

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

UNITED STATES OF AMERICA            )            No.  
  )  
  )            Violations: Title 18, United States  
  )            Code, Sections 371 and 666  
  )  
DONALD DONAGHER, JR., and         )  
PENN CREDIT CORPORATION         )

**COUNT ONE**

The SPECIAL FEBRUARY 2017 GRAND JURY charges:

1. At times material to this indictment:
  - a. Defendant PENN CREDIT CORPORATION (“PENN CREDIT”), located in Harrisburg, Pennsylvania, contracted with various governmental entities to provide debt collection services, such as for the Clerks’ Offices described below.
  - b. Defendant DONALD DONAGHER, JR., was an owner and the Chief Executive Officer of PENN CREDIT.
  - c. Employees A through E were employees of PENN CREDIT who were based in Pennsylvania and Florida.
  - d. PENN CREDIT employed lobbyists to engage with current and potential government clients in Illinois and Florida.
  - e. DONAGHER also controlled at least seven other companies (the “DONAGHER Entities”).
  - f. Cook County was a county located within the State of Illinois.

g. Orange County, Brevard County, and St. Johns County were counties located within the State of Florida.

h. Each County provided governmental functions and services on behalf of its citizens through various elected officials, including an elected public official known as the “Clerk” who ran a County office that was responsible for, among other things, maintaining court records and collecting debt owed the County, such as traffic fines and court fees. Each Clerk held discretionary authority on behalf of their respective offices (collectively, the “Clerks’ Offices”) to award contracts for debt collection work to outside vendors and/or to allocate the work to or between multiple vendors under such contracts. The Clerks’ Offices were run by the following Clerks, each of whom was an agent of their respective County and their respective Clerk’s Office:

i. The Office of the Clerk of the Circuit Court of Cook County was run by Clerk A.

ii. The Office of the Orange County Clerk of Courts was run by Clerk B from in or around January 2014, until in or around November 2014, and by Clerk C from in or around November 2014, to the date of this indictment.

iii. The Office of the Brevard County Clerk of the Court was run by Clerk D from in or around January 2013 to the date of this indictment.

iv. The Office of the St. Johns County Clerk of Court and Comptroller was run by Clerk E from in or around October 2015 to the date of this indictment.

i. Cook County was a local government that received in excess of \$10,000 in federal benefits each calendar year from 2009 through 2016.

j. The Office of the Orange County Clerk of Courts, Office of the Brevard County Clerk of Court, and the Office of the St. Johns County Clerk of Court and Comptroller were local government agencies that received in excess of \$10,000 in federal benefits in each calendar year from 2009 through 2016.

2. Beginning in or around 2009, and continuing until in or around November 2016,

DONALD DONAGHER, JR., and  
PENN CREDIT CORPORATION,

defendants herein, together with others known and unknown to the Grand Jury, conspired to corruptly give, offer, and agree to give anything of value to the Clerks, and to individuals and entities associated with the Clerks, intending to influence and reward the Clerks in connection with any business, transaction, and series of transactions of such government and agency involving anything of value of \$5,000 or more, namely, the award and allocation of debt collection work to PENN CREDIT, in violation of Title 18, United States Code, Section 666(a)(2).

3. It was part of the conspiracy that defendants DONAGHER and PENN CREDIT, together with Employees A through E, and others, corruptly gave, offered, and agreed to give money, gifts, and services to the Clerks—and to individuals and entities associated with the Clerks, such as their campaign committees and affiliated charities—for the purpose of seeking favorable treatment for PENN CREDIT in the award, allocation, and retention of debt collection work.

4. It was further part of the conspiracy that defendants DONAGHER and PENN CREDIT, together with Employees A through E, and others, corruptly gave, offered, and agreed to give a variety of benefits to the Clerks and their associates, seeking to influence and reward the Clerks in connection with:

- a. awarding contracts to PENN CREDIT;
  - b. increasing the share of debt collection work allocated to PENN CREDIT;
  - c. increasing fees paid to PENN CREDIT;
  - d. declining to institute a bid process for debt collection contracts;
- and
- e. extending the termination date of expiring PENN CREDIT contracts.

5. It was further part of the conspiracy that defendants DONAGHER and PENN CREDIT, together with Employees A through E, and others, corruptly gave, offered, and agreed to give a variety of benefits to the Clerks and their associates, such as the following:

- a. sponsorship of events and meetings hosted by certain Clerks, including paying for food and other items at such events and meetings;
- b. gifts to certain Clerks, including free meals and entertainment;
- c. consulting contracts to individuals and entities associated with certain Clerks;

- d. donations to charities affiliated with and supported by certain Clerks;
- e. contributions to certain Clerks' campaigns;
- f. contributions to political action committees (commonly referred to as "PACs") associated with certain Clerks; and
- g. free, discounted, and in-kind contributions in the form of automated telephone calls (commonly referred to as "robocalls") for certain Clerks.

6. It was further part of the conspiracy that defendant DONAGHER and the co-conspirators utilized electronic mail to discuss their plans and the progress of the conspiracy, and to take certain actions for the purpose of corruptly influencing and rewarding the Clerks and individuals associated with the Clerks.

7. It was further part of the conspiracy that defendant DONAGHER utilized his cellular telephone to communicate with certain Clerks, and associates of certain Clerks, to discuss:

- a. upcoming and pending bids for contracts;
- b. terms of contracts;
- c. allocating more lucrative and additional debt collection work to PENN CREDIT;
- d. increasing the fees collected by PENN CREDIT;
- e. donations to charities affiliated with and supported by certain Clerks;

- f. how much competitor debt collection companies had donated to certain Clerks' campaigns;
- g. gifts, including free meals and entertainment;
- h. sponsorship of events and meetings hosted by certain Clerks and certain Clerks' Offices;
- i. the award of consulting contracts to individuals and entities associated with certain Clerks;
- j. campaign contributions;
- k. contributions to PACs; and
- l. free, discounted, and in-kind contributions in the form of robocalls.

8. It was further part of the conspiracy that defendants DONAGHER and PENN CREDIT, together with Employees A through E, and others, caused the purpose and source of robocalls made to support certain Clerks' campaigns to be concealed by:

- a. not invoicing the campaigns;
- b. invoicing the campaigns at a reduced cost;
- c. invoicing the campaigns in the names of individual PENN CREDIT employees at their home addresses;
- d. invoicing the campaigns in the name of one of the DONAGHER Entities; and

e. not collecting from the campaigns amounts owed to PENN CREDIT.

9. It was further part of the conspiracy that defendants DONAGHER and PENN CREDIT, together with Employees A through E, and others, caused the purpose and source of certain campaign contributions to certain Clerks' campaigns to be concealed by directing that the contributions be made in the name of individual PENN CREDIT employees, lobbyists, and the DONAGHER Entities.

10. It was further part of the conspiracy that defendants DONAGHER and PENN CREDIT, together with Employees A through E, and others, circumvented campaign contribution limits by directing that certain campaign contributions to certain Clerks' campaigns be made in the name of individual PENN CREDIT employees, lobbyists, and the DONAGHER Entities.

11. It was further part of the conspiracy that defendants DONAGHER and PENN CREDIT, together with Employees A through E, and others, reimbursed individual employees for certain campaign contributions to certain Clerks' campaigns—contributions that had been directed to be made by DONAGHER—via payroll as a “bonus” to the employee in order to circumvent campaign contribution limits and conceal the purpose and source of certain campaign contributions.

### **Overt Acts**

12. In furtherance of the conspiracy and to effect its objects, DONAGHER, PENN CREDIT, together with Employees A through E, and others, committed and

caused to be committed the following overt acts, among others, in the Northern District of Illinois, and elsewhere:

a. On or about June 7, 2011, DONAGHER caused a PENN CREDIT check in the approximate amount of \$5,000 to be deposited into an account in the name of Clerk A Scholarship and Community Development Fund at JPMorgan Chase Bank in Chicago.

b. On or about August 19, 2011, DONAGHER sent an email to PENN CREDIT employees and one of its lobbyists in Illinois, including Employees A, B, C and E, in which DONAGHER advised them that he promised Clerk A “10k of ‘early’ money,” which email was sent less than three weeks after PENN CREDIT began collecting debt for the Office of the Clerk of the Circuit Court of Cook County.

c. On or about August 24, 2011, DONAGHER sent an email to PENN CREDIT employees and one of its lobbyists in Illinois, including Employees A, B, C and E, in which DONAGHER asked if the lobbyist was available to attend an event for Clerk A: “We are giving her 10k and want to make it count with [first name of Clerk A] and her staff.”

d. On or about September 6, 2011, DONAGHER sent an email to the Comptroller of the Office of the Clerk of the Circuit Court of Cook County in which DONAGHER advised that he could not make an event for Clerk A but would be sending a lobbyist to attend the event: “. . . I have told [first name of Clerk A] and [first name of Clerk A’s Chief of Staff] that we would be sending a donation of 10,000 dollars from [name of a DONAGHER Entity].”

e. On or about September 14, 2011, DONAGHER caused a contribution of approximately \$10,000 to be made via a PayPal account in his name “towards the fund raising efforts of Contributions to Friends of [Clerk A].”

f. On or about February 28, 2012, DONAGHER directed Employee A to make hundreds of thousands of robocalls to Cook County residents for Clerk A’s campaign and Clerk A’s associates, for which DONAGHER neither collected payment from, nor issued an invoice to, Clerk A or Clerk A’s campaign.

g. On or about November 20, 2012, DONAGHER sent an email to two of PENN CREDIT’s lobbyists in Illinois where he directed them to ensure PENN CREDIT was getting an equal share of debt collection work from the Office of the Clerk of the Circuit Court of Cook County as compared to a competitor vendor under the same contract: “Just a reminder that we made a shitload of calls for [first name of Clerk A]. Have you received all of the numbers we requested to make sure everything is equal?”

h. In or around February 2013, DONAGHER and Employee D met with Clerk D and representatives of Clerk D’s office regarding Clerk D’s intention to initiate the bid process for a debt collection contract for the Office of the Clerk of Brevard County, and DONAGHER offered: (i) campaign contributions to Clerk D; (ii) to partially or fully subsidize a picnic for the Clerk’s Office; and (iii) to purchase shirts for Clerk’s Office employees to wear at charity events. DONAGHER persisted with these offers even after learning of Clerk D’s stated practice of not accepting

anything, including campaign contributions, from vendors or prospective vendors doing or seeking to do business with the Clerk's Office or Brevard County.

i. On or about July 3, 2013, DONAGHER sent an email to Employees C and E, and an Illinois lobbyist, regarding a Clerk A campaign fundraiser in which DONAGHER advised his fellow co-conspirators that "[w]e will give as much plus a dollar" that a competitor debt collection company had contributed to Clerk A's campaign.

j. On or about July 3, 2013, DONAGHER sent an email to Employees A, C, and E, and an Illinois lobbyist, regarding a Clerk A campaign fundraiser in which DONAGHER stated, "I called [Clerk A] about [competitor debt collection company] donation number for the year. [Employee A's first name] get our year to date total for [first name of Clerk A]."

k. On or about July 19, 2013, DONAGHER caused a contribution of approximately \$2,500 to be made via a PayPal account in his name to a Clerk A campaign fundraiser.

l. On or about September 22, 2013, DONAGHER sent an email to Employees A and E, and two lobbyists in Illinois, regarding a request for contributions to a birthday celebration in honor of Clerk A and stated in part: "Handle this appropriately. I told her we would do 2500."

m. On or about September 24, 2013, DONAGHER caused five \$500 checks to be mailed to "Friends of [Clerk A]" in Chicago from DONAGHER, PENN CREDIT, and three DONAGHER Entities.

n. On or about February 18, 2014, DONAGHER sent an email to Employees A through E concerning Clerk C's intention to run as a candidate for the Clerk of the Office of the Orange County Clerk of Courts that stated:

It looks like it would be [first name of Clerk C] and [first name of Clerk B] if he ran. If he does not run [first name of Clerk C] is it. Hope [competitor debt collection company] stays out of it one way or the other. If [first name of Clerk C] wins and throws [competitor debt collection company] out, we need to get all the backlog. Ask [first name of Florida lobbyist] when u talk to him for guidance.

Urgent. Early money counts the most. If first name of Clerk B] is out we raise 20k for [first name of Clerk C] and do her calls. How can [lawyer for another competitor debt collection company] do 1000. I thought 500 was the max.

o. On or about February 19, 2014, DONAGHER sent an email to Employees A through E concerning Clerk C's intention to run as a candidate for the Clerk of the Office of the Orange County Clerk of Courts that stated:

Find out quickly if [first name of Clerk B] is running. I [*sic.*] not we will send this woman 3000 as insurance. If [competitor debt collection company] beats us to the punch we could be out. [Another competitor debt collection company] in [competitor debt collection company] in penn out. Ask [first name of Florida lobbyist] if we should send money now for insurance for us. Early money always wins.

p. On or about March 12, 2014, DONAGHER forwarded to Employee C and two Illinois lobbyists an email from an employee of the Office of the Clerk of the Circuit Court of Cook County thanking DONAGHER for underwriting the expenses for the Clerk of the Circuit Court of Cook County's Women's History Month Celebration and DONAGHER wrote "I told her we are fans of [first name of Clerk A]. We gotta stay ahead of [competitor debt collection company]!"

q. On or about March 20, 2014, DONAGHER, Employee A, and Employee C caused a PENN CREDIT check in the approximate amount of \$869 to be delivered to a trophy company located in Morton Grove, Illinois, which check was issued to pay for plaques for the Clerk of the Circuit Court of Cook County's Women's History Month Celebration.

r. On or about March 25, 2014, DONAGHER, Employee A, and Employee C caused a PENN CREDIT check in the approximate amount of \$1,000 to be delivered to a food services company located in Chicago, Illinois, to pay for food served at the Clerk of the Circuit Court of Cook County's Women's History Month Celebration.

s. On or about March 31, 2014, DONAGHER caused PENN CREDIT to enter into a contract with a government relations firm headed by the husband of a close personal friend of Clerk B, pursuant to which the government relations firm received a monthly payment of approximately \$5,000 from PENN CREDIT.

t. On or about June 10, 2014, DONAGHER used a PENN CREDIT credit card and paid approximately \$936 to a strip club in West Palm Beach, Florida, which payment covered expenses incurred by DONAGHER, Clerk B, and other attendees of the Florida Court Clerk & Comptrollers Conference at the strip club.

u. On or about July 28, 2014, DONAGHER caused four checks totaling \$2,500 from DONAGHER, PENN CREDIT, and Employees B and C to be sent by Federal Express to "Friends of [Clerk A]" in Chicago.

v. On or about November 5, 2014, the day after Clerk C was elected Clerk of Orange County, DONAGHER sent the following email to Employees A through E concerning Clerk C:

[Employee C], find out all you can about this woman. It seems the deal is that when people want deals to happen in orange county large contributions are made and then the deal happens the very next day. Look into that look into Facebook to see who her friends are look at all the articles in the Orlando Sentinel that involve these deals that she was involved in getting passed through the commissioners and find out who the lobbyist or public relations person was that put together all these deals, and packaged them up, put them before the commissioners and then head [sic.] [first name of Clerk C] rubberstamp them. We need to find that person and get him or her on our payroll.

We need to find out who her best friend/friends are and get them on the penn credit team before [name of competitor debt collection company] and [name of debt collection company with whom PENN CREDIT shared the contract in Orange County] and [name of another competing debt collection company] get to her first. Find out who her closet [sic.] political confidant is. We will move very quickly. We are talk huge amounts of profit here. [First name of Employee D] jump in here too with your ideas as well, this is one of your commission clients. Help yourself by helping us. This is war. Thank you.

Don

w. On or about December 16, 2014, DONAGHER met with Clerk C and gave Clerk C a check for approximately \$2,500, made out to a charity selected by Clerk C.

x. On or about December 16, 2014, DONAGHER met with the Sheriff of Brevard County and the Fire Chief of Titusville, to whom DONAGHER

provided checks totaling approximately \$15,500, made out to Brevard County charities.

y. On or about December 16, 2014, DONAGHER met with the Sheriff of Brevard County and asked the Sheriff to call Clerk D and let Clerk D know that DONAGHER was a good guy and that DONAGHER didn't want to lose his contract with the Office of the Brevard County Clerk of the Court.

z. On or about December 17, 2014, DONAGHER forwarded an email regarding the charitable donations he had made the day before in five counties in Florida, and wrote to a PENN CREDIT salesperson located in Florida: "Pray for [Clerk D] to pick us as one of the agencies."

aa. On or about December 31, 2014, after learning that PENN CREDIT had not been selected to continue as a debt collection vendor for the Office of the Brevard County Clerk of the Court, DONAGHER sent the following email to Clerk D and members of Clerk D's staff that stated in part (emphasis in original):

Penn Credit is scheduled to discontinue collections on our remaining portfolio/accounts on January 5th.

...

What I am proposing is that Penn Credit would keep the current inventory until May 15th. As a gesture of good will we will donate 50 percent of all of our fees generated January 2015 through May 15th, paid monthly to charities within Brevard County, and if you feel comfortable, they can be charities of your choice.

We have recently (December 2014) made sizable donations to charitable causes in Brevard County in the amount \$15,500 including 2,000 to MADD, 6,000 to the County Animal Services program recently taken over by [Sheriff of

Brevard County], 2000 for Shop with a cop program and 5500 for toys for children through the North Brevard Children's program. This was administered by [Titusville Fire Department Chief] of the Titusville fire department.

We sent 10 kids with 5 firemen and a hook and ladder truck to Orlando's Toys R us and each child bought 500 dollars worth of toys for other children, topped of [*sic.*] by dinner at McDonalds.

We have made commitments to the animal shelter and the fire department this year as well.

We estimate that within the next 4 months we can both do a great thing, and donate anywhere between 75,000 and 112,500 dollars, and make a lot of animals and children of Brevard County happy! We have nothing to lose and a lot to gain. We can do much good here. I personally am going to donate time monthly as a volunteer at the Animal Shelter. Hopefully I won't have to clean out the dog cages every time!

bb. In or around February 2015, DONAGHER caused PENN CREDIT to enter into an arrangement with a government relations firm headed by Clerk C's campaign manager, which provided the government relations firm would receive a payment of approximately \$2,000 a month from PENN CREDIT.

cc. On or about April 27, 2016, DONAGHER caused five \$1,000 checks to be written to Clerk E's campaign from DONAGHER, PENN CREDIT, and three DONAGHER Entities.

dd. On or about May 20, 2016, DONAGHER caused PENN CREDIT to issue a check in the approximate amount of \$2,000 to a charity in Orange County in response to a request for a donation from Clerk C.

ee. On or about July 26, 2016, DONAGHER caused two \$1,000 checks and two \$500 checks to be written to Clerk E's campaign from three DONAGHER Entities and a Florida lobbyist.

ff. On or about September 26, 2016, while PENN CREDIT's request to obtain a contract with Office of the Orange County Clerk of Courts was under consideration, DONAGHER sent the following email to Employees A, C, D, and E, a Florida lobbyist, and others, concerning Clerk C:

She busted my stones and said [another debt collection company competing for the same contract] ponied up another 10k.

Send 5 to [first name of a Florida lobbyist] and then have [first name of a Florida lobbyist] tell her we gave her 10 and then gave 5. With this 5 we are 20k.

gg. On or about November 17, 2016, in response to an email from a Florida lobbyist asking if DONAGHER had seen a note from Clerk E thanking the lobbyist for his "generous support and help during my campaign," DONAGHER replied in an email to the lobbyist and Employees A, D, and E, and others: "I did. It would be nice to have the whole account. 100 percent."

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

**COUNT TWO**

The SPECIAL FEBRUARY 2017 GRAND JURY further charges:

1. Paragraph One of Count One of this Indictment is incorporated here.
2. On or about July 19, 2013, at Chicago, in the Northern District of

Illinois, Eastern Division, and elsewhere,

DONALD DONAGHER, JR., and  
PENN CREDIT CORPORATION,

defendants herein, corruptly gave, offered, and agreed to give anything of value, namely, a \$2,500 campaign contribution to a fundraiser to benefit Clerk A, an agent of Cook County, a local government that received in excess of \$10,000 in federal benefits in 2013, intending to influence and reward Clerk A in connection with any business, transaction, and series of transactions of such government involving anything of value of \$5,000 or more, that is, the referral of traffic debt placements from the Clerk's Office to PENN CREDIT pursuant to its contract with Cook County;

In violation of Title 18, United States Code, Section 666(a)(2).

**COUNT THREE**

The SPECIAL FEBRUARY 2017 GRAND JURY further charges:

1. Paragraph One of Count One of this Indictment is incorporated here.
2. On or about September 23, 2013, at Chicago, in the Northern District of

Illinois, Eastern Division, and elsewhere,

DONALD DONAGHER, JR., and  
PENN CREDIT CORPORATION,

defendants herein, corruptly gave, offered, and agreed to give anything of value, namely, \$2,500 in campaign contributions to benefit Clerk A, an agent of Cook County, a local government that received in excess of \$10,000 in federal benefits in 2013, intending to influence and reward Clerk A in connection with any business, transaction, and series of transactions of such government involving anything of value of \$5,000 or more, that is, the referral of traffic debt placements from the Clerk's Office to PENN CREDIT pursuant to its contract with Cook County;

In violation of Title 18, United States Code, Section 666(a)(2).

## COUNT FOUR

The SPECIAL FEBRUARY 2017 GRAND JURY further charges:

1. Paragraph One of Count One of this Indictment is incorporated here.
2. On or about March 20, 2014, at Chicago and Morton Grove, in the

Northern District of Illinois, Eastern Division, and elsewhere,

DONALD DONAGHER, JR., and  
PENN CREDIT CORPORATION,

defendants herein, corruptly gave, offered, and agreed to give anything of value, namely, a payment of approximately \$869 to a trophy company located in Morton Grove, Illinois, which payment was made for the benefit of Clerk A, an agent of Cook County, a local government that received in excess of \$10,000 in federal benefits in 2014, intending to influence and reward Clerk A in connection with any business, transaction, and series of transactions of such government involving anything of value of \$5,000 or more, that is, the referral of traffic debt placements from the Clerk's Office to PENN CREDIT pursuant to its contract with Cook County;

In violation of Title 18, United States Code, Section 666(a)(2).

**COUNT FIVE**

The SPECIAL FEBRUARY 2017 GRAND JURY further charges:

1. Paragraph One of Count One of this Indictment is incorporated here.
2. On or about March 25, 2014, at Chicago, in the Northern District of

Illinois, Eastern Division, and elsewhere,

DONALD DONAGHER, JR., and  
PENN CREDIT CORPORATION,

defendants herein, corruptly gave, offered, and agreed to give anything of value, namely, a payment of \$1,000 to a food services company located in Chicago, Illinois, which payment was made for the benefit of Clerk A, an agent of Cook County, a local government that received in excess of \$10,000 in federal benefits in 2014, intending to influence and reward Clerk A in connection with any business, transaction, and series of transactions of such government involving anything of value of \$5,000 or more, that is, the referral of traffic debt placements from the Clerk's Office to PENN CREDIT pursuant to its contract with Cook County;

In violation of Title 18, United States Code, Section 666(a)(2).

## COUNT SIX

The SPECIAL FEBRUARY 2017 GRAND JURY further charges:

1. Paragraph One of Count One of this Indictment is incorporated here.
2. On or about July 28, 2014, at Chicago, in the Northern District of

Illinois, Eastern Division, and elsewhere,

DONALD DONAGHER, JR., and  
PENN CREDIT CORPORATION,

defendants herein, corruptly gave, offered, and agreed to give anything of value, namely, \$2,500 in campaign contributions to benefit Clerk A, an agent of Cook County, a local government that received in excess of \$10,000 in federal benefits in 2014, intending to influence and reward Clerk A in connection with any business, transaction, and series of transactions of such government involving anything of value of \$5,000 or more, that is, the referral of traffic debt placements from the Clerk's Office to PENN CREDIT CORPORATION pursuant to its contract with Cook County;

In violation of Title 18, United States Code, Section 666(a)(2).

## FORFEITURE ALLEGATION

The SPECIAL FEBRUARY 2017 GRAND JURY alleges:

1. The Grand Jury re-alleges and incorporates the allegations of Counts One through Six of the Indictment, which are incorporated by reference as though fully set forth herein.

2. Pursuant to Title 18, United States Code, Sections 981 and 982, Title 21, United States Code, Sections 853 and 881, and Title 28, United States Code, Section 2461(c), and upon conviction of one or more of the offenses alleged in Counts One through Six of the Indictment, the defendants shall forfeit to the United States of America all right, title, and interest in:

a. any property constituting, or derived from, any proceeds the persons obtained, directly or indirectly, as the result of the offense; and

b. any of the defendants' property used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of such offense.

3. If any of the forfeitable property, as a result of any act or omission of the defendants:

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 to seek forfeiture of any other property of said defendants up to the value of the above-described forfeitable property, pursuant to Title 21, United States Code, Section 853(p).

All in accordance with Title 18, United States Code, Sections 981 and 982, Title 21, United States Code, Sections 853 and 881, Title 28, United States Code Section 2461(c), and Rule 32.2, Federal Rules of Criminal Procedure.

A TRUE BILL:

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FOREPERSON

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UNITED STATES ATTORNEY