

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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:  
UNITED STATES OF AMERICA  
:  
- v. -  
:  
PETER GALBRAITH KELLY, JR.,  
:  
Defendant.  
:  
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SUPERSEDING INFORMATION

S3 16 Cr. 776 (VEC)

COUNT ONE

(Wire Fraud Conspiracy)

The United States Attorney charges:

1. From at least in or about November 2012, up to and including in or about January 2016, in the Southern District of New York and elsewhere, PETER GALBRAITH KELLY, JR., the defendant, and others known and unknown, willfully and knowingly did combine, conspire, confederate, and agree together and with each other to commit wire fraud, in violation of Section 1343 of Title 18, United States Code.

2. It was a part and an object of the conspiracy that PETER GALBRAITH KELLY, JR., the defendant, and others known and unknown, willfully, and knowingly, having devised and intending to devise a scheme and artifice to defraud, and for obtaining money and property by means of false and fraudulent pretenses, representations, and promises, would and did

transmit and cause to be transmitted by means of wire and radio communication in interstate and foreign commerce, writings, signs, signals, pictures, and sounds for the purpose of executing such scheme and artifice, in violation of Title 18, United States Code, Section 1343, to wit, KELLY and others devised a scheme to defraud KELLY's employer (the "Energy Company") of the right to control its assets, and thereby caused the Energy Company economic harm by causing it to hire someone without the benefit of material information, by falsely representing to Energy Company executives that there was an ethics opinion from the New York State Governor's Office authorizing the hiring of the wife of Joseph Percoco ("Percoco"), then a senior New York State government official, and did transmit and cause to be transmitted interstate email and telephonic communications in furtherance of the scheme to defraud.

OVERT ACTS

3. In furtherance of the conspiracy and to effect the illegal object thereof, the following overt acts, among others, were committed in the Southern District of New York and elsewhere:

a. Between late 2012 and January 2016, KELLY directed checks to be sent to Percoco's wife at the Percocos' home in

Westchester County, New York.

b. In or around the fall of 2012, and again in or around July 2014, KELLY falsely represented to Energy Company executives that there was an ethics opinion from the New York State Governor's Office authorizing the hiring of Percoco's wife.

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

**FORFEITURE ALLEGATION**

4. As a result of committing the offense alleged in Count One of this Information, PETER GALBRAITH KELLY, JR., the defendant, shall forfeit to the United States, pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28 United States Code, Section 2461(c), any and all property, real and personal, that constitutes or is derived from proceeds traceable to the commission of said offense, including but not limited to a sum of money in United States currency representing the amount of proceeds traceable to the commission of said offense that the defendant personally obtained.

**Substitute Assets Provision**

5. If any of the above-described forfeitable property, 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;

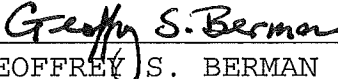
c. has been placed beyond the jurisdiction of the Court;

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) and Title 28, United States Code, Section 2461(c), to seek forfeiture of any other property of the defendant up to the value of the above forfeitable property.

(Title 18, United States Code, Section 981;  
Title 21, United States Code, Section 853; and  
Title 28, United States Code, Section 2461.)

  
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GEOFFREY S. BERMAN  
United States Attorney

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(18 U.S.C. § 371)

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GEOFFREY S. BERMAN  
United States Attorney.