

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

UNITED STATES OF AMERICA	:	CRIMINAL NO. 07-
v.	:	DATE FILED: February 1, 2007
JOHN J. POLTONOWICZ	:	VIOLATIONS:
	:	18 U.S.C. § 371 (conspiracy - 1 count)
	:	26 U.S.C. § 7206(2) (aiding, assisting, and
	:	counseling the filing false tax returns - 12
	:	counts)
	:	18 U.S.C. § 1341 (mail fraud - 4 counts)
	:	18 U.S.C. § 1343 (wire fraud - 2 counts)
	:	18 U.S.C. § 1001 (making false statements
	:	to the Internal Revenue Service - 1 count)
	:	18 U.S.C. § 2 (aiding and abetting)
	:	Notice of forfeiture

INDICTMENT

COUNT ONE

THE GRAND JURY CHARGES THAT:

At all times relevant to this indictment:

1. Defendant JOHN J. POLTONOWICZ was an experienced tax return preparer and accountant with offices in Bristol, Pennsylvania, among other places, doing business under the name of Income Tax Offices of John J. Poltonowicz, Jackson-Hewitt Tax Services, and Matrix Tax Services. Defendant POLTONOWICZ, a former employee of the Criminal Investigation Division of the Internal Revenue Service (“IRS”) between 1988 and 1992, was familiar with the tax laws of the United States.

2. Beginning in approximately the early 1990s, defendant JOHN J. POLTONOWICZ prepared, and directed others to prepare, thousands of tax returns for both individuals and small businesses for which he was paid a fee for the preparation of each return.

THE CONSPIRACY

_____3. From at least in or about 2000 and continuing through on or about the date of this indictment, in the Eastern District of Pennsylvania and elsewhere, defendant

JOHN J. POLTONOWICZ

conspired and agreed, with others known and unknown to the grand jury, to defraud the United States by willfully impeding, impairing, obstructing, and defeating the lawful governmental functions of the IRS in the ascertainment, computation, assessment, and collection of revenue, that is, federal income taxes.

MANNER AND MEANS

It was part of the conspiracy that:

4. For the calendar years 2000 through 2005, defendant JOHN J. POLTONOWICZ prepared, and directed others to prepare, at least hundreds of false and fraudulent federal income tax returns for his customers, including both individuals and small businesses, for which he was paid a fee. Defendant POLTONOWICZ used, and directed others to use, a variety of methods to prepare these false and fraudulent returns, including, among other things: (a) overstating deductions, such as non-reimbursed employee or business expenses, mileage or automobile expenses, charitable contributions, and other expenses and deductions; (b) understating taxpayers' income; and (c) making false and fraudulent entries on federal tax returns so that taxpayers would appear to be eligible for the Earned Income Tax Credit ("EITC").

5. Defendant POLTONOWICZ told employees and customers that he did not fear law enforcement or the IRS finding out about the false returns because the false items on the

tax returns would look plausible to the IRS even though defendant POLTONOWICZ knew the items were false.

6. Defendant JOHN J. POLTONOWICZ directed various employees of his tax preparation business to prepare false and fraudulent federal income tax returns using the methods described above.

7. Defendant JOHN J. POLTONOWICZ directed others to assist him in the conspiracy by signing false documents which were to be filed with the Internal Revenue Service and by taking action to conceal his ownership of a tax preparation business called Matrix Tax Services.

OVERT ACTS

_____ In furtherance of the conspiracy, defendant JOHN J. POLTONOWICZ, and others known and unknown to the grand jury, committed the following overt acts, among others, in the Eastern District of Pennsylvania and elsewhere:

_____ 1. In or about early-2002, defendant JOHN J. POLTONOWICZ instructed an employee of his tax preparation business, N.G., a person known to the grand jury, in how to prepare false tax returns.

2. On or about August 29, 2002, defendant JOHN J. POLTONOWICZ prepared and filed with the Internal Revenue Service a materially false and fraudulent 2001 federal income tax return for taxpayer A.J., a person known to the grand jury, which falsely claimed that A.J. had made \$2,990 in deductible charitable contributions.

_____ 3. On or about August 29, 2002, defendant JOHN J. POLTONOWICZ prepared and filed with the Internal Revenue Service a materially false and fraudulent 2001

federal income tax return for taxpayer K.J., a person known to the grand jury, which falsely claimed that K.J. was single and that she had deductible business expenses from the operation of a sole proprietorship of \$7,882.

_____ 4. On or about March 17, 2003, defendant JOHN J. POLTONOWICZ prepared and filed with the Internal Revenue Service a materially false and fraudulent 2002 federal income tax return for taxpayer D.J., a person known to the grand jury, which falsely claimed that D.J. was self-employed as a hairstylist, that she had gross receipts from this business of \$5,900, and that she was eligible for the Earned Income Tax Credit.

_____ 5. On or about March 20, 2003, defendant JOHN J. POLTONOWICZ assisted an undercover Internal Revenue Service-Criminal Investigation agent, posing as a taxpayer, in filing a false federal income tax return for the year 2002, claiming deductible non-reimbursed employee business expenses of \$2,190 and charitable contributions of \$2,685 even though the agent did not claim to have such expenses. As a result of defendant POLTONOWICZ preparing this false tax return including these false deductions, the tax return stated that the undercover agent owed substantially less tax than it would have if it had been prepared without the false items.

6. On or about April 15, 2003, defendant JOHN J. POLTONOWICZ prepared and filed with the Internal Revenue Service a materially false and fraudulent 2002 federal income tax return for taxpayer A.J., a person known to the grand jury, which falsely claimed that A.J. had made \$3,625 in deductible charitable contributions and that he had \$7,890 in deductible non-reimbursed employee business expenses.

_____ 7. On or about April 15, 2003, defendant JOHN J. POLTONOWICZ prepared and filed with the Internal Revenue Service a materially false and fraudulent 2002 federal income tax return for taxpayer K.J., a person known to the grand jury, which falsely claimed that K.J. was single and that she had deductible business expenses from the operation of a sole proprietorship of \$8,240.

8. On or about August 11, 2003, the IRS-CI undercover agent identified above, still posing as the taxpayer, informed defendant JOHN J. POLTONOWICZ that the undercover agent had received notice from the IRS that the agent's return would be audited. In response, defendant POLTONOWICZ stated, among other things, that the undercover agent should not be concerned and falsely stated that he had been a special agent with the Internal Revenue Service's Criminal Investigation Division.

_____ 9. In or about early-2004, defendant JOHN J. POLTONOWICZ instructed an employee of his tax preparation business, S.D.K., a person known to the grand jury, in how to prepare false tax returns.

_____ 10. On or about February 23, 2004, defendant JOHN J. POLTONOWICZ prepared and filed with the Internal Revenue Service a materially false and fraudulent 2003 federal income tax return for taxpayer D.J., a person known to the grand jury, which falsely claimed that D.J. was self-employed as a hairstylist, that she had gross receipts from this business of \$5,200, and that she was eligible for the Earned Income Tax Credit.

_____ 11. On or about April 15, 2004, defendant JOHN J. POLTONOWICZ prepared and filed with the Internal Revenue Service a materially false and fraudulent 2003 federal income tax return for taxpayer A.J., a person known to the grand jury, which falsely

claimed that A.J. was “head of household” eligible for the Earned Income Tax Credit and had made \$2,919 in deductible charitable contributions.

_____ 12. On or about April 15, 2004, defendant JOHN J. POLTONOWICZ prepared and filed with the Internal Revenue Service a materially false and fraudulent 2003 federal income tax return for taxpayer K.J., a person known to the grand jury, which falsely claimed that K.J. was “head of household” eligible for the Earned Income Tax Credit and that she had deductible business expenses from the operation of a sole proprietorship of \$1,740.

_____ 13. On or about April 15, 2004, defendant JOHN J. POLTONOWICZ prepared and filed with the Internal Revenue Service a materially false and fraudulent 2003 federal income tax return for taxpayers P.K. and C.K., persons known to the grand jury, which falsely claimed that P.K. and C.K. had made \$2,818 in deductible charitable contributions, had deductible non-reimbursed employee business expenses of \$1,180, and had \$7,054 in tax payments withheld from their paychecks.

14. On or about November 29, 2004, defendant JOHN J. POLTONOWICZ incorporated Matrix Tax Services, Inc., in Pennsylvania as a tax return preparation business. Defendant POLTONOWICZ falsely titled the business in the name of J.M.M., a person known to the grand jury, with J.M.M.’s agreement, who was an associate of defendant POLTONOWICZ and was also his roommate and a person he hired to clean his home and office.

15. On or about December 22, 2004, defendant JOHN J. POLTONOWICZ completed IRS Form 8633, an Application to Participate in the IRS e-file Program, and submitted this application to the IRS to obtain permission to file tax returns electronically for his business, Matrix Tax Service. Defendant POLTONOWICZ falsely stated that J.M.M., a person

known to the grand jury, was a “principal” of Matrix Tax Service. Defendant POLTONOWICZ listed J.M.M. as a “principal,” because defendant POLTONOWIWCZ’s privileges had been revoked by the IRS in July 22, 2004 because of his preparation of false federal income tax returns. As a result of this false application, Matrix Tax Service was issued a Electronic Filing Identification Number (“EFIN”) which he used to electronically file tax returns.

_____16. On or about February 28, 2005, defendant JOHN J. POLTONOWICZ prepared and filed with the Internal Revenue Service a materially false and fraudulent 2004 federal income tax return for taxpayer D.J., a person known to the grand jury, which falsely claimed that D.J. was self-employed as a hairstylist, that she had gross receipts from this business of \$6,235, and that she was eligible for the Earned Income Tax Credit.

_____17. On or about March 21, 2005, defendant JOHN J. POLTONOWICZ prepared and filed with the Internal Revenue Service a materially false and fraudulent 2004 federal income tax return for taxpayers A.J. and K.J., persons known to the grand jury, which falsely claimed that A.J. and K.J. had made \$2,984 in deductible charitable contributions and had \$4,193 in deductible non-reimbursed employee business expenses.

_____18. On or about April 15, 2006, defendant JOHN J. POLTONOWICZ prepared and filed with the Internal Revenue Service a materially false and fraudulent 2005 federal income tax return for taxpayers A.J. and K.J., persons known to the grand jury, which falsely claimed that A.J. and K.J. had made \$2,859 in deductible charitable contributions and had deductible non-reimbursed employee business expenses of \$1,236. Also, defendant POLTONOWICZ falsely stated that J.M.M., a person known to the grand jury, prepared this return.

19. On or about August 3, 2006, defendant JOHN J. POLTONOWICZ engaged in efforts to conceal the fact that he had fraudulently obtained an EFIN and titled his tax preparation business in the name of J.M.M., including testifying falsely under oath in a lawsuit entitled John J. Poltonowicz v. Jackson-Hewitt Tax Service, Inc., Docket Number C-183-04, filed in the Superior Court of New Jersey. Specifically, in this lawsuit, defendant POLTONOWICZ testified that he did not own Matrix Tax Services, that J.M.M. owned Matrix Tax Services, that he had never discussed the incorporation of Matrix Tax Services with J.M.M., and that J.M.M. had never lived with defendant POLTONOWICZ.

All in violation of Title 18, United States Code, Section 371.

COUNTS TWO THROUGH THIRTEEN

THE GRAND JURY CHARGES THAT:

On or about the dates listed below, in the Eastern District of Pennsylvania,
defendant

JOHN J. POLTONOWICZ

willfully aided, assisted, procured, counseled, and advised the preparation and presentation,
under or in connection with, matters arising under the internal revenue laws of the United States,
of tax returns and other documents which were false or fraudulent as to a material matter, as
described below:

<u>Count</u>	<u>Tax year</u>	<u>Date Return Filed</u>	<u>Taxpayer(s)</u>	<u>False Item(s)</u>
2	2001	August 29, 2002	A.J.	A.J.'s filing status was listed as "head of household," eligible for the EITC, and that he had made deductible charitable contributions of \$2,990
3	2001	August 29, 2002	K.J.	K.J.'s filing status was listed as "single," even though she was married to A.J., and that she had deductible business expenses from the operation of a sole proprietorship in the amount of \$7,882

Count	Tax year	Date Return Filed	Taxpayer(s)	False Item(s)
4	2002	March 17, 2003	D.J.	D.J. was self-employed as a hairstylist, that she had gross receipts from this business of \$5,900, and that she was eligible for the EITC
5	2002	April 15, 2003	A.J.	A.J.'s filing status was listed as "head of household," eligible for the EITC, that he had made deductible charitable contributions of \$3,625, and that he had \$7,890 in deductible non-reimbursed employee business expenses
6	2002	April 15, 2003	K.J.	K.J.'s filing status was listed as "single," even though she was married to A.J., and that she had deductible business expenses from the operation of a sole proprietorship in the amount of \$8,240
7	2003	February 23, 2004	D.J.	D.J. was self-employed as a hairstylist, that she had gross receipts from this business of \$5,200, and that she was eligible for the EITC

Count	Tax year	Date Return Filed	Taxpayer(s)	False Item(s)
8	2003	April 15, 2004	A.J.	A.J.'s filing status was listed as "head of household," eligible for the EITC, and that he had made deductible charitable contributions of \$2,919
9	2003	April 15, 2004	K.J.	K.J.'s filing status was listed as "head of household," eligible for the EITC, and that she had deductible business expenses from the operation of a sole proprietorship in the amount of \$1,740
10	2003	April 15, 2004	P.K., C.K.	P.K. and C.K. had made deductible charitable contributions of \$2,818, that P.K. had \$1,180 in deductible non-reimbursed employee business expenses, and that had P.K. and C.K. had \$7,054 in federal tax payments
11	2004	February 28, 2005	D.J.	D.J. was self-employed as a hairstylist, that she had gross receipts from this business of \$6,235, and that she was eligible for the EITC

Count	Tax year	Date Return Filed	Taxpayer(s)	False Item(s)
12	2004	March 21, 2005	A.J., K.J.	A.J. and K.J. had made deductible charitable contributions of \$2,984, and that A.J. had \$4,193 in deductible non-reimbursed employee business expenses
13	2005	April 15, 2006	A.J., K.J.	A.J. and K.J. had made deductible charitable contributions of \$2,859 and that A.J. had \$1,236 in deductible non-reimbursed employee business expenses

All in violation of Title 26, United States Code, Section 7206(2).

COUNT FOURTEEN

THE GRAND JURY FURTHER CHARGES THAT:

1. Paragraph 1 of Count One of this indictment is incorporated by reference.
2. From on or about August 1, 2003, to at least late-September 2003,

defendant

JOHN J. POLTONOWICZ

devised and intended to devise a scheme to defraud the New Century Mortgage Corporation, and to obtain money and property by means of false and fraudulent pretenses, representations and promises.

MANNER AND MEANS

It was part of the scheme that:

3. In approximately August and September 2003, defendant JOHN J. POLTONOWICZ applied for and received a mortgage loan from New Century Mortgage Corporation, a mortgage lender with a principal place of business in California and offices in various other parts of the United States. This mortgage loan was to be secured by defendant POLTONOWICZ's primary residence at 2908 Maple Avenue, Bristol, Pennsylvania. During the loan application process, New Century Mortgage required defendant POLTONOWICZ to submit true and correct copies of his personal and business tax returns for the 2001 and 2002 calendar years.

4. For use in his application for the mortgage loan, defendant JOHN J. POLTONOWICZ prepared fictitious 2001 and 2002 personal and business tax returns. These fictitious tax returns included, in the case of his personal returns, much higher adjusted gross income figures and, in the case of his business returns, much higher gross receipts and total

income figures than were reported on the tax returns that defendant POLTONOWICZ filed with the IRS. For example, on the fictitious personal tax return he created for the year 2002, defendant POLTONOWICZ claimed that he had more than \$140,000 in adjusted gross income. In contrast, the return he filed with the IRS for 2002 reported just \$40,085 in adjusted gross income.

5. Defendant JOHN J. POLTONOWICZ submitted these fictitious tax returns to New Century Mortgage Corporation in support of his application for the mortgage loan. Based, in part, on these fictitious tax returns, New Century Mortgage Corporation agreed to make the mortgage loan to defendant POLTONOWICZ in the approximate amount of \$187,500.

6. Based in part on defendant JOHN J. POLTONOWICZ's false statements, New Century Mortgage approved the loan and, on or about September 15, 2003, the mortgage loan closed. The funds were disbursed on September 19, 2003, after New Century Mortgage received the completed closing documents.

7. On or about September 18, 2003, in the Eastern District of Pennsylvania and elsewhere, defendant

JOHN J. POLTONOWICZ,

for the purpose of executing the scheme described above, and attempting to do so, and aiding and abetting its execution, knowingly caused to be delivered by a commercial interstate carrier, namely Airborne Express, copies of the documents completed during the closing of the mortgage loan referenced above from King of Prussia, Pennsylvania to the offices of New Century Mortgage Corporation, 4349 Easton Way, Suite 110, Columbus, Ohio 43219.

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

COUNT FIFTEEN

THE GRAND JURY FURTHER CHARGES THAT:

1. Paragraphs One through Six of Count Fourteen of this indictment are incorporated by reference.

2. On or about September 19, 2003, in the Eastern District of Pennsylvania and elsewhere, defendant

JOHN J. POLTONOWICZ,

for the purpose of executing the scheme described above, attempting to do so, and aiding and abetting its execution, knowingly caused to be transmitted by means of wire communication in interstate commerce, certain signals and sounds, namely the wire transfer of approximately \$189,915.28 from the bank account of New Century Mortgage Corporation to the bank account of Commerce Abstract Company, Inc., at Commerce Bank PA, which was the proceeds of the mortgage loan.

In violation of Title 18, United States Code, Sections 1343, 1349, and 2.

COUNT SIXTEEN

THE GRAND JURY FURTHER CHARGES THAT:

1. Paragraph 1 of Count One of this indictment is incorporated by reference.
2. From in or about July 1, 2004, to at least late-September 2004, defendant

JOHN J. POLTONOWICZ

devised and intended to devise a scheme to defraud the New Century Mortgage Corporation, and to obtain money and property by means of false and fraudulent pretenses, representations and promises.

MANNER AND MEANS

It was part of the scheme that:

3. In approximately July 2004, defendant JOHN J. POLTONOWICZ applied for a mortgage loan from New Century Mortgage Corporation. This mortgage loan was to refinance the mortgage loan identified in Counts Thirteen and Fourteen of this indictment and be secured by defendant POLTONOWICZ's primary residence at 2908 Maple Avenue, Bristol, Pennsylvania. Like with the previous loan, during the loan application process, New Century Mortgage Corporation required defendant POLTONOWICZ to submit true and correct copies of his personal and business tax returns for the 2002 and 2003 calendar years.

4. For use in his application for the mortgage loan, defendant JOHN J. POLTONOWICZ prepared fictitious 2003 personal and business tax returns. These fictitious tax returns included, in the case of his personal returns, a much higher adjusted gross income figure and, in the case of his business return, much higher gross receipts and total income figures than were reported on the tax returns defendant POLTONOWICZ filed with the IRS. For example, on the fictitious personal tax return he created for the year 2003, defendant POLTONOWICZ

claimed that he had more than \$150,000 in adjusted gross income. In contrast, the return he filed with the IRS for 2003 reported only \$77,580 in adjusted gross income.

5. Defendant JOHN J. POLTONOWICZ submitted to the New Century Mortgage Corporation the fictitious tax returns for the years 2003 identified above and the same fictitious returns for 2002 he created for the application for the prior loan. Based, in part, on the fictitious tax returns, New Century Mortgage Corporation agreed to make the mortgage loan to defendant POLTONOWICZ in the approximate amount of \$229,000.

6. On or about July 8, 2004, New Century Mortgage Corporation disbursed the mortgage loan proceeds in the amount of \$229,000.

7. On or about July 8, 2004, in the Eastern District of Pennsylvania and elsewhere, defendant

JOHN J. POLTONOWICZ,

for the purpose of executing the scheme described above, attempting to do so, and aiding and abetting its execution, knowingly caused to be delivered by a commercial interstate carrier, namely Airborne Express, a payoff statement listing the amount required to pay off the existing mortgage on his home and a check in the amount of \$196,940.67 from Morgantown, Pennsylvania, to PCFS Mortgage Resources, 309 Vine Street, Mailstop 198D, 4th Floor, Attn: Payoff Department, Cincinnati, OH 45202.

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

COUNT SEVENTEEN

THE GRAND JURY FURTHER CHARGES THAT:

1. Paragraphs One through Six of Count Sixteen of this Indictment are incorporated by reference.

2. On or about July 8, 2004, in the Eastern District of Pennsylvania and elsewhere, defendant

JOHN J. POLTONOWICZ,

for the purpose of executing the scheme described above, attempting to do so, and aiding and abetting its execution, knowingly caused to be transmitted by means of wire communication in interstate commerce signals and sounds, namely the wire transfer of \$231,897.28 which was the proceeds of the mortgage loan from Deutsche Bank Trust Co. of the Americas to the bank account of Commerce Abstract Co., Inc. at Commerce Bank PA.

In violation of Title 18, United States Code, Section 1343, 1349, and 2.

COUNTS EIGHTEEN AND NINETEEN

THE GRAND JURY FURTHER CHARGES THAT:

1. Paragraph 1 of Count One of this indictment is incorporated by reference.
2. In or about March 2004, defendant

JOHN J. POLTONOWICZ

devised and intended to devise a scheme to defraud BMW of the Main Line and Advantage Funding, and to obtain money and property by means of false and fraudulent pretenses, representations and promises.

MANNER AND MEANS

It was part of the scheme that:

3. In approximately March 2004, defendant JOHN J. POLTONOWICZ applied to lease a BMW 330 CI Series automobile from BMW of the Main Line, an automobile dealership in Bala Cynwyd, Pennsylvania. As part of the lease application process, BMW of the Main Line required defendant POLTONOWICZ to submit true and correct copies of his personal tax return for the 2002 calendar year and other proof of his income.

4. Defendant JOHN J. POLTONOWICZ prepared a fictitious 2002 personal tax return which included a much higher adjusted gross income figure than he reported on the tax return he filed with the IRS. On the fictitious tax return he created for the year 2002, defendant POLTONOWICZ claimed that he had more than \$117,000 in adjusted gross income. In contrast, the return he filed with the IRS for 2002 reported only \$40,085 in adjusted gross income.

5. Defendant JOHN J. POLTONOWICZ submitted this fictitious tax return to BMW of the Main Line in support of the lease application. Based, in part, on the fictitious tax return, BMW of the Main Line agreed to lease the vehicle to defendant POLTONOWICZ.

6. On or about the dates listed below, in the Eastern District of Pennsylvania and elsewhere, defendant

JOHN J. POLTONOWICZ,

for the purpose of executing the scheme, attempting to do so, and aiding and abetting its execution, knowingly caused to be delivered by a commercial interstate carrier or the United States Mail, the following:

<u>Count</u>	<u>Approximate date of Mailing</u>	<u>Description</u>
18	March 8, 2004	Lease and application materials, a fictitious 2002 personal tax return, proof of insurance, proof of residence, references, driver's license.
19	March 11, 2004	Pennsylvania Department of Motor Vehicles registration card and registration sticker for the BMW automobile described above.

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

COUNT TWENTY

THE GRAND JURY FURTHER CHARGES THAT:

On or about November 12, 2004, in the Eastern District of Pennsylvania, and elsewhere, defendant

JOHN J. POLTONOWICZ,

in a matter within the jurisdiction of the Internal Revenue Service (“IRS”), an agency of the executive branch of the United States, knowingly and willfully made materially false, fictitious, and fraudulent statements and representations, and falsified, concealed, and covered up by trick, scheme, or device, material facts in an IRS Form 8633 (Application to Participate in the IRS e-file Program) in that defendant JOHN J. POLTONOWICZ falsely stated in the form that J.M.M., a person known to the grand jury, was the “principal” and the “primary contact” for defendant POLTONOWICZ’s tax preparation business, Matrix Tax Service, and which fraudulently concealed the fact that defendant POLTONOWICZ was the principal and primary contact person for Matrix Tax Service, when, as the defendant knew, he was the principal and primary contact person for Matrix Tax Service.

In violation of Title 18, United States Code, Section 1001.

NOTICE OF FORFEITURE

THE GRAND JURY FURTHER CHARGES THAT:

1. As a result of the violations of Title 18, United States Code, Sections 1341 and 1343, set forth in Counts Thirteen through Eighteen of this Indictment, defendant

JOHN J. POLTONOWICZ

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 offense, as charged in this Indictment, including but not limited to: (a) the real estate located at, Bristol, Pennsylvania; and (b) one 2004 Silver BMW 330 Series automobile, VIN WBABD43444PD96634.

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 21 U.S.C. § 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 982.

A TRUE BILL:

GRAND JURY FOREPERSON

PATRICK L. MEEHAN
United States Attorney