

JUDGE KOELTL

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA : SEALED INDICTMENT

- v. - : 17 Cr. _____

STEVEN M. ETKIND, :

Defendant. :

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17 CRIM 590

ORIGINAL

COUNT ONE
(Conspiracy)

The Grand Jury charges:

I. OVERVIEW

1. Between in or about 2009 and continuing through in or about March 2012, STEVEN M. ETKIND, the defendant, with the assistance of a co-conspirator not named as a defendant herein ("CC-1"), and others, diverted over \$3.5 million from two charitable trust private foundations of which ETKIND served as a co-trustee. Most of the stolen funds were used by ETKIND personally, rather than for their intended charitable purpose. To conceal his theft of the funds, ETKIND directed that the donations be made first to Jewish charitable organizations, and then passed through multiple transactions, ultimately resulting in the purchase of real property for ETKIND's benefit, which ETKIND titled in the name of a nominee entity. In this manner, ETKIND received and then failed to report to the Internal Revenue Service ("IRS")

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over \$3 million in income. To further conceal his theft of the funds, ETKIND filed, and caused to be filed, false and fraudulent income tax and charitable trust returns with the IRS, and made, and caused to be made, false and misleading statements to the IRS during the course of IRS audits and examinations.

II. THE DEFENDANT AND RELEVANT ENTITIES AND REQUIREMENTS

2. At all times relevant to this Indictment, STEVEN M. ETKIND, the defendant, was a citizen and a resident of New City, New York, and later of New York, New York.

3. STEVEN M. ETKIND, the defendant, was a New York-licensed attorney, had earned a Masters of Laws ("L.L.M.") in taxation, and was a licensed, though inactive, Certified Public Accountant ("C.P.A.") in New York. ETKIND was a partner at a New York law firm, he specialized in tax and trusts and estate law, and was the head of the law firm's Tax, Trusts, and Estates group.

4. At all times relevant to this Indictment, CC-1 was a citizen and resident of Fairfield, Connecticut. CC-1 was a licensed C.P.A. in New York, and operated an accounting, auditing, and bookkeeping business in New Rochelle, New York.

5. The United Jewish Education Fund ("UJEF"), Employer Identification Number ("EIN") XX-XXX7493, was an entity established on or about May 22, 2009, which listed CC-1 as a contact person. In or about June 2009, UJEF applied for 501(c)(3) charitable organization status with the IRS. As described in

greater detail below, STEVEN M. ETKIND, the defendant, with the assistance of CC-1, used UJEF as a conduit to receive and hide income, including funds embezzled from the two charitable trust private foundations of which ETKIND was a co-trustee.

6. Damida, Inc. was a shell corporation formed on or about October 7, 2009, which listed CC-1 as Chief Executive Officer, and which listed addresses associated with CC-1's businesses in New Rochelle, New York and in Fairfield, Connecticut.

7. Education Support Foundation ("ESF"), also known as Education Support Foundation Trust, EIN XX-XXX5203, was an entity established in or around December 2009, which listed STEVEN M. ETKIND, the defendant, as a trustee, and which reported an address associated with ETKIND's law firm in New York, New York. The IRS has no record of ever receiving any tax returns for ESF.

8. JE Capital Holding Corp. ("JE Capital Holding Corp."), also known as JE Holding Corp., EIN XX-XXX9847, was an entity formed as a corporation on or about October 7, 2009, which reported STEVEN M. ETKIND, the defendant, as President, and which listed both an address associated with ETKIND's home address in New City, New York, and an address associated with CC-1's business in Fairfield, Connecticut.

9. JE Trust was an entity purportedly organized as an escrow trust, which listed STEVEN M. ETKIND, the defendant, as a

trustee, and which listed an address associated with ETKIND's home address in New City, New York.

10. Section 501(c)(3) of the Internal Revenue Code sets out the requirements for an entity to be considered a charitable organization. To qualify as a 501(c)(3) organization, the entity must not be organized or operated for the benefit of private interests, and no part of a section 501(c)(3) organization's net earnings may inure to the benefit of any private shareholder or individual.

11. A Form 990-PF, Return of Private Foundation or Section 4947(a)(1) Nonexempt Charitable Trust Treated as a Private Foundation, is a form used by private foundation charitable trusts to report charitable distributions and activities to the IRS on an annual basis. A private foundation is a domestic or foreign organization exempt from income tax under section 501(a) of the Internal Revenue Code, as described in section 501(c)(3).

12. A Form 1120, U.S. Corporation Income Tax Return, is a form all domestic corporations in existence for any part of a tax year must file, whether or not they have taxable income, to report their income, gains, losses, deductions, credits and income tax liability to the IRS.

13. A Form 1040, U.S. Individual Income Tax Return, is an annual income tax return filed with the IRS by a United States citizen or resident in which the citizen or resident reports all

worldwide income from whatever source derived and deductions to determine the amount, if any, of the individual's income tax liability.

14. The IRS is an agency within the United States Department of the Treasury responsible for administering and enforcing the tax laws and regulations of the United States regarding the ascertainment, computation, assessment, and collection of income taxes owed to the United States by its citizens and residents, from whatever source derived.

III. THE CONSPIRACY

STATUTORY ALLEGATIONS

15. Beginning in or about 2009, and continuing through in or about March 2012, in the Southern District of New York and elsewhere, STEVEN M. ETKIND, the defendant, together with others known and unknown to the Grand Jury, did voluntarily, intentionally and knowingly combine, conspire, confederate, and agree together and with each other to defraud the United States of America and an agency thereof, to wit, the IRS, for the purpose of impeding, impairing, obstructing, and defeating the lawful Government functions of the IRS in the ascertainment, computation, assessment, and collection of revenue, to wit, federal income taxes.

MANNER AND MEANS BY WHICH THE CONSPIRACY WAS CARRIED OUT

16. The manner and means by which the conspiracy was sought to be accomplished included, among others, the following:

a. By directing funds to pass through charitable entities so as to give the funds the appearance of proper donations and then redirecting the funds to accounts and entities under the custody and control of STEVEN M. ETKIND, the defendant, and CC-1.

b. By concealing funds and income in nominee accounts.

c. By titling real property in nominee names.

d. By transferring title of real property between nominees and changing the trustees for the titleholder.

e. By making false and misleading statements and representations to agents of the IRS for the purpose of obstructing an audit and concealing the theft of charitable funds, the source of ETKIND's income, and ETKIND's control over bank accounts and real property titled in nominee names.

f. By backdating and falsifying documents so as to conceal from the IRS ETKIND's ownership and interest in real property purchased with embezzled funds.

g. By causing the preparation and filing of false Forms 990-PF Return of Private Foundation, false Forms 1040 U.S. Individual Income Tax Returns, and false Forms 1120 U.S. Corporation Income Tax Returns with the IRS.

A. ETKIND's and CC-1's Theft and the Purchase of Real Property with Unreported Income from the Client Charitable Trusts

17. In his capacity as an attorney, STEVEN M. ETKIND, the defendant, performed legal work for a client (the "Client"), who was a successful entrepreneur. On or about November 22, 2008, the Client died. In his last will and testament, the Client named ETKIND as the co-executor of the Client's estate, which was valued at more than \$35 million. Per the will, two separate charitable trusts (hereinafter "Client Charitable Trust 1" and "Client Charitable Trust 2" or collectively "the Client Charitable Trusts") were to be created and funded with the assets from the Client's estate. The will further directed that the Client Charitable Trusts should distribute funds exclusively to tax-exempt charitable organizations, "whose purpose is to assist and help animals or which are Jewish sponsored organizations or who meaningfully assist and help Jews."

18. With the assistance of STEVEN M. ETKIND, the defendant, bank accounts for the Client Charitable Trusts were created at two national banks ("Bank 1" and "Bank 2"). ETKIND was named a co-trustee of the Client Charitable Trusts, along with Bank 1 and Bank 2, for each of the accounts at the respective banks.

19. In or about July 2009, with the assistance of STEVEN M. ETKIND, the defendant, the Client Charitable Trusts were formed,

and on or about September 2, 2009, each of the Client Charitable Trusts received their initial funding of approximately \$2,375,000 from the Client's estate.

20. In or about 2009, Client Charitable Trust 1 received its 501(c)(3) tax-exempt status as a charitable organization. Bank 1 and STEVEN M. ETKIND, the defendant, as co-trustees, had to agree to any distributions made by Client Charitable Trust 1 in accordance with the provisions of the Client's will. Bank 1 specifically relied on ETKIND's help in determining which charitable organizations would receive future distributions from Client Charitable Trust 1.

21. In or about 2009, Client Charitable Trust 2 received its 501(c)(3) tax-exempt status as a charitable organization. Bank 2 and STEVEN M. ETKIND, the defendant, as co-trustees, had to agree to any distributions made by Client Charitable Trust 2 in accordance with the provisions of the Client's will. Bank 2 specifically relied on ETKIND's help in determining which charitable organizations would receive future distributions from Client Charitable Trust 2.

22. On or about May 22, 2009, CC-1, with the assistance of STEVEN M. ETKIND, the defendant, established UJEF with the intention of it becoming a 501(c)(3) exempt private foundation.

23. On or about May 22, 2009, CC-1, with the assistance of STEVEN M. ETKIND, the defendant, opened a bank account at

another bank ("Bank 3"), in the name of the United Jewish Education Fund Trust (the "UJEF Trust"). CC-1, as trustee, was the sole signatory to the UJEF Trust. The initial deposit of \$1,000 into the bank account for the UJEF Trust came from ETKIND's attorney business account.

24. In or about June 2009, UJEF applied for 501(c)(3) charitable organization status with the IRS. Approval of UJEF's status as tax-exempt organization was delayed by the IRS pending additional information requests. In or about November 2009, UJEF amended and resubmitted for approval its request to the IRS for tax-exempt status.

25. In or about October 2009, at the request of STEVEN M. ETKIND, the defendant, Bank 1 and Bank 2 each made a \$550,000 distribution from the Client Charitable Trusts to a Jewish donor organization (the "JDO"), for a total of \$1,100,000. The JDO is a large donor-based fund in New York that collects, facilitates, and promotes charitable giving through donor advised funds.

26. In or about October 2009, while the UJEF application for 501(c)(3) status was pending, CC-1 and STEVEN M. ETKIND, the defendant, agreed to solicit the help of a third-party 501(c)(3) charitable organization that could serve as a conduit for UJEF to receive donations from the Client Charitable Trusts.

27. In or about October 2009, CC-1 contacted a Hebrew school ("the Hebrew School") located in Connecticut. CC-1 informed

the director of the Hebrew School (the "Director"), in substance and in part, that CC-1's "friend" - later identified as STEVEN M. ETKIND, the defendant - wanted to make a conditional donation to the Hebrew School, which would require that most of the donated money subsequently be transferred to another entity.

28. On or about October 26, 2009, STEVEN M. ETKIND, the defendant, sent an email to the Director of the Hebrew School, and others, purportedly to explain his need for the Hebrew School to help facilitate a donation to UJEF from the Client Charitable Trusts. ETKIND described the Client Charitable Trusts as "donors controlled by bank trustees who want to see the 501c3 (sic) determination letter." ETKIND claimed that UJEF's application for a 501(c)(3) determination was delayed by the IRS, in part, because "IRS has not even assigned the application to an agent yet to review the application." ETKIND further claimed UJEF was "an organization very closely related in function to [the Hebrew School] in [Connecticut], except that it will be located in another location." ETKIND further claimed "real estate prices are rising in various locations out of the very depressed state. Rather than wait until next calendar year, the donors would prefer get moving now even if this means spreading the donations among another organization with a similar operation." ETKIND further claimed that "[b]y making a donation to [the Hebrew School], which then funds this new United Jewish Education Fund, you would facilitate

the funding now, and the United Jewish Education Fund would be able to provide a standing refunding agreement." Upon the representations made by ETKIND, the Director of the Hebrew School agreed to serve as a conduit for the money from the Client Charitable Trusts to UJEF.

29. On or about November 4, 2009, the Director of the Hebrew School, with the assistance of CC-1 and others, opened a bank account at Bank 3, in the name of a trust for the Hebrew School (the "Hebrew School Trust"). The Director of the Hebrew School was the sole signatory to the Hebrew School Trust account.

30. On or about November 6, 2009, at the request of STEVEN M. ETKIND, the defendant, Client Charitable Trust 1 distributed approximately \$1,400,000 to the Hebrew School, which was deposited into the Hebrew School Trust account at Bank 3.

31. On or about November 12, 2009, at the request of STEVEN M. ETKIND, the defendant, Client Charitable Trust 2 distributed approximately \$1,400,000 to the Hebrew School, which was deposited into the Hebrew School Trust account at Bank 3.

32. On or about November 17, 2009, at the request of STEVEN M. ETKIND, the defendant, the JDO distributed to the Hebrew School approximately \$900,000 of the \$1,100,000 it had previously received from the Client Charitable Trusts, which was deposited into the Hebrew School Trust account at Bank 3.

33. In total, the Hebrew School received approximately \$3,700,000 in funds from the Client Charitable Trusts at the direction of STEVEN M. ETKIND, the defendant, which was deposited into the Hebrew School Trust account at Bank 3.

34. On or about November 19, 2009, at the request of STEVEN M. ETKIND, the defendant, the Director of the Hebrew School wrote a check from the Hebrew School Trust account made payable to the UJEF Trust for approximately \$3,502,500. On or about November 20, 2009, the check was deposited into the UJEF Trust account at Bank 3, which CC-1 controlled.

35. On or about November 19, 2009, the Director of the Hebrew School wrote a check from the Hebrew School Trust account made payable to Damida, Inc. for approximately \$60,000, which check was subsequently deposited into a Damida, Inc. account at Bank 3, which CC-1 controlled.

36. On or about November 30, 2009, STEVEN M. ETKIND, the defendant, opened a bank account at another bank ("Bank 4"), in the name of JE Capital Holding Corp., which listed ETKIND as the contact person and President, and which further listed ETKIND's home address in New City, New York as the mailing address. ETKIND was the sole signatory to the JE Capital Holding Corp. account.

37. On or about November 30, 2009, CC-1 wrote a check from the UJEF Trust, made payable to a real estate attorney as escrow agent ("Real Estate Attorney 1"), for approximately

\$3,100,000, which was subsequently deposited into an escrow account of Real Estate Attorney 1. On or about December 4, 2009, CC-1 wrote another check from the UJEF Trust, made payable to Real Estate Attorney 1, as escrow agent, for approximately \$75,000, which was subsequently deposited into an escrow account of Real Estate Attorney 1. In total, Real Estate Attorney 1 received approximately \$3,175,000 in funds from the UJEF Trust, which were deposited into Real Estate Attorney 1's escrow account.

38. On or about December 1, 2009, STEVEN M. ETKIND, the defendant, wrote a check from his attorney business account, made payable to Damida, Inc., for approximately \$50,000, which was subsequently deposited on or about December 3, 2009, into a Damida, Inc. account at Bank 3, which CC-1 controlled.

39. On or about December 3, 2009, CC-1 wrote a check from the UJEF Trust account, made payable to JE Holding Corp., for approximately \$308,500. On December 14, 2009, CC-1 wrote another check from the UJEF Trust account, made payable to JE Holding Corp., for approximately \$19,000. In total, JE Capital Holding Corp. received approximately \$327,500 in funds from the UJEF Trust, which were deposited into JE Capital Holding Corp.'s account at Bank 4.

40. In or about January 2010, STEVEN M. ETKIND, the defendant, opened an account in the name of Education Support Foundation Trust ("ESF Trust"), using the EIN for ESF, an entity

ETKIND had established in or around December 2009. The ESF Trust account listed ETKIND as trustee, and listed ETKIND's business address as the mailing address. The initial deposit of \$1,000 into the ESF Trust account, which was made on or about January 11, 2010, came from a transfer from ETKIND and his wife's personal account. No additional deposits, other than interest income payments, were received by the ESF Trust account.

41. On or about January 14, 2010, STEVEN M. ETKIND, the defendant, closed on the purchase of a real property containing a 6,300 sq. ft. two-story residential house and a swimming pool, located in the Town of Southampton, County of Suffolk County, New York ("the Southampton Property"), pursuant to a residential contract of sale which specified a purchase price of approximately \$3,025,000. At ETKIND's direction, the Southampton Property was titled in the name of JE Capital Holding Corp. At ETKIND's further direction, a portion of the funds held in escrow by Real Estate Attorney 1 were used to pay the balance of the Southampton Property purchase price due at closing.

42. While the Southampton Property was purchased in the name of JE Capital Holding Corp., in truth and fact, it was purchased at the direction of STEVEN M. ETKIND, the defendant, for the use and enjoyment of ETKIND and his family.

43. In or about 2010 and thereafter, STEVEN M. ETKIND, the defendant, hired an interior decorator to decorate the

Southampton Property and made thousands of dollars in purchases using ETKIND's personal credit card. ETKIND further paid for other costs associated with the Southampton Property, including pool maintenance and lawn services, using both personal funds, as well as funds from the approximately \$327,500 transferred from the UJEF Trust to JE Capital Holding Corp, ETKIND's nominee account.

44. On or about June 18, 2010, STEVEN M. ETKIND, the defendant, wrote a check from his personal bank account, made payable to Damida, Inc., for approximately \$100,000, which was subsequently deposited, into a Damida, Inc. account at Bank 3, which CC-1 controlled.

45. On or about January 13, 2011, STEVEN M. ETKIND, the defendant, wrote a check from his personal bank account, made payable to Damida, Inc., for approximately \$85,000, which was subsequently deposited into a Damida, Inc. account at Bank 3, which CC-1 controlled.

B. ETKIND's and CC 1's False Statements to the IRS and Efforts to Hide His Income from the IRS

46. On or about March 7, 2010, STEVEN M. ETKIND, the defendant, caused the filing with the IRS of a 2009 Form 1120, U.S. Corporation Income Tax Return, on behalf of JE Holding Corp. The JE Holding Corp. Form 1120 reported, among other things, that it had \$0 in total income, and total assets of \$3,502,500 described as an "Investment Account."

47. On or about May 18, 2010, STEVEN M. ETKIND, the defendant, and CC-1 caused the filing with the IRS of a false and fraudulent 2009 Form 990-PF, Return of Private Foundation, on behalf of UJEF. The UJEF's Form 990-PF reported, among other things, that UJEF had received a contribution from the Hebrew School of \$3,503,500, and that UJEF had made a contribution in the amount of \$3,503,500 to ESF, a 501(c)(3) recipient, purportedly as a "donation in support of the Foundation's Stated Purpose." In fact, the transfer of \$3,503,500 from the Hebrew School to UJEF was not an unconditional charitable contribution, and no funds from UJEF ever went to ESF, but rather \$327,500 in UJEF funds were deposited into JE Capital Holding Corp.'s account at Bank 4, and an additional \$3,175,000 were deposited into Real Estate Attorney 1's escrow account, to be held in escrow for the purchase of the Southampton Property.

48. On or about March 13, 2011, STEVEN M. ETKIND, the defendant, caused the filing with the IRS of a 2010 Form 1120, U.S. Corporation Income Tax Return, on behalf of JE Capital Holding Corp. The JE Capital Holding Corp. Form 1120 reported, among other things, that it had \$20,072 in total income, and total assets of \$3,417,913, after deductions for depreciation of buildings and other depreciable assets.

49. On or about May 1, 2011, STEVEN M. ETKIND, the defendant, caused the transfer of title for the Southampton

Property from JE Capital Holding Corp. to JE Trust, purportedly for the sum of \$10. JE Trust listed ETKIND as a trustee, and further listed ETKIND's personal address as its mailing address.

50. On or about October 8, 2010, STEVEN M. ETKIND, the defendant, and his wife filed a false and fraudulent 2009 joint U.S. Individual Income Tax Return, Form 1040. The tax return failed to include, among other things, the income that ETKIND had received from UJEF through JE Capital Holding Corp., his nominee entity.

51. On or about September 29, 2011, STEVEN M. ETKIND, the defendant, and his wife filed a false and fraudulent 2010 joint U.S. Individual Income Tax Return, Form 1040. The tax return failed to include the income that ETKIND had realized on or about January 14, 2010, upon the purchase of the Southampton Property for \$3,025,000 plus costs, which ETKIND titled in the name of JE Capital Holding Corp., and then subsequently transferred title of to JE Trust.

52. On or about December 1, 2011, an IRS Revenue Agent (the "Revenue Agent") initiated an audit of UJEF's 2009 Form 990-PF. On or about January 6, 2012, STEVEN M. ETKIND, the defendant, submitted a Power of Attorney ("POA") to the IRS on behalf of UJEF.

53. On or about January 19, 2012, STEVEN M. ETKIND, the defendant, and CC-1 met with the Revenue Agent and made misrepresentations concerning, among other things, the purpose of

the \$3,503,500 transaction, the source of the \$3,503,500 contribution from the Hebrew School to UJEF, and the ownership of the Southampton Property.

54. On or about February 3, 2012, STEVEN M. ETKIND, the defendant, caused the filing with the IRS of a 2011 Form 1120, U.S. Corporation Income Tax Return, on behalf of JE Holding Corp. The JE Holding Corp. Form 1120 reported, among other things, that it had \$16 in total income, and total assets of \$0.

55. On or about February 8, 2012, STEVEN M. ETKIND, the defendant, and CC-1 submitted correspondence to the Revenue Agent, together with attachments, in response to the IRS's request for documents with respect to, among other things, the \$3.5 million contribution made to UJEF from the Hebrew School. Included with the documents provided by ETKIND and CC-1 was a letter from UJEF to the Hebrew School, dated December 1, 2009, which stated "[w]e acknowledge and thank you for your generous contribution to the [UJEF] by [the Hebrew School] in the amount of \$3,502,500." The attached UJEF letter, dated December 1, 2009, was backdated and not created contemporaneously with the transaction.

56. On or about March 19, 2012, STEVEN M. ETKIND, the defendant, and CC-1 submitted additional correspondence to the Revenue Agent, together with attachments, concerning, among other things, the purported transfer of the Southampton Property from JE Trust. Included with the documents provided by ETKIND and CC-1

was an escrow agreement, dated October 1, 2009, purporting to assign the Southampton Property from JE Trust to a religious organization (the "Religious Organization"), which was purportedly agreed to by CC-1, on behalf of UJEF. The attached escrow agreement, dated October 1, 2009, was backdated and false.

57. As noted above, on or about March 19, 2012, STEVEN M. ETKIND, the defendant and CC-1 submitted additional attachments to the correspondence to the Revenue Agent. Included with the documents provided by ETKIND and CC-1 was a termination agreement, dated March 19, 2012, itself attaching an "Exhibit A" amended and restated JE Trust, purporting to terminate the escrow agreement between JE Trust and the Religious Organization so that the property held by JE Trust could be assigned to another religious organization, and further purporting to name an individual other than ETKIND as the sole trustee of JE Trust. Both the termination agreement, and the attached "Exhibit A" amended and restated JE Trust, purported to be approved and consented to by CC-1. The attached termination agreement, dated March 19, 2012, was false.

OVERT ACTS

58. In furtherance of the conspiracy, and to effect the objects thereof, the following overt acts, among others, were committed in the Southern District of New York and elsewhere:

a. In or about October 2009, STEVEN M. ETKIND, the defendant, and CC-1 recruited the Director of the Hebrew School

to serve as a conduit for the transfer of funds from the Client Charitable Trusts to UJEF.

b. On or about November 6, 2009, STEVEN M. ETKIND, the defendant, caused Bank 1 to make a \$1,400,000 distribution to the Hebrew School from Client Charitable Trust 1.

c. On or about November 12, 2009, STEVEN M. ETKIND, the defendant, caused Bank 2 to make a \$1,400,000 distribution to the Hebrew School from Client Charitable Trust 2.

d. On or about November 17, 2009, STEVEN M. ETKIND, the defendant, caused the JDO to make a \$900,000 distribution to the Hebrew School from the funds the JDO had received from the Client Charitable Trusts.

e. On or about November 19, 2009, STEVEN M. ETKIND, the defendant, and CC-1 caused the Hebrew School to make a \$3,502,500 distribution from the Hebrew School Trust to UJEF Trust from the funds the Hebrew School had received from the Client Charitable Trusts.

f. On or about November 30, 2009, STEVEN M. ETKIND, the defendant, caused the opening of a bank account in the name of the JE Capital Holding Corp. at Bank 4 in New York, New York, which ETKIND controlled.

g. On or about November 30, 2009, STEVEN M. ETKIND, the defendant, caused CC-1 to write a check from the UJEF Trust account, made payable to Real Estate Attorney 1, as escrow

agent, for approximately \$3,100,000, which was subsequently deposited into Real Estate Attorney 1's escrow account.

h. On or about December 3, 2009, STEVEN M. ETKIND, the defendant, caused CC-1 to write a check from the UJEF Trust account, made payable to JE Holding Corp., for approximately \$305,500, which ETKIND deposited into the JE Capital Holding Corp account.

i. On or about January 14, 2010, STEVEN M. ETKIND, the defendant, closed on the purchase of the Southampton Property, which he titled in the name of a nominee corporation, and further caused that the funds held in escrow by Real Estate Attorney 1 be used to pay the balance of the purchase price.

j. On or about May 18, 2010, STEVEN M. ETKIND, the defendant, and CC-1 caused the filing with the IRS of a 2009 Form 990-PF, Return of Private Foundation, on behalf of UJEF, which falsely reported, among other things, receiving a charitable contribution from the Hebrew School of \$3,503,500, and making a contribution in the amount of \$3,503,500 to ESF.

k. On or about October 8, 2010, STEVEN M. ETKIND, the defendant, caused the preparation, signing, and filing of a false joint Form 1040, U.S. Individual Income Tax Return, for himself and his wife for the 2009 tax year.

l. On or about May 1, 2011, STEVEN M. ETKIND, the defendant, caused the transfer of title for the Southampton Property from JE Capital Holding Corp. to JE Trust.

m. On or about September 29, 2011, STEVEN M. ETKIND, the defendant, caused the preparation, signing, and filing of a false joint Form 1040, U.S. Individual Income Tax Return, for himself and his wife for the 2010 tax year.

n. On or about January 19, 2012, STEVEN M. ETKIND, the defendant, and CC-1 met with the Revenue Agent in New York, New York and made false and fraudulent representations concerning, among other things, the purpose of the \$3,503,500 transaction, the source of the \$3,503,500 contribution from the Hebrew School to UJEF, and the ownership of the Southampton Property.

o. On or about February 8, 2012, STEVEN M. ETKIND, the defendant, and CC-1 submitted correspondence, together with attachments, to the IRS Revenue Agent which made false and fraudulent representations concerning, among other things, an acknowledgement letter from UJEF to the Hebrew School, dated December 1, 2009.

p. On or about March 19, 2012, STEVEN M. ETKIND, the defendant, changed and caused to be changed the trustee of the JE Trust from himself to another individual, purportedly consented to by CC-1.

q. On or about March 19, 2012, STEVEN M. ETKIND, the defendant, and CC-1 submitted correspondence, together with attachments, to the Revenue Agent which contained false and fraudulent representations concerning, among other things, the purported transfer of the Southampton Property from JE Trust to Religious Organization 1, the purported termination of the escrow agreement between JE Trust to Religious Organization 1, and the purported change of sole trustee of JE Trust from ETKIND to another individual.

(Title 18, United States Code, Section 371.)

COUNT TWO

(Corruptly Endeavoring to Obstruct and Impede the Due Administration of the Internal Revenue Laws)

The Grand Jury further charges:

59. The allegations in paragraphs 1 through 14, and 16 through 58 of this Indictment are repeated and realleged as though fully set forth herein.

60. From in or about 2009 through in or about March 2012, in the Southern District of New York and elsewhere, STEVEN M. ETKIND, the defendant, did corruptly endeavor to obstruct and impede the due administration of the internal revenue laws through various means and methods, including, among others, the following:

a. ETKIND caused millions of dollars to be diverted from the Client Charitable Trusts, and routed through

charitable organizations and nominee entities, and thereafter to be used for his personal benefit and enjoyment.

b. ETKIND created and caused to be created nominee entities, opened and caused to open bank accounts in the name of nominees, and diverted his income through the use of nominee entities and accounts held in the name of nominees.

c. ETKIND caused the Southampton Property to be titled in the name of nominee entities.

d. ETKIND caused the preparation, signing and filing of a false Form 990-PF on behalf of UJEF for the tax year 2009 that falsely and fraudulently reported the charitable activities during the tax year.

e. ETKIND caused the preparation, signing, and filing of false joint Forms 1040 for ETKIND and his wife for the 2009 and 2010 tax years that falsely and fraudulently reported material amounts of total income received during the tax years.

f. ETKIND caused the preparation, signing, and filing of false Forms 1120 on behalf of JE Holding Corp. for the tax years 2009 to 2011 in order to fraudulently portray the use, benefit, purchase, maintenance, and ultimate transfer of funds and title of the Southampton Property, whereas, in truth and fact, JE Capital Holding Corp. was ETKIND's nominee and the Southampton Property was purchased with funds embezzled from the Client

Charitable Trusts and used by ETKIND and his family for their personal enjoyment.

g. During the course of an IRS audit and examination, ETKIND made and caused to be made false and misleading statements to the IRS on or about January 19, 2012.

h. During the course of an IRS audit and examination, ETKIND provided false and fraudulent records to the IRS on or about February 8, 2012, and March 19, 2012.

(Title 26, United States Code, Section 7212(a).)

COUNT THREE
(Tax Evasion)

The Grand Jury further charges:

61. The allegations in paragraphs 1 through 14, and 16 through 58 of this Indictment are repeated and realleged as though fully set forth herein.

62. From on or about January 1, 2009 through on or about March 19, 2012, in the Southern District of New York and elsewhere, STEVEN M. ETKIND, the defendant, a resident of New City, New York, and later a resident of New York, New York, who during calendar year 2009 was married, did willfully attempt to evade and defeat a substantial part of the income tax due and owing by him and his wife to the United States of America for the calendar year 2009, by committing and causing to be committed the following affirmative acts, among others:

a. Creating and causing to be created nominee entities, and diverting income to nominees;

b. Using nominee entities and nominee bank accounts to conceal his receipt of income received through a series of pass-through transactions utilizing charitable organizations and other nominee entities;

c. Paying for personal expenses with unreported income;

d. Preparing and causing to be prepared, signing and causing to be signed, and filing and causing to be filed with IRS, on or about October 8, 2010, a U.S. Individual Income Tax Return, Form 1040, for the calendar year 2009 on behalf of himself and his wife, which falsely and fraudulently omitted substantial amounts of income; and

e. Making and causing to be made false statements and representations to the Revenue Agent during the course of an IRS audit and examination.

(Title 26, United States Code, Section 7201.)

COUNT FOUR
(Tax Evasion)

The Grand Jury further charges:

63. The allegations in paragraphs 1 through 14, and 16 through 58 of this Indictment are repeated and realleged as though fully set forth herein.

64. From on or about January 1, 2010 through on or about March 19, 2012, in the Southern District of New York and elsewhere, STEVEN M. ETKIND, the defendant, a resident of New City, New York, and later a resident of New York, New York, who during calendar year 2010 was married, did willfully attempt to evade and defeat a substantial part of the income tax due and owing by him and his wife to the United States of America for the calendar year 2010, by committing and causing to be committed the following affirmative acts, among others:

a. Creating and causing to be created nominee entities, and diverting income to nominees;

b. Using nominee entities and nominee bank accounts to conceal his receipt of income received through a series of pass-through transactions utilizing charitable organizations and other nominee entities;

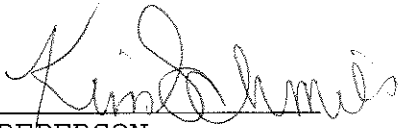
c. Paying for personal expenses with unreported income, including the purchase of real property;

d. Titling real property in the name of nominees;

e. Preparing and causing to be prepared, signing and causing to be signed, and filing and causing to be filed with IRS, on or about September 29, 2011, a U.S. Individual Income Tax Return, Form 1040, for the calendar year 2010 on behalf of himself and his wife, which falsely and fraudulently omitted substantial amounts of income; and

f. Making and causing to be made false statements and representations to an IRS Revenue Agent during the course of an IRS audit and examination.

(Title 26, United States Code, Section 7201.)



FOREPERSON



JOON H. KIM
Acting United States Attorney

Form No. USA-33s-274 (Ed. 9-25-58)

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

UNITED STATES OF AMERICA

- v -

STEVEN M. ETKIND,

Defendant.

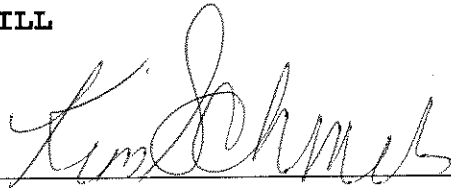
SEALED INDICTMENT

17 Cr. _____ (____)

(18 U.S.C. § 371; 26 U.S.C. §§ 7212(a),
7201)

JOON H. KIM
Acting United States Attorney.

A TRUE BILL



Foreperson.

9/27/17 FILED INDICTMENT
WARRANT ISSUED

COT, USMT