

NEWS

United States Department of Justice
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Guttenberg Mayor and Wife Charged
With Tax Fraud in Superseding Indictment

(More)

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NEWARK – A federal grand jury returned a Superseding Indictment this afternoon against the mayor of Guttenberg and his wife, adding new charges that they subscribed to fraudulent tax returns for 2004 and 2005, U.S. Attorney Christopher J. Christie announced.

David Delle Donna and Anna Delle Donna were originally indicted in late September on charges of using their official positions to benefit a local bar owner in return for cash payments, which were used for the defendants' personal expenses, including cosmetic surgery and gambling in Atlantic City.

According to the Superseding Indictment, the Della Donnas failed to report on their federal tax returns more than \$25,000 in rental income they received over two years. The rent was paid by five tenants that rent apartments owned by the defendants. The Della Donnas are further charged in the Superseding Indictment with failing to report to the Internal Revenue Service the payments made to them by the bar operator in 2005.

In addition to the tax allegations contained in two new counts (Count Four and Count Five), the Superseding Indictment adds a substantive mail fraud allegation in Count Two. This count relates to Delle Donna's alleged acceptance of approximately \$5,000 from the bar owner as a campaign contribution, which Delle Donna then kept and failed to report on his New Jersey campaign finance forms.

As in the original Indictment, the Superseding Indictment charges the defendants with extorting cash contributions and other payments and benefits from the bar operator, in exchange for the Della Donnas agreeing to take or refrain from taking official action to assist the bar operator in connection with problems the bar operator was having with the Town Council and various municipal violations, such as the improper storage and disposal of garbage. According to the charges, the corrupt payments included approximately \$2,000 for Anna Delle Donna's cosmetic surgery, and a dog valued at approximately \$1,700 that the bar operator purchased for Anna Delle Donna, which the defendants knowingly failed to report to the Internal Revenue Service.

The charges also allege that the Della Donnas conspired to divert campaign contributions from various campaign committees, including David Della Donna's own mayoral campaign committee, as well as the campaign committees of other individuals who ran for town council and who affiliated themselves with David Della Donna. According to the Superseding Indictment, the sources of these cash campaign contributions included the bar operator and a real estate developer.

By diverting the cash contributions, the defendants allegedly caused fraudulent campaign contribution reports to be filed with the New Jersey Election Law Enforcement Commission. Furthermore, from 2002 to 2006, the defendants filed Financial Disclosure forms with the N.J. Department of Community Affairs, Local Government Services Division, Local Finance Board, that intentionally failed to disclose the defendants' receipt of the cash contributions, as required.

David Delle Donna has been mayor since 2002, and was a town council member prior to that. Anna Delle Donn was a member of the town's planning board since 2002.

David and Anna Della Donna are charged in Count One with conspiring to commit mail fraud, in Count Two with mail fraud, in Count Three with conspiring to obstruct interstate commerce by extortion, and in Counts Four and Five with subscribing to and filing materially false income tax returns for years 2004 and 2005. Counts One, Two and Three carry statutory maximum prison sentences of 20 years and maximum fines of \$250,000 per count. Counts Four and Five carry statutory maximum prison sentences of three years and maximum fines of \$100,000 per count.

In determining an actual sentence, the judge to which the case is assigned, U.S. District Judge Harold A. Ackerman, would, upon a conviction, consult the advisory U.S. Sentencing Guidelines, which provide appropriate sentencing ranges that take into account the severity and characteristics of the offense, the defendant's criminal history, if any, and other factors. The judge, however, is not bound by those guidelines in determining a sentence. Parole has been abolished in the federal system. Defendants who are given custodial terms must serve nearly all that time.

Despite indictment, each of the defendants is presumed innocent unless proven guilty beyond a reasonable doubt.

Christie credited Special Agents of the FBI, under the direction of Special Agent in Charge Weysan Dun, and Special Agents of the IRS, under the direction of Special Agent in Charge William P. Offord, with the investigation of the Delle Donnas.

The case is being prosecuted by Assistant U.S. Attorneys Thomas R. Calcagni and Richard E. Constable, III., of the U.S. Attorney's Office Special Prosecutions Division in Newark.

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Counsel for defendants:

Brian J. Neary, Esq. (Hackensack, New Jersey) for Anna Della Donna

Ralph J. Lamparello, Esq. (Secaucus, New Jersey) for David Della Donna