UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA :

-v- :

CRAIG KUGEL, :

Defendant. :

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INFORMATION

S6 10 Cr. 228 (LTS)

COUNT ONE

(Conspiracy to Falsify Statements in Relation to Documents Required by ERISA, and to Obstruct and Impede The Lawful Governmental Function of the Internal Revenue Service)

The United States Attorney charges:

Relevant Persons And Entities

1. At all times relevant to this Information, Bernard L. Madoff Investment Securities LLC, and its predecessor, Bernard L. Madoff Investment Securities (collectively and separately, "BLMIS"), had its principal place of business in New York, New York, most recently at 885 Third Avenue, New York, New York. BLMIS was a broker-dealer that engaged in three principal types of business: Market Making; Proprietary Trading; and Investment Advisory ("IA") services. BLMIS was registered with the United States Securities and Exchange Commission ("SEC") as a broker-dealer and was, beginning in or about 2006, registered with the SEC as an investment adviser.

2. Bernard L. Madoff ("Madoff") was the founder of BLMIS, and served as its sole member and principal. In that

capacity, Madoff controlled the business activities of BLMIS. On March 12, 2009, in connection with his scheme to conduct a massive Ponzi scheme through BLMIS, Madoff pleaded guilty to securities fraud, investment adviser fraud, mail fraud, wire fraud, two counts of international money laundering, money laundering, false statements, perjury, false filings with the SEC, and theft from an employee benefit plan. Among other things, Madoff admitted that despite his promises to clients and prospective clients that he would invest their money in shares of common stock, options, and other securities of well known corporations, he in fact never invested those clients' funds in the securities as he had promised.

3. CRAIG KUGEL, the defendant, was employed at BLMIS, or its affiliated entity known as Primex Trading N.A., LLC ("Primex"), from in or about 2001, through at least on or about December 11, 2008. KUGEL's responsibilities included, among other things, budget forecasting for BLMIS's Market Making and Proprietary Trading operations and overseeing BLMIS's health care plan.

KUGEL's Creation of False BLMIS Employee Documents and False Statements to the United States Department of Labor

4. In or about 2001, CRAIG KUGEL, the defendant, obtained employment at Primex, a partnership between BLMIS and several financial institutions that maintained an auction system to trade securities, which was located at 885 Third Avenue, New

York, New York. At Primex, KUGEL performed the duties of a controller and worked under the supervision of a co-conspirator not named as a defendant herein ("CC-1"). In or about 2003, CC-1 offered KUGEL a job at BLMIS, which KUGEL accepted. KUGEL's responsibilities included, among other things, budget forecasting for BLMIS's Market Making and Proprietary Trading operations and overseeing BLMIS's health care plan.

5. From in or about 2003 through on or about December 11, 2008, CRAIG KUGEL, the defendant, was responsible for, among other things, reviewing and maintaining internal BLMIS employee records and related documents. KUGEL was aware that there were individuals on BLMIS's payroll who did not work for the firm but who nevertheless received salaries and benefits. KUGEL created and maintained false internal BLMIS employee records reflecting individuals who did not work at BLMIS. A retired employee of BLMIS who has worked there for 40 years, the son of another employee of BLMIS who had worked there for 40 years, and the wife of CC-1 were among the individuals on BLMIS's payroll who did not work for the firm but who nevertheless received salaries and benefits.

6. From in or about 2003 through on or about December 11, 2008, CRAIG KUGEL, the defendant, also was responsible for submitting an Annual Return ("Form 5500") concerning BLMIS's employee benefit plan to the United States Department of Labor

("DOL"). Form 5500 is part of ERISA's overall reporting and disclosure framework, which is intended to assure that employee benefit plans are operated and managed in accordance with certain prescribed standards and that participants and beneficiaries, as well as regulators, are provided or have access to sufficient information to protect the rights and benefits of participants and beneficiaries under employee benefit plans.

7. From at least in or about 2003 through on or about December 11, 2008, CRAIG KUGEL, the defendant, and other co-conspirators created false BLMIS documents reflecting individuals who did not actually work at BLMIS. Further, Form 5500 required KUGEL to identify accurately the number of employees at the firm. KUGEL included a number of employees who in fact did not work at BLMIS in the total number of employees that he reported on the Form 5500 to the DOL. KUGEL submitted this falsified document on an annual basis despite the warning on Form 5500 that individuals who knowingly submitted inaccurate information to the DOL would be subjected to various penalties.

8. In addition to submitting falsified documents to the DOL, CRAIG KUGEL, the defendant, also submitted false information directly to the third party administrator of a BLMIS health care plan. For example, on multiple occasions beginning in or about January 2004 until the collapse of BLMIS in 2008, KUGEL informed the third party administrator of a BLMIS health

care plan that CC-1's wife was an employee of BLMIS earning approximately $100,000 per year, and thus was eligible to participate in BLMIS's 401(k) plan and flexible spending account program. However, as KUGEL well knew, CC-1's wife was not actually a BLMIS employee.

KUGEL's Use of the Corporate Credit Card for Personal Expenses

9. Beginning in or about 2001 through on or about December 11, 2008, CRAIG KUGEL, the defendant, charged more than two hundred thousand dollars in personal expenses, including luxury clothes, jewelry, and vacations for himself and his family, to a corporate American Express card.

10. None of the more than two hundred thousand dollars in personal expenses charged by CRAIG KUGEL, the defendant, was reported by BLMIS or KUGEL to the United States Internal Revenue Service ("IRS"), as salary, bonus, or any other form of compensation.

11. Beginning in or about 2001, CRAIG KUGEL, the defendant, had numerous conversations with CC-1 about personal charges on the corporate American Express Card. Consequently, CC-1 agreed to an arrangement whereby the personal charges incurred by KUGEL were not reported to the IRS as income. Moreover, as KUGEL well knew, CC-1 and others similarly abused the corporate credit card in this fashion.

STATUTORY ALLEGATIONS

The Conspiracy

12. From in or about 2001, through on or about December 11, 2008, in the Southern District of New York and elsewhere, CRAIG KUGEL, the defendant, and others known and unknown, knowingly did combine, conspire, confederate and agree together and with each other to defraud the United States, and any agency thereof, to wit, the IRS, and to commit offenses against the United States, to wit, falsifying statements in relation to documents required by ERISA, in violation of Title 18, United States Code, Sections 1027 and 2.

Objects of the Conspiracy

Obstructing and Impeding the Lawful Governmental Function of the Internal Revenue Service

13. It was a part and an object of the conspiracy that CRAIG KUGEL, the defendant, and others known and unknown, knowingly would and did defraud the United States of America, and an agency thereof, to wit, the IRS, by impeding, impairing, obstructing, and defeating the lawful government functions of the IRS in the ascertainment, assessment, computation and collection of income taxes.

Falsifying Statements in Relation to Documents Required by ERISA

14. It was a further part and an object of the conspiracy that CRAIG KUGEL, the defendant, and others known and

unknown, knowingly, in documents required by Title I of ERISA to be published, kept as part of the records of employee welfare benefit plans and employee pension benefit plans, and certified to the administrator of such plan, did make and cause to be made false statements and representations of fact, knowing them to be false, and did knowingly conceal, cover up and fail to disclose facts the disclosure of which was required by Title I of ERISA, and was necessary to verify, explain, clarify, and check for accuracy and completeness reports required by such title to be published and information required by such title to be certified, in violation of Title 18, United States Code, Sections 1027 and 2.

Means and Methods of the Conspiracy

15. Among the means and methods by which CRAIG KUGEL, the defendant, and others known and unknown, would and did carry out the conspiracy were the following:

a. KUGEL submitted to the DOL fraudulent Forms 5500 that included a number of employees who in fact did not work at BLMIS in the total number of BLMIS employees that he reported to the DOL.

b. KUGEL created false BLMIS documents reflecting employees who in fact did not work at BLMIS so that these individuals could fraudulently receive salary and benefits.

c. KUGEL received unreported income through his usage of the corporate American Express card for personal expenses, which he failed to report as income on his federal tax returns.

Overt Acts

16. In furtherance of the conspiracy and to effect the illegal objects thereof, CRAIG KUGEL, the defendant, and others known and unknown, committed the following overt acts, among others, in the Southern District of New York and elsewhere: .

a. In or about January 2004, KUGEL informed the third party administrator of a BLMIS health care plan that CC-1's wife was an employee of BLMIS.

b. In or about January 2005, KUGEL provided the third party administrator of a BLMIS health care plan with an internal payroll record reflecting individuals on BLMIS's payroll who did not work for the firm but who nevertheless received salaries and benefits.

c. On or about April 1, 2008, in New York, New York, KUGEL submitted a fraudulent Form 5500 that included a number of individuals who in fact did not work at BLMIS in the number of BLMIS employees that he reported to the DOL.

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

COUNT TWO

(Falsifying Statements in Relation to Documents Required by ERISA)

17. The allegations contained in paragraphs 1 through 11 and 15 through 16 are hereby repeated, realleged and incorporated by reference as if fully set forth herein.

18. From at least in or about 2003 through on or about December 11, 2008, in the Southern District of New York and elsewhere, CRAIG KUGEL, the defendant, knowingly, in documents required by Title I of ERISA to be published, kept as part of the records of employee welfare benefit plans and employee pension benefit plans, and certified to the administrator of such plans, made and caused to be made false statements and representations of fact, knowing them to be false, and knowingly concealed, covered up and failed to disclose facts the disclosure of which was required by Title I of ERISA, and was necessary to verify, explain, clarify, and check for accuracy and completeness reports required by such title to be published and information required by such title to be certified, to wit, KUGEL caused to be submitted to the DOL numerous false documents reflecting a number of employees who in fact did not work at BLMIS.

(Title 18, United States Code, Sections 1027 and 2.)

COUNT THREE

(Subscribing to a False U.S. Individual Income Tax Return for Tax Year 2006)

19. The allegations contained in paragraphs 1 through 11 and 15 through 16 are hereby repeated, realleged and incorporated by reference as if fully set forth herein.

20. On or about April 16, 2007, in the Southern District of New York and elsewhere, CRAIG KUGEL, the defendant, willfully and knowingly did make and subscribe to a U.S. Individual Income Tax Return, Form 1040, for the tax year 2006, which return contained and was verified by the written declaration of KUGEL that it was made under penalties of perjury, and which return KUGEL did not believe to be true and correct as to every material matter, in that KUGEL falsely omitted substantial wage and other income, whereas, as KUGEL then and there well knew and believed, he was not entitled to omit that income from his 2006 return.

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

COUNT FOUR

(Subscribing to a False U.S. Individual Income Tax Return for Tax Year 2007)

21. The allegations contained in paragraphs 1 through 11 and 15 through 16 are hereby repeated, realleged and incorporated by reference as if fully set forth herein.

22. On or about October 16, 2008, in the Southern District of New York and elsewhere, CRAIG KUGEL, the defendant, willfully and knowingly did make and subscribe to a U.S. Individual Income Tax Return, Form 1040, for the tax year 2007, which return contained and was verified by the written declaration of KUGEL that it was made under penalties of perjury, and which return KUGEL did not believe to be true and correct as to every material matter, in that KUGEL falsely omitted substantial wage and other income, whereas, as CRAIG KUGEL then and there well knew and believed, he was not entitled to omit that income from his 2007 return.

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

COUNT FIVE

(Subscribing to a False U.S. Individual Income Tax Return for Tax Year 2008)

23. The allegations contained in paragraphs 1 through 11 and 15 through 16 are hereby repeated, realleged and incorporated by reference as if fully set forth herein.

24. On or about September 12, 2009, in the Southern District of New York and elsewhere, CRAIG KUGEL, the defendant, willfully and knowingly did make and subscribe to a U.S. Individual Income Tax Return, Form 1040, for the tax year 2008, which return contained and was verified by the written declaration of KUGEL that it was made under penalties of perjury, and which return KUGEL did not believe to be true and correct as

to every material matter, in that KUGEL falsely omitted substantial wage and other income, whereas, as KUGEL then and there well knew and believed, he was not entitled to omit that income from his 2008 return.

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

FORFEITURE ALLEGATION

(Offenses Constituting Specified Unlawful Activity)

25. As the result of committing one or more of the offenses constituting specified unlawful activity as defined in 18 U.S.C. § 1956(c)(7), as alleged in Counts One and Two of this Information, CRAIG KUGEL, the defendant, 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 or is derived from proceeds traceable to the commission of the said offenses, including but not limited to, up to approximately $1,153,292.29 on each of Counts One and Two, a sum of money representing the amount of proceeds obtained as a result of the said offenses.

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

Substitute Assets Provision

26. If any of the forfeitable property described above in paragraph 25 of this Information, 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 person;

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 subdivided without difficulty;

it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), to seek forfeiture of any other property of the defendant up to the value of the forfeitable property described above.

(Title 18, United States Code, Sections 981(a)(1)(C), Title 21, United States Code, Section 853(p), and Title 28, United States Code, Section 2461.)

Preet Bharara

PREET BHARARA
United States Attorney

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

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18 U.S.C. §§ 371, 1027 and 2; 26 U.S.C. § 7206(L).

PREET BHARARA
United States Attorney.