

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

RECEIVED
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DOUGLAS E. ARPERT
U.S. MAGISTRATE JUDGE
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UNITED STATES OF AMERICA : Crim. No. 12-
:
v. : 18 U.S.C. §§ 666(a)(1)(B),
: 666(a)(2), 981(a)(1)(C),
TONY F. MACK, : 1341, 1343, 1346, 1951(a) &
a/k/a "Honey Fitz," : (b)(2) and § 2
a/k/a "the Little Guy," : 28 U.S.C. § 2461
a/k/a "Napoleon," :
JOSEPH A. GIORGIANNI, :
a/k/a "JoJo," :
a/k/a "Mr. Baker," :
a/k/a "the Fat Man," and :
RALPHIEL MACK :

INDICTMENT

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

COUNT 1

(Conspiracy to Obstruct and Affect Interstate Commerce By
Extortion Under Color of Official Right)

A. DEFENDANTS AND OTHER INDIVIDUALS

1. At all times relevant to Count 1 of this Indictment:
 - a. Defendant TONY F. MACK, a/k/a "Honey Fitz," a/k/a "the Little Guy," a/k/a "Napoleon," was the Mayor of the City of Trenton, New Jersey. As the Mayor of Trenton, defendant TONY F. MACK was in a position to, and did, influence actions taken by and on behalf of the City of Trenton.

b. Defendant JOSEPH A. GIORGIANNI, a/k/a "JoJo," a/k/a "Mr. Baker," a/k/a "the Fat Man," was an associate of defendants TONY F. MACK and RALPHIEL MACK and another coconspirator ("CC-1"). Defendant JOSEPH A. GIORGIANNI maintained an eatery on Martin Luther King Boulevard in Trenton ("JoJo's Steakhouse") and a clubhouse located next door to JoJo's Steakhouse ("Giorgianni's Clubhouse").

c. Defendant RALPHIEL MACK was defendant TONY F. MACK's brother. Defendant RALPHIEL MACK was employed by the City of Trenton Board of Education and was the head football coach for Trenton Central High School.

d. CC-1 was an associate of defendants TONY F. MACK, RALPHIEL MACK and JOSEPH A. GIORGIANNI. CC-1 was employed by the City of Trenton.

e. There was a witness cooperating with law enforcement ("CW-1") who purported to be a consultant for another cooperating witness ("CW-2").

f. CW-2 purported to be a developer of real estate whose development company was a business in and affecting interstate commerce. CW-2 purported to be interested in developing property in the Trenton area, including the development of a lot on East State Street (the "East State Street Lot") to build an automated parking garage (the "Parking Garage Project").

g. There was a City of Trenton official ("Trenton Official-1") within Trenton's Housing and Economic Development Department. Trenton Official-1 served under defendant TONY F. MACK and had authority over matters concerning the disposition of City-owned real property.

B. THE CONSPIRACY

2. From in or about September 2010 to on or about July 18, 2012, in Mercer and Atlantic Counties, in the District of New Jersey and elsewhere, defendants

TONY F. MACK,
a/k/a "Honey Fitz,"
a/k/a "the Little Guy,"
a/k/a "Napoleon,"
JOSEPH A. GIORGIANNI,
a/k/a "JoJo,"
a/k/a "Mr. Baker,"
a/k/a "the Fat Man," and
RALPHIEL MACK

did knowingly and intentionally conspire with each other and with others to obstruct, delay and affect interstate commerce by extortion under color of official right - that is, by corruptly agreeing to obtain and obtaining money and other things of value from others, including CW-1 and CW-2, with their consent, in exchange for defendant TONY F. MACK's exercise of official authority and influence as specific opportunities arose in connection with the Parking Garage Project.

3. It was the object of the conspiracy to obtain money and other things of value, in exchange for the official action and

influence of defendant TONY F. MACK as specific opportunities arose, the consequences of which potentially would have an effect on interstate commerce, and to conceal material aspects of this corrupt arrangement.

C. METHODS AND MEANS

4. To further the conspiracy, defendants TONY F. MACK, JOSEPH A. GIORGIANNI and RALPHIEL MACK and others engaged in the following conduct:

a. Defendants TONY F. MACK, JOSEPH A. GIORGIANNI and RALPHIEL MACK and CC-1 agreed to accept corrupt payments of approximately \$119,000, \$54,000 of which actually were accepted at locations in New Jersey and another \$65,000 that the defendants planned to accept, including: (i) an October 27, 2011 \$3,000 cash payment; (ii) a January 6, 2012 \$5,000 cash payment; (iii) an April 12, 2012 \$3,000 cash payment; (iv) an April 25, 2012 \$3,000 payment of cash and casino chips; (v) a May 21, 2012 \$5,000 cash payment; (vi) a May 21, 2012 arrangement brokered by defendant JOSEPH A. GIORGIANNI where defendant TONY F. MACK would cause the City of Trenton to offer the East State Street Lot to CW-2 at a lesser sale price of \$100,000 in exchange for a \$100,000 corrupt cash payment; (vii) a June 8, 2012, \$25,000 cash payment (an installment of the \$100,000 payment) and (viii) a June 28, 2012, \$10,000 cash payment (another installment of the \$100,000 payment).

b. In exchange for these corrupt cash payments and other things of value, defendant TONY F. MACK agreed to, and did, exercise official authority and influence to assist CW-1 and CW-2 in acquiring and developing the East State Street Lot, including authorizing and directing Trenton Official-1 to send a May 29, 2012 letter from the City of Trenton to CW-2 offering to sell the East State Street Lot to CW-2 for \$100,000, which was significantly less than the amount proposed by CW-2. Defendant TONY F. MACK further agreed to exercise official authority and influence over other public officials, including Trenton Official-1, to take official action to assist the efforts of CW-1 and CW-2 to acquire and develop the East State Street Lot.

c. In an effort to conceal this corrupt activity and keep defendant TONY F. MACK "safe" from law enforcement detection, defendants TONY F. MACK and JOSEPH A. GIORGIANNI employed intermediaries, or "buffers," to carry out material aspects of the scheme. Those intermediaries included: (i) defendant JOSEPH A. GIORGIANNI, through whom defendant TONY F. MACK caused corrupt cash payments to be channeled, and who accepted corrupt cash payments for the direct and indirect benefit of defendant TONY F. MACK; (ii) defendant RALPHIEL MACK, who accepted corrupt cash payments for the direct and indirect benefit of defendant TONY F. MACK; and (iii) CC-1, who defendant TONY F. MACK used to contact other Trenton officials to

facilitate and promote material aspects of the Parking Garage Project, and who would inform defendant TONY F. MACK when certain of the corrupt cash payments had been received by defendant JOSEPH A. GIORGIANNI for further distribution.

d. In carrying out this corrupt activity, defendants TONY F. MACK, JOSEPH A. GIORGIANNI and RALPHIEL MACK, and CC-1 and others, limited their conversations over the telephones related to the corrupt activity and deferred such conversations until they were able to meet in person in an attempt to thwart electronic surveillance. When these coconspirators did discuss matters related to the corrupt activity over the telephones, they often used coded and cryptic language, including using the term "Uncle Remus" to refer to the corrupt payments, in a further attempt to thwart electronic surveillance. Defendants JOSEPH A. GIORGIANNI and TONY F. MACK and CC-1 also used similar coded and cryptic language when communicating by electronic text messages regarding the corrupt activity, including GIORGIANNI's referring to himself as "Mr. Baker" to conceal his identity in some of these text message communications.

e. In a further effort to avoid detection, defendants TONY F. MACK, JOSEPH A. GIORGIANNI and RALPHIEL MACK, and CC-1 and others, conducted meetings concerning the corrupt activity at locations other than Trenton City Hall, including defendant JOSEPH A. GIORGIANNI's residence, JoJo's Steakhouse, Giorgianni's

Clubhouse and Atlantic City restaurants. To further conceal the corrupt activity, defendant TONY F. MACK instructed defendant JOSEPH A. GIORGIANNI to ensure that nobody took pictures of them at an Atlantic City meeting attended by defendants TONY F. MACK and JOSEPH A. GIORGIANNI, CC-1 and CW-2.

f. In a further effort to avoid detection, defendant JOSEPH A. GIORGIANNI counseled participants in the conspiracy not to disclose important details of the corrupt activity to others.

In violation of Title 18, United States Code, Sections 1951(a) and (b) (2).

COUNT 2

(Attempted Obstructing and Affecting Interstate Commerce By
Extortion Under Color of Official Right)

1. Paragraphs 1 and 4 of Count 1 of this Indictment are hereby incorporated and realleged as if fully set forth in this Count.

2. From in or about September 2010 to on or about July 18, 2012, in Mercer and Atlantic Counties, in the District of New Jersey and elsewhere, defendants

TONY F. MACK,
a/k/a "Honey Fitz,"
a/k/a "the Little Guy,"
a/k/a "Napoleon,"
JOSEPH A. GIORGIANNI,
a/k/a "JoJo,"
a/k/a "Mr. Baker,"
a/k/a "the Fat Man," and
RALPHIEL MACK

did knowingly and willfully attempt to obstruct, delay and affect interstate commerce by extortion under color of official right - that is, by corruptly agreeing to obtain and obtaining money and other things of value from others, including CW-1 and CW-2, with their consent, in exchange for defendant TONY F. MACK's exercise of official authority and influence as specific opportunities arose in connection with the Parking Garage Project in Trenton, New Jersey.

In violation of Title 18, United States Code, Sections 1951(a) and (b) (2) and Section 2.

COUNT 3

(Accepting and Agreeing to Accept Bribes)

1. Paragraphs 1 and 4 of Count 1 of this Indictment are hereby incorporated and realleged as if fully set forth in this Count.

2. The City of Trenton received benefits in excess of \$10,000 under a Federal Program involving a grant, contract, subsidy, loan, guarantee, insurance and other forms of federal assistance during the relevant one-year time period.

3. From in or about October 2011 to on or about July 18, 2012, in Mercer and Atlantic Counties, in the District of New Jersey, and elsewhere, defendants

TONY F. MACK,
a/k/a "Honey Fitz,"
a/k/a "the Little Guy,"
a/k/a "Napoleon," and
RALPHIEL MACK

did knowingly and corruptly solicit and demand for the direct and indirect benefit of defendant TONY F. MACK, and accept and agree to accept, things of value from persons, intending for defendant TONY F. MACK to be influenced and rewarded in connection with a business, transaction, and series of transactions of the City of Trenton regarding the Parking Garage Project involving a thing of value of \$5,000 and more.

In violation of Title 18, United States Code, Section 666(a)(1)(B) and Section 2.

COUNT 4

(Giving and Agreeing to Give Bribes)

1. Paragraphs 1 and 4 of Count 1 and Paragraph 2 of Count 3 of this Indictment are hereby incorporated and realleged as if fully set forth in this Count.

2. From in or about October 2011 to on or about July 18, 2012, in Mercer and Atlantic Counties, in the District of New Jersey, and elsewhere, defendant

JOSEPH A. GIORGIANNI,
a/k/a "JoJo,"
a/k/a "Mr. Baker,"
a/k/a "the Fat Man"

knowingly and corruptly did give, offer and agree to give things of value to persons for the direct and indirect benefit of defendant TONY F. MACK intending for defendant TONY F. MACK to be influenced and rewarded in connection with a business, transaction, and series of transactions of the City of Trenton regarding the Parking Garage Project involving a thing of value of \$5,000 and more.

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

COUNTS 5 to 7

(Scheme to Defraud the City of Trenton and its Citizens of Money and Property and Defendant TONY F. MACK's Honest Services)

1. At all times relevant to Counts 5 to 7 of this Indictment, the City and citizens of Trenton had an intangible right to the honest services of their elected public officials. As a public official for the City of Trenton, defendant TONY F. MACK owed the City and citizens of Trenton a duty to refrain from receiving bribes and kickbacks in exchange for defendant TONY F. MACK's official action and influence.

2. In addition to, and in conjunction with, the conduct alleged in paragraphs 1 and 4 of Count 1 of this Indictment, which are incorporated and realleged as if fully set forth in these Counts, defendants JOSEPH A. GIORGIANNI and TONY F. MACK and CC-1 arranged with each other and with CW-1 and CW-2 to divert \$100,000 of the amount that CW-2 purportedly was willing to pay to the City of Trenton to purchase the East State Street Lot as a bribe and kickback payment for the direct and indirect benefit of defendants JOSEPH A. GIORGIANNI and TONY F. MACK and in exchange for the official action and influence of defendant TONY F. MACK.

3. In exchange for this bribe and kickback, and other corrupt payments earlier received by defendant JOSEPH A. GIORGIANNI for the direct and indirect benefit of defendant TONY F. MACK, on or about May 29, 2012, defendant TONY F. MACK met

with defendant JOSEPH A. GIORGIANNI, and then met with Trenton Official-1, and approved and caused Trenton Official-1 to send, a letter from the City of Trenton to CW-2, via the U.S. Mail, offering the East State Street Lot for the reduced sale price of \$100,000. This price was predicated on the false pretense that this was an arm's-length transaction, among other false pretenses and representations. This fraudulent activity was intended, among other things, to deprive the City and citizens of Trenton of \$100,000 in potential proceeds from the sale of the East State Street Lot.

4. From in or about September 2010 to on or about July 18, 2012, in Mercer and Atlantic Counties, in the District of New Jersey, and elsewhere, defendants

TONY F. MACK,
a/k/a "Honey Fitz,"
a/k/a "the Little Guy,"
a/k/a "Napoleon,"
JOSEPH A. GIORGIANNI,
a/k/a "JoJo,"
a/k/a "Mr. Baker,"
a/k/a "the Fat Man," and
RALPHIEL MACK

and others knowingly and intentionally did devise and intend to devise a scheme and artifice to defraud the City of Trenton and its citizens of (a) the right to defendant TONY F. MACK's honest services in City of Trenton matters and (b) money and property by means of materially false pretenses, representations and promises.

5. The object of this scheme and artifice to defraud was for defendants TONY F. MACK, JOSEPH A. GIORGIANNI and RALPHIEL MACK and CC-1 to deprive the City of Trenton of the honest services of defendant TONY F. MACK and of money and property through deceit and trickery, namely:

- i. By accepting and agreeing to accept a stream of concealed bribes and kickbacks in exchange for defendant TONY F. MACK's official action and influence in matters relating to the Parking Garage Project; and
- ii. By (a) operating under the materially false pretense that the sale of the East State Street Lot was an arm's-length transaction when, in fact, it was to be consummated through bribery and kickbacks and (b) lowering the sale price of the East State Street Lot based on materially false pretenses and representations.

6. On or about the dates listed below, in Mercer and Atlantic Counties, in the District of New Jersey, and elsewhere, for the purpose of executing and attempting to execute this scheme and artifice to defraud, defendants

TONY F. MACK,
a/k/a "Honey Fitz,"
a/k/a "the Little Guy,"
a/k/a "Napoleon,"
JOSEPH A. GIORGIANNI,
a/k/a "JoJo,"
a/k/a "Mr. Baker,"
a/k/a "the Fat Man," and
RALPHIEL MACK

and others knowingly and intentionally placed and caused to be placed in a post office and authorized depository for mail, and caused to be delivered thereon, certain mail matter as set forth

below, to be sent and delivered by United States Postal Service, and transmitted and caused to be transmitted in interstate commerce by means of wire communications certain signs, signals and sounds as set forth below:

Count	Date	Description
5	10/29/11	Defendant JOSEPH A. GIORGIANNI, who was in New Jersey, telephoned CC-1, who was in Pennsylvania, and informed CC-1 that defendant JOSEPH A. GIORGIANNI had to "see" defendant TONY F. MACK and that "it's important. I got, I got Uncle Remus for him," meaning a corrupt cash payment. Defendant JOSEPH A. GIORGIANNI directed CC-1 to bring defendant TONY F. MACK to Giorgianni's Clubhouse, stating "we gotta talk" because "I got something that might be good for him" and that "they've already come with Uncle Remus," meaning a corrupt cash payment.
6	5/29/12	At the direction and authorization of defendant TONY F. MACK, Trenton Official-1 sent a letter by United States Mail from the City of Trenton to CW-2 offering the sale of the East State Street Lot for \$100,000, representing an amount approximately \$100,000 lower than the amount that CW-2 purportedly was willing to pay.
7	6/13/12	Defendant JOSEPH A. GIORGIANNI, who was in New Jersey, telephoned defendant TONY F. MACK, who was in Florida, and informed defendant TONY F. MACK that "Uncle Remus," meaning a corrupt cash payment, "was there." Defendant TONY F. MACK replied, "I'll call you, J. Okay?"

In violation of Title 18, United States Code, Sections 1341, 1343 and 1346 and Section 2.

COUNT 8

(Conspiracy to Obstruct and Affect Interstate Commerce By
Extortion Under Color of Official Right)

1. Paragraphs 1(b) and 1(d) of Count 1 of this Indictment are hereby incorporated and realleged as if fully set forth in this Count.

2. At all times relevant to Count 8 of this Indictment:

a. There was another coconspirator ("CC-2") who was an associate of defendant JOSEPH A. GIORGIANNI and CC-1, and operated JoJo's Steakhouse.

b. There was an individual ("Individual-1") who operated an automobile detailing and power washing company in and around the City of Trenton that was a business that operated in interstate commerce.

3. From in or about April 2012 to in or about May 2012, in Mercer and Atlantic Counties, in the District of New Jersey and elsewhere, defendant

JOSEPH A. GIORGIANNI,
a/k/a "JoJo,"
a/k/a "Mr. Baker,"
a/k/a "the Fat Man"

did knowingly and intentionally conspire with CC-1 and CC-2 to obstruct, delay and affect interstate commerce by extortion under color of official right - that is, by corruptly agreeing to obtain and obtaining money from Individual-1, with Individual-1's consent, in exchange for CC-1's exercise of official authority

and influence as specific opportunities arose in connection with a contract to provide power washing services to the City of Trenton.

4. It was the object of the conspiracy to obtain a cash bribe and kickback from Individual-1 in exchange for the official action and influence of CC-1 in connection with Individual-1's company providing, and being paid for, power washing services for the City of Trenton.

5. To further the conspiracy, defendant JOSEPH A. GIORGIANNI, CC-1, Individual 1 and CC-2 engaged in the following conduct:

a. Defendant JOSEPH A. GIORGIANNI and CC-1 caused Individual-1 to inflate an invoice for power washing services rendered to the City of Trenton by at least approximately \$1,500.

b. Using his authority as a City of Trenton employee, CC-1 caused this inflated invoice to be approved by shepherding the invoice through the City of Trenton approval process and causing the City of Trenton to issue a \$4,911.30 check to Individual-1 between on or about April 24, 2012 and on or about April 25, 2012.

c. On or about April 25, 2012, defendant JOSEPH A. GIORGIANNI instructed Individual-1 to leave a kickback of approximately \$1,300 with CC-2 at JoJo's Steakhouse, which defendant JOSEPH A. GIORGIANNI subsequently received.

d. On or about April 25, 2012, defendant JOSEPH A. GIORGIANNI gave a portion of this kickback, approximately \$500, to CC-1 in Atlantic City.

In violation of Title 18, United States Code, Sections 1951(a) and (b)(2).

FORFEITURE ALLEGATION I

As a result of committing the aforementioned offenses in violation of Title 18, United States Code, Sections 666, 1341, 1343 and 1951(a), as alleged in Counts 1 to 7 of this Indictment, defendants TONY F. MACK, JOSEPH A. GIORGIANNI and RALPHIEL MACK shall forfeit to the United States pursuant to 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461, all property, real and personal, that constituted and was derived from proceeds traceable to the commission of the above offenses, including but not limited to, approximately \$54,000 in United States currency, in that such sum constituted and was derived, directly and indirectly, from proceeds traceable to the commission of violations of Title 18, United States Code, Sections 666, 1341, 1343 and 1951(a).

If any of the above-described forfeitable property, as a result of any act or omission of defendants TONY F. MACK, JOSEPH A. GIORGIANNI, and RALPHIEL MACK:

- (1) cannot be located upon the exercise of due diligence;
- (2) has been transferred or sold to, or deposited with, a third party;
- (3) has been placed beyond the jurisdiction of the court;
- (4) has been substantially diminished in value; or
- (5) has been commingled with other property which cannot be divided without difficulty;

it is the intent of the United States, pursuant to 21 U.S.C. § 853(p), to seek forfeiture of any other property of defendants TONY F. MACK, JOSEPH A. GIORGIANNI and RALPHIEL MACK up to the value of the above forfeitable property.

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

FORFEITURE ALLEGATION II

As a result of committing the aforementioned offense in violation of Title 18, United States Code, Section 1951(a), as alleged in Count 8 of this Indictment, defendant JOSEPH A. GIORGIANNI shall forfeit to the United States pursuant to 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461, all property, real and personal, that constituted and was derived from proceeds traceable to the commission of the above offense, including but not limited to, approximately \$1,300 in United States currency, in that such sum constituted and was derived, directly and indirectly, from proceeds traceable to the commission of violation of Title 18, United States Code, Section 1951(a).

If any of the above-described forfeitable property, as a result of any act or omission of defendant JOSEPH A.

GIORGIANNI:

- (1) cannot be located upon the exercise of due diligence;
 - (2) has been transferred or sold to, or deposited with, a third party;
 - (3) has been placed beyond the jurisdiction of the court;
 - (4) has been substantially diminished in value; or
 - (5) has been commingled with other property which cannot be divided without difficulty;
- it is the intent of the United States, pursuant to 21 U.S.C. § 853(p), to seek forfeiture of any other property of defendant

JOSEPH A. GIORGIANNI up to the value of the above forfeitable property.

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

A TRUE BILL


PAUL J. FISHMAN
United States Attorney