

UNITED STATES OF AMERICA : Hon.
v. : Criminal No.
HERBERT AXELROD : Title 18, United States Code,
Section 371;
Title 26, United States Code,
Section 7206(2)

I N D I C T M E N T

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

COUNT 1

(Conspiracy)

Individuals and Entities

1. At times relevant to this Indictment:

a. prior to December 1997, defendant HERBERT
AXELROD was the majority shareholder of T.F.H. Publications, Inc.
("T.F.H."), its director and chairman, and controlled the overall
operations and management of the company;

b. T.F.H., located in Neptune City, New Jersey,
was in the business of publishing books and other materials
relating to pet care, as well as distributing pet products;

c. AXELROD's wife was a shareholder of T.F.H. and
had responsibility for the accounts receivable at the company;
and

d. in December 1997, Central Garden & Pet Co.

("Central Garden"), located in Lafayette, California, agreed to purchase and did purchase all of the issued and outstanding stock of T.F.H. for \$70,000,000 in cash, a \$10,000,000 loan to Axelrod and his wife, and the prospect of additional compensation to them if T.F.H. realized certain earnings projections.

2. At times relevant to this Indictment, defendant HERBERT AXELROD employed for many years as a vice-president and then senior vice-president an individual who was responsible for sales and marketing at T.F.H. ("Vice-President"). The Vice-President had an employment contract calling for, in the event of termination, severance payments over several years totaling \$1,500,000. The Vice-President also received salary and sales-related bonuses during his employment.

3. In or about December 1996, defendant HERBERT AXELROD and T.F.H. terminated the employment of the Vice-President. As part of that termination, AXELROD told the Vice-President that he would be paid only \$1,000,000 in severance compensation, less a commission to be paid to an associate of AXELROD's.

Swiss Bank Accounts/Banking Contacts

4. At times relevant to this Indictment:

- a. it was generally known that banks in Switzerland observed secrecy laws which tended to shield and conceal information about the account holders and the details of

transactions in the accounts from agencies of the United States, such as the Internal Revenue Service;

b. since at least the 1980's, defendant HERBERT AXELROD maintained accounts at Union Bank of Switzerland in Zurich, Switzerland. In that time, AXELROD made deposits into, and caused withdrawals and transfers from, those accounts; and

c. contrary to law, AXELROD failed to disclose the existence of these Swiss bank accounts on income tax returns filed with the Internal Revenue Service.

5. Defendant HERBERT AXELROD maintained a relationship with a Swiss banking official and businessperson ("Swiss Banker"), who assisted AXELROD and friends and associates of AXELROD in establishing accounts in Switzerland for the purpose of shielding and concealing monies in those accounts and the resulting income from the Internal Revenue Service. The Swiss Banker would on occasion travel to the United States for the purpose of meeting with AXELROD and others in connection with this illicit activity, and on occasion AXELROD would and did travel to Switzerland to meet the Swiss Banker.

THE CONSPIRACY

6. Between at least as early as 1984 to at least as late as April 15, 1998, in the District of New Jersey and elsewhere, defendant

HERBERT AXELROD

did knowingly and willfully combine, conspire, confederate, and agree with others to:

a. conduct and attempt to conduct financial transactions representing the proceeds of unlawful activity, knowing the property involved in the financial transactions represented the proceeds of some form of unlawful activity, which transactions in fact involved the proceeds of specified unlawful activity, with the intent to engage in conduct constituting a violation of Section 7206 of the Internal Revenue Code; and

b. defraud the United States and the Internal Revenue Service by impeding, obstructing, and defeating the lawful government functions of the Internal Revenue Service in the ascertainment, computation, assessment, and collection of income taxes.

MEANS AND METHODS OF THE CONSPIRACY

Opening of Swiss Account for the Vice-President

7. In or around 1984, defendant HERBERT AXELROD and the Vice-President traveled to Switzerland to meet with the Swiss Banker. A Swiss bank account was on that occasion opened for the

Vice-President at Union Bank of Switzerland in Zurich, Switzerland. Sometime prior to 1994, AXELROD and the Vice-President again traveled to Switzerland to meet with the Swiss Banker, and on that occasion opened another account for the Vice-President at Union Bank of Switzerland in Zurich, Switzerland.

8. In the 1980's, the Vice-President was, by virtue of a series of employment agreements authorized by defendant HERBERT AXELROD, entitled to receive ever-increasing salaries, together with sales-related bonuses. In order to conceal those bonus payments from the Internal Revenue Service, AXELROD agreed to make the bonus payments by having sums of money deposited into Swiss bank accounts. Between 1990 and 1996 alone, the Vice-President received more than \$700,000 in bonus payments in that illicit fashion.

9. Defendant HERBERT AXELROD and his wife directed the Vice-President not to disclose the existence of the Swiss bank accounts, and told him that the United States government could not obtain records of the Swiss accounts.

Opening of Swiss Account for Axelrod's friend

10. Beginning in or around the early 1980's, defendant HERBERT AXELROD maintained a close personal relationship with a female dental hygienist from New Jersey. The dental hygienist later attended and completed law school with the financial assistance of AXELROD ("dental hygienist/attorney"). AXELROD

advised the dental hygienist/attorney that she should maintain monies in Switzerland in order to conceal them from the Internal Revenue Service.

11. In around 1985, defendant HERBERT AXELROD and the dental hygienist/attorney traveled to Switzerland, where, with the assistance of the Swiss Banker, a Swiss bank or investment account was opened for the dental hygienist/attorney. AXELROD thereafter caused the deposit of monies into that account.

Diverted Nylabone monies sent to Switzerland

12. A client of T.F.H. called Nylabone, Ltd. in England would typically pay for purchases from T.F.H. by wire transfer and by mailing checks to T.F.H. in New Jersey.

13. Defendant HERBERT AXELROD caused approximately \$3.8 million of checks from Nylabone to be diverted from T.F.H., with most or all of that money deposited into Swiss bank accounts. Generally, the diverted checks were mailed for deposit to Switzerland from New Jersey, but, on occasion and at AXELROD's direction, the Vice-President personally transported Nylabone checks to the Swiss Banker for deposit.

14. In another method of diverting Nylabone payments due to T.F.H., defendant HERBERT AXELROD caused Nylabone to pay more than \$143,000 in charges on a credit card issued by an English bank resulting from AXELROD's use of the credit card locally and during travel outside the United States. Nylabone

offset those charges against their remittances to T.F.H.

Axelrod's payments to the Vice-President

15. Defendant HERBERT AXELROD agreed with the Vice-President that no income taxes would be incurred on the payments to the Vice-President. Accordingly, AXELROD traveled to Switzerland with the Vice-President to meet the Swiss Banker and to open Swiss bank accounts, and caused the transfer of monies into the Vice-President's accounts there. AXELROD also provided instructions to the Swiss Banker from New Jersey by telephone or fax to transfer monies into the Vice-President's Swiss bank accounts. T.F.H. issued no Form W-2 or 1099 to advise the Internal Revenue Service of the bonus payments.

16. In 1997 the Vice-President received his \$950,000 in severance payments. T.F.H. issued no Form W-2 or 1099 to advise the Internal Revenue Service of the payment.

17. Instead, more than \$775,000 of the payment was made by deposit into Swiss bank accounts of the Vice-President. Defendant HERBERT AXELROD took checks sent to T.F.H. from Nylabone and caused them to be mailed to the Swiss Banker for deposit into the Vice-President's accounts.

18. The Vice-President withdrew funds from his Swiss bank accounts in the form of traveler's checks, to further the concealment of those monies from the Internal Revenue Service. He also was regularly directed by defendant HERBERT AXELROD to

transfer \$10,000 to Finland for AXELROD's benefit, in that the monies were intended for the teenage daughter of a friend of AXELROD's who resided in Finland.

Concealment of payments to the Vice-President

19. To conceal the diversion of Nylabone checks to Swiss accounts, defendant HERBERT AXELROD took various steps, including the following:

a. as to diversions prior to 1997, AXELROD caused the elimination of certain sales to Nylabone from the records of T.F.H.;

b. as to the 1997 diversions, AXELROD caused the creation of false credit memoranda appearing to confirm that various products sent to Nylabone were defective and being returned; and

c. the \$950,000 paid to the Vice-President as severance compensation in 1997 was concealed on the T.F.H. books and records as a "marketing expense."

OVERT ACTS

20. In furtherance of the conspiracy and in order to effect the objects thereof, defendant HERBERT AXELROD caused the following overt acts to be committed in the District of New Jersey and elsewhere:

a. in the early 1980's, AXELROD traveled to Switzerland with the Vice-President to meet with the Swiss Banker

to open an account for the Vice-President;

b. subsequent to this trip, an account was opened for the Vice-President at Union Bank of Switzerland in Zurich, Switzerland;

c. in or about 1985, AXELROD traveled to Zurich, Switzerland with the dental hygienist/attorney to meet with the Swiss Banker;

d. Sometime prior to 1994, an account was opened for the Vice-President at Union Bank of Switzerland in Zurich, Switzerland;

e. in or about 1994, with the assistance of AXELROD, the dental hygienist/attorney opened her own Swiss bank account, funded with monies provided by AXELROD;

f. at various times, AXELROD advised the dental hygienist/attorney not to maintain records of her Swiss bank account;

g. on or about March 30, 1998, the Vice-President deposited and caused to be deposited in the United States mails a request to the Swiss Banker directing the Swiss Banker to withdraw \$25,000 from one of the Vice-President's Swiss bank accounts and to send to the Vice-President in New Jersey \$25,000 in traveler's checks;

h. on or about April 15, 1998, the Vice-President filed with the Internal Revenue Service a Form 1040, U.S.

Individual Income Tax Return, for the calendar year 1997, which was false and fraudulent as to a material matter.

All in violation of Title 18, United States Code, Section 371.

COUNT 2

(Aiding and abetting the subscribing of a false return)

1. The allegations set forth in paragraphs 1 through 5 and 7 through 19 of Count 1 of this Indictment are reiterated as if set forth at length.

2. On or about April 15, 1998, at Colts Neck in the District of New Jersey and elsewhere, defendant

HERBERT AXELROD

did knowingly and willfully aid and assist in, and procure, counsel, and advise, the preparation and presentation to the Internal Revenue Service of a Form 1040, U.S. Individual Income Tax Return, for the Vice-President for the calendar year 1997, which was false and fraudulent as to a material matter, in that the return failed to report all taxable income the Vice-President had received, whereas, as AXELROD then well knew and believed, the Vice-President had received taxable income in addition to that reported on the return filed with the Internal Revenue Service.

In violation of Title 26, United States Code, Section 7206(2).

A TRUE BILL

FOREPERSON

CHRISTOPHER J. CHRISTIE
United States Attorney