

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA : Hon. Harold A. Ackerman
:
v. : Crim. No. 07-784 (01) & (02)
: (HAA)
DAVID DELLE DONNA and :
ANNA DELLE DONNA : 18 U.S.C. Sections 1341, 1346,
: 1349, and 1951(a) and Section
: 2, and 26 U.S.C. Section
: 7206(1)

S U P E R S E D I N G
I N D I C T M E N T

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

COUNT ONE
CONSPIRACY TO COMMIT MAIL FRAUD

Defendants

1. At all times relevant to Count One of this
Indictment:

a. Defendant DAVID DELLE DONNA was a resident and
elected official of the Town of Guttenberg, New Jersey
("Guttenberg," or the "Town"). Beginning on or about January 1,
2002, defendant DAVID DELLE DONNA served as the Mayor of
Guttenberg. Prior to 2002, defendant DAVID DELLE DONNA was a
member of the Guttenberg Town Council. In both capacities,
defendant DAVID DELLE DONNA was in a position to influence, and
did influence, official action taken on behalf of Guttenberg.

b. Defendant ANNA DELLE DONNA was a resident of
Guttenberg and the wife of defendant DAVID DELLE DONNA.

Beginning on or about January 1, 2002, defendant ANNA DELLE DONNA was appointed to serve as a member of the Guttenberg Planning Board (the "Planning Board"). As a Planning Board member, defendant ANNA DELLE DONNA was in a position to influence, and did influence, official action taken on behalf of Guttenberg.

2. At all times relevant to Count One of this Indictment, defendant DAVID DELLE DONNA operated and caused to be operated certain campaign committees (the "Committees") responsible for raising funds on behalf of the election campaigns of defendant DAVID DELLE DONNA and the campaigns of those candidates for Guttenberg Town Council with whom defendant DAVID DELLE DONNA affiliated himself and who affiliated themselves with defendant DAVID DELLE DONNA (the "Campaigns"). The purpose of the Committees was to raise funds in order to defray the expenses associated with the Campaigns. These funds were regularly deposited into accounts at various financial institutions, including Summit Bank, Bridge View Bank, Fleet Bank, and Bank of America.

Committee Reporting Obligations

3. Pursuant to the New Jersey Campaign Contributions and Expenditures Reporting Act, N.J. Stat. Ann. §§ 19:44A-1, et seq. (the "Campaign Act"), the treasurer of a candidate or joint candidates committee must make an accurate written record of all contributions to the committee. All such funds must be received in a campaign depository of the committee within ten days, or may

be transferred to another candidate or committee provided that a record is made of such transfer.

4. The Campaign Act further provided that the campaign treasurer must report all contributions received on forms required by the New Jersey Election Law Enforcement Commission ("ELEC") and must submit the reports to ELEC in Trenton, New Jersey. According to the forms, only the names and addresses of individuals whose aggregate contributions did not exceed \$300 in 2005, and \$400 in years before, were to be excluded from the reports. The completed forms were to be filed with ELEC on the 29th day preceding the election, on the 11th day preceding the election, on the 20th day after the election, and on a quarterly basis until a final report was filed. The campaign treasurer and the candidate were under a duty to the campaign committee to, among other things, honestly and truthfully account for the committee's receipts and not to use any of the committee's funds for any improper purpose or expenditure, pursuant to N.J. Stat. Ann. 19:44A-1 et seq., N.J.A.C. 19:25-1 et seq., and their common-law obligations as fiduciaries of the committee.

5. The Campaign Act was amended in 1993 to explicitly prohibit the personal use of campaign contributions. In 2004, the Campaign Act was further amended to require the reporting of any contribution made in cash, regardless of amount.

Cash Contributions

6. At all times relevant to Count One of this Indictment, defendants DAVID DELLE DONNA and ANNA DELLE DONNA held and caused to be held two major Campaign fundraising events each year (the "Campaign Events"). In the years that defendant DAVID DELLE DONNA was a candidate for Mayor of Guttenberg, the tickets were sold as contributions to the joint candidates committee of defendant DAVID DELLE DONNA and the candidates for Guttenberg Town Council affiliated with defendant DAVID DELLE DONNA. In the years that there was no mayoral election, the tickets were sold as contributions to the joint candidates committee of the candidates for Guttenberg Town Council affiliated with defendant DAVID DELLE DONNA.

7. At all times relevant to Count One of this Indictment:

a. An individual, I-1, owned or had an interest in commercial and residential property in Guttenberg and operated a bar in Guttenberg that bought and sold items in interstate commerce. From in or about 2001 to in or about 2005, I-1 spent between approximately \$2,000 and \$6,000 in cash on tickets for each Campaign Event. These payments by I-1 therefore exceeded the limits set by New Jersey State law for permissible cash campaign contributions. I-1 also purchased certain tickets by check during portions of this time period.

b. An individual, I-2, was involved in the business of real estate development in and around Guttenberg.

Between in or about 2003 and 2004, I-2 hosted a private fundraiser for defendant DAVID DELLE DONNA's mayoral campaign. Among the funds collected from the guests, I-2 received between approximately \$250 and \$500 in cash, which I-2 subsequently turned over to defendant DAVID DELLE DONNA.

The Mail Fraud Conspiracy

8. From in or about 2001 to in or about 2005, in Hudson and Mercer Counties, in the District of New Jersey and elsewhere, defendants

DAVID DELLE DONNA and
ANNA DELLE DONNA

did knowingly and willfully conspire and agree with each other to commit an offense against the United States that is, using the United States mails for the purpose of executing a scheme and artifice to defraud and to obtain money and property from the Committees and their contributors and to deprive the Committees of their right to the honest services of their respective treasurers and candidate DAVID DELLE DONNA, by means of materially false and fraudulent pretenses, representations, and promises, contrary to Title 18, United States Code, Sections 1341 and 1346.

9. The object of this conspiracy was for defendants DAVID DELLE DONNA and ANNA DELLE DONNA and others to divert and attempt to divert cash campaign contributions and ticket proceeds from the Committees and to conceal material information regarding this conduct.

10. It was a part of the conspiracy that, from in or about 2001 to in or about 2005, the cash campaign contributions of I-1, I-2 and others were not deposited in the appropriate campaign depository, but were diverted by defendants DAVID DELLE DONNA and ANNA DELLE DONNA.

11. It was a further part of this conspiracy that, from in or about 2002 to in or about 2005, defendants DAVID DELLE DONNA and ANNA DELLE DONNA prepared, caused to be prepared, signed, caused to be signed, filed, and caused to be filed ELEC forms that were certified by the Campaign treasurers to be truthful and accurate but that, in fact, intentionally failed to disclose the cash contributions to the Campaigns.

12. It was a further part of the conspiracy that, from in or about 2002 to in or about 2005, defendants DAVID DELLE DONNA and ANNA DELLE DONNA prepared, caused to be prepared, signed, caused to be signed, filed, and caused to be filed Financial Disclosure forms that intentionally failed to disclose the defendants' receipt of these cash contributions. The New Jersey Local Government Ethics Law, N.J. Stat. Ann. §§ 40A:9-22.1, et seq., provides that all local government officials must, on an annual basis, complete and file a Financial Disclosure form with the New Jersey Department of Community Affairs, Local Government Services Division, Local Finance Board. Among other things, the completed Financial Disclosure Form must list all sources of income, earned or unearned, exceeding \$2,000, all gifts having an aggregate value exceeding \$400 from a single

source during the previous calendar year and the sources of fees and honoraria having an aggregate amount exceeding \$250 from any single source.

13. It was a further part of the conspiracy that from in or about 2002 to in or about 2005, for the purpose of executing and attempting to execute this scheme and artifice to defraud, defendants DAVID DELLE DONNA and ANNA DELLE DONNA placed and caused to be placed in a post office and authorized depository for mail matter to be sent and delivered by the Postal Service, Financial Disclosure Statements and ELEC Reports of Contributions and Expenditures to the New Jersey Department of Community Affairs and ELEC in Trenton, New Jersey, respectively, that failed to disclose the cash contributions referenced in paragraphs 7, 9, and 10 of this Count.

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

COUNT TWO
MAIL FRAUD

1. Paragraphs 1 to 7 and 9 to 13 of Count One of this Indictment are hereby realleged and incorporated as if set forth in full herein.

2. From in or about 2001 to in or about 2005, in Hudson County, in the District of New Jersey, and elsewhere, defendants

DAVID DELLE DONNA and
ANNA DELLE DONNA

knowingly and willfully did devise and intend to devise a scheme and artifice to defraud and to obtain money and property from the Committees and their contributors and to deprive the Committees of their right to the honest services of their respective treasurers and candidate DAVID DELLE DONNA, by means of materially false and fraudulent pretenses, representations, and promises.

3. On or about March 3, 2003, in Hudson County, in the District of New Jersey and elsewhere, for the purpose of executing and attempting to execute the scheme and artifice to defraud, defendants

DAVID DELLE DONNA and
ANNA DELLE DONNA

and others, knowingly and willfully placed and caused to be placed in a post office and authorized depository for mail, and caused to be delivered thereon, certain mail matter, namely a March 3, 2003 Local Government Ethics Law Financial Disclosure Statement for 2002 for defendant DAVID DELLE DONNA, addressed to the New Jersey Department of Community Affairs, Trenton, New Jersey that intentionally failed to disclose approximately \$5,000 in cash campaign contributions that defendants DAVID DELLE DONNA and ANNA DELLE DONNA had diverted.

In violation of Title 18, United States Code, Sections 1341 and 1346 and Section 2.

COUNT THREE
CONSPIRACY TO COMMIT EXTORTION

1. Paragraphs 1 and 7(a) of Count One of this Indictment are hereby realleged and incorporated as if set forth in full herein.

The Extortion Conspiracy

2. From in or about 2001 to in or about 2005, in Hudson County, in the District of New Jersey and elsewhere, defendants

DAVID DELLE DONNA and
ANNA DELLE DONNA

did knowingly and willfully conspire and agree with each other and others to obstruct, delay, and affect interstate commerce by extortion under color of official right, by obtaining corrupt payments that were paid by I-1, with I-1's consent.

The Object of the Conspiracy

3. The object of the conspiracy was for defendants DAVID DELLE DONNA and ANNA DELLE DONNA to obtain from I-1 cash campaign contributions and other payments and benefits with the intent to be influenced and rewarded for taking, attempting to take, and refraining from taking official action in their positions as Guttenberg officials.

Manner and Means of Carrying out the Conspiracy

4. The manner and means employed by defendants DAVID DELLE DONNA and ANNA DELLE DONNA, and their co-conspirators, to carry out this conspiracy included the following:

a. From in or about 2001 to in or about 2005, defendants DAVID DELLE DONNA and ANNA DELLE DONNA accepted and caused to be accepted from I-1 cash campaign contributions for the election campaigns of defendant DAVID DELLE DONNA and the campaigns of those candidates for Guttenberg Town Council within whom defendant DAVID DELLE DONNA affiliated himself and who affiliated themselves with defendant DAVID DELLE DONNA.

b. From in or about 2001 to in or about 2005, defendants DAVID DELLE DONNA and ANNA DELLE DONNA solicited and accepted from I-1 various additional payments of cash, goods, and services. These payments included the following:

- i. Approximately \$2,000 in cash for cosmetic surgery for defendant ANNA DELLE DONNA;
- ii. Several thousand dollars in cash for defendant ANNA DELLE DONNA to gamble with during visits to casinos in Atlantic City, New Jersey, and elsewhere;
- iii. Approximately \$1,000 in department store gift cards;
- iv. Bottles of liquor from I-1's business, including bottles of Grand Marnier;
- v. The purchase of a dog and related accessories costing in excess of approximately \$1,700; and,
- vi. Approximately \$1,115 in campaign related clothing for defendant DAVID DELLE DONNA's 2003 mayoral campaign.

c. In exchange for I-1's cash campaign contributions and other payments and benefits, defendants DAVID DELLE DONNA and ANNA DELLE DONNA agreed to take and refrain from taking official action on behalf of Guttenberg as specific opportunities arose.

Defendants DAVID DELLE DONNA and ANNA DELLE DONNA agreed to assist I-1 with the following issues, among others:

- i. Problems that I-1 was having with the Guttenberg Township Council, which serves as the Town's Alcoholic Beverage Commission, relating to incidents at I-1's bar business;
- ii. I-1's need to obtain construction related permits and approvals relating to properties in Guttenberg, and elsewhere; and,
- iii. Multiple citations received by I-1 for various municipal violations involving I-1's Guttenberg properties, including the improper storage and disposal of garbage.

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

COUNT FOUR
FILING A MATERIALLY FALSE 2004 INCOME TAX RETURN

1. Paragraph 1 of Count One of this Indictment is hereby realleged and incorporated as if set forth in full herein.

2. On or about April 15, 2005, defendants DAVID DELLE DONNA and ANNA DELLE DONNA signed and filed and caused to be filed with the Internal Revenue Service ("IRS"), a 2004 United States Individual Income Tax Return, Form 1040, wherein defendants DAVID DELLE DONNA and ANNA DELLE DONNA stated that their taxable income for calendar year 2004 was approximately \$60,673, and claimed entitlement to a refund in the amount of approximately \$1,257.

3. The return was signed by defendants DAVID DELLE DONNA and ANNA DELLE DONNA and contained a written declaration that it was made under the penalty of perjury.

4. The return was not true and correct as to every material matter in that the return did not include rental income of approximately \$9,505 that defendants DAVID DELLE DONNA and ANNA DELLE DONNA received in 2004 from approximately five tenants that rented apartments from defendants DAVID DELLE DONNA and ANNA DELLE DONNA.

5. On or about April 15, 2005, in the District of New Jersey and elsewhere, defendants

DAVID DELLE DONNA and
ANNA DELLE DONNA

did knowingly and willfully make and subscribe a 2004 United States Individual Income Tax Return, Form 1040, as described in paragraphs 2 and 3 of this Count, which they did not believe to be true and correct as to every material matter, as described in paragraph 4 of this Count.

In violation of Title 26, United States Code, Section 7206(1).

COUNT FIVE
FILING A MATERIALLY FALSE 2005 INCOME TAX RETURN

1. Paragraphs 1, 3 and 4 of Count Three of this Indictment are hereby realleged and incorporated as if set forth in full herein.

2. On or about April 17, 2006, defendants DAVID DELLE DONNA and ANNA DELLE DONNA signed and filed and caused to be filed with the Internal Revenue Service ("IRS"), a 2005 United States Individual Income Tax Return, Form 1040, wherein defendants DAVID DELLE DONNA and ANNA DELLE DONNA stated that their taxable income for calendar year 2005 was approximately \$66,997, and had an amount due and owing of approximately \$560.

3. The return was signed by defendants DAVID DELLE DONNA and ANNA DELLE DONNA and contained a written declaration that it was made under the penalty of perjury.

4. The return was not true and correct as to every material matter in that the return did not include: rental income of approximately \$16,037 that defendants DAVID DELLE DONNA and ANNA DELLE DONNA received in 2005 from approximately five tenants that rented apartments from defendants DAVID DELLE DONNA and ANNA DELLE DONNA, and corrupt payments for the benefit of defendant ANNA DELLE DONNA, from I-1, of approximately \$2,000 for defendant ANNA DELLE DONNA's cosmetic surgery, and a dog and related accessories valued in excess of approximately \$1,700, that was purchased for defendant ANNA DELLE DONNA by I-1.

5. On or about April 17, 2006, in the District of New Jersey and elsewhere, defendants

DAVID DELLE DONNA and
ANNA DELLE DONNA

did knowingly and willfully make and subscribe a 2005 United States Individual Income Tax Return, Form 1040, as described in paragraphs 2 and 3 of this Count, which they did not believe to be true and correct as to every material matter, as described in paragraph 4 of this Count.

In violation of Title 26, United States Code, Section 7206(1).

A TRUE BILL

FOREPERSON

CHRISTOPHER J. CHRISTIE
United States Attorney