

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA, : SEALED INDICTMENT

-v.-

: 11 Cr. **11 CRIM 783**

PETER IULO and
JAMES MURRAY,

:
: Defendant.
:

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COUNT ONE
(Conspiracy – Peter Iulo and James Murray)

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: SEP 13 2011

The Grand Jury charges:

BACKGROUND

1. Chelsea Piers Management, Inc. (“Chelsea Piers”) operates a sports and entertainment complex in Manhattan. Among other things, Chelsea Piers serves as the venue at which various men and women’s adult basketball leagues play their games. In addition to organizing and providing the venue for the adult basketball leagues, Chelsea Piers provides referees to officiate league games at Chelsea Piers’ expense.

2. At all times relevant to this Indictment, PETER IULO, the defendant, was a United States citizen who resided in Bayside, New York. From in or about 1996 through in or about 2008, IULO worked as a referee for Chelsea Piers’ adult basketball leagues. Over the course of his career refereeing at Chelsea Piers, IULO officiated at hundreds of basketball games, for which he was typically paid \$38 per game and later \$40 per game. In addition to serving as a referee, IULO was also responsible, from in or about 1996 through 2008, for assigning other referees to officiate at basketball games at Chelsea Piers based upon a list of

JUDGE JONES

UNITED STATES DISTRICT COURT
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were dozens of different people who actually officiated at games as part of Chelsea Piers' basketball leagues. In addition to receiving income for the games at which he acted as a referee, IULO was also paid \$2 per game to which he assigned other referees.

3. At all times relevant to this Indictment, JAMES MURRAY, the defendant, was a United States citizen who resided in Yonkers, New York. From in or about 1998 through in or about 2008, JAMES MURRAY, the defendant, was an employee of Chelsea Piers and a supervisor of the basketball program at Chelsea Piers. Among other things, MURRAY supervised PETER IULO, the defendant, in connection with IULO's assignment of referees to games in the adult basketball leagues.

4. PETER IULO, the defendant, as well as the numerous others who acted as basketball referees at Chelsea Piers, served as independent contractors to, and not employees of, Chelsea Piers. Accordingly, when IULO and other basketball referees were paid by Chelsea Piers, Chelsea Piers was not required to withhold income taxes, was not required to withhold and pay Social Security and Medicare taxes, and was not required to pay unemployment tax on payments to IULO and other basketball referees. However, IULO and the other basketball referees were required to, among other things, report the receipt of income from Chelsea Piers on their personal income tax returns.

REPORTING NONEMPLOYEE COMPENSATION TO THE IRS

5. Form 1099-MISC ("Form 1099") is a form promulgated by the Internal Revenue Service ("IRS") to be used in the United States income tax system to report, among other things, the payment of "miscellaneous" or nonemployee income, that is, income other than wages, salaries, and tips paid to employees, such as payments to independent contractors. In order to report such payments to the IRS, a Form 1099 is filed with the IRS by the payor of such

amounts if the payments are made in the course of the payor's trade or business. A Form 1099 is generally required to be filed by the payor of compensation to report the payment of nonemployee compensation, but only when more than \$600 is paid by the payor to a particular payee in a calendar year. A copy of the Form 1099 must also be provided by the payor to the payee who received the income in order to assist the payee in preparing his or her U.S. Individual Income Tax Return, Form 1040 ("Form 1040").

6. Form W-9 ("Form W-9") is a form promulgated by the IRS to be used by persons or entities that are required to file information returns, such as Forms 1099, with the IRS. Forms W-9 are used by, among others, the payors of compensation in order to obtain the accurate name and Taxpayer Identification Number ("TIN"), such as a Social Security number, of the recipient of nonemployee compensation, so that when the payors report the payment of compensation to the IRS on, for example, Form 1099, the payors do so accurately. The prospective recipient of nonemployee compensation typically fills out the Form W-9 with his or her name as shown on his or her tax return, as well as his or her address and TIN (typically, the prospective recipient's Social Security number), and swears under penalty of perjury that the TIN shown on the Form W-9 is the person's correct TIN.

7. Citizens and residents of the United States who have income in any one calendar year in excess of a threshold amount ("United States taxpayers") are obligated to file a Form 1040 for that calendar year with the IRS. On a Form 1040, United States taxpayers are obligated to report all of their income from any source. This obligation includes reporting the receipt of miscellaneous income, including income received as an independent contractor, regardless of whether the receipt of such income is reported on a Form 1099.

**THE SCHEME TO USE STOLEN IDENTITIES TO EVADE TAXES
ON PAYMENTS TO CHELSEA PIERS BASKETBALL REFEREES**

8. From at least in or about 1996 through in or about 2008, PETER IULO and JAMES MURRAY, the defendants, and others known and unknown, engaged in a scheme to use stolen and other identities to evade income and other taxes on payments to IULO and other basketball referees at Chelsea Piers.

9. Among the means and methods by which PETER IULO and JAMES MURRAY, the defendants, and their co-conspirators would and did carry out the conspiracy were the following:

a. IULO and his co-conspirators obtained identification information, such as names and Social Security numbers, of other people, without the lawful authority to use this identification information (the “Stolen Identities”).

i. For example, one Chelsea Piers basketball referee (“CC-1”), a co-conspirator not named as a defendant herein, obtained Stolen Identities from members of a youth baseball team that CC-1 coached.

ii. Another Chelsea Piers basketball referee (“CC-2”), a co-conspirator not named as a defendant herein, obtained Stolen Identities as a result of CC-2’s employment as a court reporter.

iii. Another Chelsea Piers basketball referee (“CC-3”), a co-conspirator not named as a defendant herein, obtained Stolen Identities as a result of CC-3’s employment with a local Chamber of Commerce.

b. IULO, CC-1, CC-2, CC-3, and their co-conspirators obtained identification information, such as names and Social Security numbers, of other people, such as

relatives of IULO, CC-1, CC-2, and CC-3 (the “Other Identities”).

c. IULO, MURRAY, CC-1, CC-2, CC-3, and their co-conspirators provided, and caused to be provided, to Chelsea Piers the Stolen Identities and the Other Identities on false Forms W-9 in order to deceive other employees of Chelsea Piers into believing that the persons associated with the Stolen Identities and the Other Identities and whose identification information appeared on the Forms W-9 had worked as basketball referees at Chelsea Piers, when, in truth and in fact, and as IULO, MURRAY, CC-1, CC-2, CC-3, and their co-conspirators then and there well knew, the persons associated with the Stolen Identities and the Other Identities and whose identification information appeared on the Forms W-9 had never worked as basketball referees at Chelsea Piers.

d. IULO, MURRAY, CC-1, CC-2, CC-3, and their co-conspirators arranged for payments to be made to IULO, CC-1, CC-2, CC-3, and their co-conspirators in the names of the Stolen Identities and/or the Other Identities. The purpose of being paid in the names of the Stolen Identities and/or the Other Identities was to minimize the amount of income that IULO, CC-1, CC-2, CC-3, and their co-conspirators appeared to have received from Chelsea Piers, which served to fraudulently reduce taxes paid by CC-1, CC-2, CC-3, and their co-conspirators.

e. IULO, MURRAY, CC-1, CC-2, CC-3, and their co-conspirators generally caused those who officiated at basketball games at Chelsea Piers to be paid not more than \$600 in any one calendar year in their own names, so as not to trigger an obligation on the part of Chelsea Piers to file a Form 1099 for IULO, CC-1, CC-2, CC-3, and their co-conspirators who officiated at basketball games at Chelsea Piers or, if those who officiated at basketball games at Chelsea Piers were paid more than \$600 in their own names, IULO, MURRAY, CC-1,

CC-2, CC-3, and their co-conspirators generally caused the amounts paid to them and reported on a Form 1099 to be greatly reduced from the amounts actually paid to them in the names of Stolen Identities and Other Identities.

f. IULO, MURRAY, CC-1, CC-2, CC-3, and their co-conspirators generally arranged for the payments using the Stolen Identities and the Other Identities not to exceed \$600 in any one calendar year so as to avoid triggering an obligation by Chelsea Piers to file a Form 1099 with the IRS in the name of the Stolen Identities and the Other Identities. Had Forms 1099 in the names of the Stolen Identities and the Other Identities been filed, the members of the conspiracy would have run a greater risk that: (1) the persons whose identities were used without their authority would learn that their identification information had been used as part of the scheme; and/or (2) the scheme would cause tax consequences to persons who permitted their identities to be used by members of the conspiracy.

g. IULO, CC-1, CC-2, CC-3, and their co-conspirators fraudulently endorsed checks from Chelsea Piers payable to the Stolen Identities and the Other Identities when they deposited or cashed those checks.

h. IULO, CC-1, CC-2, CC-3, and their co-conspirators fraudulently failed to report on their Forms 1040, some of which were transmitted via United States mail that originated from the Southern District of New York, among other means, the receipt of all income received by them from Chelsea Piers. In total, IULO, CC-1, CC-2, CC-3, and their co-conspirators fraudulently failed to report on their Forms 1040 the receipt of hundreds of thousands of dollars of income received by them from Chelsea Piers.

i. Between approximately late 2002 and summer 2008, IULO deposited checks received from Chelsea Piers into a bank account maintained by IULO at

Citibank N.A. that totaled more than \$63,000. For each of the calendar years 2002 through 2008, however, IULO filed no Form 1040 with the IRS and paid no federal taxes on income received from Chelsea Piers.

ii. During calendar year 2004, CC-1 earned in excess of \$10,000 for officiating basketball games at Chelsea Piers. However, in or about early 2005, Chelsea Piers prepared and filed with the IRS a Form 1099 reflecting that CC-1 had been paid only \$608. Thereafter, on his Form 1040 for calendar year 2004, CC-1 wilfully failed to report nearly all of his officiating income received from Chelsea Piers for that year.

iii. During calendar year 2005, CC-2 earned in excess of \$9,000 for officiating basketball games at Chelsea Piers. However, because Chelsea Piers' records falsely reflected that CC-2 had been paid only \$589, as a result of the fraudulent scheme, Chelsea Piers never prepared or filed a Form 1099 with the IRS for CC-2 for that year. Thereafter, on his Form 1040 for calendar year 2005, CC-2 wilfully failed to report substantially all of his officiating income received from Chelsea Piers for that year.

iv. During calendar year 2005, CC-3 earned in excess of \$5,800 for officiating basketball games at Chelsea Piers. However, because Chelsea Piers' records falsely reflected that CC-3 had been paid only \$589, as a result of the fraudulent scheme, Chelsea Piers never prepared or filed a Form 1099 with the IRS for CC-3 for that year. Thereafter, on his Form 1040 for calendar year 2005, CC-3 wilfully failed to report substantially all of his officiating income received from Chelsea Piers for that year.

10. As a result of their unlawful transfer, possession, and use of Stolen Identities, PETER IULO, the defendant, and his co-conspirators obtained things of value aggregating \$1,000 and more during any 1-year period.

STATUTORY ALLEGATIONS

11. From at least in or about 1996 through in or about 2008, in the Southern District of New York and elsewhere, PETER IULO and JAMES MURRAY, the defendants, together with others known and unknown, wilfully and knowingly did combine, conspire, confederate, and agree together and with each other, to defraud the United States of America and an agency thereof, to wit, the IRS, and to commit offenses against the United States, to wit, to violate Title 26, United States Code, Sections 7201 and 7206(1).

12. It was a part and an object of the conspiracy that PETER IULO and JAMES MURRAY, the defendants, together with others known and unknown, wilfully and knowingly would and did defraud the United States of America and the IRS by impeding, impairing, defeating, and obstructing the lawful governmental functions of the IRS in the ascertainment, computation, assessment, and collection of income and other taxes due and owing to the United States.

13. It was further a part and an object of the conspiracy that PETER IULO and JAMES MURRAY, the defendants, together with others known and unknown, wilfully and knowingly would and did attempt to evade and defeat a substantial part of the income and other taxes due and owing to the IRS and the payment thereof, in violation of Title 26, United States Code, Section 7201.

14. It was further a part and an object of the conspiracy that PETER IULO and JAMES MURRAY, the defendants, together with others known and unknown, wilfully and knowingly would and did make and subscribe returns, statements, and other documents, which contained and were verified by written declarations of others known and unknown, that they were made under the penalties of perjury, and which others known and unknown, did not believe

to be true and correct as to every material matter, in violation of Title 26, United States Code, Section 7206(1).

OVERT ACTS

15. In furtherance of the conspiracy and to effect its illegal objects, PETER IULO and JAMES MURRAY, the defendants, committed the following overt acts, among others, in the Southern District of New York and elsewhere:

a. Between approximately 1998 and 2008, CC-1 received in Manhattan a total of approximately 179 checks from Chelsea Piers that were payable to multiple Stolen Identities that CC-1 had fraudulently obtained and/or provided to Chelsea Piers, when, in truth and in fact, the person to whom the checks were payable never worked at Chelsea Piers. For example, on or about June 13, 2006, CC-1 received in Manhattan approximately three checks, each of which was payable to a different Stolen Identity and which were in the amounts of \$589, \$589, and \$380.

b. On or before March 21, 2005, CC-1 signed a Form 1040 that falsely and fraudulently reported, in substance and in part, that CC-1 had been paid approximately \$1,667 of non-wage business income during calendar year 2004, when, in truth and in fact, CC-1 had been paid substantially more than \$1,667 during calendar year 2004.

c. Between approximately 1998 and 2008, CC-2 received in Manhattan a total of approximately 77 checks from Chelsea Piers that were payable to multiple Stolen Identities that CC-2 and others had fraudulently obtained and/or provided to Chelsea Piers when, in truth and in fact, the person to whom the checks were payable never worked at Chelsea Piers. For example, on or about October 16, 2007, CC-2 received in Manhattan approximately

three checks, each of which was payable to a different Stolen Identity and each of which was in the amount of \$560.

d. In or about early 2006, CC-2 signed a Form 1040 that falsely and fraudulently reported, in substance and in part, that CC-2 had been paid approximately \$2,933 of non-wage business income during calendar year 2005, when, in truth and in fact, CC-2 had been paid substantially more than \$2,933 during calendar year 2005. CC-2 signed his Form 1040 in the Southern District of New York and transmitted it via United States mail to the IRS from the Southern District of New York.

e. Between approximately 2000 and 2008, CC-3 received in Manhattan a total of approximately 94 checks from Chelsea Piers that were payable to multiple Stolen Identities and Other Identities that CC-3 and others had fraudulently obtained and/or provided to Chelsea Piers when, in truth and in fact, the person to whom the checks were payable never worked at Chelsea Piers. For example, on or about September 22, 2004, CC-3 received in Manhattan approximately two checks, each of which was payable to a different Stolen Identity and which were in the amounts of \$589 and \$95.

f. On or before April 15, 2006, CC-3 signed a Form 1040 that falsely and fraudulently reported, in substance and in part, that CC-3 had earned approximately \$830 of non-wage business income during calendar year 2005, when, in truth and in fact, CC-3 had been paid substantially more than \$2,933 during calendar year 2005.

g. Between approximately late 2002 and summer 2008, IULO received in Manhattan a total of approximately 130 checks from Chelsea Piers that were payable to multiple Stolen Identities and Other Identities that IULO had fraudulently obtained and/or provided to Chelsea Piers when, in truth and in fact, the persons to whom the checks were

payable never worked at Chelsea Piers. For example, on or about September 23, 2004, IULO received in Manhattan approximately six checks, each of which was payable to a different Stolen Identity and which were in the amounts of \$399, \$437, \$589, \$285, \$285, and \$589.

h. In or about 2003, MURRAY received from CC-1 a Form W-9 in the name of a relative of CC-1 who never worked at, or provided services to, Chelsea Piers.

i. On various occasions between approximately 1998 and approximately 2008, MURRAY provided to CC-1 multiple blank Form W-9s for the purposes of causing CC-1 to be paid in the names of other persons who had not worked at, or provided services to, Chelsea Piers.

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

COUNTS TWO THROUGH FIVE
(Tax Evasion – Peter Iulo)

The Grand Jury further charges:

16. The allegations set forth in paragraphs 1 through 9 and 14 are repeated and realleged as if set forth fully herein.

17. From on or about January 1 of each of the calendar years set forth below, through on or about the filing dates set forth below for each said calendar year, in the Southern District of New York and elsewhere, PETER IULO, the defendant, wilfully and knowingly attempted to evade and defeat a substantial part of the income tax due and owing by IULO to the United States of America for each of the calendar years 2005 through and including 2008 by various means, including: (a) failing to make a U.S. Individual Income Tax Return (Form 1040) for each said calendar year on or about the date required by law to any proper officer of the IRS; (b) causing compensation actually received by IULO to be paid to IULO in the form of checks

payable to other persons; and (c) causing checks received by IULO and payable to other persons to be cashed at financial institutions, whereas, as PETER IULO, the defendant, then and there well knew and believed, in each said calendar year IULO had substantial taxable income, upon which taxable income there was a substantial amount of tax due and owing to the United States of America:

COUNT	CALENDAR YEAR	APPROX. DUE DATE OF INCOME TAX RETURN
Two	2005	4/15/2006
Three	2006	4/15/2007
Four	2007	4/15/2008
Five	2008	4/15/2009

(Title 26, United States Code, Section 7201.)

COUNT SIX

(Conspiracy to Commit Fraud in Connection with Identification Documents – Peter Iulo and James Murray)

The Grand Jury further charges:

18. The allegations set forth in paragraphs 1 through 9 and 14 are repeated and realleged as if set forth fully herein.

19. From at least in or about September 30, 1996, through in or about 2008, in the Southern District of New York and elsewhere, PETER IULO and JAMES MURRAY, the defendants, together with others known and unknown, wilfully and knowingly did combine, conspire, confederate, and agree together and with each other to violate Title 18, United States Code, Section 1028(a)(7).

20. It was a part and an object of the conspiracy that PETER IULO and JAMES MURRAY, the defendants, wilfully and knowingly would and did transfer, possess, and use, without lawful authority, a means of identification of another person with the intent to commit, and to aid and abet, and in connection with, any unlawful activity that constitutes a violation of Federal law, to wit, the activity charged in Count One of this Indictment, in violation of Title 18, United States Code, Section 1028(a)(7).

OVERT ACTS

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

a. On or about June 13, 2006, CC-1 received in Manhattan approximately three checks, each of which was payable to a different Stolen Identity and which were in the amounts of \$589, \$589, and \$380.

b. On or about October 16, 2007, CC-2 received in Manhattan approximately three checks, each of which was payable to a different Stolen Identity and each of which was in the amount of \$560.

c. On or about September 22, 2004, CC-3 received in Manhattan approximately two checks, each of which was payable to a different Stolen Identity and which were in the amounts of \$589 and \$95.

f. On or about September 23, 2004, IULO received in Manhattan approximately six checks, each of which was payable to a different Stolen Identity and which were in the amounts of \$399, \$437, \$589, \$285, \$285, and \$589.

g. In or about 2003, MURRAY received from CC-1 a Form W-9 in the name of a relative of CC-1 who never worked at, or provided services to, Chelsea Piers.

h. On various occasions between approximately 1998 and approximately 2008, MURRAY provided to CC-1 multiple blank Form W-9s for the purposes of causing CC-1 to be paid in the names of other persons who had not worked at, or provided services to, Chelsea Piers.

(Title 18, United States Code, Sections 1028(a)(7) and (f).)

COUNT SEVEN

(Aggravated Identity Theft – Peter Iulo)

The Grand Jury further charges:

22. The allegations set forth in paragraphs 1 through 9 and 14 are repeated and realleged as if set forth fully herein.

23. From at least in or about July 15, 2004, through in or about 2008, in the Southern District of New York, PETER IULO, the defendant, wilfully and knowingly, during and in relation to a felony violation enumerated in Title 18, United States Code, Section 1028A(c), to wit, mail fraud, in violation of Title 18, United States Code, Sections 1341 and 2, did transfer, possess, and use, without lawful authority, a means of identification of another person, to wit, IULO transferred, possessed, and used without lawful authority the names and Social Security numbers of actual other persons.

(Title 18, United States Code, Sections 1028A(a)(1) & 2).

Preet Bharara
PREET BHARARA
UNITED STATES ATTORNEY

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

UNITED STATES OF AMERICA

-v.-

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Defendants.

INDICTMENT

11 Cr. _____ (_____)

(Title 18, United States Code,
Sections 371, 1028(a)(7) and (f), 1028A(a)(1) & 2;
Title 26, United States Code, Section 7201.)

PREET BHARARA
United States Attorney.

A TRUE BILL

Foreperson.

9/13/11
WE

Filed Indictment Under Seal A/W's issued.

Gorenstein
U.S.M.J