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2011R00443/ewm

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

AT 8:30 _____M
WILLIAM T. WALSH, CLERK

UNITED STATES OF AMERICA : Criminal No. 11-522 (JAP)-01

:

: 18 U.S.C. §§ 981(a)(1)(C),

v. : 1343, 1349, 1951(a) and (b)(2)

: & § 2; and 28 U.S.C. § 2461

:

THOMAS G. FREY :

: I N D I C T M E N T

:

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

COUNT 1

(Conspiracy to Extort Under Fear of Economic Harm)

1. At all times relevant to Count 1 of this Indictment, defendant THOMAS G. FREY was a licensed attorney in the State of New Jersey and certified public accountant whose office was located in Metuchen, New Jersey. Between in or about 2008 and 2009, defendant FREY represented the subject of an Internal Revenue Service ("IRS") criminal investigation, during which he corresponded with two IRS Criminal Investigation Division Special Agents, referred to herein as "Special Agent 1" and "Special Agent 2." Special Agent 1 and Special Agent 2 provided defendant FREY with their business cards at that time.

2. Robert G. Cusic, Jr. was a mortgage broker in New Jersey. At various times, Cusic purported to own and operate a real estate management company in New Jersey.

3. At all times relevant to Count 1 of this Indictment:

a. An uncharged co-conspirator of defendant FREY and Cusic ("CC-1") was a licensed attorney with an office in Wall Township, New Jersey. (Defendant FREY, CC-1 and Cusic are hereinafter collectively referred to as the "Conspirators.")

b. Victim 1 was a police officer in New Jersey and the owner of certain real estate investment properties located in Freehold Borough, New Jersey ("Freehold").

c. Victim 2 was the owner of certain real estate investment properties located in Freehold.

d. Victim 3 was, at certain times set forth herein, the owner of certain real estate investment properties located in Freehold.

e. Victim 4 was a police officer in New Jersey and the owner of certain real estate investment properties located in Freehold. (Victims 1, 2, 3 and 4 are hereinafter collectively referred to as the "Victims.") The Victims were engaged in the business of owning and renting the Investment Properties to tenants, in interstate commerce, and a business which affects interstate commerce.

f. Individual 1 and Individual 2 were police officers in New Jersey who owned investment properties located in Freehold.

4. Since in or about 2003, CC-1 represented the Victims in connection with the purchase and sale of real estate investment properties located in Freehold and elsewhere (the "Investment

Properties") and the renegotiation of mortgages on certain of those properties. Cusic served as the Victims' mortgage broker in connection with the purchase of certain of the Investment Properties.

5. In or about late 2010 or early 2011, CC-1 informed Victim 1 of a group of investors who were interested in the possible purchase of certain of the Investment Properties from the Victims. In or about January 2011, CC-1 represented Victim 3 in the sale of four of the Investment Properties to 135 Easton Avenue, LLC. Cusic acted as an agent of 135 Easton Avenue, LLC in connection with that entity's purchase of the properties. Defendant FREY held an interest in 135 Easton Avenue, LLC and, along with other investors, invested a portion of the purchase price for Victim 3's four Investment Properties.

6. In or about March 2011, while defendant FREY and Cusic were present at the facility of one of defendant FREY's clients located in Pennsylvania, defendant FREY and Cusic devised a scheme to obtain legal fees from the Victims and to cause them to sell certain of the Investment Properties to defendant FREY's LLC that involved, among other things, falsely informing the Victims that they were the subject of an IRS criminal investigation related to the Investment Properties. In furtherance of this scheme, defendant FREY placed calls from defendant FREY's cellular telephone, then located in Pennsylvania, to CC-1's cellular telephone, then located in New Jersey. During a

telephone conversation on or about March 24, 2011, defendant FREY and Cusic discussed the false IRS criminal investigation with CC-1. CC-1, in turn, informed Victim 1 that the Victims were the subject of a criminal investigation by the IRS and arranged a meeting with the Victims at CC-1's office that day.

*The March 24, 2011 Meeting and
Teleconference Among Defendant Frey, CC-
1, Cusic and Some of the Victims.*

7. On or about March 24, 2011, CC-1, Victim 1 and Victim 4 met at CC-1's office in Wall Township. During that meeting, CC-1 initiated a telephone conference call with defendant FREY and Cusic. CC-1 then initiated a telephone conference call to Victim 3, who was in Florida. During the meeting, Cusic falsely informed these victims that two IRS agents had approached Cusic at one of the Investment Properties that Cusic had purchased from Victim 3. Cusic further advised these victims that the Monmouth County Prosecutor's Office (the "MCPO") was investigating police officers within Victim 1 and Victim 4's police department for mortgage fraud. Cusic stated he had spoken to a certain individual and falsely stated that the MCPO was investigating certain of the Victims for mortgage fraud. Cusic falsely told them that the IRS agents had provided Cusic with their business cards. Defendant FREY told these victims that defendant FREY knew one of the Special Agents, Special Agent 1. Defendant FREY stated that if the two IRS criminal investigators were involved,

then the United States Attorney's Office also was assigned to the case. Defendant FREY informed these victims that he would call Special Agent 1's office to inquire about the nature of the IRS's investigation and that defendant FREY would get back to CC-1 with the information.

8. Later, on or about March 24, 2011, CC-1 called both Victim 1 and Victim 4 over the telephone, arranged another meeting with defendant FREY at defendant FREY's office on March 26, 2011, and advised that, to retain defendant FREY, these victims each would have to bring copies of their 2007 and 2008 personal federal income tax returns and a \$10,000 initial retainer fee (defendant FREY later informed the Victims that defendant FREY's purported legal and accounting services would cost each of the Victims up to approximately \$20,000).

*The March 26, 2011 Meeting and
Teleconference Among Defendant FREY, CC-
1 and the Victims.*

9. On or about March 26, 2011, at approximately 9:30 a.m., Victim 1, Victim 2, Victim 4 and CC-1 attended a meeting at defendant FREY's office in Metuchen, New Jersey. During the meeting, defendant FREY called Victim 3, who participated in the meeting by telephone from Florida. Defendant FREY falsely informed the Victims that defendant FREY had spoken to Special Agent 1, who had confirmed to defendant FREY that Special Agent 1's office had a criminal investigation open on Victims 1, 3 and 4. Defendant FREY showed the victims present at the meeting the

business cards of Special Agent 1 and Special Agent 2 and falsely stated that the agents had given these cards to Cusic when they approached Cusic at a property that Victim 3 had sold to 135 Easton Avenue, LLC. Defendant FREY also falsely stated that Special Agent 1 had explained to defendant FREY that certain of the victims were brought to the IRS's attention through a computer program used by the IRS. Defendant FREY falsely indicated to the Victims that Special Agent 1 had told defendant FREY that the Victims' 2007 and 2008 personal federal income tax returns prompted the IRS problems. Defendant FREY further advised the Victims that the "way out" was to amend their 2007 and 2008 personal federal income tax returns. Defendant FREY stated that defendant FREY knew Special Agent 1, and that defendant FREY and Special Agent 1 had a working relationship. Defendant FREY falsely stated that once defendant FREY amended the Victims' 2007 and 2008 tax returns, defendant FREY would forward the returns to Special Agent 1 who would convert the IRS inquiry from a criminal investigation to a civil audit. Defendant FREY further told the Victims that, if they engaged defendant FREY, then defendant FREY would "put the brakes on" the criminal investigation. Defendant FREY told the Victims that if they did not engage defendant FREY, defendant FREY would not speak to Special Agent 1 again on their behalf and the criminal investigation would proceed. Defendant FREY further told the Victims that defendant FREY had represented a previous client in

a similar situation, who was sentenced to 6 months in prison. Defendant FREY stated that his initial retainer fee would be \$10,000 because there would be a lot of work. Defendant FREY and CC-1 addressed the possibility of the Victims filing for bankruptcy and selling the Investment Properties. Defendant FREY advised the Victims to distance themselves from the Investment Properties by hiring Cusic's property management company. At the conclusion of the March 26, 2011 meeting, defendant FREY scheduled a second meeting at defendant FREY's office.

10. On or about March 29, 2011, Victim 1 contacted the IRS and learned that neither Special Agent 1 nor Special Agent 2 were investigating the Victims.

The March 30, 2011 Meeting Among Defendant FREY, the Victims, and the Consensually Recorded Call Between CC-1 and Victim 1.

11. On or about March 30, 2011, Victim 3, who at that time had not been informed that certain of the Victims had approached federal law enforcement with information regarding the Conspirators' conduct, and who remained under the impression that Victim 3 was the subject of an IRS criminal investigation, flew from Florida to New Jersey to meet with defendant FREY that day, pay defendant FREY's \$10,000 initial fee, and retain defendant FREY's legal and accounting services in connection with the purported criminal tax investigation.

12. On or about March 30, 2011, defendant FREY and the Victims attended a meeting at defendant FREY's office. In coordination with law enforcement, Victim 1 and Victim 4 consensually video and audio recorded the meeting. Defendant FREY falsely stated that Special Agent 1 had called defendant FREY. Defendant FREY further told the Victims that these IRS Special Agents were "the most sophisticated area of the IRS." Defendant FREY assured the Victims that representing them in connection with the purported criminal investigation would be "pretty easy," "provided we get ahead of the curve." Defendant FREY falsely stated that Special Agent 1 had inquired with defendant FREY about the status of his representation of the Victims and that defendant FREY had told Special Agent 1 that he would meet with the Victims. Defendant FREY further falsely stated that he would "touch[] base with" Special Agent 1, advise Special Agent 1 that the Victims had retained him, "and then I'll just establish the schedule." Defendant FREY stated that if Special Agent 1 was "comfortable with that," then defendant FREY would "drag it out longer because time helps you, it doesn't help him." Defendant FREY stated he would "get with [CC-1]" to file amended federal income tax returns on the Victims' behalf. Victim 3 asked defendant FREY if the IRS would disclose what they believed to be the problem with the Victims' tax returns and defendant FREY responded as follows:

FREY: No, you will not, they'll never disclose that.

V3: They'll never disclose that?

FREY: Th-, they can't. They'll-, by virtue of the fact that they can't sit there and, um, disclose, number one, this is what we found to be in error. They'll just ask a whole slew of questions.

Defendant FREY further advised the Victims that because the Investment Properties were "in your individual names" that their "exposure" was "unlimited." Defendant FREY stated that once Special Agent 1 saw that the amended returns were submitted, Special Agent 1 would stop his investigation and the matter would go to an IRS Revenue Officer, the "lowest" level of the IRS. Defendant FREY informed the Victims that he would file amended personal federal income tax returns for the Victims for tax years 2007, 2008, 2009 and 2010. Defendant FREY stated that he had to "get something started" and that "I gotta tell him [Special Agent 1] that I at least have something." Defendant FREY stated that he had dealt with Special Agent 1 on two prior occasions and that one of his client's "did extremely well" and the other was "serving a year and a day, uh, which is not bad. Minimum security." Defendant FREY advised Victim 1 and Victim 4 that they were particularly vulnerable given that they were police officers, as follows:

V4: [Victim 1] and I, with our jobs, we don't want to, um-

FREY: -well, that would be the thing, I mean, you know, would it get to that? No. But you guys are in a different, you two are in a different position.

V1: That's what were' af-, obviously, we're afraid of.

FREY: Yea, I mean that's the risk, I mean, it's-, you're held to a higher standard. So, I mean, you know, you're kind of like myself. You're held to a higher standard even if you don't know what that standard is or you spit on the sidewalk, you know, everyone else does, why can't I?

V4: Do we tell work? What do we-

FREY: I wouldn't tell anybody anything. The more people you tell, the more trouble you get into.

Defendant FREY advised the Victims that defendant FREY's total fee would be \$15,000 each, plus another \$5,000 if there was an appeal, for a total of \$20,000 per Victim. Defendant FREY further advised the Victims to stay away from the Investment Properties and to not collect rents. Defendant FREY stated:

you don't want to be walking around these properties because how can you possibly answer the question, what are you doing there?

. . . .

You-, you're already represented by somebody, you're represented by [CC-1] and myself, what are you still doing at these properties? You know, because, [CC-1], didn't you tell them to, uh, get a management company, Tom [defendant FREY], didn't you tell them to get a management? Yeah we did, yeah we did. Now

all the sudden you're still there, what are you doing there?

Defendant FREY instructed the Victims to retain Cusic's management company to collect the rent at the Investment Properties. Defendant FREY further stated that Special Agent 2 also was involved in the criminal investigation. Defendant FREY told the Victims to "have [CC-1] call, call him [Cusic] there simply from the standpoint that he's [CC-1] also involved with the, uh, modifications and stuff." Victim 1 asked defendant FREY how the Victims could "dispose" of the Investment Properties or get a "layer of protection" after any IRS audit. Defendant FREY responded that the Victims should "cherry pick" the Investment Properties, meaning dispose of them and keep only a few, because the Victims were "already under a spotlight." Defendant FREY stated that he and CC-1 would "kind of just work together." Defendant FREY accepted \$5,000 in cash and a \$5,000 check from Victim 3 as defendant FREY's initial retainer fee to represent Victim 3 with respect to the purported criminal investigation. The other Victims arranged to meet with defendant FREY on or about April 2, 2011 to provide tax documentation and fees to defendant FREY. Victim 4 asked defendant FREY whether he could "pull these guys' reins just to pull them back a little bit for now, or," referring to having defendant FREY reach out to Special Agent 1 that day to cause him to cease the investigation. Defendant FREY responded "I can for him," referring to Victim 3

who had paid defendant FREY \$10,000, "but unless I get retained I can't for you guys, and I can only get retained when I get paid."

13. On or about March 30, 2011, after the meeting with defendant FREY, CC-1 engaged in a telephone conversation with Victim 1 that was recorded. CC-1 told Victim 1, among other things, (a) to retain defendant FREY; and (b) to pay defendant FREY the \$10,000 fee. CC-1 further told Victim 1 that he would schedule a meeting among Cusic, CC-1 and Victim 1 to address the retention of Cusic's property management company after the Victims retained defendant FREY.

The April 1, 2011 Consensually Recorded
Calls with Defendant FREY, Cusic and CC-
1.

14. In coordination with federal law enforcement authorities, Victim 1 postponed a scheduled April 2, 2011 meeting with defendant FREY. Victim 1 subsequently spoke with defendant FREY, Cusic and CC-1, all of whom reiterated the false story about the IRS criminal investigation and told the Victims to meet with defendant FREY and pay defendant FREY's \$10,000 retainer fee.

15. On or about April 1, 2011, at approximately 12:23 p.m., defendant FREY spoke with Victim 1 over the telephone - a conversation which was recorded under the direction of federal law enforcement authorities. During the call, Victim 1 rescheduled the April 2, 2011 meeting until the following week. Defendant FREY falsely stated that "right now they're [the IRS]

proceeding against everybody other than" Victim 3, who had retained defendant FREY, and "right now they're [the IRS] going gangbusters against you guys because they know you're all together. [Victim 3] engaged me, you guys didn't." Defendant FREY further stated "you're missing the point, though" and said that defendant FREY advised Special Agent 1 that the Victims were "supposed to, uh, come up here but they've cancelled a couple of times, so-." Victim 1 interjected and asked who defendant FREY was referring to and defendant FREY stated "uh, [the first name of Special Agent 1]," and falsely stated that Special Agent 1 had asked defendant FREY "what do you think" and that defendant FREY told Special Agent 1 "I'll know more when they show up." Defendant FREY admonished Victim 1, "now you're wanting to reschedule for another week." Defendant FREY stated that Victim 1 and Victim 2 should come to his office and sign the engagement letter so that defendant FREY could tell Special Agent 1 that defendant FREY had been retained. Defendant FREY falsely stated that Special Agent 1 had "already called me today" and that defendant FREY had "already discussed with" Special Agent 1 defendant FREY's "time frame and scheduling" as to Victim 3 but that "you guys are just, you're dragging this out." Defendant FREY further told Victim 1 that "what you're trying to do is my job" and, "from their [the IRS's] standpoint, they look at you as a non-compliant tax payer." Defendant FREY stated that Victim 1 and defendant FREY could meet on April 7, 2011, but that "I can

guarantee between now and Thursday they'll [the IRS] subpoena records. It's a fact," and that "they're [the IRS] gonna subpoena the records at the bank, so." Defendant FREY further said that he could not call Special Agent 1 and tell Special Agent 1 that "they cancelled again but they're telling me this time Thursday's gonna be the day. He's not gonna believe that." Victim 1 assured defendant FREY that Victim 1 was trying to get his records together and defendant FREY stated "you're missing the point. The point isn't whether or not you're paying me. I don't care. The point is you're making my job ten times difficult and why are you making it ten times difficult? Because the IRS is gonna make it that much difficult for you." Defendant FREY stated "I feel comfortable with Bob [Cusic]. If you want, you want to, give Bob the money and let him, uh, bring it to me." Defendant FREY arranged to meet with Victim 1 at defendant FREY's office at 3:00 p.m. on April 7, 2011. Victim 1 asked defendant FREY if he knew whether Cusic was available to meet with Victim 1 to discuss engaging Cusic's management company and defendant FREY stated "I'm sure Bob [Cusic] would make himself available." Defendant FREY told Victim 1 to call Cusic and arrange to meet Cusic to give him the signature page to the retainer agreement.

16. On or about April 1, 2011, at approximately 12:44 p.m., defendant FREY emailed Victim 1 a retainer agreement with an email message reading:

Attached please find the engagement letter as discussed. Please coordinate with Bob [Cusic] the delivery of the original signature page as well as the retainer amount.

17. On or about April 1, 2011, Cusic and Victim 1 engaged in a telephone conversation, which was recorded under the direction of federal law enforcement authorities. During the conversation, Cusic stated that he was previously the subject of an IRS investigation in which defendant FREY represented him, that Cusic had paid the IRS \$960,000, and that the IRS "are the most brutal people there are in the world." Cusic falsely stated that "those two jackasses," referring to the IRS Special Agents purportedly investigating the Victims, "came up behind me over at 30 Monmouth," the address to a property that Victim 3 sold to 135 Easton Avenue, LLC, they "start asking a million questions" and "they started naming all kinds of names" including Victim 1, Victim 3, Victim 4, and Individual 2. Cusic stated that he did not recall the agent's name but that "[t]here were two cards they gave. I don't remember, Tom [defendant FREY] has the cards. I even went to his office and gave them to him because I don't want to have any problems." Cusic stated that he had also encountered an agent from the United States Department of Housing and Urban Development ("HUD") who was investigating a possible fraudulently obtained Fair Housing Act ("FHA") loan on a property owned by Individual 1. Cusic stated that "Tom [defendant FREY] had a similar situation with a customer I helped him out with, um, that

he represented" and that "he went to jail for six months" but, when asked, Cusic stated he could not remember the client's name. Cusic stated that defendant FREY had told Cusic that defendant FREY had recognized and "done business with" one of the agents that approached Cusic. Cusic described his experience with the IRS, stating that they had come to his house and "it was a disaster" and "from then on it was a fiasco," including IRS agents calling his place of employment, "seizing all my checking accounts," and "they garnish your wages, they try to." Cusic stated "[s]ee, this is what Tom [defendant FREY] does. He specializes in these types of horrible situations, is what he does." Cusic went on to describe how he purportedly encountered the IRS agents who were inquiring about the Victims and how the agents showed him their credentials. Victim 1 arranged to meet with Cusic and CC-1 on April 8, 2011.

18. On or about April 1, 2011, at approximately 1:45 p.m., CC-1 and Victim 1 engaged in a telephone conversation that was recorded under the supervision of federal law enforcement authorities. CC-1 continued to encourage Victim 1 to have the remaining Victims pay defendant FREY so that defendant FREY could cause the purported criminal investigation of the Victims to cease.

19. Later, on or about April 1, 2011, CC-1 and Victim 1 engaged in a telephone conversation that was recorded under the supervision of federal law enforcement authorities. CC-1 stated

that, according to defendant FREY, the IRS was "about to subpoena [the Victims'] bank records." CC-1 relayed defendant FREY's statements as follows:

if they call me [referring to defendant FREY] on Monday, which they will, and ask me if I represent these guys, I'm gonna have no choice but to say 'no.' At that point, I believe, as soon as Monday, they're gonna subpoena these guys' bank records. He said based on the conversations I've had with them, I fully expect that if they subpoena these guys' bank records the genie is going to be out of the bottle. They probably will both be arrested. I don't know what else to tell you, [Victim 1]. But I fully expect that they're gonna both be arrested. These guys are gonna have their hands behind their back maybe by next Friday. I fully expect they will both have been arrested by the time they come in and see me.

CC-1 stated that defendant FREY's opinion of Victim 1 had "diminished a little bit because you are a bit wishy washy. You say you're gonna do something and then you don't do it," referring to the Victim's prior cancellation of meetings. Victim 1 asked CC-1 how CC-1 knew that the Victims could trust the story about the IRS and CC-1 stated "think about what you're saying right now. How can you even take the chance? What are you doing?" When Victim 1 asked further questions, CC-1 stated "stop. You're being crazy. It's just a simple, easy decision that you are somehow making complicated. The only person that's making this complicated is you. I have no idea why." CC-1 asked Victim 1 "is it that the ten thousand dollars is that much money? Is it gonna break the bank? Is that what you're afraid of? I

mean how, how could you even screw around with this?" CC-1 stated "I would hire him now. I'm giving you the best advice that I can give. Go hire him." CC-1 stated "hire him, have him call these investigators, have him put this thing on hold" and that there is "too much downside risk to fuck around with this the way you are. It's just stupid. For ten grand? You're hemming and hawing?" CC-1 stated "you gotta pull your head out of the freaking sand. You, you're, you've got your head in the sand and you're pretending that this is not real and I don't know what to do to snap you out of this mode. If you don't snap out of it, and fast, things are gonna get a lot worse for you." CC-1 stated, "they're going to assume that you're guilty. You are going to be accused." CC-1 continued throughout the call to rebut Victim 1's concerns about what the possible charges could be and to pressure Victim 1 to retain defendant FREY.

20. At the times referenced in Count 1 of this Indictment, (a) the IRS did not have a criminal investigation of the Victims, (b) neither Special Agent 1 nor Special Agent 2 had ever participated in an investigation of the Victims, (c) neither Special Agent 1 nor Special Agent 2 had ever approached Cusic and (d) Special Agent 1 had not had any contact with defendant FREY since the investigation and prosecution of defendant FREY's client years earlier.

21. From in or about January 2011 to on or about April 9, 2011, in Middlesex County, in the District of New Jersey, and elsewhere, defendant

THOMAS G. FREY

did knowingly and intentionally conspire with Cusic and CC-1 to obstruct, delay and affect interstate commerce and the movement of articles and commodities in interstate commerce, by extortion, that is, by obtaining the property of the Victims with their consent induced by the wrongful use of actual and threatened fear of economic harm.

In violation of Title 18, United States Code, Sections 1951(a) and (b)(2).

Count 2

(Attempted Extortion Under Fear of Economic Harm)

1. Paragraphs 1 to 20 of Count 1 of this Indictment are hereby incorporated and realleged as if fully set forth herein.

2. From in or about January 2011 to on or about April 9, 2011, in Middlesex County, in the District of New Jersey, and elsewhere, defendant

THOMAS G. FREY

did knowingly and intentionally attempt to obstruct, delay and affect, interstate commerce and the movement of articles and commodities in interstate commerce, by extortion, that is, by obtaining, and attempting to obtain, the property of the Victims with their consent induced by the wrongful use of actual and threatened fear of economic harm.

In violation of Title 18, United States Code, Sections 1951(a) and (b)(2) and Section 2.

COUNTS 3 - 6

(Wire Fraud)

1. Paragraphs 1 to 20 of Count 1 of this Indictment are hereby incorporated and realleged as if fully set forth herein.

2. From in or about January 2011 to on or about April 9, 2011, in Middlesex County, in the District of New Jersey, and elsewhere, defendant

THOMAS G. FREY

and others, to include Robert G. Cusic, Jr. and CC-1, did knowingly and intentionally devise and intend to devise a scheme and artifice to defraud the Victims, and to obtain money and property from the Victims by means of materially false and fraudulent pretenses, representations, and promises.

3. The object of this scheme and artifice to defraud was for defendant THOMAS G. FREY and others, to include Robert G. Cusic, Jr. and CC-1, to obtain money, the Investment Properties and other property from the Victims by falsely representing to the Victims that they were the subjects of criminal investigations principally by the IRS.

4. On or about the dates listed below, in Middlesex County, in the District of New Jersey and elsewhere, for the purpose of executing and attempting to execute this scheme and artifice to defraud, defendant

THOMAS G. FREY

and others, to include Robert G. Cusic, Jr. and CC-1, did transmit and cause to be transmitted by wire communication in interstate commerce writings, signs, signals, pictures and sounds, as set forth below:

Count	Date	Description
3	3/24/11	A telephone call was placed between defendant FREY's cellular telephone, located in Pennsylvania, and CC-1's business telephone, located in New Jersey, with a duration of approximately 2 minutes.
4	3/24/11	Approximately 4 telephone calls were placed between defendant FREY's cellular telephone, located in Pennsylvania, and CC-1's business telephone, located in New Jersey, with durations varying between approximately 1 minute and approximately 11 minutes.
5	3/24/11	A telephone call was placed between a telephone facility used by CC-1, located in New Jersey, and a telephone facility utilized by defendant FREY and Cusic, and a telephone facility used by Victim 3, located in Florida, as described in paragraph 7 of Count 1 of this Indictment.
6	3/26/11	A telephone call was placed between defendant FREY's business telephone, located in New Jersey, and a telephone facility used by Victim 3, located in Florida, as described in paragraph 9 of Count 1 of this Indictment.

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

COUNT 7

(Wire Fraud Conspiracy)

1. Paragraphs 1 to 20 of Count 1 and paragraphs 3 to 4 of Counts 3 - 6 of this Indictment are hereby incorporated and realleged as if fully set forth herein.

2. From in or about January 2011 to on or about April 9, 2011, in Middlesex County, in the District of New Jersey, and elsewhere, defendant

THOMAS G. FREY

did knowingly and intentionally conspire and agree with others, to include Robert G. Cusic, Jr. and CC-1, to devise a scheme and artifice to defraud, and for obtaining money and property from the Victims by means of materially false and fraudulent pretenses, representations, and promises, and, for the purpose of executing the scheme, did transmit and cause to be transmitted by wire communications in interstate commerce, writings, signs, signals, and sounds, contrary to Title 18, United States Code, Section 1343.

In violation of Title 18, United States Code, Section 1349.

Forfeiture Allegation

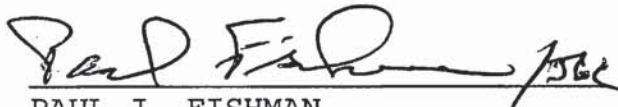
As the result of committing the aforementioned offenses in violation of Title 18, United States Code, Sections 1343, 1349 and Section 2, and Sections 1951(a) and (b)(2) and Section 2, as alleged in this Indictment, defendant THOMAS G. FREY shall forfeit to the United States pursuant to 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461, all property, real and personal, that constituted and was derived from proceeds traceable to the commission of the offenses, including but not limited to, approximately \$10,000 in United States currency, in that such sum constituted and was derived, directly and indirectly, from proceeds traceable to the commission of the offenses listed above.

If any of the above-described forfeitable property, as a result of any act or omission of defendant THOMAS G. FREY:

- (1) cannot be located upon the exercise of due diligence;
- (2) has been transferred or sold to, or deposited with, a third party;
- (3) has been placed beyond the jurisdiction of the Court;
- (4) has been substantially diminished in value; or
- (5) has been commingled with other property which cannot be divided without difficulty;

it is the intent of the United States, pursuant to 21 U.S.C. § 853(p), to seek forfeiture of any other property of defendant FREY up to the value of the above forfeitable property.

In violation of Title 18, United States Code, Section
981(a)(1)(C) and Title 28, United States Code, Section 2461.


PAUL J. FISHMAN
United States Attorney

A TRUE BILL

FOREPERSON

CASE NUMBER: _____

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

UNITED STATES OF AMERICA

v.

Thomas G. Frey

INDICTMENT FOR

18 U.S.C. §§ 981(a) (1) (C),
1343, 1349, 1951(a) and (b) (2)
& § 2; and 28 U.S.C. § 2461

A True Bill,

Foreperson

**PAUL J. FISHMAN
UNITED STATES ATTORNEY
NEWARK, NEW JERSEY**

**ERIC W. MORAN
ASSISTANT U.S. ATTORNEY
973-645-2700**