

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA) No. 09 CR 186
)
) Violations: Title 18, United States Code,
) Sections 666, 1341, 1343, 1346, and
) 1503; Title 26, United States Code,
CALVIN BOENDER and) Section 7206(1); Title 2, United States
ISAAC SIMS CAROTHERS,) Code, Sections 441a, 441f, and
) 437g
)
) **Superseding Indictment**

The SPECIAL FEBRUARY 2008-2 GRAND JURY charges:

1. At times material to this indictment:

Relevant Individuals and Entities

A. Defendant ISAAC SIMS CAROTHERS served as the Alderman for the City of Chicago’s 29th Ward, after first being elected to that position in or around 1999. CAROTHERS was a beneficiary of campaign committees organized pursuant to the authority of the Illinois State Board of Elections, including The New 29th Ward Campaign Committee.

B. Defendant CALVIN BOENDER was a real estate developer with projects in the City of Chicago’s 29th Ward and elsewhere. BOENDER was at least a partial owner of several companies, including Grand Central Center for Business, LLC (hereinafter “Grand Central Center”).

C. Grand Central Center purchased approximately fifty acres of land known as Galewood Yards in approximately 2000. Until in or about 2005, Galewood Yards, which was located in both the 29th and 37th Wards of the City of Chicago, was zoned as a

restricted manufacturing and commercial manufacturing district. Defendant BOENDER sought to develop Galewood Yards for residential and commercial use.

D. Individual A was a general contractor who worked on real estate development and improvement projects on behalf of defendant BOENDER.

E. Candidate A was a relative of defendant CAROTHERS and campaigned to be elected to the United States House of Representatives in 2004.

The City of Chicago

F. The City of Chicago (“the City”) was a unit of local government known as a municipal corporation, and a political subdivision of the State of Illinois. The functions and services provided by the City on behalf of its residents were coordinated through various agencies and departments.

G. The City’s legislative branch of government was the Chicago City Council, which was comprised of fifty City Council members, each of whom represented one of Chicago’s fifty wards, and who were also known as Aldermen. The Aldermen were compensated and publicly elected.

H. The City Council enacted zoning ordinances that governed how land within the City could be used. The City Council was empowered to introduce and enact amendments to the zoning ordinances in order to change the permissible uses for property in the City.

I. One of the City’s operational departments was the Department of Zoning. The Department of Zoning’s functions included enforcing the City’s zoning

ordinances which governed land use within the City; implementing the City's land use policies; and maintaining and updating the City's official zoning maps.

J. Another of the City's operational departments was the Department of Planning and Development, which operated to promote the City's economic development and assisted in the establishment of Planned Manufacturing Districts ("PMDs") within the City. PMDs were zoned for manufacturing use and prohibited residential development and other land uses that interfered with the operations of manufacturers and other industrial professions. Beginning in or around 2004, the Department of Planning and Development took steps to make Galewood Yards part of a PMD.

K. It was the practice of Aldermen, in their official capacity, to: (1) issue letters communicating aldermanic support or non-support for governmental action on matters such as zoning changes and other land use requests to City departments such as the Department of Zoning, which letters typically were influential in securing the governmental action or inaction endorsed by the letters, and (2) propose ordinances in the Chicago City Council concerning such matters, which ordinances would be eventually either approved or rejected by the City Council members.

Laws Regarding the Conduct of Defendant CAROTHERS as an Alderman

L. Defendant CAROTHERS, in his capacity as 29th Ward Alderman, owed a duty of honest services to the City and the people of the City in the performance of his public duties. CAROTHERS, as 29th Ward Alderman, was bound by the following laws,

duties, policies and procedures:

i. Pursuant to the criminal laws of the State of Illinois (720 ILCS 5/33-1(d)), defendant CAROTHERS was prohibited from receiving, retaining, or agreeing to accept any property or personal advantage which he was not authorized by law to accept, knowing that such property or personal advantage was promised or tendered with intent to cause him to influence the performance of any act related to his employment or function of as a public officer.

ii. Pursuant to the criminal laws of the State of Illinois (720 ILCS 5/33-3(d)), defendant CAROTHERS was prohibited from soliciting or knowingly accepting, for the performance of any act, a fee or reward which he knew was not authorized by law.

iii. Pursuant to ethics ordinances of the City of Chicago (Chicago Municipal Code Section 2-156-020), defendant CAROTHERS owed a fiduciary duty to the City at all times in the performance of his public duties.

iv. Pursuant to ethics ordinances of the City of Chicago (Chicago Municipal Code Section 2-156-040), defendant CAROTHERS was prohibited from accepting anything of value based upon a mutual understanding, either explicit or implicit, that CAROTHERS's votes, official actions, or decisions or judgments concerning the business of the City would be influenced thereby.

v. Pursuant to ethics ordinances of the City of Chicago (Chicago Municipal Code Section 2-156-050), defendant CAROTHERS was prohibited from soliciting

or accepting any money or other thing of value in return for advice or assistance on matters concerning the operation or business of the City.

Filings Regarding Public Officials' Economic and Financial Interests

M. Pursuant to ethics laws of the State of Illinois (5 ILCS 420/1-111, 4A-101(g), 4A-102, and 4A-106), defendant CAROTHERS was obligated to file annually with the Clerk of Cook County a Statement of Economic Interest, wherein he was required to disclose, among other things: (a) the name of any entity (including an individual) which had applied to the City for zoning or re-zoning of real estate during the preceding calendar year and from which he received income in excess of \$1,200 during the preceding calendar year; (b) the name of any entity (including an individual) from which a gift or gifts, valued singly or in the aggregate in excess of \$500, was received during the preceding calendar year.

N. Pursuant to ethic ordinances of the City of Chicago (Chicago Municipal Code Sections 2-156-150, 2-156-190, and 2-164-060), defendant CAROTHERS was obligated to file annually with the City Clerk a Statement of Financial Interest, wherein he was required to disclose, among other things, the name of any person from whom he received one or more gifts having an aggregate value in excess of \$500.

Campaign Contribution Laws

O. Pursuant to Chicago Municipal Code, Sections 2-164-030 and 2-164-040:

i. No person was allowed to make campaign contributions in an aggregate amount exceeding \$1,500 to a City of Chicago elected official if that person had

any zoning matter pending before the City Council in the six months prior to the date of contribution.

ii. No person was allowed to make a campaign contribution that was made other than in the name of the true donor.

P. Pursuant to Federal Election Law, 2 U.S.C. § 441a(A) and 441f:

i. With limited exception, no person was allowed to make contributions to any candidate and the candidate's authorized political committees with respect to any election for Federal office which, in the aggregate, exceeded \$2,000.

ii. No person was allowed to make a contribution in the name of another person with respect to any election for Federal office.

Law and Procedure Applicable to Proposed Zoning Changes

Q. The City required anyone holding an ownership interest in an entity applying to the City for action requiring an ordinance, ordinance amendment, City Council approval, or other City agency approval with respect to zoning, to file a certified disclosure statement with the application to the City. Among other things, the certified disclosure statement required the entity and individuals holding an ownership interest to certify that they understood the City's ethics ordinances and that during the past five years they had not bribed or attempted to bribe a public officer or employee of the City.

2. Beginning in or about 2004, and continuing at least until in or about February 7, 2007, at Chicago, in the Northern District of Illinois, Eastern Division:

CALVIN BOENDER and

ISAAC SIMS CAROTHERS,
also known as “Ike Carothers,”

defendants herein, together with others known and unknown, knowingly devised and participated in a scheme to defraud the City of Chicago and the people of the City of Chicago of the intangible right to the honest services of defendant CAROTHERS, which scheme is described further below.

3. It was part of the scheme to defraud that defendant CAROTHERS accepted financial benefits from defendant BOENDER, in the form of home improvement services, meals, and tickets to professional sporting events, knowing that such benefits were provided by BOENDER with the intent to influence, and in exchange for, official acts taken by CAROTHERS designed to advance the financial interests of BOENDER in the development of Galewood Yards.

4. It was further part of the scheme that from approximately June 2004 to September 2004, defendant BOENDER, intending to influence defendant CAROTHERS’s official acts in supporting zoning changes for Galewood Yards from manufacturing use to more profitable residential and commercial use, paid for approximately \$40,000 worth of improvements to CAROTHERS’s residence (hereinafter, the “Home Improvements”), including:

- A. Exterior and interior painting;
- B. The installation of new windows;
- C. The installation of new exterior doors; and

D. The installation of a central air conditioning system.

5. It was further part of the scheme that defendant BOENDER directed Individual A to provide the Home Improvements to defendant CAROTHERS's home without requiring CAROTHERS to pay for the improvements.

6. It was further part of the scheme that defendant BOENDER, intending to influence defendant CAROTHERS's official acts in supporting zoning changes for Galewood Yards from manufacturing use to more profitable residential and commercial use, paid for meals for defendant CAROTHERS and provided CAROTHERS with free tickets to several professional sporting events, including sky box tickets to attend at least one Chicago White Sox playoff game in 2005.

7. It was further part of the scheme that on or about September 1, 2004, defendant BOENDER caused Grand Central Center to file an application for a zoning amendment that would allow Galewood Yards to be developed entirely for residential and commercial use, and in a disclosure statement attached to the application for the zoning amendment, BOENDER falsely stated that during the past five years he had not bribed or attempted to bribe a public officer of the City when, in fact, as BOENDER well knew, he had bribed and attempted to bribe CAROTHERS in his capacity as an alderman for the City's 29th Ward by providing CAROTHERS with things of value in exchange for his support for the proposed zoning changes for Galewood Yards, namely the Home Improvements.

8. It was further part of the scheme that throughout 2004 and 2005, defendant CAROTHERS met with City officials, including employees of the City's Department of

Planning and Development and other high ranking officials, in an attempt to stop the Department of Planning and Development from taking steps to make Galewood Yards part of a PMD, which would have prohibited defendant BOENDER from developing the property for residential, commercial, or mixed uses.

9. It was further part of the scheme that defendant BOENDER met with a high-ranking City official in an attempt to have the high-ranking City official support a re-zoning of Galewood Yards to residential and commercial zoning, and BOENDER represented to the high-ranking City official that defendant CAROTHERS supported BOENDER's proposal.

10. It was further part of the scheme that after the Department of Planning and Development continued to support making Galewood Yards part of a PMD, defendants BOENDER and CAROTHERS negotiated a compromise whereby the Department of Planning and Development supported a plan to re-zone Galewood Yards to allow approximately 15 acres to be developed for residential use and approximately 10 acres to be developed for commercial use, which plan allowed BOENDER to enter into:

A. A contract with Company A to sell the approximately 15 acres to be zoned for residential use to RSD Galewood, a new real estate development entity in which Company A and defendant BOENDER were partial owners. As part of the contract, which was contingent on BOENDER's ability to secure residential zoning for that portion of Galewood Yards, Company A paid Grand Central Center a price that enabled Grand Central Center to realize a profit of approximately \$4 million more than it would have received if the

land were to remain zoned as a restricted manufacturing and commercial manufacturing district.

B. A contract to sell approximately 10 acres to be zoned for commercial use to Company B, an entity that developed and operated movie theaters, at a price that enabled Grand Central Center to realize a profit of approximately \$2 million more than it would have received if the land to remain zoned as a restricted manufacturing and commercial manufacturing district.

11. It was further part of the scheme that on or about February 16, 2006, defendant CAROTHERS signed an official letter of support to Department of Planning and Development stating that CAROTHERS had reviewed and had no objection to defendant BOENDER's planned development for Galewood Yards.

12. It was further part of the scheme that defendant CAROTHERS took additional official actions in his capacity as Alderman to obtain a change in zoning for Galewood Yards while failing to disclose publicly his financial relationships with defendant BOENDER and failing to recuse himself from matters regarding Galewood Yards that were pending before the City Council. Specifically, CAROTHERS introduced, supported, and voted in favor of ordinances before the City Council that amended the zoning of Galewood Yards to allow for portions to be developed for manufacturing, commercial, and residential use. Among his official acts:

A. On or about March 16, 2006, defendant CAROTHERS attended a hearing by the Chicago Plan Commission and spoke in favor of re-zoning Galewood Yards for manufacturing, commercial, and residential use.

B. On or about March 23, 2006, defendant CAROTHERS attended a hearing by the City Council's Zoning Committee and spoke in favor of re-zoning Galewood Yards for manufacturing, commercial, and residential use.

C. On or about March 29, 2006, defendant CAROTHERS voted in favor of the ordinance before the City Council that amended the Chicago Zoning Ordinance to allow Galewood Yards to be developed for manufacturing, commercial, and residential use.

D. On or about July 5, 2006, defendant CAROTHERS applied for a technical amendment to the Chicago Zoning Ordinance that changed the boundaries of the Galewood Yard development. This amendment was introduced to the City Council on or about July 26, 2006, revised on or about August 17, 2006, and enacted by the City Council on or about September 13, 2006.

E. On or about February 7, 2007, defendant CAROTHERS voted in favor of an ordinance authorizing and directing the approval of a proposed Galewood Residential Subdivision.

13. It was further part of the scheme that defendant CAROTHERS knowingly caused to be filed a false and misleading Statement of Economic Interest with the Cook County Clerk and a false and misleading Statement of Financial Interest with the City Clerk,

which statements failed to disclose that he received from defendant BOENDER gifts in excess of \$500 and income in excess of \$1,200.

14. It was further part of the scheme that in order to disguise and conceal the extent of Grand Central Center's campaign contributions to defendant CAROTHERS, defendant BOENDER directed an employee of Grand Central Center to make a \$1,500 donation to the New 29th Ward Democratic Organization and reimbursed that employee for that contribution.

15. It was further part of the scheme that when defendant CAROTHERS asked defendant BOENDER for his financial support of Candidate A's campaign, BOENDER, in order to curry favor with defendant CAROTHERS, made campaign contributions to Candidate A in excess of the maximum allowed under federal election law. In order to disguise and conceal the fact that he was making campaign contributions to Candidate A in excess of the maximum allowed under federal election law, BOENDER directed at least two individuals to make \$2,000 donations to Candidate A and reimbursed those individuals for those donations.

16. It was further part of the scheme that defendants CAROTHERS and BOENDER misrepresented, concealed and hid, and caused to be misrepresented, concealed and hidden, the purposes of and acts done in furtherance of the aforementioned scheme.

17. On or about February 22, 2006, at Chicago, in the Northern District of Illinois, Eastern Division,

CALVIN BOENDER and
ISAAC SIMS CAROTHERS,
also known as "Ike Carothers,"

defendants herein, for the purpose of executing the above-described scheme, knowingly caused to be transmitted in interstate commerce by wire communication through internet accounts held with Yahoo!, Ameritech, and SBC Global, certain writings, signs, signals, and sounds, namely an email which attached a letter by CAROTHERS, in his capacity as Alderman of the 29th Ward, expressing his support for the planned development at Galewood Yards, which letter was to be provided by Grand Central Center to the City of Chicago;

In violation of Title 18, United States Code, Sections 1343 and 1346.

COUNT TWO

The SPECIAL FEBRUARY 2008-2 GRAND JURY further charges:

1. The allegations in paragraphs 1 through 16 of Count One of this indictment are hereby realleged and incorporated as if fully set forth herein.

2. On or about April 7, 2005, at Chicago, in the Northern District of Illinois, Eastern Division,

CALVIN BOENDER and
ISAAC SIMS CAROTHERS,
also known as "Ike Carothers,"

defendants herein, for the purpose of executing the aforesaid scheme, and attempting to do so, knowingly caused to be delivered by FedEx, a commercial interstate carrier, according to the directions thereon, a package addressed to a high-ranking official of the City, at 121 North LaSalle, Chicago, Illinois, which package contained a letter from BOENDER endorsing the proposed project at Galewood Yards;

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

COUNT THREE

The SPECIAL FEBRUARY 2008-2 GRAND JURY further charges:

1. The allegations in paragraphs 1 through 16 of Count One of this indictment are hereby realleged and incorporated as if fully set forth herein.

2. On or about November 10, 2005, at Northbrook, in the Northern District of Illinois, Eastern Division,

CALVIN BOENDER and
ISAAC SIMS CAROTHERS,
also known as "Ike Carothers,"

defendants herein, for the purpose of executing the aforesaid scheme, and attempting to do so, knowingly caused to be delivered by FedEx, a commercial interstate carrier, a package addressed to Company A, on Huehl Road, Northbrook, Illinois, which package contained a draft contract for the sale of a portion of Galewood Yards for residential development;

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

COUNT FOUR

The SPECIAL FEBRUARY 2008-2 GRAND JURY further charges:

1. The allegations in paragraphs 1 through 16 of Count One of this indictment are hereby realleged and incorporated as if fully set forth herein.

2. On or about January 18, 2006, at Northbrook, in the Northern District of Illinois, Eastern Division,

CALVIN BOENDER and
ISAAC SIMS CAROTHERS,
also known as "Ike Carothers,"

defendants herein, for the purpose of executing the aforesaid scheme, and attempting to do so, knowingly caused to be delivered by FedEx, a commercial interstate carrier, a package addressed to an attorney for Grand Central Center, 440 West Randolph, Suite 500, Chicago, Illinois, 60606, which package contained an executed contract for the sale of a portion of Galewood Yards for residential development;

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

COUNT FIVE

The SPECIAL FEBRUARY 2008-2 GRAND JURY further charges:

1. The allegations in paragraphs 1(A), (B), (C), and (F) of Count One of this indictment are hereby realleged and incorporated as if fully set forth herein.

2. From in or about June 2004 to in or about September 2004, at Chicago, in the Northern District of Illinois, Eastern Division,

CALVIN BOENDER,

defendant herein, corruptly gave, offered, and agreed to give things of value, namely, approximately \$40,000 worth of home improvement work on Isaac Sims Carothers's residence, intending to influence and reward Carothers, an agent of the City, in connection with a business, transaction and series of transactions of the City involving a thing of value of \$5,000 or more, that is, a change in the zoning of Galewood Yards, the City being a local government that received in excess of \$10,000 in federal funding in a twelve-month period from June 1, 2004, to May 31, 2005;

In violation of Title 18, United States Code, Section 666(a)(2).

COUNT SIX

The SPECIAL FEBRUARY 2008-2 GRAND JURY further charges:

1. The allegations in paragraph 1(P) of Count One of this indictment are hereby realleged and incorporated as if fully set forth herein.

2. At times material to this Count, Candidate A was a candidate campaigning to be elected to the United States House of Representatives in 2004.

3. On or about March 2, 2004, in the Northern District of Illinois and elsewhere,

CALVIN BOENDER,

defendant herein, knowingly and willfully violated the Federal Election Campaign Act, which violation involved making contributions, within the meaning of Title 2, United States Code, Section 431(8), to a federal candidate, in the names of others, and which violation aggregated \$2,000 or more during a calendar year, by causing other persons to contribute to Candidate A, a candidate for the Office of Member of the United States House of Representatives, and advancing funds to those persons and reimbursing those persons a total of at least \$4,000 during the 2004 calendar year for their contributions;

In violation of Title 2, United States Code, Sections 441f and 437g(d)(1)(A)(ii).

COUNT SEVEN

The SPECIAL FEBRUARY 2008-2 GRAND JURY further charges:

1. The allegations in paragraph 1(P) of Count One and paragraph 2 of Count Six of this indictment are hereby realleged and incorporated as if fully set forth herein.

2. On or about March 2, 2004, in the Northern District of Illinois and elsewhere,

CALVIN BOENDER,

defendant herein, knowingly and willfully violated the Federal Election Campaign Act, which violation involved making contributions, within the meaning of Title 2, United States Code, Section 431(8), to a federal candidate, that exceeded the limitation contained in the Federal Election Campaign Act on such contributions, and which violation aggregated more than \$2,000 during a calendar year, by making a contribution to Candidate A, a candidate for the Office of Member of the United States House of Representatives, during the 2004 calendar year in the amount of at least \$6,000;

In violation of Title 2, United States Code, Sections 441a(a)(1) and 437g(d)(1)(A)(ii).

COUNT EIGHT

The SPECIAL FEBRUARY 2008-2 GRAND JURY further charges:

1. The allegations in paragraphs 1(A), (B), and (D) of Count One of this indictment are hereby realleged and incorporated as if fully set forth herein.

2. In 2007, the SPECIAL AUGUST 2006-2 GRAND JURY, in connection with Grand Jury Investigation No. 06 GJ 228, was conducting an investigation into alleged criminal conduct concerning benefits defendant CALVIN BOENDER provided to Isaac Sims Carothers.

3. By no later than in or about August 2007, it was material to the Grand Jury Investigation whether or not defendant BOENDER provided benefits to Isaac Sims Carothers.

4. In or about August 2007, defendant BOENDER learned that grand jury subpoenas had been issued in connection with Grand Jury Investigation 06 GJ 228, and that Individual A had been questioned by federal agents concerning BOENDER, Carothers, and Individual A.

5. In or about August 2007, at Chicago, in the Northern District of Illinois, Eastern Division,

CALVIN BOENDER,

defendant herein, corruptly endeavored to influence, obstruct, and impede the due administration of justice, namely, while knowing that the Grand Jury Investigation was probing, among other things, BOENDER, Carothers, and Individual A, defendant BOENDER:

Advised Individual A to provide a false version of events in any potential grand jury testimony concerning home improvements that Individual A performed on Carothers's home, specifically telling Individual A that Individual A should falsely testify that Individual A issued an invoice to Carothers seeking payment for home improvements, when in fact, as defendant BOENDER well knew, Individual A did not issue or send an invoice to Carothers for the home improvements;

In violation of Title 18, United States Code, Sections 1503(a).

COUNT NINE

The SPECIAL FEBRUARY 2008-2 GRAND JURY further charges:

1. The allegations in paragraphs 1(A) and (B) of Count One and paragraphs 2 and 3 of Count Eight of this indictment are hereby realleged and incorporated as if fully set forth herein.

2. On or about January 22, 2008, defendant BOENDER learned that, in connection with Grand Jury Investigation 06 GJ 228, grand jury subpoenas had been issued to companies affiliated with BOENDER for, among other things, documents related to the improvements made to the home of Isaac Sims Carothers.

3. In or about February 2008, at Elmhurst, in the Northern District of Illinois, Eastern Division,

CALVIN BOENDER,

defendant herein, corruptly endeavored to influence, obstruct, and impede the due administration of justice, namely, while knowing that the Grand Jury Investigation was probing, among other things, the improvements made to Carothers's home, BOENDER:

A. Created a document that purported to be an invoice to Carothers, dated September 8, 2004, when in truth and in fact as defendant BOENDER well knew, no such invoice existed on or about September 8, 2004, and no such invoice was transmitted to Carothers. The false invoice purported to bill Carothers for the home improvement work.

B. Attempted to cause the false invoice to be produced to the grand jury to influence the grand jury's investigation into the nature of the transactions surrounding the improvements to Carothers's home;

In violation of Title 18, United States Code, Sections 1503(a).

COUNT TEN

The SPECIAL FEBRUARY 2008-2 GRAND JURY further charges:

1. The allegations in paragraphs 1(A), (B), (C), and (F) of Count One of this indictment are hereby realleged and incorporated as if fully set forth herein.

2. From approximately June 2004 through September 2004, at Chicago, in the Northern District of Illinois, Eastern Division,

ISAAC SIMS CAROTHERS,
also known as "Ike Carothers,"

defendant herein, being an agent of the City, corruptly accepted and agreed to accept things of value from Calvin Boender, namely, approximately \$40,000 worth of home improvement work on CAROTHERS's residence, intending to be influenced and rewarded in connection with a business, transaction and series of transactions of the City involving a thing of value of \$5,000 or more, that is, a change in the zoning of Galewood Yards, the City being a local government that received in excess of \$10,000 in federal funding in a twelve-month period from June 1, 2004, to May 31, 2005;

In violation of Title 18, United States Code, Section 666(a)(1)(B).

COUNT ELEVEN

The SPECIAL FEBRUARY 2008-2 GRAND JURY further charges:

1. The allegations in paragraph 1(A) of Count One of this indictment are hereby realleged and incorporated as if fully set forth herein.

2. On or about February 15, 2005, at Chicago, in the Northern District of Illinois, Eastern Division,

ISAAC SIMS CAROTHERS,
also known as "Ike Carothers,"

defendant herein, willfully made, subscribed, and caused to be made and subscribed, a United States Individual Income Tax Return (Form 1040 with schedules and attachments), for the calendar year 2004, which return was verified by written declaration that it was made under the penalties of perjury and was filed with the Internal Revenue Service, which income tax return he did not believe to be true and correct as to every material matter, in that it stated on Line 22 that his total income was \$144,281 and on Line 42 that his taxable income was \$86,836, whereas, in truth and fact, as CAROTHERS well knew, his total income and taxable income were in excess of those amounts, in that the defendant failed to report additional gross income received in calendar year 2004, including gross income received in the form of home improvement work to CAROTHERS's residence paid for by Calvin Boender;

In violation of Title 26, United States Code, Section 7206(1).

FORFEITURE ALLEGATIONS

The SPECIAL FEBRUARY 2008-2 GRAND JURY further alleges:

1. The allegations contained in this Indictment are realleged and incorporated herein by reference for the purpose of alleging forfeiture pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c).

2. As a result of their violations of Title 18, United States Code, Sections 1341, 1343, 1346, and 666, as alleged in the foregoing Indictment,

CALVIN BOENDER and
ISAAC S. CAROTHERS,
also known as "Ike Carothers,"

defendants herein, shall forfeit to the United States, pursuant to Title 18, United States Code, Section, 981(a)(1)(C) and Title 28, United States Code, Section 2461(c), any and all right, title and interest in property, real and personal, which constitutes and is derived from proceeds traceable to the charged offenses.

3. The interests of the defendants subject to forfeiture pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c) include but are not limited to:

a. As to defendant CAROTHERS, at least \$40,000 in financial benefits CAROTHERS received from defendant BOENDER in home improvements to his residence;

b. As to defendant BOENDER, all proceeds BOENDER received from the sale and development of property based on the re-zoning of Galewood Yards, including:

- i. At least \$3 million; and
- ii. BOENDER's interest in RSD Galewood, including

BOENDER's interest in Galewood Yards.

4. If any of the property subject to forfeiture and described above, as a result of any act or omission of the defendants:

- 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;

the United States of America shall be entitled to forfeiture of substitute property under the provisions of Title 21, United States Code, Section 853(p), as incorporated by Title 28, United States Code, Section 2461(c).

All pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28,
United States Code, Section 2461(c).

A TRUE BILL:

FOREPERSON

UNITED STATES ATTORNEY