

**BEFORE THE BOARD OF DISCIPLINARY APPEALS  
APPOINTED BY  
THE SUPREME COURT OF TEXAS**

**IN THE MATTER OF** §  
**WILLIAM TOPP MAXWELL** § **CAUSE NO. 56591**  
**STATE BAR CARD NO. 24028775** §

**PETITION FOR COMPULSORY DISCIPLINE**

**TO THE BOARD OF DISCIPLINARY APPEALS:**

Petitioner, the Commission for Lawyer Discipline (hereinafter called "Petitioner"), brings this action against Respondent, William Topp Maxwell, (hereinafter called "Respondent"), showing as follows:

1. This action is commenced by Petitioner pursuant to Part VIII of the Texas Rules of Disciplinary Procedure. Petitioner is also providing Respondent a copy of this Board's procedures for handling a compulsory discipline matter by attaching a copy of such procedures to this petition.

2. Respondent, William Topp Maxwell, may be served with a true and correct copy of this Petition for Compulsory Discipline, its attachments, as well as a notice of hearing, at William Topp Maxwell, #71944-279, Philadelphia FDC, 700 Arch Street, Philadelphia, Pennsylvania 19106.

3. On or about October 26, 2011, Respondent was charged by Indictment (Exhibit 1) with Count One - RICO Conspiracy, in violation of 18 U.S.C. §1962(d), Count Two - Securities Fraud Conspiracy, in violation of 18 U.S.C. §371, Count Three - Wire Fraud Conspiracy, in violation of 18 U.S.C. §1349, Counts Four through Sixteen - Wire Fraud, in violation of 18

U.S.C. §1343, Counts Seventeen through Nineteen – Wire Fraud, in violation of 18 U.S.C. §1343, Count Twenty – Conspiracy to Commit Money Laundering, in violation of 18 U.S.C. §1956(h), Count Twenty-One – Conspiracy to Commit Bank Fraud, in violation of 18 U.S.C. §1349, County Twenty-Two – Conspiracy to Make False Statements in Connection with Loan Application, in violation of 18 U.S.C. §371, County Twenty-Three – Conspiracy to Obstruct Justice, in violation of 18 U.S.C. §1512(k), Count Twenty-Four – Conspiracy to Sell or Transfer Firearms and Ammunition to a Prohibited Person or Possess a Firearm by a Convicted Felon, in violation of 18 U.S.C. §371, and Count Twenty-Five – Felon in Possession of a Firearm, in violation of 18 U.S.C. §922(g)(1), in Cause No. 11-740(RBK), styled *United States of America, v. (among others) William Maxwell a/k/a "Bill"*, in the United States District Court for the District of New Jersey.

4. On or about June 18, 2014, Respondent was charged by Redacted Indictment (Exhibit 2) with Count One - RICO Conspiracy, in violation of 18 U.S.C. §1962(d), Count Two - Securities Fraud Conspiracy, in violation of 18 U.S.C. §371, Count Three - Wire Fraud Conspiracy, in violation of 18 U.S.C. §1349, Counts Four through Sixteen - Wire Fraud, in violation of 18 U.S.C. §1343, Counts Seventeen through Nineteen – Wire Fraud, in violation of 18 U.S.C. §1343, Count Twenty – Conspiracy to Commit Money Laundering, in violation of 18 U.S.C. §1956(h), Count Twenty-One – Conspiracy to Commit Bank Fraud, in violation of 18 U.S.C. §1349, County Twenty-Two – Conspiracy to Make False Statements in Connection with Loan Application, in violation of 18 U.S.C. §371, County Twenty-Three – Conspiracy to Obstruct Justice, in violation of 18 U.S.C. §1512(k), Count Twenty-Four – Conspiracy to Sell or Transfer Firearms and Ammunition to a Prohibited Person or Possess a Firearm by a Convicted Felon, in violation of 18 U.S.C. §371, and Count Twenty-Five – Felon in Possession of a Firearm, in violation of 18 U.S.C. §922(g)(1), in Cause No. 11-740, styled *United States of*

*America, v. (among others) William Maxwell a/k/a "Bill"*, in the United States District Court for the District of New Jersey.

5. On or about July 30, 2015, a Judgment in a Criminal Case (Exhibit 3) was entered in Case No. 1:11-CR-00740 (03), styled *United States of America v. William Maxwell, Defendant*, in the United States District Court for the District of New Jersey, wherein Respondent was found guilty of Count One - Racketeering Conspiracy, Count Two - Conspiracy to Commit Securities Fraud, Count Three - Conspiracy to Commit Wire Fraud, Counts Four through Nineteen - Wire Fraud, Count Twenty - Conspiracy to Commit Money Laundering, County Twenty-Three - Conspiracy to Obstruct Justice, Count Twenty-Four - Conspiracy to Sell or Transfer Firearms and Ammunition to a Prohibited Person and was committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of 240 months on each of Counts 1, 3 through 20, and 23; and 60 months on each of Counts 2 and 24; all such terms to run concurrent, to produce a total term of imprisonment of 240 months. Respondent was ordered upon release from imprisonment to be on supervised release for 3 years on each of Counts 1 thorough 20, 23, and Count 24, all such terms to run concurrently, ordered to pay an assessment of \$2,200.00 and ordered to pay restitution in the amount of \$14,180,798.00.

6. On or about August 11, 2015, an Amended Judgment (as to forfeiture) in a Criminal Case (Exhibit 4) was entered in Case No. 1:11-CR-00740 (03), styled *United States of America v. William Maxwell, Defendant*, in the United States District Court for the District of New Jersey, wherein Respondent was found guilty of Count One - Racketeering Conspiracy, Count Two - Conspiracy to Commit Securities Fraud, Count Three - Conspiracy to Commit Wire Fraud, Counts Four through Nineteen - Wire Fraud, Count Twenty - Conspiracy to Commit Money Laundering, County Twenty-Three - Conspiracy to Obstruct Justice, Count Twenty-Four - Conspiracy to Sell or Transfer Firearms and Ammunition to a Prohibited Person and was

committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of 240 months on each of Counts 1, 3 through 20, and 23; and 60 months on each of Counts 2 and 24; all such terms to run concurrent, to produce a total term of imprisonment of 240 months. Respondent was ordered upon release from imprisonment to be on supervised release for 3 years on each of Counts 1 thorough 20, 23, and Count 24, all such terms to run concurrently, ordered to pay an assessment of \$2,200.00 and ordered to pay restitution in the amount of \$14,180,798.00. Attached hereto and made a part hereof for all intents and purposes as if the same were copied verbatim herein, are true and correct copies of the following documents in the Maxwell criminal case: Indictment (Exhibit 1), Redacted Indictment (Exhibit 2), Judgment in a Criminal Case (Exhibit 3) and an Amended Judgment (as to forfeiture) in a Criminal Case (Exhibit 4). Petitioner expects to introduce certified copies of Exhibits 1 through 4 at the time of hearing of this cause.

7. Respondent, William Topp Maxwell, whose bar card number is 24028775, is the same person as the William Maxwell who is the subject of the Indictments and Judgments described above, true and correct copies of which are attached hereto as Exhibits 1 through 4.

8. Attached hereto as Exhibit 5 and made a part hereof for all intents and purposes as if the same were copied verbatim herein is a true and correct copy of an affidavit of Rebecca (Beth) Stevens, Attorney of Record for Petitioner herein, attesting to the fact that Respondent is the same person as the person who is the subject of the Indictments and Judgements entered in the Maxwell criminal case. Petitioner expects to introduce the original of said affidavit at the time of hearing of this cause.

9. The offenses for which Respondent was convicted are intentional crimes as defined by Rule 1.06(T), Texas Rules of Disciplinary Procedure. They are as well serious crimes as defined by Rule 1.06(Z), Texas Rules of Disciplinary Procedure.

10. Having been found guilty and having been convicted of intentional crimes and such conviction currently being appealed, Respondent should be suspended as an attorney licensed to practice law in Texas during the appeal of his conviction. Further, upon a showing by Petitioner that the conviction has become final after determination of the appeal, Respondent should be disbarred as provided by Rule 8.05, Texas Rules of Disciplinary Procedure.


PRAYER

WHEREFORE, PREMISES CONSIDERED, Petitioner prays that Respondent be given notice of these proceedings as provided by law and, upon hearing of this matter, that the Board enter its order suspending Respondent during the appeal of his conviction, and for such other and further relief to which Petitioner may be entitled to receive including costs of court and attorney's fees.

Respectfully submitted,

**Linda A. Acevedo**  
Chief Disciplinary Counsel

**Rebecca (Beth) Stevens**  
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\_\_\_\_\_  
Rebecca (Beth) Stevens  
State Bar Card No. 24065381

ATTORNEYS FOR PETITIONER

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing instrument has been sent for personal service on William Topp Maxwell, #71944-279, Philadelphia FDC, 700 Arch Street, Philadelphia, Pennsylvania 19106 on this 27<sup>th</sup> day of August 2015.

  
Rebecca (Beth) Stevens

**NOTICE OF HEARING**

NOTICE IS HEREBY GIVEN that a trial on the merits of the Petition for Compulsory Discipline heretofore sent to be filed with the Board of Disciplinary Appeals on this day, will be held in the courtroom of the Supreme Court of Texas, Tom C. Clark Building, 14th and Colorado Streets, Austin, Texas, at **2:00 p.m. on the 13th day of October 2015.**

  
Rebecca (Beth) Stevens

# INTERNAL PROCEDURAL RULES

## Board of Disciplinary Appeals

Effective February 19, 2015

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## SECTION 1: GENERAL PROVISIONS

### Rule 1.01 Definitions

- (a) “BODA” is the Board of Disciplinary Appeals.
- (b) “Chair” is the member elected by BODA to serve as chair or, in the Chair’s absence, the member elected by BODA to serve as vice-chair.
- (c) “Classification” is the determination by the CDC under TRDP 2.10 or by BODA under TRDP 7.08(C) whether a grievance constitutes a “complaint” or an “inquiry.”
- (d) “BODA Clerk” is the executive director of BODA or other person appointed by BODA to assume all duties normally performed by the clerk of a court.
- (e) “CDC” is the Chief Disciplinary Counsel for the State Bar of Texas and his or her assistants.
- (f) “Commission” is the Commission for Lawyer Discipline, a permanent committee of the State Bar of Texas.
- (g) “Executive Director” is the executive director of BODA.
- (h) “Panel” is any three-member grouping of BODA under TRDP 7.05.
- (i) “Party” is a Complainant, a Respondent, or the Commission.
- (j) “TDRPC” is the Texas Disciplinary Rules of Professional Conduct.
- (k) “TRAP” is the Texas Rules of Appellate Procedure.
- (l) “TRCP” is the Texas Rules of Civil Procedure.
- (m) “TRDP” is the Texas Rules of Disciplinary Procedure.
- (n) “TRE” is the Texas Rules of Evidence.

### Rule 1.02 General Powers

Under TRDP 7.08, BODA has and may exercise all the powers of either a trial court or an appellate court, as the case may be, in hearing and determining disciplinary proceedings. But TRDP 15.01 applies to the enforcement of a judgment of BODA.

### Rule 1.03 Additional Rules in Disciplinary Matters

Except as varied by these rules and to the extent applicable, the TRCP, TRAP, and TRE apply to all disciplinary matters before BODA, except for appeals

from classification decisions, which are governed by TRDP 2.10 and by Section 3 of these rules.

### Rule 1.04 Appointment of Panels

- (a) BODA may consider any matter or motion by panel, except as specified in (b). The Chair may delegate to the Executive Director the duty to appoint a panel for any BODA action. Decisions are made by a majority vote of the panel; however, any panel member may refer a matter for consideration by BODA sitting en banc. Nothing in these rules gives a party the right to be heard by BODA sitting en banc.
- (b) Any disciplinary matter naming a BODA member as Respondent must be considered by BODA sitting en banc. A disciplinary matter naming a BODA staff member as Respondent need not be heard en banc.

### Rule 1.05 Filing of Pleadings, Motions, and Other Papers

- (a) **Electronic Filing.** All documents must be filed electronically. Unrepresented persons or those without the means to file electronically may electronically file documents, but it is not required.
  - (1) **Email Address.** The email address of an attorney or an unrepresented party who electronically files a document must be included on the document.
  - (2) **Timely Filing.** Documents are filed electronically by emailing the document to the BODA Clerk at the email address designated by BODA for that purpose. A document filed by email will be considered filed the day that the email is sent. The date sent is the date shown for the message in the inbox of the email account designated for receiving filings. If a document is sent after 5:00 p.m. or on a weekend or holiday officially observed by the State of Texas, it is considered filed the next business day.
  - (3) It is the responsibility of the party filing a document by email to obtain the correct email address for BODA and to confirm that the document was received by BODA in legible form. Any document that is illegible or that cannot be opened as part of an email attachment will not be considered filed. If a document is untimely due to a technical failure or a system outage, the filing party may seek appropriate relief from BODA.

(4) **Exceptions.**

- (i) An appeal to BODA of a decision by the CDC to classify a grievance as an inquiry is not required to be filed electronically.
- (ii) The following documents must not be filed electronically:
  - a) documents that are filed under seal or subject to a pending motion to seal; and
  - b) documents to which access is otherwise restricted by court order.
- (iii) For good cause, BODA may permit a party to file other documents in paper form in a particular case.

(5) **Format.** An electronically filed document must:

- (i) be in text-searchable portable document format (PDF);
  - (ii) be directly converted to PDF rather than scanned, if possible; and
  - (iii) not be locked.
- (b) A paper will not be deemed filed if it is sent to an individual BODA member or to another address other than the address designated by BODA under Rule 1.05(a)(2).
- (c) **Signing.** Each brief, motion, or other paper filed must be signed by at least one attorney for the party or by the party pro se and must give the State Bar of Texas card number, mailing address, telephone number, email address, and fax number, if any, of each attorney whose name is signed or of the party (if applicable). A document is considered signed if the document includes:
- (1) an “/s/” and name typed in the space where the signature would otherwise appear, unless the document is notarized or sworn; or
  - (2) an electronic image or scanned image of the signature.
- (d) **Paper Copies.** Unless required by BODA, a party need not file a paper copy of an electronically filed document.
- (e) **Service.** Copies of all documents filed by any party other than the record filed by the evidentiary panel clerk or the court reporter

must, at or before the time of filing, be served on all other parties as required and authorized by the TRAP.

**Rule 1.06 Service of Petition**

In any disciplinary proceeding before BODA initiated by service of a petition on the Respondent, the petition may be served by personal service; by certified mail with return receipt requested; or, if permitted by BODA, in any other manner that is authorized by the TRCP and reasonably calculated under all the circumstances to apprise the Respondent of the proceeding and to give him or her reasonable time to appear and answer. To establish service by certified mail, the return receipt must contain the Respondent’s signature.

**Rule 1.07 Hearing Setting and Notice**

- (a) **Original Petitions.** In any kind of case initiated by the CDC’s filing a petition or motion with BODA, the CDC may contact the BODA Clerk for the next regularly available hearing date before filing the original petition. If a hearing is set before the petition is filed, the petition must state the date, time, and place of the hearing. Except in the case of a petition to revoke probation under TRDP 2.23, the hearing date must be at least 30 days from the date that the petition is served on the Respondent.
- (b) **Expedited Settings.** If a party desires a hearing on a matter on a date earlier than the next regularly available BODA hearing date, the party may request an expedited setting in a written motion setting out the reasons for the request. Unless the parties agree otherwise, and except in the case of a petition to revoke probation under TRDP 2.23, the expedited hearing setting must be at least 30 days from the date of service of the petition, motion, or other pleading. BODA has the sole discretion to grant or deny a request for an expedited hearing date.
- (c) **Setting Notices.** BODA must notify the parties of any hearing date that is not noticed in an original petition or motion.
- (d) **Announcement Docket.** Attorneys and parties appearing before BODA must confirm their presence and present any questions regarding procedure to the BODA Clerk in the courtroom immediately prior to the time docket call is scheduled to begin. Each party with a matter on the docket must appear at the docket call to give an announcement of readiness, to give a time estimate for the

hearing, and to present any preliminary motions or matters. Immediately following the docket call, the Chair will set and announce the order of cases to be heard.

#### **Rule 1.08 Time to Answer**

The Respondent may file an answer at any time, except where expressly provided otherwise by these rules or the TRDP, or when an answer date has been set by prior order of BODA. BODA may, but is not required to, consider an answer filed the day of the hearing.

#### **Rule 1.09 Pretrial Procedure**

- (a) Motions.
  - (1) **Generally.** To request an order or other relief, a party must file a motion supported by sufficient cause with proof of service on all other parties. The motion must state with particularity the grounds on which it is based and set forth the relief sought. All supporting briefs, affidavits, or other documents must be served and filed with the motion. A party may file a response to a motion at any time before BODA rules on the motion or by any deadline set by BODA. Unless otherwise required by these rules or the TRDP, the form of a motion must comply with the TRCP or the TRAP.
  - (2) **For Extension of Time.** All motions for extension of time in any matter before BODA must be in writing, comply with (a)(1), and specify the following:
    - (i) if applicable, the date of notice of decision of the evidentiary panel, together with the number and style of the case;
    - (ii) if an appeal has been perfected, the date when the appeal was perfected;
    - (iii) the original deadline for filing the item in question;
    - (iv) the length of time requested for the extension;
    - (v) the number of extensions of time that have been granted previously regarding the item in question; and
    - (vi) the facts relied on to reasonably explain the need for an extension.
- (b) **Pretrial Scheduling Conference.** Any party may request a pretrial scheduling conference,

or BODA on its own motion may require a pretrial scheduling conference.

- (c) **Trial Briefs.** In any disciplinary proceeding before BODA, except with leave, all trial briefs and memoranda must be filed with the BODA Clerk no later than ten days before the day of the hearing.
- (d) **Hearing Exhibits, Witness Lists, and Exhibits Tendered for Argument.** A party may file a witness list, exhibit, or any other document to be used at a hearing or oral argument before the hearing or argument. A party must bring to the hearing an original and 12 copies of any document that was not filed at least one business day before the hearing. The original and copies must be:
  - (1) marked;
  - (2) indexed with the title or description of the item offered as an exhibit; and
  - (3) if voluminous, bound to lie flat when open and tabbed in accordance with the index.

All documents must be marked and provided to the opposing party before the hearing or argument begins.

#### **Rule 1.10 Decisions**

- (a) **Notice of Decisions.** The BODA Clerk must give notice of all decisions and opinions to the parties or their attorneys of record.
- (b) **Publication of Decisions.** BODA must report judgments or orders of public discipline:
  - (1) as required by the TRDP; and
  - (2) on its website for a period of at least ten years following the date of the disciplinary judgment or order.
- (c) **Abstracts of Classification Appeals.** BODA may, in its discretion, prepare an abstract of a classification appeal for a public reporting service.

#### **Rule 1.11 Board of Disciplinary Appeals Opinions**

- (a) BODA may render judgment in any disciplinary matter with or without written opinion. In accordance with TRDP 6.06, all written opinions of BODA are open to the public and must be made available to the public reporting services, print or electronic, for publishing. A majority of the members who participate in considering the disciplinary matter must determine if an opinion will be

written. The names of the participating members must be noted on all written opinions of BODA.

- (b) Only a BODA member who participated in the decision of a disciplinary matter may file or join in a written opinion concurring in or dissenting from the judgment of BODA. For purposes of this rule, in hearings in which evidence is taken, no member may participate in the decision unless that member was present at the hearing. In all other proceedings, no member may participate unless that member has reviewed the record. Any member of BODA may file a written opinion in connection with the denial of a hearing or rehearing en banc.
- (c) A BODA determination in an appeal from a grievance classification decision under TRDP 2.10 is not a judgment for purposes of this rule and may be issued without a written opinion.

#### **Rule 1.12 BODA Work Product and Drafts**

A document or record of any nature—regardless of its form, characteristics, or means of transmission—that is created or produced in connection with or related to BODA’s adjudicative decision-making process is not subject to disclosure or discovery. This includes documents prepared by any BODA member, BODA staff, or any other person acting on behalf of or at the direction of BODA.

#### **Rule 1.13 Record Retention**

Records of appeals from classification decisions must be retained by the BODA Clerk for a period of at least three years from the date of disposition. Records of other disciplinary matters must be retained for a period of at least five years from the date of final judgment, or for at least one year after the date a suspension or disbarment ends, whichever is later. For purposes of this rule, a record is any document, paper, letter, map, book, tape, photograph, film, recording, or other material filed with BODA, regardless of its form, characteristics, or means of transmission.

#### **Rule 1.14 Costs of Reproduction of Records**

The BODA Clerk may charge a reasonable amount for the reproduction of nonconfidential records filed with BODA. The fee must be paid in advance to the BODA Clerk.

#### **Rule 1.15 Publication of These Rules**

These rules will be published as part of the TDRPC and TRDP.

## **SECTION 2: ETHICAL CONSIDERATIONS**

### **Rule 2.01 Representing or Counseling Parties in Disciplinary Matters and Legal Malpractice Cases**

- (a) A current member of BODA must not represent a party or testify voluntarily in a disciplinary action or proceeding. Any BODA member who is subpoenaed or otherwise compelled to appear at a disciplinary action or proceeding, including at a deposition, must promptly notify the BODA Chair.
- (b) A current BODA member must not serve as an expert witness on the TDRPC.
- (c) A BODA member may represent a party in a legal malpractice case, provided that he or she is later recused in accordance with these rules from any proceeding before BODA arising out of the same facts.

### **Rule 2.02 Confidentiality**

- (a) BODA deliberations are confidential, must not be disclosed by BODA members or staff, and are not subject to disclosure or discovery.
- (b) Classification appeals, appeals from evidentiary judgments of private reprimand, appeals from an evidentiary judgment dismissing a case, interlocutory appeals or any interim proceedings from an ongoing evidentiary case, and disability cases are confidential under the TRDP. BODA must maintain all records associated with these cases as confidential, subject to disclosure only as provided in the TRDP and these rules.
- (c) If a member of BODA is subpoenaed or otherwise compelled by law to testify in any proceeding, the member must not disclose a matter that was discussed in conference in connection with a disciplinary case unless the member is required to do so by a court of competent jurisdiction.

### **Rule 2.03 Disqualification and Recusal of BODA Members**

- (a) BODA members are subject to disqualification and recusal as provided in TRCP 18b.
- (b) BODA members may, in addition to recusals under (a), voluntarily recuse themselves from any discussion and voting for any reason. The reasons that a BODA member is recused from a case are not subject to discovery.
- (c) These rules do not disqualify a lawyer who is a member of, or associated with, the law firm of

a BODA member from serving on a grievance committee or representing a party in a disciplinary proceeding or legal malpractice case. But a BODA member must recuse him- or herself from any matter in which a lawyer who is a member of, or associated with, the BODA member's firm is a party or represents a party.

### SECTION 3: CLASSIFICATION APPEALS

#### Rule 3.01 Notice of Right to Appeal

- (a) If a grievance filed by the Complainant under TRDP 2.10 is classified as an inquiry, the CDC must notify the Complainant of his or her right to appeal as set out in TRDP 2.10 or another applicable rule.
- (b) To facilitate the potential filing of an appeal of a grievance classified as an inquiry, the CDC must send the Complainant an appeal notice form, approved by BODA, with the classification disposition. The form must include the docket number of the matter; the deadline for appealing; and information for mailing, faxing, or emailing the appeal notice form to BODA. The appeal notice form must be available in English and Spanish.

#### Rule 3.02 Record on Appeal

BODA must only consider documents that were filed with the CDC prior to the classification decision. When a notice of appeal from a classification decision has been filed, the CDC must forward to BODA a copy of the grievance and all supporting documentation. If the appeal challenges the classification of an amended grievance, the CDC must also send BODA a copy of the initial grievance, unless it has been destroyed.

### SECTION 4: APPEALS FROM EVIDENTIARY PANEL HEARINGS

#### Rule 4.01 Perfecting Appeal

- (a) **Appellate Timetable.** The date that the evidentiary judgment is signed starts the appellate timetable under this section. To make TRDP 2.21 consistent with this requirement, the date that the judgment is signed is the "date of notice" under Rule 2.21.
- (b) **Notification of the Evidentiary Judgment.** The clerk of the evidentiary panel must notify the parties of the judgment as set out in TRDP 2.21.
  - (1) The evidentiary panel clerk must notify the Commission and the Respondent in writing of the judgment. The notice must

contain a clear statement that any appeal of the judgment must be filed with BODA within 30 days of the date that the judgment was signed. The notice must include a copy of the judgment rendered.

- (2) The evidentiary panel clerk must notify the Complainant that a judgment has been rendered and provide a copy of the judgment, unless the evidentiary panel dismissed the case or imposed a private reprimand. In the case of a dismissal or private reprimand, the evidentiary panel clerk must notify the Complainant of the decision and that the contents of the judgment are confidential. Under TRDP 2.16, no additional information regarding the contents of a judgment of dismissal or private reprimand may be disclosed to the Complainant.
- (c) **Filing Notice of Appeal.** An appeal is perfected when a written notice of appeal is filed with BODA. If a notice of appeal and any other accompanying documents are mistakenly filed with the evidentiary panel clerk, the notice is deemed to have been filed the same day with BODA, and the evidentiary panel clerk must immediately send the BODA Clerk a copy of the notice and any accompanying documents.
- (d) **Time to File.** In accordance with TRDP 2.24, the notice of appeal must be filed within 30 days after the date the judgment is signed. In the event a motion for new trial or motion to modify the judgment is timely filed with the evidentiary panel, the notice of appeal must be filed with BODA within 90 days from the date the judgment is signed.
- (e) **Extension of Time.** A motion for an extension of time to file the notice of appeal must be filed no later than 15 days after the last day allowed for filing the notice of appeal. The motion must comply with Rule 1.09.

#### Rule 4.02 Record on Appeal

- (a) **Contents.** The record on appeal consists of the evidentiary panel clerk's record and, where necessary to the appeal, a reporter's record of the evidentiary panel hearing.
- (b) **Stipulation as to Record.** The parties may designate parts of the clerk's record and the reporter's record to be included in the record

on appeal by written stipulation filed with the clerk of the evidentiary panel.

(c) **Responsibility for Filing Record.**

(1) Clerk's Record.

- (i) After receiving notice that an appeal has been filed, the clerk of the evidentiary panel is responsible for preparing, certifying, and timely filing the clerk's record.
- (ii) Unless the parties stipulate otherwise, the clerk's record on appeal must contain the items listed in TRAP 34.5(a) and any other paper on file with the evidentiary panel, including the election letter, all pleadings on which the hearing was held, the docket sheet, the evidentiary panel's charge, any findings of fact and conclusions of law, all other pleadings, the judgment or other orders appealed from, the notice of decision sent to each party, any postsubmission pleadings and briefs, and the notice of appeal.
- (iii) If the clerk of the evidentiary panel is unable for any reason to prepare and transmit the clerk's record by the due date, he or she must promptly notify BODA and the parties, explain why the clerk's record cannot be timely filed, and give the date by which he or she expects the clerk's record to be filed.

(2) Reporter's Record.

- (i) The court reporter for the evidentiary panel is responsible for timely filing the reporter's record if:
  - a) a notice of appeal has been filed;
  - b) a party has requested that all or part of the reporter's record be prepared; and
  - c) the party requesting all or part of the reporter's record has paid the reporter's fee or has made satisfactory arrangements with the reporter.
- (ii) If the court reporter is unable for any reason to prepare and transmit the reporter's record by the due date, he

or she must promptly notify BODA and the parties, explain the reasons why the reporter's record cannot be timely filed, and give the date by which he or she expects the reporter's record to be filed.

(d) Preparation of Clerk's Record.

(1) To prepare the clerk's record, the evidentiary panel clerk must:

- (i) gather the documents designated by the parties' written stipulation or, if no stipulation was filed, the documents required under (c)(1)(ii);
- (ii) start each document on a new page;
- (iii) include the date of filing on each document;
- (iv) arrange the documents in chronological order, either by the date of filing or the date of occurrence;
- (v) number the pages of the clerk's record in the manner required by (d)(2);
- (vi) prepare and include, after the front cover of the clerk's record, a detailed table of contents that complies with (d)(3); and
- (vii) certify the clerk's record.

(2) The clerk must start the page numbering on the front cover of the first volume of the clerk's record and continue to number all pages consecutively—including the front and back covers, tables of contents, certification page, and separator pages, if any—until the final page of the clerk's record, without regard for the number of volumes in the clerk's record, and place each page number at the bottom of each page.

(3) The table of contents must:

- (i) identify each document in the entire record (including sealed documents); the date each document was filed; and, except for sealed documents, the page on which each document begins;
- (ii) be double-spaced;

- (iii) conform to the order in which documents appear in the clerk's record, rather than in alphabetical order;
  - (iv) contain bookmarks linking each description in the table of contents (except for descriptions of sealed documents) to the page on which the document begins; and
  - (v) if the record consists of multiple volumes, indicate the page on which each volume begins.
- (e) **Electronic Filing of the Clerk's Record.** The evidentiary panel clerk must file the record electronically. When filing a clerk's record in electronic form, the evidentiary panel clerk must:
- (1) file each computer file in text-searchable Portable Document Format (PDF);
  - (2) create electronic bookmarks to mark the first page of each document in the clerk's record;
  - (3) limit the size of each computer file to 100 MB or less, if possible; and
  - (4) directly convert, rather than scan, the record to PDF, if possible.
- (f) **Preparation of the Reporter's Record.**
- (1) The appellant, at or before the time prescribed for perfecting the appeal, must make a written request for the reporter's record to the court reporter for the evidentiary panel. The request must designate the portion of the evidence and other proceedings to be included. A copy of the request must be filed with the evidentiary panel and BODA and must be served on the appellee. The reporter's record must be certified by the court reporter for the evidentiary panel.
  - (2) The court reporter or recorder must prepare and file the reporter's record in accordance with TRAP 34.6 and 35 and the Uniform Format Manual for Texas Reporters' Records.
  - (3) The court reporter or recorder must file the reporter's record in an electronic format by emailing the document to the email address designated by BODA for that purpose.
  - (4) The court reporter or recorder must include either a scanned image of any required signature or "/s/" and name typed in the space where the signature would otherwise
- (6) In exhibit volumes, the court reporter or recorder must create bookmarks to mark the first page of each exhibit document.
- (g) **Other Requests.** At any time before the clerk's record is prepared, or within ten days after service of a copy of appellant's request for the reporter's record, any party may file a written designation requesting that additional exhibits and portions of testimony be included in the record. The request must be filed with the evidentiary panel and BODA and must be served on the other party.
- (h) **Inaccuracies or Defects.** If the clerk's record is found to be defective or inaccurate, the BODA Clerk must inform the clerk of the evidentiary panel of the defect or inaccuracy and instruct the clerk to make the correction. Any inaccuracies in the reporter's record may be corrected by agreement of the parties without the court reporter's recertification. Any dispute regarding the reporter's record that the parties are unable to resolve by agreement must be resolved by the evidentiary panel.
- (i) **Appeal from Private Reprimand.** Under TRDP 2.16, in an appeal from a judgment of private reprimand, BODA must mark the record as confidential, remove the attorney's name from the case style, and take any other steps necessary to preserve the confidentiality of the private reprimand.

#### **Rule 4.03 Time to File Record**

- (a) **Timetable.** The clerk's record and reporter's record must be filed within 60 days after the date the judgment is signed. If a motion for new trial or motion to modify the judgment is filed with the evidentiary panel, the clerk's record and the reporter's record must be filed within 120 days from the date the original judgment is signed, unless a modified judgment is signed, in which case the clerk's record and the reporter's record must be filed within 60 days of the signing of the modified judgment. Failure to file either the clerk's record or the reporter's record on time does not affect BODA's jurisdiction, but may result in BODA's exercising its discretion to dismiss the appeal, affirm the judgment appealed from,

disregard materials filed late, or apply presumptions against the appellant.

(b) **If No Record Filed.**

(1) If the clerk's record or reporter's record has not been timely filed, the BODA Clerk must send notice to the party responsible for filing it, stating that the record is late and requesting that the record be filed within 30 days. The BODA Clerk must send a copy of this notice to all the parties and the clerk of the evidentiary panel.

(2) If no reporter's record is filed due to appellant's fault, and if the clerk's record has been filed, BODA may, after first giving the appellant notice and a reasonable opportunity to cure, consider and decide those issues or points that do not require a reporter's record for a decision. BODA may do this if no reporter's record has been filed because:

- (i) the appellant failed to request a reporter's record; or
- (ii) the appellant failed to pay or make arrangements to pay the reporter's fee to prepare the reporter's record, and the appellant is not entitled to proceed without payment of costs.

(c) **Extension of Time to File the Reporter's Record.** When an extension of time is requested for filing the reporter's record, the facts relied on to reasonably explain the need for an extension must be supported by an affidavit of the court reporter. The affidavit must include the court reporter's estimate of the earliest date when the reporter's record will be available for filing.

(d) **Supplemental Record.** If anything material to either party is omitted from the clerk's record or reporter's record, BODA may, on written motion of a party or on its own motion, direct a supplemental record to be certified and transmitted by the clerk for the evidentiary panel or the court reporter for the evidentiary panel.

#### **Rule 4.04 Copies of the Record**

The record may not be withdrawn from the custody of the BODA Clerk. Any party may obtain a copy of the record or any designated part thereof by making a written request to the BODA Clerk and paying any charges for reproduction in advance.

#### **Rule 4.05 Requisites of Briefs**

(a) **Appellant's Filing Date.** Appellant's brief must be filed within 30 days after the clerk's record or the reporter's record is filed, whichever is later.

(b) **Appellee's Filing Date.** Appellee's brief must be filed within 30 days after the appellant's brief is filed.

(c) **Contents.** Briefs must contain:

(1) a complete list of the names and addresses of all parties to the final decision and their counsel;

(2) a table of contents indicating the subject matter of each issue or point, or group of issues or points, with page references where the discussion of each point relied on may be found;

(3) an index of authorities arranged alphabetically and indicating the pages where the authorities are cited;

(4) a statement of the case containing a brief general statement of the nature of the cause or offense and the result;

(5) a statement, without argument, of the basis of BODA's jurisdiction;

(6) a statement of the issues presented for review or points of error on which the appeal is predicated;

(7) a statement of facts that is without argument, is supported by record references, and details the facts relating to the issues or points relied on in the appeal;

(8) the argument and authorities;

(9) conclusion and prayer for relief;

(10) a certificate of service; and

(11) an appendix of record excerpts pertinent to the issues presented for review.

(d) **Length of Briefs; Contents Included and Excluded.** In calculating the length of a document, every word and every part of the document, including headings, footnotes, and quotations, must be counted except the following: caption, identity of the parties and counsel, statement regarding oral argument, table of contents, index of authorities, statement of the case, statement of issues presented, statement of the jurisdiction,



signature, proof of service, certificate of compliance, and appendix. Briefs must not exceed 15,000 words if computer-generated, and 50 pages if not, except on leave of BODA. A reply brief must not exceed 7,500 words if computer-generated, and 25 pages if not, except on leave of BODA. A computer-generated document must include a certificate by counsel or the unrepresented party stating the number of words in the document. The person who signs the certification may rely on the word count of the computer program used to prepare the document.

- (e) **Amendment or Supplementation.** BODA has discretion to grant leave to amend or supplement briefs.
- (f) **Failure of the Appellant to File a Brief.** If the appellant fails to timely file a brief, BODA may:
  - (1) dismiss the appeal for want of prosecution, unless the appellant reasonably explains the failure, and the appellee is not significantly injured by the appellant's failure to timely file a brief;
  - (2) decline to dismiss the appeal and make further orders within its discretion as it considers proper; or
  - (3) if an appellee's brief is filed, regard that brief as correctly presenting the case and affirm the evidentiary panel's judgment on that brief without examining the record.

#### Rule 4.06 Oral Argument

- (a) **Request.** A party desiring oral argument must note the request on the front cover of the party's brief. A party's failure to timely request oral argument waives the party's right to argue. A party who has requested argument may later withdraw the request. But even if a party has waived oral argument, BODA may direct the party to appear and argue. If oral argument is granted, the clerk will notify the parties of the time and place for submission.
- (b) **Right to Oral Argument.** A party who has filed a brief and who has timely requested oral argument may argue the case to BODA unless BODA, after examining the briefs, decides that oral argument is unnecessary for any of the following reasons:
  - (1) the appeal is frivolous;

- (2) the dispositive issue or issues have been authoritatively decided;
- (3) the facts and legal arguments are adequately presented in the briefs and record; or
- (4) the decisional process would not be significantly aided by oral argument.

- (c) **Time Allowed.** Each party will have 20 minutes to argue. BODA may, on the request of a party or on its own, extend or shorten the time allowed for oral argument. The appellant may reserve a portion of his or her allotted time for rebuttal.

#### Rule 4.07 Decision and Judgment

- (a) **Decision.** BODA may do any of the following:
  - (1) affirm in whole or in part the decision of the evidentiary panel;
  - (2) modify the panel's findings and affirm the findings as modified;
  - (3) reverse in whole or in part the panel's findings and render the decision that the panel should have rendered; or
  - (4) reverse the panel's findings and remand the cause for further proceedings to be conducted by:
    - (i) the panel that entered the findings; or
    - (ii) a statewide grievance committee panel appointed by BODA and composed of members selected from the state bar districts other than the district from which the appeal was taken.
- (b) **Mandate.** In every appeal, the BODA Clerk must issue a mandate in accordance with BODA's judgment and send it to the evidentiary panel and to all the parties.

#### Rule 4.08 Appointment of Statewide Grievance Committee

If BODA remands a cause for further proceedings before a statewide grievance committee, the BODA Chair will appoint the statewide grievance committee in accordance with TRDP 2.27. The committee must consist of six members: four attorney members and two public members randomly selected from the current pool of grievance committee members. Two alternates, consisting of one attorney and one public member, must also be selected. BODA will appoint the initial chair

who will serve until the members of the statewide grievance committee elect a chair of the committee at the first meeting. The BODA Clerk will notify the Respondent and the CDC that a committee has been appointed.

#### **Rule 4.09 Involuntary Dismissal**

Under the following circumstances and on any party's motion or on its own initiative after giving at least ten days' notice to all parties, BODA may dismiss the appeal or affirm the appealed judgment or order. Dismissal or affirmation may occur if the appeal is subject to dismissal:

- (a) for want of jurisdiction;
- (b) for want of prosecution; or
- (c) because the appellant has failed to comply with a requirement of these rules, a court order, or a notice from the clerk requiring a response or other action within a specified time.

### **SECTION 5: PETITIONS TO REVOKE PROBATION**

#### **Rule 5.01 Initiation and Service**

- (a) Before filing a motion to revoke the probation of an attorney who has been sanctioned, the CDC must contact the BODA Clerk to confirm whether the next regularly available hearing date will comply with the 30-day requirement of TRDP. The Chair may designate a three-member panel to hear the motion, if necessary, to meet the 30-day requirement of TRDP 2.23.
- (b) Upon filing the motion, the CDC must serve the Respondent with the motion and any supporting documents in accordance with TRDP 2.23, the TRCP, and these rules. The CDC must notify BODA of the date that service is obtained on the Respondent.

#### **Rule 5.02 Hearing**

Within 30 days of service of the motion on the Respondent, BODA must docket and set the matter for a hearing and notify the parties of the time and place of the hearing. On a showing of good cause by a party or on its own motion, BODA may continue the case to a future hearing date as circumstances require.

### **SECTION 6: COMPULSORY DISCIPLINE**

#### **Rule 6.01 Initiation of Proceeding**

Under TRDP 8.03, the CDC must file a petition for compulsory discipline with BODA and serve the

Respondent in accordance with the TRDP and Rule 1.06 of these rules.

#### **Rule 6.02 Interlocutory Suspension**

- (a) **Interlocutory Suspension.** In any compulsory proceeding under TRDP Part VIII in which BODA determines that the Respondent has been convicted of an Intentional Crime and that the criminal conviction is on direct appeal, BODA may suspend the Respondent's license to practice law by interlocutory order. In any compulsory case in which BODA has imposed an interlocutory order of suspension, BODA retains jurisdiction to render final judgment after the direct appeal of the criminal conviction is final. For purposes of rendering final judgment in a compulsory discipline case, the direct appeal of the criminal conviction is final when the appellate court issues its mandate.
- (b) **Criminal Conviction Affirmed.** If the criminal conviction made the basis of a compulsory interlocutory suspension is affirmed and becomes final, the CDC must file a motion for final judgment that complies with TRDP 8.05.
  - (1) If the criminal sentence is fully probated or is an order of deferred adjudication, the motion for final judgment must contain notice of a hearing date. The motion will be set on BODA's next available hearing date.
  - (2) If the criminal sentence is not fully probated:
    - (i) BODA may proceed to decide the motion without a hearing if the attorney does not file a verified denial within ten days of service of the motion; or
    - (ii) BODA may set the motion for a hearing on the next available hearing date if the attorney timely files a verified denial.
- (c) **Criminal Conviction Reversed.** If an appellate court issues a mandate reversing the criminal conviction while a Respondent is subject to an interlocutory suspension, the Respondent may file a motion to terminate the interlocutory suspension. The motion to terminate the interlocutory suspension must have certified copies of the decision and mandate of the reversing court attached. If the CDC does not file an opposition to the termination within ten

days of being served with the motion, BODA may proceed to decide the motion without a hearing or set the matter for a hearing on its own motion. If the CDC timely opposes the motion, BODA must set the motion for a hearing on its next available hearing date. An order terminating an interlocutory order of suspension does not automatically reinstate a Respondent's license.

## **SECTION 7: RECIPROCAL DISCIPLINE**

### **Rule 7.01 Initiation of Proceeding**

The Commission for Lawyer Discipline may initiate an action for reciprocal discipline by filing a petition with BODA under TRDP Part IX and these rules. The petition must request that the Respondent be disciplined in Texas and have attached to it any information concerning the disciplinary matter from the other jurisdiction, including a certified copy of the order or judgment rendered against the Respondent.

### **Rule 7.02 Order to Show Cause**

When a petition is filed, the Chair immediately issues a show cause order and a hearing notice and forwards them to the CDC, who must serve the order and notice on the Respondent. The CDC must notify BODA of the date that service is obtained.

### **Rule 7.03 Attorney's Response**

If the Respondent does not file an answer within 30 days of being served with the order and notice but thereafter appears at the hearing, BODA may, at the discretion of the Chair, receive testimony from the Respondent relating to the merits of the petition.

## **SECTION 8: DISTRICT DISABILITY COMMITTEE HEARINGS**

### **Rule 8.01 Appointment of District Disability Committee**

- (a) If the evidentiary panel of the grievance committee finds under TRDP 2.17(P)(2), or the CDC reasonably believes under TRDP 2.14(C), that a Respondent is suffering from a disability, the rules in this section will apply to the de novo proceeding before the District Disability Committee held under TRDP Part XII.
- (b) Upon receiving an evidentiary panel's finding or the CDC's referral that an attorney is believed to be suffering from a disability, the BODA Chair must appoint a District Disability Committee in compliance with TRDP 12.02 and designate a chair. BODA will reimburse District Disability Committee

members for reasonable expenses directly related to service on the District Disability Committee. The BODA Clerk must notify the CDC and the Respondent that a committee has been appointed and notify the Respondent where to locate the procedural rules governing disability proceedings.

- (c) A Respondent who has been notified that a disability referral will be or has been made to BODA may, at any time, waive in writing the appointment of the District Disability Committee or the hearing before the District Disability Committee and enter into an agreed judgment of indefinite disability suspension, provided that the Respondent is competent to waive the hearing. If the Respondent is not represented, the waiver must include a statement affirming that the Respondent has been advised of the right to appointed counsel and waives that right as well.
- (d) All pleadings, motions, briefs, or other matters to be filed with the District Disability Committee must be filed with the BODA Clerk.
- (e) Should any member of the District Disability Committee become unable to serve, the BODA Chair may appoint a substitute member.

### **Rule 8.02 Petition and Answer**

- (a) **Petition.** Upon being notified that the District Disability Committee has been appointed by BODA, the CDC must, within 20 days, file with the BODA Clerk and serve on the Respondent a copy of a petition for indefinite disability suspension. Service may be made in person or by certified mail, return receipt requested. If service is by certified mail, the return receipt with the Respondent's signature must be filed with the BODA Clerk.
- (b) **Answer.** The Respondent must, within 30 days after service of the petition for indefinite disability suspension, file an answer with the BODA Clerk and serve a copy of the answer on the CDC.
- (c) **Hearing Setting.** The BODA Clerk must set the final hearing as instructed by the chair of the District Disability Committee and send notice of the hearing to the parties.

### **Rule 8.03 Discovery**

- (a) **Limited Discovery.** The District Disability Committee may permit limited discovery. The

party seeking discovery must file with the BODA Clerk a written request that makes a clear showing of good cause and substantial need and a proposed order. If the District Disability Committee authorizes discovery in a case, it must issue a written order. The order may impose limitations or deadlines on the discovery.

- (b) **Physical or Mental Examinations.** On written motion by the Commission or on its own motion, the District Disability Committee may order the Respondent to submit to a physical or mental examination by a qualified healthcare or mental healthcare professional. Nothing in this rule limits the Respondent's right to an examination by a professional of his or her choice in addition to any exam ordered by the District Disability Committee.

(1) **Motion.** The Respondent must be given reasonable notice of the examination by written order specifying the name, address, and telephone number of the person conducting the examination.

(2) **Report.** The examining professional must file with the BODA Clerk a detailed, written report that includes the results of all tests performed and the professional's findings, diagnoses, and conclusions. The professional must send a copy of the report to the CDC and the Respondent.

- (c) **Objections.** A party must make any objection to a request for discovery within 15 days of receiving the motion by filing a written objection with the BODA Clerk. BODA may decide any objection or contest to a discovery motion.

#### **Rule 8.04 Ability to Compel Attendance**

The Respondent and the CDC may confront and cross-examine witnesses at the hearing. Compulsory process to compel the attendance of witnesses by subpoena, enforceable by an order of a district court of proper jurisdiction, is available to the Respondent and the CDC as provided in TRCP 176.

#### **Rule 8.05 Respondent's Right to Counsel**

- (a) The notice to the Respondent that a District Disability Committee has been appointed and the petition for indefinite disability suspension must state that the Respondent may request appointment of counsel by BODA to represent him or her at the disability hearing. BODA will reimburse appointed counsel for

reasonable expenses directly related to representation of the Respondent.

- (b) To receive appointed counsel under TRDP 12.02, the Respondent must file a written request with the BODA Clerk within 30 days of the date that Respondent is served with the petition for indefinite disability suspension. A late request must demonstrate good cause for the Respondent's failure to file a timely request.

#### **Rule 8.06 Hearing**

The party seeking to establish the disability must prove by a preponderance of the evidence that the Respondent is suffering from a disability as defined in the TRDP. The chair of the District Disability Committee must admit all relevant evidence that is necessary for a fair and complete hearing. The TRE are advisory but not binding on the chair.

#### **Rule 8.07 Notice of Decision**

The District Disability Committee must certify its finding regarding disability to BODA, which will issue the final judgment in the matter.

#### **Rule 8.08 Confidentiality**

All proceedings before the District Disability Committee and BODA, if necessary, are closed to the public. All matters before the District Disability Committee are confidential and are not subject to disclosure or discovery, except as allowed by the TRDP or as may be required in the event of an appeal to the Supreme Court of Texas.

### **SECTION 9: DISABILITY REINSTATEMENTS**

#### **Rule 9.01 Petition for Reinstatement**

- (a) An attorney under an indefinite disability suspension may, at any time after he or she has been suspended, file a verified petition with BODA to have the suspension terminated and to be reinstated to the practice of law. The petitioner must serve a copy of the petition on the CDC in the manner required by TRDP 12.06. The TRCP apply to a reinstatement proceeding unless they conflict with these rules.

- (b) The petition must include the information required by TRDP 12.06. If the judgment of disability suspension contained terms or conditions relating to misconduct by the petitioner prior to the suspension, the petition must affirmatively demonstrate that those terms have been complied with or explain why they have not been satisfied. The petitioner has

a duty to amend and keep current all information in the petition until the final hearing on the merits. Failure to do so may result in dismissal without notice.

- (c) Disability reinstatement proceedings before BODA are not confidential; however, BODA may make all or any part of the record of the proceeding confidential.

#### **Rule 9.02 Discovery**

The discovery period is 60 days from the date that the petition for reinstatement is filed. The BODA Clerk will set the petition for a hearing on the first date available after the close of the discovery period and must notify the parties of the time and place of the hearing. BODA may continue the hearing for good cause shown.

#### **Rule 9.03 Physical or Mental Examinations**

- (a) On written motion by the Commission or on its own, BODA may order the petitioner seeking reinstatement to submit to a physical or mental examination by a qualified healthcare or mental healthcare professional. The petitioner must be served with a copy of the motion and given at least seven days to respond. BODA may hold a hearing before ruling on the motion but is not required to do so.
- (b) The petitioner must be given reasonable notice of the examination by written order specifying the name, address, and telephone number of the person conducting the examination.
- (c) The examining professional must file a detailed, written report that includes the results of all tests performed and the professional's findings, diagnoses, and conclusions. The professional must send a copy of the report to the parties.
- (d) If the petitioner fails to submit to an examination as ordered, BODA may dismiss the petition without notice.
- (e) Nothing in this rule limits the petitioner's right to an examination by a professional of his or her choice in addition to any exam ordered by BODA.

#### **Rule 9.04 Judgment**

If, after hearing all the evidence, BODA determines that the petitioner is not eligible for reinstatement, BODA may, in its discretion, either enter an order denying the petition or direct that the petition be held in abeyance for a reasonable period of time until the

petitioner provides additional proof as directed by BODA. The judgment may include other orders necessary to protect the public and the petitioner's potential clients.

### **SECTION 10: APPEALS FROM BODA TO THE SUPREME COURT OF TEXAS**

#### **Rule 10.01 Appeals to the Supreme Court**

- (a) A final decision by BODA, except a determination that a statement constitutes an inquiry or a complaint under TRDP 2.10, may be appealed to the Supreme Court of Texas. The clerk of the Supreme Court of Texas must docket an appeal from a decision by BODA in the same manner as a petition for review without fee.
- (b) The appealing party must file the notice of appeal directly with the clerk of the Supreme Court of Texas within 14 days of receiving notice of a final determination by BODA. The record must be filed within 60 days after BODA's determination. The appealing party's brief is due 30 days after the record is filed, and the responding party's brief is due 30 days thereafter. The BODA Clerk must send the parties a notice of BODA's final decision that includes the information in this paragraph.
- (c) An appeal to the Supreme Court is governed by TRDP 7.11 and the TRAP.

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA	:	Honorable
	:	
v.	:	
	:	Crim. No. 11- 740 (RBK)
NICODEMO S. SCARFO	:	
a/k/a "Nicky,"	:	
a/k/a "Nick,"	:	
a/k/a "Cousin,"	:	Title 18 U.S.C. §§ 371,
a/k/a "Junior,"	:	922(g) (1), 1343, 1349,
a/k/a "Nick Promo,"	:	1512(k), 1956(h), 1962(d),
a/k/a "Mr. Apple,"	:	and 2
a/k/a "Mr. Macintosh,"	:	
SALVATORE PELULLO	:	
a/k/a "Sal,"	:	
a/k/a "The Consultant,"	:	
a/k/a "Cousin,"	:	
a/k/a "Mr. Turner,"	:	
WILLIAM MAXWELL	:	
a/k/a "Bill,"	:	
JOHN MAXWELL	:	
WILLIAM HANDLEY	:	
a/k/a "Bill,"	:	
CORY LESHNER	:	
JOHN PARISI	:	
a/k/a "JP,"	:	
DAVID ADLER	:	
a/k/a "Dave,"	:	
HOWARD DROSSNER	:	
GARY McCARTHY	:	
DONALD MANNO	:	
a/k/a "Donny,"	:	
LISA MURRAY-SCARFO	:	
a/k/a "Lisa Murray," and	:	
TODD STARK	:	

RECEIVED  
OCT 26 2011  
AT 8:30  
WILLIAM T WALSH  
CLERK

INDICTMENT

The Grand Jury in and for the District of New Jersey,  
sitting at Camden, charges:



COUNT ONE

[RICO Conspiracy, 18 U.S.C. § 1962(d)]

At various times relevant to this Indictment:

1. The defendants NICODEMO S. SCARFO ("SCARFO"), also known as "Nicky," also known as "Nick," also known as "Cousin," also known as "Junior," also known as "Nick Promo," also known as "Mr. Apple," also known as "Mr. Macintosh"; SALVATORE PELULLO, also known as "Sal," also known as "The Consultant," also known as "Cousin," also known as "Mr. Turner"; WILLIAM MAXWELL, also known as "Bill"; JOHN MAXWELL; WILLIAM HANDLEY, also known as "Bill"; CORY LESHNER; JOHN PARISI, also known as "JP"; DAVID ADLER, also known as "Dave"; HOWARD DROSSNER; GARY McCARTHY; and DONALD MANNO, also known as "Donny"; unindicted co-conspirator Nicodemo D. Scarfo ("NDS" or "unindicted co-conspirator NDS"), also known as "Uncle Nick," also known as "Nicky Senior," also known as "Mr. MacArthur"; and unindicted co-conspirator Vittorio Amuso ("VA" or "unindicted co-conspirator VA"), also known as "Vic," also known as "Uncle Vic," also known as "Papa"; together with others, known and unknown, were members and associates of a criminal organization engaged in crimes, including wire fraud, mail fraud, bank fraud, securities fraud, money laundering, extortion, obstruction of justice, and other offenses.

The Enterprise

2. The criminal organization, including its members and associates, constituted an "enterprise" as that term is defined in Title 18, United States Code, Section 1961(4), that is, a group of individuals associated in fact (hereafter the "Scarfo-Pelullo Enterprise" or the "Enterprise"). The Enterprise constituted an ongoing organization whose members and associates functioned as a continuing unit for the common purpose of achieving its objectives. The Enterprise, which operated in the District of New Jersey and elsewhere, was engaged in, and its activities affected, interstate and foreign commerce.

3. La Cosa Nostra ("LCN") was a national and international criminal organization known to its members as "This Thing of Ours" and to the general public as the "Mafia" or the "Mob." Families of the LCN, such as the Philadelphia and Lucchese Families, were structured criminal organizations each with a well defined chain of command, including but not limited to, a "boss," "underboss," who acted as the second in command, and "captains," who supervised and controlled the activities of one or more groups or "crews" of individual "soldiers" or members of the Family who had been formally initiated or "made" as members of the LCN. Members and associates of the LCN were responsible for advising the next higher level of proposed criminal activity. Those higher levels in turn decided whether to sanction the



criminal activity of those below them. Likewise, made members were required to earn money and share profits with their chain of command.

4. Unindicted co-conspirator NDS was the boss of the Philadelphia Family of the LCN from approximately 1982 to 1989. Following the conviction and incarceration of NDS, there was an internal struggle for control of the Philadelphia LCN Family, which resulted in the attempted murder of defendant SCARFO. After the attempted murder, unindicted co-conspirator VA, the boss of the Lucchese LCN Family and with whom NDS had been imprisoned in the mid-1990s, arranged for SCARFO to become a made member of the Lucchese LCN Family. As a made member, SCARFO was required to earn money for the Lucchese LCN Family and otherwise participate in its affairs.

5. In conducting the affairs of the Enterprise, its members and associates made use of, sought to benefit, and benefitted from, its connection to the LCN. In addition, certain members and associates of the Scarfo-Pelullo Enterprise sought to ensure that the proceeds obtained through the various illegal activities of the Enterprise were used to enrich members and associates of the LCN, and proceeds were in fact distributed to members and associates of the LCN.

6. The Scarfo-Pelullo Enterprise operated with the assistance and direction of members and associates of the LCN,

and was assisted by numerous criminal partners and associates, including but not limited to the defendants named in the Indictment.

The Purposes of the Enterprise

7. The purposes of the Enterprise were: (A) to generate money for its members and associates through the commission of various illegal acts, including wire fraud, mail fraud, bank fraud, securities fraud, money laundering, and extortion; and (B) to conceal the existence of the Enterprise, including but not limited to the LCN's influence over the Enterprise, and avoid detection of its illegal activities by regulatory authorities and law enforcement through obstruction of justice, false statements, and other means.

8. Beginning in or about April 2007, members and associates of the Enterprise, including defendants SCARFO and PELULLO, devised a plan to take over FirstPlus Financial Group ("FPFG"), a publicly traded company located in Texas, and to replace its existing board of directors and management with individuals who would serve at the direction of SCARFO and PELULLO.

9. In or about June 2007, members and associates of the Enterprise, including defendants SCARFO and PELULLO, executed the plan and seized control of FPFG by threatening its existing management. Following the takeover, members and associates of the Enterprise directed FPFG's new management to approve the

acquisition of companies owned and controlled by SCARFO and PELULLO for millions of dollars and several hundred thousand shares of FPFG stock. Members and associates of the Enterprise knew that the acquired companies had little, if any, value and were grossly overvalued.

10. In addition, members and associates of the Enterprise aided defendants SCARFO and PELULLO in looting hundreds of thousands of dollars from FPFG and its subsidiaries through fraudulent consulting agreements which gave de facto control over FPFG to SCARFO and PELULLO. SCARFO and PELULLO used the stolen money to finance lavish lifestyles that included a luxury home for SCARFO, expensive automobiles, a yacht, and jewelry.

11. Members and associates of the Enterprise, including defendants SCARFO and PELULLO, concealed their crimes through a multitude of lies and deception. The concealment of the Enterprise's criminal activity involved, among other things, false statements and material omissions in required filings with the United States Securities and Exchange Commission ("SEC"), laundering the proceeds of the criminal activity through the ownership and control of various companies, and concealing defendant SCARFO's involvement in the Enterprise's activities from law enforcement and regulatory authorities, the United States District Court for the District of New Jersey (the "District Court"), and the United States Probation Office for the

District of New Jersey (the "Probation Office").

12. Ultimately, members and associates of the Enterprise, including defendants SCARFO and PELULLO, planned to fraudulently increase the value of the FPFPG stock in order to realize additional profits by selling their shares at an artificially high price.

13. Members and associates of the Enterprise committed their crimes with the knowing assistance and participation of various individuals and professionals, including lawyers and accountants, who were members and associates of the Scarfo-Pelullo Enterprise. These professionals, along with other members and associates of the Enterprise, violated, conspired to violate, and caused others to violate the fiduciary duties owed to FPFPG and its shareholders. The scheme to defraud FPFPG ultimately resulted in a loss to FPFPG and its shareholders of at least approximately \$12 million.

14. The Enterprise and its members and associates also assisted defendants SCARFO and PELULLO, and others known and unknown, in obtaining and storing a cache of weapons for use in protecting the Enterprise because of the LCN influence over the Enterprise and the historically violent nature of the LCN.

#### Relevant Entities

15. FPFPG was a publicly traded company, incorporated in Nevada, with its principal office located in Irving, Texas. FPFPG

was a financial services company and was registered with the SEC pursuant to Section 12 of the Securities Exchange Act of 1934. FPPG had a Board of Directors whose members were responsible for, and had fiduciary duties to review and approve, the fairness of transactions between FPPG and its controlling shareholders, officers, and directors, commonly referred to as "related party transactions." As a publicly traded company, FPPG was obligated to file certain reports with the SEC that disclosed all material facts about the company to its investors, as set forth more fully in paragraphs 82 through 91 and re-alleged here. Among other things, FPPG was required to fully and accurately disclose in its applicable SEC filings the identities of the individuals who exercised control over FPPG and its subsidiaries, as well as the identities of individuals involved in related party transactions with FPPG.

16. Learned Associates of North America LLC ("Learned Associates") was a company controlled by defendant SCARFO and which served as SCARFO's corporate alter ego. Learned Associates was owned by the Lana Marie Domenica Scarfo ("LMDS") Trust. The LMDS Trust, which was ostensibly created in the name of SCARFO's mother and for the benefit of SCARFO's children, was actually controlled by SCARFO and was used by him as a vehicle for money laundering and to conceal his ownership interest in various entities. SCARFO and other members and associates of the

Enterprise utilized Learned Associates as a mechanism to perpetrate the scheme to defraud FPFPG, launder proceeds of the fraud, and conceal SCARFO's involvement in the fraud from law enforcement and regulatory authorities, the District Court, and the Probation Office.

17. Seven Hills Management LLC ("Seven Hills") was a company owned by defendant PELULLO and which served as PELULLO's corporate alter ego. Seven Hills was owned by the Coconut Grove Trust. The Coconut Grove Trust was ostensibly created for the benefit of PELULLO's children but was actually controlled by PELULLO and was used by him as a vehicle to conceal his ownership of various entities and assets. PELULLO and other members and associates of the Enterprise utilized Seven Hills as a mechanism to perpetrate the scheme to defraud FPFPG, launder proceeds of the fraud, and conceal PELULLO's involvement in the fraud from law enforcement and regulatory authorities.

18. Rutgers Investment Group LLC ("Rutgers") was registered with the New Jersey Department of State as a limited liability company in or about March 2007. Rutgers was owned, in part, by defendants SCARFO and PELULLO through their control of Learned Associates and Seven Hills, respectively. As described below, in or about June 2007, PELULLO and other members and associates of the Enterprise caused FPFPG to acquire Rutgers through a wholly owned subsidiary of FPFPG, Rutgers, Inc., which was created by

members and associates of the Enterprise specifically for the purpose of the acquisition. Although Rutgers had little, if any value, FPFPG purchased Rutgers for \$1,825,000 and 500,000 shares of FPFPG common stock.

19. Globalnet Enterprises LLC ("Globalnet") was registered with the Pennsylvania Secretary of State as a limited liability company in or about August 2006. Globalnet was owned, in part, by defendants SCARFO and PELULLO through their control of Learned Associates and Seven Hills, respectively. In or about July 2007, PELULLO and other members and associates of the Enterprise caused FPFPG to acquire Globalnet through a wholly owned subsidiary of FPFPG, FirstPlus Enterprises, which was created by members and associates of the Enterprise specifically for the purpose of the acquisition. Although Globalnet had little value, FPFPG purchased Globalnet for \$4,540,000 and 1,100,000 share of FPFPG common stock.

20. The Premier Group LLC ("Premier Group") was registered with the Florida Secretary of State as a limited liability company in or about July 2007. Premier Group was owned, in part, by defendants SCARFO and PELULLO through their control of Learned Associates and Seven Hills, respectively. In or about January 2008, PELULLO and other members and associates of the Enterprise caused FPFPG to acquire Premier Group for \$700,000 and 1,000,000 shares of FPFPG common stock.

Roles of the Defendants

21. Defendant SCARFO was a made member of the Lucchese LCN Family and prior associate of the Philadelphia LCN Family. SCARFO controlled, directly and indirectly, FPFG and various corporate entities and trusts, to further his own and the Lucchese Family's interests in violation of the fiduciary duties owed by the officers and directors, as well as professionals, to FPFG and its shareholders. SCARFO was convicted of a felony in the United States District Court for the District of New Jersey in 2002. In or about April 2005, he began to serve a term of federal supervised release, which required him to report to the Probation Office on a monthly basis. Among other conditions of his supervised release, SCARFO was required to inform his probation officer of any employment in which SCARFO was engaged; any financial transactions in which he was involved that exceeded \$500; and any contact he had with convicted felons.

22. Defendant PELULLO was an associate of both the Lucchese and Philadelphia LCN Families, a trusted confidant of defendant SCARFO, and SCARFO's closest partner in directing and conducting the affairs of the Enterprise. As a result of this relationship, PELULLO was required to ensure that SCARFO received a share of all monies earned through PELULLO's criminal activities. In August 1999, PELULLO was convicted in the United States District Court for the Eastern District of Pennsylvania of bank fraud and



making a false statement in an SEC filing. In July 2002, PELULLO was convicted of wire fraud in the United States District Court for the Eastern District of Pennsylvania. Although PELULLO purported to act as a "consultant" to FPFPG, he in fact exercised direct control over the affairs of FPFPG, acted as de facto Chief Executive Officer, and controlled FPFPG's operations through other members and associates of the Enterprise. As a result of this control, PELULLO owed fiduciary duties to FPFPG and its shareholders.

23. Defendant WILLIAM MAXWELL, an attorney licensed to practice law in the State of Texas, became the Special Counsel to FPFPG's Board of Directors at the direction of defendants SCARFO and PELULLO, and worked to promote the Enterprise's affairs. As Special Counsel, WILLIAM MAXWELL owed fiduciary duties to FPFPG and its shareholders.

24. Defendant JOHN MAXWELL, the brother of defendant WILLIAM MAXWELL, became the Chief Executive Office ("CEO") and President of FPFPG as well as a member of its Board of Directors at the direction of defendants SCARFO and PELULLO. In that capacity, JOHN MAXWELL owed fiduciary duties to FPFPG and its shareholders.

25. Defendant HANDLEY, a long-time friend of defendant PELULLO, became the Chief Financial Officer ("CFO") of FPFPG as well as a member of its Board of Directors at the direction of

defendants SCARFO and PELULLO. In that capacity, HANDLEY owed fiduciary duties to FPFPG and its shareholders.

26. Defendant LESHNER was employed by defendant PELULLO and was responsible for various tasks related to the day-to-day management of various corporate entities and trusts on behalf of SCARFO and PELULLO, including the manufacturing of false and fraudulent accounting records and invoices. Specifically, LESHNER managed bank and credit accounts to conceal the source and use of proceeds obtained through the Enterprise's illegitimate activities.

27. Defendant PARISI, defendant SCARFO's cousin, was the nominal "manager" of Learned Associates. PARISI managed bank and credit accounts associated with Learned Associates and other corporate and trust entities at SCARFO's direction to conceal the source and use of proceeds obtained through the Enterprise's illegitimate activities.

28. Defendant ADLER, an attorney licensed to practice law in the State of New York, represented FPFPG and was the lawyer responsible for overseeing the company's corporate filings with the SEC. As an attorney, ADLER assisted the Enterprise in defrauding the FPFPG shareholders by concealing the existence of the Enterprise and its control over FPFPG, while at the same time maintaining the appearance of compliance with SEC rules and regulations to make the acquisitions and other activities of the

Enterprise appear legitimate.

29. Defendant DROSSNER, a Certified Public Accountant in the Commonwealth of Pennsylvania, was retained by defendant PELULLO to provide accounting services for FPFPG. As the accountant for FPFPG, DROSSNER was responsible for preparing the company's financial statements and had an obligation to provide truthful information free from material omissions to the company's independent public auditor. At PELULLO's direction, DROSSNER ultimately usurped the role of the independent public auditor by withholding material information about defendant PELULLO and by failing to disclose and causing others to fail to disclose to the SEC the true nature of the financial condition of FPFPG and the entities it acquired. In addition, DROSSNER provided accounting services for Seven Hills and various other corporate entities and trusts owned and controlled by defendants SCARFO and PELULLO.

30. Defendant McCARTHY, an attorney licensed to practice law in the Commonwealth of Pennsylvania, was retained by defendant PELULLO to represent PELULLO and Seven Hills during the acquisition of Rutgers, Globalnet, and Premier Group by FPFPG. At various times, McCARTHY also represented FPFPG in its pursuit of other acquisitions at PELULLO's direction.

31. Defendant MANNO, an attorney licensed to practice law in the State of New Jersey, was retained by defendant SCARFO to,

among other things, conceal the source and use of proceeds obtained through the Enterprise's illegitimate activities and prevent law enforcement, the District Court, and the Probation Office from detecting SCARFO's control and ownership over Learned Associates and various other corporate entities and trusts. MANNO further provided advice and counsel to SCARFO to assist SCARFO in maintaining the appearance of compliance with SCARFO's supervised release conditions in order to permit the Enterprise to continue its illegal conduct undetected.

The Racketeering Conspiracy

32. From in or about April 2007, up to and including on or about the date of this Indictment, in the District of New Jersey and elsewhere, the defendants NICODEMO S. SCARFO, also known as "Nicky," also known as "Nick," also known as "Cousin," also known as "Junior," also known as "Nick Promo," also known as "Mr. Apple," also known as "Mr. Macintosh"; SALVATORE PELULLO, also known as "Sal," also known as "The Consultant," also known as "Cousin," also known as "Mr. Turner"; WILLIAM MAXWELL, also known as "Bill"; JOHN MAXWELL; WILLIAM HANDLEY, also known as "Bill"; CORY LESHNER; JOHN PARISI, also known as "JP"; DAVID ADLER, also known as "Dave"; HOWARD DROSSNER; GARY McCARTHY; and DONALD MANNO, also known as "Donny"; unindicted co-conspirator NDS, also known as "Uncle Nick," also known as "Nicky Senior," also known as "Mr. MacArthur"; and unindicted co-conspirator VA, also known

as "Vic," also known as "Uncle Vic," also known as "Papa"; and others known and unknown to the Grand Jury, being persons employed by and associated with the racketeering enterprise described in paragraphs 1 through 14 above, namely the Scarfo-Pelullo Enterprise, which was engaged in, and the activities of which affected, interstate and foreign commerce, knowingly and intentionally conspired and agreed with each other and others to violate Title 18, United States Code, Section 1962(c), to wit, to conduct and participate, directly and indirectly, in the conduct of the affairs of the Enterprise through a pattern of racketeering activity, as that term is defined in Title 18, United States Code, Sections 1961(1) and 1961(5), consisting of:

- a. Multiple acts indictable under:
  - i. Title 18, United States Code, Section 1341  
(Mail Fraud);
  - ii. Title 18, United States Code, Section 1343  
(Wire Fraud);
  - iii. Title 18, United States Code, Section 1344  
(Bank Fraud);
  - iv. Title 18, United States Code, Section 1512  
(Obstruction of Justice);
  - v. Title 18, United States Code, Section 1951  
(Extortion);
  - vi. Title 18, United States Code, Section 1952

(Interstate Travel in Aid of Racketeering);

vii. Title 18, United States Code, Sections 1956 and 1957 (Money Laundering); and

b. Multiple offenses involving:

i. Fraud in the Sale of Securities, in violation of Title 15, United States Code, Sections 78j(b) and 78ff, and Title 17, Code of Federal Regulations, Section 240.10b-5.

It was part of the conspiracy that each defendant agreed that a conspirator would commit at least two acts of racketeering activity in the conduct of the affairs of the enterprise.

The Manner and Means of the Conspiracy

33. Among the manner and means by which the defendants, and other members and associates of the Enterprise, conducted and participated in the conduct of its affairs were the following:

**Takeover of FPFPG**

34. Members and associates of the Scarfo-Pelullo Enterprise relied on explicit and implicit threats of economic and physical harm and intimidation to assume and maintain control of FPFPG, ensure that the Enterprise's demands were followed, and that the Enterprise's affairs were concealed.

35. In or about April 2007, defendants SCARFO, PELULLO, McCARTHY, and others attended a meeting at McCARTHY's law office to discuss the takeover of FPFPG.

36. In or about May 2007, defendants PELULLO, JOHN MAXWELL, WILLIAM MAXWELL, PARISI, and others known and unknown to the Grand Jury, attended various meetings in Texas to discuss the takeover of FPPG. At one of the meetings, PELULLO and WILLIAM MAXWELL discussed a plan to take over FPPG by manufacturing allegations of wrongdoing on the part of FPPG's existing management and board members. Specifically, the plan called for PELULLO and WILLIAM MAXWELL to falsely allege that an individual, known to the Grand Jury and identified here as Individual #1, had engaged in financial improprieties with FPPG's assets while serving as a member of FPPG's board of directors. In addition, the plan called for PELULLO and WILLIAM MAXWELL to threaten Individual #1 and FPPG with a lawsuit based on the false allegations.

37. In or about late May or early June 2007, PELULLO met with Individual #1 and threatened a lawsuit against him/her and FPPG if Individual #1 did not immediately use his/her influence to turn over control of FPPG. Individual #1 contacted FPPG's other board members and persuaded them to relinquish control of FPPG as a result of these threats.

38. Accordingly, on or about June 7, 2007, to control the Enterprise's affairs, members and associates of the Scarfo-Pelullo Enterprise caused FPPG's existing board of directors to appoint additional new members, who had been selected by the

Scarfo-Pelullo Enterprise. Following the appointment of these new board members, the Enterprise caused the original board members to resign. The newly constituted board of directors then appointed certain executive officers who served at the direction of the Enterprise. These "figurehead" FPFPG board members (hereafter "figurehead board") and executive officers conducted transactions designed to benefit the Enterprise while concealing the roles of defendants PELULLO and SCARFO in controlling FPFPG. The figurehead board served to "rubber stamp" the directives of PELULLO and SCARFO and made the board's decisions appear to be independent and legitimate to conceal the involvement and control of PELULLO and SCARFO in creating these directives, as well as their illicit purposes. PELULLO used his direct control of the figurehead board to approve transactions that were designed to personally benefit members and associates of the Scarfo-Pelullo Enterprise to the detriment of the FPFPG shareholders.

39. On or about June 11, 2007, Individual #2, whose identity and relationship to FPFPG are known to the Grand Jury, was summoned to a meeting at FPFPG's office in Irving, Texas. After being introduced to defendant PELULLO at FPFPG's office, PELULLO told Individual #2 that he (PELULLO) had a lot of money and that he was going to grow the company, meaning FPFPG. In an attempt to assert his authority, PELULLO told Individual #2, "don't f\*\*k with me."



40. In or about June 2007, following the takeover of FPPG, defendant PELULLO had a conversation with Individual #3, a member of FPPG's new board of directors whose identity is known to the Grand Jury. During the conversation, PELULLO stated, "if you ever rat, your wives will be f\*\*ked . . . and your kids will be sold off as prostitutes."

41. In or about June 2007, following the takeover of FPPG, defendant PELULLO had a conversation with Individual #3, during which PELULLO said, "you have mine and Nicky's family in your hands," meaning defendant SCARFO.

**Consulting and Legal Services Agreements**

42. Having assumed control of FPPG through its new figurehead board of directors and executive officers, defendants SCARFO and PELULLO caused the creation and execution of legal services and consulting agreements that were used to misappropriate and funnel money out of FPPG and into accounts controlled by the Enterprise on a monthly basis. These legal services and consulting agreements included the following:

a. Members and associates of the Enterprise caused defendant WILLIAM MAXWELL to be hired as FPPG's "special counsel," through the execution of a purported "legal services" agreement. Based on the nearly unlimited scope of the agreement, the figurehead board of FPPG effectively abdicated its control of FPPG to WILLIAM MAXWELL. This "legal services" agreement awarded

defendant WILLIAM MAXWELL a monthly payment of \$100,000 plus expenses and, among other things, granted him the authority to enter into "consulting" agreements at his discretion, for which the company would ultimately be charged. Between June 2007 and March 2008, approximately \$3.5 million was sent via wire transfers from accounts associated with FPFPG to accounts controlled by defendant WILLIAM MAXWELL, ostensibly for his own services and those of the purported consultants.

b. One such "consulting" agreement, executed between defendant WILLIAM MAXWELL and defendant PELULLO's corporate alter ego, Seven Hills, fraudulently portrayed PELULLO as a mere "consultant" to FPFPG. In fact, PELULLO was actually FPFPG's de facto Chief Executive Officer and controlled its operations through other members and associates of the Enterprise, including the figurehead board and executive officers. Between May 2007 and March 2008, approximately \$1.5 million of the \$3.5 million received by WILLIAM MAXWELL from FPFPG was sent via wire transfers from accounts associated with defendant WILLIAM MAXWELL to accounts associated with PELULLO's corporate alter ego, Seven Hills.

c. In turn, defendant PELULLO, through Seven Hills, executed a "consulting" agreement with defendant SCARFO, through SCARFO's corporate alter ego, Learned Associates. Although SCARFO performed no legitimate work pursuant to this agreement,

SCARFO received \$33,000 per month, including during the three-month period that SCARFO was confined to his home by order of the District Court. Between June 2007 and April 2008, approximately \$425,000 was sent via wire transfers from accounts associated with Seven Hills to accounts associated with SCARFO's corporate alter ego, Learned Associates, pursuant to the fraudulent consulting agreement.

**Fraudulent Acquisitions**

43. As a publicly traded company, FPFPG was obligated to make regular filings with the SEC, and was obligated in those filings to disclose all material facts about the company to the SEC and its shareholders. Among other things, FPFPG was required to fully and accurately disclose in its SEC filings the identities of the individuals who exercised control over FPFPG and its subsidiaries, as well as the identities of individuals involved in related party transactions with FPFPG. Members and associates of the Enterprise willfully failed to disclose material facts regarding defendant SCARFO's and PELULLO's control over FPFPG and their ownership of the entities purchased by FPFPG as a result of their control.

44. Members and associates of the Scarfo-Pelullo Enterprise caused FPFPG to acquire corporate entities in which defendants SCARFO and PELULLO had an ownership interest. These entities, including Rutgers, Globalnet, and Premier Group, were acquired as

part of the scheme to defraud FPFPG shareholders and deceive the SEC and to transfer millions of dollars and several hundred thousand shares of FPFPG common stock to defendants PELULLO and SCARFO. These corporate entities owned by SCARFO and PELULLO, through their ownership of Learned Associates and Seven Hills, respectively, had little, if any, value and were grossly overvalued at the time of their acquisition by FPFPG. Furthermore, while SEC regulations required that FPFPG disclose that these acquisitions were "related party" transactions because of defendant PELULLO's control of FPFPG, members and associates of the Enterprise failed to make the required disclosures.

45. To justify these acquisitions, defendant PELULLO obtained inflated business evaluation reports in support of the Rutgers, Globalnet, and Premier Group transactions. These reports were designed to make Rutgers, Globalnet, and Premier Group appear more valuable than they were.

46. In or about June 2007, defendant PELULLO and other members and associates of the Enterprise caused FPFPG to acquire Rutgers. To complete the sale, the members and associates of the Enterprise caused FPFPG to send a wire transfer of \$1,825,000 to a bank account associated with Rutgers LLC, which account was controlled by defendants SCARFO and PELULLO by virtue of their control and ownership of Learned Associates and Seven Hills, respectively. In addition to the money transfer, members and

associates of the Enterprise caused FPFG to issue 500,000 shares of FPFG common stock that were were subsequently reissued to SCARFO and PELULLO, in the names of their corporate alter egos, Learned Associates and Seven Hills, respectively.

47. In or about July 2007, defendant PELULLO and other members and associates of the Enterprise caused FPFG to acquire Globalnet Enterprises for \$4,540,000. To complete the sale, the members and associates of the Enterprise caused FPFG to send a wire transfer of \$3,070,000 to defendant WILLIAM MAXWELL. WILLIAM MAXWELL then sent a wire transfer of \$2,970,000 to a bank account associated with Globalnet Enterprises, which account was controlled by defendants SCARFO and PELULLO by virtue of their control and ownership of Learned Associates and Seven Hills, respectively. In addition to the money transfer, members and associates of the Enterprise caused 1,100,000 shares of FPFG common stock to issue to Globalnet Enterprises. Those shares were subsequently reissued to SCARFO and PELULLO, in the names of their corporate alter egos, Learned Associates and Seven Hills, respectively, and to others known to the Grand Jury. The remaining \$1,495,000 was executed as a promissory note payable to Globalnet within two years of the transaction.

48. In or about January 2008, members and associates of the Enterprise caused FPFG to acquire Premier Group. To complete the sale, members and associates of the Enterprise caused FPFG to

enter into a purchase agreement which provided that the owners of Premier Group, including Learned Associates and Seven Hills, were to receive \$700,000 and 1,000,000 shares of FPFPG common stock. FPFPG agreed to pay \$125,000 in cash and the remaining \$575,000 in a series of promissory notes.

**Concealment of the Scheme**

49. Members and associates of the Scarfo-Pelullo Enterprise went to great lengths to conceal the scheme, including defendant SCARFO's and defendant PELULLO's involvement and control, the related-party nature of the acquisitions, and the use of corporate funds for personal gain, among other things. To that end, members and associates of the Enterprise (1) caused false statements and material omissions to be made in documents filed with the SEC; (2) attempted to cause the destruction of a videotape reflecting PELULLO's presence at the October 2007 FPFPG shareholder meeting; and (3) regularly engaged in coded conversations and avoided communicating over the telephone in an effort to thwart detection by law enforcement.

50. Members and associates of the Enterprise were concerned that all aspects of their involvement in the scheme might be uncovered, including defendant SCARFO's and defendant PELULLO's role in the takeover. For example, on December 5, 2007, in a recorded telephone call with SCARFO, PELULLO told him about the sudden death of a former FPFPG executive (hereafter Individual #4)

who had provided information to PELULLO and defendant WILLIAM MAXWELL that they used at the time of the takeover to extort control of FPFPG from Individual #1. At the time of his death, Individual #4 was employed by FPFPG as a member of its "compliance team." During the conversation, SCARFO and PELULLO expressed relief regarding Individual #4's death. After laughing about how he was "crushed" that "the rat is dead," PELULLO acknowledged that Individual #4 was "the only connection, the only tie to anything." As the news sunk in to SCARFO, he stated, "Oh boy. Yeah, Sal, you wanna know something though? . . . That's one that I know you can't take credit for . . . [laughter] . . . and that's the natural best thing. You know what I mean? . . . That is so like Enron-ish. You know what I mean? Kenneth Lay, he bailed out and took a heart attack."

51. Immediately after assuming control of FPFPG, members and associates of the Enterprise also embarked on a course of action to personally benefit themselves and their co-conspirators at the expense of FPFPG and its shareholders. They did so by using FPFPG funds for their own personal gain, and then concealing their actions and intent to defraud. They also extensively used the telephone to do so.

a. For example, on October 12, 2007, in a recorded telephone call with defendant JOHN MAXWELL, defendant PELULLO said, "you're killing me." When JOHN MAXWELL asked what PELULLO

meant, PELULLO responded, "the detail shows up . . . on the card," meaning JOHN MAXWELL's use of an FPFPG debit card. PELULLO then said, "you gotta kill it . . . not the money, just how we're doin' it." After telling JOHN MAXWELL that he (PELULLO) would be in Texas the following week, PELULLO said, "burn it . . . we could say . . . we got it lost . . . or somebody that we fired had it." PELULLO and JOHN MAXWELL then laughed. Later in the conversation, after getting defendant WILLIAM HANDLEY on the phone, PELULLO told him, "when I get down there, every single check card that's in that company, I'm gonna burn myself. . . . All the detail is showin' up." PELULLO then asked HANDLEY, "what never lies?" HANDLEY responded, "the paper," to which PELULLO said, "the bank statements." PELULLO then said, "I rather would have seen a \$5,000 check to JOHN MAXWELL as an advance, a loan, whatever, and let him take the money and do what he wants with it."

b. On October 13, 2007, in a recorded telephone conversation with defendant PELULLO, defendant LESHNER described a set of miscellaneous expenses that had not been recorded in defendant WILLIAM MAXWELL's records. PELULLO stated, "we're not gonna use them if they're already paid, . . . a good auditor will find that." The following day, on October 14, 2007, in a recorded telephone conversation with LESHNER, PELULLO asked, "did you do the master invoice, like I said?" In response, LESHNER



provided a detailed explanation of what the invoices reflected and informed PELULLO about "five numbers" of which he (LESHNER) was unsure. The "numbers" reflected dollar amounts totaling approximately \$150,000, according to LESHNER. LESHNER said, "we could charge it off against the expenses and it's not a problem, unless it was, you know, stuff that was incurred legitimately . . . ."

c. Corporate assets were also misappropriated through FPFG's purchase of an airplane in or about December 2007. Defendants SCARFO, PELULLO, and WILLIAM MAXWELL, purchased a Mitsubishi model MU-2B-60 turbo-propeller aircraft, serial number 1562 S.A. (hereafter the "FPFG plane"), with money they took from FPFG. The FPFG plane was purchased for approximately \$625,000 and was purportedly for the use of FPFG's board members and executive officers. It was technically owned by Velia Charters, Inc., a subsidiary of FPFG that was created by members of the Enterprise at the direction of PELULLO and WILLIAM MAXWELL in order to purchase the FPFG plane. In reality, the FPFG was used by defendants PELULLO and WILLIAM MAXWELL in furtherance of the affairs of the Enterprise and its control over FPFG. For example, after vacationing in the Bahamas in PELULLO's and SCARFO's newly purchased yacht, PELULLO and WILLIAM MAXWELL used the FPFG plane to fly to Atlanta, Georgia to visit unindicted co-conspirator NDS in prison. They then flew on the FPFG plane to

Atlantic City to attend the FPFPG Christmas Party.

52. As attorneys and accountants, defendants ADLER, McCARTHY, MANNO, and DROSSNER were instrumental to the successful execution of the fraud and, in particular, to the efforts to conceal the fraud from law enforcement and regulatory authorities.

a. From the earliest days of the scheme, defendant PELULLO played a leading role in the plan to take over FPFPG. On or about May 10, 2007, PELULLO had a lengthy telephone conversation with defendant ADLER regarding FPFPG even though PELULLO held no position with FPFPG. Shortly after that conversation, ADLER learned that PELULLO had a federal criminal fraud conviction.

b. Defendant PELULLO made his control of FPFPG known to other members of the Enterprise. For example, on October 15, 2007, PELULLO called ADLER to discuss the shareholders who had yet to vote their shares to ratify the figurehead board, among other things. At PELULLO's direction, ADLER added JOHN MAXWELL to the call. PELULLO told ADLER, "David, part of the conversation you've gotta close your ear," and then said, ". . . now listen to me. This is coming from our friend from back Jersey [meaning defendant SCARFO] . . . and it's gotta be executed without a flaw, without a hesitation, without a second to waste." PELULLO described for JOHN MAXWELL and ADLER the list

of un-voted shareholders, and ordered JOHN MAXWELL, "I don't care what you gotta do, I don't care how you do it, but before the close of the day, I want these guys bought, sold, and voted . . . Get back to the office NOW . . . Nobody wants to come back north and explain that we lost this because of this bullshit," to which JOHN MAXWELL responded, "Right, I got it." PELULLO continued, ". . . You, yourself, individually, go back, find these people's names and numbers . . . get on the phone. I don't care if they're in a funeral parlor, I don't care if they're in a doctor's office, I don't care if they're in a f\*\*kin' hospital on a respirator, we'll send somebody there, I want their vote, I want their signature, and I want it done by the close of the day today," to which JOHN MAXWELL responded, "Done." ADLER then suggested that their proxy solicitor research the names and addresses of the un-voted shareholders, to which PELULLO responded, "well the official position of the company is 'do it!'"

c. On October 17, 2007, pursuant to its bylaws, FPFPG held its annual shareholders meeting, over which defendant JOHN MAXWELL, the CEO, presided. On October 25, 2007, having witnessed JOHN MAXWELL's poor performance at the FPFPG shareholder meeting on October 17, 2007, defendant ADLER spoke to defendant PELULLO about his (PELULLO's) role at FPFPG. In a recorded telephone call, ADLER told PELULLO, "I am not suggesting for a

moment that, in [sic] a substantive level, things have to change. We just have to figure out how to dress it up the best." Later in the conversation, ADLER and PELULLO discussed that the shareholder meeting was, as ADLER stated "a debacle" because JOHN MAXWELL "can't run a meeting" and referred to him as a "figurehead" and stated that "if that's our public face, we got a problem."

d. Defendant McCARTHY also had a conversation with defendant PELULLO on October 25, 2007, regarding the operation of FPFG and PELULLO's control. In a recorded telephone call, McCARTHY told PELULLO ". . . but if someone were to ask . . . who's sort of out front on a lot of things, there's a name that would come up [meaning PELULLO]." PELULLO responded, "That's what we're trying to avoid," to which McCARTHY replied, "Right."

e. Similarly, in another recorded telephone call on October 25, 2007, PELULLO told McCARTHY that "we just gotta figure out a way, because I've been the driving force on getting everything to the point where it is right now . . . and a lot of those guys are lost . . . so without me, it's a little rough." PELULLO continued, "Nobody knows how to direct these attorneys and accountants . . . better than I do."

53. Concealing the related-party nature of the Rutgers, Globalnet, and Premier Group acquisitions was also critical to the perpetration of the fraud, and it was part of the scheme that

the attorneys and accountants would facilitate that concealment.

a. On or about September 18, 2007, in a recorded telephone call defendant PELULLO told defendant ADLER about a new potential acquisition. PELULLO told ADLER, "FirstPlus Financial Group, on the recommendation of special counsel through its consultant Seven Hills [is recommending] . . . the acquisition of [a mortgage company]." PELULLO further explained that defendant MCCARTHY would handle drafting the purchase agreement and he (PELULLO) needed ADLER only to provide the selling company with a due diligence checklist. When PELULLO asked ADLER to welcome the head of the mortgage company with open arms, ADLER responded, "I know how to do that. . . . When you want to make a deal I want you to make a deal. I'm not going to create any problems." PELULLO replied that the head of the mortgage company "drank the Jim Jones juice so he believes in the story that when the stock becomes fifty dollars, he's got a \$125 million." ADLER then asked PELULLO if he (ADLER) would have a chance to comment on the purchase agreement, in his role as securities counsel, to which PELULLO responded, "Absolutely." ADLER further explained that the reason for his inquiry was that "I would want to be somewhat more rigorous in that agreement than we were in the other two deals [referring to the Rutgers and Globalnet acquisitions]. I think those agreements were fine, . . . but now we're dealing,

we're outside the family here and everything's gotta be buttoned down tight."

b. Defendant ADLER's knowledge of the related-party nature of the Rutgers, Globalnet, and Premier Group acquisitions was further evidenced in a recorded telephone call that took place between defendant PELULLO and ADLER on February 6, 2008. During that call, ADLER spoke to PELULLO about "some business decisions that need[ed] to be made in the Premier deal." ADLER then said, "I need someone at the FirstPlus end of the world to talk to about a few things," to which PELULLO responded, "me and Bill Handley can do it with ya'." ADLER replied, "no, well, I don't want you doing it cause you're selling to me. . . . No disrespect, but . . . you understand what I'm saying."

**Obstruction of Justice**

54. Aside from the need to hide defendant SCARFO's involvement from FPFPG's shareholders, SCARFO's involvement also needed to be concealed from the District Court and the Probation Office. Members and associates of the Scarfo-Pelullo Enterprise and their co-conspirators took various steps to conceal SCARFO's involvement in FPFPG from those federal authorities.

55. Accordingly, realizing that his probation officer or the District Court might uncover his involvement in the scheme to defraud FPFPG, on or about August 16, 2007, defendant SCARFO filed a petition with the District Court to terminate the remaining

portion of his supervised release earlier than its April 2008 scheduled expiration. According to the petition, SCARFO's supervised release made it "difficult for him to . . . further his, already promising, growth in the business community." Despite the fact that SCARFO was trying to convince the District Court that he was a legitimate businessman, the petition failed to disclose his corporate alter ego, Learned Associates, the hundreds of thousands of dollars SCARFO had obtained from the Rutgers and Globalnet acquisitions only weeks earlier, and the \$33,000 a month "consulting" agreement he had just signed with PELULLO's company, Seven Hills.

56. Defendant MANNO knew that defendant SCARFO was the person who actually owned and controlled Learned Associates despite defendant PARISI's role as its "managing partner." MANNO also knew that, through SCARFO's control of Learned Associates, SCARFO had made hundreds of thousands of dollars as a result of the Rutgers and Globalnet acquisitions.

57. Defendants SCARFO, PELULLO, WILLIAM MAXWELL, and MANNO were well aware of the risk that SCARFO's supervised release conditions posed to the continued operation of the Enterprise and actively sought to neutralize that risk. On September 4, 2007, in a recorded telephone conversation, SCARFO and PELULLO discussed devising a story to tell SCARFO's probation officer so that SCARFO and PELULLO could continue to "associate" with each

other. While discussing the story, PELULLO suggested that SCARFO, "run it by Donny" (referring to MANNO). Additionally, SCARFO failed to inform SCARFO's probation officer of SCARFO's ongoing contact and association with PELULLO, which was a violation of the terms of SCARFO's federal supervised release and for which SCARFO could have been incarcerated.

58. In or about September 2007, defendants SCARFO, PELULLO, WILLIAM MAXWELL, and MANNO embarked on a plan to deceive SCARFO's probation officer and the District Court by manufacturing a job offer from WILLIAM MAXWELL to SCARFO. Specifically, SCARFO drafted a letter on WILLIAM MAXWELL's letterhead, which WILLIAM MAXWELL and MANNO reviewed. In an email response to WILLIAM MAXWELL and SCARFO, MANNO said, "[t]he letter looks fine with the changes that Nick made. In effect, by removing [the probation officer] from the first letter, it makes it a two step process. This will give [SCARFO] an opportunity to bring it to her personally and give her more of a sense of power over the final job offer." The letter, including the final version which was ultimately submitted to SCARFO's probation officer, failed to disclose SCARFO's involvement with FPPG, the transactions involving Rutgers and Globalnet, and the \$33,000 a month he was already receiving pursuant to his "consulting" agreement through Learned Associates. MANNO also consulted PELULLO about the deceptive letter, and in a recorded telephone call, left a



message for PELULLO on September 20, 2007 "want[ing] to touch bases (sic) really with Bill ahh, about the job and some new developments up here . . ."

59. In late October 2007, defendant McCARTHY became concerned about maintaining possession of records related to the creation of Learned Associates. At defendant PELULLO's direction, McCARTHY forwarded the records to defendant MANNO. Later that same day, PELULLO reported to defendant SCARFO that the records had been sent to MANNO, stating, "I had Gary send everything for Learned Associates, me and Gary discussed it, over to Donny Manno under attorney privilege confidential information." PELULLO also stated, "your records are now sealed under attorney client privileged" and ". . . Gary's pretty slick. You know, he thought of that." With approval of what PELULLO had done, SCARFO said, "[l]ayers upon layers like an onion."

60. It was integral to the scheme that defendants SCARFO and PELULLO continue to associate with each other in clear violation of SCARFO's supervised release conditions. With SCARFO still under the supervision of the Probation Office, defendant MANNO attended an FPFPG Christmas party which was held at a restaurant in New Jersey on December 20, 2007. In advance of the party, MANNO sent out invitations to the FPFPG Christmas party to associates of SCARFO on behalf of SCARFO. PELULLO and SCARFO hosted the party on behalf of FPFPG despite their lack of any

official positions with the company. During the party, MANNO socialized with SCARFO and PELULLO, and was provided with a gift. SCARFO's ongoing contact and association with PELULLO, a convicted felon, was never brought to the attention of SCARFO's probation officer and the judge who monitored SCARFO's supervised release.

**Money Laundering**

61. Members and associates of the Scarfo-Pelullo Enterprise and their co-conspirators took various steps to assist defendants SCARFO and PELULLO, among others, in concealing the source and laundering the proceeds of the scheme to defraud FPPG. This was accomplished by moving the proceeds of the scheme through various accounts, and the proceeds of the scheme were used to finance a lavish lifestyle that included luxury automobiles, a yacht, a luxury home for SCARFO, mortgage and rental payments, and jewelry as well as recurring monthly expenses.

**SCARFO's Purchases**

62. Throughout the scheme to defraud FPPG, the money obtained from FPPG was the only substantial asset of Learned Associates. Defendant SCARFO utilized the proceeds of the fraud he obtained through Learned Associates to fund various purchases, including but not limited to:

- a. Monthly payments of \$1,239.77 for an Audi A6 automobile;

b. Monthly lease payments of \$1,700 for a condominium in Brigantine, New Jersey;

c. Monthly mortgage payments of \$3,068.81 for a house he purchased for his ex-wife in New Jersey;

d. In excess of \$29,000 for jewelry for his second wife, defendant LISA MURRAY-SCARFO (charged in Counts 21 and 22 of this Indictment but not in Count 1) including an engagement ring and a tennis bracelet; and

e. A deposit of \$10,000 on an Audi R8 automobile that was valued in excess of \$100,000.

PELULLO's Bentley

63. In early July 2007, with the proceeds obtained as a result of the fraudulent sale of Globalnet to FPF, defendant PELULLO purchased a Bentley Continental GT convertible automobile for \$216,963.80. PELULLO registered the automobile in the name of Seven Hills and utilized his mother's address for the registration.

SCARFO's and PELULLO's Yacht

64. In October 2007, defendants SCARFO and PELULLO devised a plan to purchase a 1996, 83' Falcon luxury yacht for \$850,000. The money used by SCARFO and PELULLO to purchase the yacht, named "Priceless," was derived from the proceeds of the fraudulent sale of Globalnet to FPF.

a. The yacht was purchased by P.S. Charters LLC,

which was owned by Learned Associates and Seven Hills, and thus defendants SCARFO and PELULLO, respectively.

b. The money used to purchase the yacht originally came from FPPG, ostensibly as the final payment in the fraudulent Globalnet acquisition. On or about November 1, 2007, \$1,250,000 was transferred from an FPPG account to an account associated with Globalnet, an account that was controlled by defendants SCARFO and PELULLO. Thereafter, the money was transferred to an account associated with P.S. Charters and ultimately to defendant MCCARTHY's attorney escrow account, from which the final payment for the yacht was made.

c. On November 21, 2007, during a recorded telephone call, defendant SCARFO told defendant PELULLO that he was "very concerned" about the insurance for the "boat." Specifically, SCARFO said that he was concerned about the name under which the insurance was listed, i.e., P.S. Charters. SCARFO added, "it might be okay for the logo, but when . . . they're ready to pay a claim, who the f\*\*k is P and S Charters?" PELULLO then laughed, after which SCARFO said that the insurance policy also listed PELULLO as the insured party. After additional conversation about the insurance, PELULLO said, "that's the last thing I want, my name on there."

SCARFO's House

65. In approximately January 2008, members of the

Enterprise assisted defendant SCARFO in purchasing a \$715,000 house in Egg Harbor Township, New Jersey (hereafter the "Egg Harbor House"). The \$215,000 used for the down payment on the Egg Harbor House came directly from the scheme to defraud FPPG. For that reason, as well as the fact that SCARFO did not inform his probation officer of the purchase, SCARFO went to great lengths to conceal his role as the true owner and financier of the Egg Harbor House purchase.

66. In early February 2008, at the direction of defendant PELULLO, defendant DROSSNER used his position as a certified public accountant to assist SCARFO in manufacturing fraudulent tax returns for use by SCARFO's future wife, defendant MURRAY-SCARFO, in securing a \$500,000 mortgage to purchase the Egg Harbor House.

67. On February 5, 2008, defendant PELULLO called defendant DROSSNER to discuss a set of tax returns that DROSSNER had prepared for defendant MURRAY-SCARFO and had given to PELULLO. The returns did not reflect sufficient income to support the mortgage necessary to purchase the Egg Harbor House. During the recorded telephone conversation, PELULLO explained that "[s]he paid seven hundred and fifteen thousand for the house . . . [and] [s]he put two hundred and fifteen thousand in cash down." PELULLO continued, "you know how it works. Umm, even though I may make sixty-eight thousand dollars a year on a W2 income I

still have the ability to afford things through different entities," to which DROSSNER responded, "right." PELULLO then stated, "[s]he has the ability through her future husband and everything that's goin' on to afford the mortgage. How do I, what can I do income-wise to help her on these returns that have not been filed yet, to be able to substantiate or support a mortgage for ahh five hundred thousand?" After speaking to a mortgage broker whom PELULLO added to the conversation, PELULLO and DROSSNER discussed the income figures that would appear on the fraudulent returns DROSSNER was going to create. Specifically, PELULLO told DROSSNER, "maybe '06 at hundred and thirty. '07 at ahh a hundred and sixty. And then a letter umm stating '08 income will be, '08 income's projected to be the same."

68. Defendant DROSSNER prepared the new set of tax returns with the fraudulent figures provided by defendant PELULLO. When PELULLO saw that the 2007 return did not reflect enough income to get to the desired \$160,000, PELULLO asked DROSSNER, "can you throw some interest income?" DROSSNER responded, "[y]eah, how much?" PELULLO then said, "[y]eah, 500 bucks just to get to 160," to which DROSSNER responded, "okay." The tax returns with the fraudulent income figures were subsequently finalized by DROSSNER, signed by defendant MURRAY-SCARFO, and filed by DROSSNER with the Internal Revenue Service. The returns were

also submitted in support of the mortgage for which MURRAY-SCARFO was attempting to qualify.

69. Defendant MANNO assisted defendant SCARFO in concealing the source of the income used for the \$215,000 down payment that was used to complete the purchase. SCARFO married defendant MURRAY-SCARFO on February 14, 2008. That evening, SCARFO sent the following text message to MANNO: ". . . it's official. Thank you for helping get to this point. I am a happy man. Listen JP (meaning defendant PARISI) will be contacting you in th[e] morning to transfer funds. Please [get] with him. I want to see the transfer take place tomorrow. Goodnight and I'm on my honeymoon." On or about February 15, 2008, \$140,000 was transferred from a bank account related to the LMDS trust to an escrow account controlled by MANNO. MANNO ultimately issued a check from the escrow account in the amount of \$215,000, which was used as the down payment for the Egg Harbor House.

70. Prior to the settlement for the Egg Harbor House, defendants SCARFO and PELULLO attempted to secure a lower interest rate on the mortgage that defendant MURRAY-SCARFO had obtained utilizing the fraudulent tax returns. Despite the fact that she was now married to defendant SCARFO, MURRAY-SCARFO indicated on the mortgage application that she was not married. MURRAY-SCARFO also indicated on the mortgage application that none of the money used for the down payment had been borrowed,

when in fact, SCARFO previously had MURRAY-SCARFO sign a promissory note that required her to repay the money to the LMDS trust, a copy of which SCARFO gave to defendant MANNO.

71. On March 6, 2008, in a three-way recorded telephone conversation, defendants SCARFO, PELULLO, and MANNO discussed fabricating a "gift letter" in support of the mortgage application. During the conversation, PELULLO told MANNO that the purpose of the letter was "to show that the two hundred and fifteen thousand" was a gift from the LMDS trust and did not have to be repaid. Later in the conversation, SCARFO said, "[w]e don't want to hand over the trust," to which MANNO replied, "[n]o, we're not gonna give them the trust." Despite MANNO's knowledge that MURRAY-SCARFO had signed a promissory note that required her to repay the money to SCARFO, MANNO drafted the gift letter as instructed by SCARFO and PELULLO. The gift letter and fraudulent tax returns were submitted in support of the mortgage application.

72. On March 28, 2008, defendant MURRAY-SCARFO attended a settlement for the property and obtained the mortgage for \$500,000. MURRAY-SCARFO and defendant SCARFO made one mortgage payment before the fraudulent activity at FPFPG came to an end in May 2008 as a result of law enforcement intervention. Thereafter, with their source of money from FPFPG gone, MURRAY-



SCARFO and SCARFO did not make the required payments and the property went into foreclosure.

**Firearms and Ammunition**

73. Due to the historically violent nature of the LCN in general, and an attempt on defendant SCARFO's life by a rival faction of the Philadelphia LCN Family in particular, members and associates of the Enterprise equipped themselves with multiple firearms.

**SCARFO's Firearms and Ammunition**

74. As a convicted felon, defendant SCARFO was prohibited from purchasing or possessing firearms and ammunition. Nonetheless, various members of the Enterprise assisted SCARFO in obtaining firearms or ammunition.

a. In early September 2007, defendant JOHN MAXWELL purchased a .357 revolver from a pawn shop in Dallas, Texas, and drove for approximately 48 hours from Texas to Atlantic City, New Jersey where he delivered the revolver to defendant SCARFO. SCARFO possessed the gun on or about May 8, 2008.

b. On December 27, 2007, in a recorded telephone conversation, defendant PELULLO told defendant TODD STARK (charged elsewhere in this Indictment) that he (PELULLO) needed "two pairs" of "those size nine shoes" [meaning 9mm ammunition]. STARK replied, "absolutely." On or about December 28, 2007, STARK purchased two boxes of 9mm Independence ammunition from a

gun shop in Atlantic County, New Jersey, which were ultimately given to SCARFO.

c. On or about May 8, 2008, defendant SCARFO possessed a Smith & Wesson Model 469 9mm pistol, along with approximately 26 rounds of .357 caliber ammunition and approximately 100 rounds of 9mm ammunition.

PELULLO's Firearms and Ammunition

75. Like defendant SCARFO, defendant PELULLO was prohibited, as a convicted felon, from purchasing or possessing firearms and ammunition. In May 2008, PELULLO possessed a .38 caliber pistol along with approximately 50 rounds of .38 caliber ammunition and approximately 157 rounds of .32 caliber ammunition in the Seven Hills office that PELULLO maintained in Philadelphia, Pennsylvania. In addition, PELULLO possessed a .32 caliber pistol along with eight rounds of .32 caliber ammunition at his house in Elkins Park, Pennsylvania.

Yacht Firearms

76. Defendants SCARFO and PELULLO stored a cache of firearms and ammunition on their yacht, Priceless:

- a. Norinco 7.62 caliber rifle, model SKS;
- b. Ewbank 7.62 caliber rifle, model EMAKM;
- c. Wei Dong 12 gauge shotgun, model SAS12;
- d. Sig Sauer 9mm pistol, model P-6;
- e. Taurus .38 caliber revolver, model 83;

- f. Taurus .22 caliber pistol, model PT-22;
- g. Approximately 2500 rounds of 7.62 caliber ammunition; and
- h. Seventeen additional boxes of ammunition.

77. On November 23, 2007, defendants SCARFO, PELULLO, and LESHNER had a three-way telephone conversation, which was recorded. LESHNER was in Florida to take delivery of SCARFO'S and PELULLO'S yacht. At one point in the conversation, LESHNER spoke to someone in the background stating that he was on the phone with the yacht's "owners." Toward the end of the conversation, SCARFO told LESHNER to get "snorkeling equipment and, uh, some of those, uh, spear guns" [meaning the firearms], to which PELULLO replied, "you're gonna go snorkelin'?" SCARFO replied, "listen, follow me, I'll tell you when I see ya."

78. Defendant PELULLO brought the firearms onto the yacht shortly before the yacht was taken to the Bahamas. In December 2007, PELULLO, along with defendants LESHNER, WILLIAM MAXWELL, and others, used the yacht during a trip to the Bahamas.

79. On or about April 26, 2008, following the end of defendant SCARFO'S supervised release, SCARFO and defendant PELULLO traveled to Florida so that SCARFO could see the yacht for the first time and take a trip on it.

**LCN Influence Over the Enterprise**

80. Members and associates of the Enterprise were influenced by members and associates of the LCN and sought to enrich them with the proceeds of the scheme to defraud FPFPG. Members and associates of the Enterprise also capitalized on the influence of the LCN in conducting the affairs of the Enterprise.

a. On June 14, 2007, in a recorded prison telephone call, defendant SCARFO told his father, unindicted co-conspirator NDS, in reference to the takeover of FPFPG, "[y]ou know honest to God we're good six to ten months off from being able to help everybody . . . . you know, you'll get, you'll get explained about it." NDS responded, "I wanna know when it's complete . . . . yeah because ahh, you know especially Uncle Vic man," (meaning unindicted co-conspirator VA, the imprisoned boss of the Lucchese LCN family). SCARFO responded, "[o]h yeah without a doubt."

b. On September 7, 2007, in a recorded telephone conversation with defendant PELULLO, defendant SCARFO referred to an "iron fist in a velvet glove," but stated "there's no iron fist" in the velvet glove right now, it just has to be a "velvet glove" right now. SCARFO continued, "in a about a year or two, when . . . we're talking total financial supremacy, . . . then that's where the iron fist comes in."

c. Defendant MANNO also maintained a close association with unindicted co-conspirator NDS. On September 20, 2007, defendant PELULLO visited NDS at the federal prison in Atlanta, Georgia. That same day, defendant MANNO in a recorded telephone conversation, left a voice mail message for PELULLO during which he said, ". . . I talked to Nicky (meaning defendant SCARFO), I know where you're at . . . I hope all is well and ahh, give our friend ahh a big hello for me." Later that same day, PELULLO returned MANNO's call. During that recorded conversation, MANNO asked, "you had a good visit today?" PELULLO responded, "[y]eah it was a great visit, he says hello and he sends his best . . . . I let him know all the help and support you're givin' us . . . ."

d. On October 17, 2007, following FPF's annual shareholder meeting, defendant PELULLO called defendant SCARFO to tell him "we crushed them" [meaning the opposition shareholders who had, among other things, opposed seating the figurehead board]. After describing some of the details of the meeting, SCARFO said, "congratulations brother," to which PELULLO responded, "it was all upon your direction . . ." and "the only people that can f\*\*k it up now . . . is us." Later in the conversation, PELULLO said, "talk to your pop and let him know," to which SCARFO said, "I'll let you do the honors, like last time."

e. In or about November 2007, defendant WILLIAM MAXWELL told Individual #5, whose identity is known to the Grand Jury, that defendant PELULLO "consulted" with "the mob." WILLIAM MAXWELL also said that he was attempting to get unindicted co-conspirator NDS out of prison and that he (WILLIAM MAXWELL) would be "set for life" if he was successful.

f. On November 29, 2007, defendant WILLIAM MAXWELL sent the following text message to defendant PELULLO: "Know you won't get this till iu get out from ur visit . . . . but it is important for me for u to know how absolutely fond I am to his cases . . . truly wish I could see him regularly . . . . one of the best things that happened to my family was to know u sooner . . . maybe I could have gotten uncle nick out sooner and kept u and the family a little safer . . . see u." PELULLO visited unindicted co-conspirator NDS at the federal prison in Atlanta, Georgia that same day.

g. In January 2008, unindicted co-conspirator NDS mailed two letters along with several other documents from the federal prison in Atlanta, Georgia to defendant MANNO. The envelope in which the documents were mailed contained the notation on the outside that the contents contained "legal mail." As a result, the contents, which included a letter directed to MANNO, another directed to his son, defendant SCARFO, and additional documents for SCARFO, were not reviewed by officials

from the Federal Bureau of Prisons, the agency which is responsible for the security and operation of federal prisons. In the first letter, NDS asked MANNO to forward the contents to SCARFO. In the second letter, NDS instructed SCARFO to keep the contents "for the future" and to "review them." The contents consisted of information related to investigations and prosecutions involving two groups of individuals that have historically operated the New Jersey crew of the Lucchese LCN Family. In his letter to SCARFO, NDS further stated that the two groups were "rats and the younger ones are glorified rats by proxy . . . . As far as I'm concerned their [sic] all lying rats." Despite the fact that the second letter, along with its contents, clearly contained a communication regarding LCN affairs and that the letter was not intended for MANNO, MANNO dutifully delivered the letter and its contents to SCARFO.

h. On April 6, 2008, during a recorded telephone conversation following the end of defendant SCARFO's supervised release, SCARFO discussed how he wanted defendant PELULLO to handle FPG's affairs going forward in relation to SCARFO. Specifically, SCARFO said that he needed PELULLO to repeat and reinforce the idea that, "we gotta follow this guy" (meaning SCARFO). PELULLO responded, "just because they didn't see you and I try to enforce that, it was, you know, you behind the

scenes, and I was just a conduit, . . . through you, to make sure that things got done the way we planned to get them done.”

All in violation of Title 18, United States Code,  
Section 1962(d).



COUNT TWO

[Securities Fraud Conspiracy, 18 U.S.C. § 371]

The Grand Jury further alleges:

81. The allegations set forth in paragraphs 8 through 13, 15 through 30, 33 through 60, and 80, of this Indictment are re-alleged as if fully set forth in this Count.

Relevant State and Federal Laws and Regulations

82. Nevada corporate law imposes fiduciary duties on controlling shareholders, officers, and directors of Nevada corporations such as FPFG that forbid them from using their position(s) of trust and confidence to further their private interests and require them to act on an informed basis. Furthermore, these fiduciary duties forbid controlling shareholders, officers, and directors from usurping corporate opportunities for their own personal benefit. N.R.S. 78.120; 78.138. Controlling shareholders, officers, and directors seeking to engage in related party transactions with a company under their control must disclose all material facts regarding such transactions in applicable SEC filings and to FPFG shareholders.

83. FPFG stock was publicly quoted under the ticker symbol "FPFX.PK" on the over-the-counter ("OTC") securities market, commonly referred to as the "Pink Sheets."

84. Under SEC rules, "control" is defined as "the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract, or otherwise." Title 17, Code of Federal Regulations, § 240.12b-2.

85. Under SEC rules, an "affiliate" is "a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the specified person." Title 17, Code of Federal Regulations, § 240.12b-2.

86. Under the Securities Exchange Act of 1934, "[t]he term 'director' means any director of a corporation or any person performing similar functions with respect to any organization, whether incorporated or unincorporated." Title 15, United States Code, § 78c(a)(7).

87. Under SEC rules, an "executive officer" means a registrant's "president, any vice president of the registrant in charge of a principal business unit, division or function (such as sales, administration or finance), any other officer who performs a policy making function or any other person who performs similar policy making functions for the registrant." Title 17, Code of Federal Regulations, § 240.3b-7.

88. Generally Accepted Accounting Principles ("GAAP") and SEC regulations provide that a public company and its management

must disclose related party transactions in quarterly and annual filings with the SEC.

89. Statement of Financial Accounting Standards No. 57 ("FAS 57") sets forth the GAAP requirements for related party transaction disclosures. Paragraph 2 of FAS 57 provides that a public company's "[f]inancial statements shall include disclosures of material related party transactions." "Related party transactions" include those between "an enterprise and its principal owners, management, or members of their immediate families" and those between a company and its "affiliates." [FAS 57, ¶ 1]. "Affiliate" includes any company that is under common control or management with the public company. [FAS 57, ¶ 24(a, b)]. Disclosures of related party transactions shall include (a) the nature of the relationship involved, (b) a description of the transactions for each period for which income statements are presented and such other information necessary to an understanding of the effects of the transactions on the financial statements, (c) the dollar amount of the transactions for each of the periods for which income statements are presented, and (d) amounts due from or to related parties as of the date of each balance sheet presented and, if not otherwise apparent, the terms and manner of settlement. [FAS 57, ¶ 24(a, b)].

90. Under FAS 57, each of FPPG's reports on Forms 10-QSB (filed in August and November 2007) and 10-KSB (filed in March

2008) should have disclosed details of FPFG's related party transactions with defendants SCARFO, PELULLO, and WILLIAM MAXWELL, and their affiliates including, but not limited to, Learned Associates and Seven Hills. Form 10-QSB is a quarterly report that provides a summary of a public company's financial performance. Form 10-KSB is an annual report that provides a comprehensive overview a public company's business and financial condition.

91. In addition, SEC regulations require further disclosures of related party transactions in applicable SEC filings. Among other things, Part III of Form 10-KSB requires disclosure of "Certain Relationships and Related Transactions," specifically including disclosures prescribed by Item 404 of SEC Regulation S-K. Item 404(a) of Regulation S-K requires a description of any transactions exceeding \$120,000 to which the public company is a party and in which any director, executive officer or member of their immediate families has a direct or indirect material interest. Item 404(a) requires disclosure of the person and the person's relationship to the public company, the nature of the person's interest in the transaction and, where practicable, the amount of the person's interest in the transaction.

92. Under these SEC regulations, all of the transactions described above in paragraphs 18 through 20, and 43 through 48 -

in which defendants SCARFO and PELULLO, and others, had direct or indirect material interests - were required to be accurately disclosed in FPFPG's applicable SEC filings.

STATUTORY ALLEGATION

93. From in or about April 2007 through in or about May 2008, in the District of New Jersey and elsewhere, the defendants, NICODEMO S. SCARFO, also known as "Nicky," also known as "Nick," also known as "Cousin," also known as "Junior," also known as "Nick Promo," also known as "Mr. Apple," also known as "Mr. Macintosh"; SALVATORE PELULLO, also known as "Sal," also known as "The Consultant," also known as "Cousin," also known as "Mr. Turner"; WILLIAM MAXWELL, also known as "Bill"; JOHN MAXWELL; WILLIAM HANDLEY, also known as "Bill"; CORY LESHNER; JOHN PARISI; DAVID ADLER, also known as "Dave"; HOWARD DROSSNER; and GARY McCARTHY did knowingly and willfully conspire and agree with each other and others to commit offenses against the United States, to wit, (a) fraud in connection with the purchase and sale of securities issued by FPFPG, contrary to Title 15, United States Code, Sections 78j(b) and 78ff, and Title 17, Code of Federal Regulations, Section 240.10b-5; (b) falsified books, records, and accounts of FPFPG, contrary to Title 15, United States Code, Sections 78m(b)(2)(A), 78m(b)(5) and 78ff, and Title 17, Code of Federal Regulations, Section 240.13b2-1; (c) false statements and material omissions to the auditor for FPFPG in

connection with the audit and examination of FPPG's financial statements, contrary to Title 15, United States Code, Section 78ff, and Title 17, Code of Federal Regulations, Section 240.13b2-2; and (d) false and misleading statements and omissions of material fact in reports and documents required to be filed under the Securities Exchange Act of 1934 and the rules and regulations thereunder, in violation of Title 15, United States Code, Sections 78j(b) and 78ff, and Title 17, Code of Federal Regulations, Section 240.10b-5.

OVERT ACTS

94. In furtherance of the conspiracy and to effect its illegal objects, the following overt acts, among others, were committed in the District of New Jersey and elsewhere:

a. On or about June 7, 2007, defendant ADLER and other members of the conspiracy caused FPPG to file a Form 8-K with the SEC detailing the change in control that occurred with respect to FPPG's board of directors. The form failed to disclose (i) the true nature of the control exerted over FPPG by members of the conspiracy, including defendants SCARFO, PELULLO, and WILLIAM MAXWELL, and (ii) the legal services and consulting agreements involving defendants WILLIAM MAXWELL and PELULLO.

b. On or about June 12, 2007, defendant McCARTHY caused a draft of the Rutgers purchase agreement to be sent via email to defendants PELULLO and PARISI.

c. On or about November 14, 2007, defendant ADLER and other members of the conspiracy caused FPFPG to file a Form 10-QSB with the SEC detailing the company's financial condition. The form failed to disclose (i) the true nature of the conspirators' ongoing control of FPFPG (ii) the relationships among the conspirators and the various transactions with FPFPG including defendant WILLIAM MAXWELL's legal services agreement and defendants SCARFO's and PELULLO's consulting agreements, and (iii) the true nature of the acquisitions of Rutgers and Globalnet by FPFPG in that SCARFO and PELULLO had ownership interests in those companies and sold those companies to FPFPG at grossly overvalued prices.

d. On March 31, 2008, in a recorded telephone conversation, PELULLO told SCARFO that the "10-K" would "pop up on [SCARFO's] phone," [meaning that SCARFO would receive a copy of FPFPG's Form 10-KSB when it was filed with the SEC].

e. On or about March 31, 2008, members of the conspiracy caused FPFPG to file its annual report on Form 10-KSB. The form failed to fully disclose (i) the true nature of conspirators' ongoing control of FPFPG (ii) the relationships among the conspirators and the various transactions with FPFPG including defendant WILLIAM MAXWELL's legal services agreement and defendants SCARFO's and PELULLO's consulting agreements, and (iii) the true nature of the acquisitions of Rutgers, Globalnet,

and Premier Group by FPFPG in that SCARFO and PELULLO had ownership interests in those companies and sold those companies to FPFPG at grossly overvalued prices.

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



COUNT THREE

[Wire Fraud Conspiracy, 18 U.S.C. § 1349]

The Grand Jury further alleges:

95. The allegations set forth in paragraphs 8 through 13, 15 through 30, and 33 through 60, of this Indictment are re-alleged as if fully set forth in this Count.

96. From in or about April 2007 through in or about May 2008, in the District of New Jersey and elsewhere, the defendants, NICODEMO S. SCARFO, also known as "Nicky," also known as "Nick," also known as "Cousin," also known as "Junior," also known as "Nick Promo," also known as "Mr. Apple," also known as "Mr. Macintosh"; SALVATORE PELULLO, also known as "Sal," also known as "The Consultant," also known as "Cousin," also known as "Mr. Turner"; WILLIAM MAXWELL, also known as "Bill"; JOHN MAXWELL; WILLIAM HANDLEY, also known as "Bill"; CORY LESHNER; JOHN PARISI, also known as "JP"; DAVID ADLER, also known as "Dave"; HOWARD DROSSNER; and GARY McCARTHY did knowingly and intentionally conspire and agree with each other and others to devise a scheme and artifice to defraud and to obtain money and property by means of materially false and fraudulent pretenses, representations, and promises, and for the purpose of executing such scheme and artifice, to transmit and cause to be transmitted by means of wire communications in interstate and foreign

commerce, certain writings, signs, signals, and sounds, contrary to Title 18, United States Code, Section 1343.

Objects of the Conspiracy

97. The objects of the conspiracy were for defendants, NICODEMO S. SCARFO, also known as "Nicky," also known as "Nick," also known as "Cousin," also known as "Junior," also known as "Nick Promo," also known as "Mr. Apple," also known as "Mr. Macintosh"; SALVATORE PELULLO, also known as "Sal," also known as "The Consultant," also known as "Cousin," also known as "Mr. Turner"; WILLIAM MAXWELL, also known as "Bill"; JOHN MAXWELL; WILLIAM HANDLEY, also known as "Bill"; CORY LESHNER; JOHN PARISI, also known as "JP"; DAVID ADLER, also known as "Dave"; HOWARD DROSSNER; and GARY McCARTHY to (a) make money for themselves and their co-conspirators through the takeover and looting of FPFG and (b) avoid detection and disruption by the public, the shareholders of FPFG, law enforcement and the SEC.

Manner and Means of the Conspiracy

98. It was part of the conspiracy that members of the conspiracy seized and maintained control of FPFG and its assets through the extortionate takeover of the company and its board of directors.

99. It was further part of the conspiracy that members of the conspiracy stole money from FPFG through fraudulent consulting and legal services agreements.

100. It was further part of the conspiracy that members of the conspiracy stole money from FPFPG by causing FPFPG to acquire corporate entities, at grossly inflated prices, in which defendants SCARFO and PELULLO had an ownership interest.

101. It was further part of the conspiracy that members of the conspiracy violated, and caused others to violate, the fiduciary duties owed to FPFPG and its shareholders by running FPFPG for the personal benefit of the members of the conspiracy and not in the best interests of FPFPG and its shareholders.

102. It was further part of the conspiracy that members of the conspiracy caused false statements and material omissions to be made in documents filed with the SEC.

103. It was further part of the conspiracy that members of the conspiracy (a) transferred money via interstate wires, including into the District of New Jersey, and (b) made and received telephone calls across state lines, including into and out of the District of New Jersey, to discuss, carry out, perpetrate and cover up the scheme to defraud.

104. In all, by the means above, the scheme to defraud FPFPG ultimately resulted in a loss to FPFPG and its shareholders of at least approximately \$12 million.

All in violation of Title 18, United States Code, Section 1349.

COUNTS FOUR THROUGH SIXTEEN  
[Wire Fraud - 18 U.S.C. § 1343]  
(Consulting and Legal Services Payments)

The Grand Jury further alleges:

105. The allegations set forth in paragraphs 8 through 13, 15 through 30, 33 through 60, and 97 through 104, of this Indictment are re-alleged as if fully set forth herein.

106. In furtherance of the scheme to defraud, the defendants, NICODEMO S. SCARFO, also known as "Nicky," also known as "Nick," also known as "Cousin," also known as "Junior," also known as "Nick Promo," also known as "Mr. Apple," also known as "Mr. Macintosh"; SALVATORE PELULLO, also known as "Sal," also known as "The Consultant," also known as "Cousin," also known as "Mr. Turner"; WILLIAM MAXWELL, also known as "Bill"; JOHN MAXWELL; WILLIAM HANDLEY, also known as "Bill"; CORY LESHNER; JOHN PARISI, also known as "JP"; DAVID ADLER, also known as "Dave"; HOWARD DROSSNER; and GARY McCARTHY caused money looted from FPFPG pursuant to the fraudulent consulting and legal services agreements to be distributed via wire transfers. The defendants caused the money to be sent via wire transfer from FPFPG bank accounts to defendant WILLIAM MAXWELL's bank account. The defendants caused money destined for defendants SCARFO and PELULLO to be sent via wire transfer from WILLIAM MAXWELL's account to Seven Hills' bank account. The defendants then caused money destined for SCARFO to be sent via wire transfer from Seven

Hills' bank account in Pennsylvania to Learned Associates' bank account in New Jersey. On or about the dates set forth in the tables below, the defendants caused wire transfers of funds looted from FPPG pursuant to the fraudulent legal services and consulting agreements to move from and to the accounts set forth in the tables below.

(Wirings to Distribute July 2007 Payments)

Date	Amount	Source Acct.	Beneficiary Acct.
7/3/07	\$220,000	FPPG xxxxxxxx2676	William Maxwell xxxxxx3939
7/3/07	\$180,000	FPPG xxxxxxxx2676	William Maxwell xxxxxx3939
7/3/07	\$50,000	William Maxwell xxxxxx3939	Seven Hills xxxxx7216
7/3/07	\$50,000	William Maxwell xxxxxx3939	Seven Hills xxxxx7216
7/5/07	\$33,000	Seven Hills xxxxx7216	Learned Associates xxxxxx3017

(Wirings to Distribute August 2007 Payments)

Date	Amount	Source Acct.	Beneficiary Acct.
8/1/07	\$100,000	FPPG xxxxxxxx2676	William Maxwell xxxxxx3939
8/2/07	\$100,000	William Maxwell xxxxxx3939	Seven Hills xxxxx7216
8/2/07	\$33,000	Seven Hills xxxxx7216	Learned Associates xxxxxx3017

(Wirings to Distribute September 2007 Payments)

Date	Amount	Source Acct.	Beneficiary Acct.
8/30/07	\$176,855.19	FPFG xxxxxxxx2676	William Maxwell xxxxxx3939
8/31/07	\$50,000	William Maxwell xxxxxx3939	Seven Hills xxxxx7216
8/31/07	\$50,000	William Maxwell xxxxxx3939	Seven Hills xxxxx7216
8/31/07	\$50,000	William Maxwell xxxxxx3939	Seven Hills xxxxx7216
8/31/07	\$6,855.19	William Maxwell xxxxxx3939	Seven Hills xxxxx7216
8/31/07	\$33,500	Seven Hills xxxxx7216	Learned Associates xxxxxx3017

(Wirings to Distribute October 2007 Payments)

Date	Amount	Source Acct.	Beneficiary Acct.
10/5/07	\$50,000	William Maxwell xxxxxx3939	Seven Hills xxxxx7216
10/5/07	\$50,000	William Maxwell xxxxxx3939	Seven Hills xxxxx7216
10/5/07	\$15,000	William Maxwell xxxxxx3939	Seven Hills xxxxx7216
10/9/07	\$36,202.29	Seven Hills xxxxx7216	Learned Associates xxxxxx3017

(Wirings to Distribute November 2007 Payments)

Date	Amount	Source Acct.	Beneficiary Acct.
11/1/07	\$100,000	FPFG xxxxxxxx2676	William Maxwell xxxxxx3939
11/2/07	\$300,000	FPFG xxxxxxxx9573	William Maxwell xxxxxx3939

Date	Amount	Source Acct.	Beneficiary Acct.
11/2/07	\$130,000	William Maxwell xxxxxx3939	Seven Hills xxxxxx7216
11/5/07	\$40,863.91	Seven Hills xxxxxx7216	Learned Associates xxxxxx3017

(Wirings to Distribute December 2007 Payments)

Date	Amount	Source Acct.	Beneficiary Acct.
12/5/07	\$320,000	FPFG xx x6346 xx	William Maxwell xxxxxx3939
12/6/07	\$115,000	William Maxwell xxxxxx3939	Seven Hills xxxxxx7216
12/6/07	\$33,000	Seven Hills xxxxxx7216	Learned Associates xxxxxx3017

(Wirings to Distribute January 2008 Payments)

Date	Amount	Source Acct.	Beneficiary Acct.
1/3/08	\$300,000	FPFG xxxxxxxxx2676	William Maxwell xxxxxx3939
1/3/08	\$165,000	William Maxwell xxxxxx3939	Seven Hills xxxxxx7216
1/4/08	\$33,000	Seven Hills xxxxxx7216	Learned Associates xxxxxx3017
1/4/08	\$5,222.87	Seven Hills xxxxxx7216	Learned Associates xxxxxx3017

(Wirings to Distribute February 2008 Payments)

Date	Amount	Source Acct.	Beneficiary Acct.
1/31/08	\$200,000	FPFG xxxxxxxxx2676	William Maxwell xxxxxx3939
2/4/08	\$140,000	William Maxwell xxxxxx3939	Seven Hills xxxxxx7216

Date	Amount	Source Acct.	Beneficiary Acct.
2/4/08	\$33,000	Seven Hills xxxxxx7216	Learned Associates xxxxxx3017
2/4/08	\$6,127.76	Seven Hills xxxxxx7216	Learned Associates xxxxxx3017

## (Wirings to Distribute March 2008 Payments)

Date	Amount	Source Acct.	Beneficiary Acct.
3/3/08	\$650,000	FPFG xxxxxxxxx2676	William Maxwell xxxxxx3939
3/3/08	\$230,000	William Maxwell xxxxxx3939	Seven Hills xxxxxx7216
3/3/08	\$33,000	Seven Hills xxxxxx7216	Learned Associates xxxxxx3017
3/3/08	\$4,593.26	Seven Hills xxxxxx7216	Learned Associates xxxxxx3017

## (Wirings to Distribute April 2008 Payments)

Date	Amount	Source Acct.	Beneficiary Acct.
4/2/08	\$33,000	Seven Hills xxxxxx7216	Learned Associates xxxxxx3017
4/2/08	\$3,982.71	Seven Hills xxxxxx7216	Learned Associates xxxxxx3017

STATUTORY ALLEGATION FOR COUNTS FOUR THROUGH SIXTEEN

107. On or about the dates set forth in the table below, within the District of New Jersey and elsewhere, the defendants, NICODEMO S. SCARFO, also known as "Nicky," also known as "Nick," also known as "Cousin," also known as "Junior," also known as "Nick Promo," also known as "Mr. Apple," also known as "Mr.



Macintosh"; SALVATORE PELULLO, also known as "Sal," also known as "The Consultant," also known as "Cousin," also known as "Mr. Turner"; WILLIAM MAXWELL, also known as "Bill"; JOHN MAXWELL; WILLIAM HANDLEY, also known as "Bill"; CORY LESHNER; JOHN PARISI, also known as "JP"; DAVID ADLER, also known as "Dave"; HOWARD DROSSNER; and GARY McCARTHY, and others known and unknown, did knowingly and intentionally devise and intend to devise a scheme and artifice to defraud and did obtain money and property by means of materially false and fraudulent pretenses, representations, and promises, and for the purpose of executing such scheme and artifice, did transmit and cause to be transmitted by means of wire communications in interstate and foreign commerce, certain writings, signs, signals and sounds, that is, wire transfers of money as set forth in the table below.

Count	Date	Amount	Source Acct.	Beneficiary Acct.
4	7/5/07	\$33,000	Seven Hills xxxxx7216	Learned Associates xxxxxx3017
5	8/2/07	\$33,000	Seven Hills xxxxx7216	Learned Associates xxxxxx3017
6	8/31/07	\$33,500	Seven Hills xxxxx7216	Learned Associates xxxxxx3017
7	10/9/07	\$36,202.29	Seven Hills xxxxx7216	Learned Associates xxxxxx3017
8	11/5/07	\$40,863.91	Seven Hills xxxxx7216	Learned Associates xxxxxx3017
9	12/6/07	\$33,000	Seven Hills xxxxx7216	Learned Associates xxxxxx3017

10	1/4/08	\$5,222.87	Seven Hills xxxxx7216	Learned Associates xxxxxx3017
11	2/4/08	\$33,000	Seven Hills xxxxx7216	Learned Associates xxxxxx3017
12	2/4/08	\$6,127.76	Seven Hills xxxxx7216	Learned Associates xxxxxx3017
13	3/3/08	\$33,000	Seven Hills xxxxx7216	Learned Associates xxxxxx3017
14	3/3/08	\$4,593.26	Seven Hills xxxxx7216	Learned Associates xxxxxx3017
15	4/2/08	\$33,000	Seven Hills xxxxx7216	Learned Associates xxxxxx3017
16	4/2/08	\$3,982.71	Seven Hills xxxxx7216	Learned Associates xxxxxx3017

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

COUNTS SEVENTEEN THROUGH NINETEEN  
[Wire Fraud - 18 U.S.C. § 1343]  
(Acquisition Payments)

The Grand Jury further alleges:

108. The allegations set forth in paragraphs 8 through 13, 15 through 30, 33 through 60, and 97 through 104, of this Indictment are re-alleged as if fully set forth herein.

109. In furtherance of the scheme to defraud, the defendants, NICODEMO S. SCARFO, also known as "Nicky," also known as "Nick," also known as "Cousin," also known as "Junior," also known as "Nick Promo," also known as "Mr. Apple," also known as "Mr. Macintosh"; SALVATORE PELULLO, also known as "Sal," also known as "The Consultant," also known as "Cousin," also known as "Mr. Turner"; WILLIAM MAXWELL, also known as "Bill"; JOHN MAXWELL; WILLIAM HANDLEY, also known as "Bill"; CORY LESHNER; JOHN PARISI, also known as "JP"; DAVID ADLER, also known as "Dave"; HOWARD DROSSNER; and GARY MCCARTHY caused money looted from FPPG pursuant to the fraudulent acquisitions involving Rutgers LLC and Globalnet Enterprises to be distributed via wire transfers.

**Rutgers Acquisition**

110. The defendants caused the money to be sent via wire transfer from an FPPG bank account to a Rutgers LLC bank account which account defendants SCARFO and PELULLO controlled and was located in Pennsylvania. The defendants then caused money

destined for defendants SCARFO and PELULLO to be sent via wire transfer to a Globalnet Enterprises bank account in Pennsylvania and to a Seven Hills bank account also in Pennsylvania. Money destined for defendant SCARFO was also sent via wire transfer to a Learned Associates bank account in New Jersey. On or about the dates set forth in the tables below, the defendants caused wire transfers of funds looted from FPFPG pursuant to the fraudulent acquisition of Rutgers LLC to move from and to the accounts set forth in the table below.

**(Wirings to Distribute Rutgers Payments)**

<b>Date</b>	<b>Amount</b>	<b>Source Acct.</b>	<b>Beneficiary Acct.</b>
6/20/07	\$1,825,000	<b>FPFG xxxxxxxxx2676</b>	<b>Rutgers LLC xxxxxx6087</b>
6/20/07	\$667,600	<b>Rutgers LLC xxxxxx6087</b>	<b>Globalnet xxxxxx5174</b>
6/21/07	\$112,500	<b>Rutgers LLC xxxxxx6087</b>	<b>Seven Hills xxxxxx7216</b>
6/21/07	\$112,500	<b>Rutgers LLC xxxxxx6087</b>	<b>Learned Associates xxxxxx3017</b>
6/22/07	\$50,000	<b>Globalnet xxxxxx5174</b>	<b>Seven Hills xxxxxx7216</b>
6/22/07	\$50,000	<b>Globalnet xxxxxx5174</b>	<b>Learned Associates xxxxxx3017</b>

**Globalnet Acquisition**

111. The defendants caused the money to be sent via wire transfer from an FPFPG bank account to defendant WILLIAM MAXWELL's account. The defendants then caused the money to be sent via

wire transfer from WILLIAM MAXWELL's account to a Globalnet Enterprises account in Pennsylvania. The defendants then caused money destined for defendants SCARFO and PELULLO to be sent via wire transfer to a Seven Hills bank account in Pennsylvania and a Learned Associates bank account in New Jersey. On or about the dates set forth in the tables below, the defendants caused wire transfers of funds looted from FPPG pursuant to the fraudulent acquisition of Globalnet Enterprises to move from and to the accounts set forth in the table below.

(Wirings to Distribute Globalnet Payments)

Date	Amount	Source Acct.	Beneficiary Acct.
7/6/07	\$3,070,000	FPPG xxxxxxxx2676	William Maxwell xxxxxx3939
7/6/07	\$2,970,000	William Maxwell xxxxxx3939	Globalnet xxxxx5174
7/6/07	\$982,869.13	Globalnet xxxxxx5174	Seven Hills xxxxxx7216
7/6/07	\$436,369.13	Globalnet xxxxxx5174	Learned Associates xxxxxx3017

STATUTORY ALLEGATION FOR COUNTS SEVENTEEN THROUGH NINETEEN

112. On or about the dates set forth in the table below, within the District of New Jersey and elsewhere, the defendants, NICODEMO S. SCARFO, also known as "Nicky," also known as "Nick," also known as "Cousin," also known as "Junior," also known as "Nick Promo," also known as "Mr. Apple," also known as "Mr. Macintosh"; SALVATORE PELULLO, also known as "Sal," also known as

"The Consultant," also known as "Cousin," also known as "Mr. Turner"; WILLIAM MAXWELL, also known as "Bill"; JOHN MAXWELL; WILLIAM HANDLEY, also known as "Bill"; CORY LESHNER; JOHN PARISI, also known as "JP"; DAVID ADLER, also known as "Dave"; HOWARD DROSSNER; and GARY McCARTHY, and others known and unknown, did knowingly and intentionally devise and intend to devise a scheme and artifice to defraud and did obtain money and property by means of materially false and fraudulent pretenses, representations, and promises, and for the purpose of executing such scheme and artifice, did transmit and cause to be transmitted by means of wire communications in interstate and foreign commerce, certain writings, signs, signals and sounds, that is, wire transfers of money as set forth in the table below.

Count	Date	Amount	Source Acct.	Beneficiary Acct.
17	6/21/07	\$112,500	Rutgers LLC xxxxx6087	Learned Associates xxxxxx3017
18	6/22/07	\$50,000	Globalnet xxxxx5174	Learned Associates xxxxxx3017
19	7/6/07	\$436,369.13	Globalnet xxxxx5174	Learned Associates xxxxxx3017

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

COUNT TWENTY

[Conspiracy to Commit Money Laundering, 18 U.S.C. § 1956(h)]

The Grand Jury further alleges:

113. The allegations set forth in paragraphs 8 through 13, 15 through 27, 29 through 31, and 33 through 72, of this Indictment are re-alleged as if fully set forth in this Count.

114. From in or about April 2007 through in or about May 2008, in the District of New Jersey and elsewhere, the defendants NICODEMO S. SCARFO, also known as "Nicky," also known as "Nick," also known as "Cousin," also known as "Junior," also known as "Nick Promo," also known as "Mr. Apple," also known as "Mr. Macintosh"; SALVATORE PELULLO, also known as "Sal," also known as "The Consultant," also known as "Cousin," also known as "Mr. Turner"; WILLIAM MAXWELL, also known as "Bill"; JOHN MAXWELL; WILLIAM HANDLEY, also known as "Bill"; CORY LESHNER; JOHN PARISI, also known as "JP"; HOWARD DROSSNER; GARY McCARTHY; and DONALD MANNO, also known as "Donny," did knowingly and intentionally conspire and agree with each other and others to:

(a) conduct financial transactions affecting interstate and foreign commerce, which transactions involved the proceeds of specified unlawful activity, that is, wire fraud and securities fraud, knowing that the transactions were designed in whole and in part to conceal and disguise the nature, location, source, ownership, and control of the proceeds of specified unlawful

activity, and that while conducting and attempting to conduct such financial transactions, knew that the property involved in the financial transactions represented the proceeds of some form of unlawful activity, contrary to Title 18, United States Code, Section 1956(a)(1)(B)(i); and

(b) engage in monetary transactions by, through and to a financial institution, affecting interstate and foreign commerce, in criminally derived property of a value greater than \$10,000, such property having been derived from a specified unlawful activity, that is wire fraud and securities fraud, contrary to Title 18, United States Code, Section 1957(a).

All in violation of Title 18, United States Code, Section 1956(h).



COUNT TWENTY-ONE

[Conspiracy to Commit Bank Fraud, 18 U.S.C. § 1349]

The Grand Jury further alleges:

115. The allegations set for in paragraphs 16 and 17, 21 through 27, 29, 31, and 65 through 72, of this Indictment are re-alleged as if fully set forth in this Count.

116. From in or about December 2007 through in or about March 2008, in the District of New Jersey and elsewhere, the defendants NICODEMO S. SCARFO, also known as "Nicky," also known as "Nick," also known as "Cousin," also known as "Junior," also known as "Nick Promo," also known as "Mr. Apple," also known as "Mr. Macintosh"; SALVATORE PELULLO, also known as "Sal," also known as "The Consultant," also known as "Cousin," also known as "Mr. Turner"; WILLIAM MAXWELL, also known as "Bill"; JOHN MAXWELL; WILLIAM HANDLEY, also known as "Bill"; CORY LESHNER; JOHN PARISI, also known as "JP"; HOWARD DROSSNER; DONALD MANNO, also known as "Donny"; and LISA MURRAY-SCARFO, also known as "Lisa Murray," did knowingly and intentionally conspire and agree with each other and others to execute a scheme and artifice to defraud financial institutions as that term is defined in Title 18, United States Code, Section 20, including St. Edmond's Federal Savings Bank, the accounts of which were insured by the Federal Deposit Insurance Corporation and to obtain moneys, funds, assets and other property owned by, and under the custody

and control of financial institutions, including St. Edmond's Federal Savings Bank, by means of materially false and fraudulent pretenses, representations and promises, contrary to Title 18, United States Code, Section 1344.

OBJECT OF THE CONSPIRACY

117. The object of the conspiracy was for defendants NICODEMO S. SCARFO, also known as "Nicky," also known as "Nick," also known as "Cousin," also known as "Junior," also known as "Nick Promo," also known as "Mr. Apple," also known as "Mr. Macintosh"; SALVATORE PELULLO, also known as "Sal," also known as "The Consultant," also known as "Cousin," also known as "Mr. Turner"; WILLIAM MAXWELL, also known as "Bill"; JOHN MAXWELL; WILLIAM HANDLEY, also known as "Bill"; CORY LESHNER; JOHN PARISI, also known as "JP"; HOWARD DROSSNER; DONALD MANNO, also known as "Donny"; and LISA MURRAY-SCARFO, also known as "Lisa Murray," to help SCARFO and MURRAY-SCARFO obtain a mortgage for the Egg Harbor House through false statements and fraudulent submissions to financial institutions, including St. Edmond's Federal Savings Bank.

OVERT ACTS

118. In furtherance of the conspiracy and to effect its illegal object, the following overt acts, among others, were committed in the District of New Jersey and elsewhere:

- a. On or about February 8, 2008, defendants PARISI

and MURRAY-SCARFO traveled from the District of New Jersey to the Eastern District of Pennsylvania so that MURRAY-SCARFO could retrieve and sign fictitious tax returns that were ultimately used to support a loan application for the Egg Harbor House.

b. On or about February 5, 2008, defendant DROSSNER emailed fraudulent tax returns to defendant PELULLO for use by defendant SCARFO's future wife, defendant MURRAY-SCARFO, in securing a \$502,000 mortgage to purchase the Egg Harbor House.

c. On or about March 6, 2008, defendant MANNO sent a letter regarding the source of money used as a down payment on the Egg Harbor House to defendant PELULLO via facsimile from the District of New Jersey to the Eastern District of Pennsylvania.

All in violation of Title 18, United States Code,  
Section 1349.

COUNT TWENTY-TWO

[Conspiracy to Make False Statements in Connection  
with Loan Application, 18 U.S.C. § 371]

The Grand Jury further alleges:

119. The allegations set forth in paragraphs 16 and 17, 21 through 27, 29, 31, and 65 through 72, of this Indictment are re-alleged as if fully set forth in this Count.

120. From in or about January 2008 through in or about March 2008, in the District of New Jersey and elsewhere, the defendants NICODEMO S. SCARFO, also known as "Nicky," also known as "Nick," also known as "Cousin," also known as "Junior," also known as "Nick Promo," also known as "Mr. Apple," also known as "Mr. Macintosh"; SALVATORE PELULLO, also known as "Sal," also known as "The Consultant," also known as "Cousin," also known as "Mr. Turner"; WILLIAM MAXWELL, also known as "Bill"; JOHN MAXWELL; WILLIAM HANDLEY, also known as "Bill"; CORY LESHNER; JOHN PARISI, also known as "JP"; HOWARD DROSSNER; DONALD MANNO, also known as "Donny"; and LISA MURRAY-SCARFO, also known as "Lisa Murray," did knowingly and intentionally conspire and agree with each other and others to commit an offense against the United States, to wit, to make false statements and reports, for the purpose of influencing the action of an institution the accounts of which are insured by the Federal Deposit Insurance Corporation, including St. Edmond's Federal Savings Bank, upon an application, purchase, purchase agreement, commitment, or loan,

contrary to Title 18, United States Code, Section 1014.

OBJECT OF THE CONSPIRACY

121. The object of the conspiracy was for defendants NICODEMO S. SCARFO, also known as "Nicky," also known as "Nick," also known as "Cousin," also known as "Junior," also known as "Nick Promo," also known as "Mr. Apple," also known as "Mr. Macintosh"; SALVATORE PELULLO, also known as "Sal," also known as "The Consultant," also known as "Cousin," also known as "Mr. Turner"; WILLIAM MAXWELL, also known as "Bill"; JOHN MAXWELL; WILLIAM HANDLEY, also known as "Bill"; CORY LESHNER; JOHN PARISI, also known as "JP"; HOWARD DROSSNER; DONALD MANNO, also known as "Donny"; and LISA MURRAY-SCARFO, also known as "Lisa Murray," to obtain a mortgage for the Egg Harbor House through false statements and fraudulent submissions to financial institutions, including St. Edmond's Federal Savings Bank.

OVERT ACTS

122. In furtherance of the conspiracy and to effect its illegal object, the following overt acts, among others, were committed in the District of New Jersey and elsewhere:

a. On or about February 8, 2008, defendants PARISI and MURRAY-SCARFO traveled from the District of New Jersey to the Eastern District of Pennsylvania so that MURRAY-SCARFO could retrieve and sign fictitious tax returns that were ultimately used to support a loan application for the Egg Harbor House.

b. On or about February 5, 2008, defendant DROSSNER emailed fraudulent tax returns to defendant PELULLO for use by SCARFO's future wife, defendant MURRAY-SCARFO, in securing a \$502,000 mortgage to purchase the Egg Harbor House.

c. On or about March 6, 2008, defendant MANNO sent a letter regarding the source of money used as a down payment on the Egg Harbor House to defendant PELULLO via facsimile from the District of New Jersey to the Eastern District of Pennsylvania.

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

COUNT TWENTY-THREE

[Conspiracy to Obstruct Justice, 18 U.S.C. § 1512(k)]

The Grand Jury further alleges:

123. The allegations set forth in paragraphs 8 through 13, 15 through 23, 27, 31, and 33 through 60, of this Indictment are re-alleged as if fully set forth in this Count.

124. From in or about June 2007 through in or about April 2008, in the District of New Jersey and elsewhere, defendants NICODEMO S. SCARFO, also known as "Nicky," also known as "Nick," also known as "Cousin," also known as "Junior," also known as "Nick Promo," also known as "Mr. Apple," also known as "Mr. Macintosh"; SALVATORE PELULLO, also known as "Sal," also known as "The Consultant," also known as "Cousin," also known as "Mr. Turner"; WILLIAM MAXWELL, also known as "Bill"; JOHN PARISI, also known as "JP"; and DONALD MANNO, also known as "Donny," did knowingly and intentionally conspire and agree with each other and others to:

(a) engage in misleading conduct toward another person, with intent to hinder, delay, and prevent the communication to a law enforcement officer and judge of the United States of information relating to the commission and possible commission of a Federal offense and a violation of conditions of probation, supervised release, parole, and release pending judicial proceedings, contrary to Title 18, United States Code, Section 1512(b)(3); and

(b) corruptly obstruct, influence, and impede an official proceeding, as that term is defined in Title 18, United States Code, Section 1515(a)(1)(A), contrary to Title 18, United States Code, Section 1512(c)(2).

OVERT ACTS

125. In furtherance of the conspiracy and to effect its illegal objects, the following overt acts, among others, were committed in the District of New Jersey and elsewhere:

a. On or about September 14, 2007, defendant MANNO sent an email to defendants SCARFO and WILLIAM MAXWELL regarding the fictitious employment letter offer from WILLIAM MAXWELL to SCARFO described in paragraph 58 of this Indictment.

b. On or about October 5, 2007, defendant SCARFO submitted his Monthly Supervision Report to his Probation Officer and certified that the information he furnished was complete and correct, thereby omitting the \$33,500 he received as "consulting fees" pursuant to the fraudulent consulting agreement between Learned Associates and Seven Hills.

c. On or about November 5, 2007, defendant SCARFO submitted his Monthly Supervision Report to his Probation Officer and certified that he did not make any purchases over \$500, thereby omitting the purchase of the yacht, described in paragraph 64 of this Indictment, by defendants SCARFO and PELULLO for approximately \$850,000.



d. On multiple dates between in or about August 2007 and in or about April 2008, defendant SCARFO and defendant PELULLO had contact with each other which SCARFO failed to report to his probation officer, including but not limited to the FPPG Christmas party held on or about December 20, 2007.

All in violation of Title 18, United States Code, Section 1512(k).

COUNT TWENTY-FOUR

[Conspiracy to Sell or Transfer Firearm and Ammunition to a Prohibited Person, or Possess a Firearm by a Convicted Felon  
18 U.S.C. § 371]

The Grand Jury further alleges:

126. The allegations set forth in paragraphs 3 through 7, 14, 21-24, 26-27, and 73-79, of this Indictment are re-alleged as if fully set forth in this Count.

127. From in or about September 2007 through in or about May 2008, in the District of New Jersey and elsewhere, the defendants, NICODEMO S. SCARFO, also known as "Nicky," also known as "Nick," also known as "Cousin," also known as "Junior," also known as "Nick Promo," also known as "Mr. Apple," also known as "Mr. Macintosh"; SALVATORE PELULLO, also known as "Sal," also known as "The Consultant," also known as "Cousin," also known as "Mr. Turner"; WILLIAM MAXWELL, also known as "Bill"; JOHN MAXWELL; CORY LESHNER; JOHN PARISI, also known as "JP"; and TODD STARK, together with each other and others, did knowingly and intentionally conspire and agree to commit offenses against the United States, to wit:

(a) to provide firearms and ammunition to defendants SCARFO and PELULLO knowing and having reasonable cause to believe that SCARFO and PELULLO had been convicted of a crime punishable by imprisonment for a term exceeding one year, contrary to Title 18, United States Code, Section 922(d)(1); and

(b) to possess in and affecting commerce firearms and ammunition having been convicted of a crime punishable by imprisonment for a term exceeding one year, contrary to Title 18, United States Code, Section 922(g)(1).

OVERT ACTS

128. In furtherance of the conspiracy and to effect its illegal objects, the following overt acts, among others, were committed in the District of New Jersey and elsewhere:

a. On or about September 4, 2007, defendant JOHN MAXWELL purchased a Smith & Wesson Model 65 .357 revolver, bearing serial number BSP0394 at a pawn shop in Texas.

b. On or about September 4, 2007, defendant JOHN MAXWELL traveled from Texas to New Jersey for the purpose of delivering the Smith & Wesson Model 65 .357 revolver to defendant SCARFO.

c. On or about December 28, 2007, defendant STARK purchased two boxes of Independence 9mm bullets from a firearms dealer in New Jersey.

d. On or about and prior to May 8, 2008, defendants SCARFO and PELULLO possessed the following firearms and ammunition in the Southern District of Florida:

- (1) Norinco 7.62 caliber rifle, model SKS; bearing serial number 2355775
- (2) Ewbank 7.62 caliber rifle, model EMAKM; bearing serial number EL5397

- (3) Wei Dong 12 gauge shotgun, model SAS12; bearing serial number 207319
- (4) Sig Sauer 9mm pistol, model P-6; bearing serial number M410568
- (5) Taurus .38 caliber revolver, model 83; bearing serial number MJ852035
- (6) Taurus .22 caliber pistol, model PT-22; bearing serial number AXF31367
- (7) Approximately 2500 rounds of 7.62 caliber ammunition; and
- (8) Seventeen additional boxes of ammunition.

e. On or about May 8, 2008, defendant SCARFO possessed a Smith & Wesson Model 65 .357 revolver, bearing serial number BSP0394 and a Smith & Wesson Model 469 9mm pistol, bearing serial number A867579, along with approximately 26 rounds of .357 caliber ammunition and approximately 100 rounds of 9mm ammunition.

f. On or about May 8, 2008, defendant PELULLO possessed a Colt .38 caliber pistol, bearing serial number 33565, and a Walther Model PP .32 caliber pistol, bearing serial number 328974, along with approximately 50 rounds of .38 caliber ammunition and approximately 165 rounds of .32 caliber ammunition.

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

COUNT TWENTY-FIVE

[Felon in Possession of a Firearm, 18 U.S.C. § 922(g)(1)]

The Grand Jury further alleges:

129. The allegations set forth in paragraphs 3-7, 21, 73 and 74, of this Indictment are re-alleged as if fully set forth in this Count.

130. On or about May 8, 2008, in the District of New Jersey, defendant NICODEMO S. SCARFO, also known as "Nicky," also known as "Nick," also known as "Cousin," also known as "Junior," also known as "Nick Promo," also known as "Mr. Apple," also known as "Mr. Macintosh," having been convicted of a crime punishable by imprisonment for a term exceeding one year in the United States District Court for the District of New Jersey and the Superior Court for the State of New Jersey, did knowingly possess in and affecting commerce firearms, namely, a Smith & Wesson Model 65 .357 revolver, bearing serial number BSP0394 and a Smith & Wesson Model 469 9mm pistol, bearing serial number A867579.

All in violation of Title 18, United States Code, Section 922(g)(1).

FORFEITURE ALLEGATION AS TO COUNT ONE

(Racketeering Offense)

131. The allegations contained in Count One of this Indictment are hereby repeated, re-alleged, and incorporated by reference herein as though fully set forth at length for the purpose of alleging forfeiture pursuant to Title 18, United States Code, Section 1963.

132. Pursuant to Rule 32.2(a), Fed. R. Crim. P., the defendants, NICODEMO S. SCARFO, also known as "Nicky," also known as "Nick," also known as "Cousin," also known as "Junior," also known as "Nick Promo," also known as "Mr. Apple," also known as "Mr. Macintosh"; SALVATORE PELULLO, also known as "Sal," also known as "The Consultant," also known as "Cousin," also known as "Mr. Turner"; WILLIAM MAXWELL, also known as "Bill"; JOHN MAXWELL; WILLIAM HANDLEY, also known as "Bill"; CORY LESHNER; JOHN PARISI, also known as "JP"; DAVID ADLER, also known as "Dave"; HOWARD DROSSNER; GARY McCARTHY; and DONALD MANNO, also known as "Donny," are hereby notified that, upon conviction of the violation of Title 18, United States Code, Section 1962, as charged in Count One of this Indictment, shall forfeit, pursuant to Title 18, United States Code, Section 1963:

a. any interests acquired and maintained in violation of Title 18, United States Code, Section 1962, pursuant to Section 1963(a)(1);

b. any interests in, securities of, claims against, and property and contractual rights of any kind affording a source of influence over, the Scarfo-Pelullo Enterprise, which the defendants established, operated, controlled, conducted, and participated in the conduct of, in violation of Title 18, United States Code, Section 1962, pursuant to Section 1963(a)(2); and

c. any property constituting and derived from proceeds obtained, directly and indirectly, from racketeering activity in violation of Title 18, United States Code, Section 1962, pursuant to Section 1963(a)(3).

133. The interests of the defendants subject to forfeiture fo the Untied States pursuant to Title 18, United States Code, Section 1963(a)(1), (a)(2), and (a)(3), include but are not limited to at least \$12 million and all interests and proceeds traceable thereto, including but not limited to the following assets:

a. Falcon vessel, bearing Vessel Identification Number 1040201, Hull Number FLNTPL83A196.

b. Mitsubishi model MU-2B-60 turbo-propeller aircraft, bearing Serial Number 1562 S.A.

c. Bentley automobile, model Continental GT Convertible, vehicle identification number SCBDR33W37C044370.

d. Audi automobile, model A6, vehicle identification number WAUEV74F77N023428.

e. One (1) ladies 18 carat white gold ring with a princess cut diamond weighing approximately 2.01 carats.

f. One (1) ladies 14 carat white gold bracelet with approximately 100 brilliant cut diamonds.

g. Contents of customer account 15624 held in the name of Learned Associates of North America, LLC, at Audi of Willow Grove, located in Willow Grove, Pennsylvania, and consisting of a \$10,000 deposit for an Audi R8 automobile.

h. Bank of America account # 003810121435.

i. Bank of America account # 003810201818.

j. Bank of America account # 381001250963.

k. Bank of America account # 3810121383.

l. Bank of America account # 004796252676.

m. Commerce Bank NA account # 7855143017.

n. Commerce Bank NA account # 0369406087.

o. Commerce Bank NA account # 0368847216.

p. Commerce Bank NA account # 368965174.

q. Guaranty Bank account # 380-3113939.

r. Guaranty Bank account # 380-3520463.

s. Guaranty Bank account # 380-3113954.

t. Guaranty Bank account # 380-6056481.

u. FirstPlus Financial Group, Inc., stock certificate number C17216 representing 200,000 shares of common stock issued to Seven Hills Management LLC, dated November 14, 2007.



v. FirstPlus Financial Group, Inc., stock certificate number C17214 representing 250,000 shares of common stock issued to Seven Hills Management LLC, dated November 14, 2007.

w. FirstPlus Financial Group, Inc., stock certificate number C17234 representing 250,000 shares of common stock issued to Seven Hills Management LLC, dated January 31, 2008.

x. FirstPlus Financial Group, Inc., stock certificate number C17217 representing 200,000 shares of common stock issued to Learned Associates of North America LLC, dated November 14, 2007.

y. FirstPlus Financial Group, Inc., stock certificate number C17215 representing 250,000 shares of common stock issued to Learned Associates of North America LLC, dated November 14, 2007.

z. FirstPlus Financial Group, Inc., stock certificate number C17235 representing 250,000 shares of common stock issued to Learned Associates of North America LLC, dated January 31, 2008.

aa. FirstPlus Financial Group, Inc., stock certificate number C17221 representing 100,000 shares of common stock issued to EFM Associates, GP, dated November 14, 2007.

bb. \$4,327 in United States currency seized from 9 Hartford Drive, Egg Harbor Township, NJ, on May 8, 2008.

Substitute Asset Provision

134. If any of the property described above as being subject to forfeiture, as a result of any act or omission of the defendants:

- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third person;
- c. has been placed beyond the jurisdiction of the Court;
- d. has been substantially diminished in value; or
- e. has been commingled with other property which cannot be subdivided without difficulty;

it is the intention of the United States, pursuant to Title 18, United States Code, Section 1963(m), to seek forfeiture of any other property of said defendants up to the value of the above forfeitable property.

135. If more than one defendant is convicted of an offense, the defendants so convicted are jointly and severally liable for the amount subject to forfeiture under this forfeiture allegation.

(Title 18, United States Code, Section 1963;  
Title 21, United States Code, Section 853; and  
Title 28, United States Code, Section 2461).

FORFEITURE ALLEGATION AS TO COUNT TWO

(Securities Fraud Conspiracy)

136. As a result of committing the securities fraud conspiracy offense charged in Count Two of this Indictment, in violation of Title 18, United States Code, Section 371, the defendants, NICODEMO S. SCARFO, also known as "Nicky," also known as "Nick," also known as "Cousin," also known as "Junior," also known as "Nick Promo," also known as "Mr. Apple," also known as "Mr. Macintosh"; SALVATORE PELULLO, also known as "Sal," also known as "The Consultant," also known as "Cousin," also known as "Mr. Turner"; WILLIAM MAXWELL, also known as "Bill"; JOHN MAXWELL; WILLIAM HANDLEY, also known as "Bill"; CORY LESHNER; JOHN PARISI, also known as "JP"; DAVID ADLER, also known as "Dave"; HOWARD DROSSNER; and GARY McCARTHY, pursuant to Title 18, United States Code, Section 981(a)(1)(c) and Title 28, United States Code, Section 2461(c), shall forfeit all property, real and personal, that constitutes or is derived, directly and indirectly, from proceeds traceable to the commission of the offense charged in Count Two of this Indictment, including, but not limited to, the following:

a. At least twelve million dollars (\$12,000,000) in United States currency, in that such sum in aggregate is property representing the amount of proceeds obtained as a result of the offense.

- b. Falcon vessel, bearing Vessel Identification Number 1040201, Hull Number FLNTP83A196.
- c. Mitsubishi model MU-2B-60 turbo-propeller aircraft, bearing Serial Number 1562 S.A.
- d. Bentley automobile, model Continental GT Convertible, vehicle identification number SCBDR33W37CO44370.
- e. Audi automobile, model A6, vehicle identification number WAUEV74F77N023428.
- f. One (1) ladies 18 carat white gold ring with a princess cut diamond weighing approximately 2.01 carats.
- g. One (1) ladies 14 carat white gold bracelet with approximately 100 brilliant cut diamonds.
- h. Contents of customer account 15624 held in the name of Learned Associates of North America, LLC, at Audi of Willow Grove, located in Willow Grove, Pennsylvania, and consisting of a \$10,000 deposit for an Audi R8 automobile.
- i. Bank of America account # 003810121435.
- j. Bank of America account # 003810201818.
- k. Bank of America account # 381001250963.
- l. Bank of America account # 3810121383.
- m. Bank of America account # 004796252676.
- n. Commerce Bank NA account # 7855143017.
- o. Commerce Bank NA account # 0369406087.
- p. Commerce Bank NA account # 0368847216.
- q. Commerce Bank NA account # 368965174.

r. Guaranty Bank account # 380-3113939.

s. Guaranty Bank account # 380-3520463.

t. Guaranty Bank account # 380-3113954.

u. Guaranty Bank account # 380-6056481.

v. FirstPlus Financial Group, Inc., stock certificate number C17216 representing 200,000 shares of common stock issued to Seven Hills Management LLC, dated November 14, 2007.

w. FirstPlus Financial Group, Inc., stock certificate number C17214 representing 250,000 shares of common stock issued to Seven Hills Management LLC, dated November 14, 2007.

x. FirstPlus Financial Group, Inc., stock certificate number C17234 representing 250,000 shares of common stock issued to Seven Hills Management LLC, dated January 31, 2008.

y. FirstPlus Financial Group, Inc., stock certificate number C17217 representing 200,000 shares of common stock issued to Learned Associates of North America LLC, dated November 14, 2007.

z. FirstPlus Financial Group, Inc., stock certificate number C17215 representing 250,000 shares of common stock issued to Learned Associates of North America LLC, dated November 14, 2007.

aa. FirstPlus Financial Group, Inc., stock certificate number C17235 representing 250,000 shares of common stock issued to Learned Associates of North America LLC, dated January 31, 2008.

bb. FirstPlus Financial Group, Inc., stock certificate number C17221 representing 100,000 shares of common stock issued to EFM Associates, GP, dated November 14, 2007.

cc. \$4,327 in United States currency seized from 9 Hartford Drive, Egg Harbor Township, NJ, on May 8, 2008.

Substitute Asset Provision

137. If any of the property described above as being subject to forfeiture, as a result of any act or omission of the defendants:

- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third person;
- c. has been placed beyond the jurisdiction of the Court;
- d. has been substantially diminished in value; or
- e. has been commingled with other property which cannot be subdivided without difficulty;

it is the intention of the United States, pursuant to Title 18, United States Code, Section 981(a)(1)(c), Title 21, United States Code, Section 853(p), and Title 28, United States Code, Section 2461(c), to seek forfeiture of any other property of said defendants up to the value of the above forfeitable property.

(Title 18, United States Code, Section 981;  
Title 21, United States Code, Section 853; and  
Title 28, United States Code, Section 2461).

FORFEITURE ALLEGATION AS TO COUNTS THREE THROUGH NINETEEN

(Wire Fraud and Wire Fraud Conspiracy)

138. As a result of committing the wire fraud conspiracy offense charged in Count Three of this Indictment, in violation of Title 18, United States Code, Section 1349, and the wire fraud offenses charged in Counts Four through Nineteen, in violation of Title 18, United States Code, Section 1343, the defendants, NICODEMO S. SCARFO, also known as "Nicky," also known as "Nick," also known as "Cousin," also known as "Junior," also known as "Nick Promo," also known as "Mr. Apple," also known as "Mr. Macintosh"; SALVATORE PELULLO, also known as "Sal," also known as "The Consultant," also known as "Cousin," also known as "Mr. Turner"; WILLIAM MAXWELL, also known as "Bill"; JOHN MAXWELL; WILLIAM HANDLEY, also known as "Bill"; CORY LESHNER; JOHN PARISI, also known as "JP"; DAVID ADLER, also known as "Dave"; HOWARD DROSSNER; and GARY MCCARTHY, pursuant to Title 18, United States Code, Section 981(a)(1)(c) and Title 28, United States Code, Section 2461(c), shall forfeit all property, real and personal, that constitutes or is derived, directly and indirectly, from proceeds traceable to the commission of the offense charged in Count Three of this Indictment, including, but not limited to, the following:

a. At least twelve million dollars (\$12,000,000) in United States currency, in that such sum in aggregate is property representing the amount of proceeds obtained as a result of the

offense.

- b. Falcon vessel, bearing Vessel Identification Number 1040201, Hull Number FLNTPL83A196.
- c. Mitsubishi model MU-2B-60 turbo-propeller aircraft, bearing Serial Number 1562 S.A.
- d. Bentley automobile, model Continental GT Convertible, vehicle identification number SCBDR33W37CO44370.
- e. Audi automobile, model A6, vehicle identification number WAUEV74F77N023428.
- f. One (1) ladies 18 carat white gold ring with a princess cut diamond weighing approximately 2.01 carats.
- g. One (1) ladies 14 carat white gold bracelet with approximately 100 brilliant cut diamonds.
- h. Contents of customer account 15624 held in the name of Learned Associates of North America, LLC, at Audi of Willow Grove, located in Willow Grove, Pennsylvania, and consisting of a \$10,000 deposit for an Audi R8 automobile.
- i. Bank of America account # 003810121435.
- j. Bank of America account # 003810201818.
- k. Bank of America account # 381001250963.
- l. Bank of America account # 3810121383.
- m. Bank of America account # 004796252676.
- n. Commerce Bank NA account # 7855143017.
- o. Commerce Bank NA account # 0369406087.
- p. Commerce Bank NA account # 0368847216.



q. Commerce Bank NA account # 368965174.

r. Guaranty Bank account # 380-3113939.

s. Guaranty Bank account # 380-3520463.

t. Guaranty Bank account # 380-3113954.

u. Guaranty Bank account # 380-6056481.

v. FirstPlus Financial Group, Inc., stock certificate number C17216 representing 200,000 shares of common stock issued to Seven Hills Management LLC, dated November 14, 2007.

w. FirstPlus Financial Group, Inc., stock certificate number C17214 representing 250,000 shares of common stock issued to Seven Hills Management LLC, dated November 14, 2007.

x. FirstPlus Financial Group, Inc., stock certificate number C17234 representing 250,000 shares of common stock issued to Seven Hills Management LLC, dated January 31, 2008.

y. FirstPlus Financial Group, Inc., stock certificate number C17217 representing 200,000 shares of common stock issued to Learned Associates of North America LLC, dated November 14, 2007.

z. FirstPlus Financial Group, Inc., stock certificate number C17215 representing 250,000 shares of common stock issued to Learned Associates of North America LLC, dated November 14, 2007.

aa. FirstPlus Financial Group, Inc., stock certificate number C17235 representing 250,000 shares of common stock issued

to Learned Associates of North America LLC, dated January 31, 2008.

bb. FirstPlus Financial Group, Inc., stock certificate number C17221 representing 100,000 shares of common stock issued to EFM Associates, GP, dated November 14, 2007.

cc. \$4,327 in United States currency seized from 9 Hartford Drive, Egg Harbor Township, NJ, on May 8, 2008.

Substitute Asset Provision

139. If any of the property described above as being subject to forfeiture, as a result of any act or omission of the defendants:

a. cannot be located upon the exercise of due diligence;

b. has been transferred or sold to, or deposited with, a third person;

c. has been placed beyond the jurisdiction of the Court;

d. has been substantially diminished in value; or

e. has been commingled with other property which cannot be subdivided without difficulty;

it is the intention of the United States, pursuant to Title 18, United States Code, Section 981(a)(1)(c), Title 21, United States Code, Section 853(p), and Title 28, United States Code, Section

2461(c), to seek forfeiture of any other property of said defendants up to the value of the above forfeitable property.

(Title 18, United States Code, Section 981;  
Title 21, United States Code, Section 853; and  
Title 28, United States Code, Section 2461).

FORFEITURE ALLEGATION AS TO COUNT TWENTY

(Money Laundering Conspiracy)

140. As a result of committing the money laundering conspiracy offense charged in Count Twenty of this Indictment, in violation of Title 18, United States Code, Section 1956(h), the defendants, NICODEMO S. SCARFO, also known as "Nicky," also known as "Nick," also known as "Cousin," also known as "Junior," also known as "Nick Promo," also known as "Mr. Apple," also known as "Mr. Macintosh"; SALVATORE PELULLO, also known as "Sal," also known as "The Consultant," also known as "Cousin," also known as "Mr. Turner"; WILLIAM MAXWELL, also known as "Bill;" JOHN MAXWELL; WILLIAM HANDLEY, also known as "Bill"; CORY LESHNER; JOHN PARISI, also known as "JP"; DAVID ADLER, also known as "Dave"; HOWARD DROSSNER; GARY McCARTHY; and DONALD MANNO, also known as "Donny", pursuant to Title 18, United States Code, Section 982(a)(1), shall forfeit all property, real and personal, that constitutes or is derived, directly and indirectly, from proceeds traceable to the commission of the offense charged in Count Four of this Indictment, including, but not limited to, the following:

a. At least twelve million dollars (\$12,000,000) in United States currency, in that such sum in aggregate is property representing the amount of proceeds obtained as a result of the offense.

b. Falcon vessel, bearing Vessel Identification

Number 1040201, Hull Number FLNTPL83A196.

c. Mitsubishi model MU-2B-60 turbo-propeller aircraft, bearing Serial Number 1562 S.A.

d. Bentley automobile, model Continental GT Convertible, vehicle identification number SCBDR33W37CO44370.

e. Audi automobile, model A6, vehicle identification number WAUEV74F77N023428.

f. One (1) ladies 18 carat white gold ring with a princess cut diamond weighing approximately 2.01 carats.

g. One (1) ladies 14 carat white gold bracelet with approximately 100 brilliant cut diamonds.

h. Contents of customer account 15624 held in the name of Learned Associates of North America, LLC, at Audi of Willow Grove, located in Willow Grove, Pennsylvania, and consisting of a \$10,000 deposit for an Audi R8 automobile.

i. Bank of America account # 003810121435.

j. Bank of America account # 003810201818.

k. Bank of America account # 381001250963.

l. Bank of America account # 3810121383.

m. Bank of America account # 004796252676.

n. Commerce Bank NA account # 7855143017.

o. Commerce Bank NA account # 0369406087.

p. Commerce Bank NA account # 0368847216.

q. Commerce Bank NA account # 368965174.

r. Guaranty Bank account # 380-3113939.

- s. Guaranty Bank account # 380-3520463.
- t. Guaranty Bank account # 380-3113954.
- u. Guaranty Bank account # 380-6056481.
- v. \$4,327 in United States currency seized from 9

Hartford Drive, Egg Harbor Township, NJ, on May 8, 2008.

Substitute Asset Provision

141. If any of the property described above as being subject to forfeiture, as a result of any act or omission of the defendants:

- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third person;
- c. has been placed beyond the jurisdiction of the Court;
- d. has been substantially diminished in value; or
- e. has been commingled with other property which cannot be subdivided without difficulty;

it is the intention of the United States, pursuant to Title 18, United States Code, Section 982(b) and Title 21, United States Code, Section 853(p), to seek forfeiture of any other property of said defendants up to the value of the above forfeitable property.

(Title 18, United States Code, Section 982; and  
Title 21, United States Code, Section 853).

FORFEITURE ALLEGATION AS TO COUNT TWENTY-TWO

(Conspiracy to Make False Statements in Connection  
with Loan Application)

142. As a result of committing the false statements conspiracy offense charged in Count Twenty-Two of this Indictment, in violation of Title 18, United States Code, Section 371, the defendants, NICODEMO S. SCARFO, also known as "Nicky," also known as "Nick," also known as "Cousin," also known as "Junior," also known as "Nick Promo," also known as "Mr. Apple," also known as "Mr. Macintosh"; SALVATORE PELULLO, also known as "Sal," also known as "The Consultant," also known as "Cousin," also known as "Mr. Turner"; WILLIAM MAXWELL, also known as "Bill"; JOHN MAXWELL; WILLIAM HANDLEY, also known as "Bill"; CORY LESHNER; JOHN PARISI, also known as "JP"; HOWARD DROSSNER; DONALD MANNO, also known as "Donny"; and LISA MURRAY-SCARFO, also known as "Lisa Murray", pursuant to Title 18, United States Code, Section 982(a)(2)(A), shall forfeit all property, real and personal, that constitutes or is derived, directly and indirectly, from proceeds traceable to the commission of the offense charged in Count Four of this Indictment, including, but not limited to, the following:

a. At one hundred thousand dollars (\$100,000) in United States currency, in that such sum in aggregate is property representing the amount of proceeds obtained as a result of the offense.

Substitute Asset Provision

143. If any of the property described above as being subject to forfeiture, as a result of any act or omission of the defendants:

- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third person;
- c. has been placed beyond the jurisdiction of the Court;
- d. has been substantially diminished in value; or
- e. has been commingled with other property which cannot be subdivided without difficulty;

it is the intention of the United States, pursuant to Title 18, United States Code, Section 982(b) and Title 21, United States Code, Section 853(p), to seek forfeiture of any other property of said defendants up to the value of the above forfeitable property.

(Title 18, United States Code, Section 982; and Title 21, United States Code, Section 853).

A TRUE BILL

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FOREPERSON

  
PAUL J. FISHMAN  
United States Attorney



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**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

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**UNITED STATES OF AMERICA**

**v.**

**NICODEMO S. SCARFO, a/k/a "Nicky," a/k/a "Nick,"  
a/k/a "Cousin," a/k/a "Junior," a/k/a "Nick Promo,"  
a/k/a "Mr. Apple," a/k/a "Mr. Macintosh,"  
SALVATORE PELULLO, a/k/a "Sal," a/k/a "The Consultant,"  
a/k/a "Cousin," a/k/a "Mr. Turner,"  
WILLIAM MAXWELL, a/k/a "Bill,"  
JOHN MAXWELL,  
WILLIAM HANDLEY, a/k/a "Bill,"  
CORY LESHNER,  
JOHN PARISI, a/k/a "JP,"  
DAVID ADLER, a/k/a "Dave,"  
HOWARD DROSSNER,  
GARY McCARTHY,  
DONALD MANNO, a/k/a "Donny,"  
LISA MURRAY-SCARFO, a/k/a "Lisa Murray," and  
TODD STARK**

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**INDICTMENT**

18 United States Code §§ 371, 922(g)(1), 1343, 1349, 1512(k), 1956(h), 1962(d), and 2

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**A True Bill,**

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**For person**

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**PAUL J. FISHMAN**

*U.S. ATTORNEY, NEWARK, NEW JERSEY*

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**STEVEN J. D'AGUANNO**

*ASSISTANT U.S. ATTORNEY*

**LISA PAGE**

*DOJ TRIAL ATTORNEY*

*856-757-5026*

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UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA	:	Honorable Robert B. Kugler
	:	
v.	:	
	:	Crim. No. 11-740
NICODEMO S. SCARFO	:	
a/k/a "Nicky,"	:	
a/k/a "Nick,"	:	
a/k/a "Cousin,"	:	Title 18 U.S.C. §§ 371,
a/k/a "Junior,"	:	922(g)(1), 1343, 1349,
a/k/a "Nick Promo,"	:	1512(k), 1956(h), 1962(d),
a/k/a "Mr. Apple,"	:	and 2
a/k/a "Mr. Macintosh,"	:	
SALVATORE PELULLO	:	
a/k/a "Sal,"	:	
a/k/a "The Consultant,"	:	
a/k/a "Cousin,"	:	
a/k/a "Mr. Turner,"	:	
WILLIAM MAXWELL	:	
a/k/a "Bill,"	:	
JOHN MAXWELL	:	
DAVID ADLER	:	
a/k/a "Dave,"	:	
GARY McCARTHY	:	
DONALD MANNO	:	
a/k/a "Donny"	:	

INDICTMENT

The Grand Jury in and for the District of New Jersey, sitting at Camden, charges:

COUNT ONE

[RICO Conspiracy, 18 U.S.C. § 1962(d)]

At various times relevant to this Indictment:

1. The defendants NICODEMO S. SCARFO ("SCARFO"), also known as "Nicky," also known as "Nick," also known as "Cousin," also known as "Junior," also known as "Nick Promo," also known as "Mr. Apple,"



also known as "Mr. Macintosh"; SALVATORE PELULLO, also known as "Sal," also known as "The Consultant," also known as "Cousin," also known as "Mr. Turner"; WILLIAM MAXWELL, also known as "Bill"; JOHN MAXWELL; DAVID ADLER, also known as "Dave"; GARY McCARTHY; and DONALD MANNO, also known as "Donny"; co-conspirator #1; co-conspirator #2; co-conspirator #3; co-conspirator #4; co-conspirator Nicodemo D. Scarfo ("NDS" or "co-conspirator NDS"), also known as "Uncle Nick," also known as "Nicky Senior," also known as "Mr. MacArthur"; and co-conspirator Vittorio Amuso ("VA" or "co-conspirator VA"), also known as "Vic," also known as "Uncle Vic," also known as "Papa"; together with others, known and unknown, were members and associates of a criminal organization engaged in crimes, including wire fraud, mail fraud, bank fraud, securities fraud, money laundering, extortion, obstruction of justice, and other offenses.

#### The Enterprise

2. The criminal organization, including its members and associates, constituted an "enterprise" as that term is defined in Title 18, United States Code, Section 1961(4), that is, a group of individuals associated in fact (hereafter the "Scarfo-Pelullo Enterprise" or the "Enterprise"). The Enterprise constituted an ongoing organization whose members and associates functioned as a continuing unit for the common purpose of achieving its objectives.

The Enterprise, which operated in the District of New Jersey and elsewhere, was engaged in, and its activities affected, interstate

and foreign commerce.

3. La Cosa Nostra ("LCN") was a national and international criminal organization known to its members as "This Thing of Ours" and to the general public as the "Mafia" or the "Mob." Families of the LCN, such as the Philadelphia and Lucchese Families, were structured criminal organizations each with a well-defined chain of command, including but not limited to, a "boss," "underboss," who acted as the second in command, and "captains," who supervised and controlled the activities of one or more groups or "crews" of individual "soldiers" or members of the Family who had been formally initiated or "made" as members of the LCN. Members and associates of the LCN were responsible for advising the next higher level of proposed criminal activity. Those higher levels in turn decided whether to sanction the criminal activity of those below them. Likewise, made members were required to earn money and share profits with their chain of command.

4. Co-conspirator NDS was the boss of the Philadelphia Family of the LCN from approximately 1982 to 1989. Following the conviction and incarceration of NDS, there was an internal struggle for control of the Philadelphia LCN Family, which resulted in the attempted murder of defendant SCARFO. After the attempted murder, co-conspirator VA, the boss of the Lucchese LCN Family and with whom NDS had been imprisoned in the mid-1990s, arranged for SCARFO to become a made member of the Lucchese LCN Family. As a made member, SCARFO was

required to earn money for the Lucchese LCN Family and otherwise participate in its affairs.

5. In conducting the affairs of the Enterprise, its members and associates made use of, sought to benefit, and benefitted from, its connection to the LCN. In addition, certain members and associates of the Scarfo-Pelullo Enterprise sought to ensure that the proceeds obtained through the various illegal activities of the Enterprise were used to enrich members and associates of the LCN, and proceeds were in fact distributed to members and associates of the LCN.

6. The Scarfo-Pelullo Enterprise operated with the assistance and direction of members and associates of the LCN, and was assisted by numerous criminal partners and associates, including but not limited to the defendants named in the Indictment.

The Purposes of the Enterprise

7. The purposes of the Enterprise were: (A) to generate money for its members and associates through the commission of various illegal acts, including wire fraud, mail fraud, bank fraud, securities fraud, money laundering, and extortion; and (B) to conceal the existence of the Enterprise, including but not limited to the LCN's influence over the Enterprise, and avoid detection of its illegal activities by regulatory authorities and law enforcement through obstruction of justice, false statements, and other means.

8. Beginning in or about April 2007, members and associates

of the Enterprise, including defendants SCARFO and PELULLO, devised a plan to take over FirstPlus Financial Group ("FPFG"), a publicly traded company located in Texas, and to replace its existing board of directors and management with individuals who would serve at the direction of SCARFO and PELULLO.

9. In or about June 2007, members and associates of the Enterprise, including defendants SCARFO and PELULLO, executed the plan and seized control of FPFG by threatening its existing management. Following the takeover, members and associates of the Enterprise directed FPFG's new management to approve the acquisition of companies owned and controlled by SCARFO and PELULLO for millions of dollars and several hundred thousand shares of FPFG stock. Members and associates of the Enterprise knew that the acquired companies had little, if any, value and were grossly overvalued.

10. In addition, members and associates of the Enterprise aided defendants SCARFO and PELULLO in looting hundreds of thousands of dollars from FPFG and its subsidiaries through fraudulent consulting agreements which gave de facto control over FPFG to SCARFO and PELULLO. SCARFO and PELULLO used the stolen money to finance lavish lifestyles that included a luxury home for SCARFO, expensive automobiles, a yacht, and jewelry.

11. Members and associates of the Enterprise, including defendants SCARFO and PELULLO, concealed their crimes through a multitude of lies and deception. The concealment of the Enterprise's

criminal activity involved, among other things, false statements and material omissions in required filings with the United States Securities and Exchange Commission ("SEC"), laundering the proceeds of the criminal activity through the ownership and control of various companies, and concealing defendant SCARFO's involvement in the Enterprise's activities from law enforcement and regulatory authorities, the United States District Court for the District of New Jersey (the "District Court"), and the United States Probation Office for the District of New Jersey (the "Probation Office").

12. Ultimately, members and associates of the Enterprise, including defendants SCARFO and PELULLO, planned to fraudulently increase the value of the FPPG stock in order to realize additional profits by selling their shares at an artificially high price.

13. Members and associates of the Enterprise committed their crimes with the knowing assistance and participation of various individuals and professionals, including lawyers and accountants, who were members and associates of the Scarfo-Pelullo Enterprise.

These professionals, along with other members and associates of the Enterprise, violated, conspired to violate, and caused others to violate the fiduciary duties owed to FPPG and its shareholders.

The scheme to defraud FPPG ultimately resulted in a loss to FPPG and its shareholders of at least approximately \$12 million.

14. The Enterprise and its members and associates also assisted defendants SCARFO and PELULLO, and others known and unknown, in

obtaining and storing a cache of weapons for use in protecting the Enterprise because of the LCN influence over the Enterprise and the historically violent nature of the LCN.

Relevant Entities

15. FPPG was a publicly traded company, incorporated in Nevada, with its principal office located in Irving, Texas. FPPG was a financial services company and was registered with the SEC pursuant to Section 12 of the Securities Exchange Act of 1934. FPPG had a Board of Directors whose members were responsible for, and had fiduciary duties to review and approve, the fairness of transactions between FPPG and its controlling shareholders, officers, and directors, commonly referred to as "related party transactions." As a publicly traded company, FPPG was obligated to file certain reports with the SEC that disclosed all material facts about the company to its investors, as set forth more fully in paragraphs 82 through 91 and re-alleged here. Among other things, FPPG was required to fully and accurately disclose in its applicable SEC filings the identities of the individuals who exercised control over FPPG and its subsidiaries, as well as the identities of individuals involved in related party transactions with FPPG.

16. Learned Associates of North America LLC ("Learned Associates") was a company controlled by defendant SCARFO and which served as SCARFO's corporate alter ego. Learned Associates was owned by the Lana Marie Domenica Scarfo ("LMDS") Trust. The LMDS Trust,



which was ostensibly created in the name of SCARFO's mother and for the benefit of SCARFO's children, was actually controlled by SCARFO and was used by him as a vehicle for money laundering and to conceal his ownership interest in various entities. SCARFO and other members and associates of the Enterprise utilized Learned Associates as a mechanism to perpetrate the scheme to defraud FPPG, launder proceeds of the fraud, and conceal SCARFO's involvement in the fraud from law enforcement and regulatory authorities, the District Court, and the Probation Office.

17. Seven Hills Management LLC ("Seven Hills") was a company owned by defendant PELULLO and which served as PELULLO's corporate alter ego. Seven Hills was owned by the Coconut Grove Trust. The Coconut Grove Trust was ostensibly created for the benefit of PELULLO's children but was actually controlled by PELULLO and was used by him as a vehicle to conceal his ownership of various entities and assets. PELULLO and other members and associates of the Enterprise utilized Seven Hills as a mechanism to perpetrate the scheme to defraud FPPG, launder proceeds of the fraud, and conceal PELULLO's involvement in the fraud from law enforcement and regulatory authorities.

18. Rutgers Investment Group LLC ("Rutgers") was registered with the New Jersey Department of State as a limited liability company in or about March 2007. Rutgers was owned, in part, by defendants SCARFO and PELULLO through their control of Learned Associates and

Seven Hills, respectively. As described below, in or about June 2007, PELULLO and other members and associates of the Enterprise caused FPPG to acquire Rutgers through a wholly owned subsidiary of FPPG, Rutgers, Inc., which was created by members and associates of the Enterprise specifically for the purpose of the acquisition.

Although Rutgers had little, if any value, FPPG purchased Rutgers for \$1,825,000 and 500,000 shares of FPPG common stock.

19. Globalnet Enterprises LLC ("Globalnet") was registered with the Pennsylvania Secretary of State as a limited liability company in or about August 2006. Globalnet was owned, in part, by defendants SCARFO and PELULLO through their control of Learned Associates and Seven Hills, respectively. In or about July 2007, PELULLO and other members and associates of the Enterprise caused FPPG to acquire Globalnet through a wholly owned subsidiary of FPPG, FirstPlus Enterprises, which was created by members and associates of the Enterprise specifically for the purpose of the acquisition.

Although Globalnet had little value, FPPG purchased Globalnet for \$4,540,000 and 1,100,000 share of FPPG common stock.

20. The Premier Group LLC ("Premier Group") was registered with the Florida Secretary of State as a limited liability company in or about July 2007. Premier Group was owned, in part, by defendants SCARFO and PELULLO through their control of Learned Associates and Seven Hills, respectively. In or about January 2008, PELULLO and other members and associates of the Enterprise caused FPPG to acquire

Premier Group for \$700,000 and 1,000,000 shares of FPPG common stock.

Roles of the Defendants

21. Defendant SCARFO was a made member of the Lucchese LCN Family and prior associate of the Philadelphia LCN Family. SCARFO controlled, directly and indirectly, FPPG and various corporate entities and trusts, to further his own and the Lucchese Family's interests in violation of the fiduciary duties owed by the officers and directors, as well as professionals, to FPPG and its shareholders.

SCARFO was convicted of a felony in the United States District Court for the District of New Jersey in 2002. In or about April 2005, he began to serve a term of federal supervised release, which required him to report to the Probation Office on a monthly basis. Among other conditions of his supervised release, SCARFO was required to inform his probation officer of any employment in which SCARFO was engaged; any financial transactions in which he was involved that exceeded \$500; and any contact he had with convicted felons.

22. Defendant PELULLO was an associate of both the Lucchese and Philadelphia LCN Families, a trusted confidant of defendant SCARFO, and SCARFO's closest partner in directing and conducting the affairs of the Enterprise. As a result of this relationship, PELULLO was required to ensure that SCARFO received a share of all monies earned through PELULLO's criminal activities. In August 1999, PELULLO was convicted in the United States District Court for the Eastern District of Pennsylvania of bank fraud and making a false

statement in an SEC filing. In July 2002, PELULLO was convicted of wire fraud in the United States District Court for the Eastern District of Pennsylvania. Although PELULLO purported to act as a "consultant" to FPPG, he in fact exercised direct control over the affairs of FPPG, acted as de facto Chief Executive Officer, and controlled FPPG's operations through other members and associates of the Enterprise. As a result of this control, PELULLO owed fiduciary duties to FPPG and its shareholders.

23. Defendant WILLIAM MAXWELL, an attorney licensed to practice law in the State of Texas, became the Special Counsel to FPPG's Board of Directors at the direction of defendants SCARFO and PELULLO, and worked to promote the Enterprise's affairs. As Special Counsel, WILLIAM MAXWELL owed fiduciary duties to FPPG and its shareholders.

24. Defendant JOHN MAXWELL, the brother of defendant WILLIAM MAXWELL, became the Chief Executive Officer ("CEO") and President of FPPG as well as a member of its Board of Directors at the direction of defendants SCARFO and PELULLO. In that capacity, JOHN MAXWELL owed fiduciary duties to FPPG and its shareholders.

25. Defendant ADLER, an attorney licensed to practice law in the State of New York, represented FPPG and was the lawyer responsible for overseeing the company's corporate filings with the SEC. As an attorney, ADLER assisted the Enterprise in defrauding the FPPG shareholders by concealing the existence of the Enterprise and its

control over FPPG, while at the same time maintaining the appearance of compliance with SEC rules and regulations to make the acquisitions and other activities of the Enterprise appear legitimate.

26. Defendant McCARTHY, an attorney licensed to practice law in the Commonwealth of Pennsylvania, was retained by defendant PELULLO to represent PELULLO and Seven Hills during the acquisition of Rutgers, Globalnet, and Premier Group by FPPG. At various times, McCARTHY also represented FPPG in its pursuit of other acquisitions at PELULLO's direction.

27. Defendant MANNO, an attorney licensed to practice law in the State of New Jersey, was retained by defendant SCARFO to, among other things, conceal the source and use of proceeds obtained through the Enterprise's illegitimate activities and prevent law enforcement, the District Court, and the Probation Office from detecting SCARFO's control and ownership over Learned Associates and various other corporate entities and trusts. MANNO further provided advice and counsel to SCARFO to assist SCARFO in maintaining the appearance of compliance with SCARFO's supervised release conditions in order to permit the Enterprise to continue its illegal conduct undetected.

#### The Racketeering Conspiracy

28. From in or about April 2007, up to and including on or about the date of this Indictment, in the District of New Jersey and elsewhere, the defendants NICODEMO S. SCARFO, also known as "Nicky," also known as "Nick," also known as "Cousin," also known as

"Junior," also known as "Nick Promo," also known as "Mr. Apple," also known as "Mr. Macintosh"; SALVATORE PELULLO, also known as "Sal," also known as "The Consultant," also known as "Cousin," also known as "Mr. Turner"; WILLIAM MAXWELL, also known as "Bill"; JOHN MAXWELL; DAVID ADLER, also known as "Dave"; GARY McCARTHY; and DONALD MANNO, also known as "Donny"; and co-conspirator #1; co-conspirator #2; co-conspirator #3; co-conspirator #4; co-conspirator NDS, also known as "Uncle Nick," also known as "Nicky Senior," also known as "Mr. MacArthur"; and co-conspirator VA, also known as "Vic," also known as "Uncle Vic," also known as "Papa"; and others known and unknown to the Grand Jury, being persons employed by and associated with the racketeering enterprise described in paragraphs 1 through 14 above, namely the Scarfo-Pelullo Enterprise, which was engaged in, and the activities of which affected, interstate and foreign commerce, knowingly and intentionally conspired and agreed with each other and others to violate Title 18, United States Code, Section 1962(c), to wit, to conduct and participate, directly and indirectly, in the conduct of the affairs of the Enterprise through a pattern of racketeering activity, as that term is defined in Title 18, United States Code, Sections 1961(1) and 1961(5), consisting of:

- a. Multiple acts indictable under:
  - i. Title 18, United States Code, Section 1341 (Mail Fraud);
  - ii. Title 18, United States Code, Section 1343 (Wire

- Fraud);
- iii. Title 18, United States Code, Section 1344 (Bank Fraud);
- iv. Title 18, United States Code, Section 1512 (Obstruction of Justice);
- v. Title 18, United States Code, Section 1951 (Extortion);
- vi. Title 18, United States Code, Section 1952 (Interstate Travel in Aid of Racketeering);
- vii. Title 18, United States Code, Sections 1956 and 1957 (Money Laundering); and
- b. Multiple offenses involving:
  - i. Fraud in the Sale of Securities, in violation of Title 15, United States Code, Sections 78j(b) and 78ff, and Title 17, Code of Federal Regulations, Section 240.10b-5.

It was part of the conspiracy that each defendant agreed that a conspirator would commit at least two acts of racketeering activity in the conduct of the affairs of the enterprise.

The Manner and Means of the Conspiracy

29. Among the manner and means by which the defendants, and other members and associates of the Enterprise, conducted and participated in the conduct of its affairs were the following:

**Takeover of FPPG**

30. Members and associates of the Scarfo-Pelullo Enterprise relied on explicit and implicit threats of economic and physical harm and intimidation to assume and maintain control of FPPG, ensure that the Enterprise's demands were followed, and that the Enterprise's affairs were concealed.

31. In or about April 2007, defendants SCARFO, PELULLO, McCARTHY, and others attended a meeting at McCARTHY's law office to discuss the takeover of FPPG.

32. In or about May 2007, defendants PELULLO, JOHN MAXWELL, WILLIAM MAXWELL, co-conspirator #3, and others known and unknown to the Grand Jury, attended various meetings in Texas to discuss the takeover of FPPG. At one of the meetings, PELULLO and WILLIAM MAXWELL discussed a plan to take over FPPG by manufacturing allegations of wrongdoing on the part of FPPG's existing management and board members. Specifically, the plan called for PELULLO and WILLIAM MAXWELL to falsely allege that an individual, known to the Grand Jury and identified here as Individual #1, had engaged in financial improprieties with FPPG's assets while serving as a member of FPPG's board of directors. In addition, the plan called for PELULLO and WILLIAM MAXWELL to threaten Individual #1 and FPPG with a lawsuit based on the false allegations.

33. In or about late May or early June 2007, PELULLO met with Individual #1 and threatened a lawsuit against him/her and FPPG if



Individual #1 did not immediately use his/her influence to turn over control of FPPG. Individual #1 contacted FPPG's other board members and persuaded them to relinquish control of FPPG as a result of these threats.

34. Accordingly, on or about June 7, 2007, to control the Enterprise's affairs, members and associates of the Scarfo-Pelullo Enterprise caused FPPG's existing board of directors to appoint additional new members, who had been selected by the Scarfo-Pelullo Enterprise. Following the appointment of these new board members, the Enterprise caused the original board members to resign. The newly constituted board of directors then appointed certain executive officers who served at the direction of the Enterprise. These "figurehead" FPPG board members (hereafter "figurehead board") and executive officers conducted transactions designed to benefit the Enterprise while concealing the roles of defendants PELULLO and SCARFO in controlling FPPG. The figurehead board served to "rubber stamp" the directives of PELULLO and SCARFO and made the board's decisions appear to be independent and legitimate to conceal the involvement and control of PELULLO and SCARFO in creating these directives, as well as their illicit purposes. PELULLO used his direct control of the figurehead board to approve transactions that were designed to personally benefit members and associates of the Scarfo-Pelullo Enterprise to the detriment of the FPPG shareholders.

35. On or about June 11, 2007, Individual #2, whose identity

and relationship to FPPG are known to the Grand Jury, was summoned to a meeting at FPPG's office in Irving, Texas. After being introduced to defendant PELULLO at FPPG's office, PELULLO told Individual #2 that he (PELULLO) had a lot of money and that he was going to grow the company, meaning FPPG. In an attempt to assert his authority, PELULLO told Individual #2, "don't f\*\*k with me."

36. In or about June 2007, following the takeover of FPPG, defendant PELULLO had a conversation with Individual #3, a member of FPPG's new board of directors whose identity is known to the Grand Jury. During the conversation, PELULLO stated, "if you ever rat, your wives will be f\*\*ked . . . and your kids will be sold off as prostitutes."

37. In or about June 2007, following the takeover of FPPG, defendant PELULLO had a conversation with Individual #3, during which PELULLO said, "you have mine and Nicky's family in your hands," meaning defendant SCARFO.

#### **Consulting and Legal Services Agreements**

38. Having assumed control of FPPG through its new figurehead board of directors and executive officers, defendants SCARFO and PELULLO caused the creation and execution of legal services and consulting agreements that were used to misappropriate and funnel money out of FPPG and into accounts controlled by the Enterprise on a monthly basis. These legal services and consulting agreements included the following:

a. Members and associates of the Enterprise caused defendant WILLIAM MAXWELL to be hired as FPPG's "special counsel," through the execution of a purported "legal services" agreement. Based on the nearly unlimited scope of the agreement, the figurehead board of FPPG effectively abdicated its control of FPPG to WILLIAM MAXWELL. This "legal services" agreement awarded defendant WILLIAM MAXWELL a monthly payment of \$100,000 plus expenses and, among other things, granted him the authority to enter into "consulting" agreements at his discretion, for which the company would ultimately be charged. Between June 2007 and March 2008, approximately \$3.5 million was sent via wire transfers from accounts associated with FPPG to accounts controlled by defendant WILLIAM MAXWELL, ostensibly for his own services and those of the purported consultants.

b. One such "consulting" agreement, executed between defendant WILLIAM MAXWELL and defendant PELULLO's corporate alter ego, Seven Hills, fraudulently portrayed PELULLO as a mere "consultant" to FPPG. In fact, PELULLO was actually FPPG's de facto Chief Executive Officer and controlled its operations through other members and associates of the Enterprise, including the figurehead board and executive officers. Between May 2007 and March 2008, approximately \$1.5 million of the \$3.5 million received by WILLIAM MAXWELL from FPPG was sent via wire transfers from accounts associated with defendant WILLIAM MAXWELL to accounts associated with PELULLO's corporate alter ego, Seven Hills.

c. In turn, defendant PELULLO, through Seven Hills, executed a "consulting" agreement with defendant SCARFO, through SCARFO's corporate alter ego, Learned Associates. Although SCARFO performed no legitimate work pursuant to this agreement, SCARFO received \$33,000 per month, including during the three-month period that SCARFO was confined to his home by order of the District Court.

Between June 2007 and April 2008, approximately \$425,000 was sent via wire transfers from accounts associated with Seven Hills to accounts associated with SCARFO's corporate alter ego, Learned Associates, pursuant to the fraudulent consulting agreement.

#### **Fraudulent Acquisitions**

39. As a publicly traded company, FPFPG was obligated to make regular filings with the SEC, and was obligated in those filings to disclose all material facts about the company to the SEC and its shareholders. Among other things, FPFPG was required to fully and accurately disclose in its SEC filings the identities of the individuals who exercised control over FPFPG and its subsidiaries, as well as the identities of individuals involved in related party transactions with FPFPG. Members and associates of the Enterprise willfully failed to disclose material facts regarding defendant SCARFO's and PELULLO's control over FPFPG and their ownership of the entities purchased by FPFPG as a result of their control.

40. Members and associates of the Scarfo-Pelullo Enterprise caused FPFPG to acquire corporate entities in which defendants SCARFO

and PELULLO had an ownership interest. These entities, including Rutgers, Globalnet, and Premier Group, were acquired as part of the scheme to defraud FPPG shareholders and deceive the SEC and to transfer millions of dollars and several hundred thousand shares of FPPG common stock to defendants PELULLO and SCARFO. These corporate entities owned by SCARFO and PELULLO, through their ownership of Learned Associates and Seven Hills, respectively, had little, if any, value and were grossly overvalued at the time of their acquisition by FPPG. Furthermore, while SEC regulations required that FPPG disclose that these acquisitions were "related party" transactions because of defendant PELULLO's control of FPPG, members and associates of the Enterprise failed to make the required disclosures.

41. To justify these acquisitions, defendant PELULLO obtained inflated business evaluation reports in support of the Rutgers, Globalnet, and Premier Group transactions. These reports were designed to make Rutgers, Globalnet, and Premier Group appear more valuable than they were.

42. In or about June 2007, defendant PELULLO and other members and associates of the Enterprise caused FPPG to acquire Rutgers. To complete the sale, the members and associates of the Enterprise caused FPPG to send a wire transfer of \$1,825,000 to a bank account associated with Rutgers LLC, which account was controlled by defendants SCARFO and PELULLO by virtue of their control and ownership

of Learned Associates and Seven Hills, respectively. In addition to the money transfer, members and associates of the Enterprise caused FPPG to issue 500,000 shares of FPPG common stock that were subsequently reissued to SCARFO and PELULLO, in the names of their corporate alter egos, Learned Associates and Seven Hills, respectively.

43. In or about July 2007, defendant PELULLO and other members and associates of the Enterprise caused FPPG to acquire Globalnet Enterprises for \$4,540,000. To complete the sale, the members and associates of the Enterprise caused FPPG to send a wire transfer of \$3,070,000 to defendant WILLIAM MAXWELL. WILLIAM MAXWELL then sent a wire transfer of \$2,970,000 to a bank account associated with Globalnet Enterprises, which account was controlled by defendants SCARFO and PELULLO by virtue of their control and ownership of Learned Associates and Seven Hills, respectively. In addition to the money transfer, members and associates of the Enterprise caused 1,100,000 shares of FPPG common stock to issue to Globalnet Enterprises. Those shares were subsequently reissued to SCARFO and PELULLO, in the names of their corporate alter egos, Learned Associates and Seven Hills, respectively, and to others known to the Grand Jury. The remaining \$1,495,000 was executed as a promissory note payable to Globalnet within two years of the transaction.

44. In or about January 2008, members and associates of the Enterprise caused FPPG to acquire Premier Group. To complete the

sale, members and associates of the Enterprise caused FPPG to enter into a purchase agreement which provided that the owners of Premier Group, including Learned Associates and Seven Hills, were to receive \$700,000 and 1,000,000 shares of FPPG common stock. FPPG agreed to pay \$125,000 in cash and the remaining \$575,000 in a series of promissory notes.

**Concealment of the Scheme**

45. Members and associates of the Scarfo-Pelullo Enterprise went to great lengths to conceal the scheme, including defendant SCARFO's and defendant PELULLO's involvement and control, the related-party nature of the acquisitions, and the use of corporate funds for personal gain, among other things. To that end, members and associates of the Enterprise (1) caused false statements and material omissions to be made in documents filed with the SEC; (2) attempted to cause the destruction of a videotape reflecting PELULLO's presence at the October 2007 FPPG shareholder meeting; and (3) regularly engaged in coded conversations and avoided communicating over the telephone in an effort to thwart detection by law enforcement.

46. Members and associates of the Enterprise were concerned that all aspects of their involvement in the scheme might be uncovered, including defendant SCARFO's and defendant PELULLO's role in the takeover. For example, on December 5, 2007, in a recorded telephone call with SCARFO, PELULLO told him about the sudden death

of a former FPPG executive (hereafter Individual #4) who had provided information to PELULLO and defendant WILLIAM MAXWELL that they used at the time of the takeover to extort control of FPPG from Individual #1. At the time of his death, Individual #4 was employed by FPPG as a member of its "compliance team." During the conversation, SCARFO and PELULLO expressed relief regarding Individual #4's death. After laughing about how he was "crushed" that "the rat is dead," PELULLO acknowledged that Individual #4 was "the only connection, the only tie to anything." As the news sunk in to SCARFO, he stated, "Oh boy. Yeah, Sal, you wanna know something though? . . . That's one that I know you can't take credit for . . . [laughter] . . . and that's the natural best thing. You know what I mean? . . . That is so like Enron-ish. You know what I mean? Kenneth Lay, he bailed out and took a heart attack."

47. Immediately after assuming control of FPPG, members and associates of the Enterprise also embarked on a course of action to personally benefit themselves and their co-conspirators at the expense of FPPG and its shareholders. They did so by using FPPG funds for their own personal gain, and then concealing their actions and intent to defraud. They also extensively used the telephone to do so.

a. For example, on October 12, 2007, in a recorded telephone call with defendant JOHN MAXWELL, defendant PELULLO said, "you're killing me." When JOHN MAXWELL asked what PELULLO meant,



PELULLO responded, "the detail shows up . . . on the card," meaning JOHN MAXWELL's use of an FPFPG debit card. PELULLO then said, "you gotta kill it . . . not the money, just how we're doin' it." After telling JOHN MAXWELL that he (PELULLO) would be in Texas the following week, PELULLO said, "burn it . . . we could say . . . we got it lost . . . or somebody that we fired had it." PELULLO and JOHN MAXWELL then laughed. Later in the conversation, after getting co-conspirator #1 on the phone, PELULLO told him, "when I get down there, every single check card that's in that company, I'm gonna burn myself. . . . All the detail is showin' up." PELULLO then asked co-conspirator #1, "what never lies?" Co-conspirator #1 responded, "the paper," to which PELULLO said, "the bank statements." PELULLO then said, "I rather would have seen a \$5,000 check to JOHN MAXWELL as an advance, a loan, whatever, and let him take the money and do what he wants with it."

b. On October 13, 2007, in a recorded telephone conversation with defendant PELULLO, co-conspirator #2 described a set of miscellaneous expenses that had not been recorded in defendant WILLIAM MAXWELL's records. PELULLO stated, "we're not gonna use them if they're already paid, . . . a good auditor will find that."

The following day, on October 14, 2007, in a recorded telephone conversation with co-conspirator #2, PELULLO asked, "did you do the master invoice, like I said?" In response, co-conspirator #2 provided a detailed explanation of what the invoices reflected and

informed PELULLO about "five numbers" of which he (co-conspirator #2) was unsure. The "numbers" reflected dollar amounts totaling approximately \$150,000, according to co-conspirator #2.

Co-conspirator #2 said, "we could charge it off against the expenses and it's not a problem, unless it was, you know, stuff that was incurred legitimately . . . ."

c. Corporate assets were also misappropriated through FPPG's purchase of an airplane in or about December 2007. Defendants SCARFO, PELULLO, and WILLIAM MAXWELL, purchased a Mitsubishi model MU-2B-60 turbo-propeller aircraft, serial number 1562 S.A. (hereafter the "FPPG plane"), with money they took from FPPG. The FPPG plane was purchased for approximately \$625,000 and was purportedly for the use of FPPG's board members and executive officers. It was technically owned by Velia Charters, Inc., a subsidiary of FPPG that was created by members of the Enterprise at the direction of PELULLO and WILLIAM MAXWELL in order to purchase the FPPG plane. In reality, the FPPG was used by defendants PELULLO and WILLIAM MAXWELL in furtherance of the affairs of the Enterprise and its control over FPPG. For example, after vacationing in the Bahamas in PELULLO's and SCARFO's newly purchased yacht, PELULLO and WILLIAM MAXWELL used the FPPG plane to fly to Atlanta, Georgia to visit co-conspirator NDS in prison. They then flew on the FPPG plane to Atlantic City to attend the FPPG Christmas Party.

48. As attorneys and accountants, defendants ADLER, McCARTHY,

MANNO, and co-conspirator #4 were instrumental to the successful execution of the fraud and, in particular, to the efforts to conceal the fraud from law enforcement and regulatory authorities.

a. From the earliest days of the scheme, defendant PELULLO played a leading role in the plan to take over FPPG. On or about May 10, 2007, PELULLO had a lengthy telephone conversation with defendant ADLER regarding FPPG even though PELULLO held no position with FPPG. Shortly after that conversation, ADLER learned that PELULLO had a federal criminal fraud conviction.

b. Defendant PELULLO made his control of FPPG known to other members of the Enterprise. For example, on October 15, 2007, PELULLO called ADLER to discuss the shareholders who had yet to vote their shares to ratify the figurehead board, among other things. At PELULLO's direction, ADLER added JOHN MAXWELL to the call. PELULLO told ADLER, "David, part of the conversation you've gotta close your ear," and then said, ". . . now listen to me. This is coming from our friend from back Jersey. . . and it's gotta be executed without a flaw, without a hesitation, without a second to waste." PELULLO described for JOHN MAXWELL and ADLER the list of un-voted shareholders, and ordered JOHN MAXWELL, "I don't care what you gotta do, I don't care how you do it, but before the close of the day, I want these guys bought, sold, and voted . . . Get back to the office NOW . . . Nobody wants to come back north and explain that we lost this because of this bullshit," to which JOHN MAXWELL responded,

“Right, I got it.” PELULLO continued, “. . . You, yourself, individually, go back, find these people’s names and numbers . . . get on the phone. I don’t care if they’re in a funeral parlor, I don’t care if they’re in a doctor’s office, I don’t care if they’re in a f\*\*kin’ hospital on a respirator, we’ll send somebody there, I want their vote, I want their signature, and I want it done by the close of the day today,” to which JOHN MAXWELL responded, “Done.” ADLER then suggested that their proxy solicitor research the names and addresses of the un-voted shareholders, to which PELULLO responded, “well the official position of the company is ‘do it!’”

c. On October 17, 2007, pursuant to its bylaws, FPPG held its annual shareholders meeting, over which defendant JOHN MAXWELL, the CEO, presided. On October 25, 2007, having witnessed JOHN MAXWELL’s poor performance at the FPPG shareholder meeting on October 17, 2007, defendant ADLER spoke to defendant PELULLO about his (PELULLO’s) role at FPPG. In a recorded telephone call, ADLER told PELULLO, “I am not suggesting for a moment that, in [sic] a substantive level, things have to change. We just have to figure out how to dress it up the best.” Later in the conversation, ADLER and PELULLO discussed that the shareholder meeting was, as ADLER stated “a debacle” because JOHN MAXWELL “can’t run a meeting” and stated that “if that’s our public face, we got a problem.”

d. Defendant McCARTHY also had a conversation with defendant PELULLO on October 25, 2007, regarding the operation of

FPPG and PELULLO's control. In a recorded telephone call, McCARTHY told PELULLO ". . . but if someone were to ask . . . who's sort of out front on a lot of things, there's a name that would come up." PELULLO responded, "That's what we're trying to avoid," to which McCARTHY replied, "Right."

e. Similarly, in another recorded telephone call on October 25, 2007, PELULLO told McCARTHY that "we just gotta figure out a way, because I've been the driving force on getting everything to the point where it is right now . . . and a lot of those guys are lost . . . so without me, it's a little rough." PELULLO continued, "Nobody knows how to direct these attorneys and accountants . . . better than I do."

49. Concealing the related-party nature of the Rutgers, Globalnet, and Premier Group acquisitions was also critical to the perpetration of the fraud, and it was part of the scheme that the attorneys and accountants would facilitate that concealment.

a. On or about September 18, 2007, in a recorded telephone call defendant PELULLO told defendant ADLER about a new potential acquisition. PELULLO told ADLER, "FirstPlus Financial Group, on the recommendation of special counsel through its consultant Seven Hills [is recommending] . . . the acquisition of [a mortgage company]." PELULLO further explained that defendant McCARTHY would handle drafting the purchase agreement and he (PELULLO) needed ADLER only to provide the selling company with a

due diligence checklist. When PELULLO asked ADLER to welcome the head of the mortgage company with open arms, ADLER responded, "I know how to do that. . . . When you want to make a deal I want you to make a deal. I'm not going to create any problems." PELULLO replied that the head of the mortgage company "drank the Jim Jones juice so he believes in the story that when the stock becomes fifty dollars, he's got a \$125 million." ADLER then asked PELULLO if he (ADLER) would have a chance to comment on the purchase agreement, in his role as securities counsel, to which PELULLO responded, "Absolutely." ADLER further explained that the reason for his inquiry was that "I would want to be somewhat more rigorous in that agreement than we were in the other two deals [referring to the Rutgers and Globalnet acquisitions]. I think those agreements were fine, . . . but now we're dealing, we're outside the family here and everything's gotta be buttoned down tight."

b. Defendant ADLER's knowledge of the related-party nature of the Rutgers, Globalnet, and Premier Group acquisitions was further evidenced in a recorded telephone call that took place between defendant PELULLO and ADLER on February 6, 2008. During that call, ADLER spoke to PELULLO about "some business decisions that need[ed] to be made in the Premier deal." ADLER then said, "I need someone at the FirstPlus end of the world to talk to about a few things," to which PELULLO responded, "me and [co-conspirator #1] can do it with ya'." ADLER replied, "no, well, I don't want you doing

it cause you're selling to me. . . . No disrespect, but . . . you understand what I'm saying."

**Obstruction of Justice**

50. Aside from the need to hide defendant SCARFO's involvement from FPPG's shareholders, SCARFO's involvement also needed to be concealed from the District Court and the Probation Office. Members and associates of the Scarfo-Pelullo Enterprise and their co-conspirators took various steps to conceal SCARFO's involvement in FPPG from those federal authorities.

51. Accordingly, realizing that his probation officer or the District Court might uncover his involvement in the scheme to defraud FPPG, on or about August 16, 2007, defendant SCARFO filed a petition with the District Court to terminate the remaining portion of his supervised release earlier than its April 2008 scheduled expiration.

According to the petition, SCARFO's supervised release made it "difficult for him to . . . further his, already promising, growth in the business community." Despite the fact that SCARFO was trying to convince the District Court that he was a legitimate businessman, the petition failed to disclose his corporate alter ego, Learned Associates, the hundreds of thousands of dollars SCARFO had obtained from the Rutgers and Globalnet acquisitions only weeks earlier, and the \$33,000 a month "consulting" agreement he had just signed with PELULLO's company, Seven Hills.

52. Defendant MANNO knew that defendant SCARFO was the person

who actually owned and controlled Learned Associates despite co-conspirator #3's role as its "managing partner." MANNO also knew that, through SCARFO's control of Learned Associates, SCARFO had made hundreds of thousands of dollars as a result of the Rutgers and Globalnet acquisitions.

53. Defendants SCARFO, PELULLO, WILLIAM MAXWELL, and MANNO were well aware of the risk that SCARFO's supervised release conditions posed to the continued operation of the Enterprise and actively sought to neutralize that risk. On September 4, 2007, in a recorded telephone conversation, SCARFO and PELULLO discussed devising a story to tell SCARFO's probation officer so that SCARFO and PELULLO could continue to "associate" with each other. While discussing the story, PELULLO suggested that SCARFO, "run it by Donny" (referring to MANNO). Additionally, SCARFO failed to inform SCARFO's probation officer of SCARFO's ongoing contact and association with PELULLO, which was a violation of the terms of SCARFO's federal supervised release and for which SCARFO could have been incarcerated.

54. In or about September 2007, defendants SCARFO, PELULLO, WILLIAM MAXWELL, and MANNO embarked on a plan to deceive SCARFO's probation officer and the District Court by manufacturing a job offer from WILLIAM MAXWELL to SCARFO. Specifically, SCARFO drafted a letter on WILLIAM MAXWELL's letterhead, which WILLIAM MAXWELL and MANNO reviewed. In an email response to WILLIAM MAXWELL and SCARFO, MANNO said, "[t]he letter looks fine with the changes that Nick made.



In effect, by removing [the probation officer] from the first letter, it makes it a two-step process. This will give [SCARFO] an opportunity to bring it to her personally and give her more of a sense of power over the final job offer." The letter, including the final version which was ultimately submitted to SCARFO's probation officer, failed to disclose SCARFO's involvement with FPPG, the transactions involving Rutgers and Globalnet, and the \$33,000 a month he was already receiving pursuant to his "consulting" agreement through Learned Associates. MANNO also consulted PELULLO about the deceptive letter, and in a recorded telephone call, left a message for PELULLO on September 20, 2007 "want[ing] to touch bases (sic) really with Bill ahh, about the job and some new developments up here . . ."

55. In late October 2007, defendant McCARTHY became concerned about maintaining possession of records related to the creation of Learned Associates. At defendant PELULLO's direction, McCARTHY forwarded the records to defendant MANNO. Later that same day, PELULLO reported to defendant SCARFO that the records had been sent to MANNO, stating, "I had Gary send everything for Learned Associates, me and Gary discussed it, over to Donny Manno under attorney privilege confidential information." PELULLO also stated, "your records are now sealed under attorney client privileged" and ". . . Gary's pretty slick. You know, he thought of that." With approval of what PELULLO had done, SCARFO said, "[l]ayers upon layers like an onion."

56. It was integral to the scheme that defendants SCARFO and PELULLO continue to associate with each other in clear violation of SCARFO's supervised release conditions. With SCARFO still under the supervision of the Probation Office, defendant MANNO attended an FPPG Christmas party which was held at a restaurant in New Jersey on December 20, 2007. In advance of the party, MANNO sent out invitations to the FPPG Christmas party to associates of SCARFO on behalf of SCARFO. PELULLO and SCARFO hosted the party on behalf of FPPG despite their lack of any official positions with the company. During the party, MANNO socialized with SCARFO and PELULLO, and was provided with a gift. SCARFO's ongoing contact and association with PELULLO, a convicted felon, was never brought to the attention of SCARFO's probation officer and the judge who monitored SCARFO's supervised release.

#### **Money Laundering**

57. Members and associates of the Scarfo-Pelullo Enterprise and their co-conspirators took various steps to assist defendants SCARFO and PELULLO, among others, in concealing the source and laundering the proceeds of the scheme to defraud FPPG. This was accomplished by moving the proceeds of the scheme through various accounts, and the proceeds of the scheme were used to finance a lavish lifestyle that included luxury automobiles, a yacht, a luxury home for SCARFO, mortgage and rental payments, and jewelry as well as recurring monthly expenses.

SCARFO's Purchases

58. Throughout the scheme to defraud FPPG, the money obtained from FPPG was the only substantial asset of Learned Associates. Defendant SCARFO utilized the proceeds of the fraud he obtained through Learned Associates to fund various purchases, including but not limited to:

- a. Monthly payments of \$1,239.77 for an Audi A6 automobile;
- b. Monthly lease payments of \$1,700 for a condominium in Brigantine, New Jersey;
- c. Monthly mortgage payments of \$3,068.81 for a house he purchased for his ex-wife in New Jersey;
- d. In excess of \$29,000 for jewelry for his second wife, including an engagement ring and a tennis bracelet; and
- e. A deposit of \$10,000 on an Audi R8 automobile that was valued in excess of \$100,000.

PELULLO's Bentley

59. In early July 2007, with the proceeds obtained as a result of the fraudulent sale of Globalnet to FPPG, defendant PELULLO purchased a Bentley Continental GT convertible automobile for \$216,963.80. PELULLO registered the automobile in the name of Seven Hills and utilized his mother's address for the registration.

SCARFO's and PELULLO's Yacht

60. In October 2007, defendants SCARFO and PELULLO devised a plan to purchase a 1996, 83' Falcon luxury yacht for \$850,000. The money used by SCARFO and PELULLO to purchase the yacht, named "Priceless," was derived from the proceeds of the fraudulent sale of Globalnet to FPFPG.

a. The yacht was purchased by P.S. Charters LLC, which was owned by Learned Associates and Seven Hills, and thus defendants SCARFO and PELULLO, respectively.

b. The money used to purchase the yacht originally came from FPFPG, ostensibly as the final payment in the fraudulent Globalnet acquisition. On or about November 1, 2007, \$1,250,000 was transferred from an FPFPG account to an account associated with Globalnet, an account that was controlled by defendants SCARFO and PELULLO. Thereafter, the money was transferred to an account associated with P.S. Charters and ultimately to defendant McCARTHY's attorney escrow account, from which the final payment for the yacht was made.

c. On November 21, 2007, during a recorded telephone call, defendant SCARFO told defendant PELULLO that he was "very concerned" about the insurance for the "boat." Specifically, SCARFO said that he was concerned about the name under which the insurance was listed, i.e., P.S. Charters. SCARFO added, "it might be okay for the logo, but when . . . they're ready to pay a claim, who the

f\*\*k is P and S Charters?” PELULLO then laughed, after which SCARFO said that the insurance policy also listed PELULLO as the insured party. After additional conversation about the insurance, PELULLO said, “that’s the last thing I want, my name on there.”

SCARFO’s House

61. In approximately January 2008, members of the Enterprise assisted defendant SCARFO in purchasing a \$715,000 house in Egg Harbor Township, New Jersey (hereafter the “Egg Harbor House”). The \$215,000 used for the down payment on the Egg Harbor House came directly from the scheme to defraud FPPG. For that reason, as well as the fact that SCARFO did not inform his probation officer of the purchase, SCARFO went to great lengths to conceal his role as the true owner and financier of the Egg Harbor House purchase.

62. In early February 2008, at the direction of defendant PELULLO, co-conspirator #4 used his position as a certified public accountant to assist SCARFO in manufacturing fraudulent tax returns for use by SCARFO’s future wife, co-conspirator #5, in securing a \$500,000 mortgage to purchase the Egg Harbor House.

63. On February 5, 2008, defendant PELULLO called co-conspirator #4 to discuss a set of tax returns that co-conspirator #4 had prepared for co-conspirator #5 and had given to PELULLO. The returns did not reflect sufficient income to support the mortgage necessary to purchase the Egg Harbor House. During the recorded telephone conversation, PELULLO explained that “[s]he paid seven

hundred and fifteen thousand for the house . . . [and] [s]he put two hundred and fifteen thousand in cash down.” PELULLO continued, “you know how it works. Umm, even though I may make sixty-eight thousand dollars a year on a W2 income I still have the ability to afford things through different entities,” to which co-conspirator #4 responded, “right.” PELULLO then stated, “[s]he has the ability through her future husband and everything that’s goin’ on to afford the mortgage. How do I, what can I do income-wise to help her on these returns that have not been filed yet, to be able to substantiate or support a mortgage for ahh five hundred thousand?” After speaking to a mortgage broker whom PELULLO added to the conversation, PELULLO and co-conspirator #4 discussed the income figures that would appear on the fraudulent returns co-conspirator #4 was going to create. Specifically, PELULLO told co-conspirator #4, “maybe ‘06 at hundred and thirty. ‘07 at ahh a hundred and sixty. And then a letter umm stating ‘08 income will be, ‘08 income’s projected to be the same.”

64. Co-conspirator #4 prepared the new set of tax returns with the fraudulent figures provided by defendant PELULLO. When PELULLO saw that the 2007 return did not reflect enough income to get to the desired \$160,000, PELULLO asked co-conspirator #4, “can you throw some interest income?” Co-conspirator #4 responded, “[y]eah, how much?” PELULLO then said, “[y]eah, 500 bucks just to get to 160,” to which co-conspirator #4 responded, “okay.” The tax returns with the fraudulent income figures were subsequently finalized by

co-conspirator #4, signed by co-conspirator #5, and filed by co-conspirator #4 with the Internal Revenue Service. The returns were also submitted in support of the mortgage for which co-conspirator #5 was attempting to qualify.

65. Defendant MANNO assisted defendant SCARFO in concealing the source of the income used for the \$215,000 down payment that was used to complete the purchase. SCARFO married co-conspirator #5 on February 14, 2008. That evening, SCARFO sent the following text message to MANNO: “. . . it's official. Thank you for helping get to this point. I am a happy man. Listen JP will be contacting you in th[e] morning to transfer funds. Please [get] with him. I want to see the transfer take place tomorrow. Goodnight and I'm on my honeymoon.” On or about February 15, 2008, \$140,000 was transferred from a bank account related to the LMDS trust to an escrow account controlled by MANNO. MANNO ultimately issued a check from the escrow account in the amount of \$215,000, which was used as the down payment for the Egg Harbor House.

66. Prior to the settlement for the Egg Harbor House, defendants SCARFO and PELULLO attempted to secure a lower interest rate on the mortgage that co-conspirator #5 had obtained utilizing the fraudulent tax returns. Despite the fact that she was now married to defendant SCARFO, co-conspirator #5 indicated on the mortgage application that she was not married. Co-conspirator #5 also indicated on the mortgage application that none of the money used

for the down payment had been borrowed, when in fact, SCARFO previously had co-conspirator #5 sign a promissory note that required her to repay the money to the LMDS trust, a copy of which SCARFO gave to defendant MANNO.

67. On March 6, 2008, in a three-way recorded telephone conversation, defendants SCARFO, PELULLO, and MANNO discussed fabricating a "gift letter" in support of the mortgage application. During the conversation, PELULLO told MANNO that the purpose of the letter was "to show that the two hundred and fifteen thousand" was a gift from the LMDS trust and did not have to be repaid. Later in the conversation, SCARFO said, "[w]e don't want to hand over the trust," to which MANNO replied, "[n]o, we're not gonna give them the trust." Despite MANNO's knowledge that co-conspirator #5 had signed a promissory note that required her to repay the money to SCARFO, MANNO drafted the gift letter as instructed by SCARFO and PELULLO.

The gift letter and fraudulent tax returns were submitted in support of the mortgage application.

68. On March 28, 2008, co-conspirator #5 attended a settlement for the property and obtained the mortgage for \$500,000. Co-conspirator #5 and defendant SCARFO made one mortgage payment before the fraudulent activity at FPPG came to an end in May 2008 as a result of law enforcement intervention. Thereafter, with their source of money from FPPG gone, co-conspirator #5 and SCARFO did not make the required payments and the property



went into foreclosure.

**Firearms and Ammunition**

69. Due to the historically violent nature of the LCN in general, and an attempt on defendant SCARFO's life by a rival faction of the Philadelphia LCN Family in particular, members and associates of the Enterprise equipped themselves with multiple firearms.

**SCARFO's Firearms and Ammunition**

70. As a convicted felon, defendant SCARFO was prohibited from purchasing or possessing firearms and ammunition. Nonetheless, various members of the Enterprise assisted SCARFO in obtaining firearms or ammunition.

a. In early September 2007, defendant JOHN MAXWELL purchased a .357 revolver from a pawn shop in Dallas, Texas, and drove for approximately 48 hours from Texas to Atlantic City, New Jersey where he delivered the revolver to defendant SCARFO. SCARFO possessed the gun on or about May 8, 2008.

b. On December 27, 2007, in a recorded telephone conversation, defendant PELULLO told co-conspirator #6 that he (PELULLO) needed "two pairs" of "those size nine shoes." Co-conspirator #6 replied, "absolutely." On or about December 28, 2007, co-conspirator #6 purchased two boxes of 9mm Independence ammunition from a gun shop in Atlantic County, New Jersey, which were ultimately given to SCARFO.

c. On or about May 8, 2008, defendant SCARFO possessed

a Smith & Wesson Model 469 9mm pistol, along with approximately 26 rounds of .357 caliber ammunition and approximately 100 rounds of 9mm ammunition.

PELULLO's Firearms and Ammunition

71. Like defendant SCARFO, defendant PELULLO was prohibited, as a convicted felon, from purchasing or possessing firearms and ammunition. In May 2008, PELULLO possessed a .38 caliber pistol along with approximately 50 rounds of .38 caliber ammunition and approximately 157 rounds of .32 caliber ammunition in the Seven Hills office that PELULLO maintained in Philadelphia, Pennsylvania. In addition, PELULLO possessed a .32 caliber pistol along with eight rounds of .32 caliber ammunition at his house in Elkins Park, Pennsylvania.

Yacht Firearms

72. Defendants SCARFO and PELULLO stored a cache of firearms and ammunition on their yacht, Priceless:

- a. Norinco 7.62 caliber rifle, model SKS;
- b. Ewbank 7.62 caliber rifle, model EMAKM;
- c. Wei Dong 12 gauge shotgun, model SAS12;
- d. Sig Sauer 9mm pistol, model P-6;
- e. Taurus .38 caliber revolver, model 83;
- f. Taurus .22 caliber pistol, model PT-22;
- g. Approximately 2500 rounds of 7.62 caliber ammunition; and

h. Seventeen additional boxes of ammunition.

73. On November 23, 2007, defendants SCARFO, PELULLO, and co-conspirator #2 had a three-way telephone conversation, which was recorded. Co-conspirator #2 was in Florida to take delivery of SCARFO'S and PELULLO'S yacht. At one point in the conversation, co-conspirator #2 spoke to someone in the background stating that he was on the phone with the yacht's "owners." Toward the end of the conversation, SCARFO told co-conspirator #2 to get "snorkeling equipment and, uh, some of those, uh, spear guns," to which PELULLO replied, "you're gonna go snorkelin'?" SCARFO replied, "listen, follow me, I'll tell you when I see ya."

74. Defendant PELULLO brought the firearms onto the yacht shortly before the yacht was taken to the Bahamas. In December 2007, PELULLO, along with defendant WILLIAM MAXWELL, co-conspirator #2, and others, used the yacht during a trip to the Bahamas.

75. On or about April 26, 2008, following the end of defendant SCARFO's supervised release, SCARFO and defendant PELULLO traveled to Florida so that SCARFO could see the yacht for the first time and take a trip on it.

#### **LCN Influence Over the Enterprise**

76. Members and associates of the Enterprise were influenced by members and associates of the LCN and sought to enrich them with the proceeds of the scheme to defraud FPPG. Members and associates of the Enterprise also capitalized on the influence of the LCN in

conducting the affairs of the Enterprise.

a. On June 14, 2007, in a recorded prison telephone call, defendant SCARFO told his father, co-conspirator NDS, in reference to the takeover of FPPG, “[y]ou know honest to God we’re good six to ten months off from being able to help everybody . . . you know, you’ll get, you’ll get explained about it.” NDS responded, “I wanna know when it’s complete . . . yeah because ahh, you know especially Uncle Vic man.” SCARFO responded, “[o]h yeah without a doubt.”

b. On September 7, 2007, in a recorded telephone conversation with defendant PELULLO, defendant SCARFO referred to an “iron fist in a velvet glove,” but stated “there’s no iron fist” in the velvet glove right now, it just has to be a “velvet glove” right now. SCARFO continued, “in a about a year or two, when . . . we’re talking total financial supremacy, . . . then that’s where the iron fist comes in.”

c. Defendant MANNO also maintained a close association with co-conspirator NDS. On September 20, 2007, defendant PELULLO visited NDS at the federal prison in Atlanta, Georgia. That same day, defendant MANNO in a recorded telephone conversation, left a voice mail message for PELULLO during which he said, “. . . I talked to Nicky, I know where you’re at . . . I hope all is well and ahh, give our friend ahh a big hello for me.” Later that same day, PELULLO returned MANNO’s call. During that recorded conversation, MANNO asked, “you had a good visit today?” PELULLO responded, “[y]eah it

was a great visit, he says hello and he sends his best . . . . I let him know all the help and support you're givin' us . . . ."

d. On October 17, 2007, following FPPG's annual shareholder meeting, defendant PELULLO called defendant SCARFO to tell him "we crushed them." After describing some of the details of the meeting, SCARFO said, "congratulations brother," to which PELULLO responded, "it was all upon your direction . . ." and "the only people that can f\*\*k it up now . . . is us." Later in the conversation, PELULLO said, "talk to your pop and let him know," to which SCARFO said, "I'll let you do the honors, like last time."

e. In or about November 2007, defendant WILLIAM MAXWELL told Individual #5, whose identity is known to the Grand Jury, that defendant PELULLO "consulted" with "the mob." WILLIAM MAXWELL also said that he was attempting to get co-conspirator NDS out of prison and that he (WILLIAM MAXWELL) would be "set for life" if he was successful.

f. On November 29, 2007, defendant WILLIAM MAXWELL sent the following text message to defendant PELULLO: "Know you won't get this till u get out from ur visit . . . . but it is important for me for u to know how absolutely fond I am to his cases . . . truly wish I could see him regularly . . . . one of the best things that happened to my family was to know u sooner . . . maybe I could have gotten uncle nick out sooner and kept u and the family a little safer . . . see u." PELULLO visited co-conspirator NDS at the federal

prison in Atlanta, Georgia that same day.

g. In January 2008, co-conspirator NDS mailed two letters along with several other documents from the federal prison in Atlanta, Georgia to defendant MANNO. The envelope in which the documents were mailed contained the notation on the outside that the contents contained "legal mail." As a result, the contents, which included a letter directed to MANNO, another directed to his son, defendant SCARFO, and additional documents for SCARFO, were not reviewed by officials from the Federal Bureau of Prisons, the agency which is responsible for the security and operation of federal prisons. In the first letter, NDS asked MANNO to forward the contents to SCARFO. In the second letter, NDS instructed SCARFO to keep the contents "for the future" and to "review them." The contents consisted of information related to investigations and prosecutions involving two groups of individuals that have historically operated the New Jersey crew of the Lucchese LCN Family. In his letter to SCARFO, NDS further stated that the two groups were "rats and the younger ones are glorified rats by proxy . . . . As far as I'm concerned their [sic] all lying rats." Despite the fact that the second letter, along with its contents, clearly contained a communication regarding LCN affairs and that the letter was not intended for MANNO, MANNO dutifully delivered the letter and its contents to SCARFO.

h. On April 6, 2008, during a recorded telephone conversation following the end of defendant SCARFO's supervised

release, SCARFO discussed how he wanted defendant PELULLO to handle FPPG's affairs going forward in relation to SCARFO. Specifically, SCARFO said that he needed PELULLO to repeat and reinforce the idea that, "we gotta follow this guy." PELULLO responded, "just because they didn't see you and I try to enforce that, it was, you know, you behind the scenes, and I was just a conduit, . . . through you, to make sure that things got done the way we planned to get them done."

All in violation of Title 18, United States Code, Section 1962(d).

COUNT TWO

[Securities Fraud Conspiracy, 18 U.S.C. § 371]

The Grand Jury further alleges:

77. The allegations set forth in paragraphs 8 through 13, 15 through 26, 29 through 56, and 76, of this Indictment are re-alleged as if fully set forth in this Count.

Relevant State and Federal Laws and Regulations

78. Nevada corporate law imposes fiduciary duties on controlling shareholders, officers, and directors of Nevada corporations such as FPFG that forbid them from using their position(s) of trust and confidence to further their private interests and require them to act on an informed basis. Furthermore, these fiduciary duties forbid controlling shareholders, officers, and directors from usurping corporate opportunities for their own personal benefit. N.R.S. 78.120; 78.138. Controlling shareholders, officers, and directors seeking to engage in related party transactions with a company under their control must disclose all material facts regarding such transactions in applicable SEC filings and to FPFG shareholders.

79. FPFG stock was publicly quoted under the ticker symbol "FPFX.PK" on the over-the-counter ("OTC") securities market, commonly referred to as the "Pink Sheets."

80. Under SEC rules, "control" is defined as "the possession, direct or indirect, of the power to direct or cause the direction



of the management and policies of a person, whether through the ownership of voting securities, by contract, or otherwise.” Title 17, Code of Federal Regulations, § 240.12b-2.

81. Under SEC rules, an “affiliate” is “a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the specified person.” Title 17, Code of Federal Regulations, § 240.12b-2.

82. Under the Securities Exchange Act of 1934, “[t]he term ‘director’ means any director of a corporation or any person performing similar functions with respect to any organization, whether incorporated or unincorporated.” Title 15, United States Code, § 78c(a)(7).

83. Under SEC rules, an “executive officer” means a registrant’s “president, any vice president of the registrant in charge of a principal business unit, division or function (such as sales, administration or finance), any other officer who performs a policy making function or any other person who performs similar policy making functions for the registrant.” Title 17, Code of Federal Regulations, § 240.3b-7.

84. Generally Accepted Accounting Principles (“GAAP”) and SEC regulations provide that a public company and its management must disclose related party transactions in quarterly and annual filings with the SEC.

85. Statement of Financial Accounting Standards No. 57 (“FAS

57") sets forth the GAAP requirements for related party transaction disclosures. Paragraph 2 of FAS 57 provides that a public company's "[f]inancial statements shall include disclosures of material related party transactions." "Related party transactions" include those between "an enterprise and its principal owners, management, or members of their immediate families" and those between a company and its "affiliates." [FAS 57, ¶ 1]. "Affiliate" includes any company that is under common control or management with the public company.

[FAS 57, ¶ 24(a, b)]. Disclosures of related party transactions shall include (a) the nature of the relationship involved, (b) a description of the transactions for each period for which income statements are presented and such other information necessary to an understanding of the effects of the transactions on the financial statements, (c) the dollar amount of the transactions for each of the periods for which income statements are presented, and (d) amounts due from or to related parties as of the date of each balance sheet presented and, if not otherwise apparent, the terms and manner of settlement. [FAS 57, ¶ 24(a, b)].

86. Under FAS 57, each of FPFPG's reports on Forms 10-QSB (filed in August and November 2007) and 10-KSB (filed in March 2008) should have disclosed details of FPFPG's related party transactions with defendants SCARFO, PELULLO, and WILLIAM MAXWELL, and their affiliates including, but not limited to, Learned Associates and Seven Hills.

Form 10-QSB is a quarterly report that provides a summary of a public

company's financial performance. Form 10-KSB is an annual report that provides a comprehensive overview a public company's business and financial condition.

87. In addition, SEC regulations require further disclosures of related party transactions in applicable SEC filings. Among other things, Part III of Form 10-KSB requires disclosure of "Certain Relationships and Related Transactions," specifically including disclosures prescribed by Item 404 of SEC Regulation S-K. Item 404(a) of Regulation S-K requires a description of any transactions exceeding \$120,000 to which the public company is a party and in which any director, executive officer or member of their immediate families has a direct or indirect material interest. Item 404(a) requires disclosure of the person and the person's relationship to the public company, the nature of the person's interest in the transaction and, where practicable, the amount of the person's interest in the transaction.

88. Under these SEC regulations, all of the transactions described above in paragraphs 18 through 20, and 43 through 48 - in which defendants SCARFO and PELULLO, and others, had direct or indirect material interests - were required to be accurately disclosed in FPPG's applicable SEC filings.

#### STATUTORY ALLEGATION

89. From in or about April 2007 through in or about May 2008, in the District of New Jersey and elsewhere, the defendants, NICODEMO

S. SCARFO, also known as "Nicky," also known as "Nick, also known as "Cousin," also known as "Junior," also known as "Nick Promo," also known as "Mr. Apple," also known as "Mr. Macintosh"; SALVATORE PELULLO, also known as "Sal," also known as "The Consultant," also known as "Cousin," also known as "Mr. Turner"; WILLIAM MAXWELL, also known as "Bill"; JOHN MAXWELL; DAVID ADLER (not as to ¶(c) below), also known as "Dave"; and GARY McCARTHY (not as to ¶(c) below); co-conspirator #1; co-conspirator #2; co-conspirator #3; and co-conspirator #4 did knowingly and willfully conspire and agree with each other and others to commit offenses against the United States, to wit, (a) fraud in connection with the purchase and sale of securities issued by FPPG, contrary to Title 15, United States Code, Sections 78j(b) and 78ff, and Title 17, Code of Federal Regulations, Section 240.10b-5; (b) falsified books, records, and accounts of FPPG, contrary to Title 15, United States Code, Sections 78m(b)(2)(A), 78m(b)(5) and 78ff, and Title 17, Code of Federal Regulations, Section 240.13b2-1; (c) false statements and material omissions to the auditor for FPPG in connection with the audit and examination of FPPG's financial statements, contrary to Title 15, United States Code, Section 78ff, and Title 17, Code of Federal Regulations, Section 240.13b2-2; and (d) false and misleading statements and omissions of material fact in reports and documents required to be filed under the Securities Exchange Act of 1934 and the rules and regulations thereunder, in violation of Title 15, United States Code, Sections 78j(b) and 78ff,

and Title 17, Code of Federal Regulations, Section 240.10b-5.

OVERT ACTS

90. In furtherance of the conspiracy and to effect its illegal objects, the following overt acts, among others, were committed in the District of New Jersey and elsewhere:

a. On or about June 7, 2007, defendant ADLER and other members of the conspiracy caused FPPG to file a Form 8-K with the SEC detailing the change in control that occurred with respect to FPPG's board of directors. The form failed to disclose (i) the true nature of the control exerted over FPPG by members of the conspiracy, including defendants SCARFO, PELULLO, and WILLIAM MAXWELL, and (ii) the legal services and consulting agreements involving defendants WILLIAM MAXWELL and PELULLO.

b. On or about June 12, 2007, defendant McCARTHY caused a draft of the Rutgers purchase agreement to be sent via email to defendant PELULLO and co-conspirator #3.

c. On or about November 14, 2007, defendant ADLER and other members of the conspiracy caused FPPG to file a Form 10-QSB with the SEC detailing the company's financial condition. The form failed to disclose (i) the true nature of the conspirators' ongoing control of FPPG (ii) the relationships among the conspirators and the various transactions with FPPG including defendant WILLIAM MAXWELL's legal services agreement and defendants SCARFO's and PELULLO's consulting agreements, and (iii) the true nature of the

acquisitions of Rutgers and Globalnet by FPFPG in that SCARFO and PELULLO had ownership interests in those companies and sold those companies to FPFPG at grossly overvalued prices.

d. On March 31, 2008, in a recorded telephone conversation, PELULLO told SCARFO that the "10-K" would "pop up on [SCARFO's] phone."

e. On or about March 31, 2008, members of the conspiracy caused FPFPG to file its annual report on Form 10-KSB. The form failed to fully disclose (i) the true nature of conspirators' ongoing control of FPFPG (ii) the relationships among the conspirators and the various transactions with FPFPG including defendant WILLIAM MAXWELL's legal services agreement and defendants SCARFO's and PELULLO's consulting agreements, and (iii) the true nature of the acquisitions of Rutgers, Globalnet, and Premier Group by FPFPG in that SCARFO and PELULLO had ownership interests in those companies and sold those companies to FPFPG at grossly overvalued prices.

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

COUNT THREE

[Wire Fraud Conspiracy, 18 U.S.C. § 1349]

The Grand Jury further alleges:

91. The allegations set forth in paragraphs 8 through 13, 15 through 26, and 29 through 56, of this Indictment are re-alleged as if fully set forth in this Count.

92. From in or about April 2007 through in or about May 2008, in the District of New Jersey and elsewhere, the defendants, NICODEMO S. SCARFO, also known as "Nicky," also known as "Nick," also known as "Cousin," also known as "Junior," also known as "Nick Promo," also known as "Mr. Apple," also known as "Mr. Macintosh"; SALVATORE PELULLO, also known as "Sal," also known as "The Consultant," also known as "Cousin," also known as "Mr. Turner"; WILLIAM MAXWELL, also known as "Bill"; JOHN MAXWELL; DAVID ADLER, also known as "Dave"; GARY McCARTHY; co-conspirator #1; co-conspirator #2; co-conspirator #3; and co-conspirator #4 did knowingly and intentionally conspire and agree with each other and others to devise a scheme and artifice to defraud and to obtain money and property by means of materially false and fraudulent pretenses, representations, and promises, and for the purpose of executing such scheme and artifice, to transmit and cause to be transmitted by means of wire communications in interstate and foreign commerce, certain writings, signs, signals, and sounds, contrary to Title 18, United States Code, Section 1343.

Objects of the Conspiracy

93. The objects of the conspiracy were for defendants, NICODEMO S. SCARFO, also known as "Nicky," also known as "Nick," also known as "Cousin," also known as "Junior," also known as "Nick Promo," also known as "Mr. Apple," also known as "Mr. Macintosh"; SALVATORE PELULLO, also known as "Sal," also known as "The Consultant," also known as "Cousin," also known as "Mr. Turner"; WILLIAM MAXWELL, also known as "Bill"; JOHN MAXWELL; DAVID ADLER, also known as "Dave"; and GARY MCCARTHY; and co-conspirator #1; co-conspirator #2; co-conspirator #3; and co-conspirator #4 to (a) make money for themselves and their co-conspirators through the takeover and looting of FPPG and (b) avoid detection and disruption by the public, the shareholders of FPPG, law enforcement and the SEC.

Manner and Means of the Conspiracy

94. It was part of the conspiracy that members of the conspiracy seized and maintained control of FPPG and its assets through the extortionate takeover of the company and its board of directors.

95. It was further part of the conspiracy that members of the conspiracy stole money from FPPG through fraudulent consulting and legal services agreements.

96. It was further part of the conspiracy that members of the conspiracy stole money from FPPG by causing FPPG to acquire corporate entities, at grossly inflated prices, in which defendants SCARFO and PELULLO had an ownership interest.



97. It was further part of the conspiracy that members of the conspiracy violated, and caused others to violate, the fiduciary duties owed to FPPG and its shareholders by running FPPG for the personal benefit of the members of the conspiracy and not in the best interests of FPPG and its shareholders.

98. It was further part of the conspiracy that members of the conspiracy caused false statements and material omissions to be made in documents filed with the SEC.

99. It was further part of the conspiracy that members of the conspiracy (a) transferred money via interstate wires, including into the District of New Jersey, and (b) made and received telephone calls across state lines, including into and out of the District of New Jersey, to discuss, carry out, perpetrate and cover up the scheme to defraud.

100. In all, by the means above, the scheme to defraud FPPG ultimately resulted in a loss to FPPG and its shareholders of at least approximately \$12 million.

All in violation of Title 18, United States Code, Section 1349.

COUNTS FOUR THROUGH SIXTEEN  
[Wire Fraud - 18 U.S.C. § 1343]  
(Consulting and Legal Services Payments)

The Grand Jury further alleges:

101. The allegations set forth in paragraphs 8 through 13, 15 through 26, 29 through 56, and 93 through 100, of this Indictment are re-alleged as if fully set forth herein.

102. In furtherance of the scheme to defraud, the defendants, NICODEMO S. SCARFO, also known as "Nicky," also known as "Nick," also known as "Cousin," also known as "Junior," also known as "Nick Promo," also known as "Mr. Apple," also known as "Mr. Macintosh"; SALVATORE PELULLO, also known as "Sal," also known as "The Consultant," also known as "Cousin," also known as "Mr. Turner"; WILLIAM MAXWELL, also known as "Bill"; JOHN MAXWELL; DAVID ADLER, also known as "Dave"; GARY McCARTHY; co-conspirator #1; co-conspirator #2; co-conspirator #3; and co-conspirator #4 caused money looted from FPPG pursuant to the fraudulent consulting and legal services agreements to be distributed via wire transfers. The defendants caused the money to be sent via wire transfer from FPPG bank accounts to defendant WILLIAM MAXWELL's bank account. The defendants caused money destined for defendants SCARFO and PELULLO to be sent via wire transfer from WILLIAM MAXWELL's account to Seven Hills' bank account. The defendants then caused money destined for SCARFO to be sent via wire transfer from Seven Hills' bank account in Pennsylvania to Learned Associates' bank account in New Jersey. On or about the dates set forth in the tables

below, the defendants caused wire transfers of funds looted from FPFPG pursuant to the fraudulent legal services and consulting agreements to move from and to the accounts set forth in the tables below.

(Wirings to Distribute July 2007 Payments)

Date	Amount	Source Acct.	Beneficiary Acct.
7/3/07	\$220,000	FPFG xxxxxxxxx2676	William Maxwell xxxxxxxx3939
7/3/07	\$180,000	FPFG xxxxxxxxx2676	William Maxwell xxxxxxxx3939
7/3/07	\$50,000	William Maxwell xxxxxxxx3939	Seven Hills xxxxxx7216
7/3/07	\$50,000	William Maxwell xxxxxxxx3939	Seven Hills xxxxxx7216
7/5/07	\$33,000	Seven Hills xxxxxx7216	Learned Associates xxxxxxxx3017

(Wirings to Distribute August 2007 Payments)

Date	Amount	Source Acct.	Beneficiary Acct.
8/1/07	\$100,000	FPFG xxxxxxxxx2676	William Maxwell xxxxxxxx3939
8/2/07	\$100,000	William Maxwell xxxxxxxx3939	Seven Hills xxxxxx7216
8/2/07	\$33,000	Seven Hills xxxxxx7216	Learned Associates xxxxxxxx3017

(Wirings to Distribute September 2007 Payments)

Date	Amount	Source Acct.	Beneficiary Acct.
8/30/07	\$176,855.19	FPFG xxxxxxxxx2676	William Maxwell xxxxxxx3939
8/31/07	\$50,000	William Maxwell xxxxxxx3939	Seven Hills xxxxxx7216
8/31/07	\$50,000	William Maxwell xxxxxxx3939	Seven Hills xxxxxx7216
8/31/07	\$50,000	William Maxwell xxxxxxx3939	Seven Hills xxxxxx7216
8/31/07	\$6,855.19	William Maxwell xxxxxxx3939	Seven Hills xxxxxx7216
8/31/07	\$33,500	Seven Hills xxxxxx7216	Learned Associates xxxxxxx3017

(Wirings to Distribute October 2007 Payments)

Date	Amount	Source Acct.	Beneficiary Acct.
10/5/07	\$50,000	William Maxwell xxxxxxx3939	Seven Hills xxxxxx7216
10/5/07	\$50,000	William Maxwell xxxxxxx3939	Seven Hills xxxxxx7216
10/5/07	\$15,000	William Maxwell xxxxxxx3939	Seven Hills xxxxxx7216
10/9/07	\$36,202.29	Seven Hills xxxxxx7216	Learned Associates xxxxxxx3017

(Wirings to Distribute November 2007 Payments)

Date	Amount	Source Acct.	Beneficiary Acct.
11/1/07	\$100,000	FPFG xxxxxxxxx2676	William Maxwell xxxxxxx3939
11/2/07	\$300,000	FPFG	William Maxwell

Date	Amount	Source Acct.	Beneficiary Acct.
		xxxxxxxx9573	xxxxxx3939
11/2/07	\$130,000	William Maxwell xxxxxx3939	Seven Hills xxxxxx7216
11/5/07	\$40,863.9 1	Seven Hills xxxxxx7216	Learned Associates xxxxxx3017

(Wirings to Distribute December 2007 Payments)

Date	Amount	Source Acct.	Beneficiary Acct.
12/5/07	\$320,000	FPFG xx x6346 xx	William Maxwell xxxxxx3939
12/6/07	\$115,000	William Maxwell xxxxxx3939	Seven Hills xxxxxx7216
12/6/07	\$33,000	Seven Hills xxxxxx7216	Learned Associates xxxxxx3017

(Wirings to Distribute January 2008 Payments)

Date	Amount	Source Acct.	Beneficiary Acct.
1/3/08	\$300,000	FPFG xxxxxxxx2676	William Maxwell xxxxxx3939
1/3/08	\$165,000	William Maxwell xxxxxx3939	Seven Hills xxxxxx7216
1/4/08	\$33,000	Seven Hills xxxxxx7216	Learned Associates xxxxxx3017
1/4/08	\$5,222.87	Seven Hills xxxxxx7216	Learned Associates xxxxxx3017

(Wirings to Distribute February 2008 Payments)

Date	Amount	Source Acct.	Beneficiary Acct.
1/31/08	\$200,000	FPFG xxxxxxxx2676	William Maxwell xxxxxx3939

<b>Date</b>	<b>Amount</b>	<b>Source Acct.</b>	<b>Beneficiary Acct.</b>
2/4/08	\$140,000	William Maxwell xxxxxxx3939	Seven Hills xxxxxx7216
2/4/08	\$33,000	Seven Hills xxxxxx7216	Learned Associates xxxxxxx3017
2/4/08	\$6,127.76	Seven Hills xxxxxx7216	Learned Associates xxxxxxx3017

(Wirings to Distribute March 2008 Payments)

<b>Date</b>	<b>Amount</b>	<b>Source Acct.</b>	<b>Beneficiary Acct.</b>
3/3/08	\$650,000	FPFG xxxxxxxxxx2676	William Maxwell xxxxxxx3939
3/3/08	\$230,000	William Maxwell xxxxxxx3939	Seven Hills xxxxxx7216
3/3/08	\$33,000	Seven Hills xxxxxx7216	Learned Associates xxxxxxx3017
3/3/08	\$4,593.26	Seven Hills xxxxxx7216	Learned Associates xxxxxxx3017

(Wirings to Distribute April 2008 Payments)

<b>Date</b>	<b>Amount</b>	<b>Source Acct.</b>	<b>Beneficiary Acct.</b>
4/2/08	\$33,000	Seven Hills xxxxxx7216	Learned Associates xxxxxxx3017
4/2/08	\$3,982.71	Seven Hills xxxxxx7216	Learned Associates xxxxxxx3017

STATUTORY ALLEGATION FOR COUNTS FOUR THROUGH SIXTEEN

103. On or about the dates set forth in the table below, within the District of New Jersey and elsewhere, the defendants, NICODEMO S. SCARFO, also known as "Nicky," also known as "Nick," also known as "Cousin," also known as "Junior," also known as "Nick Promo," also

known as "Mr. Apple," also known as "Mr. Macintosh"; SALVATORE PELULLO, also known as "Sal," also known as "The Consultant," also known as "Cousin," also known as "Mr. Turner"; WILLIAM MAXWELL, also known as "Bill"; JOHN MAXWELL; GARY McCARTHY; co-conspirator #1; co-conspirator #2; co-conspirator #3; co-conspirator #4, and others known and unknown, did knowingly and intentionally devise and intend to devise a scheme and artifice to defraud and did obtain money and property by means of materially false and fraudulent pretenses, representations, and promises, and for the purpose of executing such scheme and artifice, did transmit and cause to be transmitted by means of wire communications in interstate and foreign commerce, certain writings, signs, signals and sounds, that is, wire transfers of money as set forth in the table below.

Count	Date	Amount	Source Acct.	Beneficiary Acct.
4	7/5/07	\$33,000	Seven Hills xxxxx7216	Learned Associates xxxxxx3017
5	8/2/07	\$33,000	Seven Hills xxxxx7216	Learned Associates xxxxxx3017
6	8/31/07	\$33,500	Seven Hills xxxxx7216	Learned Associates xxxxxx3017
7	10/9/07	\$36,202.29	Seven Hills xxxxx7216	Learned Associates xxxxxx3017
8	11/5/07	\$40,863.91	Seven Hills xxxxx7216	Learned Associates xxxxxx3017
9	12/6/07	\$33,000	Seven Hills xxxxx7216	Learned Associates xxxxxx3017
10	1/4/08	\$5,222.87	Seven Hills	Learned Associates

			xxxxx7216	xxxxxx3017
11	2/4/08	\$33,000	Seven Hills xxxxx7216	Learned Associates xxxxxx3017
12	2/4/08	\$6,127.76	Seven Hills xxxxx7216	Learned Associates xxxxxx3017
13	3/3/08	\$33,000	Seven Hills xxxxx7216	Learned Associates xxxxxx3017
14	3/3/08	\$4,593.26	Seven Hills xxxxx7216	Learned Associates xxxxxx3017
15	4/2/08	\$33,000	Seven Hills xxxxx7216	Learned Associates xxxxxx3017
16	4/2/08	\$3,982.71	Seven Hills xxxxx7216	Learned Associates xxxxxx3017

In addition, on or about the dates set forth in the table above regarding Counts 8, 9, 10, 11, 12, 13, and 14, within the District of New Jersey and elsewhere, the defendant DAVID ADLER did knowingly and intentionally devise and intend to devise a scheme and artifice to defraud and did obtain money and property by means of materially false and fraudulent pretenses, representations, and promises, and for the purpose of executing such scheme and artifice, did transmit and cause to be transmitted by means of wire communications in interstate and foreign commerce, certain writings, signs, signals and sounds, that is, wire transfers of money.

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



COUNTS SEVENTEEN THROUGH NINETEEN  
[Wire Fraud - 18 U.S.C. § 1343]  
(Acquisition Payments)

The Grand Jury further alleges:

104. The allegations set forth in paragraphs 8 through 13, 15 through 26, 29 through 56, and 93 through 100, of this Indictment are re-alleged as if fully set forth herein.

105. In furtherance of the scheme to defraud, the defendants, NICODEMO S. SCARFO, also known as "Nicky," also known as "Nick," also known as "Cousin," also known as "Junior," also known as "Nick Promo," also known as "Mr. Apple," also known as "Mr. Macintosh"; SALVATORE PELULLO, also known as "Sal," also known as "The Consultant," also known as "Cousin," also known as "Mr. Turner"; WILLIAM MAXWELL, also known as "Bill"; JOHN MAXWELL; DAVID ADLER, also known as "Dave"; GARY McCARTHY; co-conspirator #1; co-conspirator #2; co-conspirator #3; and co-conspirator #4 caused money looted from FPPG pursuant to the fraudulent acquisitions involving Rutgers LLC and Globalnet Enterprises to be distributed via wire transfers.

**Rutgers Acquisition**

106. The defendants caused the money to be sent via wire transfer from an FPPG bank account to a Rutgers LLC bank account which account defendants SCARFO and PELULLO controlled and was located in Pennsylvania. The defendants then caused money destined for defendants SCARFO and PELULLO to be sent via wire transfer to a Globalnet Enterprises bank account in Pennsylvania and to a Seven

Hills bank account also in Pennsylvania. Money destined for defendant SCARFO was also sent via wire transfer to a Learned Associates bank account in New Jersey. On or about the dates set forth in the tables below, the defendants caused wire transfers of funds looted from FPFPG pursuant to the fraudulent acquisition of Rutgers LLC to move from and to the accounts set forth in the table below.

**(Wirings to Distribute Rutgers Payments)**

<b>Date</b>	<b>Amount</b>	<b>Source Acct.</b>	<b>Beneficiary Acct.</b>
6/20/07	\$1,825,000	<b>FPFG</b> xxxxxxx2676	<b>Rutgers LLC</b> xxxxx6087
6/20/07	\$667,600	<b>Rutgers LLC</b> xxxxx6087	<b>Globalnet</b> xxxxx5174
6/21/07	\$112,500	<b>Rutgers LLC</b> xxxxx6087	<b>Seven Hills</b> xxxxx7216
6/21/07	\$112,500	<b>Rutgers LLC</b> xxxxx6087	<b>Learned Associates</b> xxxxxx3017
6/22/07	\$50,000	<b>Globalnet</b> xxxxx5174	<b>Seven Hills</b> xxxxx7216
6/22/07	\$50,000	<b>Globalnet</b> xxxxx5174	<b>Learned Associates</b> xxxxxx3017

**Globalnet Acquisition**

107. The defendants caused the money to be sent via wire transfer from an FPFPG bank account to defendant WILLIAM MAXWELL's account.

The defendants then caused the money to be sent via wire transfer from WILLIAM MAXWELL's account to a Globalnet Enterprises account in Pennsylvania. The defendants then caused money destined for

defendants SCARFO and PELULLO to be sent via wire transfer to a Seven Hills bank account in Pennsylvania and a Learned Associates bank account in New Jersey. On or about the dates set forth in the tables below, the defendants caused wire transfers of funds looted from FPFPG pursuant to the fraudulent acquisition of Globalnet Enterprises to move from and to the accounts set forth in the table below.

(Wirings to Distribute Globalnet Payments)

<b>Date</b>	<b>Amount</b>	<b>Source Acct.</b>	<b>Beneficiary Acct.</b>
7/6/07	\$3,070,000	<b>FPFG</b> xxxxxxxx2676	<b>William Maxwell</b> xxxxxx3939
7/6/07	\$2,970,000	<b>William Maxwell</b> xxxxxx3939	<b>Globalnet</b> xxxxxx5174
7/6/07	\$982,869.13	<b>Globalnet</b> xxxxxx5174	<b>Seven Hills</b> xxxxxx7216
7/6/07	\$436,369.13	<b>Globalnet</b> xxxxxx5174	<b>Learned Associates</b> xxxxxx3017

STATUTORY ALLEGATION FOR COUNTS SEVENTEEN THROUGH NINETEEN

108. On or about the dates set forth in the table below, within the District of New Jersey and elsewhere, the defendants, NICODEMO S. SCARFO, also known as "Nicky," also known as "Nick," also known as "Cousin," also known as "Junior," also known as "Nick Promo," also known as "Mr. Apple," also known as "Mr. Macintosh"; SALVATORE PELULLO, also known as "Sal," also known as "The Consultant," also known as "Cousin," also known as "Mr. Turner"; WILLIAM MAXWELL, also known as "Bill"; JOHN MAXWELL; DAVID ADLER, also known as "Dave"; GARY McCARTHY;

co-conspirator #1; co-conspirator #2; co-conspirator #3; co-conspirator #4, and others known and unknown, did knowingly and intentionally devise and intend to devise a scheme and artifice to defraud and did obtain money and property by means of materially false and fraudulent pretenses, representations, and promises, and for the purpose of executing such scheme and artifice, did transmit and cause to be transmitted by means of wire communications in interstate and foreign commerce, certain writings, signs, signals and sounds, that is, wire transfers of money as set forth in the table below.

Count	Date	Amount	Source Acct.	Beneficiary Acct.
17	6/21/07	\$112,500	Rutgers LLC xxxxxx6087	Learned Associates xxxxxxx3017
18	6/22/07	\$50,000	Globalnet xxxxxx5174	Learned Associates xxxxxxx3017
19	7/6/07	\$436,369.13	Globalnet xxxxxx5174	Learned Associates xxxxxxx3017

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

COUNT TWENTY

[Conspiracy to Commit Money Laundering, 18 U.S.C. § 1956(h)]

The Grand Jury further alleges:

109. The allegations set forth in paragraphs 8 through 13, 15 through 24, 26 through 27, and 29 through 68, of this Indictment are re-alleged as if fully set forth in this Count.

110. From in or about April 2007 through in or about May 2008, in the District of New Jersey and elsewhere, the defendants NICODEMO S. SCARFO, also known as "Nicky," also known as "Nick," also known as "Cousin," also known as "Junior," also known as "Nick Promo," also known as "Mr. Apple," also known as "Mr. Macintosh"; SALVATORE PELULLO, also known as "Sal," also known as "The Consultant," also known as "Cousin," also known as "Mr. Turner"; WILLIAM MAXWELL, also known as "Bill"; JOHN MAXWELL; GARY McCARTHY; DONALD MANNO, also known as "Donny"; co-conspirator #1; co-conspirator #2; co-conspirator #3; and co-conspirator #4 did knowingly and intentionally conspire and agree with each other and others to:

(a) conduct financial transactions affecting interstate and foreign commerce, which transactions involved the proceeds of specified unlawful activity, that is, wire fraud and securities fraud, knowing that the transactions were designed in whole and in part to conceal and disguise the nature, location, source, ownership, and control of the proceeds of specified unlawful activity, and that while conducting and attempting to conduct such financial

transactions, knew that the property involved in the financial transactions represented the proceeds of some form of unlawful activity, contrary to Title 18, United States Code, Section 1956(a)(1)(B)(i); and

(b) engage in monetary transactions by, through and to a financial institution, affecting interstate and foreign commerce, in criminally derived property of a value greater than \$10,000, such property having been derived from a specified unlawful activity, that is wire fraud and securities fraud, contrary to Title 18, United States Code, Section 1957(a).

All in violation of Title 18, United States Code, Section 1956(h).

COUNT TWENTY-ONE

[Conspiracy to Commit Bank Fraud, 18 U.S.C. § 1349]

The Grand Jury further alleges:

111. The allegations set for in paragraphs 16 and 17, 21, 22, 27, and 61 through 68, of this Indictment are re-alleged as if fully set forth in this Count.

112. From in or about December 2007 through in or about March 2008, in the District of New Jersey and elsewhere, the defendants NICODEMO S. SCARFO, also known as "Nicky," also known as "Nick," also known as "Cousin," also known as "Junior," also known as "Nick Promo," also known as "Mr. Apple," also known as "Mr. Macintosh"; SALVATORE PELULLO, also known as "Sal," also known as "The Consultant," also known as "Cousin," also known as "Mr. Turner"; DONALD MANNO, also known as "Donny"; co-conspirator #1; co-conspirator #2; co-conspirator #3; co-conspirator #4; and co-conspirator #5 did knowingly and intentionally conspire and agree with each other and others to execute a scheme and artifice to defraud financial institutions as that term is defined in Title 18, United States Code, Section 20, including St. Edmond's Federal Savings Bank, the accounts of which were insured by the Federal Deposit Insurance Corporation and to obtain moneys, funds, assets and other property owned by, and under the custody and control of financial institutions, including St. Edmond's Federal Savings Bank, by means of materially false and fraudulent pretenses, representations and promises, contrary to Title 18, United States

Code, Section 1344.

OBJECT OF THE CONSPIRACY

113. The object of the conspiracy was for defendants NICODEMO S. SCARFO, also known as "Nicky," also known as "Nick," also known as "Cousin," also known as "Junior," also known as "Nick Promo," also known as "Mr. Apple," also known as "Mr. Macintosh"; SALVATORE PELULLO, also known as "Sal," also known as "The Consultant," also known as "Cousin," also known as "Mr. Turner"; and DONALD MANNNO, also known as "Donny"; and co-conspirator #1; co-conspirator #2; co-conspirator #3; co-conspirator #4; and co-conspirator #5 to help SCARFO and co-conspirator #5 obtain a mortgage for the Egg Harbor House through false statements and fraudulent submissions to financial institutions, including St. Edmond's Federal Savings Bank.

OVERT ACTS

114. In furtherance of the conspiracy and to effect its illegal object, the following overt acts, among others, were committed in the District of New Jersey and elsewhere:

a. On or about February 8, 2008, co-conspirator #3 and co-conspirator #5 traveled from the District of New Jersey to the Eastern District of Pennsylvania so that co-conspirator #5 could retrieve and sign fictitious tax returns that were ultimately used to support a loan application for the Egg Harbor House.

b. On or about February 5, 2008, co-conspirator #4 emailed fraudulent tax returns to defendant PELULLO for use by



defendant SCARFO's future wife, co-conspirator #5, in securing a \$502,000 mortgage to purchase the Egg Harbor House.

c. On or about March 6, 2008, defendant MANNO sent a letter regarding the source of money used as a down payment on the Egg Harbor House to defendant PELULLO via facsimile from the District of New Jersey to the Eastern District of Pennsylvania.

All in violation of Title 18, United States Code, Section 1349.

COUNT TWENTY-TWO

[Conspiracy to Make False Statements in Connection  
with Loan Application, 18 U.S.C. § 371]

The Grand Jury further alleges:

115. The allegations set forth in paragraphs 16 and 17, 21, 22, 27, and 61 through 68, of this Indictment are re-alleged as if fully set forth in this Count.

116. From in or about January 2008 through in or about March 2008, in the District of New Jersey and elsewhere, the defendants NICODEMO S. SCARFO, also known as "Nicky," also known as "Nick," also known as "Cousin," also known as "Junior," also known as "Nick Promo," also known as "Mr. Apple," also known as "Mr. Macintosh"; SALVATORE PELULLO, also known as "Sal," also known as "The Consultant," also known as "Cousin," also known as "Mr. Turner"; DONALD MANNO, also known as "Donny"; co-conspirator #1; co-conspirator #2; co-conspirator #3; co-conspirator #4; and co-conspirator #5 did knowingly and intentionally conspire and agree with each other and others to commit an offense against the United States, to wit, to make false statements and reports, for the purpose of influencing the action of an institution the accounts of which are insured by the Federal Deposit Insurance Corporation, including St. Edmond's Federal Savings Bank, upon an application, purchase, purchase agreement, commitment, or loan, contrary to Title 18, United States Code, Section 1014.

OBJECT OF THE CONSPIRACY

117. The object of the conspiracy was for defendants NICODEMO S. SCARFO, also known as "Nicky," also known as "Nick," also known as "Cousin," also known as "Junior," also known as "Nick Promo," also known as "Mr. Apple," also known as "Mr. Macintosh"; SALVATORE PELULLO, also known as "Sal," also known as "The Consultant," also known as "Cousin," also known as "Mr. Turner"; DONALD MANNO, also known as "Donny"; co-conspirator #1; co-conspirator #2; co-conspirator #3; co-conspirator #4; and co-conspirator #5 to obtain a mortgage for the Egg Harbor House through false statements and fraudulent submissions to financial institutions, including St. Edmond's Federal Savings Bank.

OVERT ACTS

118. In furtherance of the conspiracy and to effect its illegal object, the following overt acts, among others, were committed in the District of New Jersey and elsewhere:

a. On or about February 8, 2008, co-conspirator #3 and co-conspirator #5 traveled from the District of New Jersey to the Eastern District of Pennsylvania so that co-conspirator #5 could retrieve and sign fictitious tax returns that were ultimately used to support a loan application for the Egg Harbor House.

b. On or about February 5, 2008, co-conspirator #4 emailed fraudulent tax returns to defendant PELULLO for use by SCARFO's future wife, co-conspirator #5, in securing a \$502,000

mortgage to purchase the Egg Harbor House.

c. On or about March 6, 2008, defendant MANNO sent a letter regarding the source of money used as a down payment on the Egg Harbor House to defendant PELULLO via facsimile from the District of New Jersey to the Eastern District of Pennsylvania.

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

COUNT TWENTY-THREE

[Conspiracy to Obstruct Justice, 18 U.S.C. § 1512(k)]

The Grand Jury further alleges:

119. The allegations set forth in paragraphs 8 through 13, 15 through 23, 24, 27, and 29 through 56, of this Indictment are re-alleged as if fully set forth in this Count.

120. From in or about June 2007 through in or about April 2008, in the District of New Jersey and elsewhere, defendants NICODEMO S. SCARFO, also known as "Nicky," also known as "Nick," also known as "Cousin," also known as "Junior," also known as "Nick Promo," also known as "Mr. Apple," also known as "Mr. Macintosh"; SALVATORE PELULLO, also known as "Sal," also known as "The Consultant," also known as "Cousin," also known as "Mr. Turner"; WILLIAM MAXWELL, also known as "Bill"; DONALD MANNO, also known as "Donny"; and co-conspirator #3 did knowingly and intentionally conspire and agree with each other and others to:

(a) engage in misleading conduct toward another person, with intent to hinder, delay, and prevent the communication to a law enforcement officer and judge of the United States of information relating to the commission and possible commission of a Federal offense and a violation of conditions of probation, supervised release, parole, and release pending judicial proceedings, contrary to Title 18, United States Code, Section 1512(b)(3); and (b) corruptly obstruct, influence, and impede an official

proceeding, as that term is defined in Title 18, United States Code, Section 1515(a)(1)(A), contrary to Title 18, United States Code, Section 1512(c)(2).

OVERT ACTS

121. In furtherance of the conspiracy and to effect its illegal objects, the following overt acts, among others, were committed in the District of New Jersey and elsewhere:

a. On or about September 14, 2007, defendant MANNO sent an email to defendants SCARFO and WILLIAM MAXWELL regarding the fictitious employment letter offer from WILLIAM MAXWELL to SCARFO described in paragraph 58 of this Indictment.

b. On or about October 5, 2007, defendant SCARFO submitted his Monthly Supervision Report to his Probation Officer and certified that the information he furnished was complete and correct, thereby omitting the \$33,500 he received as "consulting fees" pursuant to the fraudulent consulting agreement between Learned Associates and Seven Hills.

c. On or about November 5, 2007, defendant SCARFO submitted his Monthly Supervision Report to his Probation Officer and certified that he did not make any purchases over \$500, thereby omitting the purchase of the yacht, described in paragraph 64 of this Indictment, by defendants SCARFO and PELULLO for approximately \$850,000.

d. On multiple dates between in or about August 2007

and in or about April 2008, defendant SCARFO and defendant PELULLO had contact with each other which SCARFO failed to report to his probation officer, including but not limited to the FPPG Christmas party held on or about December 20, 2007.

All in violation of Title 18, United States Code, Section 1512(k).

COUNT TWENTY-FOUR

[Conspiracy to Sell or Transfer Firearm and Ammunition to a Prohibited Person, or Possess a Firearm by a Convicted Felon  
18 U.S.C. § 371]

The Grand Jury further alleges:

122. The allegations set forth in paragraphs 3 through 7, 14, 21 through 24, and 69 through 75, of this Indictment are re-alleged as if fully set forth in this Count.

123. From in or about September 2007 through in or about May 2008, in the District of New Jersey and elsewhere, the defendants, NICODEMO S. SCARFO, also known as "Nicky," also known as "Nick," also known as "Cousin," also known as "Junior," also known as "Nick Promo," also known as "Mr. Apple," also known as "Mr. Macintosh"; SALVATORE PELULLO, also known as "Sal," also known as "The Consultant," also known as "Cousin," also known as "Mr. Turner"; WILLIAM MAXWELL, also known as "Bill"; JOHN MAXWELL; co-conspirator #2; co-conspirator #3; and co-conspirator #6, together with each other and others, did knowingly and intentionally conspire and agree to commit offenses against the United States, to wit:

(a) to provide firearms and ammunition to defendants SCARFO and PELULLO knowing and having reasonable cause to believe that SCARFO and PELULLO had been convicted of a crime punishable by imprisonment for a term exceeding one year, contrary to Title 18, United States Code, Section 922(d)(1); and

(b) to possess in and affecting commerce firearms and



ammunition having been convicted of a crime punishable by imprisonment for a term exceeding one year, contrary to Title 18, United States Code, Section 922(g)(1).

OVERT ACTS

124. In furtherance of the conspiracy and to effect its illegal objects, the following overt acts, among others, were committed in the District of New Jersey and elsewhere:

a. On or about September 4, 2007, defendant JOHN MAXWELL purchased a Smith & Wesson Model 65 .357 revolver, bearing serial number BSP0394 at a pawn shop in Texas.

b. On or about September 4, 2007, defendant JOHN MAXWELL traveled from Texas to New Jersey for the purpose of delivering the Smith & Wesson Model 65 .357 revolver to defendant SCARFO.

c. On or about December 28, 2007, co-conspirator #6 purchased two boxes of Independence 9mm bullets from a firearms dealer in New Jersey.

d. On or about and prior to May 8, 2008, defendants SCARFO and PELULLO possessed the following firearms and ammunition in the Southern District of Florida:

- (1) Norinco 7.62 caliber rifle, model SKS; bearing serial number 2355775
- (2) Ewbank 7.62 caliber rifle, model EMAKM; bearing serial number EL5397
- (3) Wei Dong 12 gauge shotgun, model SAS12; bearing serial number 207319
- (4) Sig Sauer 9mm pistol, model P-6; bearing serial

number M410568

- (5) Taurus .38 caliber revolver, model 83; bearing serial number MJ852035
- (6) Taurus .22 caliber pistol, model PT-22; bearing serial number AXF31367
- (7) Approximately 2500 rounds of 7.62 caliber ammunition; and
- (8) Seventeen additional boxes of ammunition.

e. On or about May 8, 2008, defendant SCARFO possessed a Smith & Wesson Model 65 .357 revolver, bearing serial number BSP0394 and a Smith & Wesson Model 469 9mm pistol, bearing serial number A867579, along with approximately 26 rounds of .357 caliber ammunition and approximately 100 rounds of 9mm ammunition.

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

COUNT TWENTY-FIVE

[Felon in Possession of a Firearm, 18 U.S.C. § 922(g)(1)]

The Grand Jury further alleges:

125. The allegations set forth in paragraphs 3 through 7, 21, 69 and 70, of this Indictment are re-alleged as if fully set forth in this Count.

126. On or about May 8, 2008, in the District of New Jersey, defendant NICODEMO S. SCARFO, also known as "Nicky," also known as "Nick," also known as "Cousin," also known as "Junior," also known as "Nick Promo," also known as "Mr. Apple," also known as "Mr. Macintosh," having been convicted of a crime punishable by imprisonment for a term exceeding one year in the United States District Court for the District of New Jersey and the Superior Court for the State of New Jersey, did knowingly possess in and affecting commerce firearms, namely, a Smith & Wesson Model 65 .357 revolver, bearing serial number BSP0394 and a Smith & Wesson Model 469 9mm pistol, bearing serial number A867579.

All in violation of Title 18, United States Code, Section 922(g)(1).

A TRUE BILL

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FOREPERSON

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PAUL J. FISHMAN  
United States Attorney

**UNITED STATES DISTRICT COURT**  
**District of New Jersey**

UNITED STATES OF AMERICA

v.

Case Number 1:11-CR-00740 (03)

WILLIAM MAXWELL

Defendant.

**JUDGMENT IN A CRIMINAL CASE**  
**(For Offenses Committed On or After November 1, 1987)**

The defendant, WILLIAM MAXWELL, was represented by Michael N. Huff, Esq.

The defendant was found guilty on count(s) 1-20, 23,24 by a jury verdict on July 3, 2014 after a plea of not guilty. Accordingly, the court has adjudicated that the defendant is guilty of the following offense(s):

<u>Title &amp; Section</u>	<u>Nature of Offense</u>	<u>Date of Offense</u>	<u>Count Number(s)</u>
18:1962(d)	Racketeering Conspiracy	In or about June 2007	1
18:371[15:78j(b) & 78ff]	Conspiracy to Commit Securities Fraud	From in or about April 20, 2007 through in or about May 2008	2
18:1349 [18:1343]	Conspiracy to Commit Wire Fraud	From in or about April 2007 through in or about May 2008	3
18:1343	Wire Fraud	On or about 7/3/07 to 4/2/08	4-19
18:1956(h)[18:1956(a)(1)(B)			
18:1956(h)(18:1956(a)(1)(B)(1) & 1957(a)]	Conspiracy to Commit Money Laundering	From in or about December 2007 through in or about March 2008	20
18:1512(k)[18:1512(b)(3) & 1512(c)(2)]	Conspiracy to Obstruct Justice	From in or about June 2007 through in or about April 2008	23
18:922(g)(1) and (d)(1)	Conspiracy to Sell or Transfer Firearms and Ammunition to a prohibited Person	From in or about September 2007 through in or about May 2008	24

As pronounced on July 30, 2015, the defendant is sentenced as provided in pages 2 through 7 of this Judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

It is ordered that the defendant shall pay to the United States a total special assessment of \$2200.00, for count(s) 1-20,



23,24, which shall be due immediately. Said special assessment shall be made payable to the Clerk, U.S. District Court.

It is further ordered that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this Judgment are fully paid. If ordered to pay restitution, the defendant shall notify the court and United States Attorney of any material change in the defendant's economic circumstances.

Signed this the 30<sup>th</sup> day of July, 2015.



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ROBERT B. KUGLER  
United States District Judge

Defendant: WILLIAM MAXWELL  
Case Number: 1:11-CR-00740 (03)

**IMPRISONMENT**

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of 240 Months. This sentence consists of 240 months on each of Counts 1, 3 through 20, and 23; and 60 months on each of Counts 2 and 24; all such terms to run concurrent, to produce a total term of imprisonment of 240 months.

**The Court makes the following recommendations to the Bureau of Prisons:**

The defendant participate in the Bureau of Prisons Inmate Financial Responsibility Program (IFRP).

The defendant be designated to a facility for service of this sentence as near as possible to the defendant's home address.

The defendant shall remain in custody pending service of sentence.

**RETURN**

I have executed this Judgment as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

At \_\_\_\_\_ Defendant delivered on \_\_\_\_\_ To \_\_\_\_\_, with a certified copy of this Judgment.

\_\_\_\_\_  
United States Marshal  
By \_\_\_\_\_  
Deputy Marshal

Defendant: WILLIAM MAXWELL  
Case Number: 1:11-CR-00740 (03)

### **SUPERVISED RELEASE**

Upon release from imprisonment, the defendant shall be placed on supervised release for a term of 3 years. This term consists of terms of 3 years on each of Counts 1 through 20, 23, and Count 24, all such terms to run concurrently.

Within 72 hours of release from custody of the Bureau of Prisons, the defendant shall report in person to the Probation Office in the district to which the defendant is released.

While on supervised release, the defendant shall comply with the standard conditions that have been adopted by this court as set forth below.

Based on information presented, the defendant is excused from the mandatory drug testing provision, however, may be requested to submit to drug testing during the period of supervision if the probation officer determines a risk of substance abuse.

If this judgment imposes a fine, special assessment, costs, or restitution obligation, it shall be a condition of supervised release that the defendant pay any such fine, assessments, costs, and restitution that remains unpaid at the commencement of the term of supervised release and shall comply with the following special conditions:

#### **PROHIBITIONS ON GANG/CRIMINAL ASSOCIATIONS**

You shall refrain from associating with, or being in the company of, any members of any street gang, outlaw motorcycle gang, traditional or non-traditional organized crime group, or any other identified threat group. You shall be restricted from frequenting any location where members of said organizations are known to congregate or meet. You shall not have in your possession any item or paraphernalia which has any significance or is evidence of affiliation with said organizations.

#### **NEW DEBT RESTRICTIONS**

You are prohibited from incurring any new credit charges, opening additional lines of credit, or incurring any new monetary loan, obligation, or debt, by whatever name known, without the approval of the U.S. Probation Office. You shall not encumber or liquidate interest in any assets unless it is in direct service of the fine and/or restitution obligation or otherwise has the expressed approval of the Court.

#### **SELF-EMPLOYMENT/BUSINESS DISCLOSURE**

You shall cooperate with the U.S. Probation Office in the investigation and approval of any position of self-employment, including any independent, entrepreneurial, or freelance employment or business activity. If approved for self-employment, you shall provide the U.S. Probation Office with full disclosure of your self-employment and other business records, including, but not limited to, all of the records identified in the Probation Form 48F (Request for Self Employment Records), or as otherwise requested by the U.S. Probation Office.



Defendant: WILLIAM MAXWELL  
Case Number: 1:11-CR-00740 (03)

### STANDARD CONDITIONS OF SUPERVISED RELEASE

While the defendant is on supervised release pursuant to this Judgment:

- 1) The defendant shall not commit another federal, state, or local crime during the term of supervision.
- 2) The defendant shall not illegally possess a controlled substance.
- 3) If convicted of a felony offense, the defendant shall not possess a firearm or destructive device.
- 4) The defendant shall not leave the judicial district without the permission of the court or probation officer.
- 5) The defendant shall report to the probation officer in a manner and frequency directed by the Court or probation officer.
- 6) The defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer.
- 7) The defendant shall support his or her dependents and meet other family responsibilities.
- 8) The defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons.
- 9) The defendant shall notify the probation officer within seventy-two hours of any change in residence or employment.
- 10) The defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute or administer any narcotic or other controlled substance, or any paraphernalia related to such substances.
- 11) The defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered.
- 12) The defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer.
- 13) The defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view by the probation officer.
- 14) The defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer.
- 15) The defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court.
- 16) As directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.
- (17) You shall cooperate in the collection of DNA as directed by the Probation Officer.

*(This standard condition would apply when the current offense or a prior federal offense is either a felony, any offense under Chapter 109A of Title 18 (i.e., §§ 2241-2248, any crime of violence [as defined in 18 U.S.C. § 16], any attempt or conspiracy to commit the above, an offense under the Uniform Code of Military Justice for which a sentence of confinement of more than one year may be imposed, or any other offense under the Uniform Code that is comparable to a qualifying federal offense);*

- (18) Upon request, you shall provide the U.S. Probation Office with full disclosure of your financial records, including co-mingled income, expenses, assets and liabilities, to include yearly income tax returns. With the exception of the financial accounts reported and noted within the presentence report, you are prohibited from maintaining and/or opening any additional individual and/or joint checking, savings, or other financial accounts, for either personal or business purposes, without the knowledge

Defendant: WILLIAM MAXWELL  
Case Number: 1:11-CR-00740 (03)

and approval of the U.S. Probation Office. You shall cooperate with the Probation Officer in the investigation of your financial dealings and shall provide truthful monthly statements of your income. You shall cooperate in the signing of any necessary authorization to release information forms permitting the U.S. Probation Office access to your financial information and records;

- (19) As directed by the U.S. Probation Office, you shall participate in and complete any educational, vocational, cognitive or any other enrichment program offered by the U.S. Probation Office or any outside agency or establishment while under supervision;
- (20) You shall not operate any motor vehicle without a valid driver's license issued by the State of New Jersey, or in the state in which you are supervised. You shall comply with all motor vehicle laws and ordinances and must report all motor vehicle infractions (including any court appearances) within 72 hours to the U.S. Probation Office;

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Upon a finding of a violation of probation or supervised release, I understand that the Court may (1) revoke supervision or (2) extend the term of supervision and/or modify the conditions of supervision.

These conditions have been read to me. I fully understand the conditions, and have been provided a copy of them.

You shall carry out all rules, in addition to the above, as prescribed by the Chief U.S. Probation Officer, or any of his associate Probation Officers.

(Signed) \_\_\_\_\_  
Defendant Date

\_\_\_\_\_  
U.S. Probation Officer/Designated Witness Date

Defendant: WILLIAM MAXWELL  
Case Number: 1:11-CR-00740 (03)

**RESTITUTION AND FORFEITURE**

**RESTITUTION**

The defendant shall make restitution in the amount of \$14,180,798. The Court will waive the interest requirement in this case. Payments should be made payable to the **U.S. Treasury** and mailed to Clerk, U.S.D.C., 402 East State Street, Rm 2020, Trenton, New Jersey 08608, for distribution to **FirstPlus Financial Group c/o Matthew Orwig, Esq. Chapter 11 Trustee**, 2727 North Harwood Street, Dallas, Texas 75201. The amount ordered represents the total amount due to the victim for this loss. The defendant's restitution obligation shall not be affected by any restitution payments made by other defendants in this case, except that no further payments shall be required after the sum of the amounts actually paid by all defendants has fully satisfied this loss. The following defendant(s) in the following case(s) may be subject to restitution orders to the same victim for this same loss:

Nicodemo S. Scarfo	Cr. No.: 11-00740-001
Salvatore Pelullo	Cr. No.: 11-00740-002
John Maxwell	Cr. No.: 11-00740-004
Cory Leshner	Cr. No.: 11-00740-006
John Parisi	Cr. No.: 11-00740-007
Howard Drossner	Cr. No.: 11-00740-009

The restitution is due immediately and shall be paid in monthly installments of no less than \$1,000.00, to commence 30 days after release from confinement. If the defendant participate in the Bureau of Prisons Inmate Financial Responsibility Program, the restitution shall be paid from those funds at a rate equivalent to \$25 every 3 months.

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) community restitution, (6) fine interest, (7) penalties, and (8) costs, including cost of prosecution and court costs.

UNITED STATES DISTRICT COURT  
District of New Jersey

UNITED STATES OF AMERICA

v.

Case Number 1:11-CR-00740 (03)

WILLIAM MAXWELL

Defendant.

**AMENDED JUDGMENT (AS TO FORFEITURE) IN A CRIMINAL CASE**  
(For Offenses Committed On or After November 1, 1987)

The defendant, WILLIAM MAXWELL, was represented by Michael N. Huff, Esq.

The defendant was found guilty on count(s) 1-20, 23,24 by a jury verdict on July 3, 2014 after a plea of not guilty. Accordingly, the court has adjudicated that the defendant is guilty of the following offense(s):

<u>Title &amp; Section</u>	<u>Nature of Offense</u>	<u>Date of Offense</u>	<u>Count Number(s)</u>
18:1962(d)	Racketeering Conspiracy	In or about June 2007	1
18:371[15:78j(b) & 78ff]	Conspiracy to Commit Securities Fraud	From in or about April 20, 2007 through in or about May 2008	2
18:1349 [18:1343]	Conspiracy to Commit Wire Fraud	From in or about April 2007 through in or about May 2008	3
18:1343	Wire Fraud	On or about 7/3/07 to 4/2/08	4-19
18:1956(h)[18:1956(a)(1)(B)			
18:1956(h)(18:1956(a)(1)(B)(1) & 1957(a)]	Conspiracy to Commit Money Laundering	From in or about December 2007 through in or about March 2008	20
18:1512(k)[18:1512(b)(3) & 1512(c)(2)]	Conspiracy to Obstruct Justice	From in or about June 2007 through in or about April 2008	23
18:922(g)(1) and (d)(1)	Conspiracy to Sell or Transfer Firearms and Ammunition to a prohibited Person	From in or about September 2007 through in or about May 2008	24

As pronounced on July 30, 2015, the defendant is sentenced as provided in pages 2 through 7 of this Judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

It is ordered that the defendant shall pay to the United States a total special assessment of \$2200.00, for count(s) 1-20,



23,24, which shall be due immediately. Said special assessment shall be made payable to the Clerk, U.S. District Court.

It is further ordered that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this Judgment are fully paid. If ordered to pay restitution, the defendant shall notify the court and United States Attorney of any material change in the defendant's economic circumstances.

Signed this the 15 day of <sup>August</sup>~~July~~, 2015.



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ROBERT B. KUGLER  
United States District Judge

Defendant: WILLIAM MAXWELL  
Case Number: 1:11-CR-00740 (03)

**IMPRISONMENT**

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of 240 Months. This sentence consists of 240 months on each of Counts 1, 3 through 20, and 23; and 60 months on each of Counts 2 and 24; all such terms to run concurrent, to produce a total term of imprisonment of 240 months.

**The Court makes the following recommendations to the Bureau of Prisons:**

The defendant participate in the Bureau of Prisons Inmate Financial Responsibility Program (IFRP).

The defendant be designated to a facility for service of this sentence as near as possible to the defendant's home address.

The defendant shall remain in custody pending service of sentence.

**RETURN**

I have executed this Judgment as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Defendant delivered on \_\_\_\_\_ To \_\_\_\_\_  
At \_\_\_\_\_, with a certified copy of this Judgment.

\_\_\_\_\_  
United States Marshal

By \_\_\_\_\_  
Deputy Marshal

Defendant: WILLIAM MAXWELL  
Case Number: 1:11-CR-00740 (03)

### **SUPERVISED RELEASE**

Upon release from imprisonment, the defendant shall be placed on supervised release for a term of 3 years. This term consists of terms of 3 years on each of Counts 1 through 20, 23, and Count 24, all such terms to run concurrently.

Within 72 hours of release from custody of the Bureau of Prisons, the defendant shall report in person to the Probation Office in the district to which the defendant is released.

While on supervised release, the defendant shall comply with the standard conditions that have been adopted by this court as set forth below.

Based on information presented, the defendant is excused from the mandatory drug testing provision, however, may be requested to submit to drug testing during the period of supervision if the probation officer determines a risk of substance abuse.

If this judgment imposes a fine, special assessment, costs, or restitution obligation, it shall be a condition of supervised release that the defendant pay any such fine, assessments, costs, and restitution that remains unpaid at the commencement of the term of supervised release and shall comply with the following special conditions:

#### **PROHIBITIONS ON GANG/CRIMINAL ASSOCIATIONS**

You shall refrain from associating with, or being in the company of, any members of any street gang, outlaw motorcycle gang, traditional or non-traditional organized crime group, or any other identified threat group. You shall be restricted from frequenting any location where members of said organizations are known to congregate or meet. You shall not have in your possession any item or paraphernalia which has any significance or is evidence of affiliation with said organizations.

#### **NEW DEBT RESTRICTIONS**

You are prohibited from incurring any new credit charges, opening additional lines of credit, or incurring any new monetary loan, obligation, or debt, by whatever name known, without the approval of the U.S. Probation Office. You shall not encumber or liquidate interest in any assets unless it is in direct service of the fine and/or restitution obligation or otherwise has the expressed approval of the Court.

#### **SELF-EMPLOYMENT/BUSINESS DISCLOSURE**

You shall cooperate with the U.S. Probation Office in the investigation and approval of any position of self-employment, including any independent, entrepreneurial, or freelance employment or business activity. If approved for self-employment, you shall provide the U.S. Probation Office with full disclosure of your self-employment and other business records, including, but not limited to, all of the records identified in the Probation Form 48F (Request for Self Employment Records), or as otherwise requested by the U.S. Probation Office.

Defendant: WILLIAM MAXWELL

Case Number: 1:11-CR-00740 (03)

**STANDARD CONDITIONS OF SUPERVISED RELEASE**

While the defendant is on supervised release pursuant to this Judgment:

- 1) The defendant shall not commit another federal, state, or local crime during the term of supervision.
- 2) The defendant shall not illegally possess a controlled substance.
- 3) If convicted of a felony offense, the defendant shall not possess a firearm or destructive device.
- 4) The defendant shall not leave the judicial district without the permission of the court or probation officer.
- 5) The defendant shall report to the probation officer in a manner and frequency directed by the Court or probation officer.
- 6) The defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer.
- 7) The defendant shall support his or her dependents and meet other family responsibilities.
- 8) The defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons.
- 9) The defendant shall notify the probation officer within seventy-two hours of any change in residence or employment.
- 10) The defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute or administer any narcotic or other controlled substance, or any paraphernalia related to such substances.
- 11) The defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered.
- 12) The defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer.
- 13) The defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view by the probation officer.
- 14) The defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer.
- 15) The defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court.
- 16) As directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.
- (17) You shall cooperate in the collection of DNA as directed by the Probation Officer.

*(This standard condition would apply when the current offense or a prior federal offense is either a felony, any offense under Chapter 109A of Title 18 (i.e., §§ 2241-2248, any crime of violence [as defined in 18 U.S.C. § 16], any attempt or conspiracy to commit the above, an offense under the Uniform Code of Military Justice for which a sentence of confinement of more than one year may be imposed, or any other offense under the Uniform Code that is comparable to a qualifying federal offense);*

- (18) Upon request, you shall provide the U.S. Probation Office with full disclosure of your financial records, including co-mingled income, expenses, assets and liabilities, to include yearly income tax returns. With the exception of the financial accounts reported and noted within the presentence report, you are prohibited from maintaining and/or opening any additional individual and/or joint checking, savings, or other financial accounts, for either personal or business purposes, without the knowledge



Defendant: WILLIAM MAXWELL  
Case Number: 1:11-CR-00740 (03)

and approval of the U.S. Probation Office. You shall cooperate with the Probation Officer in the investigation of your financial dealings and shall provide truthful monthly statements of your income. You shall cooperate in the signing of any necessary authorization to release information forms permitting the U.S. Probation Office access to your financial information and records;

- (19) As directed by the U.S. Probation Office, you shall participate in and complete any educational, vocational, cognitive or any other enrichment program offered by the U.S. Probation Office or any outside agency or establishment while under supervision;
- (20) You shall not operate any motor vehicle without a valid driver's license issued by the State of New Jersey, or in the state in which you are supervised. You shall comply with all motor vehicle laws and ordinances and must report all motor vehicle infractions (including any court appearances) within 72 hours to the U.S. Probation Office;

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Upon a finding of a violation of probation or supervised release, I understand that the Court may (1) revoke supervision or (2) extend the term of supervision and/or modify the conditions of supervision.

These conditions have been read to me. I fully understand the conditions, and have been provided a copy of them.

You shall carry out all rules, in addition to the above, as prescribed by the Chief U.S. Probation Officer, or any of his associate Probation Officers.

(Signed) \_\_\_\_\_  
Defendant Date

\_\_\_\_\_  
U.S. Probation Officer/Designated Witness Date

Defendant: WILLIAM MAXWELL  
Case Number: 1:11-CR-00740 (03)

### RESTITUTION AND FORFEITURE

#### RESTITUTION

The defendant shall make restitution in the amount of \$14,180,798. The Court will waive the interest requirement in this case. Payments should be made payable to the **U.S. Treasury** and mailed to Clerk, U.S.D.C., 402 East State Street, Rm 2020, Trenton, New Jersey 08608, for distribution to **FirstPlus Financial Group c/o Matthew Orwig, Esq. Chapter 11 Trustee**, 2727 North Harwood Street, Dallas, Texas 75201. The amount ordered represents the total amount due to the victim for this loss. The defendant's restitution obligation shall not be affected by any restitution payments made by other defendants in this case, except that no further payments shall be required after the sum of the amounts actually paid by all defendants has fully satisfied this loss. The following defendant(s) in the following case(s) may be subject to restitution orders to the same victim for this same loss:

Nicodemo S. Scarfo	Cr. No.: 11-00740-001
Salvatore Pelullo	Cr. No.: 11-00740-002
John Maxwell	Cr. No.: 11-00740-004
Cory Leshner	Cr. No.: 11-00740-006
John Parisi	Cr. No.: 11-00740-007
Howard Drossner	Cr. No.: 11-00740-009

The restitution is due immediately and shall be paid in monthly installments of no less than \$1,000.00, to commence 30 days after release from confinement. If the defendant participate in the Bureau of Prisons Inmate Financial Responsibility Program, the restitution shall be paid from those funds at a rate equivalent to \$25 every 3 months.

#### FORFEITURE

The Court order forfeiture as set forth in the Court's order dated July 30, 2015.

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) community restitution, (6) fine interest, (7) penalties, and (8) costs, including cost of prosecution and court costs.

AFFIDAVIT


THE STATE OF TEXAS    §  
  §  
COUNTY OF TRAVIS    §

BEFORE ME, the undersigned authority, on this day personally appeared Rebecca (Beth) Stevens, Petitioner's attorney of record, who, being by me duly sworn, deposed as follows:

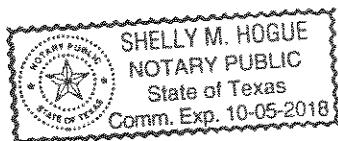
"My name is Rebecca (Beth) Stevens. I am over the age of 18 years, of sound mind, capable of making this affidavit, and state the following:

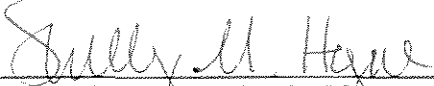
Based upon information and belief, William Topp Maxwell, whose Texas Bar Card Number is 24028775, is licensed as an attorney and counselor at law in the State of Texas. Based upon information and belief, William Topp Maxwell, named as Respondent in the Petition for Compulsory Discipline filed with the Board of Disciplinary Appeals is one and the same person as the William Maxwell who is the subject of the Judgement in Criminal Case and the Amended Judgment (as to forfeiture) in a Criminal Case entered in Case No. 1:11-CR-00740 (03), styled *United States of America v. William Maxwell, Defendant*, in the United States District Court for the District of New Jersey, wherein Respondent was found guilty of Count One - Racketeering Conspiracy, Count Two - Conspiracy to Commit Securities Fraud, Count Three - Conspiracy to Commit Wire Fraud, Counts Four through Nineteen - Wire Fraud, Count Twenty - Conspiracy to Commit Money Laundering, County Twenty-Three - Conspiracy to Obstruct Justice, Count Twenty-Four - Conspiracy to Sell or Transfer Firearms and Ammunition to a Prohibited Person and who was committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of 240 months on each of Counts 1, 3 through 20, and 23; and 60 months on each of Counts 2 and 24; all such terms to run concurrent, to produce a total term of imprisonment of 240 months and who was further ordered upon release from imprisonment to be on supervised release for 3 years on each of Counts 1 thorough 20, 23, and Count 24, all such terms to run concurrently, ordered to pay an assessment of \$2,200.00 and also ordered to pay restitution in the amount of \$14,180,798.00."

FURTHER Affiant saith not.

  
\_\_\_\_\_  
Rebecca (Beth) Stevens

SWORN AND SUBSCRIBED before me on the 25 day of August 2015.



  
\_\_\_\_\_  
NOTARY PUBLIC IN AND FOR  
THE STATE OF TEXAS