IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA	:	**CRIMINAL NO. 15-**
v.	:	**DATE FILED:**
SAM KUTTAB	:	**VIOLATIONS:**
		18 U.S.C. § 1341 (mail fraud - 1 count)
	:	**18 U.S.C. § 2 (aiding and abetting)**

INFORMATION

COUNT ONE

THE UNITED STATES ATTORNEY CHARGES THAT:

At all times relevant to this indictment:

Relevant Persons and Entities

1. The Philadelphia Municipal Court (Municipal Court) is one of the two courts that comprise the First Judicial District of Pennsylvania, the judicial body that administers the court system in Philadelphia, Pennsylvania. The Municipal Court has two divisions, the Criminal Division and the Civil Division. Under Pennsylvania law, the jurisdiction of the Municipal Court is limited. The Criminal Division conducts preliminary hearings for most adult felony offenses charged in Philadelphia and conducts trials of criminal offenses carrying maximum sentences of incarceration of five years or less. The Civil Division adjudicates civil disputes where the amount in controversy is $12,000 or less for small claims cases, all landlord and tenant cases, and $15,000 in real estate and school tax cases. There are judges who handle both criminal and civil cases before the Municipal Court.

2. Pennsylvania's Code of Judicial Conduct sets forth standards of conduct for judges in Pennsylvania. Philadelphia Municipal Court judges were required to follow the Code of Judicial Conduct, including Rule 2.9 which provided: "A judge shall not initiate, permit, or consider ex parte communications, or consider other communications made to the judge outside the presence of the parties or their lawyers, concerning a pending or impending matter[.]"

3. Joseph C. Waters, Jr., charged elsewhere, was a Municipal Court Judge. He was initially appointed in July 2009 to fill a vacancy on the Court. To retain his position on the Court, Waters ran successfully in the November 2009 election for a seat on the Court. In 2011, Waters announced his candidacy for a position as a judge on the Philadelphia Court of Common Pleas and began to raise campaign funds. Waters subsequently abandoned the effort and continued to serve as a Municipal Court judge.

4. Defendant SAM KUTTAB was a politically-active businessman who owned or managed various businesses in Philadelphia, including Company A, a real estate management company. Defendant KUTTAB supported Joseph C. Waters, Jr. in several efforts to obtain judicial positions within the First Judicial District. KUTTAB used his political and business connections to support Waters' efforts to secure a July 2009 appointment to the Municipal Court. KUTTAB later supported Waters' election to the Municipal Court by contributing money and actively recruiting other persons to give money or in-kind campaign contributions to Waters' campaign. When Waters announced a possible run for a 2011 position on the Court of Common Pleas, KUTTAB again supported Waters' election effort by raising campaign contributions, hosting a campaign fund raising event, and encouraging others to host a campaign event for Waters.

5. In return for the political support he provided to Joseph C. Waters, Jr., defendant SAM KUTTAB, asked Waters to use his influence as a Municipal Court Judge in a small claims case pending in the Municipal Court.

6. Judge # 1, known to the United States Attorney, was a Municipal Court Judge.

7. Judge # 2, known to the United States Attorney, was a Municipal Court Judge.

8. Company B was a Pennsylvania corporation that provided security services, including burglar and fire alarm system set up and monitoring, throughout the Delaware Valley. Company B provided burglar and fire alarm system monitoring to Company A pursuant to a signed contract between the companies.

Company B v. Company A Small Claims Litigation

9. On or about August 9, 2011, Company B filed a small claims law suit against Company A in Municipal Court. Company B alleged in the law suit that Company A failed to pay for security services it had received from Company B under the terms of their contract. Company B sought $2,738.44 in damages, costs, and fees from Company A.

10. The Municipal Court scheduled a hearing in the small claims case for September 30, 2011. Judge #1 was the Municipal Court judge scheduled to hear the trial.

11. On or about September 30, 2011, defendant SAM KUTTAB advised Joseph C. Waters, Jr. about the scheduled hearing on the small claims case filed by Company B against his company, Company A.

12. On or about September 30, 2011, Joseph C. Waters, Jr. contacted Judge #1 by telephone and requested favorable treatment for defendant SAM KUTTAB and Company A, as follows:

WATERS:	I got something in front of you at 1 o'clock today.
Judge #1:	Okay, tell me, what is it?
WATERS:	The, the name's [Company A], okay.
Judge #1:	Okay.
WATERS:	Ah, it's ...has something to do with an alarm company. SAM KUTTAB ... will be there.
Judge #1:	Okay, and, uh, okay.
WATERS:	You know SAM KUTTAB
Judge #1:	And who do you need?
WATERS:	Uh, we, we, we got the, the, the defendant ... we got the defendant, [Company A], the name is.
Judge #1:	Oh, okay. Okay.
WATERS:	Alright.

13. On or about September 30, 2011, in the scheduled hearing in the Municipal Court before Judge #1, the attorney representing Company A requested a continuance of the trial because he was not prepared for the hearing. Company B opposed the request for a continuance and argued that the trial should proceed as scheduled. Judge #1 granted Company A's request for a continuance of the hearing. The Municipal Court rescheduled the trial for November 16, 2011.

14. On or about November 16, 2011, defendant SAM KUTTAB reminded Joseph C. Waters, Jr. that the small claims trial against his company, Company A, was scheduled for that afternoon.

15. On or about November 16, 2011, Joseph C. Waters, Jr., contacted Judge #2 by telephone and requested favorable treatment for defendant SAM KUTTAB and Company A, advising Judge #2:

WATERS:	Uh, you got a case this afternoon, [Company B] v. [Company A]. All right uh--
Judge #2:	Yeah? You got me.
WATERS:	Huh?
Judge #2:	You got me? Do I?
WATERS:	Yeah, [Company A] is SAM KUTTAB. He's a friend of mine, so if you can take a hard look at it.
Judge #2:	Who's your guy? The defendant?
WATERS:	Yeah, the defendant.
Judge #2:	Okay.
WATERS:	All right?
Judge #2:	No problem.

16. On or about November 16, 2011, the trial of Company B v. Company A commenced in the Municipal Court before Judge #2. Defendant SAM KUTTAB appeared and testified in Company A's defense. At the conclusion of the evidence, as requested by Joseph C. Waters, Jr., Judge #2 ruled in favor of Company A and dismissed Company B's claim for $2,738.44 in damages. Based on this ruling, Company B could not collect from Company A its fees for services rendered to Company A.

17. A short time later, an attorney for Company B notified defendant SAM KUTTAB and Company A that Company B intended to appeal Judge #2's decision in favor of Company A.

18. Joseph C. Waters, Jr. suggested that defendant SAM KUTTAB reach a settlement agreement with Company B rather than risk an appeal to a higher court.

19. To avoid an appeal by Company B, defendant SAM KUTTAB agreed to settle the lawsuit by paying Company B $600 instead of the $2,738.44 that Company B originally sought in its law suit.

THE SCHEME

20. From on or about September 30, 2011 through on or about January 16, 2012, in the Eastern District of Pennsylvania, defendant

SAM KUTTAB

and Joseph C. Waters devised and intended to devise a scheme and artifice to defraud Company B and to obtain money and property by means of materially false and fraudulent pretenses, representations, promises, and omissions.

MANNER AND MEANS

It was part of the scheme to defraud that:

21. Joseph C. Waters, Jr. and defendant SAM KUTTAB deprived and attempted to deprive Company B of money and property by giving defendant KUTTAB and Company A a secret advantage in the litigation through a series of ex parte communications between Waters and the other Municipal Court judges scheduled to hear the small claims case against Company A. In providing this secret advantage to KUTTAB and Company A, Waters and KUTTAB deprived and attempted to deprive Company B of funds it sought for services provided to Company A.

22. Joseph C. Waters, Jr. agreed to contact Judge #1 and Judge #2 at the request of defendant SAM KUTTAB.

23. In contacting them, Joseph C. Waters, Jr. used his position as a Municipal Court Judge to cause Judge #1 and Judge #2 to issue rulings that were favorable to defendant SAM KUTTAB and Company A.

24. Joseph C. Waters, Jr. told Judge #1 and Judge #2 that defendant SAM KUTTAB was his friend and that he wanted favorable treatment for defendant KUTTAB and Company A.

25. As a result of Joseph C. Waters, Jr's secret ex parte communications with Judge #1 and Judge #2, defendant SAM KUTTAB received a financial benefit in the litigation, that is, a ruling that defendant KUTTAB and Company A were not liable to pay Company B for security services provided to Company A.

26. Joseph C. Waters, Jr. and defendant SAM KUTTAB further deprived and attempted to deprive Company B of money and property by failing to disclose the ex parte conversations with Judge #1 and Judge #2 to Company B, who proceeded with the litigation, unaware that Waters had used his official position to the advantage of Company A.

27. To further the scheme and conceal it from other judicial authorities, Joseph C. Waters, Jr. helped broker a settlement agreement between Company A and Company B, thereby causing Company B to cease its appeal of Judge #2's decision in favor of Company A.

28. In brokering this settlement to prevent an appeal of Judge #2's decision, Joseph C. Waters, Jr. and defendant SAM KUTTAB caused a check of $400 (representing the $600 settlement minus attorneys fees) to be mailed to Company B, an amount far less than the amount of money claimed by Company B.

29. On or about January 16, 2012, in Philadelphia, in the Eastern District of Pennsylvania and elsewhere, defendant

SAM KUTTAB,

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 mail to the address of Company B, according to the directions thereon, a check in the amount of $400, representing the amount of the settlement minus attorneys fees.

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

ZANE DAVID MEMEGER
United States Attorney
First Assistant U.S. Attorney