

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA

Hon. _____

v.

CRIM. NO.

CHARLES W. CART,
CHARLES H. WIENER and
MARVIN RAPHAEL

18 U.S.C. §§ 371, 1341, 1346,
1956 & 2

INDICTMENT

The Grand Jury in and for the District of New Jersey,
sitting at Newark, charges that:

COUNT ONE

(Conspiracy to Steal from Local 16 Health Fund)

1. At all times relevant to this Indictment:

(a) Local 16 of the United Service Workers of America (hereinafter, "Local 16"), located at 60 Blue Heron Road, Sparta, Sussex County, New Jersey, was a "labor organization" within the meaning of Title 29, United States Code, Sections 152(5), 402(i) and 402(j). Local 16 represented and admitted to membership persons employed as factory workers, auto mechanics, salespersons and other service employees in New Jersey and elsewhere. Local 16 was created to organize and represent employees, to negotiate and enter into collective bargaining agreements and to sponsor and participate in benefit funds

necessary to provide benefits to employees.

(b) As part of its goal of providing benefits to its members, Local 16 maintained the Local 16 National Health Fund (hereinafter, the "Local 16 Health Fund"). The Local 16 Health Fund provided members with medical, surgical and related health benefits and was a "health care benefit program" within the meaning of Title 18, United States Code, Section 24(b).

(c) Health Choice, Inc. (hereinafter, "Health Choice"), located at 93 Spring Street in Newton, Sussex County, New Jersey, was a corporation that acted as the Third Party Administrator for the Local 16 Health Fund as well as other health insurance programs. In that capacity, Health Choice performed administrative services for the Local 16 Health Fund, including reviewing and processing health care claims.

(d) Defendant CHARLES W. CART was the Chief Executive Officer of Health Choice. In or about May 1993, defendant CHARLES W. CART founded Local 16 and he served as its President for several years, but he left Local 16 in or about December 1996 to create Health Choice.

(e) Defendant CHARLES H. WIENER was the stepfather of defendant CHARLES W. CART. Like his stepson, defendant CHARLES H. WIENER is a former President of Local 16, having held that position from in or about December 1996 through in or about December 1999.

(f) Beginning in or about January 2000, after defendant CHARLES W. CART and then defendant CHARLES H. WIENER had stepped down as President of Local 16, that position was occupied by coconspirator Susan Donato, who also was the Trustee of the Local 16 Health Fund. Although coconspirator Susan Donato held those positions in name, Local 16 and the Local 16 Health Fund remained under the de facto influence and control of defendant CHARLES W. CART.

2. From in or about May 2000 to in or about November 2001, in Sussex County, in the District of New Jersey, and elsewhere, defendants

CHARLES W. CART and
CHARLES H. WIENER

did knowingly and willfully conspire and agree with each other, and with others, to embezzle, steal and, without authority, unlawfully convert to their own use and the use of others, not being the rightful owners, money and funds of a health care benefit program, namely, the Local 16 Health Fund, totaling approximately \$200,000, contrary to Title 18, United States Code, Section 669.

Manner and Means

3. It was the object of the conspiracy that defendant CHARLES W. CART and defendant CHARLES H. WIENER intended to provide defendant WIENER and another family member (hereinafter, the "Other Family Member") with an improper income stream at the

expense of the Local 16 Health Fund and its participants.

4. It was part of the conspiracy that in or about July 2000, at the instruction of defendant CHARLES W. CART, coconspirator Susan Donato agreed that the Local 16 Health Fund would improperly pay an increased "per member" administration fee to Health Choice. Thereafter, the Local 16 Health Fund made these increased payments on a monthly basis, which were then diverted to defendant CHARLES H. WIENER and the Other Family Member in the manner described below.

5. It was further part of the conspiracy that defendant CHARLES W. CART sought the assistance of an associate of his (hereinafter, "the Associate"), who owned an insurance brokerage company (hereinafter, "Company-1"). Specifically, between August 2000 and October 2001, defendant CHARLES W. CART caused to be sent from Health Choice to Company-1 approximately \$144,000 from the improperly increased fees paid by the Local 16 Health Fund. Health Choice sent this money to Company-1 under the guise of paying fees incurred by Company-1 on behalf of Local 16. In truth, Company-1 had performed no services for Local 16 and was being used solely as a conduit to obscure the origin of the payments being made.

6. It was further part of the conspiracy, and to further camouflage the true nature of the scheme to defraud the Local 16 Health Fund, that the Associate thereafter funneled these

payments to defendant CHARLES H. WIENER by issuing checks, totaling approximately \$144,000, from another one of his companies (hereinafter, "Company-2") to People's Consulting, Inc., a corporate entity that had been formed by defendant WIENER.

7. It was further part of the conspiracy that defendant CHARLES W. CART placed the Other Family Member on the payroll of Health Choice, and funded his salary using the remaining portion of the fraudulently increased fee being paid by the Local 16 Health Fund.

8. It was further part of the conspiracy that these fraudulent payments were made to defendant CHARLES H. WIENER and the Other Family Member until the Local 16 Health Fund declared bankruptcy in or about November 2001, at which time Local 16 ceased operations.

Overt Acts

9. In furtherance of this conspiracy and to effect the object thereof, defendants committed and caused to be committed, among others, the following overt acts in the District of New Jersey and elsewhere:

(a) From on or about July 25, 2000 to in or about October 2001, Health Choice sent to the Local 16 Health Fund on a monthly basis invoices that included an increased "per member" rate designed to generate an income stream for defendant CHARLES

H. WIENER and the Other Family Member. The Local 16 Health Fund paid those invoices by check payable to Health Choice.

(b) From on or about August 23, 2000 to on or about October 31, 2001, at the direction of defendant CHARLES W. CART, Health Choice sent to Company-1, on a monthly basis, checks purportedly for services that Company-1 had provided for Local 16, along with Payment Advice forms that memorialized the payments.

(c) From on or about August 28, 2000 to on or about October 31, 2001, on a monthly basis, the Associate issued checks from Company-2 to defendant CHARLES H. WIENER's company, People's Consulting, Inc.

In violation of Title 18, United States Code, Section 371.

COUNT TWO

(Conspiracy to Steal from Local 16)

1. Paragraph 1 of Count One is hereby realleged and incorporated as if set forth fully herein.

2. At all times relevant to Count Two of this Indictment, defendant MARVIN RAPHAEL was an owner of a Florida consulting company doing business as Marvin & Tedi, Inc. Defendant MARVIN RAPHAEL was a friend and former business associate of defendant CHARLES W. CART.

3. From in or about July 2000 to in or about August 2001, in Sussex County, in the District of New Jersey, and elsewhere, defendants

CHARLES W. CART and
MARVIN RAPHAEL

did knowingly and willfully conspire and agree with each other, and with others including Local 16 President Susan Donato, to embezzle, steal, and unlawfully convert to their own use and the use of others, money and funds of a labor organization, namely, Local 16, totaling approximately \$84,000, contrary to Title 29, United States Code, Section 501(c).

Manner and Means

4. It was part of the conspiracy that defendant CHARLES W. CART agreed with coconspirator Susan Donato to defraud Local 16 by creating a consulting position at Local 16 for defendant

MARVIN RAPHAEL, for which no legitimate services were expected or provided.

5. It was further part of the conspiracy that from on or about August 16, 2000 to on or about July 3, 2001, defendant MARVIN RAPHAEL received monthly payments of \$7,000 pursuant to the above-described consulting agreement, without providing any legitimate services to Local 16 or its members.

6. It was further part of the conspiracy that defendant MARVIN RAPHAEL caused the above-described funds to be deposited into bank accounts maintained by defendant RAPHAEL or Marvin & Tedi, Inc. During the same time period, defendant MARVIN RAPHAEL issued numerous checks from the Marvin & Tedi, Inc. account payable either to defendant CHARLES W. CART or a business entity controlled by defendant CART, namely, Horsearound Stables, Inc. -- thereby redirecting to defendant CART a portion of the "consulting" funds unlawfully obtained from Local 16.

7. It was further part of the conspiracy that in or about August 2001, coconspirator Susan Donato, following instructions provided by defendant CHARLES W. CART, deleted defendant MARVIN RAPHAEL's name from Local 16's accounting records in anticipation of an upcoming review of those records by an outside auditor.

Overt Acts

8. In furtherance of this conspiracy and to effect the object thereof, defendants committed and caused to be committed,

among others, the following overt acts in the District of New Jersey and elsewhere:

(a) In or about July 2000, coconspirator Susan Donato offered and defendant MARVIN RAPHAEL accepted a Consulting Agreement that obligated Local 16 to pay to defendant MARVIN RAPHAEL \$84,000 in monthly installments spanning one year.

(b) From on about August 16, 2000 to on or about July 3, 2001, Local 16, on a monthly basis, issued and caused the delivery of the monthly checks to defendant MARVIN RAPHAEL, as called for in the Consulting Agreement.

In violation of Title 18, United States Code, Section 371.

COUNTS THREE AND FOUR

(Mail Fraud)

1. Paragraphs 1, 3, 4, 5, 6, and 8 of Count One are hereby realleged and incorporated as if set forth fully herein.

2. At all times relevant to this Indictment, Local 16, the Local 16 Health Fund, and their members had an intangible right to the honest services of union and health fund employees and fiduciaries. As the President of Local 16 and a Trustee for the Local 16 Health Fund, coconspirator Susan Donato owed those members a duty to, among other things, (a) act honestly and faithfully in her dealings with Local 16 and the Local 16 Health Fund; (b) hold money and property of the Local 16 Health Fund solely for the benefit of the fund and its members; and (c) transact business in the best interest of Local 16 and the Local 16 Health Fund.

3. From in or about July 2000 to in or about November 2001, in Sussex County, in the District of New Jersey, and elsewhere, defendants

CHARLES W. CART and
CHARLES H. WIENER

and others, knowingly and willfully devised and intended to devise a scheme and artifice to defraud Local 16, the Local 16 Health Fund and their members of money, property and their right to coconspirator Susan Donato's honest services, by means of materially false and fraudulent pretenses, representations and

promises.

4. An object of this scheme was to obtain money from the Local 16 Health Fund for the personal benefit of defendant CHARLES H. WIENER, despite his lack of entitlement to such funds and without the knowledge of the participants of the Local 16 Health Fund.

5. It was part of the scheme and artifice to defraud that from in or about July 2000 to in or about November 2001, as alleged in Count 1 of this Indictment:

(a) Defendant CHARLES W. CART and coconspirator Susan Donato agreed to, and did, improperly increase the "per member" fee that the Local 16 Health Fund would pay to Health Choice to process health care claims for the Health Fund;

(b) Defendant CHARLES W. CART diverted proceeds from that "per member" fee increase to Company-1;

(c) The Associate thereafter funneled those proceeds to defendant CHARLES H. WIENER by sending him checks from Company-2.

6. On or about the dates listed below, in Sussex County, in the District of New Jersey, and elsewhere, for the purpose of executing and attempting to execute this scheme and artifice to defraud and to obtain money and property by means of false and fraudulent pretenses, representations and promises, defendants

CHARLES W. CART and
CHARLES H. WIENER

and others, knowingly and willfully placed and caused to be

placed in an authorized depository for mail matter, the matters and things specified below to be sent and delivered by the United States Postal Service, and deposited and caused to be deposited the matters and things specified below to be sent and delivered by private and commercial interstate carrier, and received and caused to be received therefrom, the matters and things set forth below:

COUNT	DATES	MAILINGS
3	From on or about Aug. 23, 2000 to on or about Oct. 31, 2001	Monthly Payment Advice statements from Health Choice to Company-1; corresponding checks
4	From on or about Aug. 28, 2000 to on or about Oct. 31, 2001	Monthly checks from Company-2 payable to and sent to People's Consulting, Inc.

In violation of Title 18, United States Code, Sections 1341, 1346, and 2.

COUNT FIVE

(Money Laundering)

1. Paragraphs 1, 3, 4, 5, 6 and 8 of Count One are hereby realleged and incorporated as if set forth fully herein.

2. From in or about May 2000 to in or about November 2001, in Sussex County, in the District of New Jersey, and elsewhere, defendants

CHARLES W. CART and
CHARLES H. WIENER

knowingly and willfully conducted, attempted to conduct, and aided and abetted financial transactions affecting interstate commerce, as described in the paragraphs incorporated above, specifically, the transfer, delivery, and other disposition of monetary instruments in excess of \$144,000, which involved the proceeds of specified unlawful activity, namely, embezzlement from a health benefit program, knowing that the transactions were designed in whole and in part to conceal and disguise the nature, location, source, ownership and control of proceeds of the specified unlawful activity and knowing that the property involved represented the proceeds of some form of unlawful activity.

In violation of Title 18, United States Code, Sections

1956(a)(1)(B)(i) and 2.

A TRUE BILL

FOREPERSON

CHRISTOPHER J. CHRISTIE
UNITED STATES ATTORNEY