

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA)
) No. 08 CR 115
 v.)
) Violations: Title 18, United States
 MARK POLCHAN,) Code, Sections 659, 844, 924, 1512,
 SAMUEL VOLPENDESTO,) 1955 and 1962, and Title 26, United
 MICHAEL SARNO,) States Code, Sections 7203 and 7206
 also known as, "Big Mike," "Mikey,")
 "Large," and "the Large Guy,")
 JAMES FORMATO,)
 MARK HAY,) **SUPERSEDING INDICTMENT**
 ANTHONY VOLPENDESTO, and)
 DINO VITALO)

COUNT ONE

THE SPECIAL JUNE 2007 GRAND JURY charges:

I. THE ENTERPRISE

At times material to this superseding indictment:

1. There existed a criminal organization, that is, a group of individuals consisting of defendants MARK POLCHAN, SAMUEL VOLPENDESTO, MICHAEL SARNO, also known as, "Big Mike," "Mikey," "Large," and "the Large Guy," JAMES FORMATO, MARK HAY, ANTHONY VOLPENDESTO, DINO VITALO, and others known and unknown.

2. This criminal organization, including its leadership, membership and associates, constituted an "enterprise" as that term is used in Title 18, United States Code, Section 1961(4) (hereinafter, the "enterprise"), that is, a group of individuals

associated in fact, which enterprise was engaged in, and the activities of which affected, interstate commerce.

3. The members of the enterprise constituted an ongoing organization whose members functioned as a continuing unit for the common purpose of achieving the objectives of the enterprise. The purposes and goals of the enterprise included but were not limited to the generation of income for its members through various illegal activities.

4. The illegal activities of the enterprise included, but were not limited to: (a) committing armed robberies and thefts from jewelry stores, businesses, and private residences; (b) transporting stolen goods across state lines; (c) committing thefts, and obtaining stolen items, from interstate shipments of goods; (d) purchasing, possessing, and selling stolen goods; (e) using threats, violence and intimidation to advance the interests of the enterprise's illegal activities; (f) committing arson; (g) operating and facilitating illegal gambling businesses, which included the use of video gambling machines; (h) obstructing justice and criminal investigations by tampering with and intimidating witnesses; (i) obstructing justice and criminal investigations by gathering information concerning the fact of, and extent of, ongoing federal criminal investigations from, among other sources, corrupt local law enforcement officers and law enforcement databases; and (j) traveling in interstate commerce to further the goals of the criminal enterprise.

5. In order to carry out its activities, the enterprise utilized individuals employed by and associated with it who had varying roles and responsibilities. The roles and responsibilities were as follows:

DEFENDANT MICHAEL SARNO

6. Defendant MICHAEL SARNO, also known as, “Big Mike,” “Mikey,” “Large,” and “the Large Guy,” oversaw, directed and guided certain of the enterprise’s illegal activities. Among other things, SARNO caused members of the enterprise, including defendants MARK POLCHAN and SAMUEL VOLPENDESTO, to bomb “C & S Coin Operated Amusements,” a video gaming device business located in Berwyn, Illinois, for the purpose of eliminating business competition, and for the purpose of protecting and enhancing the enterprise’s own business relationships. SARNO oversaw the enterprises’s illegal gambling ventures, and received a share of the enterprise’s profits from POLCHAN.

DEFENDANT MARK POLCHAN

7. Defendant MARK POLCHAN also occupied a leadership role in the enterprise. He supervised the activities of the enterprise, identified targets for robbery and other illegal enterprise activity, and directed the activities of others employed by and associated with the enterprise. POLCHAN, moreover, utilized his business, a sole proprietorship operating under the names “M. Goldberg Jewelers,” and “Goldberg Jewelers,” located at 1203 South Cicero Avenue in Cicero, Illinois, to conduct meetings with various criminal associates, as well as to obtain, store, and sell stolen goods,

including stolen goods transported in interstate commerce, stolen goods obtained through robbery, goods obtained from theft from interstate shipments, and goods obtained through the fraudulent use of access devices, including goods obtained through such illegal activities by defendants SAMUEL VOLPENDESTO, JAMES FORMATO, MARK HAY and ANTHONY VOLPENDESTO. POLCHAN further used Goldberg Jewelers as a location to plan the enterprise's illegal gambling activities with SARNO, and to temporarily house video gambling devices prior to their distribution to various locations, including their distribution to clubhouses operated by the Outlaws Motorcycle Club, an organization of which POLCHAN was a member. POLCHAN also used Goldberg Jewelers as a location to meet and confer with corrupt local law enforcement officials, including but not limited to defendant DINO VITALO, a Cicero police officer who POLCHAN utilized to perform counter-surveillance and to advise him of on-going federal law enforcement activity in the vicinity of Goldberg Jewelers. Further, POLCHAN was also responsible for making on-going payments to SARNO, from cash derived from the enterprise's illegal activities. At times, POLCHAN used his residence, located in Justice, Illinois, to meet with members of the enterprise in furtherance of their joint illegal activities and to store unlawfully-obtained items.

DEFENDANT SAMUEL VOLPENDESTO

8. Defendant SAMUEL VOLPENDESTO served the enterprise by, among other things, participating in robberies, by assembling explosive materials into a bomb, and participating in the bombing of C&S Coin Operated Amusements.

DEFENDANT JAMES FORMATO

9. Defendant JAMES FORMATO was a Berwyn police officer who served the enterprise by, among other things: acting as an interstate courier for stolen money; conducting physical surveillance of potential targets of illegal enterprise activity under the guise of carrying out his duties as a police officer; participating in an attempted armed robbery; and providing information concerning ongoing law enforcement investigation into illegal enterprise activity, including the bombing of C & S Coin Operated Amusements.

DEFENDANT MARK HAY

10. Defendant MARK HAY served the enterprise by, among other things: identifying potential targets for robbery; personally participating in the surveillance of targets selected for robbery; acquiring stolen vehicles for use in robberies; personally participating in robberies of jewelry stores; participating in the interstate transportation of items obtained through robbery; and transporting stolen goods to POLCHAN at Goldberg Jewelers and elsewhere, which goods were transported in interstate commerce.

DEFENDANT ANTHONY VOLPENDESTO

11. Defendant ANTHONY VOLPENDESTO served the enterprise by, among other things: identifying potential targets for robbery; personally participating in robberies of jewelry stores; participating in the interstate transportation of items obtained through robbery; and transporting stolen goods to POLCHAN at Goldberg Jewelers, which goods were transported in interstate commerce.

DEFENDANT DINO VITALO

12. Defendant DINO VITALO, a Cicero police officer, served the enterprise by, among other things: causing law enforcement databases to be accessed in order to provide information concerning potential targets of illegal enterprise activity and ongoing federal law enforcement investigation into illegal enterprise activity; providing advice on possible federal law enforcement activity; searching the area surrounding Goldberg Jewelers for the presence of electronic surveillance equipment utilized by federal law enforcement; and filing a false police report in order to provide a false alibi for other members of the conspiracy.

Kyle Knight

13. Kyle Knight served the enterprise by, among other things: identifying potential targets for robbery; personally participating in the surveillance of targets selected for robbery; acquiring stolen vehicles for use in robberies; personally participating in robberies of jewelry stores; transferring goods acquired by robbery to POLCHAN; and by providing technical advice and explosive materials to SAMUEL VOLPENDESTO for use in the bombing of C&S Coin Operated Amusements.

James Tortoriello, Sr.

14. James Tortoriello, Sr., now deceased, served the enterprise by identifying targets for illegal enterprise activity; participating in burglaries; and receiving stolen items taken during burglaries that were transported in interstate commerce.

II. THE RACKETEERING CONSPIRACY

15. Beginning no later than early 2001 and continuing through the present, the exact dates being to the Grand Jury unknown, in the Northern District of Illinois, Eastern Division, and elsewhere,

MARK POLCHAN,
SAMUEL VOLPENDESTO,
MICHAEL SARNO, also known as,
“Big Mike,” “Mikey,” “Large,” and “the Large Guy,”
JAMES FORMATO,
MARK HAY,
ANTHONY VOLPENDESTO, and
DINO VITALO,

defendants herein, being persons employed by and associated with an enterprise, that is, the enterprise as described in paragraphs 1-4 above, which enterprise engaged in, and the activities of which affected, interstate commerce, did knowingly conspire together and with other persons known and unknown to the Grand Jury, to conduct and participate, directly and indirectly, in the conduct of the affairs of the enterprise through a pattern of racketeering activity as those terms are defined in Title 18, United States Code, Section 1961(1) and (5), in violation of Title 18, United States Code, Section 1962(c), as further specified in paragraphs 16 and 17 below.

16. The pattern of racketeering activity consisted of:

a. Acts and threats involving robbery chargeable under the law of the States of Illinois, Wisconsin and Indiana, which are punishable by imprisonment for more than one year; that is, robbery (Illinois: 720 Illinois Compiled Statutes Annotated 5/18-1; Wisconsin: Wisconsin Statutes Annotated 943.32; Indiana: Indiana Code 35-42-5-1);

b. Transporting stolen goods and money of the value of \$5,000 or more in interstate commerce, in violation of Title 18, United States Code, Section 2314;

c. Receipt, possession, concealment, storage, sale and disposal of stolen goods of the value of \$5,000 or more, which had crossed a state boundary after being stolen, in violation of Title 18, United States Code, Section 2315;

d. Theft and receipt of stolen goods from interstate and foreign shipments, in violation of Title 18, United States Code, Section 659;

e. Operating an illegal gambling business, in violation of Title 18, United States Code, Section 1955;

f. Acts and threats involving arson chargeable under the law of the State of Illinois, which are punishable by imprisonment for more than one year, that is, arson (720 Illinois Compiled Statutes Annotated 5/20-1);

g. Fraud and related activity in connection with access devices, and conspiring to commit this offense, in violation of Title 18, United States Code, Section 1029;

h. Wire fraud, in violation of Title 18, United States Code, Sections 1343 and 1346; and

i. Obstruction of criminal investigations, in violation of Title 18, United States Code, Section 1512.

17. As part of the conspiracy, each defendant agreed that a conspirator would commit at least two acts of racketeering in the conduct of the affairs of the enterprise.

III. MANNER AND MEANS OF THE CONSPIRACY

18. Among the manner and means of the conspiracy agreed to by the defendants were the following:

a. It was part of the conspiracy that one or more of the conspirators would and did rob jewelry from commercial businesses and cause some or all of said jewelry to be transported in interstate commerce, including but not limited to the following robberies:

(1) The May 23, 2002, robbery of Jacqueline's Jewelry, in Valparaiso, Indiana, the stolen items having a total value of approximately \$60,000;

(2) The June 6, 2002, robbery of Husar's House of Fine Diamonds, West Bend, Wisconsin, the stolen items having a total value of at least approximately \$48,000;

(3) The July 9, 2003, armed robbery of Uffenbeck Jewelers, in Fond du Lac, Wisconsin, the stolen items having a total value of approximately \$78,221; and

(4) The July 24, 2003, armed robbery of LD Jewelers, in Hickory Hills, Illinois, the stolen items having a total value of approximately \$236,902.

b. It was further part of the conspiracy that one or more of the conspirators would and did participate in other robberies, including but not limited to the following:

(1) The April 26, 2001, robbery of The Gold Mine Jewelry Store, in St. Charles, Illinois, the stolen items having a total value of approximately \$29,780;

(2) The May 1, 2002, robbery of Lenna Jewelers, in Hinsdale, Illinois, the stolen items having a total value of \$239,752;

(3) The March 2003 attempted armed robbery of an individual who resided on Lombard Avenue, in Berwyn, Illinois; and

(4) The August 25, 2003, armed robbery of Marry Me Jewelry Store, in LaGrange Park, Illinois, the stolen items having a total value of approximately \$645,517.

c. It was further part of the conspiracy that one or more of the conspirators would and did steal from residences goods and money and cause some or all of said goods and money to be transported in interstate commerce, including the 2002 residential burglary of a residence on Rockwell Street in Chicago, Illinois, the stolen money totaling approximately \$540,000, of which approximately at least \$150,000 was transported to Florida after the burglary.

d. It was further part of the conspiracy one or more of the conspirators would and did physically surveil jewelry stores and residences as part of a plan and scheme to identify suitable targets for robbery or other illegal enterprise activity.

e. It was further part of the conspiracy that certain of the conspirators would and did steal vehicles for the purpose of using them during the course of various robberies, including as getaway vehicles.

f. It was further part of the conspiracy that certain of the conspirators obtained, maintained and used various tools and instrumentalities in order to assist

in carrying out robberies, including: locksmith tools, make-up, other hand tools, binoculars, police scanners and scanner code books.

g. It was further part of the conspiracy that certain of the conspirators would and did use radios to communicate for the purpose of conducting physical surveillances of jewelry stores and residences.

h. It was further part of the conspiracy that the conspirators would and did monitor law enforcement radio frequencies in order to detect and avoid law enforcement inquiry into their activities.

i. It was further part of the conspiracy that certain of the conspirators would and did obtain, possess, brandish, and discharge firearms in connection with the commission of armed robberies.

j. It was further part of the conspiracy that certain of the conspirators would and did physically restrain employees of the targeted establishments while committing robberies.

k. It was further part of the conspiracy that certain of the conspirators would and did obtain and wear disguises during the course of the robberies.

l. It was further part of the conspiracy that certain of the conspirators would and did cause money generated from the sale of stolen jewelry to be provided to certain of the conspirators.

m. It was further part of the conspiracy that one or more of the conspirators would and did take receipt of goods stolen from interstate shipments.

n. It was further part of the conspiracy that, following certain robberies and thefts, one or more of the conspirators would and did transport the stolen items to POLCHAN, and that POLCHAN would then divide up the proceeds among the conspirators.

o. It was further part of the conspiracy that POLCHAN would take possession of goods obtained through the fraudulent use of access devices, such as credit cards.

p. It was further part of the conspiracy that POLCHAN would and did sell items robbed, stolen and fraudulently obtained by his co-conspirators, including by selling such items through Goldberg Jewelers.

q. It was further part of the conspiracy that, to facilitate the activities of the enterprise, certain of the conspirators obtained, maintained and used communications equipment such as radios and cellular telephones.

r. It was further part of the conspiracy that the conspirators would and did acquire explosives and explosive devices for the purpose of damaging property.

s. It was further part of the conspiracy that the conspirators caused and attempted to cause illegal gambling devices to be installed in various locations, including but not limited to clubhouses operated by various chapters of the Outlaw Motorcycle Club.

t. It was further part of the conspiracy that the conspirators would and did collect information directly and indirectly from corrupt law enforcement sources, including but not limited to defendants JAMES FORMATO and DINO

VITALO, to further the enterprise's illegal activities and to determine and disrupt legitimate law enforcement investigation into the activities of the enterprise.

u. It was further part of the conspiracy that one or more of the conspirators would and did improperly access and cause others to access law enforcement computer databases, and file, and cause others to file false police reports for the purposes of: identifying potential targets for illegal enterprise activity; providing false alibis to conspirators involved in enterprise activity; and identifying potential federal law enforcement vehicles conducting surveillance of the conspirators.

v. It was further part of the conspiracy that the conspirators misrepresented, concealed and hid, caused to be misrepresented, concealed and hidden, and attempted to misrepresent, conceal and hide the illegal operation of the enterprise and acts done in furtherance of the enterprise.

All of the above in violation of Title 18, United State Code, Section 1962(d).

COUNT TWO

THE SPECIAL JUNE 2007 GRAND JURY further charges:

Beginning no later than 2002 and continuing through at least July 30, 2008, in the Northern District of Illinois, Eastern Division, and elsewhere,

MARK POLCHAN, and
MICHAEL SARNO, also known as,
“Big Mike,” “Mikey,” “Large,” and “the Large Guy,”

defendants herein, together with other persons known and unknown to the Grand Jury, knowingly conducted all or part of an illegal gambling business, that is, a business involving the use of video gambling machines and devices, which business was in substantially continuous operation for a period in excess of thirty days, which involved five or more persons who conducted, financed, managed, supervised, directed and owned all or part of the business, and which was a violation of the following laws of the State of Illinois: 720 ILCS 5/8-2, 5/28-1(a)(3) and (5).

In violation of Title 18, United States Code, Sections 1955 and 2.

COUNT THREE

THE SPECIAL JUNE 2007 GRAND JURY further charges:

Beginning no later than in or around February 2003, and continuing until at least February 25, 2003, at Berwyn, in the Northern District of Illinois, Eastern Division, and elsewhere,

MARK POLCHAN, and
SAMUEL VOLPENDESTO,

defendants herein, knowingly conspired with each other, and with others known and unknown to the Grand Jury, to maliciously damage, by means of explosive, a building and personal property at 6508 West 16th Street, Berwyn, Illinois, a building and personal property which was then used in interstate commerce and in an activity affecting interstate commerce, in violation of Title 18, United States Code, Section 844(i);

All in violation of Title 18, United States Code, Section 844(n).

COUNT FOUR

THE SPECIAL JUNE 2007 GRAND JURY further charges:

On or about February 25, 2003, at Berwyn, in the Northern District of Illinois,
Eastern Division,

MARK POLCHAN, and
SAMUEL VOLPENDESTO,

defendants herein, maliciously damaged, by means of explosive, a building and personal property at 6508 West 16th Street, Berwyn, Illinois, a building and personal property which was then used in interstate commerce and in an activity affecting interstate commerce;

In violation of Title 18, United States Code, Sections 844(i) and 2.

COUNT FIVE

THE SPECIAL JUNE 2007 GRAND JURY further charges:

On or about February 25, 2003, at Berwyn, in the Northern District of Illinois,
Eastern Division,

MARK POLCHAN, and
SAMUEL VOLPENDESTO,

defendants herein, used and carried a firearm as that term is defined in Title 18, United States Code, Section 921, namely, a destructive device commonly known as a pipe bomb, during and in relation to a crime of violence for which each may be prosecuted in a court of the United States, namely, a violation of Title 18, United States Code, Section 844(n) and a violation of Title 18, United States Code, Section 844(i), as further set forth in Count Three and Count Four respectively of this indictment;

In violation of Title 18, United States Code, Sections 924(c)(1)(A), 924(c)(1)(B)(i) and 2.

COUNT SIX

THE SPECIAL JUNE 2007 GRAND JURY further charges:

1. Beginning on or about February 25, 2003, and continuing to at least in or around March 2003, at Berwyn, in the Northern District of Illinois, Eastern Division, and elsewhere,

JAMES FORMATO,

defendant herein, conspired with others known and unknown to the Grand Jury, to corruptly obstruct, influence and impede an official proceeding, in violation of Title 18, United States Code, Section 1512(c)(2).

2. It was part of the conspiracy that on or about February 25, 2003, defendant FORMATO contacted MARK HAY, and instructed HAY to contact MARK POLCHAN for the purpose of warning POLCHAN of the fact that law enforcement officials had received information concerning the description of a vehicle seen in the vicinity of a bombing that occurred at 6508 West 16th Street, Berwyn, Illinois on or about February 25, 2003.

3. It was further part of the conspiracy that on or about February 25, 2003, that HAY, at the direction of FORMATO, contacted POLCHAN and advised him of the information provided by FORMATO.

All in violation of Title 18, United States Code, Section 1512(k).

COUNT SEVEN

THE SPECIAL JUNE 2007 GRAND JURY further charges:

1. At times material to Count Seven of this indictment:

a. From in and about 1991 to the present date, defendant DINO

VITALO was employed by the Cicero Police Department as a police officer.

b. In his capacity as a police officer, DINO VITALO had access to law enforcement databases that contained motor vehicle and license plate information.

c. Police officers employed by the Cicero Police Department were required to abide by certain general orders issued by the Cicero Police Department. Cicero Police Department General Order 82-01-02, which was effective as of January 12, 2005 through 2007, specified that no Cicero Police Department employee was permitted to confirm the existence or non-existence of any intelligence, investigative, criminal or other department record or information to any person or agency not specifically authorized to receive such information. Further, Cicero Police Department employees were not permitted to knowingly communicate any information in possession of the department which might assist persons guilty or suspected of criminal acts to escape detection, arrest, prosecution or punishment, or which might enable them to dispose of or conceal evidence of unlawful activity or money, merchandise or other property unlawfully obtained. Finally, Cicero Police Department employees were not permitted to make unauthorized inquiries and/or disseminate motor vehicle information.

2. Beginning no later than March 2007, and continuing to at least in or around May 2007, at Cicero, in the Northern District of Illinois, Eastern Division, and elsewhere,

MARK POLCHAN, and
DINO VITALO,

defendants herein, conspired with others known and unknown to the Grand Jury, to corruptly obstruct, influence and impede an official proceeding, in violation of Title 18, United States Code, Section 1512(c)(2).

3. It was part of the conspiracy that defendant MARK POLCHAN caused DINO VITALO to obtain law-enforcement sensitive information concerning vehicles POLCHAN observed in the vicinity of Goldberg Jewelers, 1203 South Cicero, Cicero, Illinois, so that the conspirators could determine whether such vehicles were being utilized by federal law enforcement officers on a covert basis to conduct surveillance of MARK POLCHAN and his co-conspirators.

4. It was further part of the conspiracy that POLCHAN provided license plate information for vehicles POLCHAN observed in the vicinity of Goldberg Jewelers to VITALO, and VITALO thereafter advised POLCHAN of the identity of the registered owners of these vehicles based on the license plate information provided.

5. It was further part of the conspiracy that VITALO advised POLCHAN how to assess whether a vehicle was utilized by federal law enforcement, such as by analyzing vehicle registration information.

6. It was further part of the conspiracy that on or about March 29, 2007, VITALO traveled to Goldberg Jewelers, where he met with POLCHAN and several other Cicero police officers. During this meeting, VITALO advised POLCHAN concerning the potential installation and operation of electronic surveillance equipment utilized by federal law enforcement, namely, "pole cameras," in the vicinity of Goldberg Jewelers, and participated in a discussion with POLCHAN and others concerning potential federal law enforcement activity taking place within the vicinity of Goldberg Jewelers.

All in violation of Title 18, United States Code, Section 1512(k).

COUNT EIGHT

THE SPECIAL JUNE 2007 GRAND JURY further charges:

Between on or about January 27, 2005 and January 28, 2005, at Cicero, in the Northern District of Illinois, Eastern Division, and elsewhere,

MARK POLCHAN,

defendant herein, received, possessed and caused to be received and possessed certain goods and chattels having a value in excess of \$1,000, namely, at least approximately one hundred and seventy cartons of "Lark" brand cigarettes, which goods and chattels had been stolen, while moving as, part of, and constituting an interstate and foreign shipment of freight and property from Virginia to Japan, and which defendant knew to have been stolen;

In violation of Title 18, United States Code, Sections 659 and 2.

COUNT NINE

THE SPECIAL JUNE 2007 GRAND JURY further charges:

On or about October 17, 2005, in the Northern District of Illinois, Eastern Division,

MARK POLCHAN,

defendant herein, who was a resident of the Northern District of Illinois, willfully made and 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 a written declaration that it was made under the penalties of perjury, and filed with the Internal Revenue Service, which return he did not believe to be true and correct as to every material matter, in that the defendant did not report as "Other income" on Schedule C, line 6 or on any other line of Schedule C of the return or on any other income line of the Form 1040 at least \$96,454 in gross income that he received, and also in that the defendant listed his total income on Form 1040, line 22, as being \$60,281, whereas, in truth and fact, as the defendant well knew, his total income was in excess of said amount by at least approximately \$95,194;

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

COUNT TEN

THE SPECIAL JUNE 2007 GRAND JURY further charges:

On or about October 31, 2006, in the Northern District of Illinois, Eastern Division,

MARK POLCHAN,

defendant herein, who was a resident of the Northern District of Illinois, willfully made and 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 2005, which return was verified by a written declaration that it was made under the penalties of perjury, and filed with the Internal Revenue Service, which return he did not believe to be true and correct as to every material matter, in that the defendant did not report as "Other income" on Schedule C for M. Goldberg Jewelry & Repairs, line 6 or on any other line of Schedule C of the return or on any other income line of the Form 1040 at least \$64,841 in gross income that he received, and also in that the defendant listed his total income on Form 1040, line 22, as being \$70,906, whereas, in truth and fact, as the defendant well knew, his total income was in excess of said amount by at least approximately \$63,191;

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

COUNT ELEVEN

THE SPECIAL JUNE 2007 GRAND JURY further charges:

On or about October 15, 2007, in the Northern District of Illinois, Eastern Division,

MARK POLCHAN,

defendant herein, who was a resident of the Northern District of Illinois, willfully made and 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 2006, which return was verified by a written declaration that it was made under the penalties of perjury, and filed with the Internal Revenue Service, which return he did not believe to be true and correct as to every material matter, in that the defendant did not report as "Other income" on Schedule C for M. Goldberg Jewelry & Repairs, line 6 or on any other line of Schedule C of the return or on any other income line of the Form 1040 at least \$134,070 in gross income that he received, and also in that the defendant listed his total income on Form 1040, line 22, as being \$86,858, whereas, in truth and fact, as the defendant well knew, his total income was in excess of said amount by at least approximately \$132,000;

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

COUNT TWELVE

THE SPECIAL JUNE 2007 GRAND JURY further charges:

During the calendar year 2007, in the Northern District of Illinois,

MARK POLCHAN,

defendant herein, who was a resident of the Northern District of Illinois, had and received gross income of at least approximately \$95,911; by reason of such gross income he was required by law, following the close of the calendar year 2007 and on or before October 15, 2008, to make an income tax return to the Director of the Internal Revenue Service Center, Midwest Region, Kansas City, Missouri, or to the District Director of the Internal Revenue Service for the Internal Revenue District of Chicago, at Chicago, in the Northern District of Illinois, or to any other proper officer of the United States, stating specifically the items of his gross income and any deductions and credits to which he was entitled; well knowing all the foregoing facts, he willfully did fail to make an income tax return to said Director of the Internal Revenue Service Center, to said District Director of the Internal Revenue Service, or to any other proper officer of the United States;

In violation of Title 26, United States Code, Section 7203.

FORFEITURE ALLEGATION

THE SPECIAL JUNE 2007 GRAND JURY further charges:

1. The allegations contained in Count One of the superseding indictment are realleged and incorporated by reference for the purposes of alleging forfeiture pursuant to Title 18, United States Code, Section 1963.

2. As a result of the violation of Title 18, United States Code, Section 1962(d), as alleged in the foregoing superseding indictment

MARK POLCHAN,
SAMUEL VOLPENDESTO,
MICHAEL SARNO, also known as,
“Big Mike,” “Mikey,” “Large,” and “the Large Guy,”
JAMES FORMATO,
MARK HAY, and
ANTHONY VOLPENDESTO,

defendants herein, have property constituting and derived from proceeds which obtained, directly and indirectly, from racketeering activity in violation of Title 18, United States Code, Section 1963(a)(3).

3. The interests of the defendants, jointly and severally subject to forfeiture to the United States pursuant to Title 18, United States Code, Section 1963(a)(3) include but are not limited to \$1,878,172.

4. To the extent that the proceeds and property described above as being subject to forfeiture pursuant to Title 18, United States Code, Section 1963, as a result of any acts or omission by any defendant:

- (a) cannot be located upon the exercise of due diligence;
- (b) have been transferred or sold to, or deposited with, a third party;

- (c) have been placed beyond the jurisdiction of the Court;
- (d) have been substantially diminished in value; or;
- (e) have been commingled with other property which cannot be subdivided without difficulty;

it is the intent of the United States of America, pursuant to Title 18, United States Code,

Section 1963(m) to seek forfeiture of any other property of the defendants up to the value of the proceeds and property described above as being subject to forfeiture;

All pursuant to Title 18, United States Code, Section 1963.

A TRUE BILL:

FOREPERSON

UNITED STATES ATTORNEY