take enforcement action against violators of the FECA. In addition, the Federal Election Commission was entrusted with the authority and responsibility, pursuant to Section 438(a)(4) of Title 2, United States Code, to make available to the public specific information concerning campaign contributions to political committees supporting candidates for federal office which had been filed in accordance with the provisions described in paragraph 5.a. above.

9. The Federal Savings and Loan Insurance Corporation ("FSLIC") was an agency of the United States established to

protect depositors by insuring deposits in member savings and loan institutions in amounts up to $100,000 per account.

10. The Federal Home Loan Bank Board ("Bank Board") was an agency of the United States established to examine, regulate, and supervise savings and loan institutions insured by the FSLIC. As part of its duties, the Bank Board governed the FSLIC and had the authority to examine insured institutions to assure that they were operated in a safe and sound manner and in conformity with applicable laws and regulations.

B. THE CONSPIRACY AND ITS OBJECTS

11. Beginning at a time unknown to the Grand Jury, but from on or about March 31, 1982 through on or about June 1, 1986, in the Dallas Division of the Northern District of Texas and elsewhere, defendants ROBERT HOPKINS, MORTEN HOPKINS, and JOHN HARRELL knowingly and willfully combined, agreed, and conspired, together and with others, both known and unknown to the Grand Jury, to (1) defraud the United States, in particular the Federal Election Commission, of and concerning its right to have its business and affairs conducted free from deceit, dishonesty, unlawful impairment, and obstruction, (2) defraud the United States, in particular the Bank Board, of and concerning its right to have its business and affairs conducted free from deceit, dishonesty, unlawful impairment, and obstruction, (3) defraud the United States, in particular the FSLIC, of and concerning its right to have its business and its affairs conducted free from

deceit, dishonesty, unlawful impairment, and obstruction, and (4) commit certain offenses against the United States, namely:

(a) to knowingly and willfully conceal and cover up, and cause to be concealed and covered up, by means of a scheme and device, a material fact in a matter within the jurisdiction of the Federal Election Commission, in violation of Title 18, United States Code, Section 1001;

(b) to knowingly and willfully misapply, and cause to be misapplied, moneys and funds of Commodore, in amounts exceeding $100, with the intent to injure and defraud Commodore, in violation of Title 18, United States Code, Section 657.

(c) to knowingly and willfully make, and cause to be made, false entries in the books and records of Commodore, with intent to (1) deceive officers, agents, and examiners of the Bank Board and the FSLIC, and (2) injure and defraud Commodore, the Bank Board, and the FSLIC; in violation of Title 18, United States Code, Section 1006.

C. THE MANNER AND MEANS OF THE CONSPIRACY

The manner and means, among others, of this conspiracy were as follows:

12. It was part of this conspiracy that defendants MORTEN HOPKINS and JOHN HARRELL would ask selected employees of National, Big Country and Commodore ("conduits") to make political contributions to a PAC supporting candidates for federal, state and/or local offices with the understanding that

defendant ROBERT HOPKINS had authorized full reimbursement to the conduits for their contributions.

13. It was a further part of this conspiracy that each conduit would sign an authorization form requesting that a certain dollar amount be deducted from his/her particular pay check with the express understanding that every conduit who agreed to authorize such a payroll deduction for political contributions would receive a pay increase from his/her employer specifically given to fully reimburse this payroll deduction.

14. It was a further part of this conspiracy that defendant ROBERT HOPKINS or his representative would request that the conduits sign documents requesting that contributions to specific candidates be given in the conduit's name. The documents occasionally would be signed by the conduit after a particular donation on behalf of that conduit had already been disbursed at the direction of defendant ROBERT HOPKINS. These documents would be generated to create the false and misleading impression that individual employees determined the amount of the donation and the identity of the recipient.

These deceptive practices caused by defendant ROBERT HOPKINS would allow him to make corporate contributions to political campaigns supporting candidates for federal offices by having them appear to have been made by the conduits in whose names they were given, thereby deceiving the Federal Election Commission.

15. It was a further part of this conspiracy that from 1982 through 1984 the defendants ROBERT HOPKINS and MORTEN HOPKINS

would cause the treasurer of the PAC to which these contributions were given, NPAC, to report them to the Federal Election Commission as contributions made by the conduits, when in fact, as defendants ROBERT HOPKINS and MORTEN HOPKINS well knew, these contributions were made from National's corporate assets as a result of conduct by these defendants.

16. It was a further part of this conspiracy that the defendants, ROBERT HOPKINS, MORTEN HOPKINS, and JOHN HARRELL, would make, and cause to be made, contributions from assets of corporations controlled by ROBERT HOPKINS, including National, Big Country, and Commodore.

17. It was a further part of this conspiracy that the defendants, ROBERT HOPKINS, MORTEN HOPKINS, and JOHN HARRELL, would misapply, and cause to be misapplied, funds and moneys of Commodore by (1) causing disbursement of Commodore funds for purported salary increases when the funds were really used to reimburse selected individual employees for ongoing PAC payroll deductions, and (2) causing disbursement of Commodore funds to reimburse selected individual employees for lump sum donations these employees had made to the ETF-PAC.

18. It was a further part of this conspiracy that defendants ROBERT HOPKINS, MORTEN HOPKINS, and JOHN HARRELL would make, and cause to be made, false entries into the books and records of Commodore by causing the books and records to erroneously reflect that selected employees received regular salary increases and reimbursements for travel expenses, when

such payments were always designed to be used for a different purpose, that is, to reimburse said employees for political contributions he or she had been urged to make.

19. During the period 1982 through 1986, it was a further part of this conspiracy that ROBERT HOPKINS and MORTEN HOPKINS would cause to be used approximately $135,000 of moneys and funds of National, Big Country, and Commodore, respectively, for political purposes and would conceal that fact from the Federal Election Commission.

D. THE OVERT ACTS OF THE CONSPIRACY

20. In furtherance of the conspiracy and in order to accomplish its objects, the following overt acts, among others, were committed in the Northern District of Texas:

(a) In early 1982 MORTEN HOPKINS had a conversation with Gwynne Autry regarding payroll deductions from her salary for political contributions and reimbursement from her employer for these deductions.

(b) In early 1982 MORTEN HOPKINS had a conversation with Tyler Brown regarding payroll deductions from his salary for political contributions and reimbursement from his employer for these deductions.

(c) In early 1982 MORTEN HOPKINS had a conversation with Bill Jackson regarding payroll deductions from his salary for political contributions and reimbursement from his employer for these deductions.

(d) In early 1982 MORTEN HOPKINS had a conversation with Tom Taylor regarding payroll deductions from his salary for political contributions and reimbursement from his employer for these deductions.

(e) In or about October 1982, JOHN HARRELL had a conversation with Gary Matthews regarding payroll deductions from his salary for political contributions and reimbursement from his employer for these deductions.

(f) In or about October 1982, JOHN HARRELL had a conversation with Mike Gamble regarding payroll deductions from his salary for political contributions and reimbursement from his employer for these deductions.

(g) In or about April 1984, ROBERT HOPKINS spoke with Charles Delphenis about terminating the NPAC.

(h) In or about April 1984, ROBERT HOPKINS had a conversation with Ann Williams regarding the disposition of the funds in the NPAC account.

(i) In or about April 1984, ROBERT HOPKINS caused a new account to be opened called "Robert H. Hopkins, Jr., Custodian for Various Employees."

(j) In or about June 1985, MORTEN HOPKINS had a conversation with Tyler Brown regarding a $2,000.00 payment to the ETF-PAC.

(k) In or about July 1985, JOHN HARRELL had a conversation with Gary Matthews regarding a $2,000.00 payment to the ETF-PAC.

(l) In or about June 1985, JOHN HARRELL caused a letter to be sent which transmitted $15,000.00 to the ETF-PAC.

(m) In or about July 1985, JOHN HARRELL caused a letter to be sent which transmitted $10,000.00 to the ETF-PAC.

All in violation of Title 18, United States Code, Section 371.

COUNT 2

Concealment and Covering Up
by Scheme and Device
[18 U.S.C. §§1001,2]

1. The Grand Jury realleges and incorporates herein as if set forth in full paragraphs 1 through 4, 5.a. through 5.d., and 8 of Count 1 of this indictment and further alleges that:

2. On or about January 18, 1984, in the Dallas Division of the Northern District of Texas, defendants ROBERT HOPKINS and MORTEN HOPKINS, in a matter within the jurisdiction of the Federal Election Commission, did knowingly and willfully, by a scheme and device, cause the treasurer of NPAC to conceal and cover up a material fact, in that the defendants caused the treasurer, in a "REPORT OF RECEIPTS AND DISBURSEMENTS," to inform the Federal Election Commission that approximately $13,630.00 of voluntary individual contributions from the earnings of various individuals that had been made to NPAC, thereby concealing and covering up that, as the defendants very well knew, the individual contributors were used as conduits for contributions actually made with moneys and funds of National, Big Country, and Commodore, respectively.

A violation of Title 18, United States Code, Sections 1001 and 2.

COUNT 3

Concealment and Covering Up
by Scheme and Device
[18 U.S.C. §§1001,2]

1. The Grand Jury realleges and incorporates herein as if set forth in full paragraphs 1 through 4, 5.a. through 5.d., and 8 of Count 1 of this indictment and further alleges that:

2. On or about April 17, 1984, in the Dallas Division of the Northern District of Texas, defendants ROBERT HOPKINS and MORTEN HOPKINS, in a matter within the jurisdiction of the Federal Election Commission, did knowingly and willfully, by a scheme and device, cause the treasurer of NPAC to conceal and cover up a material fact, in that the defendants caused the treasurer, in a "REPORT OF RECEIPTS AND DISBURSEMENTS," to inform the Federal Election Commission that approximately $20,165.00 were voluntary individual contributions from the earnings of various individuals that had been made to NPAC, thereby concealing and covering up that, as the defendants very well knew, the individual contributors were used as conduits for contributions actually made with moneys and funds of National, Big Country, and Commodore, respectively.

A violation of Title 18, United States Code, Sections 1001 and 2.

COUNTS 4-17
Misapplication
[18 U.S.C. §§657,2]

1. The Grand Jury realleges and incorporates herein as if set forth in full paragraphs 1 through 3, 5, 6, and 9 of Count 1 of this indictment and further alleges that:

2. In or about the periods ("Inclusive Dates of Reimbursements") listed below for Counts 4 through 17, respectively, in the Dallas Division of the Northern District of Texas, defendants ROBERT HOPKINS, MORTEN HOPKINS, and JOHN HARRELL, each connected in some capacity with Commodore, an institution having accounts insured by the FSLIC, with intent to injure and defraud Commodore, knowingly and willfully did misapply, and cause to be misapplied, moneys and funds of Commodore, causing approximately $14,517 of Commodore's moneys and funds to be used illegally to reimburse the individuals listed below for their political contributions made through the payroll deductions listed below. These payroll deductions were made into a Commodore account controlled by defendant ROBERT HOPKINS named "Robert H. Hopkins, Jr., Custodian for Various Employees."

COUNT	Inclusive Dates of Reimbursements	Employee	Amount Reimbursed/ Payroll Deductions
4	08/01/84 through 06/01/86	Bryce Fowler	$1,204.00
5	08/01/84 through 06/01/86	Tom Dawson	$1,118.00
6	08/01/84 through 06/01/86	Gwynne Autry	$1,118.00
7	08/01/84 through 06/01/86	William E. Gilliland	$1,118.00
8	08/01/84 through 06/01/86	Sylvia Coats	$1,247.00
9	08/01/84 through 06/01/86	Bonita Grogan	$1,419.00
10	08/01/84 through 06/01/86	June Nelson	$1,089.00
11	08/01/84 through 06/01/86	Linda Barnett	$1,204.00
12	01/01/85 through 06/01/86	Robin Bennett	$ 850.00
13	01/01/85 through 06/01/86	Tyler Brown	$ 850.00
14	01/01/85 through 06/01/86	Teresa Bowling	$ 850.00
15	01/01/85 through 06/01/86	E. Morten Hopkins	$ 850.00
16	01/01/85 through 06/01/86	Tom Taylor	$ 800.00
17	01/01/85 through 06/01/86	Gary W. Spross	$ 800.00

All in violation of Title 18, United States Code, Sections 657 and 2.

COUNTS 18-25
Misapplication
[18 U.S.C. §§657,2]

1. The Grand Jury realleges and incorporates herein as if set forth in full paragraphs 1 through 3 and 6, 7 and 9 of Count 1 of this indictment and further alleges that:

2. On or about the dates listed below under the heading "Date of Reimbursement," for Counts 18 through 25, respectively, in the Dallas Division of the Northern District of Texas, defendants ROBERT HOPKINS, MORTEN HOPKINS, and JOHN HARRELL, each connected in some capacity with Commodore, an institution having accounts insured by the FSLIC, with intent to injure and defraud Commodore, knowingly and willfully did misapply, and cause to be misapplied, moneys and funds of Commodore, causing approximately $15,000 of Commodore's moneys and funds to be used illegally to reimburse the individuals listed below for their contributions to ETF-PAC in the amounts listed below:

COUNT	Date of Reimbursement	Employee	Amount
18	June 26, 1985	David R. Farmer	$1,000.00
19	June 27, 1985	Tyler Brown	$2,000.00
20	June 27, 1985	William E. Gilliland	$2,000.00
21	July 5, 1985	Robbie L. Cook	$2,000.00
22	July 5, 1985	Gary D. Matthews	$2,000.00
23	July 6, 1985	Mike Gamble	$2,000.00
24	July 8, 1985	Joe Collins	$2,000.00
25	July 8, 1985	Gary W. Spross	$2,000.00

All in violation of Title 18, United States Code, Sections 657 and 2.

COUNTS 26-39
False Entries
[18 U.S.C. §§1006,2]

1. The Grand Jury realleges and incorporates herein as if set forth in full paragraphs 1 through 3, 5, 6, 9 and 10 of Count 1 of this indictment and further alleges that:

2. In or about the periods ("Inclusive Dates of Reimbursements") listed below for Counts 26 through 39, respectively, in the Dallas Division of the Northern District of Texas, defendants ROBERT HOPKINS, MORTEN HOPKINS, and JOHN HARRELL, each connected in some capacity with Commodore, an institution having accounts insured by the FSLIC, with intent to (1) deceive the Bank Board and (2) injure and defraud Commodore, knowingly and willfully did cause false entries to be made in the books and records of Commodore, in that the defendants caused payroll records of Commodore (Commodore's general ledger and employee expense records relating to the below listed "Payroll Deductions") to show that the entire dollar figure designated as regular earnings for each pay period for the below listed employees was actually disbursed as earnings, when in truth and in fact, as the defendants well knew, the entire dollar figure designated as regular earnings for the below listed employees was not disbursed as earnings, but instead a portion of the earnings disbursements for each of the below listed employees was used to repay the employees the amounts listed below which had been deducted from their pay to provide moneys for political purposes.

COUNT	Inclusive Dates of Reimbursements	Employee	Payroll Deductions
26	08/01/84 through 06/01/86	Bryce Fowler	$1,204.00
27	08/01/84 through 06/01/86	Tom Dawson	$1,118.00
28	08/01/84 through 06/01/86	Gwynne Autry	$1,118.00
29	08/01/84 through 06/01/86	William E. Gilliland	$1,118.00
30	08/01/84 through 06/01/86	Sylvia Coats	$1,247.00
31	08/01/84 through 06/01/86	Bonita Grogan	$1,419.00
32	08/01/84 through 06/01/86	June Nelson	$1,089.00
33	08/01/84 through 06/01/86	Linda Barnett	$1,204.00
34	01/01/85 through 06/01/86	Robin Bennett	$ 850.00
35	01/01/85 through 06/01/86	Tyler Brown	$ 850.00
36	01/01/85 through 06/01/86	Teresa Bowling	$ 850.00
37	01/01/85 through 06/01/86	E. Morten Hopkins	$ 850.00
38	01/01/85 through 06/01/86	Tom Taylor	$ 800.00
39	01/01/85 through 06/01/86	Gary W. Spross	$ 800.00

All in violation of Title 18, United States Code, Sections 1006 and 2.

COUNTS 40-47
False Entries
[18 U.S.C. §§1006,2]

1. The Grand Jury realleges and incorporates herein as if set forth in full paragraphs 1 through 3 and 6, 7, 9 and 10 of Count 1 of this indictment and further alleges that:

2. On or about the dates listed below under the heading "Dates of Reimbursements," for Counts 40 through 47, respectively, in the Dallas Division of the Northern District of Texas, defendants ROBERT HOPKINS, MORTEN HOPKINS, and JOHN HARRELL, each connected in some capacity with Commodore, an institution having accounts insured by the FSLIC, with intent to (1) deceive the Bank Board and (2) injure and defraud Commodore, knowingly and willfully did cause false entries to be made in the books and records of Commodore, in that the defendants caused Commodore's general ledger to show reimbursements to the below listed employees for business expenses, when in truth and in fact, as the defendants very well knew, these reimbursements actually were made to repay the employees for their contributions, in the amounts listed below, to the ETF-PAC, which the employees had made at the urging and with the knowledge of the defendants.

COUNT	Date of Reimbursement	Employee	Amount
40	June 26, 1985	David R. Farmer	$1,000.00
41	June 27, 1985	Tyler Brown	$2,000.00

COUNT	Date of Reimbursement	Employee	Amount
42	June 27, 1985	William E. Gilliland	$2,000.00
43	July 5, 1985	Robbie L. Cook	$2,000.00
44	July 5, 1985	Gary D. Matthews	$2,000.00
45	July 6, 1985	Mike Gamble	$2,000.00
46	July 8, 1985	Joe Collins	$2,000.00
47	July 8, 1985	Gary W. Spross	$2,000.00

All in violation of Title 18, United States Code, Sections 1006 and 2.

A TRUE BILL:

FOREPERSON

MARVIN COLLINS
United States Attorney

DAVID L. JARVIS
Assistant United States Attorney

MARK ADLER
Trial Attorney, Fraud Section
Criminal Division

EXHIBIT D:

Indictment from *United States v. Hsia,* Criminal Action No. 98-00057-PLF (D.D.C.)

Defendant Concord Management and Consulting LLC's
Motion to Dismiss the Indictment
United States v. Internet Research Agency LLC, et al.,
Criminal Action No. 18-00032-DLF

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Holding a Criminal Term

Grand Jury Sworn in on December 8, 1995

UNITED STATES OF AMERICA	CR. NO. 98-0057
v.	VIOLATIONS
MARIA HSIA,	18 U.S.C. § 371 (Conspiracy); 18 U.S.C. § 1001 (False Statements); 18 U.S.C. § 2 (Willfully Causing The Commission Of An Offense)
A/K/A "HSIA LING,"	
Defendant.	

FRIEDMAN, J. PLF

INDICTMENT

B

The Grand Jury Charges:

INTRODUCTION

At all times relevant to this indictment:

1. Defendant, **MARIA HSIA (aka "HSIA LING")**, was an immigration consultant who worked and resided in the Los Angeles, California area.

2. The International Buddhist Progress Society ("IBPS"), doing business as the Hsi Lai Temple (the "Temple"), was incorporated under the laws of the State of California, with its headquarters in Hacienda Heights, California.

3. IBPS was a tax-exempt religious organization pursuant to

Title 26, United States Code, Section 501(c)(3) of the Internal Revenue Code. As a tax-exempt organization, IBPS was prohibited from participating or intervening in any political campaign on behalf of any candidate for public office.

4. The Federal Election Campaign Act, Title 2, United States Code, Section 431 et seq. ("FECA") specifically prohibited, among other things:

a. corporations from making contributions or expenditures in connection with the nomination and election of candidates for federal office (Title 2, United States Code, Section 441b(a));

b. any person from making a contribution in the name of another person or knowingly permitting his or her name to be used to effect such a contribution (Title 2, United States Code, Section 441f).

5. In addition, the FECA, in particular Title 2, United States Code, Section 434, required that each treasurer of a political committee file periodic reports of receipts and disbursements to the Federal Election Commission ("FEC"). The reports identified each person who had made a contribution during the relevant reporting period whose contribution or contributions had an aggregate amount or value in excess of $200 within the calendar year, together with the date and the amount of any such contribution. The reports also identified the mailing addresses and the occupations of such contributors, as well as the names of their employers.

6. The FEC was an agency of the United States government,

headquartered in Washington D.C., and entrusted with the responsibility of enforcing the reporting requirements of the FECA and for directing, investigating and instituting civil enforcement actions with respect to violations of the FECA, including the provisions referred to in paragraphs 4 through 5, above. In addition, the FEC was responsible for making available to the public specific information about the amounts and sources of political contributions to federal candidates and their political committees.

7. The Immigration and Nationality Act, Title 8, United States Code, Section 1101 et seq. ("INA"), and the regulations promulgated thereunder, provided, among other things, that:

a. persons who are not citizens of the United States may apply to stay in the United States on a temporary or permanent basis by filing certain applications and documents with the Immigration and Naturalization Service ("INS");

b. the INS reviews the applications and documents submitted and, if necessary, conducts further investigation, to determine whether to grant or deny the persons' applications;

c. if a person applies for a religious worker (R-1) visa or a special immigrant religious worker visa, he or she is required, among other things, to be entering or remaining in the United States for the purpose of working for a bona fide nonprofit religious organization; that is, an organization exempt from taxation as described in section 501(c)(3) of the Internal Revenue Code as it relates to religious

organizations, or one that has never sought such exemption but establishes to the satisfaction of the INS that it would be eligible therefor if it had applied for tax exempt status.

8. The INS was an agency of the United States government, headquartered in Washington D.C., and entrusted with the responsibility of administering and enforcing the requirements of the INA and all other laws relating to immigration, naturalization, and nationality, including the provisions referred to in paragraph 7, above. In addition, the INS was responsible for investigating violations of the immigration and nationality laws.

COUNT ONE - CONSPIRACY

9. The grand jury realleges paragraphs 1 through 8, above, as though fully set forth herein.

10. From mid-1993 and continuing through 1996, in the District of Columbia and elsewhere, defendant **MARIA HSIA**, and IBPS, not named as a defendant herein, did knowingly and willfully combine, conspire, confederate, and agree with and among each other and with persons known and unknown to the grand jury, to defraud the United States and, in particular, the FEC and INS, agencies of the United States, by impairing, obstructing, impeding, and defeating the FEC's and INS's lawful functions and duties, in violation of Title 18, United States Code, Section 371.

The Objects of the Conspiracy

11. It was an object of the conspiracy that defendant **MARIA**

HSIA, and co-conspirator IBPS, and others known and unknown to the grand jury, defrauded the United States by taking actions which impaired, obstructed, impeded, and defeated the FEC's lawful functions and duties by preventing the FEC from learning that IBPS had made unlawful political contributions.

12. It was an object of the conspiracy that the defendant **MARIA HSIA**, and co-conspirator IBPS, and others known and unknown to the grand jury, defrauded the United States by taking actions which impaired, obstructed, impeded, and defeated the INS's lawful functions and duties by preventing the INS from learning that IBPS had made unlawful political contributions.

The Manner and Means of the Conspiracy

13. Among the manner and means employed by defendant **MARIA HSIA**, co-conspirator IBPS, and other co-conspirators, to effect the conspiracy and to carry out its unlawful objects, were the following:

a. From mid-1993 and continuing through 1996, defendant **MARIA HSIA**, and her co-conspirators, including IBPS, devised and executed a scheme whereby corporate money belonging to IBPS was used to make secret, disguised and illegal campaign contributions to federal, state, and local candidates and their political committees.

b. Defendant **MARIA HSIA** and her co-conspirators, including IBPS, identified candidates and parties that they wished to support and thereafter solicited campaign contributions from

straw donors, known as "conduits," for the purpose of having the conduits pass on the funds to candidates as their own contributions. These conduits included, but were not limited to, nuns, monks, and volunteers from IBPS. Defendant **MARIA HSIA**, and her co-conspirators, including IBPS, used IBPS corporate funds to reimburse each conduit contributor in execution of the scheme. In addition, defendant **MARIA HSIA** made campaign contributions in her own name knowing that IBPS would reimburse her.

c. By engaging in a long-standing pattern of using conduits to disguise illegal corporate contributions, defendant **MARIA HSIA** and co-conspirator IBPS concealed information from and caused false information to be conveyed to the FEC on numerous and separate occasions. Defendant **MARIA HSIA** and co-conspirator IBPS concealed from the FEC that IBPS was the true source of certain political contributions.

d. Defendant **MARIA HSIA** and co-conspirator IBPS also concealed information from and caused false information to be conveyed to the INS on numerous and separate occasions. Defendant **MARIA HSIA** and co-conspirator IBPS submitted documents to the INS that concealed that IBPS had engaged in political activities and made political contributions. By their acts of concealment, defendant **MARIA HSIA** and co-conspirator IBPS sought to ensure that INS would permit nuns and monks and other persons associated with IBPS to enter or remain in the United States.

e. In furtherance of their scheme to defraud, defendant **MARIA HSIA** and co-conspirator IBPS concealed and covered-up their

illegal activities. In particular, IBPS destroyed, altered, and created documents, and disguised in its books and records the fact that IBPS had used corporate funds to make political contributions.

The June 1993 March Fong Eu Contribution

14. In 1993, March Fong Eu was the Secretary of State of California. The March Fong Eu Campaign Committee 1994 was a political committee authorized to support March Fong Eu's re-election effort for Secretary of State.

15. In June, 1993, defendant **MARIA HSIA** made a $500 contribution to March Fong Eu's campaign. Co-conspirator IBPS paid defendant **MARIA HSIA** in full for her contribution by issuing a $500 corporate check to **HSIA.** The conduit contribution was provided to the March Fong Eu Campaign Committee 1994.

The September 1993 DNC Contributions

16. On or about September 27, 1993, the Democratic National Committee ("DNC") held a fund-raising event at an office on Wilshire Boulevard in Los Angeles, California, which the Vice-President of the United States, Albert Gore, Jr., attended. The DNC was an authorized federal political committee and as such was subject to the reporting provisions and campaign financing limitations of the FECA.

17. Prior to the September 1993 event, defendant **MARIA HSIA** contacted IBPS personnel and requested that IBPS solicit $5,000 in contributions towards the event. Co-conspirator IBPS thereafter

collected $5,000 in contributions by obtaining checks from three individuals associated with IBPS. Co-conspirator IBPS reimbursed each individual in full with checks drawn on a corporate bank account. The conduit contributions were provided to the DNC.

The September 1994 Senator Kennedy Contributions

18. In 1994, Senator Edward M. Kennedy of Massachusetts sought re-election to the United States Senate. Kennedy for Senate was a federal political committee authorized to support the candidacy of Senator Kennedy and as such was subject to the reporting provisions and campaign financing limitations of the FECA.

19. On or about September 8, 1994, a fund-raising event for Senator Kennedy was held at a residence in Beverly Hills, California. Prior to the event, defendant **MARIA HSIA** contacted IBPS personnel and requested that IBPS solicit $5,000 in contributions towards the event. Co-conspirator IBPS thereafter collected $5,000 in contributions by obtaining checks from three individuals associated with IBPS. Co-conspirator IBPS reimbursed each individual in full with checks drawn on a corporate bank account. The conduit contributions were provided to Kennedy for Senate.

The September 1995 Clinton/Gore Contributions

20. In 1995 and 1996, President William Jefferson Clinton sought re-election as the President of the United States. During

that time, the Clinton/Gore '96 Primary Committee, Inc. ("Clinton/Gore '96") was a federal political committee authorized to support the candidacy of President Clinton and as such was subject to the reporting provisions and campaign financing limitations of the FECA.

21. On or about September 21, 1995, a fund-raising event was held at the Century Plaza Hotel and Tower ("Century Plaza Hotel") in Los Angeles, California. The Century Plaza event was sponsored by Clinton/Gore '96. The cost to attend the event was $1,000 per person or $10,000 per ten-person table.

22. During the spring and summer of 1995, defendant **MARIA HSIA** obtained contributions from two of her immigration clients in order to fill two $10,000 tables. Shortly before the event, it appeared that one of the tables might not be filled.

23. Defendant **MARIA HSIA** then contacted IBPS personnel and requested that IBPS solicit $10,000 in contributions towards the event. Co-conspirator IBPS thereafter collected $2,500 checks from four individuals associated with IBPS, and provided the checks to defendant **HSIA**. Co-conspirator IBPS reimbursed each individual in full with checks drawn on a corporate bank account.

24. Defendant **MARIA HSIA** provided two of the $2,500 checks to one of her immigration clients to reimburse the client for contributions the client had made to Clinton/Gore '96.

The November 1995 Senator Kennedy Contributions

25. On or about November 11, 1995, another fund-raising event

for Senator Edward M. Kennedy was held at a Los Angeles, California residence. Kennedy for Senate 1994 and Kennedy for Senate 2000 were federal political committees authorized to support the candidacy of Senator Kennedy and as such were subject to the reporting provisions and campaign financing limitations of the FECA.

26. Defendant **MARIA HSIA** was one of the hosts of the event. Prior to the event, defendant **HSIA** contacted IBPS personnel and requested that IBPS solicit $3,000 in contributions towards the event. Co-conspirator IBPS thereafter collected $3,000 in contributions by obtaining checks from two individuals associated with IBPS. Co-conspirator IBPS reimbursed each individual in full with checks drawn on a corporate bank account. The conduit contributions were provided to Kennedy for Senate 1994 and Kennedy for Senate 2000.

The February 1996 DNC Contributions

27. On or about February 19, 1996, the DNC held a dinner at the Hay Adams Hotel in Washington, D.C., which President Clinton attended. On or about February 20, 1996, the DNC held a breakfast at the Hay Adams Hotel, which Vice-President Gore attended. The cost to attend these fund-raising events was $12,500 per person.

28. In or about February, 1996, **MARIA HSIA** contacted IBPS personnel and requested that IBPS solicit $25,000 in contributions towards the Hay Adams events. Co-conspirator IBPS thereafter collected $25,000 in contributions by obtaining checks from nine

individuals associated with IBPS. Co-conspirator IBPS reimbursed each individual in full with checks drawn on a corporate bank account. The conduit contributions were provided to the DNC.

The February 1996 Don Knabe Contribution

29. In 1996, Don Knabe ran for election as Los Angeles County Supervisor in a district which included the Hsi Lai Temple. Knabe for Supervisor was a political committee authorized to support the election effort of Don Knabe for Los Angeles County Supervisor.

30. On or about February 28, 1996, defendant **MARIA HSIA** made a $1,500 contribution to Don Knabe for Supervisor. On or about February 29, 1996, co-conspirator IBPS reimbursed defendant **HSIA** in full for her contribution to Knabe's campaign with a check drawn on a corporate bank account. The conduit contribution was provided to Knabe for Supervisor.

The April 1996 DNC Contributions

31. On or about April 29, 1996, the DNC held an event at the Hsi Lai Temple in Hacienda Heights, California. Vice-President Gore attended the event.

32. In or about March and April 1996, defendant **MARIA HSIA,** together with IBPS personnel and others, solicited contributions for the event. Prior to the April 29, 1996 event, individuals associated with IBPS wrote approximately $45,000 in checks to the DNC. Co-conspirator IBPS paid three of the individuals, who contributed a total of $10,000, in full for their contributions.

33. On or about April 30, 1996, the day following the Temple event, defendant **MARIA HSIA** contacted IBPS personnel and requested that IBPS solicit $55,000 in contributions towards the event. Co-conspirator IBPS thereafter collected $55,000 in contributions by obtaining $5,000 checks from eleven individuals associated with IBPS. Co-conspirator IBPS provided the checks to defendant **HSIA** and a DNC fund-raiser. In or about late April, 1996, through early May, 1996, co-conspirator IBPS reimbursed each of the eleven individuals in full with checks drawn on a corporate bank account. The conduit contributions were provided to the DNC.

The July 1996 DNC Contributions

34. On or about July 22, 1996, the DNC sponsored a fund-raising event at the Century Plaza Hotel in Los Angeles, California. President Clinton attended the event.

35. Prior to the event, defendant **MARIA HSIA** contacted IBPS personnel and requested that IBPS solicit $10,000 in contributions towards the event. Co-conspirator IBPS thereafter collected $10,000 in contributions by obtaining checks from two individuals associated with IBPS. Co-conspirator IBPS reimbursed each individual in full with checks drawn on a corporate bank account. The conduit contributions were provided to the DNC.

The October 1996 Patrick Kennedy Contributions

36. In 1996, Congressman Patrick J. Kennedy of Rhode Island sought re-election to the United States House of Representatives.

The Friends of Patrick J. Kennedy '96 (the "Patrick Kennedy Committee") was a federal political committee authorized to support candidacy of Congressman Kennedy and as such was subject to the reporting provisions and campaign financing limitations of the FECA.

37. Defendant **MARIA HSIA** and the Patrick Kennedy Committee Finance Director agreed to schedule an event for Congressman Kennedy at the Temple on October 5, 1996. Defendant **HSIA** agreed to raise $5,000 for the event.

38. On or about October 5, 1996, following the event, defendant **HSIA** provided five $1,000 contributions to Congressman Kennedy's Finance Director, four she had solicited from others and one from herself.

39. On or about October 5, 1996, co-conspirator IBPS provided defendant **HSIA** with five $1,000 checks drawn on a corporate bank account to reimburse **HSIA** and the four others for their contributions to the Patrick Kennedy Committee. Defendant **HSIA** gave each of the conduits a $1,000 reimbursement check, and kept one reimbursement check for herself which she deposited into her personal bank account.

Overt Acts in Furtherance of the Conspiracy

40. In furtherance of the aforesaid conspiracy and to effect the objects thereof, the following overt acts, among others, were committed in the District of Columbia and elsewhere:

a. Between 1993 and 1996, co-conspirator IBPS provided

defendant **MARIA HSIA** with its Articles of Incorporation. The Articles included the following:

> No substantial part of the activities of this corporation shall consist of carrying on propaganda, or otherwise attempting to influence legislation, and the corporation shall not participate or intervene in any political campaign (including the publishing or distribution of statements) on behalf of any candidate for public office.

b. Between 1993 and 1996, co-conspirator IBPS provided to defendant **HSIA** a letter from the Internal Revenue Service ("IRS") District Director which indicated, among other things, that (1) IBPS was exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code; and (2) IBPS should report to the IRS any change in operation, character or purpose of the organization so that the IRS can consider the effect of the change on IBPS's tax exempt status.

c. Between 1993 and 1996, co-conspirator IBPS provided defendant **HSIA** with financial statements for IBPS that failed to itemize funds expended for political activities or contributions.

d. Between 1993 and 1996, co-conspirator IBPS provided defendant **HSIA** with certain forms (Forms 199: "California Exempt Organization Annual Information Statement or Return") that indicated that IBPS had not participated in any political campaign.

e. Between 1993 and 1996, defendant **HSIA** provided to the INS: IBPS's Articles of Incorporation, letters from the IRS District Director, IBPS's financial statements, and Forms 199. Defendant **HSIA** provided these items to INS in order to obtain INS approvals, including religious worker visas and special immigrant religious worker visas, for persons associated with IBPS to enter

or remain in the United States.

f. On or about June 4, 1993, co-conspirator IBPS issued a corporate check to defendant **HSIA** in the amount of $500.

g. On or about June 9, 1993, defendant **HSIA** issued a check to March Fong Eu in the amount of $500.

h. In or about September, 1993, defendant **HSIA** requested that co-conspirator IBPS solicit $5,000 in political contributions to the DNC. On or about September 27, 1993, three persons associated with IBPS issued checks to the DNC totalling $5,000.

i. On or about September 27, 1993, co-conspirator IBPS issued corporate checks to the three persons noted in paragraph (h), above.

j. On or about January 31, 1994, defendant **HSIA** caused the DNC to file a report with the FEC in Washington, D.C., which falsely indicated that the three persons noted in paragraph (h), above, were the true sources of $5,000 in contributions to the DNC.

k. In or about September, 1994, defendant **HSIA** requested that co-conspirator IBPS solicit $5,000 in political contributions to Senator Edward Kennedy's campaign. On or about September 6, 1994, three persons associated with IBPS issued checks to Kennedy for Senate totalling $5,000.

l. On or about September 6, 1994, co-conspirator IBPS issued corporate checks to the three persons noted in paragraph (k), above.

m. On or about October 19, 1994, defendant **HSIA** caused Kennedy for Senate to file a report with the FEC in Washington,

D.C., which falsely indicated that the three persons noted in paragraph (k), above, were the true sources of $5,000 in contributions to Kennedy for Senate.

n. In or about September, 1995, defendant **HSIA** requested that co-conspirator IBPS solicit $10,000 in political contributions to Clinton/Gore '96. On or about September 20, 1995, four persons associated with IBPS issued $2,500 checks and provided them to IBPS.

o. On or about September 20, 1995, co-conspirator IBPS issued $2,500 corporate checks to the four persons noted in paragraph (n), above.

p. In or about late September, 1995, defendant **HSIA** gave two of the $2,500 corporate checks to one of her immigration clients. Co-conspirator IBPS and defendant **HSIA** agreed that **HSIA** could retain the other two $2,500 corporate checks.

q. In or about November, 1995, defendant **HSIA** requested that co-conspirator IBPS solicit $3,000 in political contributions to Senator Edward Kennedy's campaign. On or about November 10, 1995, two persons associated with IBPS issued checks to Senator Kennedy's campaigns totalling $3,000.

r. On or about November 10, 1995, co-conspirator IBPS issued corporate checks to the two persons noted in paragraph (q), above.

s. On or about February 5, 1996, defendant **HSIA** caused Kennedy for Senate 1994 and Kennedy for Senate 2000 to file reports with the FEC in Washington, D.C., which falsely indicated that the

two persons noted in paragraph (q), above, were the true sources of $3,000 in contributions to Kennedy for Senate 1994 and Kennedy for Senate 2000.

t. In or about February, 1996, defendant **HSIA** requested that co-conspirator IBPS solicit $25,000 in political contributions to the DNC. Between on or about February 16, 1996 through on or about February 19, 1996, nine persons associated with IBPS issued checks to the DNC totalling $25,000.

u. On or about February 16, 1996, co-conspirator IBPS issued corporate checks to the nine persons noted in paragraph (t), above.

v. On or about April 15, 1996, defendant **HSIA** caused the DNC to file a report with the FEC in Washington, D.C., which falsely indicated that the nine persons noted in paragraph (t), above, were the true sources of $25,000 in contributions to the DNC.

w. On or about February 28, 1996, defendant **HSIA** issued a check to Knabe for Supervisor in the amount of $1,500.

x. On or about February 29, 1996, co-conspirator IBPS issued a corporate check to defendant **HSIA** in the amount of $1,500.

y. In or about March, 1996, defendant **HSIA**, representatives from IBPS, and others, met with Vice-President Gore at the White House. At the meeting, representatives from IBPS invited Vice-President Gore to visit the Temple in April, 1996.

z. In or about April, 1996, defendant **HSIA** requested that co-conspirator IBPS solicit political contributions to the DNC

in connection with Vice-President Gore's April 29, 1996 visit to the Temple. In or about April, 1996, fourteen persons associated with IBPS issued checks to the DNC totalling $65,000.

aa. In or about April, 1996, co-conspirator IBPS issued corporate checks to the fourteen persons noted in paragraph (z), above.

bb. On or about July 15, 1996, defendant **HSIA** caused the DNC to file a report with the FEC in Washington, D.C., which falsely indicated that the fourteen persons noted in paragraph (z), above, were the true sources of $65,000 in contributions to the DNC.

cc. In or about July, 1996, defendant **HSIA** requested that co-conspirator IBPS solicit $10,000 in political contributions to the DNC. On or about July 22, 1996, two persons associated with IBPS issued checks to the DNC totalling $10,000.

dd. On or about July 22, 1996, co-conspirator IBPS issued corporate checks to the two persons noted in paragraph (cc), above.

ee. On or about October 15, 1996, defendant **HSIA** caused the DNC to file a report with the FEC in Washington, D.C., which falsely indicated that the two persons noted in paragraph (cc), above, were the true sources of $10,000 in contributions to the DNC.

ff. In September, 1996, defendant **HSIA** telecopied a letter to the Abbess of the Temple, suggesting that co-conspirator IBPS contribute to several upcoming political events in California.

One event was to be held at the Temple for Congressman Patrick Kennedy in October, 1996.

gg. In or about late September or early October, 1996, defendant **HSIA** requested that co-conspirator IBPS solicit $5,000 in political contributions to Congressman Kennedy's campaign. Co-conspirator IBPS declined to find conduits or straw donors to contribute.

hh. In or about early October, 1996, defendant **HSIA** solicited an attorney for a $1,000 contribution to Congressman Kennedy's campaign, and asked that the attorney solicit a $1,000 contribution from her boyfriend.

ii. In or about early October, 1996, defendant **HSIA** solicited her business partner for $1,000 contributions to Congressman Kennedy's campaign.

jj. On or about October 5, 1996, defendant **HSIA** received $1,000 contributions from four persons: the above-mentioned attorney, the attorney's boyfriend, and **HSIA's** business partner and his wife. Defendant **HSIA** also made a $1,000 contribution to Congressman Kennedy's campaign.

kk. On or about October 5, 1996, defendant **HSIA** provided the five $1,000 contributions listed in paragraph (jj), above, to Congressman Kennedy's Finance Director.

ll. On or about October 5, 1996, co-conspirator IBPS provided defendant **HSIA** with five $1,000 corporate checks.

mm. On or about October 5, 1996, defendant **HSIA** provided two of the $1,000 IBPS checks to the above-mentioned attorney.

nn. On or about October 7, 1996, defendant **HSIA** provided two of the $1,000 IBPS checks to her business partner.

oo. On or about October 7, 1996, defendant **HSIA** deposited the remaining $1,000 IBPS check into her personal bank account.

pp. On or about October 24, 1996, defendant **HSIA** caused the Friends of Patrick Kennedy '96 to file a report with the FEC in Washington, D.C., which falsely indicated that defendant **HSIA** and the four persons noted in paragraph (jj), above, were the true sources of $5,000 in contributions to the Friends of Patrick Kennedy '96.

qq. In or about November, 1996, and thereafter, co-conspirator IBPS destroyed documents relating to its participation in political campaigns, including contributions made in concert with defendant **HSIA**.

rr. In or about November, 1996, and thereafter, co-conspirator IBPS altered the memorandum lines of numerous checks it had issued to conduit contributors, including defendant **HSIA**.

ss. In or about November, 1996, and thereafter, co-conspirator IBPS altered its general ledgers to reflect that the reimbursement checks it had issued to conduit contributors were loans made by **IBPS**. (Conspiracy, in violation of Title 18, United States Code Section 371).

COUNT TWO - FALSE STATEMENTS

41. The grand jury realleges paragraphs 1, 4 through 6, and

20 through 21, above, as though fully set forth herein.

42. On or about July 18, 1995, Clinton/Gore '96 filed a report with the FEC which listed all of the receipts and disbursements of Clinton/Gore '96 for the period between April 1, 1995 and June 30, 1995, and which falsely indicated that contributions totalling $4,000 had been received from four individuals, when in fact those individuals were not the actual contributors.

43. On or about July 18, 1995, in the District of Columbia and elsewhere, in a matter within the jurisdiction of the FEC, defendant **MARIA HSIA** knowingly and willfully caused the submission of a material false statement to the FEC, in that defendant **HSIA** caused Clinton-Gore '96, a federal political committee, to file with the FEC a report for Clinton-Gore '96 that listed the following individuals (identified below by check number) as contributors to Clinton/Gore '96 in the following amounts, on the following dates, when, as defendant **HSIA** knew, in truth and in fact, the individuals named in the report were not the actual contributors:

Contributor Falsely Identified in FEC Report (by Check #)	Amount	Date
Check #741	$1,000	6/26/95
Check #0098	$1,000	6/26/95
Check #2544	$1,000	6/26/95
Check #209	$1,000	6/26/95

(False Statements and Willfully Causing The Commission Of An Offense, in violation of Title 18, United States Code Section 1001, and Title 18, United States Code Section 2).

COUNT THREE - FALSE STATEMENT

44. The grand jury realleges paragraphs 1, 4 through 6, and 20 through 21, above, as though fully set forth herein.

45. On or about October 17, 1995, Clinton/Gore '96 filed a report with the FEC which listed all of the receipts and disbursements of Clinton/Gore '96 for the period between July 1, 1995 and September 30, 1995, and which falsely indicated that contributions totalling $10,000 had been received from ten individuals, when in fact those individuals were not the actual contributors.

46. On or about October 17, 1995, in the District of Columbia and elsewhere, in a matter within the jurisdiction of the FEC, defendant **MARIA HSIA** knowingly and willfully caused the submission of a material false statement to the FEC, in that defendant **HSIA** caused Clinton-Gore '96, a federal political committee, to file with the FEC a report for Clinton-Gore '96 that listed the following individuals (identified below by check number) as contributors to Clinton-Gore '96 in the following amounts, on the following dates, when, as defendant **HSIA** knew, in truth and in fact, the individuals named in the report were not the actual contributors:

Contributor Falsely Identified in FEC Report (by Check #)	Amount	Date
Check #332	$1,000	8/25/95
Check #188	$1,000	9/1/95
Check #766	$1,000	9/1/95
Check #1746	$1,000	9/1/95
Check #1111	$1,000	9/1/95
Check #543	$1,000	9/1/95
Check #0201	$1,000	9/1/95
Check #212	$1,000	9/1/95
Check #1213	$1,000	9/1/95
Check #594	$1,000	9/1/95

(False Statements and Willfully Causing The Commission Of An Offense, in violation of Title 18, United States Code Section 1001, and Title 18, United States Code Section 2).

COUNT FOUR - FALSE STATEMENT

47. The grand jury realleges paragraphs 1, 4 through 6, 27 through 28, and 40(t)-(v), above, as though fully set forth herein.

48. On or about April 15, 1996, the DNC filed a report with the FEC which listed all of the DNC's receipts and disbursements for the period between January 1, 1996 and March 31, 1996, and which falsely indicated that contributions totalling $25,000 had been received from nine individuals, when in fact those individuals were not the actual contributors.

49. On or about April 15, 1996, in the District of Columbia and elsewhere, in a matter within the jurisdiction of the FEC, defendant **MARIA HSIA** knowingly and willfully caused the submission of a material false statement to the FEC, in that defendant **HSIA** caused the DNC, a federal political committee, to file with the FEC a report for the DNC that listed the following individuals (identified below by check number) as contributors to the DNC in the following amounts, on the following dates, when, as defendant **HSIA** knew, in truth and in fact, the contributions had been made by IBPS:

Contributor Falsely Identified in FEC Report (by Check #)	Amount	Date
Check #667	$3,000	2/23/96
Check #223	$3,000	2/23/96
Check #600	$3,000	2/23/96
Check #137	$3,000	2/23/96
Check #107	$3,000	2/23/96
Check #0486	$3,000	2/23/96
Check #194	$2,500	2/23/96
Check #304	$2,500	2/23/96
Check #0269	$2,000	2/23/96

(False Statements and Willfully Causing The Commission Of An Offense, in violation of Title 18, United States Code Section 1001, and Title 18, United States Code Section 2).

COUNT FIVE - FALSE STATEMENT

50. The grand jury realleges paragraphs 1, 4 through 6, 31 through 33, and 40(y)-(bb), above, as though fully set forth herein.

51. On or about July 15, 1996, the DNC filed a report with the FEC which listed all of the DNC's receipts and disbursements for the period between April 1, 1996 and June 30, 1996, and which falsely indicated that contributions totalling $65,000 had been received from fourteen individuals, when in fact those individuals were not the actual contributors.

52. On or about July 15, 1996, in the District of Columbia and elsewhere, in a matter within the jurisdiction of the FEC, defendant **MARIA HSIA** knowingly and willfully caused the submission of a material false statement to the FEC, in that defendant **HSIA** caused the DNC, a federal political committee, to file with the FEC a report for the DNC that listed the following individuals (identified below by check number) as contributors to the DNC in the following amounts, on the following dates, when, as defendant **HSIA** knew, in truth and in fact, the contributions had been made by IBPS:

Contributors Falsely Identified in FEC Report (by Check #)	Amount	Date
Check #221	$5,000	4/30/96
Check #195	$5,000	4/30/96
Check #140	$5,000	4/30/96

Check #102	$5,000	4/30/96
Check #121	$5,000	4/30/96
Check #243	$5,000	4/30/96
Check #0509	$5,000	4/30/96
Check #497	$5,000	4/30/96
Check #0702	$5,000	4/30/96
Check #1016	$5,000	4/30/96
Check #1646	$5,000	4/30/96
Check #227	$5,000	4/30/96
Check #1808	$2,800	4/30/96
Check #141	$2,200	4/30/96

(False Statements and Willfully Causing The Commission Of An Offense, in violation of Title 18, United States Code Section 1001, and Title 18, United States Code Section 2).

COUNT SIX - FALSE STATEMENT

53. The grand jury realleges paragraphs 1, 4 through 6, 36 through 39, and 40(ff)-(pp) above, as though fully set forth herein.

54. On or about October 24, 1996, the Patrick Kennedy Committee filed a report with the FEC which listed all of the Patrick Kennedy Committee's receipts and disbursements for the period between October 1, 1996 and October 16, 1996, and which falsely indicated that contributions totalling $5,000 had been received from four individuals and defendant, **MARIA HSIA**, when in

fact those individuals were not the actual contributors.

55. On or about October 24, 1996, in the District of Columbia and elsewhere, in a matter within the jurisdiction of the FEC, defendant **MARIA HSIA** knowingly and willfully caused the submission of a material false statement to the FEC, in that defendant **HSIA** caused the Patrick Kennedy Committee, a federal political committee, to file with the FEC a report for the Patrick Kennedy Committee that listed the following individuals (identified below by check number) as contributors to the Patrick Kennedy Committee in the following amounts, on the following dates, when, as defendant **HSIA** knew, in truth and in fact, the contributions had been made by IBPS:

Contributor Falsely Identified in FEC Report (by Check #)	Amount	Date
Check #1214	$1,000	10/5/96
Check #1011	$1,000	10/5/96
Check #341	$1,000	10/5/96
Check #342	$1,000	10/5/96
MARIA HSIA (Check #199)	$1,000	10/5/96

(False Statements and Willfully Causing The Commission Of An Offense, in violation of Title 18, United States Code Section 1001, and Title 18, United States Code Section 2).

A TRUE BILL:

Foreperson

Wilma A. Lewis

Attorney of the United States in and for the District of Columbia

Eric L. Yaffe
Dabney Langhorne
Trial Attorneys
Public Integrity Section
Campaign Financing Task Force
Criminal Division
U.S. Department of Justice
1001 G Street, N.W.
Washington, D.C. 20001
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EXHIBIT E:

Indictment from *United States v. Mariani,* Criminal Action No. 97-00225-TIV (M.D. Pa.)

Defendant Concord Management and Consulting LLC's
Motion to Dismiss the Indictment
United States v. Internet Research Agency LLC, et al.,
Criminal Action No. 18-00032-DLF

DMB:BB:nu

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA	3: CR.NO.- 97-225
v.	VIOLATIONS:
RENATO P. MARIANI MICHAEL L. SERAFINI LEO R. DEL SERRA, ALAN W. STEPHENS, ROBERT GIGLIO and FRANK SERAFINI, Defendants.	18 U.S.C. § 371, Conspiracy (Counts 1 and 135); 18 U.S.C. § 1001, False Statements (Counts 2-11); 2 U.S.C. § 441b(a) and 437g(d), Prohibited Corporate Contributions (Counts 12-13); 2 U.S.C. § 441f and 437g(d), Conduit Campaign Contributions (Counts 14-134); 18 U.S.C. § 1503, Obstruction of Justice (Counts 136 and 138); 18 U.S.C. § 1512(b), Tampering with a Witness (Count 137); and 18 U.S.C. § 1623, False Statements Before Grand Jury (Counts 139-140).

FILED
SCRANTON
OCT -7 1997
PER _____ DEPUTY CLERK

INDICTMENT

COUNT ONE

THE GRAND JURY CHARGES:

I. INTRODUCTION.

1. At all times relevant to this indictment, defendant **RENATO P. MARIANI** was the president, treasurer and 25% shareholder of Empire Sanitary Landfill, Inc. ("Empire") and Danella Environmental Technologies, Inc ("Danella").

2. At all times relevant to this indictment, defendant **MICHAEL L. SERAFINI** was the assistant secretary of Empire and the assistant treasurer of Danella. In addition, defendant

MICHAEL L. SERAFINI was a partner in a partnership trading as FMKF Company ("FMKF"), which had a financial connection to Empire.

3. At all times relevant to this indictment, defendant **LEO R. DEL SERRA** was the comptroller of Empire.

4. At all times relevant to this indictment, defendant **ALAN W. STEPHENS** was the operations manager of Empire.

5. At all times relevant to this indictment, defendant **ROBERT GIGLIO** was the proprietor of a plumbing and heating business known as Robert Giglio Plumbing and Heating which was located in Old Forge, Pennsylvania, and was an unindicted co-conspirator in the conspiracy alleged in count one of this indictment.

6. At all times relevant to this indictment, defendant **FRANK SERAFINI** was a Pennsylvania State Representative representing the 114th Legislative District which includes an area in the Middle District of Pennsylvania where Empire and Danella did business. In addition, defendant **FRANK SERAFINI** was the uncle of defendant **MICHAEL L. SERAFINI** and was also a partner in FMKF. **FRANK SERAFINI** was also an unindicted co-conspirator in the conspiracy alleged in count one of this indictment.

7. At all times relevant to this indictment, Empire was a Pennsylvania corporation which operated a solid waste transfer, disposal and landfill business in Pennsylvania and New York. As part of this business Empire operated a solid waste landfill commonly known as the Empire Landfill ("the landfill") in Taylor

Borough and Ransom Township within Lackawanna County, Pennsylvania, which is within the Middle District of Pennsylvania. A large percentage of the landfill's business was interstate in nature, that is a large portion of the waste dumped at the landfill had its origin outside of Pennsylvania, i.e., New Jersey and New York. Empire's administrative headquarters were located at the landfill site.

8. At all times relevant to this indictment, Danella was a Pennsylvania corporation which operated a solid waste collection and transportation business in Pennsylvania and New York. Danella also operated in Lackawanna County, Pennsylvania, within the Middle District of Pennsylvania, and its administrative headquarters were also located at the landfill site.

9. At all times relevant to this indictment, Bowser, Weaver and Cousounis, a law firm located in Philadelphia, Pennsylvania, operated a political action committee known as the Bowser, Weaver and Cousounis PAC ("the BWC PAC"). Charles Bowser, a partner in the law firm, was an attorney who represented Empire and Danella.

10. Dutko and Associates, Inc. ("Dutko") and the DCS Group were associated consulting firms located in Washington D.C. that were hired by Empire on January 1, 1995, for government relations and public relations services. One of Empire's objectives under the retainer agreement with Dutko was to have an impact on legislation and policies which could affect the flow of interstate waste to the landfill. Specifically, Empire desired to have an impact on the reconfiguration of the Interstate

Transportation of Municipal Solid Waste Act which was pending in the 104th Congress.

11. At all times relevant to this indictment, Empire was obligated to pay Frances Serafini, defendant **MICHAEL L. SERAFINI**, Kimberly Ann Serafini, and defendant **FRANK SERAFINI**, co-partners trading as FMKF, a royalty of $1.50 for each short ton (2,000 pounds) of waste disposed of at the landfill. Defendant **FRANK SERAFINI** was entitled to receive 50% of the royalty distribution and the remaining 50% was shared in equal amounts by the defendant **MICHAEL L. SERAFINI**, his mother, Frances Serafini, and his sister, Kimberly Ann Serafini.

12. By virtue of a stock purchase agreement dated December 13, 1996, the sole shareholders of Empire and Danella, defendant **RENATO P. MARIANI**, Carmen A. Danella and James D. Danella, sold all of the stock of Empire and Danella and ceased operating Empire and Danella as of that date.

13. At all times relevant to the indictment, the Federal Election Campaign Act, Title 2, United States Code, Section 431, et seq. ("the Campaign Act"), in particular, Title 2, United States Code, Section 441b(a) specifically prohibited corporations from making contributions or expenditures in connection with the nomination and election of candidates for federal office. Section 441b(a) also prohibited any officer of a corporation to consent to a prohibited contribution or expenditure.

14. At all times relevant to the indictment, the Campaign Act, in particular Title 2, United States Code, Section

441a(a)(1) specifically prohibited individuals from contributing more than $1,000 to any federal candidate per election and under Section 441a(a)(3) individuals are prohibited from making overall annual contributions in excess of $25,000.

15. At all times relevant to the indictment, the Campaign Act, in particular Title 2, United States Code, Section 441f, specifically prohibited any person from making a contribution in the name of another person or knowingly permitting his or her name to be used to effect such a contribution. Section 441f is violated if a person gives funds to a straw donor, known as a "conduit," for the purpose of having the conduit pass the funds on to a federal candidate as his or her own contribution. A violation also can occur if a person reimburses a donor who has already given to a candidate, thereby converting the donor's contribution to his or her own.

16. At all times relevant to this indictment, the Campaign Act, in particular Title 2, United States Code, Section 434, required that each treasurer of a political committee file periodic reports of receipts and disbursements, which reports were to identify each person who made a contribution to such committee during the relevant reporting period whose contribution or contributions had an aggregate amount or value in excess of $200 within the calendar year, together with the date and the amount of any such contribution.

17. At all times relevant to this indictment, the Federal Election Commission ("FEC") was an agency of the United States

government entrusted with the responsibility of enforcing the reporting requirements of the Campaign Act and for directing, investigating and instituting civil enforcement actions with respect to violations of the Campaign Act, including the provisions referred to in paragraphs 13 through 16 above. In addition, the FEC was and is responsible for making available to the public specific information about the amount and sources of political contributions to federal candidates and their political committees.

II. THE CONSPIRACY.

18. Beginning at a time unknown to the grand jury, but at least as early as August 1994 and continuing thereafter to on or about December 13, 1996, in Lackawanna County, within the Middle District of Pennsylvania and elsewhere, the defendants **RENATO P. MARIANI**, **MICHAEL L. SERAFINI**, **LEO R. DEL SERRA** and **ALAN W. STEPHENS** and others, both known and unknown to the grand jury, did knowingly and willfully combine, conspire, confederate and agree together and with each other:

A. to defraud the United States by impairing, impeding, defeating and obstructing the lawful functions and duties of the FEC in violation of Title 18, United States Code, Section 371.

B. to knowingly and willfully cause others to make false statements to the FEC in violation of Title 18, United States Code, Section 1001.

C. to knowingly and willfully make, consent to, and cause to be made, corporate contributions to federal candidates and their political committees in violation of Title 2, United States Code, Section 441b.

D. to knowingly and willfully make and cause to be made contributions to federal candidates and their political committees in the name of third persons ("conduits") in violation of Title 2, United States Code, Section 441f.

III. MANNER AND MEANS OF THE CONSPIRACY.

19. The defendants **RENATO P. MARIANI**, **MICHAEL L. SERAFINI**, **LEO R. DEL SERRA** and **ALAN W. STEPHENS** carried out the conspiracy in the following manner and by the following means:

The Overall Scheme

20. From at least as early as August 1994 and continuing until on or about December 13, 1996, the defendants **RENATO P. MARIANI**, **MICHAEL L. SERAFINI**, **LEO R. DEL SERRA** and **ALAN W. STEPHENS** and their co-conspirators devised and executed a scheme whereby corporate money belonging to Empire would be used to make secret, disguised and illegal campaign contributions to various federal candidates and their political committees.

21. In general, the defendants and their co-conspirators would identify candidates that they wished to support and thereafter would solicit campaign contributions from numerous conduits including Empire and Danella employees, Empire and

Danella business associates, as well as their own friends and family. The defendants and their co-conspirators would agree to reimburse those individuals for their contributions and thereafter would use corporate funds to reimburse those individuals and execute the scheme. In addition, the defendants themselves and their co-conspirators would act as conduits and reimburse themselves from corporate funds. The defendants and their co-conspirators would then disguise the use of the corporate funds for this illegal purpose in the books and records of the corporation by coding the reimbursements as office entertainment expenses or some other legitimate corporate expense.

22. The defendants' long standing pattern of using conduits to disguise illegal corporate contributions evidenced their intent to interfere with the accurate reporting of campaign contributions and to deliberately cause false information to be conveyed to the FEC. As a result of their scheme, the defendants and their co-conspirators did in fact interfere with the accurate reporting of numerous campaign contributions and did in fact cause false information to be conveyed to the FEC on numerous and separate occasions.

23. The political committees that received illegal corporate contributions during this time period and thereafter made false reports to the FEC included, but was not limited to: (1) Dole for President; (2) Clinton/Gore '96 Primary Committee; (3) Santorum '94; (4) Arlen Specter '96; (5) Haytaian-U.S. Senate '94; (6) Fox

for Congress; (7) Paxon for Congress; (8) Duhaime for Senate; (9) Friends of Max Baucus; and (10) Pallone for Congress. The total of the illegal campaign contributions for all ten campaigns referenced above was approximately $129,000.

THE DOLE CONTRIBUTIONS

24. In 1995, U.S. Senator Robert Dole was a candidate for President of the United States. The Dole for President Committee ("the Dole Committee") was a political committee authorized to support the candidacy of Senator Dole and as such was subject to the reporting provisions and campaign financing limitations of the Campaign Act.

25. In April 1995, defendants **RENATO P. MARIANI** and **MICHAEL L. SERAFINI** were invited to support Senator Dole's candidacy and were asked to participate as members of the New Jersey Steering Committee, a fund-raising arm of the Dole Committee. A Steering Committee luncheon was scheduled for April 29, 1995 at the Newark Airport Hilton for the purpose of raising funds for Senator Dole.

26. In the days prior to the Steering Committee luncheon, defendants **RENATO P. MARIANI**, **MICHAEL L. SERAFINI**, **LEO R. DEL SERRA** and **ALAN W. STEPHENS** and others known and unknown contacted numerous individuals, including Empire and Danella employees, Empire and Danella business associates, and the defendants' own friends and family in an effort to raise funds for the Dole Committee. The donors were instructed to issue personal checks

payable to the committee in amounts of $1,000 or $2,000. The donors were then reimbursed for their contributions by Empire directly or Empire acting through defendant **MICHAEL L. SERAFINI**.

27. On April 29, 1995, defendants **RENATO P. MARIANI** and **MICHAEL L. SERAFINI** attended the Steering Committee luncheon at the Newark Airport Hilton. During the event, they turned over a large envelope to officials of the Dole Committee which contained numerous conduit contributions. As a result, the defendants caused approximately $80,000 to be donated to the Dole Committee in the form of illegal conduit contributions.

28. The reimbursements for the conduits' contributions took several forms. Empire issued approximately nine corporate checks directly reimbursing approximately twenty individuals a total of $20,000. Defendant **MICHAEL L. SERAFINI** issued approximately thirty-four (34) personal checks from a checking account he held with Melinda Marcotte, reimbursing approximately fifty-three (53) individuals, including the BWC PAC, a total of $58,000. Defendant **RENATO P. MARIANI** then issued defendant **MICHAEL L. SERAFINI** an Empire corporate check to reimburse him for the $58,000, as well as to reimburse him for the expense of his own contribution of $1,000 and the $1,000 contribution of Melinda Marcotte.

29. Defendants **RENATO P. MARIANI**, **LEO R. DEL SERRA** and **ALAN W. STEPHENS** also acted as conduits regarding their contributions to the Dole Committee. Defendant **RENATO P. MARIANI** was reimbursed by Empire directly and defendants **LEO R. DEL SERRA**

and **ALAN W. STEPHENS** were reimbursed by defendant **MICHAEL L. SERAFINI**, who as stated above was ultimately reimbursed by Empire.

30. Frank Serafini acted as a conduit regarding his $1,000 contribution to the Dole Committee and also solicited a $1,000 conduit contribution from his legislative aide, Thomas Harrison. Frank Serafini reimbursed Thomas Harrison from his own personal funds and was ultimately reimbursed for this $1,000 expense, as well as for his own $1,000 contribution by a $2,000 check issued by defendant **MICHAEL L. SERAFINI** payable to Frank Serafini.

31. Robert Giglio was solicited by defendant **MICHAEL L. SERAFINI** to make a contribution to the Dole Committee and was also requested to seek contributions from his mother, Dolores Giglio, his sister, Mary McCormack, and his girlfriend, Ann Pompey. Thereafter, all four individuals contributed $1,000 to the Dole Committee. Robert Giglio reimbursed his family for their contributions and Empire issued Robert Giglio a corporate check, signed by defendant **MICHAEL L. SERAFINI** in the amount of $4,000, reimbursing him for his contribution and his family's contributions.

32. On or about July 17, 1995, the Dole Committee filed a report with the FEC summarizing all of its receipts and disbursements for the period between April 1, 1995 and June 30, 1995. As a result of the defendants' actions, that report falsely attributed approximately $75,000 in campaign contributions made by Empire as having been made by the conduits.

THE CLINTON/GORE CONTRIBUTIONS

33. In September 1995, President William J. Clinton and Vice President Al Gore, Jr., were candidates for President and Vice President of the United States. The Clinton/Gore '96 Primary Committee ("the Clinton/Gore Committee") was a political committee authorized to support the candidacies of President Clinton and Vice President Gore and as such was subject to the reporting provisions and the campaign financing limitations of the Campaign Act.

34. In September 1995, defendants **RENATO P. MARIANI** and **MICHAEL L. SERAFINI** were invited to support President Clinton's and Vice President Gore's candidacies and were invited to attend the Pennsylvania Presidential Gala on September 18, 1995 at the Wyndham Franklin Plaza Hotel in Philadelphia, Pennsylvania.

35. In connection with this event, one or more of the defendants contacted numerous individuals employed by Empire in an effort to raise funds for the Clinton/Gore Committee. The donors were instructed to issue checks payable to the Clinton/Gore Committee in the amount of $1,000. The donors were then reimbursed for their contributions by Empire acting through defendant **MICHAEL L. SERAFINI**.

36. As a result of the defendants' actions, ten conduits each issued a check for $1,000 for a total of $10,000 that was contributed to the Clinton/Gore Committee. Nine of those conduits were reimbursed by personal checks issued by defendant **MICHAEL L. SERAFINI** for which he was ultimately reimbursed by

Empire. One conduit, the defendant **LEO R. DEL SERRA**, was reimbursed directly by Empire.

37. On or about December 28, 1995, the Clinton/Gore Committee filed a report with the FEC summarizing all of its receipts and disbursements for the period between July 1, 1995 and September 30, 1995. As a result of the defendants' actions, that report falsely attributed approximately $10,000 in campaign contributions made by Empire as having been made by the conduits.

THE SPECTER CONTRIBUTIONS

38. In January 1995, United States Senator Arlen Specter was a candidate for President of the United States. The Arlen Specter Presidential Exploratory Fund and Arlen Specter '96 ("the Specter Committees") were political committees authorized to support the candidacy of Senator Specter and as such were subject to the reporting provisions and the campaign financing limitations of the Campaign Act.

39. In January 1995, defendants **RENATO P. MARIANI** and **MICHAEL L. SERAFINI** were invited to support Senator Specter's candidacy and were invited to attend a private cocktail reception with Senator Specter on January 27, 1995 at the Hilton Hotel in Fort Lee, New Jersey. The cocktail reception was to be held immediately prior to the Bergen County Republican Organization Victory Gala which was held at the Palisadium in Cliffside Park, New Jersey.

40. In connection with the cocktail reception, one or more of the defendants contacted numerous individuals employed by

Empire and associated with Empire in an effort to raise funds for the Specter Committees. The donors were instructed to issue checks payable to the Arlen Specter Presidential Exploratory Fund in amounts of $1,000 or $2,000. The donors were then reimbursed for their contributions directly by Empire.

41. As a result of the defendants' actions, ten conduits each contributed $1,000 for a total of $10,000 that was contributed to the Specter Committees. Defendants **MICHAEL L. SERAFINI** and **LEO R. DEL SERRA** also acted as conduits in connection with their contributions to the Specter Committees and were reimbursed directly by Empire.

42. On or about April 15, 1995, the Specter Committees filed a report with the FEC summarizing all of its receipts and disbursements for the period between November 1, 1994 and March 31, 1995. As a result of the defendants' actions, that report falsely attributed approximately $10,000 in campaign contributions made by Empire as having been made by the conduits.

THE HAYTAIAN CONTRIBUTIONS

43. In October 1994, Chuck Haytaian was a candidate for United States Senator for New Jersey. Haytaian-U.S. Senate '94 ("the Haytaian Committee") was a political committee authorized to support the candidacy of Chuck Haytaian and as such was subject to the reporting provisions and the campaign financing limitations of the Campaign Act.

44. In October 1994, defendants **RENATO P. MARIANI** and

MICHAEL L. SERAFINI were invited to support Chuck Haytaian's candidacy and were invited to attend a fundraiser on October 14, 1994, at the Hilton Hotel in Fort Lee, New Jersey.

45. In connection with the fundraising event, one or more of the defendants contacted numerous individuals employed by Empire in an effort to raise funds for the Haytaian Committee. The donors were instructed to issue checks payable to the Haytaian Committee in amounts of $1,000 or $2,000. The donors were then reimbursed for their contributions directly by Empire.

46. As a result of the defendants' actions, ten conduits each contributed $1,000 for a total of $10,000 that was contributed to the Haytaian Committee. Defendants **MICHAEL L. SERAFINI** and **LEO R. DEL SERRA** also acted as conduits in connection with their contributions to the Haytaian Committee and were reimbursed directly by Empire.

47. On or about October 26, 1994, the Haytaian Committee filed a report with the FEC summarizing all of its receipts and disbursements for the period between October 1, 1994 and October 19, 1994. As a result of the defendants' actions, that report falsely attributed approximately $10,000 in campaign contributions made by Empire as having been made by the conduits.

THE SANTORUM CONTRIBUTIONS

48. In December 1994, United States Senator Rick Santorum had been recently elected to the office of United States Senator for Pennsylvania. Santorum '94 ("the Santorum Committee") was a

political committee authorized to support the candidacy of Senator Santorum, as well as retire a debt accumulated from the recent election. As such, the Santorum Committee was subject to the reporting provisions and the campaign financing limitations of the Campaign Act.

49. In December 1994, defendants **RENATO P. MARIANI** and **MICHAEL L. SERAFINI** were invited to support Senator Santorum and were invited to attend a fundraising event for Senator Santorum on December 14, 1994 at the Glenmaura Country Club in Moosic, Pennsylvania.

50. In connection with the fundraising event, one or more of the defendants contacted numerous individuals employed by Empire and associated with Empire in an effort to raise funds for the Santorum Committee. The donors were instructed to issue checks payable to the Santorum Committee in an amount of $1,000. The majority of donors were then reimbursed for their contributions directly by Empire.

51. As a result of the defendants' actions, approximately nine individuals each contributed $1,000 for a total of $9,000 that was contributed to the Santorum Committee. Six of those individuals acted as conduits and were reimbursed directly by Empire. Defendants **RENATO P. MARIANI** and **LEO R. DEL SERRA** also acted as conduits themselves in connection with their contributions to the Santorum Committee and were reimbursed directly by Empire.

52. On or about February 1, 1995, the Santorum Committee

filed a report with the FEC summarizing all of its receipts and disbursements for the period between November 29, 1994 and December 31, 1994. As a result of the defendants' actions, that report falsely attributed approximately $6,000 in campaign contributions made by Empire as having been made by the conduits.

THE DUHAIME CONTRIBUTIONS

53. In June 1995, Richard Duhaime was a candidate for United States Senator from New Jersey. Duhaime for Senate ("the Duhaime Committee") was a political committee authorized to support the candidacy of Richard Duhaime and as such was subject to the reporting provisions and the campaign financing limitations of the Campaign Act. The Duhaime Committee also raised funds under the name "Campaign '96."

54. In June 1995, defendants **RENATO P. MARIANI** and **MICHAEL L. SERAFINI** were invited to support Richard Duhaime and were invited to attend a fundraising event for Richard Duhaime on June 5, 1995 at the Tara Hotel and restaurant in Parsippany, New Jersey.

55. In connection with the fundraising event, defendant **MICHAEL L. SERAFINI** and others unknown, contacted several individuals connected to Empire in an effort to raise funds for the Duhaime Committee. The donors were instructed to issue checks payable to Campaign '96 in the amount of $1,000. Three of the donors were reimbursed for their contributions directly by Empire. Robert Giglio acted as a conduit for his own

contribution and also reimbursed Dolores Giglio and Mary McCormack for their contributions. Empire then issued Robert Giglio a corporate check signed by defendant **LEO R. DEL SERRA**, reimbursing him for his contribution and his family's contributions to the Duhaime Committee.

56. As a result of the defendants' actions, five conduits each contributed $1,000 for a total of $5,000 that was contributed to the Duhaime Committee.

57. On January 29, 1996, the Duhaime Committee filed a report with the FEC summarizing all of its receipts and disbursements for the period between June 1, 1995 and December 31, 1995. As a result of the defendants' actions, that report falsely attributed approximately $5,000 in campaign contributions made by Empire as having been made by the conduits.

THE PALLONE CONTRIBUTIONS

58. In August 1994, United States Representative Frank Pallone, Jr., was a candidate for election to the United States House of Representatives. Pallone for Congress ("the Pallone Committee") was a political committee authorized to support the candidacy of Representative Frank Pallone, Jr., and as such was subject to the reporting provisions and the campaign financing limitations of the Campaign Act.

59. On August 29, 1994, the Pallone Committee held a fundraiser at La Fontana Ristorante in New Brunswick, New Jersey. In connection with that event, one or more of the defendants

contacted several individuals employed by Empire and doing business with Empire in an effort to raise funds for the Pallone Committee. The donors were instructed to issue checks payable to the Pallone Committee in the amount of $1,000. The donors were then reimbursed for their contributions directly by Empire.

60. As a result of the defendants' actions, three conduits each contributed $1,000 for a total of $3,000 that was contributed to the Pallone Committee. Defendant **LEO R. DEL SERRA** also acted as a conduit in connection with his contribution to the Pallone Committee and was reimbursed directly by Empire.

61. On October 17, 1994, the Pallone Committee filed a report with the FEC summarizing all of its receipts and disbursements for the period between July 1, 1994 and September 30, 1994. As a result of the defendants' actions, that report falsely attributed approximately $3,000 in campaign contributions made by Empire as having been made by the conduits.

THE FOX CONTRIBUTIONS

62. In October 1994, United States Representative Jon Fox was a candidate for election to the United States House of Representatives. The Fox for Congress Committee ("the Fox Committee") was a political committee authorized to support the candidacy of Jon Fox and as such was subject to the reporting provisions and the campaign financing limitations of the Campaign Act.

63. On or about October 27, 1994, one or more of the

defendants contacted several individuals connected with Empire in an effort to raise funds for the Fox Committee. The donors were instructed to issue checks payable to the Fox Committee in the amount of $1,000. Three of the donors were then reimbursed for their contributions directly by Empire.

64. As a result of the defendants' actions, six individuals each contributed $1,000 for a total of $6,000 that was contributed to the Fox Committee. Three of those individuals acted as conduits and were reimbursed directly by Empire. Defendant **RENATO P. MARIANI** acted as one of those conduits in connection with his contribution to the Fox Committee.

65. On or about December 12, 1994, the Fox Committee filed a report with the FEC summarizing all of the receipts and disbursements for the period between October 20, 1994 and November 28, 1994. As a result of the defendants' actions, that report falsely attributed approximately $3,000 in campaign contributions made by Empire as having been made by the conduits.

THE BAUCUS CONTRIBUTIONS

66. On or about June 20, 1995, United States Senator Max Baucus held a fundraising event at the offices of Dutko in Washington, D.C. Friends of Max Baucus ("the Baucus Committee") was a political committee authorized to support Max Baucus and as such was subject to the reporting provisions and the campaign financing limitations of the Campaign Act.

67. On or about June 16, 1995, defendant **MICHAEL L.**

SERAFINI directed Melinda Marcotte to issue a $1,000 check payable to the Baucus Committee. The contribution check was drawn on the joint checking account of defendant **MICHAEL L. SERAFINI** and Melinda Marcotte and was turned over to the Baucus Committee in connection with the June 20, 1995 fundraising event by an official of Dutko. The contribution was then reimbursed by an Empire check payable to defendant **MICHAEL L. SERAFINI**.

68. On or about July 31, 1995, the Baucus Committee filed a report with the FEC summarizing all of its receipts and disbursements for the period between January 1, 1995 and June 30, 1995. As a result of the defendants' actions, that report falsely attributed approximately $1,000 in campaign contributions made by Empire as having been made by the conduit.

THE PAXON CONTRIBUTIONS

69. In January 1996, the United States Representative Bill Paxon was a member of the United States House of Representatives. Paxon for Congress ("the Paxon Committee") was a political committee authorized to support Representative Bill Paxon and as such was subject to the reporting provisions and the campaign financing limitations of the Campaign Act.

70. On February 5, 1996, a fundraising lunch for Representative Bill Paxon was held at the National Republican Congressional Committee headquarters in Washington D.C. Defendant **MICHAEL L. SERAFINI** was invited to support Representative Paxon in connection with this fundraiser.

71. Defendant **LEO R. DEL SERRA** contributed $1,000 to the Paxon Committee in connection with this event. The contribution check was turned over to the Paxon Committee by an official of Dutko. Defendant **LEO R. DEL SERRA** was then directly reimbursed by Empire for his contribution to the Paxon Committee.

72. On or about April 19, 1996, the Paxon Committee filed a report with the FEC summarizing all of its receipts and disbursements for the period between January 1, 1996 and March 31, 1996. As a result of the defendants' actions, that report falsely attributed approximately $1,000 in campaign contributions made by Empire as having been made by the conduit.

OVERT ACTS

73. In furtherance of the conspiracy and to accomplish its unlawful objectives, the defendants and others both known and unknown committed the following overt acts, among others, in the Middle District of Pennsylvania and elsewhere:

74. On or about August 25, 1994, Empire issued three corporate checks payable to defendant **LEO R. DEL SERRA**, Charles P. Hunkele and John Reilly, each check in the amount of $1,000.

75. On or about August 25, 1994, defendant **LEO R. DEL SERRA** and John Reilly issued checks payable to the Pallone Committee, each check in the amount of $1,000.

76. On or about August 29, 1994, Charles P. Hunkele issued a check payable to the Pallone Committee in the amount of $1,000.

77. On or about August 29, 1994, Raymond J. Lesniak attended a fundraiser for Representative Frank Pallone, Jr., held at La Fontana Ristorante in New Brunswick, New Jersey, and delivered the **DEL SERRA**, Reilly and Hunkele checks to the Pallone Committee.

78. On or about October 17, 1994, the Pallone Committee filed a report with the FEC summarizing its receipts and disbursements for the period between July 1, 1994 and September 30, 1994.

79. On or about October 10, 1994, Empire issued six corporate checks payable to defendant **MICHAEL L. SERAFINI** ($1,000), defendant **LEO R. DEL SERRA** ($2,000), Stacey Selig ($2,000), Gary Butler ($2,000), James Thomas ($2,000), and Peter Blasi ($1,000).

80. On or about October 10 and 11, 1994, defendant **MICHAEL L. SERAFINI** and **LEO R. DEL SERRA**, as well as Jo Ann Del Serra, Peter Blasi, Gary Butler, Marion Butler, Stacey Selig, Lou Selig, James Thomas and Carol Ann Thomas issued checks in amounts of $1,000 and $2,000 payable to the Haytaian Committee.

81. On or about October 26, 1994, the Haytaian Committee filed a report with the FEC summarizing its receipts and disbursements for the period between October 1, 1994 and October 19, 1994.

82. On or about October 27 and 28, 1994, defendant **RENATO P. MARIANI** and his wife, Joan Mariani, issued checks for $1,000 payable to the Fox Committee.

83. On or about November 17, 1994, Empire issued a corporate check payable to defendant **RENATO P. MARIANI** in the amount of $5,000.

84. On or about October 27, 1994, Empire issued a corporate check payable to Gary Butler in the amount of $1,000.

85. On or about October 27, 1994, Marion Butler issued a check payable to the Fox Committee in the amount of $1,000.

86. On or about December 12, 1994, the Fox Committee filed a report with the FEC summarizing its receipts and disbursements for the period between October 20, 1994 and November 28, 1994.

87. On or about December 13, 1994, Empire issued a corporate check payable to defendant **LEO R. DEL SERRA** in the amount of $2,000.

88. On or about December 14, 1994, Empire issued a corporate check payable to defendant **MICHAEL L. SERAFINI** in the amount of $2,000 and a corporate check to defendant **RENATO P. MARIANI** in the amount of $2,000.

89. On or about December 14, 1994, defendant **RENATO P. MARIANI**, Joan M. Mariani, defendant **LEO R. DEL SERRA**, Jo Ann Del Serra, Melinda Marcotte and Louis Serafini issued checks payable to the Santorum Committee in amounts of $1,000 and $2,000.

90. On or about February 1, 1995, the Santorum Committee filed a report with the FEC summarizing all of its receipts and disbursements for the period between November 29, 1994 and December 31, 1994.

91. On or about January 20, 1995, Empire issued five

corporate checks payable to defendants **MICHAEL L. SERAFINI** and **LEO R. DEL SERRA**, as well as Gary Butler, James Thomas and Stacey Selig, each check in the amount of $2,000.

92. Between on or about January 23, 1995 and January 26, 1995, defendant **LEO R. DEL SERRA**, as well as Melinda Marcotte, Jo Ann Del Serra, Gary Butler, Marion Butler, James Thomas, Carol Thomas, Stacey Selig, Lou Selig and Louis Serafini issued checks payable to the Specter Committee in the amounts of $1,000 and $2,000.

93. On or about April 15, 1995, the Specter Committee filed a report with the FEC summarizing all of its receipts and disbursements for the period between November 1, 1994 and March 31, 1995.

94. On or about April 25, 1995, defendant **MICHAEL L. SERAFINI** directed his secretary Stacey Selig to issue thirty-four (34) checks drawn on his joint checking account with Melinda Marcotte to the following persons and in the following amounts:

Ck. No.	Amount	Payee
426	$2,000	Leo and Jo Ann Del Serra
427	$2,000	Jim and Carol Thomas
429	$1,000	Louis Serafini
430	$1,000	Francis Serafini
431	$2,000	Frank Serafini
432	$2,000	Mike and Donna Kon
433	$2,000	Alan and Linda Stephens
434	$2,000	Vincent and Susan Burney
438	$2,000	Patrick and Susan Coccia
439	$2,000	John Reilly
440	$2,000	Diane and Arthur Bray
441	$1,000	Joan Hummel
442	$2,000	Paul and Gail Hummel
443	$1,000	Geralyn Zazzera
444	$2,000	Stacey and Louis Selig
445	$2,000	Kim and John Scrantino

446	$2,000	Peter and Jane Blasi
447	$1,000	Chris Banko
448	$2,000	Donald and Robin Hallock
449	$1,000	Lisa Marcotte
450	$1,000	Tom Cook
451	$2,000	Tom and Fay Gable
452	$2,000	Gary and Marion Butler
453	$1,000	Diane Bratlee
454	$1,000	Vince Bernabei
455	$2,000	Paul and Brenda Keen
456	$2,000	Dan and Sheila Zeleniak
457	$1,000	Mike McNinch
458	$1,000	Vince Ciccone
459	$2,000	Tom and Renee Bergamino
460	$5,000	BWC Political Action Committee
461	$1,000	Mark Genell
462	$2,000	Angelo Genell
463	$1,000	Vince Ciccone

95. Between April 27, 1995 and April 28, 1995, each payee listed in overt act 94 issued a check to the Dole Committee in an amount of $1,000 or $2,000 except the BWC PAC which issued a check payable to the Dole Committee in the amount of $5,000 dated May 10, 1995.

96. On or about April 27, 1995, Empire issued a corporate check payable to Bieber and Associates, Inc., in the amount of $2,000 and a corporate check payable to William Gilchrist in the amount of $2,000.

97. On or about April 27, 1995, George Bieber issued a check payable to the Dole Committee in the amount of $2,000.

98. On or about April 27, 1995, Empire issued a corporate check payable to defendant **MICHAEL L. SERAFINI** in the amount of $75,343.93.

99. On or about April 28, 1995, William Gilchrist issued a check payable to the Dole Committee in the amount of $2,000.

100. On or about April 28, 1995, defendant **MICHAEL L. SERAFINI** issued a check drawn on his joint account with Melinda Marcotte payable to the Dole Committee in the amount of $2,000.

101. On or about April 29, 1995, Richard Bodner issued a check payable to the Dole Committee in the amount of $2,000.

102. On or about May 1, 1995, Empire issued a corporate check payable to Rick Bodner in the amount of $2,000.

103. On or about May 1, 1995, Thomas Earl issued a check payable to the Dole Committee in the amount of $2,000.

104. On or about May 1, 1995, Empire issued a corporate check payable to Thomas Earl in the amount of $2,000.

105. On or about April 27, 1995, defendant **MICHAEL L. SERAFINI** solicited a contribution for the Dole Committee from Robert Giglio and members of Giglio's family including Dolores Giglio, Mary McCormack and Ann Pompey. On or about April 27, 1995, Robert Giglio, Dolores Giglio, Mary McCormack and Ann Pompey each issued checks payable to the Dole Committee in the amount of $1,000.

106. On or about April 28, 1995, Empire issued a corporate check payable to **ROBERT GIGLIO** in the amount of $4,000.

107. On or about April 25, 1995, Charles P. Hunkele issued a check payable to the Dole Committee in the amount of $2,000,

108. On or about May 23, 1995, Empire issued a corporate check payable to Charles Hunkele in the amount of $2,000.

109. On or about April 27, 1995, Renato Mariani and Lucy Mariani (the defendant **RENATO P. MARIANI**'s mother and father)

issued a check payable to the Dole Committee in the amount of $2,000.

110. On or about May 5, 1995, Empire issued a corporate check payable to Lucy Mariani in the amount of $2,000.

111. On or about April 27, 1995, defendant **RENATO P. MARIANI** issued a check payable to the Dole Committee in the amount of $2,000.

112. On or about May 9, 1995, Empire issued a corporate check payable to defendant **RENATO P. MARIANI** in the amount of $2,000.

113. On or about April 28, 1995, Frank Ripa issued a check payable to the Dole Committee in the amount of $2,000.

114. On or about April 28, 1995, Empire issued a check payable to Malter International, a chemical supply business owned by Frank Ripa, in the amount of $2,000.

115. On or about April 27, 1995, Frank Serafini solicited a $1,000 contribution to the Dole Committee from his legislative aide, Thomas Harrison. Thomas Harrison then issued a check payable to the Dole Committee in the amount of $1,000 and gave it to Frank Serafini. Frank Serafini then directed Thomas Harrison to reimburse himself for the contribution by issuing himself a check drawn on the account of Frank A. Serafini and Louis Serafini. Thomas Harrison issued himself the reimbursement check and deposited it the next day into his bank account.

116. On or about July 17, 1995, the Dole Committee filed a report with the FEC summarizing all of its receipts and

disbursements for the period between April 1, 1995 and June 30, 1995.

117. On or about June 16, 1995, defendant **MICHAEL L. SERAFINI** directed Melinda Marcotte to issue a check payable to the Baucus Committee from their joint checking account. Melinda Marcotte then issued a check payable to the Baucus Committee in the amount of $1,000 and gave it to defendant **MICHAEL L. SERAFINI.**

118. On or about July 5, 1995, Empire issued a corporate check payable to the defendant **MICHAEL L. SERAFINI** in the amount of $1,000.

119. Between or about June 2, 1995 and June 5, 1995, Robert Giglio, Dolores Giglio and Mary McCormack each issued checks payable to Campaign '96 in the amount of $1,000.

120. On or about June 2, 1995, Empire issued a corporate check payable to Robert Giglio in the amount of $3,500.

121. On or about June 2, 1995, Maria Ciccone (defendant **LEO R. DEL SERRA'S** sister) issued a check payable to Campaign '96 in the amount of $1,000.

122. On or about July 5, 1995, Empire issued a corporate check payable to defendant **LEO R. DEL SERRA** in the amount of $1,000.

123. On or about July 5, 1995, Lou Selig issued a check payable to the Duhaime Committee in the amount of $1,000.

124. On or about August 8, 1995, Empire issued a corporate check payable to Stacey Selig in the amount of $1,000.

125. On or about January 29, 1996, the Duhaime Committee filed a report with the FEC summarizing all of its receipts and disbursements for the period between June 1, 1995 and December 31, 1995.

126. On or about September 15, 1995, defendant **LEO R. DEL SERRA**, Ronald C. Banko, Marion L. Butler, Patrick Coccia, Thomas J. Cook, Donald F. Hallock, Lou Selig, James Thomas, Janine Thomas and Geralyn Zazzera each issued a check payable to the Clinton/Gore Committee in the amount of $1,000.

127. On or about September 15, 1995, Empire issued a corporate check payable to defendant **LEO R. DEL SERRA** in the amount of $1,000.

128. On or about September 15, 1995, Empire issued a corporate check payable to defendant **MICHAEL L. SERAFINI** in the amount of $12,041.13 which was signed by defendant **LEO R. DEL SERRA**.

129. On or about September 18, 1995, defendant **MICHAEL L. SERAFINI** issued checks to each of the individuals referenced in overt act 126 in the amount of $1,000 except defendant **LEO R. DEL SERRA**.

130. On or about December 28, 1995, the Clinton/Gore Committee filed a report with the FEC summarizing its receipts and disbursements for the period between July 1, 1995 and September 30, 1995.

131. On or about January 30, 1996, defendant **LEO R. DEL SERRA** issued a check payable to the Paxon Committee in the amount

of $1,000.

132. On or about January 30, 1996, Empire issued a corporate check payable to defendant **LEO R. DEL SERRA** in the amount of $1,000.

133. On or about April 19, 1996, the Paxon Committee filed a report with the FEC summarizing all of its receipts and disbursements for the period between January 1, 1996 and March 31, 1996.

134. On or about April 25, 1996, at the request of Empire's corporate counsel, Empire and Danella employees issued statements regarding the circumstances surrounding their contributions to the Dole Committee and those statements were false and misleading.

135. On or about April 26, 1996, defendants **MICHAEL L. SERAFINI** and **LEO R. DEL SERRA** pressured and coerced an Empire employee to sign a false and misleading statement regarding the circumstances surrounding his contribution to the Dole Committee.

136. On or about May 3, 1996, defendants **MICHAEL L. SERAFINI** and **LEO R. DEL SERRA** solicited phony invoices from two individuals who had contributed to the Dole Committee and were reimbursed by Empire.

In violation of Title 18, United States Code Section 371.

COUNTS TWO THROUGH ELEVEN

THE GRAND JURY FURTHER CHARGES:

The allegations contained in paragraphs 1 through 136 of count one of this indictment are hereby repeated, realleged and incorporated by reference as though fully set forth herein.

On or about the dates set forth below, in the Middle District of Pennsylvania and elsewhere, the defendants **RENATO P. MARIANI**, **MICHAEL L. SERAFINI** and **LEO R. DEL SERRA** as to all counts and **ALAN W. STEPHENS** as to count two only, and others known and unknown, in a matter within the jurisdiction of a department and agency of the United States, to wit, the FEC, knowingly and willfully caused the treasurers for the below listed political committees to (1) falsify, conceal and cover up by trick, scheme and device a material fact; (2) make materially false, fictitious and fraudulent statements and representations; and (3) make and use false writings and documents knowing the same to contain materially false, fictitious and fraudulent statements and entries, to wit, the defendants caused the treasurers for the below listed political committees to create and submit false reports to the FEC which indicated that lawful contributions were made by individuals to the respective political committees when in truth and fact, as the defendants well knew, it was Empire that had contributed to the respective political committees and not the conduits listed in the report filed with the FEC.

Count	Date	Political Committee
2	July 17, 1995	Dole Committee
3	December 28, 1995	Clinton/Gore Committee

4	April 15, 1995	Specter Committee
5	October 26, 1994	Haytaian Committee
6	February 1, 1995	Santorum Committee
7	January 29, 1996	Duhaime Committee
8	December 12, 1994	Fox Committee
9	October 17, 1994	Pallone Committee
10	July 31, 1995	Baucus Committee
11	April 19, 1996	Paxon Committee

In violation of Title 18, United States Code Section 1001 and Title 18, United States Code Section 2.

COUNT TWELVE

THE GRAND JURY FURTHER CHARGES:

The allegations contained in paragraphs 1 through 136 of count one of this indictment are hereby repeated, realleged and incorporated by reference as though fully set forth herein.

The defendants **RENATO P. MARIANI** and **MICHAEL L. SERAFINI** made and caused to be made illegal campaign contributions aggregating $2,000 or more during calendar year 1994.

On or about the dates listed below, in the Middle District of Pennsylvania and elsewhere, the defendants **RENATO P. MARIANI** and **MICHAEL L. SERAFINI**, being officers of Empire, and other officers unknown, did knowingly and willfully consent to numerous illegal campaign contributions being made by Empire to the below listed political committees in violation of the prohibition against corporate contributions contained in the Campaign Act.

Date	Political Committee	Amount
August 29, 1994	Pallone Committee	$ 3,000
October 10, 1994	Haytaian Committee	10,000
October 28, 1994	Fox Committee	3,000
December 14, 1994	Santorum Committee	6,000

In violation of Title 2, United States Code, Section 441b(a) and 437g(d) and 18 United States Code, Section 2.

COUNT THIRTEEN

THE GRAND JURY FURTHER CHARGES:

The allegations contained in paragraphs 1 through 136 of count one of this indictment are hereby repeated, realleged and incorporated by reference as though fully set forth herein.

The defendants **RENATO P. MARIANI** and **MICHAEL L. SERAFINI** made and caused to be made illegal campaign contributions aggregating $2,000 or more during calendar year 1995.

On or about the dates listed below, in the Middle District of Pennsylvania and elsewhere, the defendants **RENATO P. MARIANI** and **MICHAEL L. SERAFINI**, being officers of Empire, and other officers unknown, did knowingly and willfully consent to numerous illegal campaign contributions being made by Empire to the below listed political committees in violation of the prohibition against corporate contributions contained in the Campaign Act.

Date	Political Committee	Amount
January 27, 1995	Specter Committee	$10,000
April 29, 1995	Dole Committee	80,000
June 2, 1995	Duhaime Committee	5,000
June 16, 1995	Baucus Committee	1,000
September 18, 1995	Clinton/Gore Committee	10,000

In violation of Title 2, United States Code, Section 441b(a) and 437g(d) and 18 United States Code, Section 2.

COUNTS FOURTEEN THROUGH ONE HUNDRED THIRTY-FOUR

THE GRAND JURY FURTHER CHARGES:

The allegations contained in paragraphs 1 through 136 of count one of this indictment are hereby repeated, realleged and incorporated by reference as though fully set forth herein.

The defendants **RENATO P. MARIANI**, **MICHAEL L. SERAFINI** and **LEO R. DEL SERRA** made and caused to be made illegal campaign contributions aggregating $2,000 or more during each of calendar years 1994 and 1995. The defendant **ALAN W. STEPHENS** made and caused to be made illegal campaign contributions aggregating $2,000 or more during calendar year 1995.

On or about the dates listed below, in the Middle District of Pennsylvania and elsewhere, the defendants **RENATO P. MARIANI**, **MICHAEL L. SERAFINI** and **LEO R. DEL SERRA** as to all counts and the defendant **ALAN W. STEPHENS** as to counts 14 through 89 only, and others known and unknown, knowingly and willfully made and caused to be made contributions to the below listed political committees in the name of the individuals listed below rather than in the name of the true source of the contribution:

Count	Conduit	Political Committee	Amount	Date
14	Ronald Banko	Dole	$1,000	04/28/95
15	Rene Bergamino	Dole	$1,000	04/28/95
16	Thomas Bergamino	Dole	$1,000	04/28/95
17	Vincent Bernabei	Dole	$1,000	04/28/95
18	George Bieber	Dole	$1,000	04/27/95
19	Sandra Bieber	Dole	$1,000	04/27/95
20	Jane Blasi	Dole	$1,000	04/27/95
21	Peter Blasi	Dole	$1,000	04/27/95
22	Richard Bodner	Dole	$1,000	04/29/95
23	Brenda Bodner	Dole	$1,000	04/29/95

Count	Conduit	Political Committee	Amount	Date
24	BWC PAC	Dole	$5,000	05/10/95
25	Diane Bratlee	Dole	$1,000	04/27/95
26	Arthur Bray	Dole	$1,000	04/28/95
27	Diane Bray	Dole	$1,000	04/28/95
28	Susan Burney	Dole	$1,000	04/28/95
29	Vincent Burney	Dole	$1,000	04/28/95
30	Gary Butler	Dole	$1,000	04/28/95
31	Marion Butler	Dole	$1,000	04/28/95
32	Maria Ciccone	Dole	$1,000	04/28/95
33	Vincent Ciccone	Dole	$1,000	04/28/95
34	Patrick Coccia	Dole	$1,000	04/27/95
35	Susan Coccia	Dole	$1,000	04/27/95
36	Thomas Cook	Dole	$1,000	04/28/95
37	Jo Ann Del Serra	Dole	$1,000	04/28/95
38	Leo Del Serra	Dole	$1,000	04/28/95
39	Susan Earl	Dole	$1,000	05/01/95
40	Thomas Earl	Dole	$1,000	05/01/95
41	Fay Gable	Dole	$1,000	04/28/95
42	Thomas Gable	Dole	$1,000	04/28/95
43	Angelo Genell	Dole	$1,000	04/28/95
44	Tracy Genell	Dole	$1,000	04/28/95
45	Mark Genell	Dole	$1,000	04/28/95
46	Dolores Giglio	Dole	$1,000	04/27/95
47	Robert Giglio	Dole	$1,000	04/27/95
48	Josephine Gilchrist	Dole	$1,000	04/28/95
49	William Gilchrist	Dole	$1,000	04/28/95
50	Donald Hallock	Dole	$1,000	04/28/95
51	Robin Hallock	Dole	$1,000	04/28/95
52	Thomas Harrison	Dole	$1,000	04/27/95
53	Elaine Hummel	Dole	$1,000	04/28/95
54	Paul Hummel	Dole	$1,000	04/28/95
55	Joan Hummel	Dole	$1,000	04/28/95
56	Donna Hunkele	Dole	$1,000	04/25/95
57	Charles Hunkele	Dole	$1,000	04/25/95
58	Brenda Keen	Dole	$1,000	04/28/95
59	Paul Keen	Dole	$1,000	04/28/95
60	Donna Kon	Dole	$1,000	04/28/95
61	Michael Kon	Dole	$1,000	04/28/95
62	Lisa Marcotte	Dole	$1,000	04/27/95
63	Melinda Marcotte	Dole	$1,000	04/28/95
64	Joan Mariani	Dole	$1,000	04/28/95
65	Renato P. Mariani	Dole	$1,000	04/28/95
66	Lucy Mariani	Dole	$1,000	04/27/95
67	Renato Mariani	Dole	$1,000	04/27/95
68	Mary McCormack	Dole	$1,000	04/27/95
69	Michael McNinch	Dole	$1,000	04/27/95
70	Ann Pompey	Dole	$1,000	04/27/95
71	John Reilly	Dole	$1,000	04/27/95
72	Marilyn Reilly	Dole	$1,000	04/27/95

Count	Conduit	Political Committee	Amount	Date
73	Frank Ripa	Dole	$1,000	04/28/95
74	Dorothy Ripa	Dole	$1,000	04/28/95
75	Kim Scarantino	Dole	$1,000	04/28/95
76	John Scarantino	Dole	$1,000	04/28/95
77	Lou Selig	Dole	$1,000	04/27/95
78	Stacey Selig	Dole	$1,000	04/27/95
79	Frances Serafini	Dole	$1,000	04/27/95
80	Frank Serafini	Dole	$1,000	04/27/95
81	Louis Serafini	Dole	$1,000	04/27/95
82	Michael L. Serafini	Dole	$1,000	04/28/95
83	Alan Stephens	Dole	$1,000	04/28/95
84	Linda Stephens	Dole	$1,000	04/28/95
85	Carol Thomas	Dole	$1,000	04/27/95
86	James Thomas	Dole	$1,000	04/27/95
87	Geralyn Zazzera	Dole	$1,000	04/28/95
88	Daniel Zeleniak	Dole	$1,000	04/28/95
89	Sheila Zeleniak	Dole	$1,000	04/28/95
90	Ronald Banko	Clinton/Gore	$1,000	09/15/95
91	Marion Butler	Clinton/Gore	$1,000	09/15/95
92	Patrick Coccia	Clinton/Gore	$1,000	09/15/95
93	Thomas J. Cook	Clinton/Gore	$1,000	09/15/95
94	Leo R. Del Serra	Clinton/Gore	$1,000	09/15/95
95	Donald Hallock	Clinton/Gore	$1,000	09/15/95
96	Lou Selig	Clinton/Gore	$1,000	09/15/95
97	Carol Ann Thomas	Clinton/Gore	$1,000	09/15/95
98	Janine Thomas	Clinton/Gore	$1,000	09/15/95
99	Geralyn Zazzera	Clinton/Gore	$1,000	09/15/95
100	Gary Butler	Specter	$1,000	01/23/95
101	Marion Butler	Specter	$1,000	01/23/95
102	Jo Ann Del Serra	Specter	$1,000	01/23/95
103	Leo Del Serra	Specter	$1,000	01/23/95
104	Michael L. Serafini	Specter	$1,000	01/26/95
105	Stacey Selig	Specter	$1,000	01/26/95
106	Lou Selig	Specter	$1,000	01/26/95
107	Louis Serafini	Specter	$1,000	01/26/95
108	James Thomas	Specter	$1,000	01/25/95
109	Carol Ann Thomas	Specter	$1,000	01/25/95
110	Peter Blasi	Haytaian	$1,000	10/11/94
111	Gary Butler	Haytaian	$1,000	10/11/94
112	Marion Butler	Haytaian	$1,000	10/11/94
113	Leo Del Serra	Haytaian	$1,000	10/11/94
114	Jo Ann Del Serra	Haytaian	$1,000	10/11/94
115	Lou Selig	Haytaian	$1,000	10/11/94
116	Stacey Selig	Haytaian	$1,000	10/11/94
117	Michael L. Serafini	Haytaian	$1,000	10/10/94
118	James Thomas	Haytaian	$1,000	10/10/94
119	Carol Ann Thomas	Haytaian	$1,000	10/10/94
120	Leo R. Del Serra	Santorum	$1,000	12/14/94
121	Jo Ann Del Serra	Santorum	$1,000	12/14/94
122	Melinda Marcotte	Santorum	$1,000	12/14/94

Count	Conduit	Political Committee	Amount	Date
123	Renato P. Mariani	Santorum	$1,000	12/14/94
124	Joan Mariani	Santorum	$1,000	12/14/94
125	Louis Serafini	Santorum	$1,000	12/14/94
126	Maria Ciccone	Duhaime	$1,000	06/02/95
127	Dolores Giglio	Duhaime	$1,000	06/03/95
128	Robert Giglio	Duhaime	$1,000	06/05/95
129	Mary McCormack	Duhaime	$1,000	06/02/95
130	Lou Selig	Duhaime	$1,000	07/05/95
131	Marion Butler	Fox	$1,000	10/27/94
132	Renato P. Mariani	Fox	$1,000	10/28/94
133	Joan Mariani	Fox	$1,000	10/27/94
134	Melinda Marcotte	Baucus	$1,000	06/16/95

In violation of Title 2, United States Code, Section 441f and 437g(d) and 18 United States Code, Section 2.

COUNT ONE HUNDRED THIRTY-FIVE

THE GRAND JURY FURTHER CHARGES THAT:

I. INTRODUCTION.

1. The allegations contained in paragraphs 1 through 136 of count one of this indictment are hereby repeated, realleged and incorporated by reference as though fully set forth herein.

2. On or about February 8, 1996, a seven count indictment was filed in the United States District Court for the Eastern District of Pennsylvania ("the Eastern District case") which charged defendant **RENATO P. MARIANI** and his uncle, Carmen Danella (a 50% shareholder in Empire and Danella), with various criminal tax offenses. Count one charged both defendants with a conspiracy to defraud the United States by impeding, impairing, obstructing and defeating the lawful functions of the Internal Revenue Service. Counts two, three and four charged Carmen Danella alone with filing false individual income tax returns for the years 1989 and 1992 and aiding and assisting in the preparation of a false corporate income tax return for Plymouth Transport, Inc., for the year 1988. Counts five, six and seven charged both the defendant **RENATO P. MARIANI** and Carmen Danella with aiding and assisting in the preparation of false corporate income tax returns for Empire for the years 1988, 1989 and 1991.

3. The indictment charged that defendant **RENATO P. MARIANI** and Carmen Danella directed an attorney named John G. Kaufman to

prepare 16 phony invoices totaling $759,190.30 for legal services never rendered for Empire and two other companies under those individuals' control. It was further alleged that defendants **RENATO P. MARIANI** and Carmen Danella caused the phony invoices to be paid by checks drawn on the accounts of Empire and the other two companies. It was also alleged that defendant **RENATO P. MARIANI** and Carmen Danella directed Kaufman to negotiate the checks and kick-back 80% of the cash proceeds to them. Finally, it was alleged that part of the conspiracy to defraud the IRS was that the phony invoices were recorded and deducted as legitimate professional services, thereby reducing taxable income.

4. One of the issues in the investigation and prosecution of the Eastern District case was to determine what motive defendant **RENATO P. MARIANI** and Carmen Danella had for raising clean cash and what they did with the more than $600,000 they allegedly received in the course of the scheme.

5. On Thursday, April 25, 1996, newspaper articles appeared in the Wall Street Journal and the Washington Post reporting that numerous employees of Empire and their relatives contributed nearly $50,000 to Senator Dole's presidential campaign a week before a trash transportation bill Empire was lobbying to change was brought to the Senate floor. The newspaper stories also referenced the fact that Empire's two principal owners, Carmen Danella and defendant **RENATO P. MARIANI** were under indictment in the Eastern District case.

6. The newspaper stories noted that an Assistant U.S. Attorney handling the Eastern District case would not comment on whether the cash generated from the Eastern District scheme was used to finance political contributions. The newspaper stories also noted that Senator Dole had requested the FEC to investigate reports earlier in the week relative to a similar scheme involving a Massachusetts corporation.

7. Immediately following the April 25, 1996 newspaper stories, prosecutors in the Eastern District case commenced an investigation to determine if there was any connection between the Eastern District case and the facts alleged in the newspaper stories. Prosecutors in the Eastern District case directed IRS agents to interview Empire and Danella employees and their spouses regarding the circumstances surrounding their Dole contributions to the Dole Committee. Within the next several days, numerous Empire and Danella employees and their spouses were contacted by the IRS. With one exception, each and every individual contacted either denied being reimbursed for their contribution or refused to be interviewed.

8. On or about April 29, 1996, the U.S. Attorney's Office for the Middle District of Pennsylvania opened its file on this matter and the first round of grand jury subpoenas were issued on May 3, 1996 to various individuals including Empire employees and their spouses.

II. THE CONSPIRACY.

9. Beginning on or about April 25, 1996 and continuing until

on or about the date of this indictment, in Lackawanna County, within the Middle District of Pennsylvania and elsewhere, the defendants **MICHAEL L. SERAFINI** and **LEO R. DEL SERRA** and others both known and unknown to the grand jury, did knowingly and willfully combine, conspire, confederate and agree together and with each other to:

A. Corruptly influence, obstruct and impede and endeavor to influence, obstruct and impede the due administration of justice in violation of Title 18, United States Code, Section 1503.

B. Tamper with a witness in violation of Title 18, United States Code, Section 1512.

III. MANNER AND MEANS OF THE CONSPIRACY.

10. The defendants, **MICHAEL L. SERAFINI** and **LEO R. DEL SERRA** carried out the conspiracy in the following manner and by the following means:

11. On or about April 25, 1996, a meeting was held at Empire which included Empire's attorney, Brian Cali, and numerous Empire and Danella employees who had contributed to the Dole Committee a year earlier. The topic of the meeting was the recent newspaper articles and the circumstances surrounding the employees' contributions.

12. At the April 25, 1996 meeting, Brian Cali requested that the attendees prepare written statements regarding the circumstances surrounding their contributions to the Dole

Committee. It was the intent of the defendants that these letters be used in connection with the pending criminal proceeding in the Eastern District of Pennsylvania and/or the incipient grand jury investigation in the Middle District of Pennsylvania. At least twenty-one pre-typed forms on the Empire letterhead were distributed to the conduits for this purpose.

13. As a result of the meeting, at least twenty-one Empire and Danella employees prepared false and/or misleading statements indicating, among other things, that they were not reimbursed for their contributions or were not reimbursed by Empire for their contributions. Not one statement included the fact that defendant **MICHAEL L. SERAFINI**, an officer of the corporation, solicited the contributions and issued personal checks reimbursing the contributors. Nor did the statements include the fact that defendant **MICHAEL L. SERAFINI** was reimbursed by Empire for his expense in reimbursing the conduits.

14. One individual who refused to sign such a statement was subsequently visited by defendant **LEO R. DEL SERRA** and then by defendant **MICHAEL L. SERAFINI** and was coerced into signing a statement which he believed to be false and misleading and which defendants **LEO R. DEL SERRA** and **MICHAEL L. SERAFINI** knew was false and misleading.

15. Thereafter, defendant **MICHAEL L. SERAFINI** contacted two individuals who acted as paid consultants for Empire and who had previously been solicited by Empire to contribute to the Dole Committee. Both individuals had previously received

reimbursement checks drawn on the Empire account in connection with their contributions. Neither individual was informed what the purpose of the meeting was.

16. On May 3, 1996, a meeting was held at the landfill and attending were defendants **MICHAEL L. SERAFINI** and **LEO R. DEL SERRA** and the two consultants. The purpose of the meeting was to discuss the Dole Committee contributions and the furor that had erupted as a result of the pending investigations.

17. During the course of the meeting, defendants **MICHAEL L. SERAFINI** and **LEO R. DEL SERRA** invited the two consultants to submit phony invoices to Empire which could thereafter be used by the defendants in the course of the pending Eastern District case and/or the pending grand jury investigation in the Middle District of Pennsylvania and any trials that might result therefrom. It was the intent of the defendants that the phony invoices be used to legitimatize the Empire corporate checks that had been previously issued to reimburse those individuals for their conduit contributions to the Dole Committee.

III. OVERT ACTS.

18. In furtherance of the conspiracy and to accomplish its unlawful objectives, the defendants and others, both known and unknown, committed the following overt acts in the Middle District of Pennsylvania and elsewhere.

19. On or about April 25, 1996, Brian Cali held a meeting at the Empire landfill and requested numerous conduits to prepare

written statements regarding the circumstances surrounding their contributions to the Dole Committee.

20. On or about April 26, 1996, defendants **MICHAEL L. SERAFINI** and **LEO R. DEL SERRA** coerced one Empire employee into signing a statement which that employee believed to be false and misleading and which defendants **MICHAEL L. SERAFINI** and **LEO R. DEL SERRA** knew was false and misleading.

21. On or about May 3, 1996, defendants **MICHAEL L. SERAFINI** and **LEO R. DEL SERRA** invited two individuals who had previously been reimbursed for their contributions to the Dole Committee by Empire to submit phony invoices to Empire.

In violation of Title 18, United States Code Section 371.

COUNT ONE HUNDRED THIRTY-SIX

THE GRAND JURY FURTHER CHARGES:

1. The allegations contained in paragraphs 1 through 136 of count one of this indictment, as well as the allegations contained in paragraphs 1 through 21 of count 135 of this indictment are hereby repeated, realleged and incorporated by reference as though fully set forth herein.

2. On or about April 26, 1996, in the Middle District of Pennsylvania and elsewhere, the defendants **MICHAEL L. SERAFINI** and **LEO R. DEL SERRA** did corruptly influence, obstruct and impede and endeavor to influence, obstruct and impede the due administration of justice in United States of America v. Carmen Danella and Renato Mariani, No. 96-055 in the U.S. District Court for the Eastern District of Pennsylvania by coercing a prospective witness to sign a false and misleading statement regarding the circumstances surrounding his contribution to the Dole Committee.

In violation of Title 18, United States Code, Section 1503 and 18 United States Code, Section 2.

COUNT ONE HUNDRED THIRTY-SEVEN

THE GRAND JURY FURTHER CHARGES:

1. The allegations contained in paragraphs 1 through 136 of count one of this indictment, as well as the allegations contained in paragraphs 1 through 21 of count 135 of this indictment are hereby repeated, realleged and incorporated by reference as though fully set forth herein.

2. On or about April 26, 1996, in the Middle District of Pennsylvania and elsewhere, the defendants **MICHAEL L. SERAFINI** and **LEO R. DEL SERRA** did knowingly intimidate and attempt to intimidate, corruptly persuade and attempt to corruptly persuade and engage in misleading conduct toward a person whose identity is known to the grand jury with the intent (1) to influence, delay and prevent the testimony of that person in an official proceeding; (2) to cause or induce that person to withhold testimony from an official proceeding; and (3) to hinder, delay or prevent the communication to a law enforcement officer of information relating to the commission or possible commission of a federal offense; the official proceeding being a federal grand jury proceeding in the Middle District of Pennsylvania and a pending case in the United States District Court for the Eastern District of Pennsylvania entitled United States of America v. Carmen Danella and Renato Mariani, No 96-055, by coercing a prospective witness to sign a false and misleading statement regarding the circumstances surrounding his contribution to the

Dole Committee.

In violation of Title 18, United States Code, Section 1512(b) and 18 United States Code, Section 2.

COUNT ONE HUNDRED THIRTY-EIGHT

THE GRAND JURY FURTHER CHARGES:

1. The allegations contained in paragraphs 1 through 136 of count one of this indictment, as well as the allegations contained in paragraphs 1 through 21 of count 135 of this indictment are hereby repeated, realleged and incorporated by reference as though fully set forth herein.

2. On or about May 3, 1996, in the Middle District of Pennsylvania and elsewhere, the defendants **MICHAEL L. SERAFINI** and **LEO R. DEL SERRA** did corruptly endeavor to influence, obstruct and impede the due administration of justice in a federal grand jury proceeding in the Middle District of Pennsylvania by requesting two individuals whose identities are known to the grand jury to submit phony invoices to Empire which could thereafter be used by the defendants in the course of that grand jury proceeding or any trials resulting therefrom to legitimatize the Dole Committee contribution reimbursement checks previously issued by Empire to those two individuals.

In violation of Title 18, United States Code, Section 1503 and 18 United States Code, Section 2.

COUNT ONE HUNDRED THIRTY-NINE

THE GRAND JURY FURTHER CHARGES:

1. The allegations contained in paragraphs 1 through 136 of count one of this indictment are hereby repeated, realleged and incorporated by reference as though fully set forth herein.

2. On or about April 9, 1997, in the Middle District of Pennsylvania, the defendant **ROBERT GIGLIO** while under oath and testifying in a proceeding before Grand Jury No. 95-1, a grand jury of the United States in the Middle District of Pennsylvania, knowingly did make false material declarations, that is to say:

3. At the time and place aforesaid, the grand jury was conducting an investigation to determine whether violations of Title 2, United States Code, Section 431, et seq. ("the Campaign Act") had been committed, and to identify the persons who had committed, caused the commission of, and conspired to commit such violations. It was material to the said investigation that the grand jury ascertain if **ROBERT GIGLIO** was reimbursed in any way in connection with any political contributions he ever made or whether he otherwise acted as a conduit or caused others to act as conduits.

4. At the time and place alleged, **ROBERT GIGLIO**, appearing as a witness under oath at a proceeding before the grand jury, knowingly made the following declarations in response to

questions with respect to the material matter alleged in paragraph 3 as follows:

* * * * * * * * * * * * * * *

Q. Well, let's start with the Dole campaign contribution, tell me the circumstances that led you to contribute to Senator Dole's campaign, how did it happen that you decided to contribute?

A. Michael asked me to make a donation to his campaign. He asked me to ask my sister, my mother, she was my fiancé at the time, to have her, all three and myself write a check for the campaign.

Q. And did he tell you he would reimburse you?

A. No, he didn't.

Q. Did he reimburse you?

A. No, he didn't.

* * * * * * * * * * * * * * *

Q. Now, the next, tell me about the next transaction where you made a contribution you said to Campaign '96, the person named Dunaine?

A. Yes.

Q. Tell us how that arose?

A. He asked me to do the same thing again.

Q. What did he say?

A. I have one more contribution I would like you to make. And I said well, what do you want me to do? He said just ask, I believe there is only two checks that are made to that one. Mine and it is either my wife or my mother's, I don't think there is three, there is only two.

Q. What did he ask you to do?

A. He asked me to make that contribution.

Q. Did you ask him who the heck Dunaine is and why am I contributing to this guy?

A. No, he just said he wanted to get his checks to somebody, to Campaign '96 is all he told me.

Q. Did you even know what office the guy was running for?

A. No, I didn't.

Q. Do you even know today what office he ran for?

A. Senate, yeah.

Q. Senate?

A. Senator, isn't it Senator?

Q. Is it U.S. Senator, State Senator?

A. I don't know.

Q. Do you know what state he is from?

A. Jersey.

Q. New Jersey?

A. Yeah.

Q. How is it that you know that?

A. Because I saw it. They gave me a sticker now that I remember it.

Q. Who gave you the sticker?

A. Michael.

Q. So how much money did you donate to Dunaine Senate '96 Campaign?

A. I believe it is $2,000.

Q. And the $2,000 was you for a thousand and your wife, you were already married at that time?

A. No, I am, it is my girlfriend.

Q. Your girlfriend. Okay. So it would be a thousand for you and a thousand for Ann Pompey?

A. Right, or it could be my mother.

Q. Dolores?

A. Dolores, I am not sure.

Q. And did you have any discussion with Michael regarding reimbursement for this New Jersey Senate, Senate hopeful that you were now contributing $2,000 to?

A. No.

Q. He never mentioned to you that he would reimburse you?

A. No.

Q. And he never did reimburse you?

A. No.

Q. Did anyone reimburse you?

A. No.

Q. Did the corporation reimburse you?

A. No.

* * * * * * * * * * * * * * *

Q. And you have never been reimbursed in your life for any contribution you have ever made?

A. No.

* * * * * * * * * * * * * * *

Q. And what do you remember being discussed, what did they say to you?

A. They asked me about the donations, that's it, and I told them what I did.

Q. The same thing that you told us here?

A. Yeah.

Q. That you made the donations at the request of Michael?

A. Right.

Q. And that you were not reimbursed . . .

A. Right.

Q. . . . by the corporation?

A. Right.

Q. And you weren't reimbursed by him personally?

A. Right.

* * * * * * * * * * * * * *

5. The aforesaid underscored testimony of **ROBERT GIGLIO** as he then and there well knew and believed, was false in that Empire issued **ROBERT GIGLIO** a check on April 28, 1995 in the amount of $4,000 which was signed by defendant **MICHAEL L. SERAFINI** and which reimbursed him, his mother, his sister and his girlfriend for their contributions to the Dole Committee and Empire issued him another check on June 2, 1995 in the amount of $3,500 which was signed by defendant **MICHAEL L. SERAFINI** and which reimbursed him, his mother and his sister for their contributions to the Duhaime Committee.

In violation of Title 18, United States Code, Section 1623.

COUNT ONE HUNDRED FORTY

THE GRAND JURY FURTHER CHARGES:

1. The allegations contained in paragraphs 1 through 136 of count one of this indictment are hereby repeated, realleged and incorporated by reference as though fully set forth herein.

2. On or about September 9, 1997, in the Middle District of Pennsylvania, the defendant **FRANK SERAFINI**, while under oath and testifying in a proceeding before Grand Jury 97-1, a grand jury of the United States of the Middle District of Pennsylvania, knowingly did make false material declarations, that is to say:

3. At the time and place aforesaid, the grand jury was conducting an investigation to determine whether violations of Title 2, United States Code, Sections 431, et seq. ("the Campaign Act") had been committed, and to identify the persons who had committed, caused the commission of, and conspired to commit such violations. It was material to the said investigation that the grand jury ascertain if **FRANK SERAFINI** was reimbursed in any way in connection with any political contributions he ever made, or whether he otherwise acted as a conduit, or caused others to act as conduits.

4. At the same time and place alleged, **FRANK SERAFINI**, appearing as a witness under oath at a proceeding before the grand jury, knowingly made the following declarations in response to questions with respect to the material matter alleged in paragraph 3 as follows:

* * * * * * * * * * * * * *

Q. And did you bring any documents pursuant to the subpoena that required your appearance here today?

A. I don't have the documents, I don't have documents with me but the subpoena, because the subpoena didn't require any. The way I read the subpoena, I have a copy of it, all documents relative to political contributions you were reimbursed for, and I was not reimbursed for any contributions.

* * * * * * * * * * * * * *

Q. Well, then why wouldn't he reimburse you for your Dole contribution under the same rationale?

A. Because I wanted to contribute to Bob Dole.

Q. And you didn't want to fix his car?

A. Not necessarily, would you?

Q. I don't know.

A. And $2,000 for a thousand dollar contribution.

Q. $2,000 for what?

A. $2,000 . . .

Q. What was that last statement?

A. $2,000 this check is for, if I see it correctly?

Q. Right.

A. And my check here is for a thousand dollar contribution?

Q. Right. So you are saying you don't know what the other thousand dollars is for?

A. I would not relate it to that, in my mind.

Q. What would you relate?

A. In my mind.

Q. What would you relate it for?

A. To something else, whether it was fixing his car, whether it is something else. It could be something else and that's just what I am saying to you now, because when he asked me for a thousand dollar contribution I wrote a check for a thousand dollars, I found no problem with that, I was happy to be able to do it.

* * * * * * * * * * * * * *

Q. Is there any check that you received that reimbursed you other than that $2,000 check for your contribution?

A. No.

Q. Is there another check that you are aware of that is connected to this investigation, to this Dole contribution, other than the $2,000?

A. Not other than what you have shown me today, no.

* * * * * * * * * * * * *

Q. And you have no knowledge, as you sit here today, or is it accurate that as you sit here today you have no knowledge why Michael issued that check to you for $2,000.

A. I still think the $2,000 would have been just around the time that I was fixing his car, the transmission was gone, I was fixing it, it is just about that amount of money that would have paid for the repair. It could have been for a number of things, but it certainly does not relate to me contributing to Bob Dole. I contribute quite frequently to candidates and those kind of amounts.

* * * * * * * * * * * * * * *

Q. I am going to wrap this up. I want to make sure we are absolutely on the same page here, there is no misunderstanding. It is your testimony under oath, as you sit here today, that as far as you're concerned, as far as you know, there is no connection between the check that you wrote to Dole for President dated April 27 of '95 for $1,000, check 3781, and the check that

you received from the Michael Serafini-Melinda Marcotte account dated April 25th of '95 for $2,000, it is your testimony that there is no connection between these two items:

A. In my mind I can honestly say that there is no connection between those two checks, the thousand and the two thousand. In my, I mean in my mind I know I contributed to Bob Dole because I wanted to contribute to him without reimbursement. The $2,000, I truly believe I cashed that check and spent it to, for another reason, I am assuming it was when I was fixing his vehicle.

Q. Are you drawing any distinctions when you answer that question similar to the distinctions you drew when you were interviewed by Frank Schultz regarding whether or not people were hallucinating, or were a hundred percent incorrect that you were receiving a per ton fee from Empire landfill, are you drawing a similar kind of fine line distinction here?

A. Let me say this. When I am talk to Frank Schultz I am not under oath. Frank Schultz questions me and I give him an answer. There is no fine line distinctions here as there was when, as there is when I talk to Frank Schultz. Frank Schultz is an entirely different person, he is not a U.S. Attorney.

* * * * * * * * * * * * * *

5. The aforesaid underscored testimony of **FRANK SERAFINI**, as he then and there well knew and believed, was false in that (1) Defendant **MICHAEL L. SERAFINI** issued a check dated April 25, 1995 payable to **FRANK SERAFINI** in the amount of $2,000 which was subsequently negotiated on May 1, 1995 and which reimbursed **FRANK SERAFINI** for his $1,000 contribution to the Dole Committee and also reimbursed him for the expense of reimbursing Thomas Harrison, his former legislative aide, $1,000 for a contribution Thomas Harrison made to the Dole Committee in the amount of

$1,000 which was solicited by **FRANK SERAFINI** and reimbursed by **FRANK SERAFINI**; and (2) There were at least two other checks connected to this transaction other than what was displayed during the grand jury proceeding, i.e., a $1,000 check dated April 27, 1995 drawn on the account of Thomas G. or Maureen J. Harrison payable to the Dole Committee which was solicited and received by **FRANK SERAFINI**, and a $1,000 check dated April 27, 1995 drawn on the account of Frank A. Serafini and Louis Serafini payable to cash which was used to reimburse Thomas Harrison for his Dole Committee contribution.

In violation of Title 18, United States Code, Section 1623.

David M. Barasch
United States Attorney

A TRUE BILL:

Peter Paris
Foreperson

Dated: 10/7/97

UNITED STATES DISTRICT COURT
FOR THE
MIDDLE DISTRICT OF PENNSYLVANIA

* * MAILING CERTIFICATE OF CLERK * *

Re: 3:97-cr-00225 USA v. Mariani

True and correct copies of the attached were mailed by the clerk to the following:

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cc:

Judge	( )	
Magistrate Judge	( )	
U.S. Marshal	(✓)	
Probation	(✓)	
U.S. Attorney	(✓)	
Atty. for Deft.	( )	
Defendant	( )	
Warden	( )	
Bureau of Prisons	( )	
Ct Reporter	( )	
Ctroom Deputy	( )	
Orig-Security	( )	
Federal Public Defender	( )	
Summons Issued	( )	with N/C attached to complt. and served by: U.S. Marshal ( ) Pltf's Attorney ( )
Standard Order 93-5	( )	
Order to Show Cause	( )	with Petition attached & mailed certified mail to: US Atty Gen ( ) PA Atty Gen ( ) DA of County ( ) Respondents ( )
Bankruptcy Court	( )	
Other_____	( )	

MARY E. D'ANDREA, Clerk

DATE: 10-8-97

BY: _____
Deputy Clerk

CRIMINAL CASE COVER SHEET MIDDLE DISTRICT OF PENNSYLVANIA U.S. DISTRICT COURT

Place of Offense:

City Taylor, PA

County/Parish Lackawanna

Related Case Information: In Re: Grand Jury Misc. No. 95-98

Superseding Indictment_____ Docket Number_____

Same Defendant_____ New Defendant_____

Magistrate Judge Case Number_____

Search Warrant Case Number_____

R 20/R 40 from District of _____

Defendant Information:

Juvenile _____**Yes** XX **No** **If Yes, Matter to be sealed:** _____**Yes** XX **No**

Defendant Name Renato P. Mariani

Alias Name

Address 41 December Drive

Dunmore, PA 18512

Birthdate_____ SS #_____ Sex _____ Race_____ Nationality_____

AGENT:_____Y

DEFENSE COUNSEL: **Name** Mark Cedrone **Phone** 215-925-2500

Address Suite 750, The Curtis Center, Independence Square West,

Philadelphia, PA 19106

U.S. Attorney Information:

AUSA Bruce D. Brandler **Bar #**

Interpreter _____Yes _____No **List Language and/or Dialect:**_____

Location Status:

Arrest Date_____

___ Already in Federal Custody as of _____ in _____

___ Already in State Custody

___ On Pretrial Release

U.S.C. Citations **X** **Indictment** _____ **Information**

Total # of Counts: 134 ___ Petty ___ Misdeameanor ___ Felony

	Index Key/Code	Description of Offense Charged	Count(s)
Set 1	18 USC 371	Conspiracy	1
Set 2	18 USC 1001	False Statements	10
Set 3	2 USC 441b	Prohibited Corporate Contribution	2
Set 4	2 USC 441f	Conduit Contributions	121

(May be continued on reverse)

Date: 10/7/97 **Signature of AUSA:** S. Mandel

JS 45 (1/96)

District Court Case Number (To be filled in by deputy clerk):_____

	Index Key/Code	Description of Offense Charged	Count(s)
Set 5			
Set 6			
Set 7			
Set 8			
Set 9			
Set 10			
Set 11			
Set 12			
Set 13			

CRIMINAL CASE COVER SHEET MIDDLE DISTRICT OF PENNSYLVANIA U.S. DISTRICT COURT

Place of Offense:
City Taylor, PA

County/Parish Lackawanna

Related Case Information: In Re: Grand Jury Misc. No. 95-98

Superseding Indictment _____ Docket Number _____
Same Defendant _____ New Defendant _____
Magistrate Judge Case Number _____

Search Warrant Case Number _____

R 20/R 40 from District of _____

Defendant Information:

Juvenile _____Yes XX No **If Yes, Matter to be sealed:** _____Yes XX No

Defendant Name Michael L. Serafini

Alias Name _____

Address 2209 Summit Point Drive
Scranton, PA 18508

Birthdate _____ SS # _____ Sex _____ Race _____ Nationality _____

AGENT: _____Y

DEFENSE COUNSEL: Name Howard Klein Phone 215-564-4060

Address Suite 2632, 1700 Market St., Philadelphia, PA 19103

U.S. Attorney Information:
AUSA Bruce D. Brandler Bar # _____

Interpreter _____Yes _____No **List Language and/or Dialect:** _____

Location Status:

Arrest Date _____

___ Already in Federal Custody as of _____ in _____

___ Already in State Custody

___ On Pretrial Release

U.S.C. Citations XX Indictment ___ Information

Total # of Counts: 136 ___ Petty ___ Misdeameanor ___ Felony

	Index Key/Code	Description of Offense Charged	Count(s)
Set 1	18 USC 371	Conspiracy	2
Set 2	18 USC 1001	False Statements	10
Set 3	18 USC 1503	Obstruction of Justice	2
Set 4	18 USC 1512	Tampering with a witness	1

(May be continued on reverse)

Date: 10/7/97 Signature of AUSA: [signature]

JS 45 (1/96)

District Court Case Number (To be filled in by deputy clerk): ___

	Index Key/Code	Description of Offense Charged	Count(s)
Set 5	2 USC 441b	Prohibited Corporate Contributions	2
Set 6	2 USC 441f	Conduit Contributions	121
Set 7			
Set 8			
Set 9			
Set 10			
Set 11			
Set 12			
Set 13			
Set 14			
Set 15			
Set 16			
Set 17			
Set 18			
Set 19			
Set 20			
Set 21			
Set 22			
Set 23			

CRIMINAL CASE COVER SHEET MIDDLE DISTRICT OF PENNSYLVANIA U.S. DISTRICT COURT

Place of Offense:
City Taylor, PA

County/Parish Lackawanna

Related Case Information: IN RE: Grand Jury Misc. No. 95-98

Superseding Indictment_____ Docket Number_____

Same Defendant_____ New Defendant_____

Magistrate Judge Case Number_____

Search Warrant Case Number_____

R 20/R 40 from District of _____

Defendant Information:

Juvenile _____**Yes** X **No** **If Yes, Matter to be sealed:** _____**Yes** X **No**

Defendant Name Leo R. Del Serra

Alias Name

731 Second St.

Address West Pittston, PA 18643

Birthdate_____ SS #_____ Sex _____ Race_____ Nationality_____

AGENT:_____ Y

DEFENSE COUNSEL: Name Robert Welsh Phone 215-972-6430

Address 1818 Market St., Suite 3402, Philadelphia, PA 19103

U.S. Attorney Information:

AUSA Bruce D. Brandler Bar #_____

Interpreter _____Yes XX No List Language and/or Dialect:_____

Location Status:

Arrest Date_____

___ Already in Federal Custody as of _____ in _____

___ Already in State Custody

___ On Pretrial Release

U.S.C. Citations _X_ **Indictment** _____ **Information**

Total # of Counts: 78 ___ Petty ___ Misdeameanor ___ Felony

	Index Key/Code	Description of Offense Charged	Count(s)
Set 1	18 USC 371	Conspiracy	1
Set 2	18 USC 1001	False Statements	1
Set 3	2 USC 441f	Conduit Contributions	76
Set 4			

(May be continued on reverse)

Date: _____ **Signature of AUSA:** _____

DS 45 (1/96)

District Court Case Number (To be filled in by deputy clerk): _____

	Index Key/Code	Description of Offense Charged	Count(s)
Set 5			
Set 6			
Set 7			
Set 8			
Set 9			
Set 10			
Set 11			
Set 12			
Set 13			

CRIMINAL CASE COVER SHEET MIDDLE DISTRICT OF PENNSYLVANIA U.S. DISTRICT COURT

Place of Offense:

City Taylor, PA

County/Parish Lackawanna

Related Case Information: In RE: Grand Jury Mis. No. 95-98

Superseding Indictment_____ Docket Number_____

Same Defendant_____ New Defendant_____

Magistrate Judge Case Number_____

Search Warrant Case Number_____

R 20/R 40 from District of _____

Defendant Information:

Juvenile _____Yes X No **If Yes, Matter to be sealed:** _____Yes X No

Defendant Name ROBERT GIGLIO

Alias Name _____

Address 210 Taylor St
Old Forge, PA 18518

Birthdate_____ SS #_____ Sex _____ Race_____ Nationality_____

AGENT:_____Y

DEFENSE COUNSEL: Name Joseph Mancano Phone 215-569-6900

Address 2 Penn Center Plaza, Suit 515, 15th St & J.F.K. Blvd.
Philadelphia, PA 19102

U.S. Attorney Information:

AUSA Bruce D. Brandler Bar #_____

Interpreter _____Yes _____No **List Language and/or Dialect:**_____

Location Status:

Arrest Date_____

___ Already in Federal Custody as of _____ in _____

___ Already in State Custody

___ On Pretrial Release

U.S.C. Citations XX Indictment ___ Information

Total # of Counts: 1 ___ Petty ___ Misdemeanor ___ Felony

	Index Key/Code	Description of Offense Charged	Count(s)
Set 1	18 USC 1623	False statements before grand jury	1
Set 2			
Set 3			
Set 4			

(May be continued on reverse)

Date: 10/7/97 Signature of AUSA: [signature]

JS 45 (1/96)

District Court Case Number (To be filled in by deputy clerk): ___

	Index Key/Code	Description of Offense Charged	Count(s)
Set 5			
Set 6			
Set 7			
Set 8			
Set 9			
Set 10			
Set 11			
Set 12			
Set 13			
Set 14			
Set 15			
Set 16			
Set 17			
Set 18			
Set 19			
Set 20			
Set 21			
Set 22			
Set 23			

CRIMINAL CASE COVER SHEET MIDDLE DISTRICT OF PENNSYLVANIA U.S. DISTRICT COURT

Place of Offense:
City Scranton, PA

County/Parish Lackawanna

Related Case Information: In Re: Grand Jury Misc. No. 95-98

Superseding Indictment_____ Docket Number_____
Same Defendant_____ New Defendant_____
Magistrate Judge Case Number_____

Search Warrant Case Number_____

R 20/R 40 from District of _____

Defendant Information:

Juvenile _____Yes X No **If Yes, Matter to be sealed:** _____Yes X No

Defendant Name Frank Serafini

Alias Name _____

Address 603 Main St.
Moosic PA 18507

Birthdate_____ SS #_____ Sex _____ Race_____ Nationality_____

AGENT:_____ Y

DEFENSE COUNSEL: Name Sal Cognetti Phone 717-346-0745

Address Suite 800, Scranton Electoric Bldg., Scarnton, PA 18503

U.S. Attorney Information:
AUSA Bruce D. Brandler Bar #_____

Interpreter _____Yes _____No **List Language and/or Dialect:**_____

Location Status:

Arrest Date_____

___ Already in Federal Custody as of _____ in _____

___ Already in State Custody
___ On Pretrial Release

U.S.C. Citations

Total # of Counts: 1 — x Indictment ___ Information ___ Petty ___ Misdeameanor ___ Felony

	Index Key/Code	Description of Offense Charged	Count(s)
Set 1	18 USC 1623	False Statements before grand jury	1
Set 2			
Set 3			
Set 4			

(May be continued on reverse)

Date: 10/7/97 Signature of AUSA: [signature]

JS 45 (1/96)

District Court Case Number (To be filled in by deputy clerk): _____

	Index Key/Code	Description of Offense Charged	Count(s)
Set 5			
Set 6			
Set 7			
Set 8			
Set 9			
Set 10			
Set 11			
Set 12			
Set 13			
Set 14			
Set 15			
Set 16			
Set 17			
Set 18			
Set 19			
Set 20			
Set 21			
Set 22			
Set 23			

EXHIBIT F:

Indictment from *United States v. Turner*, Criminal Action No. 06-00026-CKK (D.D.C.)

Defendant Concord Management and Consulting LLC's
Motion to Dismiss the Indictment
United States v. Internet Research Agency LLC, et al.,
Criminal Action No. 18-00032-DLF

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA	)	
	)	Indictment No. _____
	)	
v.	)	VIOLATIONS:
	)	
	)	18 U.S.C. § 371
PETER R. TURNER,	)	(Conspiracy)
	)	
LATANYA ANDREWS, and	)	18 U.S.C. § 201
	)	(Bribery)
THELMA LEONARD,	)	
Defendants.	)	18 U.S.C. § 201
	)	(Bribery)
	)	

THE GRAND JURY CHARGES THAT:

COUNT ONE

CONSPIRACY (18 U.S.C. § 371)
Defendants Peter R. Turner, LaTanya Andrews, and Thelma Leonard

INTRODUCTION

At all times relevant to this indictment:

1. Defendant LATANYA ANDREWS was an employee of the Department of Veterans Affairs Medical Center (DVAMC), located in the District of Columbia. Defendant LATANYA ANDREWS was employed as a Payroll Technician in the human resources office of the DVAMC. Defendant LATANYA ANDREWS's duties included accessing personnel paperwork and records concerning employees of the DVAMC kept and maintained in official personnel files located in the human resources office of the DVAMC.

2. Defendant PETER R. TURNER was a volunteer driver for the DVAMC, and a personal associate of defendant ANDREWS. Defendant

PETER R. TURNER was not authorized to access the official personnel files of DVAMC employees.

3. Defendant THELMA LEONARD was a personal associate of defendant PETER R. TURNER.

4. The FEGLI program is a group term life-insurance program established by the government of the United States to provide term life insurance coverage for active federal employees. The program is operated by the Office of Personnel Management (OPM), a department and agency of the United States, located in the District of Columbia. At all times relevant to this indictment, OPM had designated a private corporation as the insurance carrier for the FEGLI program (the "Insurance Carrier"). The employee premiums necessary to participate in the FEGLI program are paid in part by OPM and in part by the employee. A participating employee who does not wish life insurance benefits to be paid in the order of precedence established by the FEGLI program and applicable law may instead file a Designation of Beneficiary form, known as an SF 2823, designating intended beneficiaries and the percentage of life insurance benefits to be paid to each upon the death of the employee. Employees of the DVAMC who elected to participate in the FEGLI program were required to file any Designation of Beneficiary forms in the human resources office of the DVAMC.

5. VM was a licensed practical nurse employed by the DVAMC. As an active employee of the federal government, VM participated in the FEGLI program. From approximately 1998 to 2000, VM was the girlfriend of defendant PETER R. TURNER.

6. On or about December 8, 2000, while still an active employee of the DVAMC and while insured under the FEGLI program, VM suffered a stroke and was hospitalized; shortly thereafter VM lapsed into a coma. VM died on or about December 22, 2000.

THE CONSPIRACY

7. From on or about December 8, 2000 through on or about January 10, 2006 and continuing in the District of Columbia and elsewhere, defendants PETER R. TURNER, LATANYA ANDREWS and THELMA LEONARD, together with others, did combine, conspire, confederate, agree, and have a tacit understanding:

a. to knowingly and willfully defraud the United States by impairing, impeding, and defeating the lawful functions and duties of the OPM and the FEGLI program;

b. to commit an offense against the United States, that is, to use and cause the use of the mails in furtherance and in execution of a scheme and artifice to defraud and to obtain money and property by means of materially false and fraudulent pretenses, in violation of Title 18, United States Code, Section 1341;

c. to commit an offense against the United States, that is, to directly and indirectly, corruptly demand, seek, receive, accept, and agree to receive and accept a thing of value personally, that is, payment from defendant PETER R. TURNER to defendant LATANYA ANDREWS in the amount of approximately $1,000, in return for defendant LATANYA ANDREWS, being a public official, being influenced in the performance of official acts and being influenced to commit and aid in committing, and collude in, and allow, a fraud on the United States, that is, the placement of a fraudulent FEGLI Designation of Beneficiary form, known as an SF 2823, in the official personnel file of VM, in violation of Title 18, United States Code, Section 201(b)(2)(A) and (B); and

d. to commit an offense against the United States, that is, to directly and indirectly, corruptly give, offer, and promise a thing of value, that is, payment from defendant PETER R. TURNER to defendant LATANYA ANDREWS in the amount of approximately $1,000, with intent to influence the performance of official acts and to influence defendant LATANYA ANDREWS, being a public official, to commit and aid in committing, and collude in, and allow, a fraud on the United States, that is, the placement of a fraudulent FEGLI Designation of Beneficiary form, known as an SF 2823, in the official personnel file of VM, in violation of Title 18, United States Code, Section 201(b)(1)(A) and (B).

OBJECTS OF THE CONSPIRACY

8. It was the object of the conspiracy for defendants PETER R. TURNER, LATANYA ANDREWS and THELMA LEONARD, together with others, to obtain money and property under false and fraudulent pretenses from the FEGLI program. It was also an object of the conspiracy for defendant PETER R. TURNER to make payments to defendants LATANYA ANDREWS and THELMA LEONARD after obtaining money and property under false and fraudulent pretenses from the FEGLI program. It was also an object of the conspiracy to conceal the conspiracy itself and the acts committed in furtherance thereof.

MANNER AND MEANS OF THE CONSPIRACY

The conspiracy was accomplished through the following manner and means:

9. It was a part of the conspiracy that Defendant PETER R. TURNER would and did falsely and fraudulently designate himself as a beneficiary entitled to receive fifty (50) percent of VM's life insurance benefit on a FEGLI Designation of Beneficiary form, known as an SF 2823.

10. It was further a part of the conspiracy that defendant PETER R. TURNER would and did cause to be forged the signatures of VM and an authorized official of the human resources office of the DVAMC on the Designation of Beneficiary form.

11. It was further a part of the conspiracy that defendant THELMA LEONARD would and did sign the Designation of Beneficiary form as a witness to VM's signature without in truth and in fact witnessing VM sign the form.

12. It was further a part of the conspiracy that defendant LATANYA ANDREWS would and did use her position and authority as a payroll technician within the human resources office of the DVAMC to cause the fraudulent Designation of Beneficiary form to be placed in the official personnel file of VM.

13. It was further a part of the conspiracy that, following VM's death, defendant PETER R. TURNER would and did submit a false claim for fifty (50) percent of the total FEGLI life insurance benefit that was due and owing to VM's beneficiaries.

14. It was further a part of the conspiracy that defendant PETER R. TURNER would and did issue a check from a money market account established by the Insurance Carrier payable to defendant LATANYA ANDREWS.

15. It was further a part of the conspiracy that defendant PETER R. TURNER would and did issue a check from his checking account payable to defendant THELMA LEONARD's spouse, now deceased, for the benefit of defendant LEONARD.

16. It was further a part of the conspiracy that the conspirators would and did take steps to hide and conceal their role in the conspiracy and the fraudulent claim for life

insurance benefits by, among other methods, threatening witnesses and providing false statements to federal investigators and the Grand Jury.

OVERT ACTS

Defendants PETER R. TURNER, LATANYA ANDREWS, and THELMA LEONARD, together with others, committed the following overt acts, among others, in the District of Columbia and elsewhere, in furtherance of the conspiracy:

17. Between on or about December 8, 2000, and in or about January, 2001, defendant PETER R. TURNER caused the signatures of VM and an authorized agency official from the human resources office of the DVAMC to be forged on a Designation of Beneficiary form containing VM's personal information.

18. Between on or about December 8, 2000, and in or about January, 2001, defendant LATANYA ANDREWS caused the fraudulent Designation of Beneficiary form to be placed in VM's official personnel file located in the human resources office of the DVAMC.

19. On or about January 10, 2001, defendant PETER R. TURNER provided to the human resources office of the DVAMC an official claim form, which was necessary to assert a claim for payment of benefits under the FEGLI program.

20. In or about January, 2001, defendant PETER R. TURNER caused the fraudulent Designation of Beneficiary form to be sent

and delivered by private and commercial interstate carrier from the District of Columbia to the FEGLI processing center located in the State of New York.

21. On or about January 20, 2001, the Insurance Carrier issued a Total Control Account checkbook to defendant PETER R. TURNER, which allowed defendant PETER R. TURNER to access approximately $20,500 in a money market account established by the Insurance Carrier in payment of defendant PETER R. TURNER's fraudulent insurance claim.

22. On or about February 1, 2001, defendant PETER R. TURNER issued the first check from the Total Control Account checkbook in the amount of $1,000, payable to defendant LATANYA ANDREWS, which defendant LATANYA ANDREWS presented to a financial institution for cash on or about February 7, 2001.

23. On or about July 16, 2002, defendant PETER R. TURNER issued a check from his personal checking account in the amount of $1,000 to defendant THELMA LEONARD's spouse, now deceased. Defendant THELMA LEONARD's spouse deposited that check in a checking account held jointly with defendant THELMA LEONARD.

24. On or about October 20, 2004, in the District of Columbia, as part of an official investigation being conducted by the Offices of Inspector General for the Department of Veterans Affairs (VA) and OPM, defendant THELMA LEONARD was interviewed by agents from the VA and OPM. Defendant THELMA LEONARD provided a

voluntary statement. In her interview, defendant THELMA LEONARD provided false and misleading information, that is, that VM was present when defendant THELMA LEONARD signed the Designation of Beneficiary form as a signature witness.

25. On or about July 26, 2005, in the District of Columbia, as part of the investigation being conducted by the grand jury, Defendant THELMA LEONARD provided testimony to the grand jury. In her testimony, defendant THELMA LEONARD provided false and misleading information, that is, that VM was present when defendant THELMA LEONARD signed the Designation of Beneficiary form as a signature witness.

26. On or about November 22, 2005, in the District of Columbia, as part of an official investigation being conducted by the Offices of Inspector General for the VA and OPM, defendant LATANYA ANDREWS was interviewed by agents from the VA. Defendant LATANYA ANDREWS provided a voluntary statement. In her interview, defendant LATANYA ANDREWS concealed her role in accepting payment in exchange for causing the fraudulent Designation of Beneficiary form to be placed in the official personnel file of VM, and provided false and misleading information, that is, that the check she received from defendant PETER R. TURNER was a loan that she repaid in February, 2001.

27. In or about January, 2006, in the District of Columbia, Defendant PETER R. TURNER confronted a witness in the

investigation by the grand jury. Defendant PETER R. TURNER stated to the witness words to the effect that he was troubled about the investigation and, in the old days, would have gone home to get his guns.

All in violation of Title 18, United States Code, Section 371.

COUNT TWO

Bribery (18 U.S.C. § 201)
Defendant LaTanya Andrews

28. The allegations contained in Paragraphs 1 through 27 of this Indictment are realleged as though fully set forth herein.

29. On or about February 1, 2001, in the District of Columbia and elsewhere, defendant

LATANYA ANDREWS,

being a public official, did directly and indirectly, corruptly demand, seek, receive, accept, and agree to receive and accept a thing of value personally, that is, payment in the amount of approximately $1,000 from defendant PETER R. TURNER, in return for being influenced in the performance of official acts and being influenced to commit, and aid in committing, and collude in, and allow a fraud on the United States, that is, causing a fraudulent FEGLI Designation of Beneficiary form, known as an SF 2823, to be placed in the official personnel file of VM.

All in violation of Title 18, United States Code, Sections 201(b)(2)(A) and (B).

COUNT THREE

BRIBERY (18 U.S.C. § 201)
Defendant Peter R. Turner

30. The allegations contained in Paragraphs 1 through 27 and Paragraph 29 of this Indictment are realleged as though fully set forth herein.

31. On or about February 1, 2001, in the District of Columbia and elsewhere, defendant

PETER R. TURNER

did directly and indirectly, corruptly give, offer, and promise a thing of value, that is, payment in the amount of approximately $1,000, to defendant LATANYA ANDREWS, being a public official, with intent to influence the performance of official acts and to influence such official to commit and aid in committing, and collude in, and allow, a fraud on the United States, that is, causing a fraudulent FEGLI Designation of Beneficiary form, known as an SF 2823, to be placed in the official personnel file of VM.

All in violation of Title 18, United States Code, Sections 201(b)(1)(A) and (B).

A TRUE BILL

_____
FOREPERSON

DATED: _____

Presented by:

ANDREW LOURIE
Acting Chief
Public Integrity Section

DANIEL A. PETALAS
ANN C. BRICKLEY
Trial Attorneys
Public Integrity Section
Criminal Division
U.S. Department of Justice
10th Street and Constitution Ave. NW
Washington, D.C. 20530
(202) 514-1412
(202) 514-3003 (facsimile)

EXHIBIT G:

Information from *United States v. Mathis-Gardner,*
Criminal Action No. 11-00100-RJL (D.D.C.)

Defendant Concord Management and Consulting LLC's
Motion to Dismiss the Indictment
United States v. Internet Research Agency LLC, et al.,
Criminal Action No. 18-00032-DLF

UNITED STATES DISTRICT COURT
DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA	)	Criminal No.:
	)	
	)	Filed:
v.	)	
	)	Violations:
	)	18 U.S.C. § 371
DARLENE MATHIS-GARDNER,	)	Conspiracy to Defraud the United States
	)	
	)	18 U.S.C. § 287
Defendant.	)	Making of False Claims Upon the United States
	)	

INFORMATION

THE UNITED STATES, ACTING THROUGH ITS ATTORNEYS, CHARGES:

1. For the purposes of this Information, the "relevant period" is that period from in or about March 2007 until at least in or about January 2009. During the relevant period, Darlene MATHIS-GARDNER ("MATHIS-GARDNER" or "defendant") was the founder and president of Company A, a corporation with its principal place of business in Washington, D.C., that held itself out as a provider of interior design and furnishing services for commercial and government clients. During March 2007 to in or about August 2008, Company A was a Maryland corporation. During in or about August 2008 through the remainder of the relevant period, Company A was a District of Columbia corporation.

2. As Company A's president, MATHIS-GARDNER pursued new business for Company A from government clients. In or around December 2006, MATHIS-GARDNER learned of a contract to be let by the United States General Services Administration ("GSA") for

certain interior design and project management services. Over the next several months, she learned that the project involved a headquarters building being renovated for Immigration and Customs Enforcement ("ICE"), Department of Homeland Security. Upon award, the contract was identified by GSA as Contract No. GS-29F-T0003. The building was known as "Potomac Center North" ("PCN") and was located at 500 12th Street, SW, Washington, D.C. The GSA contract for the PCN interior design and project management services is referred to hereinafter as the "PCN contract."

3. During the relevant period, MATHIS-GARDNER retained Person A, a person with experience in retail store management, as a consultant to assist MATHIS-GARDNER in preparing a response to the RFQ (request for quotes) for the PCN contract, and to manage the project if awarded.

4. As a result of the charged offenses, ICE suffered a loss of $389,738.

5. Whenever this Information refers to any act, deed, or transaction of any company, it means that the company engaged in the act, deed, or transaction by or through its officers, directors, employees, agents or other representatives while they were actively engaged in the management, direction, control, or transaction of its business or affairs. Various individuals not made defendants in this Information participated as co-conspirators in the conspiracy charged in Count One herein and performed acts and made statements in furtherance thereof.

COUNT ONE
18 U.S.C. § 371
(Conspiracy)

Paragraphs 1 through 5 of this Information are incorporated by reference as if fully stated herein, and the following is further alleged:

6. Beginning in or about March 2007 and continuing until in or about June 2007, in the District of Columbia and elsewhere, defendant,

DARLENE MATHIS-GARDNER,

did knowingly and unlawfully combine, conspire, confederate, and agree with other persons, both known and unknown to the United States, to defraud the United States by providing false and fraudulent information, documents, and representations to GSA in order to obtain the approximately $1.3 million PCN contract.

THE CONSPIRACY AND ITS OBJECTS

7. The charged conspiracy consisted of a continuing agreement, understanding, and concert of action among the defendant and her co-conspirators, the substantial terms of which were to obtain through fraud and deceit an award of the PCN contract.

MANNER AND MEANS OF THE CONSPIRACY

It was a part of the conspiracy that MATHIS-GARDNER, Company A, Person A, and others would, among other things, do the following:

8. Knowingly and willfully provide to GSA, as part of Company A's bid proposal for the PCN contract, false and fraudulent information, documents, and representations regarding the background and qualifications of persons Company A had retained to perform work under the PCN contract;

9. Knowingly and willfully provide to GSA as part of Company A's bid proposal for the PCN contract, false and fraudulent information, documents, and representations regarding past performance by Company A on other interior design projects and amounts paid to Company A for such performance; and

10. Knowingly and willfully create and submit fictitious invoices to GSA purporting to document Company A's past performance on projects similar to the PCN contract in their size and scope and the amounts paid by government and commercial clients for such projects, to justify Company A's bid proposal for the PCN contract.

OVERT ACTS

In furtherance of the conspiracy and in order to accomplish its objects, the following overt acts, among others, were committed by defendant and her co-conspirators in the District of Columbia and elsewhere:

11. In or about April 2007, MATHIS-GARDNER and Person A prepared a written supplement to Company A's proposal for the PCN contract that falsely overstated the background and qualifications of Company A to perform the PCN contract. Among other false and fraudulent information, the supplement represented that certain individuals had worked for Company A for years although some in fact had never worked there and others had worked there for less than the duration claimed. The supplement also represented that certain employees had particular security clearances and professional certifications when they did not. MATHIS-GARDNER arranged for the submission of the supplement to GSA in support of Company A's bid proposal.

12. In or about May 2007, MATHIS-GARDNER prepared and faxed written instructions to Person A that explained how to create fictitious invoices that were supposed to reflect Company A's past performance to GSA. MATHIS-GARDNER's instructions provided customer names, task descriptions, employee names, labor rates, and dollar values for Person A to use in creating the fictitious invoices with Company A's logo.

13. In or about May 2007, Person A created several false invoices on a computer as

directed by MATHIS-GARDNER. For example, Person A created a false invoice purporting to reflect approximately $1.25 million in work by Company A for Fannie Mae that had never been done. While Company A had a contractual relationship with Fannie Mae, no work had been ordered or performed under that arrangement. Person A also created a false invoice purporting to reflect approximately $1.1 million in work for the District of Columbia Department of Parks and Recreation, which contained false labor categories, task descriptions, and hourly rates for Company A's performance under the contract, falsely identified Company A as a prime contractor on the project when it had been a subcontractor, and substantially overstated the total amount that Company A had billed for its services on the contract. MATHIS-GARDNER arranged for copies of the false invoices to be transmitted to GSA.

14. In or about June 2007, based on the false and fraudulent information, documents, and representations that MATHIS-GARDNER had submitted, GSA awarded to Company A a prime contract for the PCN interior design and project management work with a total value of approximately $1.3 million.

ALL IN VIOLATION OF SECTION 371 OF TITLE 18 OF THE UNITED STATES CODE.

COUNT TWO
18 U.S.C. § 287
(False Claims Act)

Paragraphs 1 through 5 of this Information are incorporated by reference as if fully stated herein, and the following is further alleged:

15. As Company A's president, defendant exercised management authority over the invoices that Company A submitted between June 2007 and January 2009 for its work under the

PCN Contract. During that time period, in the District of Columbia and elsewhere, defendant,

DARLENE MATHIS-GARDNER,

made and presented to GSA, being a department or agency of the United States, false and fraudulent claims, knowing such claims to be false and fraudulent in that they materially overstated the number of hours of work performed by Company A's personnel. Among the false and fraudulent claims that defendant made and presented were the following invoices for Company A's work on the PCN Contract:

March 18, 2008 Invoice for period November 1, 2007 to November 30, 2007

March 18, 2008 Invoice for period December 1, 2007 to December 31, 2007

ALL IN VIOLATION OF SECTION 287 OF TITLE 18 OF THE UNITED STATES CODE.

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EXHIBIT H:

Indictment from *United States v. Kanchanalak*, Criminal Action No. 98-00241-PLF (D.D.C.)

Defendant Concord Management and Consulting LLC's
Motion to Dismiss the Indictment
United States v. Internet Research Agency LLC, et al.,
Criminal Action No. 18-00032-DLF

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Holding a Criminal Term
Grand Jury Sworn in on December 8, 1995

UNITED STATES OF AMERICA	:	CRIMINAL NO.: 98-0241 PLF
	:	
v.	:	VIOLATIONS:
	:	18 U.S.C. § 371 (Conspiracy);
PORNPIMOL "PAULINE" KANCHANALAK (aka PORNPIMOL PARICHATTKUL) and DUANGNET "GEORGIE" KRONENBERG	:	18 U.S.C. § 1001 (False Statements); 2 U.S.C. §§ 441b, 441e & 437g(d)(1)(A) (Corporate and Foreign National Contributions, in Criminal Violation of the Federal Election Campaign Act); 18 U.S.C. § 2(b) (Causing an Act to Be Done)

FRIEDMAN, J. PLF

B

FILED IN OPEN COURT

NOV 13 1998

CLERK, U.S. DISTRICT COURT
DISTRICT OF COLUMBIA

SUPERSEDING INDICTMENT

The Grand Jury charges:

COUNT ONE

CONSPIRACY TO IMPAIR AND IMPEDE THE LAWFUL FUNCTION OF THE FEDERAL ELECTION COMMISSION

Introductory Allegations

1. Between on or about August 30, 1993, and on or about December 31, 1996, Ban Chang International (USA), Inc. ("BCI USA") was a corporation organized under the laws of the Cayman Islands with offices located in the Washington Harbour office complex, 3000 and 3050 K Street, N.W., Washington, D.C. BCI USA was affiliated with Ban Chang International (Thailand), Ltd. ("BCI Thailand"), a corporation organized under the laws of the Kingdom of Thailand.

2. Defendant PORNPIMOL "PAULINE" KANCHANALAK (aka PORNPIMOL PARICHATTKUL) was a director, 30 percent shareholder, and President

SUPERSEDING

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of BCI USA.

3. Defendant DUANGNET KRONENBERG was the Secretary of BCI USA. Defendant KRONENBERG also held herself out to the public as the Vice President of Operations of BCI USA. Defendant KRONENBERG is the sister of Chupong Kanchanalak (also known as Jeb Kanchanalak), who is married to defendant PAULINE KANCHANALAK. Thus, defendant DUANGNET KRONENBERG is the sister-in-law of defendant PAULINE KANCHANALAK.

4. Praitun Kanchanalak, an unindicted coconspirator with respect to the conspiracy charged in this Count, is the mother of defendant DUANGNET KRONENBERG and the mother-in-law of defendant PAULINE KANCHANALAK. At all times material to this Count, Praitun Kanchanalak was not a shareholder, officer, director, employee or creditor of BCI USA or of any entity affiliated with BCI USA, nor did Praitun Kanchanalak perform any consulting or other services for BCI USA or for any entity affiliated with BCI USA.

5. Jeb Kanchanalak, an unindicted coconspirator with respect to the conspiracy charged in this Count, was a director, 20 percent shareholder, and Vice President of BCI USA, and was the Managing Director and/or President of BCI Thailand.

6. Between on or about November 16, 1993, and continuing through at least July 1, 1996, AEGIS Capital Management Limited ("AEGIS") was a corporation organized under the laws of Hong Kong with offices located in the Washington Harbour office complex, 3050 K Street, N.W., Washington, D.C. Defendant PAULINE KANCHANALAK was one of two "Directors" of AEGIS. AEGIS's other Director was

Supharb Parichattkul, defendant PAULINE KANCHANALAK's mother. Defendant DUANGNET KRONENBERG was the Secretary of AEGIS.

7. At all times material to this Count, defendant DUANGNET KRONENBERG and Praitun Kanchanalak were lawfully admitted for permanent residence in the United States. At all times material to this Count, defendant PAULINE KANCHANALAK, Jeb Kanchanalak, and Supharb Parichattkul were neither citizens nor lawful permanent residents of the United States.

8. Pairoj Piempongsant was a director and 30 percent shareholder of BCI USA, and was a director of BCI Thailand.

9. At all times material to this Count, it was prohibited under the provisions of the Federal Election Campaign Act ("FECA"):

(a) for any person to contribute more than $1,000.00 to the campaign of a candidate for federal office for the candidate's primary election;

(b) for any person to contribute more than $1,000.00 to the campaign of a candidate for federal office for the candidate's general election;

(c) for any person to make a contribution in the name of another person for the purpose of influencing any election for federal office;

(d) for any corporation to make a contribution for the purpose of influencing any election for federal office; and

(e) for any corporation organized under the laws of a foreign nation, or for any individual not a

citizen of the United States and not lawfully admitted for permanent residence in the United States, to make a contribution for the purpose of influencing any election for federal office.

10. At all times material to this Count, the Federal Election Commission ("FEC") was an agency of the United States government, headquartered in Washington, D.C., and was responsible for enforcing the reporting requirements of the FECA, and for directing, investigating, and instituting civil enforcement actions with respect to violations of the FECA, including the provisions referred to in paragraph 9 of this Count. The FEC also was responsible for providing accurate information to the public about the amounts and sources of certain federal political contributions and non-federal political donations.

11. At all times material to this Count, under the provisions of the FECA, the responsible officials of "political committees," as that term is defined in the FECA, 2 U.S.C. § 431(4), were required to file periodic reports with the FEC listing the contributions received by such committees. In each report, the responsible official was required to state the following for all contributions that were made by a person who contributed more than $200 during the calendar year:

(a) the identity of the contributor;

(b) the date of the contribution; and

(c) the amount of the contribution.

12. The following entities were "political committees" within

the meaning of the FECA and therefore were required to submit periodic reports to the FEC concerning certain contributions they received in connection with elections for federal office:

(a) Democratic National Committee ("DNC")

(b) Democratic Senatorial Campaign Committee ("DSCC")

(c) Wayne Owens for Senate Committee

(d) Democratic State Central Committee of California - Federal

(e) Marjorie Margolies-Mezvinsky for Congress

(f) Friends of Marjorie Margolies-Mezvinsky

(g) Gephardt in Congress Committee

(h) Kennedy for Senate Committee

(i) Friends of John Glenn

(j) Friends of Jane Harman

(k) Clinton/Gore '96 Primary Committee

(l) Coopersmith for Congress

13. At all times material to this Count, the DNC was a "national committee" within the meaning of the FECA, 2 U.S.C. § 431(14), and thus also was required, pursuant to 11 C.F.R. § 104.8(e), to report information to the FEC concerning certain donations to its non-federal account. In particular, the DNC was required to state the following for all donations that were made by a person who donated more than $200 during a calendar year to the DNC's non-federal account:

(a) the identity of the donor;

(b) the date of the donation; and

(c) the amount of the donation.

14. In or about 1988, the DNC established the Trustee Program for major supporters of the Democratic Party. At all times material to this Count, in order to be a "Trustee" of the DNC, an individual was required either to contribute and/or donate $50,000.00 to the DNC or to raise $100,000.00 in contributions and/or donations for the DNC in a calendar year. At all times material to this Count, in order to be a "Managing Trustee" of the DNC, an individual was required either to contribute and/or donate $100,000.00 to the DNC or to raise $200,000.00 in contributions and/or donations for the DNC in a calendar year.

15. In or about May 1994, defendant PAULINE KANCHANALAK achieved the status of DNC Trustee. In or about October 1994, defendant PAULINE KANCHANALAK achieved the status of DNC Managing Trustee.

The Conspiracy

16. Beginning in or about September 1992, and continuing through in or about November 1996, in the District of Columbia and elsewhere, defendants PAULINE KANCHANALAK and DUANGNET KRONENBERG, and others known and unknown to the grand jury, combined, conspired, and agreed with each other to defraud the United States by impairing, impeding, and defeating the lawful functions and duties of the FEC.

Purpose of the Conspiracy

17. The purpose of the conspiracy was for defendants PAULINE KANCHANALAK, DUANGNET KRONENBERG, and others known and unknown to the grand jury to use funds from BCI USA, AEGIS, BCI Thailand,

PAULINE KANCHANALAK, Jeb Kanchanalak, and other corporations and/or "foreign nationals," as that term is defined in the FECA, 2 U.S.C. § 441e(b), to make at least $392,000 in prohibited contributions and other political donations to the DNC and other political committees, without being detected by the FEC or the public.

18. It was the further purpose of the conspiracy for defendants PAULINE KANCHANALAK and DUANGNET KRONENBERG to gain favor with the DNC by making substantial contributions and donations to the DNC and other Democratic political committees, using funds that belonged to undisclosed corporations and/or foreign nationals, and thereby to gain access to President Clinton and members of his Administration for defendants KANCHANALAK and KRONENBERG and for their clients, which defendants believed would help their business ventures.

Manner and Means of the Conspiracy

19. It was a part of the conspiracy that defendants PAULINE KANCHANALAK and DUANGNET KRONENBERG used funds from BCI USA, AEGIS, BCI Thailand, PAULINE KANCHANALAK, Jeb Kanchanalak, Supharb Parichattkul, and other foreign nationals to make prohibited campaign contributions, as well as donations to the non-federal account of the DNC, and concealed the true sources of these contributions and donations by making such contributions and donations with checks drawn on bank accounts held in the names of DUANGNET KRONENBERG and Praitun Kanchanalak.

20. It was a part of the conspiracy that defendants PAULINE KANCHANALAK and DUANGNET KRONENBERG caused checks to be written on

BCI USA's bank account at Riggs National Bank ("Riggs") payable to DUANGNET KRONENBERG, Praitun Kanchanalak, and "P. Kanchanalak," and caused those checks to be deposited into bank accounts held in the names of DUANGNET KRONENBERG and Praitun Kanchanalak.

21. It was a part of the conspiracy that defendants PAULINE KANCHANALAK and DUANGNET KRONENBERG caused checks to be written on AEGIS's bank account at Riggs payable to DUANGNET KRONENBERG and "P. Kanchanalak," and caused those checks to be deposited into bank accounts held in the names of DUANGNET KRONENBERG and Praitun Kanchanalak.

22. It was a part of the conspiracy that defendants PAULINE KANCHANALAK and DUANGNET KRONENBERG caused funds from BCI USA and AEGIS which were deposited into accounts held in the names of DUANGNET KRONENBERG and Praitun Kanchanalak to be contributed and/or donated to various political committees located in the United States.

23. It was a part of the conspiracy that defendants PAULINE KANCHANALAK and DUANGNET KRONENBERG prepared and submitted false or deceptive statements to political committees in order to conceal the true sources of the contributions and/or donations made to such committees.

24. It was a part of the conspiracy that defendants PAULINE KANCHANALAK and DUANGNET KRONENBERG caused political committees to receive contribution and donation checks drawn on Praitun Kanchanalak's bank account which were imprinted and signed "P. Kanchanalak," thereby causing several such political committees to

believe that the contributions and donations were being made from an account held by defendant PAULINE KANCHANALAK.

25. It was a part of the conspiracy that defendants PAULINE KANCHANALAK and DUANGNET KRONENBERG concealed their unlawful activities from the FEC and the public by causing political committees to submit false reports to the FEC.

Overt Acts

26. In furtherance of the conspiracy, and to accomplish its objects, defendants PAULINE KANCHANALAK and DUANGNET KRONENBERG, and others known and unknown to the grand jury, committed the following overt acts in the District of Columbia and elsewhere:

A. $16,750.00 in Foreign National Contributions Made in the Name of Praitun Kanchanalak in 1992

(1) Between on or about September 25, 1992, and on or about October 20, 1992, defendant PAULINE KANCHANALAK caused the following contributions to be made in the name of Praitun Kanchanalak:

Date of Check	Recipient	Amount
9/25/92	DNC	$11,000.00
10/5/92	Wayne Owens for Senate Committee	$ 500.00
10/20/92	Democratic State Central Committee of California - Federal	$ 5,000.00
10/20/92	DSCC	$ 250.00
	Total	$ 16,750.00

(2) Between on or about September 25, 1992, and on or about October 20, 1992, defendant PAULINE KANCHANALAK provided Praitun Kanchanalak with $16,750.00 in funds drawn on defendant

PAULINE KANCHANALAK's personal accounts at Bank-Fund Staff Federal Credit Union ("BFSFCU") and First American Bank of Virginia ("First American") for the purpose of funding the contributions listed in subparagraph (1).

(3) On or about March 4, 1993, Praitun Kanchanalak signed a "contributor information form" sent to her by the DSCC in order for the DSCC to be able to comply with federal contribution reporting requirements.

B. $4,000.00 in Conduit/Foreign National Contributions Made in Connection with 1993 Fundraiser for Representative Marjorie Margolies-Mezvinsky

(4) In or about August 1993, defendant PAULINE KANCHANALAK agreed to be one of four host committee members for a fundraising breakfast to be held in September 1993 to benefit the reelection campaign of Representative Marjorie Margolies-Mezvinsky of Pennsylvania. Defendant DUANGNET KRONENBERG was on the organizing committee for this fundraiser.

(5) On or about August 10, 1993, defendant PAULINE KANCHANALAK wrote a $4,000.00 check made payable to defendant DUANGNET KRONENBERG drawn on Supharb Parichattkul's Merrill Lynch cash management account.

(6) On or about August 10, 1993, defendant DUANGNET KRONENBERG wrote a $2,000.00 check made payable to Praitun Kanchanalak.

(7) On or about August 10, 1993, defendant DUANGNET KRONENBERG wrote a $2,000.00 check made payable to "MMM for Congress."

(8) On or about August 10, 1993, Praitun Kanchanalak wrote a $2,000.00 check made payable to "MMM for Congress."

(9) On or about August 10, 1993, in connection with the upcoming fundraising breakfast for Representative Margolies-Mezvinsky, defendant PAULINE KANCHANALAK provided the two contribution checks described in subparagraphs (7) and (8) to a member of Representative Margolies-Mezvinsky's campaign staff.

(10) On or about September 22, 1993, PAULINE KANCHANALAK, DUANGNET KRONENBERG, and Praitun Kanchanalak attended the fundraising breakfast for Representative Margolies-Mezvinsky that defendants PAULINE KANCHANALAK and DUANGNET KRONENBERG had helped to organize. Also in attendance at this event were Vice President Albert Gore, Jr. and Representative Margolies-Mezvinsky.

C. 1994 Contributions and Donations

(11) In or about February 1994, BCI USA and BCI Thailand budgeted $135,000.00 for political contributions and/or donations and other politically related payments in the United States for calendar year 1994. One of the budgeted items was $100,000.00 to the DNC to pay for "Renewal of DNC Trusteeship."

(12) Between on or about March 17, 1994, and on or about October 14, 1994, approximately $121,250.00 in contributions and/or donations were made by way of checks drawn on accounts held in the name of DUANGNET KRONENBERG and Praitun Kanchanalak, using funds that were provided to DUANGNET KRONENBERG and Praitun Kanchanalak by BCI USA.

Contributions and Donations Made with Checks Drawn on Praitun Kanchanalak's Account at First Virginia

(13) Between on or about March 17, 1994, and on or about October 14, 1994, the following contributions and donations were made by way of checks drawn on Praitun Kanchanalak's account at First Virginia Bank ("First Virginia") using BCI USA funds that had been deposited into Praitun Kanchanalak's First Virginia account via DUANGNET KRONENBERG's personal account at First Union National Bank ("First Union"):

Date of Check	Recipient	Amount
3/17/94	DNC	$15,000.00
3/22/94	Gephardt in Congress	$ 1,500.00
4/18/94	DNC	$15,000.00
5/3/94	Friends of Marjorie Margolies-Mezvinsky (primary)	$ 1,000.00
5/3/94	Friends of Marjorie Margolies-Mezvinsky (general)	$ 1,000.00
5/19/94	Kennedy for Senate	$ 1,000.00
10/14/94	DNC	$32,500.00
	Total	$67,000.00

(14) Defendant DUANGNET KRONENBERG signed the BCI USA checks which were used to fund the contributions and donations listed in subparagraph (13).

(15) The checks used to make the contributions and donations listed in subparagraph (13) were imprinted and signed "P. Kanchanalak," in order to cause the recipient political committees to believe that the funds were coming from an account held by PAULINE KANCHANALAK.

(16) On or about April 18, 1994, DUANGNET KRONENBERG conveyed the April 18, 1994, $15,000.00 check listed in subparagraph (13) to a DNC fundraiser located in Washington, D.C., with an accompanying memorandum which stated:

> Enclosed please find a check for $15,000.00 payable to DNC (non-federal) as part of Ms. Kanchanalak's contribution to the DNC Trustee Program. As earlier discussed with you, the remaining $20,000.00 will be payable at the end of May 1994 which will conclude the total contribution of $50,000.
>
> Please also mail me the Federal Election Commission Report Form.

Contributions and Donations Made with Checks Drawn on DUANGNET KRONENBERG's Account at First Union

(17) Between on or about May 25, 1994, and on or about October 6, 1994, the following contributions and donations were made by way of checks drawn on DUANGNET KRONENBERG's account at First Union, using BCI USA funds that were provided to DUANGNET KRONENBERG for the purpose of making such contributions and donations:

Date of Check	Recipient	Amount
5/25/94	Friends of John Glenn	$ 1,000.00
5/26/94	DNC	$20,000.00
6/7/94	DNC	$15,000.00
9/20/94	Friends of Jane Harman	$ 500.00
	Total	$36,500.00

(18) Defendant DUANGNET KRONENBERG signed the BCI USA checks which were used to fund the contributions and donations listed in subparagraph (17).

(19) The May 26, 1994, $20,000.00 contribution to the DNC

listed in subparagraph (17) was made as the final payment toward PAULINE KANCHANALAK's 1994 DNC Trustee dues.

(20) On or about May 25, 1994, defendant DUANGNET KRONENBERG provided Friends of John Glenn with information about herself on a form which noted that the requested information was "required by the Federal Election Commission."

(21) On or about May 27, 1994, BCI USA issued a check to defendant DUANGNET KRONENBERG in the amount of $2,628.40. The memo line of this check read: "May 15-30 + expenses." This BCI USA check constituted KRONENBERG's BCI USA paycheck for the period May 15, 1994, through May 30, 1994, plus reimbursement of "expenses" in the amount of $1,128.40. $1,000.00 of these "expenses" included the $1,000.00 contribution to Friends of John Glenn listed in subparagraph (17).

(22) On or about September 22, 1994, BCI USA issued a $2,000.00 check to DUANGNET KRONENBERG. The memo line of this check read "Sept: 1-15 & consulting." This BCI USA check constituted KRONENBERG's BCI USA paycheck for the period September 1, 1994, through September 15, 1994, plus reimbursement of the $500.00 contribution to the Friends of Jane Harman that Kronenberg had made approximately two days earlier.

(23) In or about September 1994, defendant PAULINE KANCHANALAK pledged to donate $50,000.00 as co-chair of the Second Annual Issues Conference of the Women's Leadership Forum ("WLF"), which was to be held in Washington, D.C. in early October 1994. The WLF was a donor council within the DNC's Finance division.

(24) The $32,500.00 donation to the DNC listed in subparagraph (13) was made by the defendants to partially fulfill PAULINE KANCHANALAK's $50,000.00 pledge in connection with the WLF conference.

D. $1,000.00 Contribution to Clinton/Gore '96

(25) In or about June 1995, PAULINE KANCHANALAK, having been asked to make a contribution to the Clinton/Gore '96 Primary Committee, requested that DUANGNET KRONENBERG "handle" the making of such a contribution for her. Writing partially in English and partially in Thai, PAULINE KANCHANALAK faxed KRONENBERG: "When you fill out the info regarding the donation ..., be very careful. Don't take for granted." Elsewhere on the same document, PAULINE KANCHANALAK instructed KRONENBERG partially in English and partially in Thai: "Use the name P. Kanchanalak and mom's SS# and add. You don't need to fill out the work address or occupation."

(26) On or about June 12, 1995, DUANGNET KRONENBERG wrote a $1,000.00 check made payable to "P. Kanchanalak."

(27) On or about June 14, 1995, the $1,000.00 check described in the preceding subparagraph was deposited into Praitun Kanchanalak's account at First Virginia.

(28) On or about June 14, 1995, BCI USA issued a $1,000.00 check to DUANGNET KRONENBERG. This check, which was signed by defendant KRONENBERG, contained a handwritten notation in the memo line referring to "Clinton/Gore '96."

(29) On or about June 16, 1995, a $1,000.00 check was made out to Clinton/Gore '96 on Praitun Kanchanalak's First

Virginia account. This check was imprinted and signed "P. Kanchanalak" and contained a handwritten notation of Praitun Kanchanalak's Social Security Number.

E. 1996 Contributions and Donations

(30) In or about January 1996, defendant PAULINE KANCHANALAK joined the DNC's Finance Board of Directors, pledging to contribute/donate or raise at least $350,000.00 for the DNC.

$25,000.00 in Contributions and Donations in Connection with the February 19, 1996, DNC Dinner at the Hay-Adams Hotel

(31) On or about February 19, 1996, defendants PAULINE KANCHANALAK and DUANGNET KRONENBERG attended a DNC fundraising dinner at the Hay-Adams Hotel in Washington, D.C. The suggested ticket price per person for this event was a $12,500.00 payment to the DNC.

(32) On or about February 21, 1996, defendants PAULINE KANCHANALAK and DUANGNET KRONENBERG caused BCI USA to receive a wire transfer deposit of $14,985.00 into its Riggs account ($15,000.00 minus $15.00 for the wire transfer fee). These funds were wired through Siam City Bank by an individual affiliated with Jeb Kanchanalak.

(33) On or about February 21, 1996, BCI USA issued a $15,000.00 check drawn on its Riggs account made payable to Praitun Kanchanalak. This check, which was signed by defendant DUANGNET KRONENBERG, contained a notation in the memo line of "consulting fee."

(34) On or about February 26, 1996, a $10,000.00 check

was made out to the DNC on Praitun Kanchanalak's account at First Virginia, containing a typed entry of "dinner 2/19" on the memo line. This check was imprinted and signed "P. Kanchanalak."

(35) On or about February 26, 1996, defendant DUANGNET KRONENBERG wrote a $5,000.00 check to the DNC in connection with the Hay-Adams dinner.

(36) On or about March 4, 1996, defendant DUANGNET KRONENBERG deposited $4,877.65 into her First Union account by way of checks provided to her by BCI USA and Praitun Kanchanalak.

(37) On or about March 6, 1996, having caused $15,000.00 to be contributed to the DNC in connection with the Hay-Adams dinner, out of the $25,000.00 that represented the full price of two tickets to that event, defendant PAULINE KANCHANALAK sent a memorandum to Pairoj Piempongsant with a copy to Jeb Kanchanalak, which said in a post-script: "The DNC calls me everyday. Please help!"

(38) On or about March 8, 1996, defendant DUANGNET KRONENBERG wrote a $5,000.00 check made payable to the DNC.

(39) On or about March 11, 1996, defendant PAULINE KANCHANALAK caused BCI USA to receive a wire transfer deposit of $9,985.00 into its Riggs account ($10,000.00 minus a wire transfer fee of $15.00) from a Thai corporation affiliated with BCI USA. Prior to this deposit, BCI USA's account at Riggs had a balance of $926.78.

(40) On or about March 13, 1996, BCI USA issued a $5,000.00 check drawn on its Riggs account to defendant DUANGNET

KRONENBERG. This check, which was signed by defendant KRONENBERG, contained a notation in the memo line of: "consulting fee."

(41) On or about March 14, 1996, defendant DUANGNET KRONENBERG wrote a $5,000.00 check made payable to the DNC.

(42) On or about March 15, 1996, BCI USA issued a $5,000.00 check drawn on its Riggs account to defendant DUANGNET KRONENBERG. This check, which was signed by defendant KRONENBERG, contained a notation in the memo line of: "consulting fee."

$10,000.00 in Donations to the DNC in May 1996

(43) On or about May 15, 1996, BCI USA issued two sequential checks to Praitun Kanchanalak and DUANGNET KRONENBERG, respectively, each in the amount of $5,000.00. Both of these checks were signed by defendant DUANGNET KRONENBERG. The memo line of the check to Praitun Kanchanalak read: "consulting."

(44) On or about May 23, 1996, a $5,000.00 check was made payable to the DNC on Praitun Kanchanalak's account at First Virginia. This check was imprinted and signed "P. Kanchanalak."

(45) On or about May 23, 1996, defendant DUANGNET KRONENBERG wrote a $5,000.00 check made payable to the DNC.

$185,000.00 in Donations to the DNC in June 1996

(46) On or about June 7, 1996, Jeb Kanchanalak wired $100,000.00 into defendant DUANGNET KRONENBERG's First Union account. After a series of transactions between defendant DUANGNET KRONENBERG and defendant PAULINE KANCHANALAK between on or about June 7, 1996, and on or about June 20, 1996, defendant KRONENBERG retained a net sum of $85,000.00 out of the $100,000.00 wire

transfer into her First Union account from Jeb Kanchanalak on or about June 7, 1996.

(47) On or about June 7, 1996, Jeb Kanchanalak wired $100,000.00 into Praitun Kanchanalak's First Virginia account. After a series of transfers between Praitun Kanchanalak and PAULINE KANCHANALAK between on or about June 13, 1996, and on or about July 1, 1996, Praitun Kanchanalak retained a net sum of $77,500.00 out of the $100,000.00 wire transfer into her First Virginia account from Jeb Kanchanalak on or about June 7, 1996. (The remaining $22,500.00 of this wire transfer was passed through PAULINE KANCHANALAK's BFSFCU account to DUANGNET KRONENBERG, as described below in subparagraph (53).)

(48) On or about June 13, 1996, Jeb Kanchanalak wired $275,510.00 into AEGIS's Riggs account. The wire transfer confirmation sheet for this deposit into AEGIS's account described the purpose of the transfer as "professional service fees." Prior to this infusion of funds, AEGIS's Riggs account had a balance of $500.59.

(49) On or about June 17, 1996, defendants PAULINE KANCHANALAK and DUANGNET KRONENBERG caused AEGIS to issue three sequential checks drawn on its Riggs account made out to "P. Kanchanalak" in the amounts of $75,000.00, $75,000.00, and $50,000.00, respectively. Defendant DUANGNET KRONENBERG signed all three of these AEGIS checks.

(50) On or about June 17, 1996, the three AEGIS checks made out to "P. Kanchanalak" described in subparagraph (49) were

deposited into Praitun Kanchanalak's First Virginia account, which, combined with the $77,500.00 left in that account from the $100,000.00 wire transfer from Jeb Kanchanalak on or about June 7, 1996, amounted to $277,500.00 in deposits into Praitun Kanchanalak's First Virginia account that were traceable back to wire transfers from Jeb Kanchanalak in or about June 1996.

(51) On or about June 18, 1996, defendant PAULINE KANCHANALAK and three individuals affiliated with the C.P. Group, a Thai corporation, attended a "coffee" at the White House hosted by President Clinton. Others in attendance at this coffee included, among others, John Huang and Donald Fowler of the DNC. The Chairman of the C.P. Group, Mr. Dhanin, spoke for the majority of the event, discussing primarily economic and political issues relating to the relationship between the United States and the People's Republic of China.

(52) On or about June 20, 1996, AEGIS issued a $75,000.00 check drawn on its Riggs account made payable to DUANGNET KRONENBERG, which was signed by defendant KRONENBERG.

(53) On or about June 24, 1996, defendant DUANGNET KRONENBERG deposited into her First Union account the $75,000.00 AEGIS check described in the preceding subparagraph, simultaneously depositing a $22,500.00 check made payable to defendant KRONENBERG drawn on defendant PAULINE KANCHANALAK's BFSFCU account, dated June 21, 1996. When combined with the $85,000.00 left in defendant KRONENBERG's First Union account from the $100,000.00 wire transfer from Jeb Kanchanalak on or about June 7, 1996, as of June 24, 1996,

a net total of approximately $182,500.00 in deposits into defendant KRONENBERG's account were traceable to wire transfers from Jeb Kanchanalak in or about June 1996.

(54) Several checks, including a $50,000.00 donation to the DNC, were written on defendant DUANGNET KRONENBERG's First Union account, as follows:

Date of Check	Recipient	Amount
6/13/96	California Democratic Party	$30,000.00
6/15/96	Florida Democratic Party	$25,000.00
6/18/96	DNC	$50,000.00
6/18/96	Illinois Democratic Party	$30,000.00
6/21/96	Ohio Democratic Party	$20,000.00
6/25/96	Pennsylvania Democratic Party	$25,000.00
	Total	$180,000.00

(55) Several checks, including two donations to the DNC totalling $135,000.00, were written on Praitun Kanchanalak's First Virginia account, as follows:

Date of Check	Recipient	Amount
6/19/96	DNC	$85,000.00
6/24/96	DNC	$50,000.00
6/25/96	California Democratic Party	$24,500.00
6/27/96	Florida Democratic Party	$35,000.00
6/29/96	Ohio Democratic Party	$33,000.00
7/5/96	Illinois Democratic Party	$25,000.00
7/5/96	Pennsylvania Democratic Party	$25,000.00
	Total	$277,500.00

Contributions and Donations to the DNC and Coopersmith for Congress

(56) On or about August 18, 1996, defendants PAULINE KANCHANALAK and DUANGNET KRONENBERG traveled from Washington, D.C., to New York City, staying overnight at the Waldorf-Astoria Hotel. On or about August 18, 1996, the DNC held a fundraising event at the Waldorf-Astoria Hotel in New York City in celebration of President Clinton's fiftieth birthday.

(57) On or about August 19, 1996, BCI USA issued a $20,000.00 check to defendant DUANGNET KRONENBERG. Defendant KRONENBERG signed this $20,000.00 BCI USA check made out to herself.

(58) On or about August 22, 1996, defendant DUANGNET KRONENBERG wrote a $20,000.00 check made payable to Praitun Kanchanalak.

(59) On or about August 26, 1996, the $20,000.00 check described in the preceding subparagraph was deposited into Praitun Kanchanalak's First Virginia account.

(60) On or about August 26, 1996, a $1,000.00 check was written on Praitun Kanchanalak's First Virginia account made payable to Coopersmith for Congress. This check was imprinted and signed "P. Kanchanalak." At the time of this contribution, Jeffrey Coopersmith was seeking election to the U.S. House of Representatives from a congressional district located in the State of Washington.

(61) On or about August 26, 1996, a $1,000.00 check was written on defendant DUANGNET KRONENBERG's First Union account made

payable to Coopersmith for Congress.

(62) On or about September 10, 1996, BCI USA issued a $21,000.00 check made payable to "P. Kanchanalak." Defendant KRONENBERG signed this check.

(63) On or about September 11, 1996, the $21,000.00 BCI USA check described in the preceding subparagraph was deposited into Praitun Kanchanalak's First Virginia account.

(64) On or about September 11, 1996, defendant DUANGNET KRONENBERG wrote a memorandum to defendant PAULINE KANCHANALAK, which read, in relevant part:

> I transferred 21K into P. Kanchanalak's acct. The acct now has a total of 40K (1K was written to Jeff Coopersmith). I will give John Huang 40K from this acct for B-Day on Friday, Sept 13 afterwhich the acct bal will be 0.

(65) On or about September 13, 1996, a $40,000.00 check was written on Praitun Kanchanalak's First Virginia account made payable to the DNC. This check was imprinted and signed "P. Kanchanalak."

(66) On or about September 13, 1996, defendant DUANGNET KRONENBERG gave John Huang the $40,000.00 check described in subparagraph (65).

(**Conspiracy**, in violation of 18 U.S.C. § 371).

COUNTS TWO THROUGH FOURTEEN

CAUSING FALSE STATEMENTS IN MATTERS WITHIN THE JURISDICTION OF THE FEDERAL ELECTION COMMISSION

1. The grand jury realleges paragraphs 1 through 26 of Count One, above, as though fully stated herein.

2. On or about the dates indicated below, in the District of Columbia, in matters within the jurisdiction of the FEC, an agency of the United States, defendants PAULINE KANCHANALAK and DUANGNET KRONENBERG knowingly and willfully caused the submission of material false statements to the FEC, in that defendants caused the responsible officials of the following political committees to file reports with the FEC that listed the following individuals as having provided funds to such political committees on the following dates, in the following amounts, when, as defendants then and there well knew, the named individuals were not the actual sources of those funds:

Count	Political Committee Making Report	Date of Report	Person Identified in Report as Having Provided Funds	Amount Reported	Date of Contrib. or Donation Reported
2	Friends of Marjorie Margolies-Mezvinsky	12/31/93	Praitun Kanchanalak Praitun Kanchanalak Duangnet Kronenberg Duangnet Kronenberg	$1,000 (primary) $1,000 (general) $1,000 (primary) $1,000 (general/debt)	8/13/93 8/13/93 8/13/93 8/13/93
3	Gephardt in Congress Committee	4/13/94	P. Kanchanalak P. Kanchanalak	$1,000 (primary) $500 (general)	3/29/94 3/29/94
4	DNC	4/15/94	Pauline Kanchanalak	$15,000	3/21/94
5	DNC	7/15/94	Pauline Kanchanalak Duangnet Kronenberg Duangnet Kronenberg	$15,000 $20,000 $15,000	4/22/94 5/27/94 6/13/94
6	Friends of John Glenn	7/15/94	Duangnet Kronenberg	$1,000 (primary)	6/6/94
7	Friends of Marjorie Margolies-Mezvinsky	7/19/94	Pauline Kanchanalak Pauline Kanchanalak	$1,000 (primary) $1,000 (general)	5/4/94 5/4/94
8	Kennedy for Senate Committee	7/15/94	P. Kanchanalak	$1,000 (primary)	6/19/94
9	DNC	12/8/94	Pauline Kanchanalak	$32,500	10/20/94
10	Clinton/Gore '96 Primary Committee	10/14/95	P. Kanchanalak	$1,000 (primary)	6/22/95
11	DNC	4/15/96	Pauline Kanchanalak Duangnet Kronenberg Duangnet Kronenberg Duangnet Kronenberg	$10,000 $5,000 $5,000 $5,000	2/29/96 2/29/96 3/11/96 3/15/96

12	DNC	7/15/96	Pauline Kanchanalak Duangnet Kronenberg Pauline Kanchanalak Duangnet Kronenberg	$5,000 $5,000 $85,000 $50,000	6/6/96 6/6/96 6/19/96 6/19/96
13	Coopersmith for Congress	9/5/96	P. Kanchanalak Duangnet Kronenberg	$1,000 (primary) $1,000 (primary)	8/28/96 8/28/96
14	DNC	10/15/96	Pauline Kanchanalak P. Kanchanalak	$50,000 $40,000	7/10/96 9/25/96

(**Causing False Statements in Matters Within the Jurisdiction of the Federal Election Commission,** each count in violation of 18 U.S.C. §§ 1001 and 2(b)).

COUNTS FIFTEEN AND SIXTEEN

CONSENTING TO CONTRIBUTIONS BY A CORPORATION

1. The grand jury realleges paragraphs 1 through 26 of Count One, above, as though fully stated herein.

2. On or about the following dates, in the District of Columbia and elsewhere, defendants PAULINE KANCHANALAK and DUANGNET KRONENBERG knowingly and willfully committed a violation of a provision of the FECA which involved the making, receiving, or reporting of a contribution aggregating $2,000 or more during a calendar year; to wit, defendants PAULINE KANCHANALAK and DUANGNET KRONENBERG, both of whom were officers of BCI USA, consented to the following contributions by BCI USA, which were passed through bank accounts held in the name of DUANGNET KRONENBERG and/or Praitun Kanchanalak at First Union and First Virginia, respectively:

Count	Political Committee	Account Used to Make Contribution	Amount of Contrib.	Date of Contrib. Check
15	DNC (federal account)	Praitun Kanchanalak	$10,000	2/26/96
16	DNC (federal account)	Duangnet Kronenberg	$5,000	2/26/96

(**Consenting to Contributions by a Corporation**, each count in violation of 2 U.S.C. §§ 441b and 437g(d)(1)(A)).

COUNT SEVENTEEN

CAUSING CONTRIBUTION BY A FOREIGN NATIONAL

1. The grand jury realleges paragraphs 1 through 26 of Count One, above, as though fully stated herein.

2. On or about August 26, 1996, in the District of Columbia and elsewhere, defendants PAULINE KANCHANALAK and DUANGNET KRONENBERG knowingly and willfully caused a violation of a provision of the FECA which involved the making, receiving, or reporting of a contribution aggregating $2,000.00 or more during a calendar year; to wit, defendants PAULINE KANCHANALAK and DUANGNET KRONENBERG caused an aggregate contribution of $2,000.00 to be made to Coopersmith for Congress in connection with the primary election, using funds that belonged to foreign nationals, and which were passed through bank accounts held in the name of DUANGNET KRONENBERG and Praitun Kanchanalak at First Union and First Virginia, respectively, in the form of two $1,000.00 checks.

(Causing Contribution by a Foreign National, in violation of 2 U.S.C. §§ 441e and 437g(d)(1)(A), and 18 U.S.C. § 2(b)).

COUNT EIGHTEEN

CONSPIRACY TO OBSTRUCT THE DUE ADMINISTRATION OF JUSTICE AND TO OBSTRUCT A CONGRESSIONAL INVESTIGATION

Introductory Allegations

1. The grand jury realleges paragraphs 1 through 26 of Count One, above, as though fully stated herein.

2. In or about 1994, defendants PAULINE KANCHANALAK and DUANGNET KRONENBERG assisted in the formation of the U.S.-Thailand Business Council ("USTBC"), a non-profit entity established to facilitate trade between the United States and Thailand. From the time of its inception, through the dissolution of BCI USA, the USTBC and BCI USA shared office space.

3. At all times material to this Count, a federal grand jury in the District of Columbia was investigating various allegations relating to the campaign financing practices, including allegations relating to political contributions purportedly made by PAULINE KANCHANALAK, DUANGNET KRONENBERG, Praitun Kanchanalak, or "P. Kanchanalak."

4. At all times material to this Count, a Committee or Committees of the United States Senate or the United States House of Representatives were conducting an investigation or investigations of political contributions which had been made in the names of PAULINE KANCHANALAK, Praitun Kanchanalak, DUANGNET KRONENBERG, and "P. Kanchanalak," or such an investigation or investigations were reasonably foreseeable.

The Conspiracy

5. Beginning in or about December 1996, and continuing through in or about March 1997, in the District of Columbia and elsewhere, defendants PAULINE KANCHANALAK and DUANGNET KRONENBERG, and others known and unknown to the grand jury, combined, conspired, and agreed with each other --

(1) corruptly to obstruct the due administration of justice, that is, a federal grand jury investigation, in violation of 18 U.S.C. § 1503; and

(2) corruptly to obstruct the due administration of the law under which an inquiry is being conducted, that is, a congressional investigation, in violation of 18 U.S.C. § 1505.

Purpose of The Conspiracy

6. The purpose of the conspiracy was for defendants PAULINE KANCHANALAK and DUANGNET KRONENBERG, to obstruct, impair, and impede ongoing or imminent federal grand jury and congressional investigations into their activities and into the activities of other individuals and entities with which they were associated.

Manner and Means of the Conspiracy

7. It was a part of the conspiracy that defendant DUANGNET KRONENBERG caused an attorney, who had performed legal work for BCI USA and defendants, to collect and remove relevant BCI USA records from BCI USA's offices.

8. It was a part of the conspiracy that defendants PAULINE KANCHANALAK and DUANGNET KRONENBERG subsequently retrieved the BCI USA records referred to in paragraph 7 from the attorney outside

his office.

9. It was a part of the conspiracy that defendants PAULINE KANCHANALAK and DUANGNET KRONENBERG took steps to dissolve BCI USA and to send relevant BCI USA records to Thailand.

10. It was a part of the conspiracy that defendants PAULINE KANCHANALAK and DUANGNET KRONENBERG caused relevant BCI USA records to be transported from BCI USA's offices to a self-storage facility they had rented in the name of a nanny who was employed by a family member.

11. It was a part of the conspiracy that defendants PAULINE KANCHANALAK and DUANGNET KRONENBERG hired an individual to erase the hard drives of computers located in BCI USA's offices and in DUANGNET KRONENBERG's home.

Overt Acts

12. In furtherance of the conspiracy, and to accomplish its objects, defendants PAULINE KANCHANALAK and DUANGNET KRONENBERG, and others known and unknown to the grand jury, committed the following overt acts in the District of Columbia and elsewhere:

A. Removal of BCI USA Records by Attorney

(1) On or between December 2, 1996, and December 11, 1996, defendant DUANGNET KRONENBERG caused an attorney who was then representing PAULINE KANCHANALAK to review files at BCI USA's offices over the course of two days.

(2) At the end of his review of records at BCI USA, the attorney removed several boxes of records from BCI USA's office and placed them in defendant DUANGNET KRONENBERG's car.

(3) Defendant KRONENBERG and the attorney then used KRONENBERG's car to transport the records the attorney had removed from BCI USA's office to the attorney's office in Washington, D.C., whereupon the attorney removed the boxes of records from KRONENBERG's car and took them to his office. On or about December 19, 1996, KANCHANALAK and KRONENBERG retrieved these records from the attorney outside his office.

B. Dissolution of BCI USA

(4) Shortly before Christmas 1996, defendant PAULINE KANCHANALAK informed the staff of BCI USA and others working in the same office suite that BCI USA would be dissolved, effective immediately.

(5) In or about late December 1996, defendants PAULINE KANCHANALAK and DUANGNET KRONENBERG participated in plans to organize a new company which would move into BCI USA's office as of January 1, 1997, and which would continue working on BCI USA's projects. This resulted in the formation of Global Investments, Inc. ("Global"), a corporation organized under the laws of the District of Columbia, in or about January 1997.

(6) On or about January 20, 1997, defendants PAULINE KANCHANALAK and DUANGNET KRONENBERG caused the Office of the Registrar General of the Cayman Islands to issue notification that on March 27, 1997, BCI USA would be struck from the Companies Register of the Cayman Islands and thereupon dissolved.

C. Collection of Other BCI USA Records

(7) Shortly after PAULINE KANCHANALAK announced her

plans to dissolve BCI USA, DUANGNET KRONENBERG told a member of BCI USA's staff to review and pack all of BCI USA's inactive project files into boxes, which the staffer did with the help of KRONENBERG.

(8) In or about late December 1996, at the direction of DUANGNET KRONENBERG, the BCI USA staffer described in subparagraph (7) contacted an accountant who had performed services for BCI USA, and instructed the accountant to send any original BCI USA documents in his or his firm's possession to Jeb Kanchanalak in Thailand.

(9) On or about December 31, 1996, the accountant sent original BCI USA records that were in his firm's files to Jeb Kanchanalak at BCI Thailand in Bangkok.

D. Rental of Storage Unit in Name of Thai National

(10) On or about December 17, 1996, defendants PAULINE KANCHANALAK and DUANGNET KRONENBERG caused a Thai national working as a nanny for a family member to accompany KRONENBERG to a self-storage facility, and to rent a storage unit.

(11) Defendant DUANGNET KRONENBERG caused the Thai national referred to in subparagraph (10) to sign and initial a rental form at the self-storage facility that the Thai national could not read because it was written in English.

(12) Defendant DUANGNET KRONENBERG completed most of the rental form at the self-storage facility, providing KRONENBERG's own address, telephone number, and Social Security Number under the Thai national's name, and writing the Thai national's address under

KRONENBERG's name.

(13) After the rental form had been completed and the Thai national was given a key to the storage unit, defendant DUANGNET KRONENBERG immediately took possession of the key to the storage unit from the Thai national.

(14) Defendant DUANGNET KRONENBERG subsequently informed the Thai national that KRONENBERG had given the key to the storage unit to PAULINE KANCHANALAK.

E. Moving of BCI USA Records to Storage Unit

(15) On or about December 24, 1996, defendants PAULINE KANCHANALAK and DUANGNET KRONENBERG caused two handymen to come to BCI USA's offices to move boxes. While the movers waited, PAULINE KANCHANALAK and DUANGNET KRONENBERG filled boxes with papers and files. KRONENBERG labeled the boxes.

(16) Later on that same day, defendants PAULINE KANCHANALAK and DUANGNET KRONENBERG caused the handymen to load the back of a pick-up truck with boxes containing files from BCI USA's office suite. The boxes removed from BCI USA's offices at that time included seven or eight boxes that a BCI USA staffer had packed with BCI USA records, as described in subparagraph (7).

(17) After the movers' truck had been loaded with boxes, defendant PAULINE KANCHANALAK drove to the self-storage facility described in subparagraph (10), followed by the movers.

(18) Defendant PAULINE KANCHANALAK used a code to let both vehicles into the self-storage facility, and then used a key to open a storage unit.

(19) Defendant PAULINE KANCHANALAK caused the movers to remove the boxes they had transported from their truck into the storage unit, filling the unit almost to the ceiling.

(20) After the movers finished moving the boxes into the storage unit, defendant PAULINE KANCHANALAK gave one of the men a BCI USA check signed by DUANGNET KRONENBERG, dated December 24, 1996, for $200, and told the movers something to the effect that "you didn't move these boxes here" or "don't tell anyone you moved these boxes here."

(21) Within two days of moving these boxes, one of the movers went to BCI USA's offices to extort additional money from PAULINE KANCHANALAK. PAULINE KANCHANALAK gave the mover approximately $40 and then called the other mover to complain about his colleague's conduct.

F. Erasure of Computer Hard Drives

(22) On or about January 10, 1997, defendants PAULINE KANCHANALAK and DUANGNET KRONENBERG caused an individual with expertise in computer engineering to erase professionally the hard drives of two computers located in BCI USA's offices.

(23) Within a few days of the erasure of the hard drives of the computers located in BCI USA's offices, defendants PAULINE KANCHANALAK and DUANGNET KRONENBERG caused the same individual referred to in subparagraph (22) to erase the hard drive of a computer located at defendant KRONENBERG's home.

(24) Defendants PAULINE KANCHANALAK and DUANGNET KRONENBERG caused BCI USA to pay $500.00 to the individual who

erased the hard drives of the three computers referred to in subparagraphs (22) and (23).

(25) In or about late December 1996, defendant PAULINE KANCHANALAK told a BCI USA staffer that one reason for erasing the hard drives of BCI USA's computers was that "someone had told [KANCHANALAK] that she need[ed] to stay one step ahead in case something ever happened, in case someone ever came to the office and seized the assets, froze the assets. . . . Or they took the computers away or they seized them or something to that effect."

G. Discarding of Records Responsive to Grand Jury Subpoena

(26) On or about February 24, 1997, defendant DUANGNET KRONENBERG received notice that a federal grand jury in the District of Columbia was seeking to subpoena her to appear before the grand jury and to produce certain relevant records to the grand jury, when her father-in-law handed her a federal grand jury subpoena that an agent of the Federal Bureau of Investigation had attempted to serve on defendant KRONENBERG earlier that day.

(27) Between on or about February 25, 1997, and on or about March 7, 1997, defendant KRONENBERG mutilated and/or discarded documents that she knew were responsive to the federal grand jury subpoena described in the preceding subparagraph.

(**Conspiracy**, in violation of 18 U.S.C. § 371).

A TRUE BILL:

FOREPERSON

WILMA A. LEWIS
United States Attorney for
for the District of Columbia

JONATHAN BIRAN
DEBRA HERZOG
Trial Attorneys
Campaign Financing Task Force
Criminal Division
U.S. Department of Justice
1001 G Street, N.W.
Suite 310
Washington, D.C. 20001
(202) 307-0655

Date: November 13, 1998

EXHIBIT I:

Indictment from *United States v. Trie*, Criminal Action No. 98-00029 (D.D.C.)

Defendant Concord Management and Consulting LLC's
Motion to Dismiss the Indictment
***United States v. Internet Research Agency LLC, et al.*,**
Criminal Action No. 18-00032-DLF

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA	*	
v.	*	**CRIMINAL NO. 98-0029**
YAH LIN "CHARLIE" TRIE, and YUAN PEI "ANTONIO" PAN	*	**GRAND JURY ORIGINAL**
	*	
		VIOLATIONS:
	*	
		18 U.S.C. Section 371
	*	**(Conspiracy to Defraud and to Impair and Impede the FEC)**
	*	**18 U.S.C. Section 1341**
		(Mail Fraud)
	*	**18 U.S.C. Section 1343**
		(Wire Fraud)
	*	**18 U.S.C. Section 2**
		(Aiding and Abetting)
	*	**18 U.S.C. Section 1001**
		(False Statements)
	*	**18 U.S.C. Section 371**
		(Conspiracy to Obstruct Justice)
	*	**18 U.S.C. Section 1512(b)(2)**
		(Witness Tampering)
	*	**18 U.S.C. Section 1505**
		(Obstruction of Congressional Investigation)

FRIEDMAN, J. PLF

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FILED IN OPEN COURT

JAN 28 1998

CLERK, U.S. DISTRICT COURT
DISTRICT OF COLUMBIA

B

INDICTMENT

The Grand Jury for the District of Columbia charges that:

Introductory Allegations

1. At all times material to this Indictment, defendant YAH LIN "CHARLIE" TRIE was a resident of Little Rock, Arkansas, and Washington, D.C.

2. At all times material to this Indictment, defendant **YAH LIN "CHARLIE" TRIE** owned and operated Daihatsu International Trading Corporation ("Daihatsu"), an Arkansas corporation purportedly in the import and export business, with its principal office in Little Rock, Arkansas, and, beginning in the fall of 1994, utilized an apartment at the Watergate South complex, 700 New Hampshire Avenue, Unit 121, in Washington, D.C. ("Watergate South apartment") as an office.

3. Beginning in the Fall of 1994, defendant **YAH LIN "CHARLIE" TRIE** was associated with San Kin Yip International Trading Co. ("San Kin Yip"), an Arkansas corporation owned by a Macau resident, who was not a citizen of the United States nor a lawful permanent resident. Beginning in the fall of 1994, San Kin Yip shared the Watergate South apartment with Daihatsu.

4. Beginning in approximately April 1996, defendant **YAH LIN "CHARLIE" TRIE** owned and operated America-Asia Trade Center, Incorporated ("America-Asia"), a Washington, D.C. corporation, which shared the Watergate South apartment with Daihatsu and San Kin Yip.

5. Beginning in approximately August 1995, **YUAN PEI "ANTONIO" PAN** began working for **YAH LIN "CHARLIE" TRIE.** At some time thereafter, **YUAN PEI "ANTONIO" PAN** was the Chief Executive Officer of Daihatsu and Executive Director of America-Asia. Prior to August 1995, **YUAN PEI "ANTONIO" PAN** was a director of Lucky Port Investments, Ltd., a foreign corporation, and Senior Vice

President of Lippo Group-Chinese Division. **YUAN PEI "ANTONIO" PAN** was a Taiwanese national and not a citizen of the United States nor a lawful permanent resident.

6. At all times material to this Indictment, the Federal Election Campaign Act, Title 2, United States Code, Section 431, et seq. ("FECA"), in particular, Title 2, United States Code, Section 441e, specifically prohibited "foreign nationals" from making contributions in connection with an election to any political office or in connection with any primary election, convention, or caucus held to select candidates for any political office; or soliciting, accepting or receiving any such contribution. A "foreign national" is an individual who is not a citizen of the United States and who is not lawfully admitted for permanent residence or any association, corporation, organization, or other combination of persons organized under the laws of, or having its principal place of business in, a foreign country.

7. At all times material to this Indictment, the FECA, in particular Title 2, United States Code, Section 441f, specifically prohibited any person from making a contribution for the purpose of influencing any election for federal office, using the name of another person or knowingly permitting his or her name to be used to effect such a contribution, for example, by giving funds to a straw donor, known as a "conduit," for the purpose of having the conduit pass the funds on to a federal candidate as the

conduit's own contribution, or by reimbursing a "donor" who has already given to a candidate.

8. At all times material to this Indictment, the Federal Election Commission ("FEC") was an agency of the United States government, headquartered in Washington, D.C., and entrusted with the responsibility of enforcing the reporting requirements of the FECA and for directing, investigating, and instituting civil enforcement actions with respect to violations of the FECA, including the provisions referred in paragraphs 6 and 7 above. In addition, the FEC was responsible for making available to the public specific information about the amounts and sources of political contributions to federal candidates and their political committees.

9. At all times material to this Indictment, the FECA, in particular Title 2, United States Code, Section 434, required that each treasurer of a political committee file periodic reports of receipts and disbursements with the FEC. These reports identify each person who made a contribution during the relevant reporting period whose contribution or contributions had an aggregate amount or value in excess of $200 within the calendar year, together with the date and the amount of any such contribution. The reports also list the mailing address and occupations of persons identified as contributors, as well as the names of their employers.

The Democratic National Committee and the Trustee Program

10. At all times material to this Indictment, the Democratic National Committee ("DNC") was a "political committee" subject to the terms of the FECA and related regulations. The DNC was formed in 1848. A major function of the DNC was to solicit campaign contributions and raise funds on behalf of the Democratic Party and on behalf of democratic candidates for state and federal office.

11. At all times material to this Indictment, it was the policy of the DNC not to accept contributions made:

a. by foreign nationals, foreign corporations or United States subsidiaries of foreign corporations unless the funds were generated in the United States and no foreign national participated in the decision to contribute; and/or

b. in the name of another person.

12. In or about 1988, the DNC established the Trustee Program for major supporters of the Democratic Party. Through this program, the DNC would provide numerous benefits and privileges to its contributors, including access to White House officials, in exchange for contributions of pre-determined amounts. The DNC required that all contributions be made in accordance with applicable law and regulations including its own internal policies.

13. On or about June 30, 1994, the DNC invited defendant **YAH LIN "CHARLIE" TRIE** to become a Trustee of the DNC, as a result of an aggregate

contribution of $100,000 he made to the DNC in or about May of 1994. Thereafter, defendant **YAH LIN "CHARLIE" TRIE** was given additional positions on DNC boards and councils based upon his commitment to raise or contribute substantial amounts of money to the DNC.

The Conspiracy

14. From in or about April 1994 and continuing to in or about September 1996, in the District of Columbia and elsewhere, defendants **YAH LIN "CHARLIE" TRIE and YUAN PEI "ANTONIO" PAN**, together with persons both known and unknown to the grand jury, did knowingly conspire and agree with others to:

a. Devise and intend to devise a scheme and artifice to defraud the DNC and to obtain property from the DNC by means of false and fraudulent pretenses, representations and promises and used the mails and wires in violation of Title 18, United States Code, Sections 1341 and 1343;

b. Defraud the United States by impairing, impeding, defeating and obstructing the lawful functions and duties of the FEC in violation of Title 18, United States Code, Section 371.

Manner and Means of the Conspiracy

15. It was part of the conspiracy that the defendants **YAH LIN "CHARLIE" TRIE, YUAN PEI "ANTONIO" PAN** and others acting at their request:

a. Sought access to high level government officials in the United States for the purpose of promoting the defendants' private business activities here and abroad;

b. Purchased access to high level government officials in the United States by contributing and soliciting contributions to the DNC;

c. Channeled foreign money to the DNC through the use of straw or conduit contributions;

d. Concealed the source of the money contributed by reimbursing conduits in cash and using multiple bank accounts;

e. Received benefits from the DNC as a result of the fraudulent contributions and solicitation activities including, but not limited to, special seating at DNC functions, complimentary tickets to DNC events, membership in DNC committees and related entities, including the Trustee Program, the Democratic Business Leadership Forum and the DNC Finance Board of Directors, invitations to meetings and other events where White House personnel, including the President and Vice President of the United States, were in attendance, and administrative support of DNC employees;

f. Received "credit" and recognition from the DNC as the solicitor of the contributions, thereby enabling defendant **YAH LIN "CHARLIE" TRIE** to meet the fundraising goals necessary to maintain his positions on DNC committees and related entities;

g. Used membership in the DNC committees and related entities, including the Trustee Program, the Democratic Business Leadership Forum and the DNC Finance Board of Directors to promote the defendants' private business activities;

h. Deprived the DNC of the right to control how its money is spent; and

i. Caused the DNC to file false campaign finance reports with the FEC.

OVERT ACTS

In furtherance of the conspiracy and to effect the objects thereof, the following overt acts, among others, were committed in the District of Columbia and elsewhere:

1. In or about April 1994, defendant **YAH LIN "CHARLIE" TRIE** requested a seat at the table of the President of the United States at the 1994 DNC Presidential Gala on June 22, 1994, in exchange for his contribution of $100,000 to the DNC.

2. On or about May 6, 1994, a co-conspirator caused an overseas wire transfer in the amount of $100,000 from Lucky Port Investments Ltd., a foreign corporation, for which defendant **YUAN PEI "ANTONIO" PAN** was the Director, to the checking account of defendant **YAH LIN "CHARLIE" TRIE** at First Commercial Bank in Little Rock, Arkansas.

3. On or about May 14, 1994, defendant **YAH LIN "CHARLIE" TRIE** wrote a personal check from his account at First Commercial Bank in Little Rock, Arkansas to the DNC in the amount of $60,000.

4. On or about May 14, 1994, defendant **YAH LIN "CHARLIE" TRIE** wrote a personal check from his account at First Commercial Bank in Little Rock, Arkansas to the DNC in the amount of $20,000.

5. On or about May 25, 1994, defendant **YAH LIN "CHARLIE" TRIE** caused his wife to sign a check from their account at First Commercial Bank in Little Rock, Arkansas to the DNC in the amount of $20,000.

6. On or about June 21, 1994, defendant **YAH LIN "CHARLIE" TRIE** caused a check to be written from the account of Daihatsu at First Commercial Bank in Little Rock, Arkansas to the DNC in the amount of $7,500.

7. On or about June 22, 1994, defendant **YAH LIN "CHARLIE" TRIE** and a business associate from Macau attended the 1994 DNC Presidential Gala at the Washington Hilton Hotel in Washington, D.C. defendant **YAH LIN "CHARLIE" TRIE** sat with the President of the United States.

8. On or about August 1, 1994, defendant **YAH LIN "CHARLIE" TRIE** wrote a personal check from his account at First Commercial Bank in Little Rock, Arkansas to the DNC in the amount of $20,000.

9. On or about August 2, 1994, defendant **YAH LIN "CHARLIE" TRIE** was Vice Chair of, and he and a business associate from Macau attended, a DNC fundraising event and birthday celebration for the President of the United States based upon his $20,000 contribution.

10. In or about August 1994, defendant **YAH LIN "CHARLIE" TRIE** requested the DNC to arrange for a private tour of the White House for himself and his guests and a tour of the White House for approximately twenty individuals from China.

11. In or about August 1994, defendant **YAH LIN "CHARLIE" TRIE** requested DNC employees to provide reference letters in support of his application to lease the Watergate South apartment, which was later used as an office for Daihatsu, San Kin Yip and America-Asia.

12. In or about early September 1994, defendant **YAH LIN "CHARLIE" TRIE** became a Vice Chair of the DNC's Business Leadership Forum.

13. On or about September 21, 1994, defendant **YAH LIN "CHARLIE" TRIE** attended an inaugural Vice Chair luncheon for the Business Leadership Forum with the Vice President of the United States.

14. On or about October 11, 1994, defendant **YAH LIN "CHARLIE" TRIE** directed the incorporation of San Kin Yip in Little Rock, Arkansas.

15. On or about October 20, 1994, a business associate from Macau wired $100,000 into a bank account established by defendant **YAH LIN "CHARLIE" TRIE** for San Kin Yip at First Commercial Bank in Little Rock, Arkansas.

16. On or about October 20, 1994, defendant **YAH LIN "CHARLIE" TRIE** and a business associate from Macau attended a Business Leadership Forum dinner with the Vice President of the United States.

17. On or about October 20, 1994, defendant **YAH LIN "CHARLIE" TRIE** caused a check to be written from the account of San Kin Yip at First Commercial Bank in Little Rock, Arkansas to the DNC in the amount of $15,000.

18. On or about October 24, 1994, defendant **YAH LIN "CHARLIE" TRIE** requested the DNC to arrange for a private White House tour for himself and three business associates.

19. In or about January 1995, defendant **YAH LIN "CHARLIE" TRIE** accepted a position on the DNC Finance Board of Directors and promised to raise $350,000.

20. On or about February 16, 1995, defendant **YAH LIN "CHARLIE" TRIE** attended a dinner honoring the DNC Managing Trustees, which was held at the White House with the President of the United States and the First Lady.

21. On or about June 21, 1995, defendant **YAH LIN "CHARLIE" TRIE** wrote a check on the account of Daihatsu at First Commercial Bank in Little Rock, Arkansas to the DNC in the amount of $50,000.

22. On or about June 28, 1995, defendant **YAH LIN "CHARLIE" TRIE** attended the 1995 DNC Presidential Gala at the Sheraton Hotel in Washington, D.C.

23. On or about September 11, 1995, defendant **YAH LIN "CHARLIE" TRIE** attended a DNC dinner at the White House with the Vice President of the United States.

24. On or about September 15, 1995, defendant **YAH LIN "CHARLIE" TRIE** attended a DNC Trustee dinner at the White House with the President of the United States.

25. On or about October 31, 1995, defendant **YAH LIN "CHARLIE" TRIE** signed a letter under the title "Vice Chair, Democratic National Finance Committee" to officers of two Chinese corporations inviting them to a "special luncheon honoring the President of the United States."

26. On or about November 9, 1995, defendant **YAH LIN "CHARLIE" TRIE** solicited a co-conspirator at a DNC fundraiser in Washington, D.C. to make a contribution to the DNC in the amount of $5,000 and subsequently reimbursed that co-conspirator in cash.

27. On or about November 13, 1995, defendant **YAH LIN "CHARLIE" TRIE** solicited a co-conspirator at a fundraiser in Washington, D.C. to make a contribution to the DSCC in the amount of $2,000 and subsequently reimbursed that co-conspirator in cash.

28. On or about December 7, 1995, defendant **YAH LIN "CHARLIE" TRIE** requested the DNC to arrange a meeting and photo opportunity with the President of the United States for himself and a guest from Indonesia.

29. On or about December 17, 1995, defendant **YAH LIN "CHARLIE" TRIE** solicited a co-conspirator at a fundraiser in Washington, D.C. to make a contribution to

the Oregon State Democratic Party in the amount of $2,000 and subsequently reimbursed that co-conspirator in cash.

30. On or about January 29, 1996, defendant **YAH LIN "CHARLIE" TRIE** attended a DNC Finance Board of Directors luncheon at the White House with the President of the United States.

31. On or about February 6, 1996, defendant **YAH LIN "CHARLIE" TRIE** requested the DNC to arrange a private tour of the White House for the defendant **YAH LIN "CHARLIE" TRIE** and two business associates.

32. On or about February 6, 1996, defendant **YAH LIN "CHARLIE" TRIE** and a business associate attended a DNC coffee at the White House with the President of the United States.

33. On or about February 14, 1996, a co-conspirator caused a wire transfer in the amount of $150,000 from San Kin Yip Holdings Co. Ltd., Bank of China, Hong Kong Branch, into the bank account of defendant **YAH LIN "CHARLIE" TRIE** and a business associate from Macau at Riggs Bank in Washington, D.C.

34. On or about February 19, 1996, two co-conspirators wrote checks made payable to the DNC in the amounts of $12,500 from their personal bank accounts in California at the direction of defendant **YAH LIN "CHARLIE" TRIE**, for which they were later reimbursed by defendant **YUAN PEI "ANTONIO" PAN**.

35. On or about February 19, 1996, defendants **YAH LIN "CHARLIE" TRIE** and **YUAN PEI "ANTONIO" PAN**, and a business associate from Macau, attended a DNC fundraising dinner with the President of the United States at the Hay-Adams Hotel in Washington, D.C.

36. On or about February 20, 1996, defendants **YAH LIN "CHARLIE" TRIE** and **YUAN PEI "ANTONIO" PAN**, and a business associate from Macau, attended a DNC breakfast meeting with the Vice President of the United States at the Hay-Adams Hotel in Washington, D.C.

37. On or about February 22, 1996, defendant **YUAN PEI "ANTONIO" PAN** opened a bank account in his name at Amer-Asia Bank in Flushing, New York. At that time, defendant **YUAN PEI "ANTONIO" PAN** deposited $25,200 in cash, and immediately purchased 5 cashiers checks in the amount of $5,000 each made payable to the individuals referred to in Paragraph 34 above.

38. On or about February 29, 1996, defendant **YAH LIN "CHARLIE" TRIE** caused his wife to write a check on the account of Daihatsu at First Commercial Bank in Little Rock, Arkansas to the DNC in the amount of $12,500 for defendant **YAH LIN "CHARLIE" TRIE's** attendance at the February 19, 1996 Hay-Adams Hotel dinner.

39. On or about March 11, 1996, defendant **YAH LIN "CHARLIE" TRIE** executed a Confidential Financial Disclosure Report in conjunction with his nomination to the Commission on U.S. Pacific Trade and Investment Policy.

40. On or about May 12, 1996, defendant **YAH LIN "CHARLIE" TRIE** wrote a check from his personal account at First Commercial Bank in Little Rock, Arkansas to the DNC in the amount of $10,000 for his attendance at the DNC Presidential Dinner at the Carlton Hotel in Washington, D.C.

41. On or about May 13, 1996, defendant **YAH LIN "CHARLIE" TRIE** attended a DNC Presidential dinner at the Carlton Hotel in Washington, D.C.

42. In or about July 1996, defendant **YAH LIN "CHARLIE" TRIE** requested a DNC employee to arrange for hotel rooms at the Democratic National Convention in Chicago, Illinois scheduled for August 1996.

43. On or about August 7, 1996, a co-conspirator caused a wire transfer in the amount of $200,000 from Compania de Investimento e Fomento Predail Goodwill, Bank of China, Macau Branch, into the bank account of defendant **YAH LIN "CHARLIE" TRIE** and a business associate from Macau at Riggs Bank in Washington, D.C.

44. On or about August 15, 1996, defendant **YAH LIN "CHARLIE" TRIE** solicited a co-conspirator in California to make a conduit contribution to the DNC in the amount of $10,000 and subsequently reimbursed that co-conspirator.

45. On or about August 15, 1996, a co-conspirator caused a wire transfer in the amount of $10,000 to be made to the account of another co-conspirator (referenced in Paragraph 44 above) from the account of San Kin Yip at Riggs Bank in Washington, D.C., as reimbursement for the $10,000 contribution to the DNC.

46. On or about August 15, 1996, a co-conspirator caused a wire transfer in the amount of $80,000 from the account of defendant **YAH LIN "CHARLIE" TRIE** and a business associate from Macau at Riggs Bank in Washington, D.C. to an account at the American International Bank in Los Angeles, California.

47. On or about August 15, 1996, defendant **YUAN PEI "ANTONIO" PAN** received $80,000 in cash in Los Angeles, California.

48. In or about August 1996, defendant **YUAN PEI "ANTONIO" PAN** solicited a co-conspirator in California to make two conduit contributions to the DNC in the amount of $5,000 each and subsequently reimbursed that co-conspirator in cash.

49. In or about August 1996, defendant **YUAN PEI "ANTONIO" PAN** solicited a co-conspirator in California to make a conduit contribution to the DNC in amount of $10,000 and subsequently reimbursed that co-conspirator in cash.

50. In or about August 1996, defendant **YUAN PEI "ANTONIO" PAN** solicited a co-conspirator in California to make a conduit contribution to the DNC in amount of $10,000 and subsequently reimbursed that co-conspirator in cash.

51. In or about August 1996, defendant **YUAN PEI "ANTONIO" PAN** solicited a co-conspirator in Ohio to make a conduit contribution to the DNC in amount of $10,000 and subsequently reimbursed that co-conspirator in cash.

52. In or about August 1996, defendant **YAH LIN "CHARLIE" TRIE** solicited a co-conspirator at the Watergate South apartment in Washington, D.C. to make a conduit

contribution to the DNC in the amount of $10,000 and subsequently reimbursed that co-conspirator in cash.

53. On or about August 18, 1996, defendant **YAH LIN "CHARLIE" TRIE** hand-delivered contribution checks to the DNC at a hotel room in New York, New York.

54. On or about August 18, 1996, defendants **YAH LIN "CHARLIE" TRIE** and **YUAN PEI "ANTONIO" PAN**, and a business associate from Macau, attended a DNC party in New York, New York honoring the birthday of the President of the United States.

(Conspiracy to Defraud and Impair and Impede the FEC,
in violation of 18 U.S.C. § 371)

COUNT TWO

1. The allegations contained in paragraphs One through Thirteen of Count One of the Indictment are incorporated herein by reference as though fully set forth in this Count of the Indictment.

2. From in or about April 1994, until in or about September 1996, in the District of Columbia, and elsewhere defendants **YAH LIN "CHARLIE" TRIE** and **YUAN PEI "ANTONIO" PAN** knowingly devised and intended to devise a scheme and artifice to defraud the DNC, and to obtain from the DNC property by means of false and fraudulent pretenses, representations and promises, well knowing that the pretenses, representations, and promises would be and were false when made.

The Scheme to Defraud the DNC

3. It was part of the scheme and artifice to defraud that defendants **YAH LIN "CHARLIE" TRIE and YUAN PEI "ANTONIO" PAN** sought access to high level government officials in the United States for the purpose of promoting their private business activities here and abroad.

4. It was part of the scheme and artifice to defraud that defendants **YAH LIN "CHARLIE" TRIE and YUAN PEI "ANTONIO" PAN** purchased access to high level government officials in the United States by contributing and soliciting contributions to the DNC.

5. It was part of the scheme and artifice to defraud that defendants **YAH LIN "CHARLIE" TRIE and YUAN PEI "ANTONIO" PAN** channeled foreign money to the DNC through the use of straw or conduit contributions.

6. It was part of the scheme and artifice to defraud that defendants **YAH LIN "CHARLIE" TRIE and YUAN PEI "ANTONIO" PAN** concealed the source of the money contributed by reimbursing conduits in cash and using multiple bank accounts.

7. It was part of the scheme and artifice to defraud that defendants **YAH LIN "CHARLIE" TRIE and YUAN PEI "ANTONIO" PAN** received benefits from the DNC as a result of the fraudulent contributions and solicitation activities including, but not limited to, special seating at DNC functions, complimentary tickets to DNC events, membership in DNC committees and related entities, including the Trustee Program, the Democratic Business Leadership Forum and the DNC Finance Board of Directors, invitations to meetings and other events where White House personnel, including the President and Vice President of the United States, were in attendance, and administrative support of DNC employees.

8. It was part of the scheme and artifice to defraud that defendant **YAH LIN "CHARLIE" TRIE** received "credit" and recognition from the DNC as the solicitor of the contributions, thereby enabling him to meet the fundraising goals necessary to maintain his positions on DNC committees and related entities.

9. It was part of the scheme and artifice to defraud that defendants **YAH LIN "CHARLIE" TRIE and YUAN PEI "ANTONIO" PAN** used defendant **YAH LIN "CHARLIE" TRIE's** membership in the DNC committees and related entities, including the Trustee Program, the Democratic Business Leadership Forum and the DNC Finance Board of Directors to promote the defendants' private business activities.

10. It was part of the scheme and artifice to defraud that defendants **YAH LIN "CHARLIE" TRIE and YUAN PEI "ANTONIO" PAN** deprived the DNC of the right to control how its money is spent.

11. It was part of the scheme and artifice to defraud that defendants **YAH LIN "CHARLIE" TRIE and YUAN PEI "ANTONIO" PAN** caused the DNC to file false campaign finance reports with the FEC.

12. On or about June 21, 1994, in the District of Columbia and elsewhere,

YAH LIN "CHARLIE" TRIE,

defendant herein, for the purpose of executing and attempting to execute the scheme and artifice to defraud and to obtain property by false and fraudulent pretenses, representations and promises, did knowingly cause to be delivered by express mail to the DNC in Washington, D.C. a check payable to the DNC in the amount of $7,500 from

the account of Daihatsu at First Commercial Bank from the U.S. Post Office in Little Rock, Arkansas.

(Mail Fraud and Aiding and Abetting,
in violation of 18 U.S.C. §§ 1341 and 2)

COUNT THREE

1. The allegations contained in paragraphs One through Eleven of Count Two of the Indictment are incorporated herein by reference as though fully set forth in this Count of the Indictment.

2. On or about August 4, 1994, in the District of Columbia and elsewhere,

YAH LIN "CHARLIE" TRIE,

defendant herein, for the purpose of executing and attempting to execute the scheme and artifice to defraud and to obtain property by false and fraudulent pretenses, representations and promises, did knowingly cause to be delivered by express mail to the DNC in Washington, D.C. a check payable to the DNC in the amount of $20,000 from the account of defendant **YAH LIN "CHARLIE" TRIE** and his wife at First Commercial Bank from the U.S. Post Office in Little Rock, Arkansas.

(Mail Fraud and Aiding and Abetting,
18 U.S.C. §§ 1341 and 2)

COUNT FOUR

1. The allegations contained in paragraphs One through Eleven of Count Two of the Indictment are incorporated herein by reference as though fully set forth in this Count of the Indictment.

2. On or about August 26, 1994, in the District of Columbia and elsewhere,

YAH LIN "CHARLIE" TRIE,

defendant herein, for the purpose of executing and attempting to execute the scheme and artifice to defraud and to obtain property by false and fraudulent pretenses, representations and promises, did knowingly transmit and cause to be transmitted by means of a wire in interstate commerce, writings, signs, signals, pictures and sounds, to wit: the facsimile transmission of a memorandum from Little Rock, Arkansas to an employee at the DNC in Washington, D.C.

(Wire Fraud and Aiding and Abetting,
in violation of 18 U.S.C. §§ 1343 and 2)

COUNT FIVE

1. The allegations contained in paragraphs One through Eleven of Count Two of the Indictment are incorporated herein by reference as though fully set forth in this Count of the Indictment.

2. On or about November 9, 1995, in the District of Columbia and elsewhere,

YAH LIN "CHARLIE" TRIE,

defendant herein, for the purpose of executing and attempting to execute the scheme and artifice to defraud and to obtain property by false and fraudulent pretenses, representations and promises, did knowingly transmit and cause to be transmitted by means of a wire in interstate commerce, writings, signs, signals, pictures and sounds, to wit: a telephone call from the Watergate South apartment in Washington, D.C. to an individual in Gaithersburg, Maryland.

(Wire Fraud and Aiding and Abetting,
in violation of 18 U.S.C. §§ 1343 and 2)

COUNT SIX

1. The allegations contained in paragraphs One through Eleven of Count Two of the Indictment are incorporated herein by reference as though fully set forth in this Count of the Indictment.

2. On or about August 15, 1996, in the District of Columbia and elsewhere,

YAH LIN "CHARLIE" TRIE and
YUAN PEI "ANTONIO" PAN,

defendants herein, for the purpose of executing and attempting to execute the scheme and artifice to defraud and to obtain property by false and fraudulent pretenses, representations and promises, did knowingly transmit and cause to be transmitted by means of a wire in interstate commerce, writings, signs, signals, pictures and sounds, to wit: the wire transfer of funds in the amount of $80,000 from an account in the name of defendant **YAH LIN "CHARLIE" TRIE** and a business associate from Macau maintained at Riggs Bank in Washington, D.C. to an account at American International Bank in Los Angeles, California.

(Wire Fraud and Aiding and Abetting,
in violation of 18 U.S.C. §§ 1343 and 2)

COUNT SEVEN

1. The allegations contained in paragraphs One through Eleven of Count Two of the Indictment are incorporated herein by reference as though fully set forth in this Count of the Indictment.

2. On or about August 15, 1996, in the District of Columbia and elsewhere,

YAH LIN "CHARLIE" TRIE and
YUAN PEI "ANTONIO" PAN,

defendants herein, for the purpose of executing and attempting to execute the scheme and artifice to defraud and to obtain property by false and fraudulent pretenses, representations and promises, did knowingly transmit and cause to be transmitted by means of a wire in interstate commerce, writings, signs, signals, pictures and sounds, to wit: the wire transfer of funds in the amount of $10,000 from an account in the name of San Kin Yip maintained at Riggs Bank in Washington, D.C. to an account held by an individual in California.

(Wire Fraud and Aiding and Abetting,
in violation of 18 U.S.C. §§ 1342 and 2)

COUNT EIGHT

1. The allegations contained in paragraphs One through Eleven of Count Two of the Indictment are incorporated herein by reference as though fully set forth in this Count of the Indictment.

2. On or about August 16, 1996, in the District of Columbia and elsewhere,

YAH LIN "CHARLIE" TRIE,

defendant herein, for the purpose of executing and attempting to execute the scheme and artifice to defraud and to obtain property by false and fraudulent pretenses, representations and promises, did knowingly transmit and cause to be transmitted by means of a wire in interstate commerce, writings, signs, signals, pictures and sounds, to wit: a telephone call from the Watergate South apartment in Washington, D.C. to a business office in Rockville, Maryland.

(Wire Fraud and Aiding and Abetting,
in violation of 18 U.S.C. §§ 1343 and 2)

COUNTS NINE THROUGH ELEVEN

1. The allegations contained in paragraphs One through Thirteen of Count One of the Indictment are incorporated herein by reference as though fully set forth in these Counts of the Indictment.

2. On or about the dates set forth below, in the District of Columbia, and elsewhere,

YAH LIN "CHARLIE" TRIE,

defendant herein, in a matter within the jurisdiction of a department and agency of the United States, knowingly and willfully caused another to (1) falsify, conceal and cover up by trick, scheme and device a material fact; (2) make materially false, fictitious and fraudulent statements and representations; and (3) make and use false writings and documents knowing the same to contain materially false, fictitious and fraudulent statements and entries, to wit: the defendant caused the treasurer for the DNC to create and submit false reports to the FEC which indicated that lawful contributions were made by individuals to the DNC when in truth and fact, as the defendant well knew, it was another person and entity that had contributed to the DNC and not the conduits listed in the report filed with the FEC.

Count	Date	Political Committee
9	01/22/96	DNC Services Corporation/Democratic National Committee
10	04/15/96	DNC Services Corporation/Democratic National Committee
11	10/15/96	DNC Services Corporation/Democratic National Committee

(False Statements and Aiding and Abetting,
in violation of 18 U.S.C. §§ 1001 and 2)

COUNT TWELVE

Introductory Allegations

1. In or about December 1996, the U.S. Senate was authorized to conduct an investigation of illegal or improper activities in connection with the 1996 federal election campaigns.

2. Prior to December 1996, a federal grand jury was convened in the District of Columbia to investigate, among other things, illegal or improper activities in connection with campaign contributions made by defendant **YAH LIN "CHARLIE" TRIE** and others.

3. In or about December 1996, defendant **YAH LIN "CHARLIE" TRIE** retained a law firm in connection with grand jury and congressional investigations into alleged federal election law violations.

4. On or about February 13, 1997, the U.S. Senate issued a subpoena to the Custodian of Records of Daihatsu seeking records that referred or related to, among other things, political contributions and the DNC.

5. In or about June 25, 1997, the federal grand jury sitting in the District of Columbia issued a grand jury subpoena to an employee of defendant **YAH LIN "CHARLIE" TRIE** seeking documents related to, among other things, political contributions made by defendant **YAH LIN "CHARLIE" TRIE**.

The Conspiracy

6. From in or about December 1996 continuing through October 1997, the exact dates being to the grand jury unknown, in the District of Columbia, the State of Arkansas, and elsewhere,

YAH LIN "CHARLIE" TRIE,

defendant herein, did knowingly and willfully conspire and agree with other persons whose names are to the grand jury both known and unknown, to commit offenses against the United States, that is, (1) to corruptly influence, obstruct, and impede and endeavor to influence, obstruct and impede the due administration of justice, in violation of 18 U.S.C. Section 1503; (2) to corruptly impede and endeavor to impede the due and proper exercise of the power of inquiry under which any inquiry and investigation was being had before the United States Senate, and any committee of the United States Senate and any joint committee of the Congress, in violation of 18 U.S.C. Section 1505; and, (3) to corruptly persuade another person with the intent to cause and induce said person to withhold a record and document from an official proceeding and to alter, destroy, mutilate and conceal an object with the intent to impair the object's integrity and availability for use in an official proceeding, in violation of 18 U.S.C. Section 1512(b)(2).

Manner and Means of the Conspiracy

7. It was part of the conspiracy that defendant **YAH LIN "CHARLIE" TRIE** and his co-conspirator(s) did utilize the telephones for the purpose of communicating with his co-conspirator(s) about the alteration, destruction, mutilation and concealment of documents.

8. It was further part of the conspiracy that defendant **YAH LIN "CHARLIE" TRIE** and his co-conspirator(s) did attempt to conceal from law enforcement and others the alteration, destruction, mutilation and concealment of records by causing false statements to be made to the United States Senate and to federal law enforcement.

9. It was further part of the conspiracy that defendant **YAH LIN "CHARLIE" TRIE** and his co-conspirator(s) did alter, destroy, mutilate and conceal documents responsive to subpoenas issued by the United States Senate and by a federal grand jury.

OVERT ACTS

In furtherance of the conspiracy and to effect the objects thereof, the following overt acts, among others, were committed in the District of Columbia and elsewhere:

1. In or about December 1996, defendant **YAH LIN "CHARLIE" TRIE** called a co-conspirator in Rockville, Maryland and discussed a campaign contribution made by the co-conspirator at the direction of defendant **YAH LIN "CHARLIE" TRIE** in August, 1996.

2. In or about January 1997, defendant **YAH LIN "CHARLIE" TRIE** called a co-conspirator in Little Rock, Arkansas to discuss the pending grand jury and congressional investigations and the documents of Daihatsu.

3. In or about March 7, 1997, a co-conspirator left a message on a telephone answering machine located in Washington, D.C. for the purpose of contacting defendant **YAH LIN "CHARLIE" TRIE** about a U.S. Senate subpoena served on Daihatsu.

4. In or about March 1997, defendant **YAH LIN "CHARLIE" TRIE** called a co-conspirator in Little Rock, Arkansas and asked the co-conspirator to get rid of documents responsive to the U.S. Senate subpoena.

5. In or about March 1997, a co-conspirator falsely told the attorneys for Daihatsu and for the defendant **YAH LIN "CHARLIE" TRIE** that all documents responsive to the subpoena issued by the U.S. Senate were available for their review and inspection in Little Rock, Arkansas.

6. In or about June 1997, a co-conspirator left a message for defendant **YAH LIN "CHARLIE" TRIE** on a telephone answering machine located in Washington, D.C.

7. On or about October 21, 1997, a co-conspirator falsely told agents of the Federal Bureau of Investigation at a meeting in Washington, D.C. that all documents responsive to a federal grand jury subpoena dated June 25, 1997 had been produced.

8. On or about October 22, 1997, after producing a number of additional documents on that date, a co-conspirator falsely told agents of the Federal Bureau of Investigation at a meeting in Washington, D.C. that all documents responsive to a federal grand jury subpoena dated June 25, 1997 had been produced.

(Conspiracy to Obstruct Justice,
in violation of 18 U.S.C. § 371)

COUNT THIRTEEN

1. The allegations contained in paragraphs One through Five of Count Twelve of the Indictment are incorporated herein by reference as though fully set forth in this Count of the Indictment.

2. In or about January, 1997, in the District of Columbia, the State of Arkansas, and elsewhere,

YAH LIN "CHARLIE" TRIE,

defendant herein, did corruptly persuade another person with the intent to cause and induce said person to withhold a record and document from an official proceeding and to alter, destroy, mutilate and conceal an object with the intent to impair the object's integrity and availability for use in an official proceeding, to wit: by telling and instructing another person to alter, destroy, mutilate, and conceal documents.

(Witness Tampering and Aiding and Abetting,
in violation of 18 U.S.C. §§ 1512(b)(2) and 2)

COUNT FOURTEEN

1. The allegations contained in paragraphs One through Five of Count Twelve of the Indictment are incorporated herein by reference as though fully set forth in this Count of the Indictment.

2. On or about March 7, 1997, in the District of Columbia, the State of Arkansas, and elsewhere,

YAH LIN "CHARLIE" TRIE,

defendant herein, did corruptly impede and endeavor to impede the due and proper exercise of the power of inquiry under which any inquiry and investigation was being had before the United States Senate, and any committee of the United States Senate and any joint committee of the Congress, to wit: by instructing another person to alter, destroy, mutilate, conceal and otherwise fail to produce documents responsive to a subpoena issued by the United States Senate Committee on Governmental Affairs.

(Obstruction of Congressional Investigation and Aiding and Abetting, in violation of 18 U.S.C. §§ 1505 and 2)

COUNT FIFTEEN

1. The allegations contained in paragraphs One through Five of Count Twelve of the Indictment are incorporated herein by reference as though fully set forth in this Count of the Indictment.

2. On or about June 27, 1997, in the District of Columbia, the State of Arkansas, and elsewhere,

YAH LIN "CHARLIE" TRIE,

defendant herein, did corruptly persuade another person with the intent to cause and induce said person to withhold a record and document from an official proceeding and to alter, destroy, mutilate and conceal an object with the intent to impair the object's integrity and availability for use in an official proceeding, to wit: by telling and instructing another person to alter, destroy, mutilate, and conceal documents responsive

to a federal grand jury subpoena issued by the United States District Court for the District of Columbia.

(Witness Tampering and Aiding and Abetting,
in violation of 18 U.S.C. §§ 1512(b)(2) and 2)

A TRUE BILL:

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United States Attorney for the
District of Columbia

Foreperson

Thomas W. McNamara
Sandra Wilkinson
Trial Attorneys
U.S. Department of Justice
Campaign Financing Task Force
1001 G Street, NW
Washington, D.C. 20001
(202)307-0708

Date: January 28, 1998

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, v. INTERNET RESEARCH AGENCY, LLC, *et al*., Defendants.	CRIMINAL NUMBER: 1:18-cr-00032-DLF

PROPOSED ORDER

With the Court having considered Defendant Concord Management and Consulting LLC's Motion to Dismiss the Indictment, Memorandum in Support thereof, and any opposition and reply thereto, it is hereby:

ORDERED that the motion is **GRANTED**; and it is

FURTHER ORDERED that the Indictment, ECF No. 1, is dismissed as to Defendant Concord Management and Consulting LLC.

SO ORDERED, this ___ day of _____, 2018.

DABNEY L. FRIEDRICH
United States District Judge

PERSONS TO BE SERVED WITH ORDER:

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