

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA : **CRIMINAL NO.** _____
v. : **DATE FILED:** _____
KEVIN GARY TOLBERT : **VIOLATIONS:**
: **18 U.S.C. § 1951 (a) (robbery which**
: **interfered with interstate commerce)**
: **- 1 count)**
: **18 U.S.C. § 924(c)(1) (using and carrying**
: **a firearm during a crime of violence**
: **- 1 count)**
: **18 U.S.C. § 2 (aiding and abetting)**
: **Notice of forfeiture**

INDICTMENT

COUNT ONE

THE GRAND JURY CHARGES THAT:

At all times material to this indictment:

1. The Clearview Bala Theatre, located at 157 Bala Avenue, in Bala Cynwyd, Pennsylvania, was a movie theater engaged in the presentation of first run motion pictures and the sale of concessions such as candy, popcorn, various snacks, and beverages in interstate commerce, and was an enterprise which affected interstate commerce.

2. On or about November 30, 2009, in Bala Cynwyd, in the Eastern District of Pennsylvania, defendant

KEVIN GARY TOLBERT

and persons unknown to the grand jury, obstructed, delayed, and affected commerce and the movement of articles and commodities in commerce, and attempted to do so, by robbery, in that,

defendant TOLBERT unlawfully took and obtained, and aided and abetted the unlawful taking and obtaining of, cash, that is, approximately \$5,245 in U.S. currency, and personal property, from the Clearview Bala Theatre located at 157 Bala Avenue, in Bala Cynwyd, in the presence of employees of the Clearview Bala Theatre and against their will, by means of actual and threatened force, violence, and fear of injury, immediate and future to the employees of the Clearview Bala Theatre, by pointing a firearm at, demanding money and property from, and otherwise threatening them.

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

COUNT TWO

THE GRAND JURY FURTHER CHARGES THAT:

On or about November 30, 2009, in Bala Cynwyd, in the Eastern District of Pennsylvania, defendant

KEVIN GARY TOLBERT

and persons unknown to the grand jury, knowingly used and carried, and aided and abetted the use and carrying of, a firearm during and in relation to a crime of violence for which he may be prosecuted in a court of the United States, that is, robbery which interfered with interstate commerce, in violation of Title 18, United States Code, Section 1951(a).

In violation of Title 18, United States Code, Sections 924(c)(1) and 2.

NOTICE OF FORFEITURE

THE GRAND JURY FURTHER CHARGES THAT:

1. As a result of the violation of Title 18, United States Code, Section 1951(a), set forth in this indictment, defendant

KEVIN GARY TOLBERT

shall forfeit to the United States of America any property, real or personal, that constitutes or is derived from proceeds traceable to the commission of such offenses.

2. If any of the property subject to forfeiture, 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;

it is the intent of the United States, pursuant to Title 28, United States Code, Section 2461(c), incorporating Title 21, United States Code, Section 853(p), to seek forfeiture of any other property of the defendant up to the value of the property subject to forfeiture.

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

A TRUE BILL:

**_____
GRAND JURY FOREPERSON**

**_____
ZANE DAVID MEMEGER
United States Attorney**