

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA : Crim. No. 12-
 :
v. : 18 U.S.C. § 981(a)(1)(C)
 : 18 U.S.C. § 982
JOHN BENCIVENGO : 18 U.S.C. § 1951(a)
 : 18 U.S.C. § 1952(a)(1) & (3)
 : 18 U.S.C. § 1956(a)(1)(B)(i)
 : 18 U.S.C. § 2 &
 : 28 U.S.C. § 2461

INDICTMENT

The Grand Jury in and for the District of New Jersey,
sitting in Trenton, charges:

COUNTS ONE AND TWO
(Obstruction of Commerce By Extortion
Under Color of Official Right)

1. At all times relevant to this Indictment:
 - a. Defendant JOHN BENCIVENGO was the elected Mayor of Hamilton Township, New Jersey. As the Mayor of Hamilton Township, defendant BENCIVENGO was in a position to influence, and did influence, actions taken on behalf of Hamilton Township.
 - b. The Hamilton Township School District (the "District") provides public education from kindergarten to twelfth grade in Hamilton Township. The District was managed by the Hamilton Township Board of Education (the "School Board"), which was comprised of nine elected members. The District paid for, and maintained, various health insurance policies for District employees. Defendant BENCIVENGO, as the Mayor of

Hamilton Township, was in a position to influence, and did influence, actions taken by the School Board.

c. There was an individual who was an associate of defendant BENCIVENGO (the "Intermediary").

2. There was a witness who was cooperating with federal authorities from in or about June 2011 (the "CW"), who provided insurance brokerage services for public entities, including municipalities and school boards. The CW was an employee of a company (the "Insurance Broker") that provided insurance brokerage services in New Jersey, as well as in other states. The CW resided in a state other than New Jersey. The Insurance Broker was based in New Jersey and had an office in another state. Between in or about 2006 to in or about June 2012, the CW and the Insurance Broker provided insurance brokerage services to the District. As the District's health insurance broker, the CW and the Insurance Broker made recommendations with respect to health insurance carriers and assisted in negotiating premium renewal rates with such insurance carriers, among other things. For these services, the CW and the Insurance Broker received commissions with respect to the District's health insurance policies and coverage.

3. From in or about May 2011 to in or about July 2011, defendant BENCIVENGO agreed to use his official authority and influence to assist the CW to retain the position of health

insurance broker to the District, over which defendant BENCIVENGO purported to carry official influence, as specific opportunities arose, in exchange for corrupt payments, as follows.

BENCIVENGO OBTAINS A \$5,000 PAYMENT FROM THE CW

4. In or about March 2011, defendant BENCIVENGO and the Intermediary approached the CW and told the CW that defendant BENCIVENGO was having financial difficulties. Defendant BENCIVENGO and the Intermediary indicated that defendant BENCIVENGO needed financial assistance from the CW.

5. In or about May 2011, defendant BENCIVENGO again represented to the CW that he was having financial difficulties and that he needed the CW's financial assistance. Defendant BENCIVENGO and the CW discussed defendant BENCIVENGO's financial situation during telephone calls between defendant BENCIVENGO in New Jersey and the CW in another state. Defendant BENCIVENGO directed the CW to bring the CW's checkbook when the CW next came to Hamilton Township.

6. On or about May 12, 2011, the CW traveled from another state to meet defendant BENCIVENGO at his residence in Hamilton Township. At that meeting, defendant BENCIVENGO asked the CW to provide him with money so that he could pay taxes and living expenses. Defendant BENCIVENGO and the CW agreed that the CW would provide \$5,000 to defendant BENCIVENGO. In exchange, defendant BENCIVENGO told the CW that he would speak to a member

of the School Board ("School Board Member No. 1") about keeping the CW and the Insurance Broker as the insurance broker for the District and not supporting public bidding for the position as the District's health insurance broker.

7. At that May 12, 2011 meeting, defendant BENCIVENGO directed the CW to make the \$5,000 payment by check made payable to the Intermediary. Defendant BENCIVENGO then contacted the Intermediary and directed the Intermediary to immediately come to defendant BENCIVENGO's residence. After the Intermediary arrived, in order to conceal the nature of the payment, defendant BENCIVENGO, the Intermediary, and the CW agreed that the check would be made payable to the Intermediary's spouse. To further conceal the nature of the payment, it also was agreed that if anyone asked the Intermediary or the CW about the \$5,000 check, that they would say that the CW purchased a bedroom set from the Intermediary's spouse. The CW then gave the Intermediary a check in the amount of \$5,000 with the notation "Cherry Bedroom Set" (the "5/12/11 Check").

8. On or about May 12, 2011, in or around Hamilton Township, the Intermediary deposited the 5/12/11 Check into an account at a financial institution which was engaged in, and the activities of which affected, interstate and foreign commerce.

9. On or about June 17, 2011, at a meeting with defendant BENCIVENGO at defendant BENCIVENGO's residence in Hamilton

Township, which was recorded, defendant BENCIVENGO told the CW that the Intermediary deposited the 5/12/11 Check without the knowledge of the Intermediary's spouse. In response to the CW's statement about the 5/12/11 Check that "the less [the Intermediary's spouse] knows . . . the better," defendant BENCIVENGO replied: "the less that everybody knows, the better."

10. On June 17, 2011, during a meeting recorded by the CW, the Intermediary told the CW that the Intermediary had withdrawn and given to defendant BENCIVENGO approximately \$4,500 of the \$5,000 in proceeds from the 5/12/11 Check. The Intermediary also told the CW that the Intermediary had given the money to defendant BENCIVENGO in small increments because the Intermediary "d[id]n't like to pull out too much at once."

11. On or about July 11, 2011, in a conversation that was recorded, defendant BENCIVENGO told the CW that defendant BENCIVENGO had received the \$5,000 from the 5/12/11 Check from the Intermediary in \$500 and \$1,000 increments over a period of several weeks.

BENCIVENGO OBTAINS A \$7,400 PAYMENT FROM THE CW

12. On or about June 29, 2011, defendant BENCIVENGO met with the CW in Hamilton Township. During that recorded meeting, defendant BENCIVENGO told the CW that he was having difficulty paying his bills and taxes. When the CW asked defendant BENCIVENGO what was going to happen when the taxes were due,

defendant BENCIVENGO replied: "you're probably going to have to help me." Defendant BENCIVENGO was informed by the CW: "you help me with [the School Board Member No. 1], you got anything, cause you know I'm gonna need that down the road here." To which defendant BENCIVENGO responded: "I'm helping you as much as I can . . . I helped you so far." When the CW told defendant BENCIVENGO that the CW would have access to cash to give to defendant BENCIVENGO, defendant BENCIVENGO suggested that the CW give him cash during an upcoming trip that defendant BENCIVENGO and the CW were contemplating taking to Atlantic City, New Jersey.

13. On or about July 11, 2011, defendant BENCIVENGO met with the CW in Hamilton Township. At that recorded meeting, defendant BENCIVENGO and the CW discussed the trip that they were contemplating taking to Atlantic City. Defendant BENCIVENGO told the CW that he had no money for the trip, that he could not pay his monthly bills, and that he had gotten a letter from the IRS stating that he owed \$5,200 for income taxes. Defendant BENCIVENGO was informed by the CW that the CW could help defendant BENCIVENGO, but that the CW was going to need defendant BENCIVENGO's help in return. In response to defendant BENCIVENGO's query as to what the CW needed, defendant BENCIVENGO was advised by the CW that if another member of the School Board ("School Board Member No. 2") decided to leave the School Board

and run for a seat in the New Jersey Assembly, the CW wanted to pick the person to replace School Board Member No. 2 on the School Board. Defendant BENCIVENGO responded: "You got it."

14. On or about July 20, 2011, defendant BENCIVENGO and the CW met in Hamilton Township. At that recorded meeting, defendant BENCIVENGO told the CW that he needed \$7,400 to pay outstanding taxes. The CW responded "7,400 is definitely doable, as long as you got my back with [School Board Member No. 1]." To which defendant BENCIVENGO responded: "When have I ever not had your back?" When the CW said that "come January, [School Board Member No. 1 is] gonna want to go out to bid. You got to definitely get to [School Board Member No. 1]," defendant BENCIVENGO responded "I'm gonna." The CW also reminded defendant BENCIVENGO that if School Board Member No. 2 was elected to the Assembly that the CW needed to pick the person to replace School Board Member No. 2 on the School Board.

15. On or about July 21, 2011, defendant BENCIVENGO and the CW met in Hamilton Township. During that recorded meeting, defendant BENCIVENGO accepted \$2,400 in cash from the CW of the \$7,400 that he solicited on July 20, 2011. Defendant BENCIVENGO counted the money and told the CW "thank you." Defendant BENCIVENGO and the CW also discussed that defendant BENCIVENGO would obtain the remaining \$5,000 when they went to Atlantic City the following weekend. Defendant BENCIVENGO and the CW also

spoke about how defendant BENCIVENGO could conceal the money that he had accepted.

16. From on or about July 26, 2011 to on or about July 28, 2011, defendant BENCIVENGO and the CW communicated via interstate electronic text messages regarding their trip to Atlantic City. On or about July 28, 2011, the CW traveled from another state to meet defendant BENCIVENGO in Atlantic City.

17. At a recorded meeting in Atlantic City on or about July 29, 2011, defendant BENCIVENGO accepted from the CW the remaining \$5,000 in cash that defendant BENCIVENGO solicited on July 20, 2011. In response to the CW's query about whether defendant BENCIVENGO had spoken to School Board Member No. 1, defendant BENCIVENGO responded that he had spoken to School Board Member No. 1 about the CW, without mentioning the CW's name, and told School Board Member No. 1: "you have to support those who support you." Defendant BENCIVENGO told the CW that he did so in order to "plant[] the seed right now." Defendant BENCIVENGO also told the CW that when he returned from Atlantic City, he was going to contact School Board Member No. 1 to see if he could convince School Board Member No. 1 to run for the New Jersey Assembly in order to "get rid of [School Board Member No. 1] off the School Board, which," according to defendant BENCIVENGO, "would be huge."

18. On or about the dates listed below, in Mercer and

Atlantic Counties, in the District of New Jersey and elsewhere,
defendant

JOHN BENCIVENGO

knowingly and willfully did obstruct, delay and affect interstate commerce by extortion under color of official right, and attempted so to do--that is, by corruptly agreeing to obtain and obtaining money from the CW, with the CW's consent, in exchange for defendant BENCIVENGO's exercise of official authority and influence in attempting to assist the CW in retaining the position of health insurance broker for the District for the benefit of the CW and the Insurance Broker as specific opportunities arose.

<u>COUNT</u>	<u>DATE</u>	<u>CORRUPT PAYMENT</u>
ONE	May 12, 2011	\$5,000 (extortion)
TWO	From June 29, 2011 to July 29, 2011	\$7,400 (attempted extortion)

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

COUNT THREE

(Traveling and Using Interstate Facilities to Distribute the Proceeds of, and Promote and Facilitate, Bribery)

1. Paragraphs 1 to 11 of Counts One and Two of this Indictment are hereby incorporated and realleged as if fully set forth herein.

2. In or about May 2011, in Mercer County, in the District of New Jersey, and elsewhere, defendant

JOHN BENCIVENGO

knowingly and intentionally did travel and cause travel in interstate commerce and use and cause the use of facilities in interstate commerce with the intent to distribute the proceeds of an unlawful activity and to promote, manage, establish, carry on and facilitate the promotion, management, establishment, and carrying on of that unlawful activity--namely, bribery contrary to N.J. Stat. Ann. § 2C:27-2--and, thereafter, performed and attempted to perform acts to distribute the proceeds of the unlawful activity and to promote, manage, establish, carry on, and facilitate the promotion, management, establishment, and carrying on of that unlawful activity.

In violation of Title 18, United States Code, Sections 1952(a)(1) & (3) and Title 18, United States Code, Section 2.

COUNT FOUR

(Traveling and Using Interstate Facilities to Distribute the Proceeds of, and Promote and Facilitate, Bribery)

1. Paragraphs 1 to 3 and 12 to 17 of Counts One and Two of this Indictment are hereby incorporated and realleged as if fully set forth herein.

2. From in or about July 26, 2011 to on or about July 28, 2011, in Mercer and Atlantic Counties, in the District of New Jersey, and elsewhere, defendant

JOHN BENCIVENGO

knowingly and intentionally did travel and cause travel in interstate commerce and use and cause the use of facilities in interstate commerce with the intent to distribute the proceeds of an unlawful activity and to promote, manage, establish, carry on and facilitate the promotion, management, establishment, and carrying on of that unlawful activity--namely, bribery contrary to N.J. Stat. Ann. § 2C:27-2--and, thereafter, performed and attempted to perform acts to distribute the proceeds of the unlawful activity and to promote, manage, establish, carry on, and facilitate the promotion, management, establishment, and carrying on of that unlawful activity.

In violation of Title 18, United States Code, Sections 1952(a)(1) & (3) and Title 18, United States Code, Section 2.

COUNT FIVE
(Money Laundering)

1. Paragraphs 1 to 11 of Counts One and Two of this Indictment are hereby incorporated and realleged as if fully set forth herein.

2. From on or about May 12, 2011 to in or about July 2011, in Mercer County, in the District of New Jersey, and elsewhere, defendant

JOHN BENCIVENGO

knowing that the property involved in the financial transactions represented the proceeds of some form of unlawful activity, did knowingly conduct and attempt to conduct financial transactions which in fact involved the proceeds of specified unlawful activity, namely, extortion contrary to 18 U.S.C. § 1951(a) and bribery contrary to N.J. Stat. Ann. § 2C:27-2, knowing that the transactions were designed in whole and in part to conceal and disguise the nature, location, source, ownership, and control of the proceeds of specified unlawful activity.

In violation of Title 18, United States Code, Section 1956(a)(1)(B)(i), and Title 18, United States Code, Section 2.

FORFEITURE ALLEGATION I

As a result of committing the aforementioned offenses in violation of Title 18, United States Code, Sections 1951(a) and 1952(a)(1) & (3) charged in Counts One to Four of this Indictment, defendant JOHN BENCIVENGO shall forfeit to the United States pursuant to 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461, all property, real and personal, that constitutes and is derived from proceeds traceable to the commission of the above offenses, including, up to \$12,400 in United States currency, in that such sum constitutes and is derived, directly and indirectly, from proceeds traceable to the commission of the offenses.

If any of the above-described forfeitable property, as a result of any act or omission of defendant BENCIVENGO:

- (1) cannot be located upon exercise of due diligence;
- (2) has been transferred or sold to, or deposited with, a third party;
- (3) has been placed beyond the jurisdiction of the Court;
- (4) has been substantially diminished in value; or
- (5) has been commingled with other property which cannot be divided without difficulty;

it is the intent of the United States, pursuant to 21 U.S.C. 853(p), to seek forfeiture of any other property of defendant BENCIVENGO up to the value of the above forfeitable property.

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

FORFEITURE ALLEGATION II

As a result of committing the aforementioned offense in violation of Title 18, United States Code, Section 1956(a)(1)(B)(i) charged in Count Five of this Indictment, defendant JOHN BENCIVENGO shall forfeit to the United States, pursuant to 18 U.S.C. 982(a)(1), any and all property, real and personal, that was involved in such offense, including, but not limited to, a sum of money equal to approximately \$5,000 in United States currency.

If any of the above-described forfeitable property, as a result of any act or omission of defendant BENCIVENGO:

- (1) cannot be located upon exercise of due diligence;
- (2) has been transferred or sold to, or deposited with, a third party;
- (3) has been placed beyond the jurisdiction of the Court;
- (4) has been substantially diminished in value; or
- (5) has been commingled with other property which cannot be divided without difficulty;

it is the intent of the United States, pursuant to 18 U.S.C. § 982(b), to seek forfeiture of any other property of defendant BENCIVENGO up to the value of the above forfeitable property.

Pursuant to Title 18, United States Code, Section 982.

A TRUE BILL

FOREPERSON



PAUL J. FISHMAN
United States Attorney

CASE NUMBER: _____

**United States District Court
District of New Jersey**

UNITED STATES OF AMERICA

v.

JOHN BENCIVENGO

INDICTMENT FOR

18 U.S.C. §§ 1951(a), 1952(a)(1) & (3), 1956(a)(1)(B)(i), and 2

A True Bill,

Foreperson

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