

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

UNITED STATES OF AMERICA	:	CRIMINAL NO. _____
v.	:	DATE FILED: May 29, 2014
PIETRO A. BARBIERI	:	VIOLATIONS:
	:	18 U.S.C. § 157 (bankruptcy fraud – 1 count)
	:	18 U.S.C. § 152(7) (agent concealing property in bankruptcy – 1 count)
	:	18 U.S.C. § 152(1) (concealing property in bankruptcy – 1 count)
	:	18 U.S.C. § 2 (aiding and abetting)

INDICTMENT

COUNT ONE

THE GRAND JURY CHARGES THAT:

At all times material to this indictment:

Introduction

1. Defendant PIETRO A. BARBIERI was an attorney licensed to practice law in the Commonwealth of Pennsylvania. Barbieri practiced law as Barbieri & Associates, with an office located at 657 Exton Commons, in Exton, Pennsylvania.

2. Defendant PIETRO A. BARBIERI was retained by Deborah Messner, charged elsewhere, as her attorney regarding her divorce and bankruptcy matter.

The Bankruptcy Process

3. The bankruptcy process is conducted in a federal court and is governed by the United States Bankruptcy Code, found in Title 11 of the United States Code. The process is designed to achieve the dual objectives of assisting honest debtors and protecting creditors.

4. An individual may file a petition for one of several different types of bankruptcy, commonly referred to as chapters. One of these types of bankruptcy is known as “Chapter 7.” The Chapter 7 bankruptcy process is designed to free the debtor from unsecured debt, i.e., medical bills, credit cards, department store cards, payday loans, some personal loans, utility bills, and more. The process cancels many or all of the debtor’s debts and may also involve the liquidation of the debtor’s assets.

5. A Chapter 7 bankruptcy case is begun by the filing of a bankruptcy petition and the person who filed that petition is a “debtor” under federal bankruptcy law. Upon the filing of a bankruptcy petition, a debtor is required by law to fully disclose his or her financial circumstances, including, among other things, assets, liabilities, income from prior years, and any anticipated increase in income. Assets include real, personal, tangible and intangible property, whether or not the asset is held in the debtor’s name or held in the name of another person or entity on behalf of the debtor. A bankruptcy “estate” is created upon the filing of a bankruptcy petition, which is a collective reference to all legal or equitable interests of the debtor in property at the time of the bankruptcy filing. The estate includes all property in which the debtor has an interest, even if it is owned or held by another person.

6. The financial circumstances of the debtor are to be disclosed to the bankruptcy court by the debtor in a series of bankruptcy forms called the Schedules of assets and liabilities and on a separate bankruptcy form called a “Statement of Financial Affairs” disclosing, among other things, the transfers of assets during the year preceding the filing of bankruptcy, payments to creditors within 90 days immediately preceding the filing of the bankruptcy petition, and suits and administrative actions. These forms are to be signed by the debtor under penalty of

perjury.

7. Federal Rule of Bankruptcy Procedure 2016(b) requires an attorney representing a debtor to disclose the amount of compensation received from a debtor or on behalf of a debtor in a bankruptcy case.

8. If a bankruptcy trustee is assigned to the bankruptcy case, he or she is responsible for the administration of the debtor's bankruptcy estate, including the identification and liquidation of assets and distribution of proceeds to creditors. All debtors are required to attend a Section 341 Meeting of Creditors, at which the debtor is placed under oath by the bankruptcy trustee and questioned about his or her financial affairs, including, but not limited to, the bankruptcy petition, the Schedules stating the assets and liabilities and the Statement of Financial Affairs.

9. If necessary, other types of proceedings may be held in relation to bankruptcy cases, such as Rule 2004 examinations, at which the debtor is placed under oath by the bankruptcy trustee and/or the trustee's representative and questioned about his or her financial affairs.

10. Chapter 7 bankruptcy provides debtors with an opportunity to obtain a fresh financial start through discharge of their debts. A discharge depends upon the debtor's disclosure of a true and accurate picture of his or her financial affairs.

The Scheme

11. Defendant PIETRO A. BARBIERI, through Deborah Messner's bankruptcy proceeding, attempted to hide from the Bankruptcy Court funds in the control of Messner, fees paid to him by Messner, and improper transfers of money by Messner.

12. In or about February 2009, defendant PIETRO A. BARBIERI and Deborah Messner engaged in discussions regarding Messner filing for bankruptcy.

13. In or about April 2009, defendant PIETRO A. BARBIERI advised Deborah Messner to open an Individual Retirement Account (“IRA”) to receive the proceeds from her divorce settlement.

14. On or about April 6, 2009, defendant PIETRO A. BARBIERI assisted Deborah Messner when she entered into an agreement in her divorce proceeding in which she would receive monies and those monies would fund an IRA.

15. On or about April 9, 2009, on defendant PIETRO A. BARBIERI’s advice, Deborah Messner opened a Scottrade IRA managed by Legacy Wealth Management, under the name Deborah S. Messner, to receive the proceeds from Messner’s divorce settlement.

16. On or about May 6, 2009, defendant PIETRO A. BARBIERI wrote a letter to Deborah Messner to advise her that her Scottrade IRA had been funded in the amount of approximately \$193,000 with the proceeds from her divorce settlement. Defendant BARBIERI also advised Messner that “additional time will be required in order to protect this substantially larger fund from the grasp of the United States Bankruptcy Court.”

17. On or about May 6, 2009, defendant PIETRO A. BARBIERI informed Deborah Messner that his fee was increasing from \$22,000 to \$27,000.

18. On or about May 18, 2009, Deborah Messner transferred and caused the transfer of \$22,000, representing an attorney fee, to defendant PIETRO A. BARBIERI per defendant BARBIERI’s May 6, 2009 letter.

19. On or about May 19, 2009, defendant PIETRO A. BARBIERI prepared,

and with Deborah Messner, filed and caused the filing of a bankruptcy petition for relief under Chapter 7 of the Bankruptcy Code in the United States Bankruptcy Court for the Eastern District of Pennsylvania, in the proceeding entitled In re: Deborah Susan Messner, Case No. 09-13701 (the “bankruptcy petition”), in which Messner claimed assets exempted from the Bankruptcy Code totaling approximately \$84,410 and sought to discharge unsecured debts totaling approximately \$86,861.47.

20. On or about May 19, 2009, defendant PIETRO A. BARBIERI and Deborah Messner filed and caused the filing of documents relating to the bankruptcy petition, including Schedules of assets and liabilities and a Statement of Financial Affairs, in which defendant PIETRO A. BARBIERI did not disclose and concealed and covered up: (1) Messner’s divorce proceeding; (2) the existence of Messner’s Scottrade IRA; (3) all of the unsecured creditors to whom Messner owed money; and (4) Messner’s transfer of \$22,000 to defendant BARBIERI the day before.

21. On or about May 19, 2009, defendant PIETRO A. BARBIERI and Deborah Messner filed and caused the filing of a B203 Disclosure of Compensation of Attorney for Debtor form with the Bankruptcy Court which falsely stated that defendant BARBIERI did not receive any compensation for his representation of Messner and did not disclose and concealed and covered up defendant BARBIERI’s receipt of \$22,000 from Messner the day before.

22. On or about June 30, 2009, defendant PIETRO A. BARBIERI and Deborah Messner appeared at a Section 341 Meeting of Creditors. Defendant BARBIERI made false statements to the United States Trustee regarding the accuracy of the bankruptcy petition and about Messner’s Scottrade IRA, her unsecured creditors, and his attorney compensation statement.

23. On or about June 30, 2009, defendant PIETRO A. BARBIERI and Deborah Messner falsely represented that defendant MESSNER had, within a matter of days, just received the proceeds from a divorce settlement, placed the proceeds into an IRA, and “did not know the value of [the IRA] . . . because we had not gotten any paperwork concerning it.”

24. On or about June 30, 2009, defendant PIETRO A. BARBIERI and Deborah Messner did not disclose to the United States Trustee and concealed and covered up Messner’s withdrawals of approximately \$125,000 from the IRA since Messner filed her bankruptcy petition on May 19, 2009.

25. On or about June 30, 2009, defendant PIETRO A. BARBIERI falsely represented to the United States Trustee that he had received \$2,000 in compensation for his representation of Deborah Messner, when he had received \$22,000 from Messner the day before he filed Messner’s bankruptcy petition.

26. On or about October 7, 2009, defendant PIETRO A. BARBIERI and Deborah Messner appeared at a Rule 2004 bankruptcy proceeding and Messner provided false testimony regarding the accuracy of the bankruptcy petition and about her Scottrade IRA, her unsecured creditors, and the disposition of the bankruptcy estate.

27. On or about October 7, 2009, defendant PIETRO A. BARBIERI acknowledged to the Bankruptcy Court that he advised Deborah Messner to open an IRA to receive the proceeds from her divorce settlement.

28. On or about October 7, 2009, defendant PIETRO A. BARBIERI falsely represented to the Bankruptcy Court that Deborah Messner’s IRA began to receive monies as part of the divorce settlement on August 1, 2009, when he knew that the IRA had begun to receive

monies on or about May 5, 2009.

29. On or about October 15, 2009, defendant PIETRO A. BARBIERI wrote letters to the unsecured creditors of Deborah Messner, that she did not disclose in her bankruptcy petition, Schedules and Statement of Financial Affairs and who she paid with monies that were part of her bankruptcy estate, and advised the creditors not to return the monies that they received to Messner's bankruptcy estate.

30. On or about November 12, 2009, defendant PIETRO A. BARBIERI falsely represented to the Bankruptcy Court that he had forgiven Deborah Messner's debt to him on April 7, 2009, when, on or about May 6, 2009, defendant BARBIERI informed Messner that he had hoped to cap his fee at \$22,000, but it was going to be closer to \$27,000, and, on or about May 18, 2009, with information provided to Messner by defendant BARBIERI, Messner transferred \$22,000 to an account maintained by defendant BARBIERI at Bryn Mawr Trust.

31. Beginning in or about April 2009, and continuing until on or about November 12, 2009, in the Eastern District of Pennsylvania, defendant

PIETRO A. BARBIERI,

having devised a scheme to defraud debtor Deborah Messner's creditors, the Bankruptcy Court, and the United States Trustee, that is, to conceal and appropriate approximately \$193,000 of Messner's assets and to hide the fees Messner paid to defendant BARBIERI and unsecured creditors, and for the purpose of executing and concealing said scheme, defendant BARBIERI filed a petition under Title 11, filed a document in a proceeding under Title 11, and made false and fraudulent representations, claims, and promises concerning and in relation to a proceeding under Title 11, that is, defendant BARBIERI falsely represented: (1) the existence of Messner's divorce

proceeding which resulted in a monetary settlement received prior to her filing a petition under Title 11, United States Code; (2) the existence, receipt, and value of Messner's interest in an Individual Retirement Account prior to her filing a petition under Title 11, United States Code and during the bankruptcy proceeding; (4) that he had received \$22,000 as an attorney fee from Messner within one year prior to filing a petition under Title 11, United States Code; and, (5) Messner's unsecured creditors prior to the filing of the petition under Title 11, United States Code and during the bankruptcy proceeding.

In violation of Title 18, United States Code, Section 157.

COUNT TWO

THE GRAND JURY FURTHER CHARGES THAT:

1. Paragraphs One through Thirty of Count One are incorporated here.
2. Beginning on or about May 5, 2009, and continuing until on or about June 30, 2009, in the Eastern District of Pennsylvania, defendant

PIETRO A. BARBIERI,

as an agent of Deborah Messner, debtor, in In re: Deborah Susan Messner, Case No. 09-13701, in contemplation of the filing of bankruptcy proceedings by Messner, knowingly and fraudulently and with the intent to defeat the provisions of Title 11, transferred and aided and abetted in the transfer of \$193,000 to an Individual Retirement Account, and concealed, and aided and abetted the transfer and concealment of, the property belonging to the bankruptcy estate of the debtor from the debtor's creditors, the Bankruptcy Court, the United States Trustee, and other officers of the court.

In violation of Title 18, United States Code, Sections 152(7) and 2.

COUNT THREE

THE GRAND JURY FURTHER CHARGES THAT:

1. Paragraphs One through Thirty of Count One are incorporated here.
2. From on or about May 19, 2009 to on or about October 7, 2009, in the Eastern District of Pennsylvania, defendant

PIETRO A. BARBIERI,

in connection with In re: Deborah Susan Messner, Case No. 09-13701, which is a case under Title 11 of the United States Code, knowingly and fraudulently concealed, and aided and abetted, counseled, induced, and willfully caused the concealment from the debtor's creditors, the Bankruptcy Court and the United States Trustee, personal property belonging to the bankruptcy estate of the debtor, that is, an attorney fee payment of \$22,000, a Scottrade Individual Retirement Account with a balance of approximately \$172,383.49, and payments to unsecured creditors by the debtor from the bankruptcy estate.

In violation of Title 18, United States Code, Section 152(1) and 2.

A TRUE BILL:

FOREPERSON

ZANE DAVID MEMEGER
United States Attorney