

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

UNITED STATES OF AMERICA	:	CRIMINAL NO. _____
v.	:	DATE FILED: _____
ANDREW M. SWEENEY	:	VIOLATION:
	:	18 U.S.C. § 664 (theft of employee benefit plan funds -- 1 count)

INDICTMENT

COUNT ONE

THE GRAND JURY CHARGES THAT:

At times material to this indictment:

1. The Sweeney Seed Company established a Savings Incentive Match Plan for Employees (“the Plan”), which was an employee benefit plan subject to Title I of the Employee Retirement Income Security Act of 1974 (“ERISA”), 29 U.S.C. § 1001, et seq. Under the terms of the Plan, Individual Retirement Accounts (“IRAs”) were established at Merrill Lynch, Pierce, Fenner & Smith for the employees of Sweeney Seed Company who elected to participate in the Plan. The employee-participants contributed to their IRAs via deductions from their regular pay checks. The funds deducted from employee pay checks for this purpose were assets of the Plan and, as such, were to be used for the exclusive purpose of providing benefits to participants and their beneficiaries and for defraying the reasonable expenses of administering the Plan.

2. Defendant ANDREW SWEENEY, the President of Sweeney Seed Company, was responsible for the operation of the Plan and for ensuring that the employee payroll contributions were promptly remitted to Merrill Lynch and deposited to the employees’ IRA accounts.

3. Defendant ANDREW SWEENEY withheld, and caused to be withheld, money from his employees' regular pay checks. This money was the employees' contributions to the Plan.

4. However, defendant ANDREW SWEENEY failed to pay, and cause to be paid, the money withheld from these employee contributions to the Plan to the accounts at Merrill Lynch. Instead defendant SWEENEY used these funds for unauthorized purposes.

5. From at least as early as approximately in or about December 2007, to approximately in or about July 2010, in King of Prussia, in the Eastern District of Pennsylvania, defendant

ANDREW SWEENEY

knowingly embezzled, stole, and unlawfully and willfully abstracted and converted to his own use, moneys, funds, credits, property and other assets of an employee pension benefit plan and any fund connected to such a plan, that is, assets withheld from the Sweeney employees on the pretense that they would be deposited in the Sweeney Seed Company retirement account, in the approximate amount of \$41,165.18, in that he withheld and caused to be withheld from Sweeney

Seed Company's employees' pay checks their contributions to the Plan but failed to send these contributions, and cause them to be sent, to the Plan.

In violation of Title 18, United States Code, Section 664.

A TRUE BILL:

GRAND JURY FOREPERSON

ZANE DAVID MEMEGER
United States Attorney