

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY
DOCUMENT
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UNITED STATES OF AMERICA :

- v. - :

INFORMATION

ROCCO FAZZOLARI, :

17 Cr. ____ (____)

Defendant. ----- x

17 CRIM 471

COUNT ONE

(Embezzlement from a Labor Organization)

The United States Attorney charges:

1. From at least in or about 2012 up to and including in or about June 2016, in the Southern District of New York and elsewhere, ROCCO FAZZOLARI, the defendant, knowingly embezzled, stole, and unlawfully and willfully abstracted and converted to his own use and the use of another, moneys, funds, securities, property, and other assets of a labor organization of which he was an officer, and by which he was employed, directly and indirectly, to wit, FAZZOLARI, who was President of a particular labor organization (the "Union"), embezzled funds from the Union by paying from Union funds FAZZOLARI's personal expenses that were not for the benefit of the Union.

(Title 29, United States Code, Section 501(c).)

JUDGE TORRES

COUNT TWO

(Conspiracy to Commit Wire Fraud)

The United States Attorney further charges:

2. From at least in or about 2000 up to and including in or about June 2016, in the Southern District of New York and elsewhere, ROCCO FAZZOLARI, the defendant, and others known and unknown, willfully and knowingly combined, conspired, confederated and agreed together and with each other to commit wire fraud, in violation of Title 18, United States Code, Section 1343.

3. It was a part and an object of the conspiracy that ROCCO FAZZOLARI, 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 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, FAZZOLARI participated in a scheme to embezzle money from a particular employee welfare benefit plan, as defined by Sections 1002 and 1003 of Title 29, United States Code, which was subject to Title I of ERISA (the "Plan"), through false representations that a

company named Acclaim Administrators, Inc. ("Acclaim") was providing contract administration services to the Plan.

(Title 18, United States Code, Section 1349.)

COUNT THREE

(Conspiracy to Embezzle From an Employee Benefit Plan)

The United States Attorney further charges:

4. From at least in or about 2000 up to and including in or about June 2016, in the Southern District of New York and elsewhere, ROCCO FAZZOLARI, the defendant, and others known and unknown, willfully and knowingly combined, conspired, confederated, and agreed together and with each other to commit an offense against the United States, to wit, embezzlement from an employee welfare benefit plan, in violation of Title 18, United States Code, Section 664.

5. It was a part and an object of the conspiracy that ROCCO FAZZOLARI, the defendant, and others known and unknown would and did knowingly embezzle, steal, and unlawfully and willfully abstract and convert to their own use and the use of others, the money, funds, property, and other assets of an employee welfare benefit plan subject to Title I of ERISA, in violation of Title 18, United States Code, Section 664.

Overt Acts

6. 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. On or about September 9, 2015, ROCCO FAZZOLARI, the defendant, caused a check from the Plan in the amount of \$8,000 to be deposited into a bank account in the name of Acclaim (the "Acclaim Bank Account"), which was located in Manhattan.

b. On or about September 10, 2015, a co-conspirator not named as a defendant herein who operated Acclaim ("CC-1") caused two checks drawn on the Acclaim Bank Account, in amounts of \$3,500 and \$3,000, to be deposited into personal accounts belonging to CC-1.

c. On or about September 14 and 15, 2015, CC-1 sent to FAZZOLARI, via Federal Express, a total of two packages containing a total of approximately \$6,000 in cash.

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

COUNT FOUR

(Embezzlement From an Employee Benefit Plan)

The United States Attorney further charges:

7. From at least in or about 2012 up to and including in or about June 2016, in the Southern District of New York and

elsewhere, ROCCO FAZZOLARI, the defendant, knowingly and willfully embezzled, stole, and unlawfully and willfully abstracted and converted to his own use and to the use of others, the money, funds, property, and other assets of an employee welfare benefit plan subject to Title I of ERISA, to wit, FAZZOLARI embezzled, stole, and unlawfully and willfully converted to his own use and the use of another the money, funds, property, and assets of the Plan.

(Title 18, United States Code, Sections 664 & 2.)

COUNT FIVE

(Soliciting and Receiving Kickbacks to Influence the Operation of an Employee Benefit Plan)

The United States Attorney further charges:

8. From at least in or about 2012 up to and including in or about June 2016, in the Southern District of New York and elsewhere, ROCCO FAZZOLARI, the defendant, being an officer, trustee, and agent of an employee welfare benefit plan, to wit, the Plan, and being an officer and employee of an employee organization any of whose members are covered by such plan, to wit, the Union, knowingly and willfully received, agreed to receive, and solicited fees, kickbacks, commissions, gifts, money, and things of value because of and with intent to be influenced with respect to, any of the actions, decisions, and other duties relating to questions and matters concerning such plan, to wit,

FAZZOLARI solicited and received cash kickbacks from CC-1 because of and with the intent to be influenced with respect to the Plan's payments to Acclaim for services that were not performed.

(Title 18, United States Code, Sections 1954 & 2.)

COUNT SIX

(False Statements In Employee Benefit Plan Records and Reports)

The United States Attorney further charges:

9. From at least in or about 2012 up to and including in or about June 2016, in the Southern District of New York and elsewhere, ROCCO FAZZOLARI, the defendant, in documents required by title I of the ERISA to be kept as part of the records of an employee welfare benefit plan, 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 necessary to verify, explain, clarify and check for accuracy and completeness of a report required by ERISA to be published, to wit, FAZZOLARI made false statements in the Plan's Forms 5500, Annual Return/Report of Employee Benefit Plan, regarding alleged services performed for the Plan by Acclaim and the purpose of the Plan's payments to Acclaim.

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

FORFEITURE ALLEGATIONS

10. As a result of committing the offenses alleged in Counts One through Four of this Information, ROCCO FAZZOLARI, 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 offenses alleged in Counts One through Four, including, but not limited to a sum of money in United States currency representing the amount of the proceeds traceable to the commission of the offenses alleged in Counts One through Four.

11. As a result of committing the offenses alleged in Counts Five and Six of this Information, ROCCO FAZZOLARI, the defendant, shall forfeit to the United States, pursuant to Title 18, United States Code, Section 982(a)(7), property, real and personal, that constitutes or is derived, directly or indirectly, from gross proceeds traceable to the commission of the offenses alleged in Counts Five and Six.

Substitute Assets Provision

12. 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;

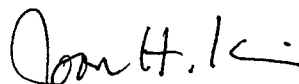
c. has been placed beyond the jurisdiction of the Court;

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 18, United States Code, Section 982;
Title 21, United States Code, Section 853; and
Title 28, United States Code, Section 2461.)



JOON H. KIM

Acting United States Attorney

UNITED STATES DISTRICT COURT
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- v. -

ROCCO FAZZOLARI,

Defendant.

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(Title 18, United States Code,
Sections 371, 664, 1027, 1343, 1349,
1954, & 2; Title 29, United States
Code, Section 501(c))

JOON H. KIM

Acting United States Attorney.
