

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA : Criminal No. 08-
v. : 26 U.S.C. § 7206(1)
JOHN J. MONTEFUSCO, JR. : I N F O R M A T I O N

The defendant having waived in open court prosecution by Indictment, the United States Attorney for the District of New Jersey charges that:

COUNTS ONE TO THREE
(FILING FALSE TAX RETURNS)

1. At all times relevant to this Information:
 - a. Defendant JOHN J. MONTEFUSCO, JR. ("MONTEFUSCO, JR."), a resident of Morris Plains, New Jersey, was employed as an insurance broker who offered insurance products and services to various individuals and entities in the State of New Jersey. Until its dissolution in or about May 2005, defendant MONTEFUSCO, JR. was a partner at an insurance brokerage company located in Parsippany, New Jersey ("Company 1"). Beginning in or about May 2005, defendant MONTEFUSCO, JR. owned and operated another insurance brokerage business located in Morris Plains, New Jersey ("Company 2").
 - b. JOHN J. MONTEFUSCO, SR. ("MONTEFUSCO, SR."), a relative of MONTEFUSCO, JR., served as the Parsippany-Troy Hills ("PTH") Planning Board Attorney, who provided all legal

counsel to the Planning Board, and served as legal advisor on matters relative to the Planning Board's standard operation. MONTEFUSCO SR.'s duties included, but were not limited to: preparing reports and providing advice on whether site developments and subdivisions complied with applicable land use regulations and ordinances; providing legal advice and representing the Planning Board concerning all litigation and mediation brought against the Board; drafting resolutions for site-development applications approved by the Planning Board; attending all Planning Board meetings; and interacting with the Township administration on related land-use issues.

c. There was a commercial and residential real estate developer ("the Developer") who owned, in part, and operated several development properties organized as limited liability corporations (LLCs). The Developer personally oversaw each LLC's business involvement with the Planning Board and Township, including, but not limited to: efforts to obtain site-plan and subdivision approvals and resolutions from the Planning Board; and negotiation and settlement of litigation or mediation relating to pre-existing Council on Affordable Housing ("COAH") obligations, to include sewer connection fees and Regional Contribution Agreement funds. To aid in these efforts, the Developer sought official assistance from MONTEFUSCO, SR. in his capacity as the Planning Board Attorney.

Failure to Report Capital Gains from Property Flips

2. From in or about October 2001 to in or about October 2006, MONTEFUSCO, SR. and others devised a scheme and artifice to defraud the Planning Board, the Township of PTH, and the citizens of the Township, of the right to defendant MONTEFUSCO, SR.'s honest services in the affairs of the Planning Board. Specifically, MONTEFUSCO SR. accepted certain things of value, for the benefit of himself and certain family members, from the Developer in exchange for MONTEFUSCO SR.'s official assistance in certain land-use and development-related matters of the Developer's that were pending before the Planning Board and the Township of PTH.

3. As a result of this corrupt scheme, MONTEFUSCO, SR.'s family members, including defendant MONTEFUSCO, JR., received substantial personal benefits through the Developer, including, but not limited to:

- a. Significantly discounted purchase prices for residential properties built by the Developer;
- b. Lenient settlement dates and arrangements, contrary to the terms of the property purchase agreements, that allowed time for defendant MONTEFUSCO, JR. to identify third-party purchasers to successfully resell (or "flip") said properties to these third-party purchasers;
- c. Purchase of properties without satisfying any mortgage contingency obligation as per the property purchase agreement;
- d. Minimal deposit monies down for purchase of properties, while purchase documentation falsely represented the

amount of money deposited on properties; and

- e. Free options, upgrades and extras added to the properties, and paid for, by the Developer.

All of these benefits, collectively, allowed defendant MONTEFUSCO, JR. to successfully flip residential properties and derive substantial proceeds (the "sale proceeds") from the sale of these residential properties that constituted taxable capital gains.

4. In or about 2003, defendant MONTEFUSCO, JR. successfully flipped two of these properties, deriving capital gains of approximately \$35,281 and \$62,295, respectively. Additionally, in or about 2003, defendant MONTEFUSCO, JR. received approximately \$43,950 in upgrades, options and extras added to his primary residence, which the Developer paid as part of the scheme to defraud.

Failure to Report Income Falsely Characterized as "Travel and Entertainment" Expenses

5. As a partner of Company 1, defendant MONTEFUSCO, JR. received travel and entertainment ("T & E") expense payments of approximately \$1,000 per month. Though T & E expense payments were to be used for legitimate business purposes, defendant MONTEFUSCO, JR., in large part, utilized these monies for personal purposes unrelated to Company 1's business activities, to include vacations, hunting and fishing equipment, meals, and payment of personal debts incurred. As a result of these false

characterizations, defendant MONTEFUSCO, JR. failed to report approximately \$18,075 as income on his tax year 2003 federal income tax return.

6. On or about April 15, 2004, defendant MONTEFUSCO, JR. signed a personal federal income tax return (Internal Revenue Service ("IRS") Form 1040) for tax year 2003, which contained written declarations that were made under penalty of perjury, and filed and caused to be filed with the IRS this return on which defendant MONTEFUSCO, JR. purported to declare all of his taxable income, but which was not true and correct as to every material matter in that the return did not report as taxable income the income set forth in Paragraphs 4 and 5.

Diversion of Company 1 Funds to defendant MONTEFUSCO, JR.'s Personal Account & Improper Carry-Over of Capital Loss

7. In or about 2004, a customer caused a check to be payable to Company 1 for insurance services rendered in the amount of approximately \$1,192. Defendant MONTEFUSCO, JR. caused this check to be deposited into his personal account rather than depositing the check into the MPA business account.

8. In his tax year 2004 return, defendant MONTEFUSCO, JR. carried over a capital loss of approximately \$12,059 from his tax year 2003 return (Schedule D Capital Gains and Losses) based upon his failure to report the capital gains set forth in Paragraph 4 above. Defendant MONTEFUSCO, JR. therefore improperly carried over that capital loss that permitted him to deduct the \$3,000

maximum loss allowed in a tax year, thereby improperly decreasing his adjusted gross income for tax year 2004.

9. On or about September 26, 2005, defendant MONTEFUSCO, JR. signed a personal federal income tax return (Internal Revenue Service ("IRS") Form 1040) for tax year 2004, which contained written declarations that were made under penalty of perjury, and filed and caused to be filed with the IRS this return on which defendant MONTEFUSCO, JR. purported to declare all of his taxable income, but which was not true and correct as to every material matter in that the return did not report the items of income and deductions as set forth in Paragraphs 7 and 8.

Failure to Report Diverted Income and Annual Bonus Payments from Company 1

10. In or about January 2005, a new partner paid a capital contribution of approximately \$15,000 to join Company 1. Defendant MONTEFUSCO, JR., caused this check to be deposited into his personal account rather than depositing the check into the Company 1 business account, and failed to report these monies as income on his tax year 2005 federal income tax return.

11. In or about March 2005, defendant MONTEFUSCO, JR. received an annual bonus from Company 1 in the amount of approximately \$16,141, and failed to report this as income on his tax year 2005 federal income tax return.

Payment of Personal Expenses from Company 2 Business Account

12. In or about 2005, defendant MONTEFUSCO, JR. improperly deducted approximately \$16,011 in personal expenses on his tax year 2005 federal income tax return, Schedule C (Company 2 business expenses).

Failure to Report Capital Gains from Company 1 Dissolution & Improper Carry-Over of Capital Loss

13. Upon dissolution of Company 1, defendant MONTEFUSCO, JR.'s tax basis was overstated by approximately \$41,414 in Company 1's 2005 partnership federal income tax return, Schedule K-1. This overstatement caused defendant MONTEFUSCO, JR. to realize approximately \$14,381 in unreported capital gain for the tax year 2005. Defendant MONTEFUSCO, JR. failed to report this capital gain on Schedule D (Capital Gains and Losses) of his 2005 federal income tax return.

14. In his tax year 2005 return, defendant MONTEFUSCO, JR. carried over a capital loss of approximately \$9,059 from his tax year 2004 return (Schedule D Capital Gains and Losses) based upon failure to report capital gains set forth in Paragraph 4 above. Defendant MONTEFUSCO, JR. improperly carried over that capital loss that permitted him to deduct the \$3,000 maximum loss allowed in a tax year, thereby improperly decreasing his adjusted gross income for tax year 2005.

15. On or about September 15, 2006, defendant MONTEFUSCO, JR. signed a personal federal income tax return (Internal Revenue Service ("IRS") Form 1040) for tax year 2005, which contained written declarations that were made under penalty of perjury, and filed and caused to be filed with the IRS this return on which defendant MONTEFUSCO, JR. purported to declare all of his taxable income, but which was not true and correct as to every material matter in that the return did not report the items of income and deductions set forth in Paragraphs 10 through 14.

16. On or about the dates set forth below, in Morris County, in the District of New Jersey, and elsewhere, defendant

JOHN J. MONTEFUSCO, JR.

knowingly and willfully did make and subscribe Individual Income Tax Returns, IRS Forms 1040 as set forth below, which contained and were verified by written declarations that these returns were made under the penalties of perjury, and which defendant MONTEFUSCO, JR. did not believe to be true and correct as to every material matter in that he intentionally failed to report income by the methods set forth above in the amounts set forth below:

Count	Approximate Filing Date	Income Tax Return	Taxable Income Reported	Approx. Unreported Income	Approx. Tax Loss
1	4/15/2004	2003 U.S. Individual Income Tax Return, Form 1040	\$51,812	\$159,601	\$43,505
2	9/26/2005	2004 U.S. Individual Income Tax Return, Form 1040	\$42,896	\$3,682	\$555
3	9/15/2006	2005 U.S. Individual Income Tax Return, Form 1040	\$25,962	\$64,533	\$14,976

In violation of Title 26, United States Code, Section 7206(1).

CHRISTOPHER J. CHRISTIE
United States Attorney