

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA)
)
) No. 04 CR 921
)
) Violations: Title 18, United States Code,
) Sections 2, 666, 1341, 1346, 1503
) 1512(b), 1623 and 1962
)
)
)
) v.)
)
)
) DONALD S. TOMCZAK,)
) GERALD J. WESOLOWSKI,)
) ROGER E. MCMAHON,)
) FLENORY S. BARNES SR.,)
) JOSEPH S. IGNOFFO,)
) LEROY S. PETERS and)
) COMMELIE R. PETERS)

COUNT ONE

The SPECIAL AUGUST 2003-2 GRAND JURY charges:

1. At times material to this indictment:

City of Chicago

A. 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. Several of the largest City operational departments included the Department of Water, the Department of Streets and Sanitation, the Department of Transportation and the Department of Sewers. Each of the departments was headed by a Commissioner, who was nominated by the Mayor of the City and confirmed by the City Council, the legislative body for the City.

The Department of Water

B. The Department of Water was responsible for delivering potable water from pumping stations to City residents and businesses, as well as to certain suburban communities. Employing approximately 2000 employees, the Department of Water was divided into seven bureaus, with separate and distinct functions. The largest of the bureaus was the Bureau of Operations and Distribution (hereinafter “Distribution”), which employed approximately 900 individuals. Generally, each bureau was headed by a Deputy Commissioner. With regard to Distribution, the First Deputy Commissioner effectively served as the overall manager of Distribution. Distribution was divided into geographic districts, each of which was headed by a district superintendent. The principal function of Distribution was the installation, repair and monitoring of water delivery systems within the City. The headquarters for Distribution was the Jardine Filtration Plant, located in Chicago, where the First Deputy Commissioner had his principal office.

C. On or about January 1, 2003, the Department of Water merged with the Department of Sewers and the newly-formed entity was entitled the Department of Water Management. (Hereinafter, the pre-merger Department of Water and the post-merger Department of Water Management will be referred to as the “Department”).

The City’s Hired Truck Program

D. The City's Hired Truck Program (“HTP”) provided certain City operating departments with a mechanism to use trucking services on an as-needed basis to complete construction and operating obligations. Participating HTP trucking companies were hired by the City and provided equipment and operators to the respective City operating departments to perform specific tasks. The principal operating departments using HTP services were the Department, the

Department of Streets and Sanitation, the Department of Transportation and the Department of Sewers.

E. In conjunction with the HTP, the operating departments hired some trucks on a year-round basis for particular City operations; other trucks were hired on a seasonal basis for departmental projects, and still other trucks were hired for short periods of time on an as-needed basis for particular tasks of the respective departments.

F. Beginning in or about 1997, HTP participating companies and their individual trucks had to be approved for entry into the HTP by the program Office (the “HTP Office”), after an application and review process was conducted by the HTP Office staff. Once approved, an HTP participating company went on an approved list maintained by the HTP Office. The HTP Office staff was further responsible for ongoing monitoring and regulation of the participating HTP companies and their trucks regarding insurance, inspection, safety and other related issues. The HTP Office had the authority to suspend or discipline HTP participating companies for violations of the HTP rules.

G. There was no bid process and no formal, written contract for any particular job within the operating departments. Rather, certain City employees within the respective operating departments with HTP responsibilities participated in the process of “calling out” or hiring trucks for a particular HTP assignment within the department (“HTP supervisors”). The HTP supervisors also decided when trucks were to be laid off for a particular assignment and the order in which trucks were to be laid off. Generally, the decisions were made at the discretion of the HTP supervisors within the respective departments, though there was occasional input provided by the HTP Office.

H. As to each department utilizing the HTP, the City compensated HTP trucking company participants at a fixed hourly rate based on the size of the truck. Typically, on a monthly basis, participating HTP trucking companies would submit invoices for their monthly work for each City department. Thereafter, the City would process the invoices and typically would remit payments by negotiable instruments known as “warrants” to the particular company via the United States mails.

The Department’s Use of Participating HTP Trucking Companies

I. As to the Department’s use of the HTP, individual requests for HTP services typically were made by the district superintendent of one of the Distribution geographic districts and directed to the office of the First Deputy Commissioner for review. After the request was reviewed and individual selections were made by the First Deputy Commissioner, HTP supervisors designated by the First Deputy Commissioner would notify the particular HTP participant as to the assignment and type of truck(s) necessary, thereby “calling out” the trucks for the Department. Upon completion of the HTP assignment or based upon further review by the First Deputy Commissioner, individual HTP trucking company participants would be notified that the truck was being assigned to another Department project, terminated or otherwise designated. From at least 1989 to late 2003, the First Deputy Commissioner exercised final authority as to selection, assignment, and hiring of trucks, as well as the order in which companies would be laid off at the end of a season or project (hereinafter the “lay off process”) related to the HTP business of the Department.

J. For each year from at least 1997 through 2003, the Department expended between approximately \$8,000,000-\$11,700,000 annually in City funds for HTP services provided by participating HTP trucking companies.

Individuals and Entities

2. DONALD TOMCZAK: DONALD TOMCZAK began working for the City in or about 1958. Beginning no later than 1989 and continuing through approximately January 2004, TOMCZAK was a full-time salaried employee of the City. Beginning in approximately December 1989 and continuing through in or about January 2004, TOMCZAK was the First Deputy Commissioner of the Department and held that title until his retirement effective January 2004.

3. GERALD WESOLOWSKI: GERALD WESOLOWSKI began working for the City in or about April 1982 and continued as a full-time salaried employee of the City through early October 2004. Beginning in or about the Fall of 1998 and continuing through at least January 2004, WESOLOWSKI was the Director of Finance and Administration for the Department and performed functions and tasks relating to HTP work of the Department. From at least 1998 to January 2004, WESOLOWSKI reported to TOMCZAK.

4. Roger McMahon: Roger McMahon began working for the City in 1960 and was a full-time salaried employee for the City until approximately June 30, 1998. From at least 1989 through his June 1998 retirement from the City, McMahon was the Director of Finance and Administration for the Department and performed functions and tasks relating to HTP work of the Department. In these capacities, McMahon reported to TOMCZAK. Thereafter, from approximately April 15, 1999, through April 27, 2001, McMahon was a part-time consultant with a third party company and was assigned to do work for the City. In his capacity as a consultant, McMahon continued to take periodic direction from TOMCZAK.

5. Flenory Barnes, Sr.: Flenory Barnes Sr. began working for the City in 1966 and served in various positions in the Department, including Assistant to the First Deputy Commissioner

and Assistant Superintendent. Later, Barnes worked in the Department of Sewers, through his retirement in or about June 2003, including in the position of Deputy Commissioner. During portions of his Department employment, Barnes participated in the process of requesting HTP trucking services on behalf of the Department district to which he was assigned. As to certain matters, including in his position as Assistant to the First Deputy Commissioner, Barnes reported to TOMCZAK.

_____6. Joseph S. Ignoffo: Beginning no later than September 1998, Joseph S. Ignoffo became a principal operating agent of Ignoffo Trucking Co. (“Ignoffo Trucking”), an HTP participating company. Ignoffo Trucking was registered with the City as a Women’s Business Enterprise (“WBE”). For each year from 1997 through 2003, Ignoffo Trucking averaged over \$430,000 in revenues from HTP work of the Department.

7. Leroy Peters: Beginning in or about the 1980s and continuing through at least the late 1990s, Peters was a principal operating agent on behalf of LR&C Truck Line (“LR&C”), an HTP participating company. LR&C was registered with the City as a Minority Business Enterprise (“MBE”). As of 1998, LR&C added WBE status and was thereafter registered with the City as a MBE/WBE. For each year from 1997 through 2003, LR&C averaged over \$550,000 in revenues from HTP work of the Department.

8. Commelie Peters: Beginning in or about 1991, Commelie Peters began working for LR&C. Beginning no later than the late 1990s and continuing through 2004, Commelie Peters was a principal operating agent on behalf of LR&C, assuming that position from her father, Leroy Peters.

9. Trucking companies, in addition to Ignoffo Trucking and LR&C, which participated in HTP work of the Department, included, among others, the following:

A. Company C and a companion company organized by the same individuals were HTP trucking company participants (hereinafter, collectively “Company C”). For each year from 1997 through 2003, Company C averaged over \$820,000 in revenues from HTP work of the Department. Individual C was Company C’s principal contact with the Department.

B. Company D was an HTP trucking company participant. For each year from 1997 through 2003, Company D averaged over \$325,000 in revenues from HTP work of the Department. Individual D was Company D’s principal contact with the Department.

C. Company E was an HTP trucking company participant. For each year from 1997 through 2003, Company E averaged over \$200,000 in revenues from HTP work of the Department. Individual E was Company E’s principal contact with the Department.

D. Company F was an HTP trucking company participant. For each year from 1998 through 2003, Company F averaged over \$175,000 in revenues from HTP work of the Department. Individual F was Company F’s principal contact with the Department.

E. Company G was an HTP trucking company participant. For each year from 1997 through 2003, Company G averaged over \$240,000 in revenues from HTP work of the Department. Individual G was Company G’s principal contact with the Department.

F. Company H was an HTP trucking company participant. For each year from 1998 through 2003, Company H averaged over \$270,000 in revenues from HTP work of the Department. Individual H was Company H’s principal contact with the Department.

G. Company I was an HTP trucking company participant. For each year from 1997 through 2003, Company I averaged over \$150,000 in revenues from HTP work of the Department. Individual I was Company I’s principal contact with the Department.

H. Company J was an HTP trucking company participant which received HTP work of the Department. Individual J was Company J's principal contact with the Department.

Collectively, Ignoffo Trucking, LR&C, Company C, Company D, Company E, Company F, Company G, Company H, Company I and Company J will be referred to as the "Department Trucking Companies."

Laws and Duties Applicable to City Employees

10. During their respective employments with the City of Chicago, and pursuant to the Chicago Governmental Ethics Ordinance, TOMCZAK, WESOLOWSKI, McMahon and Barnes (collectively, the "City Employees") each owed a duty of honest services to the City and the people of the City in the performance of their respective public duties.

11. Pursuant to the criminal laws of the State of Illinois, each of the City Employees was prohibited from: (a) being, in any manner, financially interested, either directly or indirectly, in any contract or the performance of any work in regard to which any City Employee may have been called upon to act; (b) receiving, retaining, or agreeing to accept any property or personal advantage which any City Employee was not authorized by law to accept, knowing that such property or personal advantage was promised or tendered with intent to cause the City Employee to influence the performance of any act related to the employment or function of the City Employee's office; and (c) soliciting or knowingly accepting, for the performance of any act, a fee or reward which the City Employee knew he was not authorized by law to accept.

12. Pursuant to the Chicago Governmental Ethics Ordinance, while each was a City Employee, each City Employee was prohibited from in any way using or attempting to use his respective position to influence any City governmental decision or action in which the City Employee

knew or had reason to know that the City Employee had an economic interest distinguishable from its effect on the public generally. Each of the City Employees was also required to disclose any economic interest he had in a matter, prior to acting on it.

13. Pursuant to the Chicago Governmental Ethics Ordinance, each City Employee was prohibited from accepting anything of value, including, but not limited to, a gift, favor or promise of future employment, based upon any mutual understanding, either explicit or implicit, that the official actions, decisions or judgments of any Official, employee or City contractor, concerning the business of the City would be influenced thereby. (Non-monetary gifts valued at less than \$50 generally were exempted from this provision). Any such gift was required to be turned over to the City Comptroller.

14. Pursuant to the Chicago Governmental Ethics Ordinance, each City Employee was obligated to file annually a Statement of Economic Interest with the City, wherein he was required to disclose, among other things: (1) the nature of any professional, business or other service rendered by the City Employee or his spouse from which he derived compensation during the preceding calendar year in excess of \$5,000; (2) the name of any entity from which a gift or gifts valued singly or in the aggregate in excess of \$500 was received during the preceding calendar year; and (3) the name and instrument of ownership in any person conducting business in the City, in which the City Employee had a financial interest during the preceding calendar year.

15. Pursuant to the Constitution of the State of Illinois, City Employees were permitted to use public funds, property and credit only for public purposes.

16. Pursuant to the Chicago Governmental Ethics Ordinance, each of the City Employees was prohibited from knowingly soliciting or accepting any political contribution from a person doing business or seeking to do business with the City.

The Enterprise

17. At all times material to this indictment, the Department constituted an “Enterprise” as that term is defined in Title 18, United States Code, Section 1961(4), which was engaged in, and the activities of which affected, interstate commerce.

18. Defendants TOMCZAK and WESOLOWSKI were employed by and associated with the Enterprise.

The Racketeering Conspiracy

19. Beginning no later than approximately 1993 and continuing to approximately September 2004, in Chicago, in the Northern District of Illinois, Eastern Division, and elsewhere:

DONALD S. TOMCZAK and
GERALD J. WESOLOWSKI,

defendants herein, and others known and unknown to the Grand Jury, being persons employed by and associated with an enterprise engaged in, and the activities of which affected, interstate commerce, namely, the Department, did conspire with each other and others known and unknown to the Grand Jury to violate Title 18, United States Code, Section 1962(c), that is, to conduct and participate, directly and indirectly, in the conduct of the affairs of the Enterprise through a pattern of racketeering activity consisting of multiple acts indictable under the following provisions of federal law:

- A. Title 18 U.S.C. § 1341 and 1346 (mail fraud);
- B. Title 18 U.S.C. § 1951 (extortion);

C. Title 18 U.S.C. § 1503 and 1512 (obstruction of justice);

and multiple acts involving bribery chargeable under the following provisions of state law:

720 ILCS 5/33-1(c) and (d); and 5/33-3(d).

It was part of the conspiracy that the defendants TOMCZAK and WESOLOWSKI agreed that a conspirator would commit at least two acts of racketeering in the conduct of the affairs of the Enterprise.

Purposes of the Conspiracy

20. The purposes of the conspiracy included the following:

A. Performing official government acts, including decisions relating to the hiring, assigning and layoff process for HTP work of the Department, for the personal and financial benefit of TOMCZAK, WESOLOWSKI, certain City Employees, representatives of the Department Trucking Companies, and third parties affiliated with TOMCZAK, including political campaigns associated with certain government officials and political candidates;

B. Providing cash payments, campaign contributions and other things of value for the personal and financial benefit of TOMCZAK, WESOLOWSKI, certain City Employees and third parties affiliated with TOMCZAK, including political campaigns associated with certain government officials and political candidates; and

C. Diverting and otherwise using the resources of the City and the Department for the personal and financial benefit of TOMCZAK, WESOLOWSKI and third parties associated with TOMCZAK, including political campaigns associated with certain government officials and political candidates.

Means and Method of the Conspiracy

21. It was part of the conspiracy that defendants TOMCZAK and WESOLOWSKI, as well as co-conspirators Roger McMahon, Flenory Barnes, Joseph Ignoffo, Leroy Peters, Commelie Peters, representatives of the Department Trucking Companies and others, engaged in a scheme to defraud the people of the City and the City of money, property and the intangible right to the honest services of TOMCZAK, WESOLOWSKI and the City Employees, in their respective capacities as City Employees, by means of materially false and fraudulent pretenses, representations, promises and material omissions, as more fully described in Count Two, paragraphs 3 through 20 of this indictment. Defendants TOMCZAK and WESOLOWSKI used and caused to be used the United States mails and other interstate carriers in furtherance of the scheme.

22. It was further part of the conspiracy that representatives of the Department Trucking Companies provided personal and financial benefits to, and for the benefit of, defendant TOMCZAK, WESOLOWSKI, the City Employees, and third parties affiliated with TOMCZAK, including political campaigns associated with certain government officials and political candidates, due to TOMCZAK's official position, and for the purpose of influencing and rewarding TOMCZAK in the exercise of his official authority relating to the HTP.

23. It was further part of the conspiracy that defendants TOMCZAK and WESOLOWSKI, as well as the City Employees, knowingly took actions in their respective official capacities to benefit the personal and financial interests of the Department Trucking Companies and their representatives while concealing, in violation of the law, the City Employees' financial relationship with the Department Trucking Companies and their representatives. Such concealment included the failure

to disclose the cash payments and other things of value received by TOMCZAK, WESOLOWSKI and the City Employees from the Department Trucking Companies and their representatives.

24. It was further part of the conspiracy that, at the direction of, and with the authorization of defendants TOMCZAK and WESOLOWSKI, McMahon and Barnes solicited and collected cash payments and campaign contributions from representatives of the Department Trucking Companies, and delivered the payments to TOMCZAK and WESOLOWSKI, in return for, and in connection with, official acts taken by TOMCZAK to benefit the Department Trucking Companies.

25. It was further part of the conspiracy that defendants TOMCZAK and WESOLOWSKI, as well as the City Employees working at TOMCZAK's direction, committed and attempted to commit extortion, which extortion obstructed, delayed and affected commerce, by knowingly obtaining and attempting to obtain property in the form of payments and campaign contributions from certain representatives of Department Trucking Companies a) under color of official right; and b) induced by the wrongful use of actual and threatened fear of economic harm.

26. It was further part of the conspiracy that defendants TOMCZAK and WESOLOWSKI, and other agents of TOMCZAK, diverted, caused the diversion of and otherwise utilized City labor and resources for the personal benefit of TOMCZAK and third parties associated with TOMCZAK, including political campaigns associated with certain government officials and political candidates.

27. It was further part of the conspiracy that defendants TOMCZAK and WESOLOWSKI a) obstructed and attempted to obstruct the Grand Jury Investigation, b) tampered and attempted to tamper with potential grand jury witnesses, and c) otherwise misrepresented, concealed and hid, and caused to be misrepresented, concealed and hidden, the purposes of and acts done in furtherance of the conspiracy.

All in violation of Title 18, United States Code, Section 1962(d).

COUNT TWO

The SPECIAL AUGUST 2003-2 GRAND JURY further charges:

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

2. Beginning no later than approximately 1993 and continuing to approximately September 2004, in the Northern District of Illinois, Eastern Division, and elsewhere:

DONALD S. TOMCZAK,
GERALD J. WESOLOWSKI,
ROGER E. MCMAHON,
FLENORY S. BARNES, SR.,
JOSEPH S. IGNOFFO,
LEROY S. PETERS and
COMMELIE R. PETERS,

defendants herein, and others known and unknown to the Grand Jury, devised and intended to devise, and participated in, a scheme and artifice to defraud the people of the City, and the City, of money, property and the intangible right to the honest services of defendants TOMCZAK, WESOLOWSKI, MCMAHON, BARNES and other officials, employees and agents of the City and the Department, by means of materially false and fraudulent pretenses, representations, promises and material omissions, and in furtherance thereof used the United States mails and other interstate carriers, which scheme is further described in the following paragraphs:

Overview of Scheme

3. It was part of the scheme that, beginning no later than 1993 and continuing until late 2003, defendant TOMCZAK, as well as defendants WESOLOWSKI and MCMAHON working at TOMCZAK's direction, performed and authorized official Department actions to benefit the

financial interests of JOSEPH IGNOFFO, LEROY PETERS, COMMELIE PETERS, and the representatives of other Department Trucking Companies, including:

- A. Awarding, and authorizing the award of, assignments to perform HTP work for the Department; and
- B. Providing business opportunities in the selection, hiring, assigning and lay off process for HTP Department projects.

4. It was further part of the scheme that defendants JOSEPH IGNOFFO, LEROY PETERS and COMMELIE PETERS, as well as the representatives of other Department Trucking Companies provided cash, campaign contributions and other things of value for the benefit of TOMCZAK, MCMAHON and WESOLOWSKI and third parties associated with TOMCZAK, with TOMCZAK knowing that such benefits were provided with intent to influence and reward TOMCZAK in the performance of his official acts related to the HTP. Such financial benefits from the representatives of the Department Trucking Companies were provided directly to TOMCZAK, as well as to TOMCZAK through WESOLOWSKI, MCMAHON and BARNES.

5. It was further part of the scheme that the Department Trucking Companies, through their representatives, and at TOMCZAK's direction, provided cash payments, campaign contributions and things of value totalling in excess of \$500,000 from 1993 through early 2004 to TOMCZAK and the City Employees. Such financial benefits included, but were not limited to, the following:

- A. Monetary payments and gifts for the benefit of defendants TOMCZAK, WESOLOWSKI and MCMAHON, which payments and gifts substantially and regularly exceeded \$50;
- B. Political contributions and other financial benefits provided by representatives of Department Trucking Companies at TOMCZAK's direction for the benefit of political campaigns with which TOMCZAK and other high-ranking government officials were associated, including Candidate A, Official B,

Judicial Candidate C, Ward Organization D and Aldermanic Candidate E, among others.

6. It was further part of the scheme that defendant TOMCZAK, working through certain Department employees, including WESOLOWSKI, BARNES and others, diverted and otherwise utilized City and Department resources for the personal benefit of TOMCZAK and political campaigns with which TOMCZAK was associated. Such efforts directed and authorized by TOMCZAK, and performed by TOMCZAK, WESOLOWSKI, BARNES, and other Department employees, included:

- A. Awarding and promising the award of jobs and promotions in return for political work performed by Department employees;
- B. Conducting and coordinating political fundraising solicitations of certain City and Department vendors, including Department Trucking Companies, on behalf of certain political campaigns and organizations, including campaigns associated with Candidate A, Official B, Judicial Candidate C, Ward Organization D and Aldermanic Candidate E, among others;
- C. Authorizing overtime to certain Department employees as a reward for performing political work; and
- D. Permitting City employees to conduct maintenance, repair and rent collection for apartment buildings owned by TOMCZAK, some of which work was conducted on City time.

Payments By Department Trucking Companies

Payments Made By Company C Representatives

7. It was further part of the scheme that, beginning in or about 1993, after an initial meeting between TOMCZAK, BARNES, Individual C, and another individual associated with Company C ("Representative 2"), Individual C and Representative 2 agreed to provide cash payments and other things of value to TOMCZAK in return for, and in connection with, TOMCZAK authorizing and providing Company C HTP business opportunities on a regular basis. Thereafter,

on periodic occasions through December 2003, at TOMCZAK's direction, representatives of Company C hand-delivered cash payments and campaign contributions to BARNES, TOMCZAK and later WESOLOWSKI on behalf of, and for the benefit of, TOMCZAK and third parties associated with TOMCZAK. Individual C and Representative 2 provided the cash payments and campaign contributions intending to influence and reward TOMCZAK in the performance of his official acts related to the HTP. As a result of TOMCZAK and WESOLOWSKI's actions as it related to Company C, Company C received HTP business on a regular basis in the Department.

Payments Made By LR&C Representatives

8. It was further part of the scheme that, beginning in or about 1995, after an initial phone call from a Department official to LEROY PETERS, LEROY PETERS agreed to provide cash payments in return for, and in connection with, the Department authorizing and providing LR&C business relating to the HTP. Thereafter, at TOMCZAK's direction, on periodic occasions through December 2003, BARNES visited the LR&C offices to obtain cash payments and campaign contributions for the benefit of TOMCZAK and third parties associated with TOMCZAK. LEROY PETERS provided the cash payments and campaign contributions intending to influence and reward TOMCZAK in the performance of his official acts related to the HTP. As a result of TOMCZAK's actions as it related to LR&C, LR&C received HTP business on a regular basis in the Department.

9. It was further part of the scheme that, beginning in the late 1990s and continuing periodically until in or about June 2003, COMMELIE PETERS, on behalf of LR&C, occasionally provided TOMCZAK cash payments directly to BARNES, for the benefit of TOMCZAK. COMMELIE PETERS provided the cash payments intending to influence and reward TOMCZAK

in the performance of his official acts related to the HTP. As a result of TOMCZAK's actions as it related to LR&C, LR&C received HTP business on a regular basis in the Department.

Payments Made By IGNOFFO

10. It was further part of the scheme that, beginning no later than the Fall of 1998, after an initial conversation between MCMAHON and IGNOFFO, IGNOFFO agreed to provide cash payments and other things of value through MCMAHON to TOMCZAK in return for, and in connection with, TOMCZAK authorizing and providing IGNOFFO ongoing business opportunities relating to the HTP. Thereafter, on periodic occasions through December 2003, IGNOFFO hand-delivered cash payments and campaign contributions to MCMAHON on behalf of, and for the benefit of, TOMCZAK, MCMAHON and third parties associated with TOMCZAK. IGNOFFO provided the cash payments and campaign contributions intending to influence and reward TOMCZAK in the performance of his official acts related to the HTP. As a result of TOMCZAK's actions as it related to IGNOFFO, Ignoffo Trucking received HTP business on a regular basis in the Department.

Payments Made By Other Department Trucking Companies

11. It was further part of the scheme that, from the mid 1990s through late 2003, MCMAHON, on behalf of TOMCZAK, solicited and otherwise obtained cash payments, campaign contributions and/or other things of value from representatives of Trucking Company D, Trucking Company E, Trucking Company F, Trucking Company G, Trucking Company H and Trucking Company I. On periodic occasions through 2003, representatives of Trucking Company D, Trucking Company E, Trucking Company F, Trucking Company G, Trucking Company H and Trucking Company I provided the cash payments, campaign contributions and/or other things of value to

MCMAHON, for the benefit of TOMCZAK, intending to influence and reward TOMCZAK in the performance of his official acts related to the HTP. As a result of TOMCZAK's actions as it related to Trucking Company D, Trucking Company E, Trucking Company F, Trucking Company G, Trucking Company H and Trucking Company I, each received HTP business on a regular basis in the Department.

12. It was further part of the scheme that, from approximately 1998 through 2003, defendant WESOLOWSKI, on behalf of TOMCZAK, solicited and received cash payments, campaign contributions and/or other things of value from Trucking Company D, Trucking Company I and Trucking Company J. On periodic occasions, Trucking Company D, Trucking Company I and Trucking Company J provided cash payments and campaign contributions to WESOLOWSKI for the benefit of TOMCZAK, intending to influence and reward TOMCZAK in the performance of his official acts related to the HTP. As a result of TOMCZAK's actions as it related to Trucking Company D, Trucking Company I and Trucking Company J, each received HTP business on a regular basis in the Department.

Acts Of Concealment And Obstruction

13. It was further part of the scheme that, in or about late September 2004, defendants TOMCZAK and WESOLOWSKI obstructed and attempted to obstruct the grand jury investigation, tampered and attempted to tamper with potential government witnesses, including without limitation, Individual C.

14. It was further part of the scheme that defendants TOMCZAK, WESOLOWSKI and the City Employees failed to disclose the receipt of any gifts, cash payments or campaign contributions from the Department Trucking Companies on their respective Statements of Economic Interest, filed annually with the City Board of Ethics.

15. It was further part of the scheme that defendants TOMCZAK, WESOLOWSKI, MCMAHON, BARNES, IGNOFFO, LEROY PETERS, COMMELIE PETERS and representatives of Department Trucking Companies misrepresented, concealed and hid, and caused to be misrepresented, concealed and hidden, the purposes of and acts done in furtherance of the scheme.

Using Department Resources for Personal and Political Gain

_____16. At times material to this indictment:

A. TOMCZAK designated certain Department employees, including WESOLOWSKI, BARNES, a Department employee hereinafter referred to as Employee A, and a Department employee hereinafter referred to as Employee B, as coordinators for political activity TOMCZAK organized on behalf of certain political campaigns and candidates.

B. TOMCZAK, through his coordinators, assembled in excess of 100 Department employees for certain political efforts on behalf of candidates for various City, county, state and federal offices (hereinafter the “TOMCZAK Political Organization”), including political campaigns affiliated with Candidate A, Official B, Judicial Candidate C, Aldermanic Candidate E and Congressional Candidate F, among others. The Department employees typically performed voter outreach efforts, including passing petitions, providing phone banking services, passing campaign literature door-to-door and providing election day assistance.

_____17. It was further part of the scheme that, for certain members of the TOMCZAK Political Organization, including BARNES, Employee A and others, TOMCZAK offered and authorized the award of jobs and promotions in return for political work performed in support of the TOMCZAK Political Organization.

18. It was further part of the scheme that TOMCZAK, working through WESOLOWSKI, MCMAHON and Employee C, conducted and coordinated political fundraising solicitations of City and Department vendors, on behalf of campaigns and organizations, including campaigns associated with Candidate A, Official B, Judicial Candidate C, Ward Organization D and Aldermanic Candidate E, among others.

19. It was further part of the scheme that, for certain members of the TOMCZAK Political Organization, including a Department employee hereinafter referred to as Employee C and a Department employee hereinafter referred to as Employee D, TOMCZAK offered and authorized overtime for Department employees as a reward for political work performed in support of the TOMCZAK Political Organization, even where such overtime was strongly discouraged by high-ranking Department officials due to budgetary constraints.

20. It was further part of the scheme that TOMCZAK permitted and directed certain City employees, including Employee A, to conduct maintenance, repair and rent collection work on two apartment buildings owned by TOMCZAK, some of which work was conducted on City time.

21. On or about March 11, 2002, at Chicago, in the Northern District of Illinois, Eastern Division,

DONALD TOMCZAK and
GERALD WESOLOWSKI,

defendants herein, along with Individual C, for the purpose of executing the aforesaid scheme, and attempting to do so, did knowingly cause to be delivered by mail according to the direction thereon an envelope containing a City warrant addressed to Company C at a Chicago, Illinois address,

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

COUNT THREE

The SPECIAL AUGUST 2003-2 GRAND JURY further charges:

1. The allegations in paragraphs 1–20 of Count Two of this indictment are hereby realleged and incorporated herein as if fully set forth herein.

2. In or about late November 2003, at Chicago, in the Northern District of Illinois, Eastern Division,

DONALD TOMCZAK and
GERALD WESOLOWSKI,

defendants herein, along with Individual J, for the purpose of executing the aforesaid scheme, and attempting to do so, did knowingly cause to be delivered by mail according to the direction thereon an envelope containing a City warrant addressed to Company J at a Chicago, Illinois, address,

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

COUNT FOUR

The SPECIAL AUGUST 2003-2 GRAND JURY further charges:

1. The allegations in paragraphs 1–20 of Count Two of this indictment are hereby realleged and incorporated herein as if fully set forth herein.

2. On or about January 23, 2003, at Chicago, in the Northern District of Illinois, Eastern Division,

DONALD TOMCZAK,
ROGER MCMAHON and
JOSEPH S. IGNOFFO,

defendants herein, for the purpose of executing the aforesaid scheme, and attempting to do so, did knowingly cause to be delivered by mail according to the direction thereon an envelope containing a City warrant addressed to Ignoffo Trucking at a Chicago, Illinois, address,

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

COUNT FIVE

The SPECIAL AUGUST 2003-2 GRAND JURY further charges:

1. The allegations in paragraphs 1–20 of Count Two of this indictment are hereby realleged and incorporated herein as if fully set forth herein.

2. On or about October 24, 2000, at Chicago, in the Northern District of Illinois, Eastern Division,

DONALD TOMCZAK,
FLENORY BARNES and
LEROY PETERS,

defendants herein, for the purpose of executing the aforesaid scheme, and attempting to do so, did knowingly cause to be delivered by mail according to the direction thereon an envelope containing a City warrant addressed to LR&C at a Blue Island, Illinois, address,

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

COUNT SIX

The SPECIAL AUGUST 2003-2 GRAND JURY further charges:

1. The allegations in paragraphs 1–20 of Count Two of this indictment are hereby realleged and incorporated herein as if fully set forth herein.

2. On or about March 1, 2003, at Chicago, in the Northern District of Illinois, Eastern Division,

DONALD TOMCZAK and
COMMELIE PETERS,

defendants herein, along with Flenory Barnes, for the purpose of executing the aforesaid scheme, and attempting to do so, did knowingly cause to be delivered by mail according to the direction thereon an envelope containing a City warrant addressed to LR&C at a Blue Island, Illinois, address,

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

COUNT SEVEN

The SPECIAL AUGUST 2003-2 GRAND JURY further charges:

1. The allegations in paragraphs 1–20 of Count Two of this indictment are hereby realleged and incorporated herein as if fully set forth herein.

2. On or about March 2, 2001, at Chicago, in the Northern District of Illinois, Eastern Division,

DONALD TOMCZAK,

defendant herein, along with Roger McMahon and Individual E, for the purpose of executing the aforesaid scheme, and attempting to do so, did knowingly cause to be delivered by mail according to the direction thereon an envelope containing a City warrant addressed to Company E at a Chicago, Illinois, address,

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

COUNT EIGHT

The SPECIAL AUGUST 2003-2 GRAND JURY further charges:

1. The allegations in paragraphs 1–9 of Count One of this indictment are hereby realleged and incorporated herein as if fully set forth herein.

2. From in or about January 2002 to in or about December 2002, at Chicago, in the Northern District of Illinois, Eastern Division,

DONALD TOMCZAK and
GERALD WESOLOWSKI,

defendants herein, being agents of the City, corruptly solicited and demanded for their own benefit and the benefit of their political associates, and accepted and agreed to accept things of value from representatives of Department Trucking Companies, intending to be influenced or rewarded in connection with the awarding of City trucking business in a series of transactions having a value of \$5,000 or more, involving the City, being an agency that received in excess of \$10,000 in federal funding in a twelve-month period from January 1, 2002, to December 31, 2002,

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

COUNT NINE

The SPECIAL AUGUST 2003-2 GRAND JURY further charges:

1. The allegations in paragraphs 1–9 of Count One of this indictment are hereby realleged and incorporated herein as if fully set forth herein.

2. From in or about January 2002 to in or about December 2002, at Chicago, in the Northern District of Illinois, Eastern Division,

LEROY PETERS and
COMMELIE PETERS,

did corruptly give, offer and agree to give things of value, with the intent to influence or reward one or more Department officials, being agents of the City, in connection with the awarding of City trucking business in a series of transactions involving any thing of value of \$5,000 or more, with the City being an agency that received in excess of \$10,000 in federal funding in a twelve-month period from January 1, 2002, to December 31, 2002,

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

COUNT TEN

The SPECIAL AUGUST 2003-2 GRAND JURY further charges:

1. The allegations in Paragraphs 1-9 of Count One of this indictment are hereby realleged and incorporated herein as if fully set forth herein.

2. The SPECIAL AUGUST 2003-2 GRAND JURY, in connection with Grand Jury Investigation No. 02 GJ 1348, was conducting an investigation into possible violations of Title 18, United States Code, Sections 666, 1001, 1341, 1346, 1503, 1951, 1963, among other violations of federal law.

3. By no later than early September 2004, it was material to the Grand Jury Investigation whether or not representatives of Department Trucking Companies, including Individual C, provided cash payments, campaign contributions or other things of value to City Employees, including WESOLOWSKI and TOMCZAK.

4. On or about September 22, 2004, Roger McMahon was arrested by federal agents. During the course of post-arrest statements, McMahon acknowledged that he solicited and obtained cash payments and campaign contributions on behalf of, and at the direction of, TOMCZAK. McMahon further acknowledged handwriting a document (hereinafter the "2002 Campaign Document") that summarized the campaign contributions McMahon and WESOLOWSKI were to obtain on behalf of TOMCZAK from representatives of certain Department Trucking Companies, including Company C.

5. On or about September 24, 2004, defendants TOMCZAK and WESOLOWSKI learned that McMahon had been interviewed by federal agents regarding his knowledge of certain Department Trucking Companies, and that federal investigators had asked questions about the 2002 Campaign Document, as well as Company C, among other Department Trucking Companies.

6. From on or about September 27, 2004 through on or about September 29, 2004, in Chicago, Illinois, Northern District of Illinois, Eastern Division,

DONALD TOMCZAK, and
GERALD WESOLOWSKI,

defendants herein, endeavored to influence, obstruct, and impede the due administration of justice; namely, that defendants TOMCZAK and WESOLOWSKI, knowing that the Grand Jury Investigation was probing, among other things, the financial relationship between Department Trucking Companies and City Employees, 1) on September 27, 2004, directed and requested Individual C that, with regard to inquiries by federal investigators, Individual C keep quiet; 2) on September 29, 2004, directed and advised Individual C that federal investigators were unaware that Individual C had provided envelopes to WESOLOWSKI and TOMCZAK;

In violation of Title 18, United States Code, Sections 1503(a) and 2.

COUNT ELEVEN

The SPECIAL AUGUST 2003-2 GRAND JURY further charges:

1. The allegations in Paragraphs 1-5 of Count Ten of this indictment are hereby realleged and incorporated herein as if fully set forth herein.

2. From on or about September 27, 2004 through on or about September 29, 2004, in Chicago, Illinois, Northern District of Illinois, Eastern Division,

DONALD TOMCZAK, and
GERALD WESOLOWSKI,

defendants herein, corruptly persuaded another person, and engaged in misleading conduct toward another person, namely, Individual C, and attempted to do the same, with the intent to hinder, delay, and prevent the communication to a law enforcement officer of the United States of information relating to the commission or possible commission of a federal offense in violation of federal law,

In violation of Title 18, United States Code, Sections 1512(b)(3) and 2.

COUNT TWELVE

_____The SPECIAL AUGUST 2003-2 GRAND JURY further charges:

1. The allegations in paragraphs 1-8 of Count One of this indictment are hereby realleged and incorporated herein as if fully set forth herein.

2. The SPECIAL AUGUST 2003-2 GRAND JURY, in connection with Grand Jury Investigation No. 02 GJ 1348, was conducting an investigation into possible violations of Title 18, United States Code, Sections 666, 1001, 1341, 1346, 1503, 1951, 1962, among other violations of federal law.

3. By no later than early September 2004, it was material to the Grand Jury Investigation whether or not Department Trucking Companies or their representatives, including LR&C, provided cash payments, campaign contributions or other things of value to City Employees, including any Department employees.

4. On or about September 23, 2004, at Chicago, in the Northern District of Illinois, Eastern Division,

COMMELIE PETERS,

defendant herein, was placed under oath before testifying and was advised that her testimony was subject to the penalties of perjury before the SPECIAL AUGUST 2003-2 GRAND JURY in connection with Grand Jury Investigation No. 02 GJ 1348;

5. The defendant COMMELIE PETERS knowingly made false material declarations by stating, in substance, the following:

A. She personally never gave cash or gifts of any kind to any city employees relating to the HTP.

B. No city employee ever asked for money for the employee's "personal" use (as opposed to solicitations for cash campaign contributions).

WHEREAS, in truth and fact, as defendant COMMELIE PETERS then well knew:

A. On at least 5 occasions through approximately June 2003, COMMELIE PETERS provided cash payments to Flenory Barnes, a City Employee, with the understanding that the payments were for the personal use of a City employee. COMMELIE PETERS further understood that said payments permitted LR&C to keep and maintain HTP business opportunities in the Department.

B. From at least the late 1990s through approximately June 2003, Flenory Barnes came to the LR&C facility and picked up an envelope of cash, which cash COMMELIE PETERS typically obtained by withdrawing funds from the LR&C business account.

In violation of Title 18, United States Code, Section 1623.

FORFEITURE ALLEGATION ONE

The SPECIAL AUGUST 2003-2 GRAND JURY further alleges:

1. The allegations contained in Count One are hereby realleged for the purpose of alleging forfeiture pursuant to Title 18, United States Code, Section 1963.

2. As a result of their violations of Title 18, United States Code, Section 1962(d), defendants herein:

DONALD S. TOMCZAK and
GERALD J. WESOLOWSKI,

(a) have acquired and maintained interests in violation of Title 18, United States Code, Section 1962, which interests are subject to forfeiture to the United States pursuant to Title 18, United States Code, Section 1963(a)(1);

(b) have interests in, and property and contractual rights which afforded a source of influence over, the enterprise named and described herein, which the defendants operated controlled, conducted and participated in the conduct of in violation of Title 18, United States Code, Section 1962, and which interests are subject to forfeiture to the United States pursuant to Title 18, United States Code, Section 1963(a)(2); and

(c) have property constituting and derived from proceeds that the defendants obtained, directly and indirectly, from the racketeering activity, in violation of Title 18, United States Code, Section 1962, which property is subject to forfeiture to the United States pursuant to Title 18, United States Code, Section 1963(a)(3).

3. The interests of the defendants subject to forfeiture to the United States pursuant to Title 18, United States Code, Sections 1963(a)(1), (a)(2) and (a)(3), include, but are not limited to, the following:

(a) All financial benefits and proceeds defendants TOMCZAK and WESOLOWSKI received related to HTP work of the Department, including, without limitation, at least \$500,000 in cash payments, campaign contributions and other things of value obtained from the Department Trucking Companies.

4. To the extent that the property described above as being subject to forfeiture pursuant to Title 18, United States Code, Section 1963, 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;

it is the intent of the United States, 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 property described as being subject to forfeiture, including, without limitation, the following:

(a) Real property having a Permanent Index Number of 17-29-408-032-0000 in Cook County, Illinois, commonly known as 2971 Loomis Street, Chicago, Illinois;

(b) Real property having a Permanent Index Number of R32-323-17-5130-0814-0100 in Hernando County, Florida, commonly known as 14039 Drysdale Street, Spring Hill, Florida;

(c) Real property having a Permanent Index Number of 04-19-104-017-0000 in Will County, Illinois, commonly known as 21460 Wolf Lake Way, Crest Hill, Illinois; and

(d) Real property having Permanent Index Numbers 17-03-207-061-1111 and 17-03-207-061-1112 in Cook County, Illinois, commonly known as 100 East Walton, Units 25B and 25C, Chicago, Illinois.

(e) Real property having Permanent Index Numbers 17-03-207-061-1157 in Cook County, Illinois, commonly known as 100 East Walton, Units 31A, Chicago, Illinois.

5. The defendants TOMCZAK and WESOLOWSKI are jointly and severally liable for the forfeiture obligations as alleged above.

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

FORFEITURE ALLEGATION TWO

The SPECIAL AUGUST 2003-2 GRAND JURY further alleges:

1. The allegations contained in Counts Two through Seven of 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, Section 1341 and 1346, as alleged in the foregoing indictment,

DONALD S. TOMCZAK,
GERALD J. WESOLOWSKI,
ROGER E. MCMAHON,
FLENORY S. BARNES, SR.,
JOSEPH S. IGNOFFO,
LEROY S. PETERS and
COMMELIE R. PETERS,

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) All financial benefits and proceeds defendant TOMCZAK, WESOLOWSKI, MCMAHON and BARNES received related to HTP work of the Department, including, without limitation, over \$500,000 in cash payments, campaign contributions and other things of value obtained from the Department Trucking Companies;

(b) Any benefits defendant IGNOFFO derived from Ignoffo Trucking;

(c) Defendant LEROY PETERS' ownership interest in LR&C and any benefits derived therefrom; and

(d) Defendant COMMELIE PETERS' ownership interest in LR&C and any benefit derived therefrom.

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), including without limitation, the following:

(a) Real property having a Permanent Index Number of 17-29-408-032-0000 in Cook County, Illinois, commonly known as 2971 Loomis Street, Chicago, Illinois;

(b) Real property having a Permanent Index Number of R32-323-17-5130-0814-0100 in Hernando County, Florida, commonly known as 14039 Drysdale Street, Spring Hill, Florida;

(c) Real property having a Permanent Index Number of 04-19-104-017-0000 in Will County, Illinois, commonly known as 21460 Wolf Lake Way, Crest Hill, Illinois; and

(d) Real property having Permanent Index Numbers 17-03-207-061-1111 and 17-03-207-061-1112 in Cook County, Illinois, commonly known as 100 East Walton, Units 25B and 25C, Chicago, Illinois.

(e) Real property having Permanent Index Numbers 17-03-207-061-1157 in Cook County, Illinois, commonly known as 100 East Walton, Units 31A, Chicago, Illinois.

5. The defendants TOMCZAK, WESOLOWSKI, MCMAHON, BARNES, IGNOFFO, LEROY PETERS and COMMELIE PETERS are jointly and severally liable for the forfeiture obligations as alleged above.

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

SENTENCING ALLEGATIONS

The SPECIAL AUGUST 2003-2 GRAND JURY further alleges:

1. In and during the course of the commission of the conduct alleged in each of Counts One through Nine of the Indictment (racketeering conspiracy, mail fraud and bribery):

- a. The loss exceeded \$400,000. USSG §§ 2E1.1(a)(2), 2B1.1(b)(1)(H).
- b. Defendant DONALD S. TOMCZAK was a leader and organizer of a criminal activity that involved five or more participants and was otherwise extensive. USSG § 3B1.1(a).
- c. Defendant GERALD WESOLOWSKI was a manager and supervisor of a criminal activity that involved five or more participants and was otherwise extensive. USSG § 3B1.1(b).
- d. Defendants DONALD S. TOMCZAK and GERALD J. WESOLOWSKI abused their positions of public trust, in a manner that significantly facilitated the commission and concealment of the offenses. USSG § 3B1.3.
- e. Defendants DONALD S. TOMCZAK and GERALD J. WESOLOWSKI willfully obstructed and impeded, and attempted to obstruct and impede, the administration of justice during the course of the investigation and prosecution, and the obstructive conduct related to the offense and a closely related offense. USSG § 3C1.1.
- f. Defendants DONALD S. TOMCZAK and GERALD J. WESOLOWSKI were public officials. USSG § 2C1.1(a)(1).
- g. The offenses involved more than one bribe and extortion. USSG § 2C1.1(b)(1).

h. The value of the payment, the benefit received and to be received in return for the payment, the value of anything obtained and to be obtained by a public official and others acting with a public official, exceeded \$400,000. USSG § 2C1.1(b)(2); USSG § 2B1.1(b)(1)(H) .

i. The offenses involved payments for the purpose of influencing DONALD S. TOMCZAK, a public official in a high-level decision-making and sensitive position. USSG § 2C1.1(b)(2)(B).

A TRUE BILL:

FOREPERSON

UNITED STATES ATTORNEY