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2010R00402

AT 8:30 _____M
WILLIAM T. WALSH, CLERK

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA	:	Hon. Katharine S. Hayden
	:	
v.	:	Criminal No. 11-554 (S-1)
	:	
GREGORY CICCONE	:	
	:	
	:	18 U.S.C. §§ 1341, 1343, 2
	:	26 U.S.C. § 7206

SUPERSEDING INDICTMENT

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

COUNT ONE - MAIL FRAUD
(18 U.S.C. § 1341 and § 2)

The Defendant and GAC Consulting Group, L.L.C.

1. At various times relevant to this Superseding Indictment:
 - a. Defendant GREGORY CICCONE was a resident of Wayne, New Jersey and the owner and President of a Wayne, New Jersey-based business called GAC Consulting Group, L.L.C. ("GAC").
 - b. GAC was in the business of contracting with charities and non-profit organizations ("NPOs") to arrange for the provision of high-value prizes to be auctioned off to winning bidders during fund-raising events held to benefit the charities or NPOs.
 - c. Various national and local charities and NPOs (together, the "victim charities") held fund-raising events

designed to raise money to benefit a number of causes, including funding medical research, supporting education, and assisting troubled youth and the economically disadvantaged. These fund-raising events were sometimes held as live events at venues such as restaurants or clubs, while other events were conducted in an electronic format, via the Internet. Whether the event was in-person or electronic, the victim charities listed items offered by GAC, and donors bid hundreds, thousands, and sometimes tens of thousands of dollars in an effort to be awarded these items.

The Scheme to Defraud

2. From at least in or about October 2006 through at least in or about April 2010, in the District of New Jersey and elsewhere, defendant

GREGORY CICCONE

did knowingly devise and intend to devise a scheme and artifice to defraud and for obtaining money and property by means of materially false and fraudulent pretenses, representations, and promises, as set forth below.

The Object of the Scheme to Defraud

3. The object of the scheme and artifice to defraud was for defendant GREGORY CICCONE to induce victim charities, through false representations and promises, to retain and then pay GAC to provide auction items for their fund-raising events.

The Manners and Means of the Scheme to Defraud

4. Among the manners and means used by defendant GREGORY CICCONE to carry out his scheme to defraud are those set forth in paragraphs 5 through 13 below:

5. In his role as Owner and President of GAC, defendant GREGORY CICCONE conducted the regular business affairs of GAC, including but not limited to undertaking contractual negotiations and corresponding with the victim charities, making personal appearances at certain fund-raising events, and corresponding with winning bidders.

6. During in-person meetings, as well as in telephonic and electronic communications with representatives from the victim charities, defendant GREGORY CICCONE touted his ability to provide high-value auction items to be bid upon and awarded to the highest bidder at fund-raising events and sought to represent the victim charities.

7. Once a particular victim charity accepted defendant GREGORY CICCONE and GAC's representations and retained GAC, that victim charity then countersigned a contract that typically required it to make two payments to GAC: (1) an up-front retainer fee paid prior to the fund-raising event, and (2) a commission on the monies pledged by or collected from the winning bidders after the event. In this manner, defendant GREGORY CICCONE collected tens of thousands of dollars in

retainer fees from the victim charities for the stated purpose of securing auction items for fund-raising events.

8. After fund-raising events were held, the victim charities then paid the contracted commission to GAC. As a result of successful bids being received by the victim charities, defendant GREGORY CICCONE collected tens of thousands of dollars in commission fees from the victim charities.

9. Despite receiving payments from the victim charities, defendant GREGORY CICCONE often failed to provide the prize items to the winning bidders, and often did not comply with demands for a refund.

10. In order to further his scheme, defendant GREGORY CICCONE, in many instances, falsely claimed the ability to provide prizes that he had no ability to procure and award to the "winning" bidders. Defendant CICCONE misrepresented his ability to provide the victim charities with the following prizes, among others: (a) a walk-on role on the "Desperate Housewives" television show; (b) tickets to the 2009 Tony Awards; (c) the appearance of a celebrity who happens to be a cancer survivor; and (d) a round of golf at Augusta National Golf Course in Augusta, Georgia. These prizes and others were sometimes offered by defendant CICCONE to multiple victim charities, despite defendant CICCONE's knowledge that he had no ability to provide these prizes.

11. As a result of defendant CICCONE's misrepresentations, victim charities had to cancel events, return hundreds of thousands of dollars in winning bids, and ended up losing the goodwill of donors. Victim charities and winning bidders attempted to contact defendant CICCONE on multiple occasions in futile attempts to receive a refund of monies paid or to collect on prizes.

12. Defendant CICCONE used a litany of excuses and delay tactics to facilitate his fraudulent scheme, including sending electronic communications to victim charities and bidders in which he claimed, among other things, that: (a) GAC was closed "for reorganization"; (b) shows had been cancelled; and (c) the dates for the 2009 Tour de France had changed - and therefore a prize package may be invalidated.

13. As a result of defendant CICCONE's fraudulent scheme, both the victim charities and the winning bidders of the charity's fund-raising events were defrauded. Through his scheme, defendant CICCONE caused approximately \$768,000 in losses to at least 17 different victim charities and winning bidders in the form of, among other things, commissions and retainers, the value of lost pledges to the charities, and money spent by the victim charities to obtain replacement prizes for the winning bidders.

14. On or about August 20, 2008, in Passaic County, in the District of New Jersey, and elsewhere, for the purpose of executing and attempting to execute the scheme and artifice described above, defendant

GREGORY CICCONE

did knowingly cause to be sent and delivered by a private or commercial interstate carrier certain mail matter, namely a check in the amount of \$10,000 from a victim charity in New York, New York, to GAC in Wayne, New Jersey.

In violation of Title 18, United States Code, Sections 1341 and 2.

COUNT TWO - WIRE FRAUD
(18 U.S.C. § 1343 and § 2)

1. The allegations set forth in Paragraphs 1 through 13 of Count One of this Superseding Indictment are hereby realleged as if fully set forth herein.

2. On or about November 17, 2008, in Passaic County, in the District of New Jersey, and elsewhere, for the purpose of executing and attempting to execute the scheme and artifice described above, defendant

GREGORY CICCONE

did knowingly cause to be transmitted, by means of wire communication in interstate commerce, \$15,000 from the bank account of a victim charity in Tampa, Florida, to an account under the control of defendant CICCONE and GAC in New Jersey.

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

COUNT THREE - FILING A FALSE TAX RETURN
(26 U.S.C. § 7206(1))

1. The allegations set forth in Paragraphs 1 through 13 of Count One of this Superseding Indictment are hereby realleged as if fully set forth herein.

2. In 2009, victim charities paid to GAC over approximately \$115,000 in retainer fees, commissions and other monies in connection with their retention of GAC. These monies were deposited into bank accounts controlled by defendant GREGORY CICCONE.

3. In 2009, defendant CICCONE received over approximately \$1,200 in casino gambling winnings.

4. On or about May 13, 2011 defendant CICCONE signed, filed, and caused to be filed with the IRS a 2009 U.S. Individual Tax Return, Form 1040 (the "2009 Tax Return") which stated that defendant CICCONE received \$43,303 in business income from GAC Consulting Group L.L.C. The 2009 Tax Return did not list any gambling winnings.

5. The 2009 Tax Return was signed by defendant CICCONE and contained a written declaration that it was signed under penalty of perjury.

6. The 2009 Tax Return was not true and correct as to every material matter, in that the return failed to report defendant CICCONE's gambling winnings and also failed to report over approximately \$70,000 in income that defendant

CICCONE received from victim charities during the calendar year 2009, upon which a substantial additional tax was due and owing.

7. On or about May 13, 2011, in Passaic County, in the District of New Jersey, and elsewhere, defendant

GREGORY CICCONE

did knowingly and willfully make and subscribe a 2009 U.S. Individual Income Tax Return, Form 1040, as described in paragraph 4 of Count Three of this Superseding Indictment, which he did not believe to be true and correct as to every material matter, as described in paragraph 6 of Count Three of this Superseding Indictment.

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

FORFEITURE ALLEGATION

1. The allegations contained in this Superseding Indictment are hereby realleged and incorporated by reference for the purpose of noticing forfeiture pursuant to Title 18, United States Code, Section 982(a)(7).

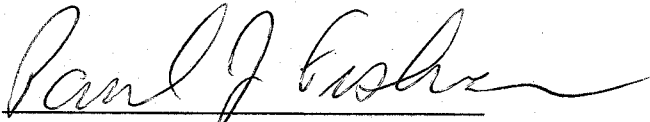
2. Upon conviction of the offenses in violation of Title 18, United States Code, Sections 1341 and 1343, the defendant, GREGORY CICCONE, shall forfeit to the United States, pursuant to Title 18, United States Code, Section 982(a)(7), all right, title, and interest in any property, real or personal, that constitutes or is derived, directly or indirectly, from gross proceeds traceable to the offenses of conviction, including but not limited to a sum of money equal to at least \$768,103 in United States currency.

3. If any of the property described above, as a result of any act or omission of the defendant:

- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third party;
- 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 divided without difficulty, the United States shall be entitled, pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 18, United States Code, Section 982(a)(7), to forfeiture of any other property of the defendant, GREGORY CICCONE, up to the value of the property described in the preceding paragraph.

A TRUE BILL



PAUL J. FISHMAN
United States Attorney

CASE NUMBER: 2010R00402

**United States District Court
District of New Jersey**

UNITED STATES OF AMERICA

v.

GREGORY CICCONE

SUPERSEDING INDICTMENT FOR

18 U.S.C. §§ 1341, 1343, and 2
26 U.S.C. § 7206

A True Bill,

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