2006R00424

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA	:	
	:	Criminal No. 07-267(FLW)
v.	:	
	:	18 U.S.C. §§ 666, 1341,
WAYNE R. BRYANT and	:	1343, 1346 & 2
R. MICHAEL GALLAGHER	:	

I N D I C T M E N T

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

RECEIVED
MAR 29 2007
AT 8:30 M
WILLIAM T. WALSH
CLERK

COUNTS 1 TO 6
(Scheme to Defraud the Public of Defendant WAYNE R. BRYANT's Honest Services)

The University of Medicine and Dentistry of New Jersey

1. At all times relevant to this Indictment, the University of Medicine and Dentistry of New Jersey ("UMDNJ") was the State of New Jersey's university of health sciences. UMDNJ consisted of eight separate schools, including the School of Osteopathic Medicine ("SOM") located in Stratford, New Jersey. UMDNJ received several hundred million dollars in annual funding from the State of New Jersey.

Defendant WAYNE R. BRYANT

2. At all times relevant to this Indictment, defendant WAYNE R. BRYANT was a State Senator representing New Jersey's Fifth Legislative District. In or about 2002 and 2003, defendant BRYANT served as the Assistant Democratic Leader and co-Chairman of the Senate Budget and Appropriations Committee. In or about 2004, 2005, and 2006, defendant BRYANT was the Deputy Majority

Leader and sole Chairman of the Senate Budget and Appropriations Committee. On or about September 25, 2006, defendant BRYANT resigned from the Senate Budget and Appropriations Committee, but maintained his position as a State Senator and continued to hold positions on other committees.

3. As a State Senator, defendant WAYNE R. BRYANT's official duties included, but were not limited to, (a) proposing, drafting and voting on legislation, including budget appropriations and other initiatives related to state spending; (b) conducting and participating in committee hearings; (c) exercising legislative oversight with regard to state agencies and departments; (d) voting on the confirmation of high ranking state officials; (e) making recommendations to, and negotiating with, State agencies and departments; and (f) providing constituent services for New Jersey citizens and organizations, which services included defendant BRYANT bringing the merits of a constituent's position to the attention of State agencies and departments, and making a recommendation on a matter or indicating support for a constituent's position to State agencies and departments.

4. As a State Senator, defendant WAYNE R. BRYANT took an oath to support the Constitution of the State of New Jersey. Article IV, Section 5, paragraph 3 of the New Jersey Constitution provided that if any member of the legislature accepted a state

"position" "of profit," that member's seat would become vacant.

5. Defendant WAYNE R. BRYANT's annual salary as a State Senator was approximately $49,000. In addition to his income from the position of State Senator, from in or about 2003 to in or about 2006, defendant WAYNE R. BRYANT also received income from, among other sources, his partnership in the law firm of Zeller & Bryant LLP, the Gloucester County Board of Social Services, Equity Bank (now known as Susquehanna Bank), as well as state salaried positions with UMDNJ-SOM and Rutgers-Camden University. From in or about 2003 to in or about 2006, defendant BRYANT's annual income from these sources averaged approximately $643,000.

Defendant R. MICHAEL GALLAGHER

6. At all times relevant to this Indictment, defendant R. MICHAEL GALLAGHER was the Vice Dean, Interim Dean and Dean of SOM, respectively.

7. In or about February, 2002, when defendant R. MICHAEL GALLAGHER was still the Vice Dean of SOM, defendant WAYNE R. BRYANT and others began to assist defendant GALLAGHER in his effort to become the permanent Dean of SOM. This assistance included (a) arranging meetings between defendant GALLAGHER and members of the New Jersey State Legislature and (b) drafting a letter signed by defendant BRYANT and four other members of the New Jersey State Legislature in support of defendant GALLAGHER's

bid to become Dean. On or about March 19, 2002, this letter was sent to the Governor of New Jersey and the President of UMDNJ.

8. On or about May 13, 2002, defendant R. MICHAEL GALLAGHER was selected as interim Dean of SOM. On or about July 1, 2002, defendant GALLAGHER formally assumed the position of interim Dean, and received a salary increase of approximately $15,000, which resulted in a total base salary of approximately $339,466. On or about November 19, 2002, defendant GALLAGHER became the permanent Dean of SOM.

9. Defendant R. MICHAEL GALLAGHER received salary and bonuses from UMDNJ totaling approximately $369,000 in 2003, $402,000 in 2004, and $345,000 in 2005. UMDNJ's Board of Trustees suspended incentive bonuses for defendant GALLAGHER and other top UMDNJ administrators for 2005 and 2006 due to financial irregularities and mismanagement at UMDNJ. On or about April 30, 2006, defendant GALLAGHER was removed from the position of Dean of SOM.

The "Vagelos Commission" Report

10. In or about March, 2002, the Governor of New Jersey created the Commission on Health Science, Education, and Training. The Governor appointed P. Roy Vagelos, M.D., to be the Chairperson of this Commission, hereinafter referred to as the "Vagelos Commission." The purpose of the Vagelos Commission was, among other things, to evaluate the quality of the health and

medical education offered by New Jersey's state funded universities, including SOM and the other seven schools that comprised UMDNJ. The Vagelos Commission also was directed to prepare a report which outlined its findings and recommendations to the Governor.

11. In or about October, 2002, the Vagelos Commission submitted its findings and recommendations to the Governor. The Vagelos Commission's Report identified numerous problems in the administration and implementation of the health and medical education offered by New Jersey's state funded universities. Specifically, the Vagelos Commission concluded that UMDNJ failed to "achieve excellence." As a result, the central recommendation of the Vagelos Commission to the Governor was to merge Rutgers University, UMDNJ, and the New Jersey Institute of Technology into a single university system known as the University of New Jersey.

12. The recommendations of the Vagelos Commission, if adopted by the Governor and approved by the Legislature, directly threatened the independence of SOM, as well as future funding for SOM.

The Financial Condition of SOM

13. In or about April, 2003, defendant R. MICHAEL GALLAGHER reported to SOM staff that since in or about July, 2002, SOM had been in the midst of unprecedented "financial strain." The

financial distress of SOM was caused in large part by significant reductions in State funding. As Dean of SOM, defendant R. MICHAEL GALLAGHER was responsible for, among other things, the oversight of the budget and fiscal management of SOM and its programs.

14. Defendant R. MICHAEL GALLAGHER's performance as Dean was evaluated by a number of criteria, including administrative competency, leadership, and organizational/business development. Based on his performance evaluation, defendant GALLAGHER was eligible for annual incentive bonuses of between 8.75% and 26.25% of his total base salary.

15. In or about April, 2003, defendant R. MICHAEL GALLAGHER imposed budget cuts and other cost-cutting measures at SOM which affected staff and clinical services.

The Public's Right to, and Defendant WAYNE R. BRYANT's Duty of, Honest Services

16. At all times relevant to this Indictment, the State of New Jersey and its citizens had an intangible right to the honest services of their State Senators. As a Senator for the State of New Jersey, defendant WAYNE R. BRYANT owed the State of New Jersey and its citizens a duty to, among other things: (a) refrain from soliciting, accepting and agreeing to accept from another any benefit as consideration for (i) a decision, opinion, recommendation, vote and exercise of discretion as a State Senator, (ii) a violation of his official duties as a State

Senator, and (iii) the performance of his official duties as a State Senator, pursuant to NJSA § 2C:27-2; (b) refrain from accepting any gift, favor, service, employment and offer of employment and any other thing of value which he knew and had reason to believe was offered to him with intent to influence him in the performance of his public duties and responsibilities, pursuant to NJSA § 52:13D-14; and (c) disclose, and not conceal, personal financial interests and other material information in matters over which defendant BRYANT exercised official authority and discretion.

Scheme and Artifice to Defraud the Public of Honest Services

17. From in or about the fall of 2002 to in or about February, 2006, in Mercer County and in Camden County, in the District of New Jersey, and elsewhere, defendants

WAYNE R. BRYANT
and
R. MICHAEL GALLAGHER

and others did knowingly and willfully devise and intend to devise a scheme and artifice to defraud the State of New Jersey and its citizens of the right to defendant WAYNE R. BRYANT's honest services in the affairs of the State of New Jersey.

18. It was an object of this scheme and artifice to defraud that defendant R. MICHAEL GALLAGHER used his position as Dean of SOM to put defendant WAYNE R. BRYANT on the SOM payroll, and thereafter, with others, caused defendant BRYANT to receive a

stream of corrupt payments and other financial benefits from SOM, in exchange for defendant BRYANT using his position as a State Senator to take official action to advocate on behalf of SOM, including (a) to protect the interests of SOM against the recommendations of the Vagelos Commission and (b) to obtain and attempt to obtain additional funding and other benefits from the State of New Jersey for SOM and its programs. It was a further object of this scheme and artifice to defraud that defendants BRYANT and GALLAGHER did not disclose and attempted to conceal material information regarding the nature of defendant BRYANT's corrupt arrangement at SOM.

19. It was part of this scheme and artifice to defraud that:

a. In or about the fall of 2002, defendant WAYNE R. BRYANT met with the President of UMDNJ to discuss the construction of a new UMDNJ building in Camden County. After informing the UMDNJ president, among other things, that defendant BRYANT wanted UMDNJ to pay property taxes on this proposed building, defendant BRYANT solicited the President to give defendant BRYANT a paid position at UMDNJ.

b. On or about November 21, 2002, defendants WAYNE R. BRYANT and R. MICHAEL GALLAGHER met with a UMDNJ Vice President to discuss a paid position at SOM for defendant BRYANT.

c. On or about December 9, 2002, during a Committee

Meeting of the Senate Education Committee, defendant WAYNE R. BRYANT strongly criticized the recommendations of the Vagelos Commission in order to, among other things, protect the independence of SOM, as well as future funding for SOM.

d. In or about February, 2003, defendant R. MICHAEL GALLAGHER created a position at SOM entitled "Program Support Coordinator" for defendant WAYNE R. BRYANT. The job description for the Program Support Coordinator position listed the responsibilities of the position as "planning, directing, organizing and implementing" efforts "to improve University communications, image, receptivity and relationships with local governments, community and civic organizations, and local residents," even though UMDNJ already employed a Director of Urban and Community Relations for South Jersey, whose responsibilities included planning, developing, coordinating and monitoring "programs designed to improve University relations with local governments, residents, and businesses."

e. Defendant WAYNE R. BRYANT falsely stated to SOM staff that his position at SOM had been approved by the Office of Legislative Services ("OLS"), an office of the State Legislature that provided legal and ethical advice to members of the Legislature, when, in fact, defendant BRYANT never received any opinion from OLS regarding the propriety of his employment with SOM.

f. Defendant R. MICHAEL GALLAGHER rigged the hiring process for the Program Support Coordinator position to make it falsely appear that defendant WAYNE R. BRYANT was assuming a legitimate and bona fide position and that there had been a competitive process leading to defendant BRYANT'S selection. Defendant GALLAGHER staged interviews for the position, even though defendant GALLAGHER had already decided to put defendant BRYANT on the payroll, and had already caused to be prepared and circulated administrative forms which listed defendant BRYANT as the "selected candidate."

g. In or about March, 2003, defendant R. MICHAEL GALLAGHER gave defendant WAYNE R. BRYANT the title of Program Support Coordinator at SOM, at a starting rate of pay of approximately $35,000 per year. Defendant BRYANT received and accepted a stream of payments from SOM totaling approximately $25,307 in 2003, $40,841 in 2004, $37,428 in 2005, and $9,591 in 2006. Defendant BRYANT also accrued credit towards his New Jersey state pension from the position of Program Support Coordinator for SOM.

20. It was further part of this scheme and artifice to defraud that:

a. In or about 2003, defendant WAYNE R. BRYANT used his State Senate staff to arrange meetings for defendant R. MICHAEL GALLAGHER with members of the Senate Budget and

Appropriations Committee, at which defendant GALLAGHER presented a "white paper" regarding capital projects at SOM that needed funding.

b. From in or about March, 2003 to in or about June, 2006, defendant WAYNE R. BRYANT directed changes in the budget of the State of New Jersey to benefit UMDNJ and SOM, including, but not limited to, the following:

i. For fiscal year 2004, defendant WAYNE R. BRYANT ensured that the state budget included an allocation of $2.325 million for SOM, to be used for "costs associated with operating medical school programs, including medical school faculty."

ii. For fiscal year 2004, defendant WAYNE R. BRYANT inserted specific language provided by defendant GALLAGHER into the state budget which described the merits of SOM's Center for Children's Support, and supported an $800,000 allocation for SOM.

iii. For fiscal year 2004, defendant WAYNE R. BRYANT ensured that the state budget included the $800,000 allocation for SOM's Center for Children's Support. SOM received this $800,000 allocation in the state budgets for fiscal years 2005 and 2006, as well.

21. It was further part of this scheme and artifice to defraud that defendant WAYNE R. BRYANT represented, appeared for,

and negotiated on behalf of SOM with state agencies, and used his official position to influence those agencies to take action favorable to SOM, including:

a. In or about August, 2003, defendant WAYNE R. BRYANT set up a meeting between himself, defendant R. MICHAEL GALLAGHER and the Commissioner of the New Jersey Department of Health and Senior Services at which defendants BRYANT and GALLAGHER sought to influence the Commissioner to allocate to SOM a portion of $5,000,000 in state funds appropriated to the Cancer Institute of South Jersey.

b. In or about the spring of 2004, defendant WAYNE R. BRYANT persuaded the Commissioner of the New Jersey Department of Human Services to agree to provide $1,500,000 in child welfare reform funding for SOM's Center for Children's Support.

c. In or about August, 2005, defendant WAYNE R. BRYANT set up a meeting between himself, defendant R. MICHAEL GALLAGHER and the Treasurer of the State of New Jersey at defendant BRYANT's legislative office in Camden, New Jersey in an effort to influence the Treasurer to disburse "special" targeted tax relief payments to the Borough of Stratford, New Jersey, to compensate the borough for land that SOM was planning to acquire.

d. In or about late 2005, defendant WAYNE R. BRYANT secured a $200,000 Property Tax Assistance and Community Development grant from the New Jersey Department of the Treasury

to SOM's Institute for Successful Aging.

22. It was further part of this scheme and artifice to defraud that:

a. To conceal the corrupt and fraudulent purpose of the arrangement that defendant WAYNE R. BRYANT made with defendant R. MICHAEL GALLAGHER and others, defendant GALLAGHER caused the publicly-disclosed description for defendant BRYANT's position to misleadingly state that defendant BRYANT's job was to "improve University communications, image, receptivity, and relationships with local governments, community and civic organizations and local residents," while omitting any reference to defendant BRYANT's use of his position and influence as a State Senator on behalf of SOM. Based on this description, the position was inaccurately described by unknowing third parties as an "external affairs" or "public relations" job. In reality, defendant BRYANT's primary role at SOM was to use his official position to advocate on behalf of SOM with state officials and legislators and to provide official assistance in obtaining state funds for SOM, including for the Center for Children's Support and Institute for Successful Aging.

b. Contrary to the New Jersey Legislative Code of Ethics requirement that state legislators identify all sources of income in excess of $1,000, defendant WAYNE R. BRYANT intentionally failed to disclose his payments from SOM on his

2003 Legislator's Financial Disclosure Statement, which defendant BRYANT filed on or about April 19, 2004.

c. Defendant WAYNE R. BRYANT did not disclose his SOM income on his Legislator's Financial Disclosure Statement until on or about April 22, 2005, when he filed his Financial Disclosure Statement for calendar year 2004. Defendant BRYANT's disclosure occurred approximately eight days after UMDNJ announced that it was hiring a former New Jersey Supreme Court justice to review UMDNJ's no-bid contracts and determine whether there had been a breakdown in financial controls at UMDNJ.

d. At meetings with state officials regarding UMDNJ and SOM business, and in his dealings with staff and members of the New Jersey State Legislature with whom he worked on state budget issues related to UMDNJ and SOM, defendant WAYNE R. BRYANT did not disclose that he was being paid by SOM.

23. It was further part of this scheme and artifice to defraud that defendant WAYNE R. BRYANT's actions on behalf of SOM directly and indirectly helped defendant R. MICHAEL GALLAGHER meet or exceed his performance goals as Dean, and defendant GALLAGHER received favorable performance appraisals and incentive bonuses of approximately $42,000 in the fall of 2003 and $56,875 in the fall of 2004.

The Mailings and Wire Transmissions

24. On or about the dates listed below, in Mercer County and in Camden County, in the District of New Jersey, and elsewhere, for the purpose of executing and attempting to execute this scheme and artifice to defraud, defendants

WAYNE R. BRYANT
and
R. MICHAEL GALLAGHER

and others knowingly and willfully placed and caused to be placed in a post office and authorized depository for mail, and caused to be delivered thereon, certain mail matter, to be sent and delivered by the United States Postal Service, and transmitted and caused to be transmitted by means of wire communication in interstate commerce certain writings, signs, signals, pictures and sounds, as described below:

COUNT	DATE	DESCRIPTION
1	February 12, 2003	Application for employment from UMDNJ-SOM to defendant BRYANT (mailing).
2	February 18, 2003	Letter from defendant BRYANT to UMDNJ-SOM, transmitting application for employment (mailing).
3	March 11, 2003	Letter from UMDNJ-SOM to defendant BRYANT, confirming offer of employment (mailing).
4	April 19, 2004	Defendant BRYANT's 2003 Legislator's Financial Disclosure Statement (mailing).

5	February 18, 2005	Telephone call between defendant GALLAGHER in California and defendant BRYANT in New Jersey in which they discussed obtaining additional State funding for SOM (wire).
6	August 15, 2003 to February 18, 2006	Payments from UMDNJ-SOM to defendant BRYANT by electronic funds transfers (wire).

In violation of Title 18, United States Code, Sections 1341, 1343, 1346 and 2.

COUNT 7

(Solicitation and Acceptance of a Corrupt Thing of Value Involving an Organization Receiving Federal Funds)

1. Paragraphs 1 to 15 and 19 to 23 of Counts 1 to 6 of this Indictment are repeated and realleged as if set forth in full herein.

2. At all times relevant to Count 7 of this Indictment:

a. Defendant WAYNE R. BRYANT, as a State Senator, was an agent of the State of New Jersey.

b. The State of New Jersey was a government that received federal benefits in excess of $10,000 per year involving a grant, contract, subsidy, loan, guarantee, insurance and other form of assistance.

3. From in or about the fall of 2002 to in or about February, 2006, in Mercer County and in Camden County, in the District of New Jersey, and elsewhere, defendant

WAYNE R. BRYANT

knowingly and willfully did corruptly solicit and demand for the benefit of himself, and did accept and agree to accept a thing of value, namely, a salaried and pensionable position at SOM permitting him to receive a stream of payments and pensionable income, from another person, intending to be influenced and rewarded in connection with a business, transaction, and series

of transactions of the State of New Jersey involving a thing of value of $5,000 or more.

In violation of Title 18, United States Code, Sections 666(a)(1)(B) and 2.

COUNT 8

(Offering and Giving a Corrupt Thing of Value Involving an Organization Receiving Federal Funds)

1. Paragraphs 1 to 15 and 19 to 23 of Counts 1 to 6 and paragraph 2 of Count 7 of this Indictment are repeated and realleged as if set forth in full herein.

2. From in or about the fall of 2002 to in or about February, 2006, in Mercer County and in Camden County, in the District of New Jersey, and elsewhere, defendant

R. MICHAEL GALLAGHER

knowingly and willfully did corruptly give, offer, and agree to give a thing of value, namely, a salaried and pensionable position at SOM, permitting defendant GALLAGHER to give a stream of payments and pensionable income to WAYNE R. BRYANT, with intent to influence and reward an agent of the State of New Jersey, namely, WAYNE R. BRYANT, in connection with a business, transaction, and series of transactions of the State of New Jersey involving a thing of value of $5,000 or more.

In violation of Title 18, United States Code, Sections 666(a)(2) and 2.

COUNTS 9 TO 14

(Scheme to Defraud the New Jersey Division of Pensions and Benefits of Money and Property By Use of the Mails)

1. Paragraphs 1 to 5 of Counts 1 to 6 of this Indictment are repeated and realleged as if set forth in full herein.

The Public Employees Retirement System ("PERS")

2. At all times relevant to Counts 9 to 14 of this Indictment:

a. The Public Employees Retirement System ("PERS") was a pension benefit system for New Jersey government employees and elected officials, administered by the New Jersey Division of Pensions and Benefits (the "Division").

b. PERS benefits were post-retirement compensation for services rendered by government employees or elected officials. Performance of work, in exchange for compensation by the government employer, was a minimum requirement to receive PERS retirement benefits. In addition, under New Jersey law, a government employee or elected official could receive PERS retirement benefits only for the performance of "honorable service." If the employee or official's service was not honorable, for instance, if such service was corrupt, fraudulent, or otherwise breached the public trust, then the employee or official would not be eligible to receive PERS retirement benefits for that service.

c. A government employee or elected official with

more than one government position was eligible to accumulate PERS retirement benefits from each salary properly received from all government positions.

d. Once eligible for retirement, PERS benefits were calculated through a formula using what was commonly known as the "high three," the average salary for the three highest paid years as a government employee or elected official, in combination with the employee's years of service.

Defendant WAYNE R. BRYANT's Participation in the PERS Retirement System

3. Defendant WAYNE R. BRYANT was enrolled in PERS from in or about 1980, to in or about 2006.

4. From in or about 1980 to in or about 2001, defendant WAYNE R. BRYANT held government positions as a Camden County Freeholder, member of the New Jersey Legislature, Associate Counsel to the Gloucester County Board of Social Services ("GCBSS"), and Adjunct Professor at Rutgers-Camden Law School, in addition to his private employment as a partner in the law firm of Zeller & Bryant LLP, and as a member of the Board of Directors of Equity Bank. From in or about 1980 to in or about 2001, defendant BRYANT received the following pensionable income from his government positions:

YEAR	CAMDEN CO. FREEHOLDER AND NEW JERSEY LEGISLATURE	GCBSS	RUTGERS-CAMDEN	TOTAL PENSIONABLE INCOME FROM GOVERNMENT JOBS
1980	$16,500			$16,500
1981	$16,500			$16,500
1982	$24,875			$24,875
1983	$18,000			$18,000
1984	$25,000			$25,000
1985	$25,000			$25,000
1986	$25,000			$25,000
1987	$25,000			$25,000
1988	$25,000			$25,000
1989	$25,000			$25,000
1990	$35,000			$35,000
1991	$35,000			$35,000
1992	$35,000			$35,000
1993	$35,000			$35,000
1994	$35,000			$35,000
1995	$35,000			$35,000
1996	$35,000	$8,575		$43,575
1997	$35,000	$14,700	$4,000	$53,700
1998	$35,000	$14,907	$2,000	$51,907
1999	$35,000	$15,419		$50,419
2000	$35,000	$27,821		$62,821
2001	$35,000	$29,775		$64,775

5. Defendant WAYNE R. BRYANT was eligible to begin receiving PERS retirement benefits in 2006, after twenty-five

years of government employment. At the end of 2001, defendant BRYANT's three highest salaried calender years from his government positions were 1997, 2000 and 2001. The average of defendant BRYANT's "high three" for these years was approximately $60,000, the precise figure depending upon the methodology employed by the Division to calculate his benefits. This would have resulted in annual retirement benefits of approximately $28,000 per year.

6. From in or about the middle of 2002 to in or about the end of 2006, defendant WAYNE R. BRYANT received pensionable income from the New Jersey Legislature, a substantial increase in pensionable income from the GCBSS, as well as new pensionable income from UMDNJ-SOM and Rutgers University, in addition to income received from his private employment as a partner in the law firm of Zeller & Bryant LLP, and as a member of the Board of Directors of Equity Bank. From in or about 2002 to in or about 2006, defendant BRYANT received the following pensionable income from his government positions:

YEAR	NEW JERSEY LEGISLATURE	GCBSS	RUTGERS-CAMDEN LAW SCHOOL	UMDNJ-SOM	TOTAL PENSIONABLE INCOME FROM GOVERNMENT JOBS
2002	$49,000	$32,739	$12,000		$93,739
2003	$49,000	$53,068	$30,024	$25,551	$157,643
2004	$49,000	$54,718	$32,059	$37,187	$172,964
2005	$49,000	$56,712	$35,043	$36,946	$177,701
2006	$49,000	$58,613	$21,000	$4,410	$133,023

7. As of 2006, defendant WAYNE R. BRYANT's three highest salaried calender years from his government jobs were 2003, 2004 and 2005. In 2006, defendant BRYANT was removed from the payrolls of Rutgers-Camden Law School and UMDNJ-SOM. Under the Division's rules, because of the 2006 decrease in pensionable salary, the Division calculated defendant BRYANT's average "high three" using the fiscal year calendar. As a result, defendant BRYANT's average "high three" as calculated for these years was increased to approximately $170,492. This resulted in an increase in his annual retirement benefits from approximately $28,000 to approximately $81,269. In sum, between in or about 2002 and in or about 2006, defendant BRYANT almost tripled his total pensionable income, and thereby increased his potential retirement benefits by approximately $53,000 per year.

Scheme and Artifice to Defraud

8. From in or about July, 2002 to in or about March, 2007, in Mercer County and in Camden County, in the District of New Jersey, and elsewhere, defendant

WAYNE R. BRYANT

did knowingly and willfully devise and intend to devise a scheme and artifice to defraud PERS, the Division, and the State of New Jersey and to obtain money and property by means of materially false and fraudulent pretenses, representations and promises.

9. The object of this scheme and artifice to defraud was

for defendant WAYNE R. BRYANT to inflate his "high three" by fraudulently acquiring pensionable income from the GCBSS, UMDNJ-SOM, and Rutgers University, to thereby enable defendant BRYANT to obtain PERS retirement benefits to which he was not legally entitled.

Gloucester County Board of Social Services

10. It was part of this scheme and artifice to defraud that:

a. Defendant WAYNE R. BRYANT was hired individually as an employee of the GCBSS to provide legal services.

b. Defendant WAYNE R. BRYANT received pensionable income from the GCBSS that was used to calculate defendant BRYANT's "high three."

c. Defendant WAYNE R. BRYANT did little or no meaningful work in exchange for the pensionable income that he received from the GCBSS.

d. Defendant WAYNE R. BRYANT dispatched employees of his law firm to provide the legal services to the GCBSS for which defendant BRYANT was individually hired to perform, and for which defendant BRYANT was personally receiving a salary and accruing retirement benefits.

e. Defendant WAYNE R. BRYANT spent approximately the following amounts of time providing legal services to the GCBSS, relative to the employees of his law firm:

i. From in or about late July, 2002 to in or about December, 2002, defendant BRYANT worked 0 hours for the GCBSS, while employees of his law firm worked a total of approximately 290 hours.

ii. Throughout calender year 2003, defendant BRYANT worked a total of approximately 10.3 hours for the GCBSS, while employees of his law firm worked a total of approximately 1,191 hours.

iii. Throughout calender year 2004, defendant BRYANT worked a total of approximately 4.5 hours for the GCBSS, while employees of his law firm worked a total of approximately 840 hours.

iv. Throughout calender year 2005, defendant BRYANT worked 0 hours for the GCBSS, while employees of his law firm worked a total of approximately 877 hours.

v. From in or about January, 2006 to in or about August, 2006, defendant BRYANT worked 0 hours for the GCBSS, while employees of his law firm worked a total of approximately 529 hours.

f. From in or about July, 2002 to in or about August, 2006, defendant WAYNE R. BRYANT worked a total of approximately 14.8 hours for the GCBSS, yet received approximately $200,000 of pensionable income.

g. Each pay period, defendant WAYNE R. BRYANT

submitted a form titled "Attorney's Time Accountability/Work Unit Reports" to the GCBSS, in which BRYANT signed a statement which falsely declared, "I hereby submit that the above entries represent the hours I have worked in the listed work units."

h. On or about December 26, 2006, defendant WAYNE R. BRYANT submitted to the Division an application to receive PERS retirement benefits based, in part, on actual work and honorable service provided to the GCBSS, which, in fact, defendant BRYANT had not performed.

UMDNJ-SOM

11. It was further part of this scheme and artifice to defraud that:

a. Defendant WAYNE R. BRYANT targeted SOM to obtain a government position in order to fraudulently increase his retirement benefits because SOM was a government institution dependent upon defendant BRYANT for political support as well as for continued and/or increased state funding.

b. In or about the fall of 2002, defendant WAYNE R. BRYANT sought out a pensionable position at SOM, and was thereafter placed on the SOM payroll.

c. Defendant WAYNE R. BRYANT received pensionable income from SOM that was used to calculate defendant BRYANT's "high three."

d. Defendant WAYNE R. BRYANT did little or no

legitimate and meaningful work in exchange for the pensionable income that he received from SOM.

e. Defendant WAYNE R. BRYANT and others fraudulently caused defendant BRYANT to receive pensionable income and accrue retirement benefits as if he worked three full days per week, when, in fact, his position at SOM required him to be present at SOM one-half of one day per week.

f. On or about March 19, 2003, defendant WAYNE R. BRYANT signed and caused to be submitted to the Division by mail an enrollment application which falsely and fraudulently stated that defendant BRYANT should receive pensionable income and accrue retirement benefits for his position at SOM.

g. Defendant WAYNE R. BRYANT routinely failed to appear at his government position at SOM.

h. When defendant WAYNE R. BRYANT did appear at his government position at SOM, defendant BRYANT routinely failed to do any legitimate and meaningful work, and instead spent much of the time reading the newspapers.

i. The only material service performed by defendant WAYNE R. BRYANT in exchange for his pensionable income was to unlawfully use his position as a State Senator and Chairman of the Senate Budget and Appropriations Committee to lobby on behalf of SOM and to obtain increased state funding for SOM.

j. On or about December 26, 2006, defendant WAYNE R.

BRYANT submitted to the Division an application to receive PERS retirement benefits based, in part, on actual work and honorable service provided to SOM, which, in fact, defendant BRYANT had not performed.

Rutgers University

12. It was further part of this scheme and artifice to defraud that:

a. Defendant WAYNE R. BRYANT targeted Rutgers-Camden University to obtain a government position in order to fraudulently increase his retirement benefits because Rutgers-Camden was a government institution dependent upon defendant BRYANT for political support, as well as for continued and/or increased state funding.

b. In or about the summer of 2002, defendant WAYNE R. BRYANT sought out a pensionable position at Rutgers-Camden University, including the Rutgers-Camden Law School, and was thereafter placed on the Rutgers-Camden payroll.

c. Defendant WAYNE R. BRYANT received pensionable income from Rutgers-Camden that was used to calculate defendant BRYANT's "high three."

d. Defendant WAYNE R. BRYANT did little or no legitimate and meaningful work in exchange for the pensionable income that he received from Rutgers-Camden.

e. On or about December 26, 2006, defendant WAYNE R.

BRYANT submitted to the Division an application to receive PERS retirement benefits based, in part, on actual work and honorable service provided to Rutgers-Camden, which, in fact, defendant BRYANT had not performed.

The Mailings

13. On or about the dates set forth below, for the purpose of executing and attempting to execute this scheme and artifice defraud, defendant WAYNE R. BRYANT and others knowingly and willfully placed and caused to be placed in a post office and authorized depository for mail, and caused to be delivered thereon, certain mail matter, to be sent and delivered by the United States Postal Service, as described below:

COUNT	DATE	DESCRIPTION
9	December 6, 2002	Multiple enrollment form sent from Rutgers University to the New Jersey Division of Pension and Benefits.
10	April 11, 2003	Enrollment application form sent from UMDNJ to the New Jersey Division of Pension and Benefits.
11	January 12, 2006	Estimate of Retirement Benefits sent from the New Jersey Division of Pension and Benefits to defendant WAYNE R. BRYANT.
12	November 15, 2006	Estimate of Retirement Benefits sent from the New Jersey Division of Pension and Benefits to defendant WAYNE R. BRYANT.

13	January 3, 2007	Letter from the New Jersey Division of Pension and Benefits sent to defendant WAYNE R. BRYANT, GCBSS and Rutgers University requesting additional information regarding the retirement application submitted by defendant BRYANT.
14	January 10, 2007	Certification from GCBSS to the New Jersey Division of Pension and Benefits providing information regarding the retirement application submitted by defendant WAYNE R. BRYANT.

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

COUNTS 15 TO 17
(Scheme to Defraud UMDNJ-SOM of Defendant Gallagher's Honest Services, Money and Property By Use of Interstate Wires and Mails)

1. Paragraphs 1 and 6 to 9 of Counts 1 to 6 of this Indictment are repeated and realleged as if set forth in full herein.

Defendant R. MICHAEL GALLAGHER and SOM's Headache Center

2. At all times relevant to Counts 15 to 17 of this Indictment:

a. SOM included various clinical departments which provided patient care and conducted clinical research. One of SOM's clinical departments was the University Headache Center (the "Headache Center"). SOM's clinical departments, including the Headache Center, received payments from patients for their treatment, and received fees from private entities, such as pharmaceutical companies, for clinical trials conducted by SOM.

b. In addition to serving as Dean of SOM, since 1989 defendant R. MICHAEL GALLAGHER was the Chairperson of the Headache Center. While Dean, defendant GALLAGHER maintained his designation as Chairperson of the Headache Center even though the great majority of the Headache Center's patient care and clinical research was performed by another physician.

The Faculty Practice Plan

3. At all times relevant to Counts 15 to 17 of this

Indictment:

a. The Faculty Practice Plan ("FPP") by-laws were a written agreement between the SOM administration and the SOM faculty physicians who performed clinical and research work. The FPP prescribed, among other things, how money in the form of fees generated by the clinical departments would be distributed.

b. Under the terms of the FPP by-laws, income generated by each clinical department was to be used and distributed in the following manner:

i. An amount equal to ten percent of each clinical department's previous year's gross collections was to be paid into a Dean's Fund. Defendant R. MICHAEL GALLAGHER was required to use the Dean's Fund to "enhance education and research within" SOM.

ii. Each clinical department was required to contribute, on a pro rata basis, to the Practice Plan Operating Fund, which paid for the departments' billing and collection functions.

iii. Each clinical department was required to contribute two percent of its gross collections to an account used to repay loans.

iv. The clinical departments were required to place all other funds in their Operations Accounts to meet the departments' monthly expenses.

c. Under the terms of the FPP by-laws, each clinical department's profit, if any, was to be divided evenly between the Department Chairperson's Fund and the Incentive Supplemental Account, also known as the Faculty Bonus Fund (the "Faculty Bonus Fund").

i. The Department Chairperson's Fund was to be used "for purposes for academic enrichment in the respective department," such as "the advancement of programs of the Department, funding of teaching research efforts, specific equipment purchases, recruitment of faculty and residents, rental of space, and . . . contracts with additional faculty, residents, fellows and support staff."

ii. The Faculty Bonus Fund was to be used for cash bonuses to be awarded to faculty members who made significant contributions to their department's patient care and clinical research. A cash bonus was to be awarded upon consideration of "a faculty member's contribution to departmental income, departmental teaching, research and administrative duties, and recogni[tion of] enhancement of patient care at affiliated hospitals." The cash bonus could be awarded only "by the Departmental Chairperson, with the written concurrence of the Dean."

UMDNJ-SOM's Right to Defendant R. MICHAEL GALLAGHER's Duty of Honest Services

4. At all times relevant to Counts 15 to 17 of this Indictment, UMDNJ and SOM had an intangible right to the honest services of their employees. As Dean of SOM, defendant R. MICHAEL GALLAGHER owed a fiduciary duty to UMDNJ and SOM to (a) distribute the proceeds of SOM's clinical departments in accordance with the FPP by-laws; (b) make decisions regarding SOM's financial management that were in SOM's best interests and consistent with the philosophy, purpose and governance of SOM; and (c) refrain from self-dealing conduct intended to unjustly enrich defendant GALLAGHER at the expense of SOM.

Scheme and Artifice to Defraud

5. From in or about June, 2002 to in or about December, 2004, in Camden County and in Burlington County, in the District of New Jersey, and elsewhere, defendant

R. MICHAEL GALLAGHER

did knowingly and willfully devise and intend to devise a scheme and artifice to defraud UMDNJ and SOM of the right to defendant GALLAGHER's honest services in the financial administration of UMDNJ and SOM, and to obtain money and property by means of materially false and fraudulent pretenses, representations, and promises.

6. The object of the scheme and artifice to defraud was for defendant R. MICHAEL GALLAGHER to use his position as Dean of

SOM and as Chairperson of the Headache Center to unjustly enrich himself by deciding to pay, and then paying, himself an annual bonus in violation of the terms of the FPP by improperly steering SOM funds to the Headache Center and using funds obligated for the Chairperson's Fund to finance his self-awarded bonuses.

Defendant R. MICHAEL GALLAGHER Caused the Transfer of Funds to the Headache Center to Show Fraudulent Profits

7. It was part of the scheme and artifice to defraud that, in order for defendant R. MICHAEL GALLAGHER to receive a bonus in accordance with the FPP, the Headache Center had to show a net profit at the end of each fiscal year. Therefore, defendant GALLAGHER informed his subordinates in the SOM Finance Office that he wanted the Headache Center to show annual profits, and that he wanted to receive annual bonuses of approximately $15,000. During fiscal years 2002, 2003 and 2004, all of which started on or about July 1 and ended on or about June 30, the Headache Center produced net operating losses. As set forth below, during fiscal years 2002, 2003 and 2004, finance staff, acting at the direction of defendant R. MICHAEL GALLAGHER, caused funds controlled by the Dean's Office to be transferred to the Headache Center in order to show the following fraudulent profits in the Headache Center's financial statements:

FISCAL YEAR	OPERATING PROFIT/(LOSS)	"SUPPORT" FROM DEAN'S FUNDS	PROFIT
2002	($52,289)	$82,831	$30,542
2003	($138,949)	$168,949	$30,000
2004	($60,228)	$93,478	$33,250

Defendant R. MICHAEL GALLAGHER Paid Himself a Bonus in Violation of the FPP and His Fiduciary Duty to UMDNJ-SOM

8. It was part of the scheme and artifice to defraud that:

a. Based on defendant R. MICHAEL GALLAGHER's self-evaluation of his productivity and contributions to the Headache Center, defendant GALLAGHER paid himself bonuses in approximately the following amounts in these fiscal years:

FISCAL YEAR	BONUS
2002	$15,271
2003	$20,000
2004	$15,000

b. Defendant R. MICHAEL GALLAGHER also paid a bonus in fiscal years 2002, 2003 and 2004 to the physician who operated the Headache Center.

c. During fiscal years 2002, 2003 and 2004, defendant R. MICHAEL GALLAGHER intentionally failed to contribute half of the Headache Center's "profits" to the Chairperson's Fund as required by the FPP by-laws.

9. In or about 2002 and 2003, defendant R. MICHAEL GALLAGHER caused these bonus payments from SOM to be direct-deposited into his bank account by means of electronic funds

transfers. In or about 2004, defendant GALLAGHER caused this bonus payment to be mailed to himself.

10. On or about the dates listed below, in Camden County and in Burlington 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

R. MICHAEL GALLAGHER

knowingly and willfully placed and caused to be placed in a post office and authorized depository for mail, and caused to be delivered thereon, certain mail matter, to be sent and delivered by the United States Postal Service, and transmitted and caused to be transmitted by means of wire communication in interstate commerce certain writings, signs, signals, pictures and sounds, as described below:

COUNT	DATE	DESCRIPTION
15	December 20, 2002	Transfer #626201476 in the amount of approximately $16,735.48, which included defendant GALLAGHER's $15,271 bonus payment (wire).
16	August 15, 2003	Transfer #617301464 in the amount of approximately $20,197.74, which included defendant GALLAGHER's $20,000 bonus payment (wire).
17	November 22, 2004	Check number 990017030 in the amount of approximately $10,148.06 (the net amount of defendant GALLAGHER's $15,000 bonus), sent from UMDNJ to defendant GALLAGHER (mailing).

In violation of Title 18, United States Code, Sections 1341, 1343, 1346 and 2.

COUNTS 18 TO 20

(Fraud Involving Organization Receiving Federal Funds)

1. Paragraphs 1 to 3 and 7 to 9 of Counts 15 to 17 of this Indictment are repeated and realleged as if set forth in full herein.

2. At all times relevant to Counts 18 to 20 of this Indictment:

a. Defendant R. MICHAEL GALLAGHER was an agent of UMDNJ-SOM.

b. UMDNJ-SOM was an organization that received federal benefits in excess of $10,000 per year involving a grant, contract, subsidy, loan, guarantee, insurance and other form of assistance.

3. From in or about March, 2003 to in or about February, 2006, defendant R. MICHAEL GALLAGHER caused false and fraudulent "profits" to be created on the financial statements of the Headache Center, and awarded himself bonuses from those funds, contrary to the provisions of the FPP.

4. In or about the following years, in Camden County and in Burlington County, in the District of New Jersey, and elsewhere, defendant

R. MICHAEL GALLAGHER

knowingly and willfully did embezzle, steal, obtain by fraud and without authority convert to his own use, and intentionally misapplied the following approximate amounts of money owned by

and under the care, custody and control of UMDNJ-SOM, namely the fraudulent bonuses that defendant GALLAGHER received:

COUNT	FISCAL YEAR	BONUS
18	2002	$15,271
19	2003	$20,000
20	2004	$15,000

In violation of Title 18, United States Code, Sections 666(a)(1)(A) and 2.

A TRUE BILL

CHRISTOPHER J. CHRISTIE
UNITED STATES ATTORNEY

CASE NUMBER: _____

United States District Court
District of New Jersey

UNITED STATES OF AMERICA

v.

WAYNE R. BRYANT and
R. MICHAEL GALLAGHER

INDICTMENT FOR

18 U.S.C. §§ 666, 1341,
1343, 1346 & 2

A True Bill,

Fo

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