

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.)
)
DONALD RICE,)
)
Defendant.)

Criminal Action No. 17- 48-UNA

REDACTED

INDICTMENT

The Grand Jury for the District of Delaware charges that:

COUNT ONE

Background

1. Beginning in or around 2011, Donald Rice ("RICE"), through his accounting practice, Rice Diversified Financial Group ("RDFG"), performed accounting services for COMPANY A, a closely held investment holding company.

2. In 2012, the stockholders in COMPANY A, decided to dissolve COMPANY A and to sell all of its marketable securities in exchange for cash. As a part of the dissolution, on or about December 21, 2012, the shareholders created the LIQUIDATING TRUST and named RICE as the liquidating trustee.

3. Pursuant to the terms of the agreement governing the LIQUIDATING TRUST, RICE established a bank account ("LIQUIDATING TRUST ACCOUNT") and deposited in the LIQUIDATING TRUST ACCOUNT \$15,500,000, largely in anticipation of owing significant capital gains taxes on the sale of all of COMPANY A's marketable securities.

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Scheme and Artifice to Defraud

4. Beginning on or about January 14, 2013, and continuing through on or about January 16, 2015, RICE engaged in a scheme and artifice to defraud the LIQUIDATING TRUST whereby RICE would, without authorization, initiate electronic funds transfers from the LIQUIDATING TRUST ACCOUNT into his personal checking account held at PNC Bank, ending 1751 (“1751 ACCOUNT”) and his personal savings account held at PNC Bank, ending 5043 (“5043 ACCOUNT”) (collectively “PERSONAL ACCOUNTS”).

5. After transferring funds from the LIQUIDATING TRUST ACCOUNT into the PERSONAL ACCOUNTS, RICE would then utilize those funds to finance RICE’s personal business activities unrelated to the LIQUIDATING TRUST, including the acquisition of multiple tax preparation franchises, a health care staffing agency, and a temporary staffing agency franchise. RICE also used some of these funds for personal expenses, including a down payment on a home and the purchase of a 2013 BMW 550i. RICE’s use of these funds for his personal business activities and expenses was not authorized by COMPANY A, its shareholders, or the LIQUIDATING TRUST.

6. Between January 2013 and January 2015, RICE engaged in approximately 10 separate unauthorized transactions, whereby he initiated electronic funds transfers from the LIQUIDATING TRUST ACCOUNT to his PERSONAL ACCOUNTS. These transactions ranged from approximately \$31,000.00 to approximately \$395,000.00 and totaled approximately \$1,851,000.00.

Charging Paragraph

7. From on or about January 14, 2013 to on or about January 16, 2015, in the District of Delaware and elsewhere, DONALD RICE, defendant herein, having devised and intending to devise a scheme and artifice to defraud, as described in paragraphs 1 through 6

above, incorporated herein by reference, and for the purposes of executing such scheme and artifice to defraud and for obtaining money or property by means of false or fraudulent pretenses, representations, or promises, did knowingly transmit and cause to be transmitted by means of a wire communication in interstate commerce, as set forth below, electronic funds transfer requests from the LIQUIDATING TRUST ACCOUNT, including, but not limited to, the following requests:

- \$150,000.00 electronic funds transfer on January 14, 2013, from the LIQUIDATING TRUST ACCOUNT to the 1751 ACCOUNT;
- \$150,000.00 electronic funds transfer on April 23, 2013, from the LIQUIDATING TRUST ACCOUNT to the 1751 ACCOUNT;
- \$150,000.00 electronic funds transfer on December 5, 2013, from the LIQUIDATING TRUST ACCOUNT to the 1751 ACCOUNT;
- \$395,000.00 electronic funds transfer on January 6, 2014, from the LIQUIDATING TRUST ACCOUNT to the 1751 ACCOUNT;
- \$250,000.00 electronic funds transfer on May 19, 2014, from the LIQUIDATING TRUST ACCOUNT to the 5043 ACCOUNT;
- \$250,000.00 electronic funds transfer on June 20, 2014, from the LIQUIDATING TRUST ACCOUNT to the 1751 ACCOUNT;
- \$200,000.00 electronic funds transfer on September 11, 2014, from the LIQUIDATING TRUST ACCOUNT to the 1751 ACCOUNT;
- \$31,000.00 electronic funds transfer on November 17, 2014 from the LIQUIDATING TRUST ACCOUNT to the 1751 ACCOUNT;
- \$150,000.00 electronic funds transfer on December 22, 2014, from the LIQUIDATING TRUST ACCOUNT to the 1751 ACCOUNT; and
- \$150,000.00 electronic funds transfer on January 16, 2015, from the LIQUIDATING TRUST ACCOUNT to the 1751 ACCOUNT

All in violation of Title 18, United States Code, Section 1343.

COUNT TWO

8. Paragraphs 1-7 are fully incorporated herein.

9. In addition to the LIQUIDATING TRUST ACCOUNT, COMPANY A maintained an operating account at Manufacturers and Traders Trust Company (“COMPANY A OPERATING ACCOUNT”). At all times relevant to this Indictment, Manufacturers and Traders Trust Company (“M&T Bank”) was a federally insured financial institution, the deposits of which were insured by the Federal Deposit Insurance Corporation.

10. On or about May 29, 2013, RICE closed the COMPANY A OPERATING ACCOUNT and requested a cashier’s check in the amount of \$1,132,671.12 made payable to “DONALD RICE.”

11. Instead of depositing that cashier’s check, representing the proceeds of COMPANY A’s OPERATING ACCOUNT into the LIQUIDATING TRUST ACCOUNT or distributing the funds to COMPANY A’s shareholders, RICE, without authorization from COMPANY A, its shareholders, or the LIQUIDATING TRUST, deposited the check into the 1751 ACCOUNT.

Charging Paragraph

12. On or about May 29, 2013, in the District of Delaware. DONALD RICE, defendant herein, did knowingly execute and attempt to execute a scheme and artifice to obtain moneys, funds, and other property under the custody and control of M&T Bank, by means of material false and fraudulent pretenses, representations and promises, as described more fully in paragraphs 8-11 above, incorporated herein by reference.

All in violation of Title 18, United States Code, Section 1344.

COUNT THREE

13. Paragraphs 1-12 are fully incorporated herein.

14. On or about April 23, 2013, in the District of Delaware and elsewhere, DONALD RICE, defendant herein, did knowingly engage in and attempt to engage in a monetary transaction by, through, or to a financial institution, affecting interstate or foreign commerce, in criminally derived property of a value greater than \$10,000, that is the purchase of a BMW 550i utilizing a check drawn on the 1751 ACCOUNT in the amount of \$78,470.90, such property having been derived from specified unlawful activity, that is wire fraud, in violation of Title 18 United States Code Section 1957.

COUNT FOUR

15. Paragraphs 1-14 are fully incorporated herein.

16. On or about April 15, 2014, in the District of Delaware, DONALD RICE, defendant herein, did willfully make and subscribe an individual federal tax return, Form 1040, for the calendar year 2013, which was verified by a written declaration that it was made under the penalties of perjury and was filed with the Internal Revenue Service, which said Form 1040 stated that his taxable income was \$0.00, where as he then and there knew that he omitted from his tax return approximately \$1,582,671.00 diverted from COMPANY A and the LIQUIDATING TRUST into his PERSONAL ACCOUNTS, in violation of Title 26, United States Code, Section 7206(1).

COUNT FIVE

17. Paragraphs 1-16 are fully incorporated herein.

18. During calendar year 2014, DONALD RICE, defendant herein, a citizen of

Delaware, had and received gross income of at least \$1,276,000.00. By reason of such gross income, RICE was required by law, following the close of calendar year 2014 and on or before October 15, 2015, to make an income tax return to the Internal Revenue Service, stating specifically the items of his gross income and any deductions and credits to which he was entitled. Well knowing and believing all of the foregoing, RICE did willfully fail on or about October 15, 2015, in the District of Delaware and elsewhere, to make an income tax return in violation of Title 26, United States Code, Section 7203.

COUNT SIX

19. Through RDFG, RICE offered other services, including estate planning services.

20. On or about August 7, 2011, CLIENT A wrote a check to RICE for \$500.00.

The memo section of the check noted the purpose of such payment was for "Estate Planning." The check was drawn on Wilmington Savings Fund Society FSB ("WSFS") account number ending 2113 ("CLIENT A's WSFS ACCOUNT"). At all times relevant to this Indictment, WSFS was a federally insured financial institution, the deposits of which were insured by the Federal Deposit Insurance Corporation.

21. On or about August 8, 2011, CLIENT A wrote a check to "RDFG" for \$100,000.00. This check was also drawn on CLIENT A's WSFS ACCOUNT. The memo section of the check noted the purpose of such payment was "Investment."

22. On or about August 8, 2011, RICE deposited this \$100,000.00 check into his business checking account held in the name of RDFG. Prior to this deposit, RICE's balance in the RDFG account was \$603.54.

23. On or about August 12, 2011, RICE used the "Investment" funds obtained from CLIENT A's WSFS ACCOUNT to write a check for \$25,000.00 as a deposit for RICE's

purchase of an accounting services firm as a part of his personal business activities. RICE further used the remainder of the \$100,000.00 check on personal and business-related expenses for RDFG. No investment on behalf of CLIENT A was made using any funds from the \$100,000.00 check drawn on CLIENT A's WSFS ACCOUNT.

Charging Paragraph

24. On or about August 8, 2011, in the District of Delaware. DONALD RICE, defendant herein, did knowingly execute and attempt to execute a scheme and artifice to obtain moneys, funds, and other property under the custody and control of WSFS, by means of material false and fraudulent pretenses, representations and promises, as described more fully in paragraphs 19-23 above, incorporated herein by reference.

All in violation of Title 18, United States Code, Section 1344.

COUNT SEVEN

Background

25. Paragraphs 19-24 are fully incorporated herein.

26. On or about August 10, 2011, RICE was granted signature authority for CLIENT A's WSFS ACCOUNT. This account received, by direct deposit, CLIENT A's monthly pension payments of approximately \$1,709.00 from PUBLIC PENSION SYSTEM A.

27. On or about March 26, 2012, CLIENT A died. As executor of her estate, RICE opened her estate in New Castle County, Delaware in or around April 2012.

28. PUBLIC PENSION SYSTEM A continued to make monthly pension payments until on or about October 31, 2013, more than a year and a half after CLIENT A's death, the time that CLIENT A's pension payments should have ceased. The erroneous payments totaled approximately \$34,345.82.

29. On or about the date of CLIENT A's death, CLIENT A's WSFS ACCOUNT held a balance of approximately \$36,649.79. Following her death, the only deposits made into CLIENT A's WSFS ACCOUNT were the payments from PUBLIC PENSION SYSTEM A and small interest credits.

Scheme and Artifice to Defraud

30. RICE did not notify PUBLIC PENSION SYSTEM A of CLIENT A's death, but instead continued to collect CLIENT A's pension payments and use them for his personal benefit.

31. On or about November 16, 2013, PUBLIC PENSION SYSTEM A attempted to recover the \$34,345.82 in erroneous payments made to CLIENT A after her death through ACH withdrawals from CLIENT A's WSFS ACCOUNT. However, CLIENT A's WSFS ACCOUNT held less than \$6,000 at that time.

32. CLIENT A's will instructed disbursement and donation of funds from her estate to certain charitable organizations. Instead, from on or about March 25, 2012 through on or about November 8, 2013, RICE wrote a series of checks from CLIENT A's WSFS ACCOUNT made payable to himself and his closely held business entities totaling approximately \$58,867.00.

33. In addition to CLIENT A's WSFS ACCOUNT, CLIENT A also maintained a Certificate of Deposit ending 5561 ("CD") at WSFS. On or about April 19, 2012, RICE closed out the CD and was issued a cashier's check for \$37,100.34. RICE deposited this check into RDFG's bank account. Though RICE opened an account for the estate of CLIENT A on or about April 26, 2012, he did not deposit the proceeds of the CD into this account.

Charging Paragraph

34. From on or about April 2, 2012, to on or about October 31, 2013, in the District of

Delaware and elsewhere, DONALD RICE, defendant herein, having devised and intending to devise a scheme and artifice to defraud, as described in paragraphs 25 through 33 above, incorporated herein by reference, and for the purposes of executing such scheme and artifice to defraud and for obtaining money or property by means of false or fraudulent pretenses, representations, or promises, did knowingly transmit and cause to be transmitted by means of a wire communication in interstate commerce, as set forth below, ACH deposits from PUBLIC PENSION SYSTEM A to CLIENT A's WSFS ACCOUNT, including, but not limited to, the following ACH deposits:

- \$1709.00 ACH deposit on April 2, 2012, from PUBLIC PENSION SYSTEM A to CLIENT A's WSFS ACCOUNT;
- \$1709.00 ACH deposit on April 30, 2012, from PUBLIC PENSION SYSTEM A to CLIENT A's WSFS ACCOUNT;
- \$1709.00 ACH deposit on May 31, 2012, from PUBLIC PENSION SYSTEM A to CLIENT A's WSFS ACCOUNT;
- \$1709.00 ACH deposit on July 2, 2012, from PUBLIC PENSION SYSTEM A to CLIENT A's WSFS ACCOUNT;
- \$1709.00 ACH deposit on July 31, 2012, from PUBLIC PENSION SYSTEM A to CLIENT A's WSFS ACCOUNT;
- \$1709.00 ACH deposit on August 31, 2012, from PUBLIC PENSION SYSTEM A to CLIENT A's WSFS ACCOUNT;
- \$1717.92 ACH deposit on October 1, 2012, from PUBLIC PENSION SYSTEM A to CLIENT A's WSFS ACCOUNT;
- \$1717.92 ACH deposit on October 31, 2012, from PUBLIC PENSION SYSTEM A to CLIENT A's WSFS ACCOUNT;
- \$1717.92 ACH deposit on November 30, 2012, from PUBLIC PENSION SYSTEM A to CLIENT A's WSFS ACCOUNT;
- \$1717.92 ACH deposit on December 31, 2012, from PUBLIC PENSION SYSTEM A to CLIENT A's WSFS ACCOUNT;

- \$1720.74 ACH deposit on January 31, 2013, from PUBLIC PENSION SYSTEM A to CLIENT A's WSFS ACCOUNT;
- \$1720.74 ACH deposit on February 28, 2013, from PUBLIC PENSION SYSTEM A to CLIENT A's WSFS ACCOUNT;
- \$1720.74 ACH deposit on April 1, 2013, from PUBLIC PENSION SYSTEM A to CLIENT A's WSFS ACCOUNT;
- \$1720.74 ACH deposit on April 30, 2013, from PUBLIC PENSION SYSTEM A to CLIENT A's WSFS ACCOUNT;
- \$1720.74 ACH deposit on May 31, 2013, from PUBLIC PENSION SYSTEM A to CLIENT A's WSFS ACCOUNT;
- \$1720.74 ACH deposit on July 1, 2013, from PUBLIC PENSION SYSTEM A to CLIENT A's WSFS ACCOUNT;
- \$1720.74 ACH deposit on July 31, 2013, from PUBLIC PENSION SYSTEM A to CLIENT A's WSFS ACCOUNT;
- \$1720.74 ACH deposit on September 3, 2013, from PUBLIC PENSION SYSTEM A to CLIENT A's WSFS ACCOUNT;
- \$1727.11 ACH deposit on September 30, 2013, from PUBLIC PENSION SYSTEM A to CLIENT A's WSFS ACCOUNT; and
- \$1727.11 ACH deposit on October 31, 2013, from PUBLIC PENSION SYSTEM A to CLIENT A's WSFS ACCOUNT.

All in violation of Title 18, United States Code, Section 1343.

NOTICE OF FORFEITURE

Upon conviction of the offenses alleged in Counts One, Two, Six and Seven of this Indictment, DONALD RICE, defendant herein, shall forfeit to the United States, pursuant to 18 U.S.C. Sections 981(a)(1)(c) and 982(a)(2) and 28 U.S.C. Section 2461, any property constituting or derived from proceeds obtained directly or indirectly as a result of the said violations. Upon conviction of the offense alleged in Count Three of this Indictment, DONALD RICE, defendant herein, shall forfeit to the United States, pursuant to 18 U.S.C.

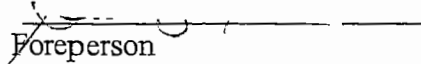
Section 982(a)(1), any property involved in the violation or traceable to property involved in said violation.

If 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 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 divided without difficulty;

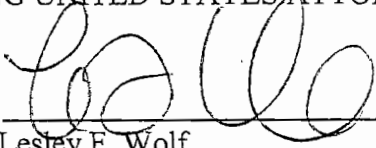
it is the intent of the United States, pursuant to 21 U.S.C. § 853(p), to seek forfeiture of any other property of said defendant up to the value of the forfeitable property described above.

A TRUE BILL:


Foreperson

DAVID C. WEISS
ACTING UNITED STATES ATTORNEY

BY:


Lesley F. Wolf
Assistant United States Attorney

Dated: June 6, 2017