

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA : Criminal No. 09-
 :
 v. : 18 U.S.C. § 1951(a)
 :
 PHILIP J. KENNY : I N F O R M A T I O N

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

Conspiracy to Commit Extortion Under Color of Official Right

1. At all times relevant to this Information:

a. Defendant PHILIP J. KENNY (hereinafter "defendant KENNY") was a candidate for election to the Municipal Council of Jersey City (Ward B) (hereinafter the "JC City Council") held on or about May 12, 2009. On or about April 6, 2009, the JC City Council appointed defendant KENNY to complete the term of another council member who had resigned. Additionally, defendant KENNY served as operations coordinator for the Hudson County Board of Chosen Freeholders, and was previously a Freeholder's Chief of Staff.

b. There was a cooperating witness (the "CW") who, at the direction of the Federal Bureau of Investigation ("FBI"), held himself out to be a real estate developer interested in development in the greater Jersey City area. The CW represented that the CW did business in numerous states, including New York

and New Jersey, and that the CW paid for goods and services in interstate commerce.

c. There was an individual who was an employee of the Jersey City Department of Health and Human Services, and a former member of the Jersey City Zoning Board of Adjustment (hereinafter "the JC Official"). From in or about March 2008 to in or about July 2009, the JC Official accepted a series of corrupt payments from the CW in exchange for, among other things: (i) exercising and agreeing to exercise his official influence and assistance as a Jersey City official in the CW's favor, as specific opportunities arose; and (ii) facilitating introductions and corrupt payments to other officials willing to accept corrupt payments in exchange for their official influence in obtaining certain development approvals in Jersey City, New Jersey and elsewhere.

2. From in or about March 2009 to in or about May 2009, defendant KENNY agreed to accept and accepted corrupt payments of approximately \$5,000 from the CW in exchange for defendant KENNY's future official assistance, action and influence as an anticipated member of the JC City Council in obtaining certain development approvals for the CW. Specific instances of this corrupt conduct included:

a. On or about March 23, 2009, defendant KENNY met with the JC Official and the CW at a restaurant in Jersey City,

New Jersey. During this consensually recorded meeting, defendant KENNY agreed to accept a contribution of approximately \$5,000, to be issued in the form of two separate checks of \$2,500 with two different donor names, in exchange for defendant KENNY's contemplated official assistance as an anticipated member of the JC City Council. In exchange for this contribution, defendant KENNY agreed to assist the CW in obtaining certain development and zoning approvals on a property located on Garfield Avenue in Jersey City, New Jersey (the "Garfield Development").

b. On or about March 30, 2009, defendant KENNY met the JC Official and the CW at a restaurant in Jersey City, New Jersey. During this consensually recorded meeting, defendant KENNY accepted a corrupt payment of approximately \$5,000 from the CW in exchange for defendant KENNY's future official assistance, in his anticipated capacity as a member of the JC City Council, in obtaining expedited development approvals on the aforementioned Garfield Development. Defendant KENNY accepted two checks from the CW, written to "Friends of Phil Kenny," to be written on behalf of straw donors to defendant KENNY's electoral campaign. In exchange for this payment, defendant KENNY reiterated that he would attempt to expedite the CW's development approvals at the Garfield Development.

3. From in or about March 2009 to in or about May 2009, in Hudson County, in the District of New Jersey and elsewhere, defendant

PHILIP J. KENNY

did knowingly and willfully conspire to obstruct, delay and affect interstate commerce by extortion under color of official right, by corruptly accepting and agreeing to accept corrupt payments that were paid and to be paid by another, with that person's consent, in exchange for exercising and agreeing to exercise defendant KENNY's future official assistance, action and influence as an anticipated member of the JC City Council.

In violation of Title 18, United States Code, Section 1951(a).

Forfeiture Allegation

As the result of committing the aforementioned offense in violation of Title 18, United States Code, Section 1951(a), as alleged in this Information, defendant PHILIP J. KENNY 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 constitutes or is derived from proceeds traceable to the commission of the offense, including but not limited to, approximately \$5,000 in United States currency, in that such sum constitutes or is derived, directly or indirectly, from proceeds traceable to the commission of the attempt to commit extortion under color of official right.

If any of the above-described forfeitable property, as a result of any act or omission of defendant KENNY:

- (1) cannot be located upon the exercise of due diligence;
- (2) has been transferred or sold to, or deposited with, a third person;
- (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 subdivided 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 KENNY up to the value of the above forfeitable property.

All in violation of Title 18, United States Code, Section
981 and Title 28, United States Code, Section 2461.

RALPH J. MARRA, JR.
Acting United States Attorney