

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA)	
)	
v.)	No. _____
)	Violations: Title 26, United States
JOSEPH M. TAGES)	Code, Section 7206(1); Title 18, United
)	States Code, Sections 2, 1035 and 1341

COUNT ONE

The SPECIAL FEBRUARY 2011-2 GRAND JURY charges:

1. At times material to this indictment:

Individual and Business Entities

(a) Defendant JOSEPH M. TAGES (“TAGES”) was a medical doctor licensed by the State of Illinois.

(b) TAGES was the president and sole shareholder of West Suburban Medical and Surgical Associates S.C, a corporation located in Aurora, Illinois, and doing business as Aurora Health Center (“AHC”), at 330 Weston Avenue, Aurora, Illinois. TAGES controlled and operated AHC. AHC offered a variety of health care services, including family medicine, ophthalmology, obstetric-gynecology, neurology and gastroenterology services.

(c) AHC was required to file an annual United States Corporation Income Tax Return (Form 1120 with schedules and attachments) with the Internal Revenue Service,

due by a certain date in the following year, accurately reporting its gross receipts, expenses, taxable income and tax due and owing.

(d) Employees at AHC prepared daily sign-in sheets that reflected the names of patients seen at the clinic that day and any payments made by those patients. The sign-in sheets further reflected whether a patient's payment was in cash, by check or by credit card, and a daily total for each payment category was recorded on the sign-in sheets.

(e) Employees at AHC entered the daily payment category totals from the sign-in sheets on a computerized form referred to as the Front Desk Control report.

(f) Employees at AHC prepared spreadsheets that combined check payments from patients with check payments from insurance companies and used the spreadsheets to prepare deposits for AHC's business bank account.

2. Beginning no later than approximately January 1, 2004, and continuing through at least December 31, 2006, TAGES:

(a) took for TAGES's personal use the vast majority of the cash that patients paid to AHC for medical services;

(b) did not deposit the diverted cash into AHC's business bank account;

(c) concealed the diverted cash from AHC's tax-return preparer by giving the tax-return preparer AHC's business bank statements and records of deposit, which TAGES knew did not reflect the cash that TAGES diverted;

(d) did not provide AHC's tax-return preparer various AHC business records, including AHC's daily sign-in sheets and the Front Desk Control reports, which reflected the gross receipts received by AHC from patients in the form of cash payments;

(e) caused the filing of false United States Corporation Income Tax Returns for AHC for 2004, 2005 and 2006, which omitted the cash TAGES took from AHC; and

(f) filed false joint United States Individual Income Tax Returns (Form 1040 with schedules and attachments) for TAGES and his wife for 2004, 2005 and 2006, which failed to include the cash TAGES took from AHC.

3. On the United States Corporation Income Tax Returns, Form 1120 with schedules and attachments, filed for AHC for calendar years 2004, 2005 and 2006, TAGES willfully and knowingly failed to report additional gross receipts and under-reported tax due and owing, as follows:

Year	Understatement of Gross Receipts	Additional Income Tax Due
2004	\$195,535	\$ 68,437
2005	\$179,356	\$ 62,774
2006	<u>\$390,702</u>	<u>\$136,745</u>
Total:	\$765,593	\$267,956

4. On the United States Individual Income Tax Returns, Forms 1040 with schedules and attachments, filed for TAGES and his wife for calendar years 2004, 2005 and 2006, TAGES willfully and knowingly failed to report as income the cash he diverted from AHC and under-reported tax due and owing, as follows:

Year	Diverted Cash	Additional Tax Due
2004	\$196,714	\$ 81,993
2005	\$179,356	\$ 64,612
2006	<u>\$390,702</u>	<u>\$136,182</u>
Total:	\$766,772	\$282,787

5. On or about June 20, 2005, in the Northern District of Illinois, Eastern Division,

JOSEPH M. TAGES,

defendant herein, did willfully make and subscribe, and caused to be made and subscribed, a United States Corporation Income Tax Return (Form 1120 with schedules and attachments) for West Suburban Medical and Surgical Associates for calendar year 2004, which return was verified by a written declaration that it was made under the penalties of perjury and filed with the Internal Revenue Service, which return TAGES did not believe to be true and correct as to every material matter, in that: (a) the return falsely stated on Line 1a that gross receipts or sales were \$1,611,359, whereas TAGES then knew and believed that West Suburban Medical and Surgical Associates had gross receipts or sales in excess of that amount, in that TAGES failed to include additional gross receipts of approximately

\$195,535; and (b) the return falsely stated on Line 31 that there was no total tax, whereas TAGES then knew and believed that West Suburban Medical and Surgical Associates owed taxes substantially in excess of that amount;

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

COUNT TWO

The SPECIAL FEBRUARY 2011-2 GRAND JURY further charges:

1. The allegations of paragraphs 1 through 4 of Count One of this Indictment are realleged and incorporated as though fully set forth herein.

2. On or about May 31, 2005, in the Northern District of Illinois, Eastern Division,

JOSEPH M. TAGES,

defendant herein, who during the calendar year 2004 was married and was a resident of Plainfield, Illinois, did willfully make and subscribe, and caused to be made and subscribed, a joint United States Individual Income Tax Return (Form 1040 with schedules and attachments) on behalf of himself and his wife for calendar year 2004, which return was verified by a written declaration that it was made under the penalties of perjury and filed with the Internal Revenue Service, which return TAGES did not believe to be true and correct as to every material matter, in that: (a) the return falsely stated on Line 22 that total income was \$452,992, whereas TAGES then knew and believed that TAGES and his wife had total income in excess of that amount, in that TAGES failed to include the diverted cash of approximately \$196,714; and (b) the return falsely stated on Line 62 that the total tax was \$116,195, whereas TAGES then knew and believed that he and his wife owed taxes substantially in excess of that amount;

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

COUNT THREE

The SPECIAL FEBRUARY 2011-2 GRAND JURY further charges:

1. The allegations of paragraphs 1 through 4 of Count One of this Indictment are realleged and incorporated as though fully set forth herein.

2. On or about October 2, 2006, in the Northern District of Illinois, Eastern Division,

JOSEPH M. TAGES,

defendant herein, did willfully make and subscribe, and caused to be made and subscribed, a United States Corporation Income Tax Return (Form 1120 with schedules and attachments) for West Suburban Medical and Surgical Associates for calendar year 2005, which return was verified by a written declaration that it was made under the penalties of perjury and filed with the Internal Revenue Service, which return TAGES did not believe to be true and correct as to every material matter, in that: (a) the return falsely stated on Line 1a that gross receipts or sales were \$1,361,368, whereas TAGES then knew and believed that West Suburban Medical and Surgical Associates had gross receipts or sales in excess of that amount, in that TAGES failed to include additional gross receipts of approximately \$179,356; and (b) the return falsely stated on Line 31 that the total tax was \$21,947, whereas TAGES then knew and believed that West Suburban Medical and Surgical Associates owed taxes substantially in excess of that amount;

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

COUNT FOUR

The SPECIAL FEBRUARY 2011-2 GRAND JURY further charges:

1. The allegations of paragraph 1 through 4 of Count One of this Indictment are realleged and incorporated as though fully set forth herein.

2. On or about August 23, 2006, in the Northern District of Illinois, Eastern Division,

JOSEPH M. TAGES,

defendant herein, who during the calendar year 2005 was married and was a resident of Plainfield, Illinois, did willfully make and subscribe, and caused to be made and subscribed, a joint United States Individual Income Tax Return (Form 1040 with schedules and attachments) on behalf of himself and his wife for calendar year 2005, which return was verified by a written declaration that it was made under the penalties of perjury and filed with the Internal Revenue Service, which return TAGES did not believe to be true and correct as to every material matter, in that: (a) the return falsely stated on Line 22 that total income was \$390,135, whereas TAGES then knew and believed that TAGES and his wife had total income in excess of that amount, in that TAGES failed to include the diverted cash of approximately \$179,356; and (b) the return falsely stated on Line 63 that the total tax was \$87,564, whereas TAGES then knew and believed that he and his wife owed taxes substantially in excess of that amount;

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

COUNT FIVE

The SPECIAL FEBRUARY 2011-2 GRAND JURY further charges:

1. The allegations of paragraphs 1 through 4 of Count One of this Indictment are realleged and incorporated as though fully set forth herein.

2. On or about September 13, 2007, in the Northern District of Illinois, Eastern Division,

JOSEPH M. TAGES,

defendant herein, did willfully make and subscribe, and caused to be made and subscribed, a United States Corporation Income Tax Return (Form 1120 with schedules and attachments) for West Suburban Medical and Surgical Associates for calendar year 2006, which return was verified by a written declaration that it was made under the penalties of perjury and filed with the Internal Revenue Service, which return TAGES did not believe to be true and correct as to every material matter, in that: (a) the return falsely stated on Line 1a that gross receipts or sales were \$1,993,019, whereas TAGES then knew and believed that West Suburban Medical and Surgical Associates had gross receipts or sales in excess of that amount, in that TAGES failed to include additional gross receipts of approximately \$390,702; and (b) the return falsely stated on Line 31 that the total tax was \$17,640, whereas TAGES then knew and believed that West Suburban Medical and Surgical Associates owed taxes substantially in excess of that amount;

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

COUNT SIX

The SPECIAL FEBRUARY 2011-2 GRAND JURY further charges:

1. The allegations of paragraphs 1 through 4 of Count One of this Indictment are realleged and incorporated as though fully set forth herein.

2. On or about September 10, 2007, in the Northern District of Illinois, Eastern Division,

JOSEPH M. TAGES,

defendant herein, who during the calendar year 2006 was married and was a resident of Plainfield, Illinois, did willfully make and subscribe, and caused to be made and subscribed, a joint United States Individual Income Tax Return (Form 1040 with schedules and attachments) on behalf of himself and his wife for calendar year 2006, which return was verified by a written declaration that it was made under the penalties of perjury and filed with the Internal Revenue Service, which return TAGES did not believe to be true and correct as to every material matter, in that: (a) the return falsely stated on Line 22 that total income was \$369,205, whereas TAGES then knew and believed that TAGES and his wife had total income in excess of that amount, in that TAGES failed to include the diverted cash of approximately \$390,702; and (b) the return falsely stated on Line 63 that the total tax was \$81,375, whereas TAGES then knew and believed that he and his wife owed taxes substantially in excess of that amount;

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

COUNT SEVEN

The SPECIAL FEBRUARY 2011-2 GRAND JURY further charges:

1. (a) The allegations of paragraphs 1 through 4 of Count One of this Indictment are realleged and incorporated as though fully set forth herein.

(b) TAGES controlled and operated Latino Institute of Surgery (“LIS”), at 330 Weston Avenue, Aurora, Illinois. LIS offered various medical procedures, including procedures usually referred to as genital condyloma excision and, separately, esophagogastroduodenoscopy (generally referred to as an “EGD” procedure), each further described below.

Genital Condyloma Excision

(c) Genital condyloma was a wart-like growth on the genitals or in the genital area. Once genital condyloma was identified and diagnosed, a medical provider recommended a course of treatment, in some instances recommending a medical procedure referred to, generally, as genital condyloma excision. In this excision procedure, a male patient was administered anaesthesia and the condyloma was removed using a form of electrosurgery. Ordinarily, this excision procedure was completed within several hours on one day and the patient was discharged the same day, with written instructions relating to his after care.

(d) Beginning in at least 2001 and continuing until at least 2009, TAGES diagnosed genital condyloma on numerous male patients. After TAGES diagnosed condyloma, TAGES usually recommended that the genital condyloma be removed using the

excision procedure. TAGES performed the genital condyloma excision procedure at LIS, and caused it to be performed at LIS, on numerous male patients. TAGES generally performed or caused the procedure to be performed at LIS on a Saturday. After the procedure, on that same Saturday, the patient ordinarily was directed to make a follow-up appointment one week later. Generally, on the Monday following the Saturday procedure, an employee telephoned the patient and reviewed with the patient his general condition, and the employee made notes regarding that conversation on a “Post-Operative Follow-Up Call” form.

The EGD Procedure

(e) Gastro esophageal reflux disease, also known as GERD, is a condition in which acid reflux passes from the stomach to the esophagus. Once GERD was diagnosed, a medical provider recommended a course of treatment, sometimes recommending that the patient submit to an esophagogastroduodenoscopy, or EGD procedure, in which an endoscope, a bendable tube that acts as a camera, is inserted through the patient’s mouth and used to examine the esophagus, stomach and small intestine for growth or foreign bodies. Ordinarily, this EGD procedure was completed within several hours on one day and the patient was discharged the same day, with written instructions relating to his or her after care.

(f) Beginning in at least 2006 and continuing until at least 2009, TAGES diagnosed GERD in numerous patients. After TAGES diagnosed GERD, TAGES would recommend the EGD procedure. TAGES caused the EGD procedure to be performed at LIS, and TAGES generally caused the procedure to be performed at LIS on a Saturday. After the

procedure, on that same Saturday, the patient ordinarily was directed to make a follow-up appointment one week later. Generally, on the Monday following the Saturday procedure, an employee telephoned the patient and reviewed with the patient his or her general condition, and the employee made notes regarding that conversation on a “Post-Operative Follow-Up Call” form.

Claims and Procedure Codes

(g) To be paid for medical services covered by insurance, a health care provider was required to submit a claim for payment to the health care insurer. Such claims were required to provide certain information, including the name of the insured patient, the type of medical services provided, the date and charge for the services provided and the procedure codes for such services, as further described below.

(h) Health care providers and private health care benefit programs and insurers used a uniform system of coding to identify professional services, procedures, supplies, and diagnoses. The Current Procedural Terminology Manual (the "CPT Manual") sets forth numerical codes ("CPT codes") for medical procedures. Each claim form had to contain the five-digit CPT billing code identifying the service provided to the insured on a particular date. The CPT Manual defined the procedural and medical requirements that needed to be met in order to bill for a particular service.

(i) According to the CPT Manual, the CPT codes relating to an office visit or other outpatient visit included CPT 99213, which provided, in part: “An office or other outpatient visit for the evaluation and management of an established patient, which requires

at least two of these three key components: An expanded problem focused history; An expanded problem focused examination; and Medical decision-making of low complexity.”

(j) TAGES caused AHC and LIS, respectively, to submit reimbursement claims on behalf of insured patients to various health care insurers (collectively “the Insurance Companies”).

(k) Insurance Companies that received claims from AHC for medical care ordinarily authorized payment in connection with the services only if the related services were actually performed.

(l) Insurance Companies paid AHC, in part, by sending checks, via mail, to AHC at 330 Weston Avenue, Aurora, Illinois.

2. Beginning no later than 2006 and continuing until at least 2009, at Aurora, Illinois, in the Northern District of Illinois, Eastern Division, and elsewhere,

JOSEPH M. TAGES,

defendant herein, knowingly devised, intended to devise and participated in a scheme to defraud and to obtain money and property from the Insurance Companies by means of materially false and fraudulent pretenses, representations and promises, which scheme is further described below.

3. It was part of the scheme to defraud that TAGES knowingly and intentionally caused AHC to submit false claims and documents to the Insurance Companies to obtain payments, including documents falsely representing that certain patients had an office or outpatient visit on the Monday following a Saturday condyloma excision procedure or a

Saturday EGD procedure, when, in fact, no office or outpatient visit occurred on the following Monday. TAGES caused AHC to submit the false claims to the Insurance Companies, which claims totaled in excess of \$10,000.

4. It was further part of the scheme that after some patients had the condyloma excision procedure on a Saturday, TAGES caused the date for the following Monday to be stamped in the patients' AHC files on a page captioned "Aurora Health Center Progress Notes." TAGES then made a handwritten note – still on that Saturday – next to the Monday date, purporting to describe a patient's visit to AHC on the following Monday, including the patient's condition or information provided to the patient. The handwritten progress notes were false because, among other reasons, the patients did not, in fact, go to AHC on the following Monday or have office visits that Monday.

5. It was further part of the scheme that after some patients had the EGD procedure on a Saturday, TAGES caused the date for the following Monday to be stamped in the patients' AHC files on a page captioned "Aurora Health Center Progress Notes." TAGES then made a handwritten note – still on that Saturday – next to the Monday date, purporting to describe a patient's visit to AHC on the following Monday, including the patient's condition or information provided to the patient. The handwritten progress notes were false because, among other matters, the patients did not, in fact, go to AHC on the following Monday or have office visits that Monday.

6. It was further part of the scheme that TAGES thereafter caused AHC to submit claim forms to the Insurance Companies for payments for the alleged Monday office visits

under CPT 99213, even though TAGES knew that the office visits did not occur and that the Insurance Companies would not pay for the office visits unless the office visits were actually performed.

7. It was further part of the scheme that patient R.S. had a condyloma excision procedure on Saturday, May 10, 2008. On that Saturday, TAGES caused the date May 12, 2008, the following Monday, to be stamped in R.S.'s AHC patient file, on a page labeled 'progress notes.' Still on Saturday, May 10, TAGES made a handwritten note next to that Monday date and stated, among other matters, "post condyloma healing," purporting to state R.S.'s condition on the following Monday. In fact, R.S. did not go to AHC on the following Monday. Nonetheless, AHC submitted a claim to R.S.'s insurer, Blue Cross, for reimbursement for the alleged cost of R.S.'s office visit on Monday, May 12, 2008.

8. It was further part of the scheme that patient J.C. had an EGD procedure on Saturday, July 28, 2007. On that Saturday, TAGES caused the date July 30, 2007, a Monday, to be stamped in J.C.'s AHC patient file, on a page labeled 'progress notes.' Still on Saturday, July 28, TAGES made a handwritten note next to that Monday date and stated, among other matters, "discuss with patient may need more [unintelligible] care," purporting to describe his discussion with J.C. on the following Monday. In fact, J.C. did not go to AHC on the following Monday. Nonetheless, AHC submitted a claim to J.C.'s insurer, Blue Cross, for reimbursement for the alleged cost of J.C.'s office visit on Monday, July 27, 2007.

9. It was further part of the scheme that TAGES and others did misrepresent, conceal, hide and cause to be misrepresented, concealed and hidden the purposes of and acts done in furtherance of this scheme.

10. On or about May 28, 2008, at Chicago, in the Northern District of Illinois, Eastern Division, and elsewhere,

JOSEPH M. TAGES,

defendant herein, for the purpose of executing the above-described scheme and attempting to do so, did knowingly cause an envelope to be delivered by United States mail from Blue Cross in Chicago, Illinois, to West Suburban Med Surgical Assocs doing business as AHC in Aurora, Illinois, according to the directions thereon, containing a check that included a payment for a claim submitted by AHC for patient R.S.;

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

COUNT EIGHT

The SPECIAL FEBRUARY 2011-2 GRAND JURY further charges:

1. The allegations of paragraphs 1 through 9 of Count Seven of this Indictment are realleged and incorporated as though fully set forth herein.

2. On or about August 8, 2007, at Chicago, in the Northern District of Illinois, Eastern Division, and elsewhere,

JOSEPH M. TAGES,

defendant herein, for the purpose of executing the above-described scheme and attempting to do so, did knowingly cause an envelope to be delivered by United States mail from Blue Cross in Chicago, Illinois, to West Suburban Med Surgical Assocs doing business as AHC in Aurora, Illinois, according to the directions thereon, containing a check that included a payment for a claim submitted by AHC for patient J.C.;

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

COUNT NINE

The SPECIAL FEBRUARY 2011-2 GRAND JURY further charges:

1. The allegations of paragraphs 1 through 9 of Count Seven of this Indictment are realleged and incorporated as though fully set forth herein.

2. On or about May 10, 2008, at Aurora, Illinois, in the Northern District of Illinois, Eastern Division, and elsewhere,

JOSEPH M. TAGES,

defendant herein, in a matter involving a health care benefit program, did knowingly and willfully make a materially false, fictitious, fraudulent statement and representation, and made a materially false writing and document, in connection with the delivery of and payment for health care benefits, items and services, in that TAGES caused the date for the following Monday, May 12, 2008, to be stamped in the patient file of R.S., and TAGES made a handwritten note next to that date, purporting to represent that he saw R.S. on Monday, May 12, 2008, when, in fact, TAGES did not;

In violation of Title 18, United States Code, Section 1035(a)(2).

COUNT TEN

The SPECIAL FEBRUARY 2011-2 GRAND JURY further charges:

1. The allegations of paragraphs 1 through 9 of Count Seven of this Indictment are realleged and incorporated as though fully set forth herein.

2. On or about July 28, 2007, at Aurora, Illinois, in the Northern District of Illinois, Eastern Division, and elsewhere,

JOSEPH M. TAGES,

defendant herein, in a matter involving a health care benefit program, did knowingly and willfully make a materially false, fictitious, fraudulent statement and representation, and made a materially false writing and document, in connection with the delivery of and payment for health care benefits, items and services, in that TAGES caused the date for the following Monday, July 30, 2007, to be stamped in the patient file of J.C., and TAGES made a handwritten note next to that date, purporting to represent that he saw J.C. on Monday, July 30, 2007, when, in fact, TAGES did not;

In violation of Title 18, United States Code, Section 1035(a)(2).

COUNT ELEVEN

The SPECIAL FEBRUARY 2011-2 GRAND JURY further charges:

1. The allegations of paragraphs 1 through 9 of Count Seven of this Indictment are realleged and incorporated as though fully set forth herein.

2. In May 2007, TAGES examined M.C, a witness cooperating with the government. Prior to this examination, M.C. was examined by another medical doctor and that medical doctor determined that M.C. did not have condyloma. During the examination, M.C. complained to TAGES only about numbness and cramps in his left foot and leg.

3. On or about May 29, 2007, at Aurora, Illinois, in the Northern District of Illinois, Eastern Division, and elsewhere,

JOSEPH M. TAGES,

defendant herein, in a matter involving a health care benefit program, did knowingly and willfully make a materially false, fictitious, fraudulent statement and representation, and made a materially false writing and document, in connection with the delivery of and payment for health care benefits, items and services, in that TAGES made a false condyloma diagnosis for patient M.C. and recorded that false diagnosis on a progress note in M.C.'s patient file;

In violation of Title 18, United States Code, Section 1035(a)(2).

COUNT TWELVE

The SPECIAL FEBRUARY 2011-2 GRAND JURY further charges:

1. The allegations of paragraphs 1 through 9 of Count Seven of this Indictment are realleged and incorporated as though fully set forth herein.

2. In June 2007, TAGES met with G.C., a federal agent working in an undercover capacity. G.C. complained to TAGES only about pain in the bottom of his two feet. During the meeting, G.C. did not complain of any abdominal pain or nausea.

3. On or about June 22, 2007, at Aurora, Illinois, in the Northern District of Illinois, Eastern Division, and elsewhere,

JOSEPH M. TAGES,

defendant herein, in a matter involving a health care benefit program, did knowingly and willfully make a materially false, fictitious, fraudulent statement and representation, and made a materially false writing and document, in connection with the delivery of and payment for health care benefits, items and services, in that TAGES wrote on patient G.C.'s adult comprehensive history and physical examination report at 'present illness,' among other matters, an abbreviation for 'abdominal pain, nausea' when, in fact, G.C. did not describe abdominal pain or nausea;

In violation of Title 18, United States Code, Section 1035(a)(2).

FORFEITURE ALLEGATION

The SPECIAL FEBRUARY 2011-2 GRAND JURY further charges:

1. The allegations in Counts Seven and Eights of this Indictment are hereby realleged and incorporated as though fully set forth herein for the purpose of alleging forfeiture pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c).

2. As a result of his violations of Title 18, United States Code, Sections 1341, as alleged in the foregoing Indictment,

JOSEPH M. TAGES,

defendant herein shall forfeit to the United States, pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c), any and all right, title, and interest in property, real and personal, which constitutes and is derived from proceeds traceable to the charged offenses.

3. The interests of defendant subject to forfeiture pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c), include but are not limited to the following property:

funds in the amount of at least \$10,000.

4. If any of the property subject to forfeiture and described above, as a result of any act or omission by 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 of America shall be entitled to forfeiture of substitute property under the provisions of Title 21, United States Code, Section 853(p) as incorporated by Title 28, United States Code, Section 2461(c);

All pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c).

A TRUE BILL:

FOREPERSON

UNITED STATES ATTORNEY