

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

UNITED STATES OF AMERICA        ) No. 10 CR 651  
  )  
  ) v.        Violations: Title 18, United States  
  ) Code, Section 1341; Title  
DANIEL SPITZER and                ) 26, United States Code, Section  
ALFRED GEREBIZZA                 ) 7206(1)  
  )  
  ) SUPERSEDING INDICTMENT

**COUNT ONE**

The SPECIAL MARCH 2010 GRAND JURY charges:

1. At all times material to this information:

a. Defendant DANIEL SPITZER, a resident of St. Thomas, U.S.

Virgin Islands, and Barrington, Illinois, was the principal officer and sole shareholder of Kenzie Financial Management, a U.S. Virgin Islands corporation; the sole manager and member of Kenzie Services, LLC ("Kenzie Services"), a corporation located in Charlestown, Nevis, West Indies; the president of Draseena Funds Group, Corp., an Illinois corporation; the manager of DN Management Company, LLC ("DN") , a Nevada limited liability company; and the manager of Nerium Management Company, an Illinois corporation.

b. Through these corporate entities, defendant DANIEL SPITZER controlled twelve investment funds: Arrow Fund, LLC; Arrow Fund II, LLC; Nerium Currency Fund, LP; Conservium Fund, LLC; Senior Strength

Q Fund, LLC; Three Oaks Senior Strength Fund, LLC; Three Oaks Fund, LP; Three Oaks Currency Fund, LP; Three Oaks Advanced Fund, LLC; Three Oaks Fund 25, LLC; US First Fund, LLC, and SSecurity Fund, LLC (collectively known as "the Kenzie Funds").

c. Defendant ALFRED GEREBIZZA, a resident of Crystal Lake, Illinois and Palm Beach Gardens, Florida, was the secretary and director of Draseena Funds Group, Corp., and a sales agent for the Kenzie Funds. Defendant ALFRED GEREBIZZA also held himself out as a trader for the Kenzie Funds.

d. Defendants DANIEL SPITZER and ALFRED GEREBIZZA offered and sold to the public investments in the various Kenzie Funds in the form of membership interests and limited partnership interests.

e. Defendants DANIEL SPITZER and ALFRED GEREBIZZA, through sales agents and various marketing materials, informed investors and potential investors in the Kenzie Funds that their funds would be used to invest primarily in foreign currency trading, that the Kenzie Funds had never lost money, and that the Kenzie Funds had achieved profitable historical returns.

f. Defendants DANIEL SPITZER and ALFRED GEREBIZZA informed investors and potential investors, through sales agents and various marketing materials, that after a minimum holding period, they could redeem

their investments within a specified period of time, after prior written notice to the fund's administrative manager.

2. Beginning no later than in or around 2004, and continuing until in or around July, 2010, in the Northern District of Illinois, Eastern Division, and elsewhere,

DANIEL SPITZER and  
ALFRED GEREBIZZA,

defendants herein, and others, devised and participated in a scheme to defraud investors and prospective investors, and to obtain money by means of materially false and fraudulent pretenses, representations, and promises, and by means of material omissions, which scheme is further described below.

3. It was part of the scheme that defendants DANIEL SPITZER and ALFRED GEREBIZZA engaged in and operated a form of "Ponzi" scheme. That is, the defendants had to continually raise funds through the solicitation of new investors in the Kenzie Funds to make payments on investments made by earlier investors, all of which the defendants concealed and intentionally failed to disclose to both new and earlier investors. As a part of this Ponzi scheme, the defendants fraudulently obtained over \$105 million from approximately 400 investors.

4. It was further part of the scheme that defendants DANIEL SPITZER and ALFRED GEREBIZZA fraudulently induced and caused to be

induced prospective investors to invest approximately \$105 million in the Kenzie Funds by representing and causing to be represented that the investors' funds would be used to invest in foreign currencies and other types of investments, when the defendants intended to and did misappropriate a significant portion of the investors' funds, including approximately \$71 million to make Ponzi-type payments to earlier investors.

5. It was further part of the scheme that defendants DANIEL SPITZER and ALFRED GEREBIZZA falsely represented and caused to be falsely represented to prospective investors and investors that different Kenzie Funds had different levels of risk and different investment strategies, when the defendants intended to and did commingle the money invested in all twelve of the Kenzie Funds, misappropriated a significant portion, and only invested less than one third of the approximately \$105 million raised from investors.

6. It was further part of the scheme that defendant DANIEL SPITZER and ALFRED GEREBIZZA falsely represented and caused to be falsely represented to prospective investors and investors the expected returns and returns on investments, including that the Kenzie Funds had rates of returns ranging from 4.52% to 13.54% during the period 2004 through September 30, 2009. The bank accounts for the Kenzie Funds reflect that the total gross return over the period January 1, 2004 through September 30, 2009 on the

approximately \$105 million investors contributed to all of the Kenzie Funds was less than 1% for the entire period.

7. It was further part of the scheme that defendant DANIEL SPITZER and ALFRED GEREBIZZA falsely represented and caused to be falsely represented to prospective investors that as of June 30, 2009, the Kenzie Funds were worth approximately \$250 million, at a time when the Kenzie Funds collectively had only approximately \$4 million in its bank accounts.

8. It was further part of the scheme that defendants DANIEL SPITZER and ALFRED GEREBIZZA caused to be created fraudulent account statements and Schedules K-1 for use by investors in preparing their federal income tax returns in which the defendants fraudulently inflated and caused to be inflated the investors' account balances and rates of return.

9. It was further part of the scheme that defendants DANIEL SPITZER and ALFRED GEREBIZZA used and caused the use of the United States Postal Service to deliver the fraudulent account statements and Schedules K-1 to investors.

10. It was further part of the scheme that defendants DANIEL SPITZER and ALFRED GEREBIZZA made and caused to be made Ponzi-type payments to investors, made and caused to be made misrepresentations about

the status of investments, and took other steps to lull investors into a false sense of security that their investments were safe and profitable.

11. It was further part of the scheme that defendant DANIEL SPITZER maintained bank accounts in the names of each of the Kenzie Funds, which defendant DANIEL SPITZER used to commingle investor funds and to make Ponzi payments by using the funds of one investor to pay off redemptions requested by another investor.

12. It was further part of the scheme that defendant DANIEL SPITZER provided and caused to be provided to the Kenzie Funds quarterly financial data and annual statements for the years 2005 through 2009 on behalf of each of the Kenzie Funds, purportedly showing that the Kenzie Funds had experienced significant profits in the years 2005 through 2009 from investments in an entity known as Capital Administrators & Portfolio Managers, Inc. (“CAPM”) when in truth defendants DANIEL SPITZER and ALFRED GEREBIZZA knew that CAPM’s gains on behalf of the Kenzie Funds in those years were grossly inflated.

13. It was further part of the scheme that when the Kenzie Funds lacked the funds to satisfy investor redemptions, defendant DANIEL SPITZER falsely told investors that though the Funds were experiencing liquidity issues, the investors’ funds were safe and the redemptions would be paid promptly, even though defendant DANIEL SPITZER knew these representations to be false.

14. It was further part the scheme that in or about May, 2008, defendants DANIEL SPITZER and ALFRED GEREBIZZA caused to be incorporated “Trading Line Management” (“TLM”), a Panamanian corporation headquartered in Panama, caused bank accounts to be opened in the name of TLM, and thereafter operated TLM at least in part to give the false impression that TLM was maintaining and investing substantial funds on behalf of the Kenzie Funds.

15. It was further part of the scheme that defendant ALFRED GEREBIZZA, acting on behalf of TLM, provided the Kenzie Funds with false annual statements for the year 2008 on behalf of the Kenzie Funds, purportedly showing that the Kenzie Funds had experienced significant profits through TLM in the year 2008, when defendants DANIEL SPITZER and ALFRED GEREBIZZA knew that TLM did little or no investing on behalf of the Kenzie Funds in the year 2008.

#### Investor AD

16. As an example of the scheme, in or about March, 2010, defendants DANIEL SPITZER and ALFRED GEREBIZZA fraudulently obtained \$100,000 from Investor AD, by, among other things, falsely representing that the money would be invested in the SSecurity Fund in foreign currencies and that Investor A could redeem his investment after a 30-day hold period. Defendants DANIEL

SPITZER and ALFRED GEREBIZZA did not invest or cause to be invested Investor AD's money as represented. Instead, the defendants used \$9,492 to make Ponzi-type payments to four other investors, transferred \$27,102 to a bank account under defendant DANIEL SPITZER's control, and used \$26,257 for third party expenses. On or about April 21, 2010, Investor AD requested in writing a redemption from the SSecurity Fund, but the defendants did not return Investor A's money as requested.

#### Investor WG

17. As another example of the scheme, on or about June 18, 2009, defendants DANIEL SPITZER and ALFRED GEREBIZZA fraudulently obtained \$1.5 million from Investor WG for an investment in the SSecurity Fund, in part based on misrepresentations about an earlier investment in one of the Kenzie Funds by Investor WG. Defendants DANIEL SPITZER and ALFRED GEREBIZZA never invested Investor WG's \$1.5 million. Instead, defendants DANIEL SPITZER and ALFRED GEREBIZZA caused Investor WG's \$1.5 million to be deposited into an account in the name of SSecurity Fund, LLC and thereafter transferred most of it into accounts for other Kenzie Funds. Defendants DANIEL SPITZER and ALFRED GEREBIZZA caused virtually all of the funds transferred into these accounts from the SSecurity account to be misappropriated to make Ponzi-type payments to other investors.

18. It was further part of the scheme that when Investor WG sought to redeem his investment in the SSecurity Fund, defendant DANIEL SPITZER falsely represented that the redemption might take a little time in order to liquidate Investor WG's funds out of the investment and into funds for reimbursement. Investor WG never received a redemption of the \$1.5 million.

19. As a result of the scheme, defendants DANIEL SPITZER and ALFRED GEREBIZZA fraudulently obtained over \$105,000,000 from over 400 investors, misappropriated a significant portion of the funds, including to make about \$71 million in Ponzi-type payments, and ultimately caused victims to suffer losses totaling approximately \$34 million.

20. It was further part of the scheme that defendants DANIEL SPITZER and ALFRED GEREBIZZA concealed, misrepresented, and hid and caused to be concealed, misrepresented, and hidden, the existence and purpose of the scheme and the acts done in furtherance of the scheme.

21. On or about February 21, 2007, at Riverwoods, in the Northern District of Illinois, Eastern Division, and elsewhere,

DANIEL SPITZER and  
ALFRED GEREBIZZA,

defendants herein, for the purpose of executing the scheme to defraud, and attempting to do so, knowingly caused to be delivered by U.S. mail an application and private placement memorandum for the Three Oaks Senior

Strength Funds, LLC, representing that Investor KG's funds would be invested in U.S. Treasuries, foreign currency forward contracts, cash currencies, stocks, bonds, funds, funds of funds, warrants, options, real estate, preferreds and convertibles to Investor KG at his address in Riverwoods, Illinois;

In violation of Title 18, United States Code, Section 1341.

## COUNT TWO

The SPECIAL AUGUST 2009-2 GRAND JURY further charges:

1. Paragraphs 1 through 20 of Count One are realleged and incorporated as if fully set out in this count.

2. In or about the first quarter of 2009, at Riverwoods, in the Northern District of Illinois, Eastern Division, and elsewhere,

DANIEL SPITZER and  
ALFRED GEREBIZZA,

defendants herein, for the purpose of executing the scheme to defraud, and attempting to do so, knowingly caused to be delivered by U.S. mail a 2008 Schedule K-1 to Investor KG at his address in Riverwoods, Illinois, purporting to show that for the calendar year 2008, Investor KG's account in the Three Oaks Senior Strength Fund had an ending balance of \$299,521;

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

### **COUNT THREE**

The SPECIAL MARCH 2010 GRAND JURY further charges:

1. Paragraphs 1 through 20 of Count One are realleged and incorporated as if fully set out in this count.

2. On or about December 31, 2008, at Riverwoods, in the Northern District of Illinois, Eastern Division, and elsewhere,

DANIEL SPITZER and  
ALFRED GEREBIZZA,

defendants herein, for the purpose of executing the scheme to defraud, and attempting to do so, knowingly caused to be delivered by U.S. mail a quarterly account statement to Investor KG at his address in Riverwoods, Illinois, purporting to show that Investor KG's account in the Three Oaks Senior Strength Fund had a balance of \$299,520.63 as of December 31, 2008;

In violation of Title 18, United States Code, Section 1341.

## COUNT FOUR

The SPECIAL MARCH 2010 GRAND JURY further charges:

1. Paragraphs 1 through 20 of Count One are realleged and incorporated as if fully set out in this count.

2. On or about March 13, 2009, at Oak Park, in the Northern District of Illinois, Eastern Division, and elsewhere,

DANIEL SPITZER and  
ALFRED GEREBIZZA,

defendants herein, for the purpose of executing the scheme to defraud, and attempting to do so, knowingly caused to be delivered by U.S. mail an investor newsletter to Investor MH at her address in Oak Park, Illinois, offering investments in SSecurity Fund, representing it to be a global money market equivalent, guaranteed by individual governments, with 30 day liquidity;

In violation of Title 18, United States Code, Section 1341.

## COUNT FIVE

The SPECIAL MARCH 2010 GRAND JURY further charges:

1. Paragraphs 1 through 20 of Count One are realleged and incorporated as if fully set out in this count.

2. On or about May 26, 2009, at Oak Park, in the Northern District of Illinois, Eastern Division, and elsewhere,

DANIEL SPITZER and  
ALFRED GEREBIZZA,

defendants herein, for the purpose of executing the scheme to defraud, and attempting to do so, knowingly caused to be delivered by U.S. mail an investor newsletter to Investor MH at her address in Oak Park, Illinois, asking investors to increase their holdings in the Kenzie Funds “to make Lemonade out of Lemons”;

In violation of Title 18, United States Code, Section 1341.

## COUNT SIX

The SPECIAL MARCH 2010 GRAND JURY further charges:

1. Paragraphs 1 through 20 of Count One are realleged and incorporated as if fully set out in this count.

2. In or about the first quarter of 2010, at Riverwoods, in the Northern District of Illinois, Eastern Division, and elsewhere,

DANIEL SPITZER and  
ALFRED GEREBIZZA,

defendants herein, for the purpose of executing the scheme to defraud, and attempting to do so, knowingly caused to be delivered by U.S. mail a 2009 Schedule K-1 to Investor KG at his address in Riverwoods, Illinois, purporting to show that for the calendar year 2009, Investor KG's account in the Three Oaks Senior Strength Fund had an ending balance of \$312,886;

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

## COUNT SEVEN

The SPECIAL MARCH 2010 GRAND JURY further charges:

1. Paragraphs 1 through 20 of Count One are realleged and incorporated as if fully set out in this count.

2. On or about April 30, 2009, at Naperville, in the Northern District of Illinois, Eastern Division, and elsewhere,

DANIEL SPITZER and  
ALFRED GEREBIZZA,

defendants herein, for the purpose of executing the scheme to defraud, and attempting to do so, knowingly caused to be delivered by U.S. mail a quarterly account statement to Investor RO at his address in Naperville, Illinois, purporting to show that Investor RO's account in the Three Oaks Currency Fund account had a balance of \$143,099.74 as of March 31, 2009;

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

## COUNT EIGHT

The SPECIAL MARCH 2010 GRAND JURY further charges:

1. Paragraphs 1 through 20 of Count One are realleged and incorporated as if fully set out in this count.

2. On or about July 20, 2009, at Naperville, in the Northern District of Illinois, Eastern Division, and elsewhere,

DANIEL SPITZER and  
ALFRED GEREBIZZA,

defendants herein, for the purpose of executing the scheme to defraud, and attempting to do so, knowingly caused to be delivered by U.S. mail a quarterly account statement to Investor RO at his address in Naperville, Illinois, purporting to show that Investor RO's account in the Three Oaks Currency Fund account had a balance of \$145,708.02 as of June 30, 2009;

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

## COUNT NINE

The SPECIAL MARCH 2010 GRAND JURY further charges:

1. Paragraphs 1 through 20 of Count One are realleged and incorporated as if fully set out in this count.

2. On or about October 27, 2009, at Naperville, in the Northern District of Illinois, Eastern Division, and elsewhere,

DANIEL SPITZER and  
ALFRED GEREBIZZA,

defendants herein, for the purpose of executing the scheme to defraud, and attempting to do so, knowingly caused to be delivered by U.S. mail a quarterly account statement to Investor RO at his address in Naperville, Illinois, purporting to show that Investor E's account in the Three Oaks Currency Fund account had a balance of \$116,165.21 as of September 30, 2009;

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

## COUNT TEN

The SPECIAL MARCH 2010 GRAND JURY further charges:

1. Paragraphs 1 through 20 of Count One are realleged and incorporated as if fully set out in this count.

2. On or about February 4, 2010, at Naperville, in the Northern District of Illinois, Eastern Division, and elsewhere,

DANIEL SPITZER and  
ALFRED GEREBIZZA,

defendants herein, for the purpose of executing the scheme to defraud, and attempting to do so, knowingly caused to be delivered by U.S. mail a quarterly account statement to Investor RO at his address in Naperville, Illinois, purporting to show that Investor RO's account in the Three Oaks Currency Fund account had a balance of \$116,865.01 as of December 31, 2009;

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

## COUNT ELEVEN

The SPECIAL MARCH 2010 GRAND JURY further charges:

1. At time material to this indictment:
  - a. ARG Management, Inc., an Illinois corporation, was in the business of providing consulting services regarding investments and general financial and business matters. Defendant ALFRED GEREBIZZA was the president, secretary, treasurer, 100% stockholder and sole employee of ARG Management, Inc.
  - b. ARG Management, Inc. was a Subchapter S Corporation and therefore was required to file a U.S. Income Tax Return for an S Corporation, Form 1120S with schedules and attachments.
  - c. As the 100% stockholder of ARG Management, Inc., defendant GEREBIZZA was required to report all of ARG Management, Inc.'s net income or loss on defendant GEREBIZZA's United States Individual Income Tax Return, Form 1040 with schedules and attachments.
  - d. In and around May of 2005, defendant GEREBIZZA requested certain financial services from "Tom Connors" which would enable defendant GEREBIZZA to secretly repatriate funds into the United States from offshore bank accounts, including accounts in the name of CAPM, and to conceal the

existence and source of those funds. Unbeknownst to defendant GEREBIZZA, “Tom Connors” was an undercover Internal Revenue Service agent.

e. During the years 2005 through 2008, defendant GEREBIZZA, through “Tom Connors,” secretly repatriated a total of approximately \$1.327 million in income into the United States from offshore accounts controlled by Daniel Spitzer and Individual A: approximately \$210,030 in 2005, \$353,480 in 2006, \$483,940 in 2007, and \$279,708 in 2008.

f. In and around May of 2005, defendant GEREBIZZA requested that “Tom Connors” incorporate a sham corporation that would pay defendant GEREBIZZA a limited income stream, and create a sham consulting agreement between the entity and ARG Management, Inc., wherein ARG Management, Inc. would provide consulting services to the corporation in exchange for compensation to ARG Management, Inc., for the purported services. Defendant GEREBIZZA requested that “Tom Connors” divert some of the secretly repatriated funds through a bank account controlled by the sham corporation, to be used to purportedly pay ARG Management, Inc., in order to give the appearance that the money was income earned by ARG Management, Inc. pursuant to the sham consulting agreement, and to give the appearance that defendant GEREBIZZA had an income stream that was significantly less than what he actually received with the assistance of “Tom Connors.”

g. Pursuant to defendant GEREBIZZA's directions, "Tom Connors" caused a company to be formed in the name of Quartz Management, LLC, (hereinafter "Quartz"), a Delaware Limited Liability Company, and caused to be created a sham consulting agreement between Quartz and ARG Management, Inc., wherein ARG Management, Inc. agreed to ostensibly act as a consultant to Quartz regarding general financial and business matters in exchange for a monthly salary of \$11,000 per month and additional increments and bonuses to be determined from time to time by the officers of Quartz.

h. Pursuant to defendant GEREBIZZA's directions, "Tom Connors" caused a total of \$464,324 of the \$1.327 million in repatriated funds to be paid to a bank account controlled by Quartz and thereafter to be "paid" to ARG Management, Inc. purportedly for services rendered pursuant to the sham consulting agreement: approximately \$63,000 in 2005; approximately \$159,287 in 2006; approximately \$159,837 in 2007 and approximately \$82,200 in 2008.

i. During the years 2006 through 2007, defendant GEREBIZZA also received additional income from Kenzie Financial Management, Inc. through the use of a credit card in the name of Individual B, an employee of Kenzie Financial Management, Inc. Defendant GEREBIZZA caused credit charges made by him to be submitted to Kenzie Financial Management, Inc. and reimbursement payments were made to Individual B to cover the charges.

Defendant GEREBIZZA failed to account for these funds when ARG Management's tax return was prepared. The credit card charges totaled approximately \$51,985 in 2006 and approximately \$146,113 in 2007.

2. On or about April 13, 2006, in the Northern District of Illinois and elsewhere,

ALFRED GEREBIZZA,

defendant herein, wilfully made and subscribed and caused to be made and subscribed a U.S. Income Tax Return for an S Corporation (Form 1120S with schedules and attachments) for ARG Management, Inc. for the calendar year 2005, which return was verified by a written declaration that it was made under the penalty of perjury, and filed with the Internal Revenue Service, which return defendant did not believe to be true and correct as to every material matter in that: the return reported gross receipts of \$116,556 on line 1(a), whereas the defendant then knew and believed that he failed to disclose additional gross receipts during the calendar year 2005 in the amount of approximately \$147,031;

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

## COUNT TWELVE

The SPECIAL MARCH 2010 GRAND JURY further charges:

1. Paragraph 1 of Count Eleven is realleged and incorporated as if fully set out in this count.

2. On or about September 27, 2006, in the Northern District of Illinois and elsewhere,

ALFRED GEREBIZZA,

defendant herein, wilfully made and subscribed and caused to be made and subscribed a United States Individual Income Tax Return (Form 1040 with schedules and attachments) for the calendar year 2005, which return was verified by a written declaration that it was made under the penalty of perjury, and filed with the Internal Revenue Service, which return defendant did not believe to be true and correct as to every material matter in that the return reported S Corporation income of \$60,239 on line 17, whereas the defendant then knew and believed that he failed to disclose additional income from ARG Management Inc. in the amount of approximately \$147,031;

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

## COUNT THIRTEEN

The SPECIAL MARCH 2010 GRAND JURY further charges:

1. Paragraph 1 of Count Eleven is realleged and incorporated as if fully set out in this count.

2. On or about March 15, 2007, in the Northern District of Illinois and elsewhere,

ALFRED GEREBIZZA,

defendant herein, wilfully made and subscribed and caused to be made and subscribed a U.S. Income Tax Return for an S Corporation (Form 1120S with schedules and attachments) for ARG Management, Inc. for the calendar year 2006, which return was verified by a written declaration that it was made under the penalty of perjury, and filed with the Internal Revenue Service, which return defendant did not believe to be true and correct as to every material matter in that the return reported gross receipts of \$159,287 on line 1(a), whereas the defendant then knew and believed that he failed to disclose additional gross receipts earned during the calendar year 2006 in the amount of approximately \$246,178;

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

## COUNT FOURTEEN

The SPECIAL MARCH 2010 GRAND JURY further charges:

1. Paragraph 1 of Count Eleven is realleged and incorporated as if fully set out in this count.

2. On or about December 20, 2007, in the Northern District of Illinois and elsewhere,

ALFRED GEREBIZZA,

defendant herein, wilfully made and subscribed and caused to be made and subscribed a United States Individual Income Tax Return (Form 1040 with schedules and attachments) for the calendar year 2006, which return was verified by a written declaration that it was made under the penalty of perjury, and filed with the Internal Revenue Service, which return defendant did not believe to be true and correct as to every material matter in that the return reported S Corporation income of \$123,636 on line 17, whereas the defendant then knew and believed that he failed to disclose additional income from ARG Management Inc. in the amount of approximately \$246,178;

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

**COUNT FIFTEEN**

The SPECIAL MARCH 2010 GRAND JURY further charges:

1. Paragraph 1 of Count Eleven is realleged and incorporated as if fully set out in this count.

2. On or about February 21, 2008, in the Northern District of Illinois and elsewhere,

ALFRED GEREBIZZA,

defendant herein, wilfully made and subscribed and caused to be made and subscribed a U.S. Income Tax Return for an S Corporation (Form 1120S with schedules and attachments) for ARG Management, Inc. for the calendar year 2007, which return was verified by a written declaration that it was made under the penalty of perjury, and filed with the Internal Revenue Service, which return defendant did not believe to be true and correct as to every material matter in that the return reported gross receipts of \$156,678 on line 1(a), whereas the defendant then knew and believed that he failed to disclose additional gross receipts earned during the calendar year 2007 in the amount of approximately \$449,375;

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

**COUNT SIXTEEN**

The SPECIAL MARCH 2010 GRAND JURY further charges:

1. Paragraph 1 of Count Eleven is realleged and incorporated as if fully set out in this count.

2. On or about July 9, 2008, in the Northern District of Illinois and elsewhere,

ALFRED GEREBIZZA,

defendant herein, wilfully made and subscribed and caused to be made and subscribed a United States Individual Income Tax Return (Form 1040 with schedules and attachments) for the calendar year 2007, which return was verified by a written declaration that it was made under the penalty of perjury, and filed with the Internal Revenue Service, which return defendant did not believe to be true and correct as to every material matter in that the return reported S Corporation income of \$62,245 on line 17, whereas the defendant then knew and believed that he failed to disclose additional income from ARG Management, Inc. in the amount of approximately \$449,375;

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

## FORFEITURE ALLEGATION

The SPECIAL MARCH 2010 GRAND JURY alleges:

1. The allegations contained in Counts One through Ten of this information are realleged and incorporated herein by reference for the purpose of alleging that certain property is subject to 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, Section 1341, as alleged in Counts One through Ten of the foregoing indictment,

DANIEL SPITZER and  
ALFRED GEREBIZZA,

defendants 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 the 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:

a. Funds in the amount of approximately \$34 million.

4. If any of the property subject to forfeiture and 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 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):

- a. the property located at 4017 Wyndwood, Crystal Lake, IL 60014, PIN 19-02-153-001;
- b. the property located at 32 Ketterling Ct., North Barrington, IL 60010, PIN 13-12-403-037; and
- c. the property located at 1686 Logan Creek Dr., Glenbrook, NV 89413, PIN 1418-22-610-002;
- d. the property located at 867 Eagles Nest, Phelps, Wisconsin 54554, PIN G1-1 and PIN G4-4; and three lots adjacent to 867 Eagles Nest, Phelps, Wisconsin 54554, known as Lots 52, 53 and 54, PIN 018-1448, PIN 018-2004-03, and PIN 018-2004-01; and

e. one Dodge Viper GTS 2001 Coupe, VIN #  
1B3ER69E91V702952,

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:

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FOREPERSON

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UNITED STATES ATTORNEY