

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA : **CRIMINAL NUMBER:**_____

v. : **DATE FILED:**_____

GREGORY FRESTA : **VIOLATIONS:**
18 U.S.C. § 1341 (mail fraud – 14 counts)
: **Notice of forfeiture**

INDICTMENT

COUNTS ONE THROUGH FOURTEEN

THE GRAND JURY CHARGES THAT:

At all times relevant to this indictment:

GENERAL ALLEGATIONS

1. Oppenheimer & Company (“Oppenheimer”) was an financial investment company that, among other things, managed investments and provided investment advice and counseling to high net worth investors, individuals, businesses and institutions. Oppenheimer’s national office was located in Washington, D.C. and had offices in other locations, including Jenkintown, Pennsylvania.

2. Aris Wealth Services (“Aris”) was an investment advisory firm that managed investment accounts and provided advice to individuals. Aris, a Pennsylvania-based company, invested its clients’ funds with Fidelity Investments, a national investment company. Aris was located in State College, Pennsylvania.

3. Federal Express was a commercial interstate carrier that ships and delivers mail and packages nationwide.

4. The United States Mail service was an interstate carrier that ships and delivers mail and packages nationwide.

5. Defendant GREGORY FRESTA was the trustee of a testamentary trust created by his father JF for the benefit of GREGORY FRESTA's younger brother JJF who, at the time of JF's death, was 13 years old. The trust corpus was a \$1 million life insurance policy that JF had purchased prior to his death.

6. When JF died, the proceeds of the life insurance policy were placed in an investment account by Oppenheimer & Company for the benefit of JJF. As a trustee, defendant GREGORY FRESTA was not authorized to withdraw funds for his personal benefit, but only for the benefit of JJF.

THE SCHEME

7. From on or about October 25, 2008 to on or about September 9, 2010, in the Eastern District of Pennsylvania, the District of New Jersey, and elsewhere, defendant

GREGORY FRESTA

devised and intended to devise a scheme to defraud his minor brother JJF and to obtain money and property by means of false and fraudulent pretenses, representations and promises.

MANNER AND MEANS

It was part of the scheme that:

8. Defendant GREGORY FRESTA used his position as trustee to fraudulently withdraw funds from JJF's testamentary trust for FRESTA'S personal use.

9. Defendant GREGORY FRESTA created JOVA Development LLC. (“JOVA”), whose principal place of business was the defendant’s personal residence located in Cherry Hill, New Jersey, for the purpose of making unauthorized withdrawals from the trust corpus.

10. Defendant GREGORY FRESTA made withdrawal requests by letters he mailed through the U.S. mails to Oppenheimer, the initial custodian of the JJF testamentary trust, in which he requested that the funds be sent to his home in Cherry Hill, New Jersey. Oppenheimer sent the funds in the form of checks through the U.S. mails to Cherry Hill, New Jersey. The defendant subsequently moved the trust corpus from Oppenheimer to Aris.

11. Following his transfer of the trust funds from Oppenheimer to Aris, defendant GREGORY FRESTA made a series of unauthorized cash withdrawal requests by letters he sent through either the U.S. mails or Federal Express to Aris, in which he requested that the funds be sent to his home in Cherry Hill, New Jersey. Aris sent the funds in the form of checks through the U.S. mails to Cherry Hill, New Jersey.

12. The total amount of withdrawals that defendant GREGORY FRESTA requested from the trust corpus, before he was eventually removed as trustee, was approximately \$677,876.19, only approximately \$100,000 of which was paid back to the trust.

13. The scheme began on or about October 25, 2008, when defendant GREGORY FRESTA sent a letter through the U.S. mail to Oppenheimer & Company in Jenkintown, Pennsylvania, requesting that Oppenheimer issue a check from the JJF Testamentary Trust made payable to Chase Bank in the amount of \$1,233.19. The letter falsely represented that it was for the benefit of JJF. Defendant FRESTA used this distribution from the trust account to cover a “shortfall” in his mortgage account with Chase Bank.

14. On or about December 2, 2008, defendant GREGORY FRESTA sent another letter through United States mail to Oppenheimer & Company in Jenkintown, Pennsylvania, requesting that Oppenheimer issue a \$15,000 check from the JJF Testamentary Trust and that the money be sent to JOVA Development LLC.

15. From on or about the following dates, in the Eastern District of Pennsylvania, the District of New Jersey, and elsewhere, defendant

GREGORY FRESTA

for the purpose of executing the scheme described above, and attempting to do so, knowingly caused to be delivered by U.S. mail or Federal Express letters that misrepresented his authority to withdraw funds, and which fraudulently caused funds to be withdrawn, from the JJF testamentary trust, which are described in more detail in each of the counts below:

COUNT	APPROX. DATE OF MAILING	<u>Fresta's Conduct – In Furtherance of Scheme to Fraud</u>
1	December 15, 2008	A letter sent by United States mail to Oppenheimer & Company in Jenkintown, Pennsylvania. The letter requested that Oppenheimer issue a \$15,000 check from the JJF Testamentary Trust and that the money be sent to JOVA Development LLC.
2	January 21, 2009	A letter sent by United States mail to Oppenheimer & Company in Jenkintown, Pennsylvania. The letter requested that Oppenheimer issue a \$15,000 check from the JJF Testamentary Trust and that the money be sent to JOVA Development LLC.
3	February 5, 2009	A letter sent by United States mail to Oppenheimer & Company in Jenkintown, Pennsylvania. The letter requested that Oppenheimer issue a \$15,000 check from the JJF Testamentary Trust and that the money be sent to JOVA Development LLC.
4	March 23, 2009	A letter sent by United States to Fidelity/Aris Corporation in State College Pennsylvania which requested the issuance of a check for \$35,000 from the JJF Testamentary Trust and that the money be sent to JOVA Development LLC.

COUNT	APPROX. DATE OF MAILING	<u>Fresta's Conduct – In Furtherance of Scheme to Fraud</u>
5	May 20, 2009	A letter sent by United States Mail to Fidelity/Aris Corporation requesting that a check in the amount of \$5,000 from the JJF Testamentary Trust and that the money be sent to JOVA Development LLC.
6	June 9, 2009	A letter sent by United States Mail to Fidelity/Aris Corporation requesting that a check in the amount of \$12,900 from the JJF Testamentary Trust and that the money be sent to JOVA Development LLC.
7	August 3, 2009	A letter sent by United States mail to Fresta sent to Fidelity/Aris Corporation which requested a distribution of \$2,446.00 from the JJF Testamentary Trust and that the money be sent to JOVA Development LLC.
8	August 6, 2009	A letter sent by United States mail to Fresta sent to Fidelity/Aris Corporation which requested a distribution of \$50,000 from the JJF Testamentary Trust and that the money be sent to JOVA Development LLC.
9	November 13, 2009	A letter sent by United States mail to Fidelity/Aris Corporation requesting a distribution of \$55,000 from the JJF Testamentary Trust and that the money be sent to JOVA Development LLC.
10	January 25, 2010	A letter sent by United States mail to Fidelity/Aris Corporation requesting a distribution of \$55,000 from the JJF Testamentary Trust and that the money be sent to JOVA Development LLC.
11	July 21, 2010	A letter sent by United States mail to Fidelity/Aris Corporation requesting a distribution of \$51,297.00 from the JJF Testamentary Trust and that the money be sent to JOVA Development LLC.
12	August 11, 2010	A letter sent by United States mail to Fidelity/Aris Corporation requesting a distribution of \$150,000 from the JJF Testamentary Trust and that the money be sent to JOVA Development LLC.
13	August 19, 2010	A letter sent by United States mail to Fidelity/Aris Corporation requesting a distribution of \$15,000 from the JJF Testamentary Trust and that the money be be sent to JOVA Development LLC.
14	September 9, 2010	A letter sent by United States mail to Fidelity/Aris Corporation requesting a distribution of \$5,000 from the JJF Testamentary Trust and that the money be sent to JOVA Development LLC.

All in violation of Title 18, United States Code, Section 1341.

NOTICE OF FORFEITURE

THE GRAND JURY FURTHER CHARGES THAT:

1. As a result of the violations of Title 18, United States Code, Section 1341, as set forth in Counts 1 through 16 of this Indictment, defendant

GREGORY FRESTA

shall forfeit to the United States of America all property, real or personal, involved in the commission of the offenses and all property traceable to such property, including, but not limited to the sum of \$577,876.19.

1. If any of the property subject to forfeiture, 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 to 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,

it is the intent of the United States, pursuant to Title 28, United States Code, Section 2461(c), incorporating Title 21, United States Code, Section 853(p) to seek forfeiture of any other property of the defendant up to the value of the property subject to forfeiture.

All pursuant to Title 18, United States code, Section 981(a)(1)(C).

A TRUE BILL:

GRAND JURY FOREPERSON

**ZANE DAVID MEMEGER
UNITED STATES ATTORNEY**