

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA	:	Hon. Joseph H. Rodriguez
	:	
v.	:	Crim. No. 17-
	:	
PETER ZUCK	:	18 U.S.C. § 1349
	:	18 U.S.C. § 1343
	:	18 U.S.C. § 2
	:	26 U.S.C. § 7201

INFORMATION

The defendant having waived in open court prosecution by indictment, the Acting United States Attorney for the District of New Jersey charges:

COUNT ONE
(Wire Fraud Conspiracy)

1. At all times relevant to this Information:

a. Defendant PETER ZUCK (“ZUCK”) resided in Monmouth County, New Jersey, and was employed as the Founder, Chairman, Chief Investment Officer, managing member, and senior partner of Osiris Partners LLC, and managing member, general partner, and portfolio manager of the Osiris Fund Limited Partnership.

b. Co-Conspirator # 1 (“CC-1”), a coconspirator not named as a defendant herein, resided in Burlington County, New Jersey, and was employed as the Chief Executive Officer, managing member, and senior partner of Osiris Partners LLC.

c. Co-Conspirator #2 (“CC-2”), a coconspirator not named as a defendant herein, resided in Middlesex County, New Jersey, and was a Certified Public Accountant (“CPA”) and tax return preparer. CC-2 was employed as a member and senior partner of Osiris Partners LLC, and was the chief accounting officer of the Osiris Fund Limited Partnership.

d. Osiris Partners LLC (“Osiris Partners”) was a limited liability company with headquarters in Jersey City, New Jersey (the “Jersey City Office”).

e. The Osiris Fund Limited Partnership (“Osiris Fund” or the “Fund”) was a purported hedge fund with headquarters in the Jersey City Office. Osiris Partners was a general partner and the investment manager of the Osiris Fund.

The Conspiracy

2. From at least as early as in or about June 2009, through in or about February 2012, in Hudson County, in the District of New Jersey and elsewhere, defendant

PETER ZUCK

did knowingly and intentionally conspire and agree with CC-1, CC-2, and others to devise a scheme and artifice to defraud investors in the Osiris Fund, and to obtain money and property by means of materially false and fraudulent pretenses, representations, and promises, and for the purpose of executing and attempting to execute such scheme and artifice to defraud, did transmit and cause to be transmitted by means of wire communications in interstate

commerce certain writings, signs, signals, and sounds, contrary to Title 18, United States Code, Section 1343.

Goal of the Conspiracy

3. The goal of the conspiracy was for defendant ZUCK, CC-1, CC-2, and others to fraudulently obtain money from investors by making materially false and fraudulent representations, including false and fraudulent representations relating to the Osiris Fund's net asset value.

Manner and Means of the Conspiracy

4. It was part of the conspiracy that defendant ZUCK, CC-1, CC-2, and others solicited investors to invest in the Osiris Fund, which they described, in substance and in part, as a hedge fund for the "little guys" and "moms and pops."

5. It was further part of the conspiracy that defendant ZUCK, CC-1, CC-2, and others represented that Osiris Partners would charge investors a management fee of no more than 3% of the Osiris Fund's net asset value.

6. It was further part of the conspiracy that from in or about June 2009 through in or about November 2011, defendant ZUCK, CC-1, CC-2, and others induced, through their misrepresentations about the Osiris Fund, approximately 76 investors to invest approximately \$12 million in the Osiris Fund.

7. It was further part of the conspiracy that, starting in or about January 2010, defendant ZUCK, CC-1, CC-2, and others began improperly diverting assets of the Osiris Fund to the principals and associates of Osiris

Partners. Defendant ZUCK, CC-1, CC-2, and others concealed these diverted payments by characterizing them on the Osiris Fund's internal books and records as "loans" or "inter-company transfers."

8. It was further part of the conspiracy that defendant ZUCK, CC-1, CC-2, and others grossly overstated the Fund's net asset value by sending Osiris Fund investors monthly and quarterly financial statements that: (a) contained materially false and fraudulent representations relating to the performance of the Fund and the Fund's allocation of assets; (b) falsely disclosed a fictitious \$5 million "asset"; and (c) failed to disclose approximately \$4.5 million in trading losses.

9. It was further part of the conspiracy that defendant ZUCK, CC-1, CC-2, and others fraudulently inflated the management fees charged to the Fund's investors by calculating the management fee as a percentage of the Fund's grossly overstated net asset value, *i.e.*, excluding the trading losses and including the fictitious \$5 million "asset," rather than as a percentage of the Fund's actual net asset value.

10. In total, over the course of the conspiracy, defendant ZUCK, CC-1, CC-2, and others, diverted approximately \$4 million in investors' funds from the Osiris Fund, and fraudulently drew approximately \$3.9 million in management fees to which they were not entitled.

11. Defendant ZUCK, CC-1, CC-2, and others caused interstate wires to be transmitted in furtherance of the conspiracy to defraud. For example, defendant ZUCK, CC-1, CC-2, and others caused a fraudulent financial

statement for the first quarter of 2011 to be sent via e-mail from Osiris Partners' headquarters in New Jersey to a victim investor outside of New Jersey, which financial statement substantially overstated the net asset value of the Osiris Fund for that time period.

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

COUNT TWO

(Tax Evasion: 2009)

1. Paragraphs 1 and 3 through 11 of Count One of this Information are realleged and incorporated as though set forth in full herein.

2. In or about March, May, and June 2009, around the time of the founding of Osiris Partners and the Osiris Fund by defendant ZUCK, CC-1, CC-2, and others, defendant ZUCK opened, or caused to be opened, several nominee bank accounts using the name and social security number of one of his sons (the "Nominee"), including a JP Morgan Chase Bank account ending in -0883 (the "-0883 Nominee Bank Account"). These nominee bank accounts were held in the name of the Nominee, as in the case of the -0883 Nominee Bank Account, or in the names of Osiris Partners or the Osiris Fund, and were maintained and controlled by defendant ZUCK.

3. Between in or about July 2009 through in or about July 2011, defendant ZUCK was issued distribution checks from Osiris Partners totaling more than approximately \$1.3 million (the "Partnership Income"). These Partnership Income checks were made payable to "Peter Zuck," and many of the checks contained in their memo line a reference to, among other things, a "distribution."

4. In an attempt to conceal his true income, defendant ZUCK caused the Partnership Income checks issued to him by Osiris Partners to be deposited into the -0883 Nominee Bank Account. Although the -0883 Nominee Bank Account was opened under the name and social security number of the Nominee, defendant ZUCK controlled the bank account and used it for

numerous personal expenditures, including but not limited to, mortgage payments for defendant ZUCK's residence, a payment in the amount of approximately \$67,000 to a Cadillac dealership, and payments for improvements to the Jersey City Office building owned by a family member of defendant ZUCK and leased to Osiris Partners for its headquarters.

5. In a further attempt to conceal his true income, defendant ZUCK disguised his Partnership Income as income of the Nominee by causing IRS Forms 1065, Schedules K-1, reporting defendant ZUCK's Partnership Income for tax years 2009, 2010, and 2011, to be issued under the name and social security number of the Nominee.

6. At the request of defendant ZUCK, CC-2 prepared 2009 and 2010 U.S. Individual Income Tax Returns, Forms 1040, for the Nominee. In the Schedule E of each of these returns, which reported, among other things, any partnership income or loss, defendant ZUCK caused the Nominee to be falsely identified as a partner of Osiris Partners.

7. In order to reduce his reported income and, therefore, the amount of tax that he would have to pay to the IRS, defendant ZUCK caused CC-2 to prepare a 2009 U.S. Individual Income Tax Return, Form 1040, for the Nominee (the "2009 Nominee Tax Return"), which falsely assigned defendant ZUCK's Partnership Income to the Nominee on the Schedule K-1.

8. Defendant ZUCK caused the 2009 Nominee Tax Return to be filed, which, unbeknownst to the Nominee, falsely reported taxable income of

approximately \$343,520 for the Nominee and a tax due and owing of approximately \$122,122.

9. On or about May 11, 2010, defendant ZUCK signed his own 2009 U.S. Individual Income Tax Return, which he had self-prepared, and filed it with the IRS, knowing that the return substantially understated his actual income and therefore his tax due and owing to the United States for tax year 2009. In the return, defendant ZUCK falsely reported a total income of approximately \$17,480 and claimed a refund amount of approximately \$94, whereas the Schedule K-1 that he caused to be issued in the Nominee's name reflected that defendant ZUCK, in truth, received approximately \$31,679 in ordinary business income and approximately \$365,971 in guaranteed payments from Osiris Partners for tax year 2009.

10. On or about May 11, 2010, in the District of New Jersey and elsewhere, defendant

PETER ZUCK

knowingly and willfully did attempt to evade and defeat a substantial part of the income tax due and owing by him to the United States for tax year 2009 by signing, filing, and causing to be filed with the Internal Revenue Service a false and fraudulent 2009 U.S. Individual Income Tax Return on IRS Form 1040, as described in Paragraph 9 of this Count, knowing it to be false and fraudulent as to material matters, as described in Paragraphs 2 through 9 of this Count.

In violation of Title 26, United States Code, Section 7201.

COUNT THREE
(Tax Evasion: 2010)

1. Paragraphs 1 and 3 through 11 of Count One and Paragraphs 2 through 9 of Count Two of this Information are realleged and incorporated as though set forth in full herein.

2. In order to reduce his reported income and, therefore, the amount of tax that he would have to pay to the IRS, defendant ZUCK caused CC-2 to prepare a 2010 U.S. Individual Income Tax Return, Form 1040, for the Nominee (the “2010 Nominee Tax Return”), which falsely assigned defendant ZUCK’s Partnership Income to the Nominee on the Schedule K-1.

3. Defendant ZUCK caused the 2010 Nominee Tax Return to be filed, which, unbeknownst to the Nominee, falsely reported taxable income of approximately \$277,405 for the Nominee and a tax due and owing of approximately \$113,741, which remains unpaid.

4. On or about April 15, 2011, defendant ZUCK signed his self-prepared 2010 U.S. Individual Income Tax Return and filed it with the IRS, knowing that the return substantially understated his actual income and therefore his tax due and owing to the United States for tax year 2010. In the return, defendant ZUCK falsely reported a total income of approximately \$0 and claimed a refund amount of approximately \$192, whereas the Schedule K-1 that he caused to be issued in the Nominee’s name reflected that defendant ZUCK, in truth, received approximately \$123,562 in ordinary business income, approximately \$234,000 in guaranteed payments, and approximately \$607,855 in distributions from Osiris Partners for tax year 2010.

5. On or about April 15, 2011, in the District of New Jersey and elsewhere, defendant

PETER ZUCK

knowingly and willfully did attempt to evade and defeat a substantial part of the income tax due and owing by him to the United States for tax year 2010 by signing, filing, and causing to be filed with the Internal Revenue Service a false and fraudulent 2010 U.S. Individual Income Tax Return on IRS Form 1040, as described in Paragraph 4 of this Count, knowing it to be false and fraudulent as to material matters, as described in Paragraphs 2 through 4 of this Count.

In violation of Title 26, United States Code, Section 7201.

COUNT FOUR

(Tax Evasion: 2011)

1. Paragraphs 1 and 3 through 11 of Count One, Paragraphs 2 through 9 of Count Two, and Paragraphs 2 through 4 of Count Three of this Information are realleged and incorporated as though set forth in full herein.

2. During calendar year 2011, defendant ZUCK earned significant taxable income, namely the Partnership Income that he received from Osiris Partners. The Schedule K-1 that defendant ZUCK caused to be issued in the Nominee's name reflected that defendant ZUCK received approximately \$369,219 in ordinary business income, approximately \$14,962 in guaranteed payments, and approximately \$190,000 in distributions from Osiris Partners for tax year 2011. Based on the total amount of taxable income received by defendant ZUCK, a substantial income tax was due and owing to the United States.

3. Having received this income, defendant ZUCK was required by law, following the close of the calendar year 2011, and on or before April 15, 2012, to make an income tax return to the IRS stating specifically the items of his gross income and any deductions and credits to which he was entitled.

4. Defendant ZUCK has yet to file a 2011 individual income tax return or make any payments on the actual taxes owed.

5. On or about April 15, 2012, in the District of New Jersey and elsewhere, defendant

PETER ZUCK

knowingly and willfully did attempt to evade and defeat the substantial income tax due and owing by him to the United States for tax year 2011 by failing to make an income tax return to any proper officer of the IRS on or before April 15, 2012, as required by law, and by engaging in, among others, the affirmative acts of evasion described in Paragraphs 2 through 9 of Count Two and Paragraphs 2 through 4 of Count Three of this Information.

In violation of Title 26, United States Code, Section 7201.

FORFEITURE ALLEGATIONS

1. The allegations contained in all paragraphs of Count One of this Information are hereby realleged and incorporated by reference for the purpose of noticing forfeitures pursuant to Title 18, United States Code, Section 981(a)(1)(C), and Title 28, United States Code, Section 2461(c).

2. The United States hereby gives notice to the defendant that, upon conviction of the offenses charged in Count One of this Information, the government will seek forfeiture, in accordance with Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c), which requires any person convicted of such offenses to forfeit any property, real and personal, constituting or derived from proceeds obtained directly or indirectly as a result of such offenses.

3. If by any act or omission of the defendant, any of the property subject to forfeiture described in paragraph 2 herein:

- 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

subdivided without difficulty, the United States of America will be entitled to forfeiture of substitute property up to the value of the property described above

in paragraph 2, pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 28, United States Code, Section 2461(c).


WILLIAM E. FITZPATRICK
Acting United States Attorney

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UNITED STATES OF AMERICA

v.

PETER ZUCK

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