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June 30, 2016

Jeff S. Jordan
Assistant General Counsel
Office of General Counsel
Federal Election Commission
999 E Street NW
Washington, D.C. 20463

Subject: RR 16L-10, Pawlowski2016.com; Lisa Pawlowski, Treasurer

Dear Mr. Jordan:

Our firm represents the subject principal campaign committee and its treasurer, Lisa Pawlowski, with respect to the above cited matter, and I am the primary counsel in this matter.

The committee was authorized by Mayor (Allentown, PA) Ed Pawlowski as his principal campaign committee for the PA Democratic primary election in the 2016 U.S. Senate election cycle. Further information as to the committee's formation and history are included in the sworn Declaration of Lisa Pawlowski which is enclosed with this letter. See paragraphs 1 and 2.

The committee and its treasurer concede that \$76,500 of campaign funds were misappropriated from its bank account. This misappropriation occurred without the treasurer's or the candidate's advance knowledge, and without any negligence on the part of the committee or its treasurer or the candidate. As stated in the Lisa Pawlowski sworn Declaration, these funds were converted to personal use by Michael Fleck who at the time of the conversion was campaign manager of Mr. Pawlowski's U.S. Senate campaign. Fleck had check signing authority on the committee bank account from which the funds were unlawfully obtained by him in a single transaction via check number 1011 that he signed. The check was payable to H Street Strategies, an LLC that Fleck co-owned with his wife, controlled and managed as chief executive officer. See paragraphs 3 through 5 of the Declaration.

As also stated in the sworn Declaration(paragraph 6), Fleck never had authorization from Lisa Pawlowski or from candidate Pawlowski to make this disbursement of campaign funds. Fleck's check signing authority on the campaign bank account is not a direct or indirect authorization to make campaign expenditures in his sole discretion. Giving check signing authority to him was simply an administrative decision that would enable him, but only with the advance authorization of the treasurer, to pay campaign expenses in circumstances where a campaign vendor might require payment in advance, or concurrently with the performance of a service or the delivery of goods to the campaign. Check-signing power on a campaign committee bank account does not convey or constitute a delegation of general or specific authority from a committee treasurer that would allow the holder of that power to make an authorized campaign expenditure. Such authorization must be explicitly provided by the committee treasurer for each transaction that disburses committee funds. 52 U.S.C. §30102(a).

The Committee reported the \$76,500 disbursement in timely manner, on the first report due after the disbursement was made. It also disclosed the purpose of the disbursement in timely responses to requests for additional information from the FEC Reports Analysis Division. Because Fleck abandoned the committee, closed his LLC campaign consulting business and moved away from the Allentown, PA area to a distant and unknown address, the committee has not been able to seek recovery of the converted funds, or to otherwise offer a more detailed explanation as to why Fleck may have thought he had implied authorization to receive at least some portion of the \$76,500 payment.

In my conversations with Lisa Pawlowski, and from local Allentown (PA) newspaper articles (April 2016), I have learned that she and Mayor Pawlowski had a professional and social relationship with Fleck and his wife for over 10 years. Their respective families were also involved in this social relationship. On a professional level, Fleck performed consulting and campaign management services to Mayor Pawlowski in all of his past campaigns for local office since 2005, and in his 2014 campaign for PA statewide office. Based on these experiences, Mayor Pawlowski had confidence that Fleck could perform campaign management services in the Mayor's U.S. Senate campaign with both competence and integrity. Mayor Pawlowski also had good reason to believe that Fleck would continue to be worthy of the Mayor's trust with respect to all Senate campaign matters, including the spending of campaign funds.

On or about July 2, 2015, this past trust and confidence was shattered beyond repair and without any reasonable prospect of reconciliation. An immediate estrangement began. In short, Fleck betrayed the Pawlowski campaign, abused its trust and violated his fiduciary duty to only draw upon campaign funds with the advance and explicit authorization of the committee treasurer, Lisa Pawlowski, or by Mayor Pawlowski himself.

Also indicative of Fleck's disgraceful departure from his past trustworthiness and integrity, as regards his relationship with Mayor Pawlowski and family, is the fact that on April 21, 2016, he filed a guilty plea to Federal crimes of conspiracy to commit extortion and bribery, and federal income tax evasion. U.S. District Court for the Eastern District of Pennsylvania; Criminal Case No. 16-171; documents enclosed (Criminal Information, 17 pages; Government's Guilty Plea Memorandum, 9 pages.)

Lastly, I respectfully submit that the various actions taken by the committee treasurer Lisa Pawlowski, as detailed in her sworn Declaration and further described herein, come within the purview of the Federal Election Commission "Statement of Policy; Safe Harbor for Misreporting Due to Embezzlement," 72 Fed. Reg. 16695, April 5, 2007. Indeed, Mrs. Pawlowski took additional steps, beyond those described in the policy statement, to protect committee funds once she had knowledge that a check was issued by Fleck for a campaign expenditure that she did not authorize. The check was dated July 2, 2015. On July 6, she made a personal visit to the committee's bank, cancelled Fleck's check signing authority, changed the bank account on-line password and stopped payment on other checks issued in the July 2 time frame that she believed she should more intensively review, given the circumstances. She did not await a bank statement to initiate her efforts to safeguard committee funds. As indicated previously, the misappropriated funds were disclosed on the next required FEC report including disbursements on July 2, 2015. Payee name, date and amount were itemized. Abbreviated information was initially disclosed as to purpose of the disbursement, but in subsequent responses to Commission requests for additional information more descriptive details were provided for public record with respect to the nature and circumstances of the disbursement.

Given the sworn Declaration, the foregoing discussion of relevant facts and applicable law, as well as the cited "safe harbor" policy, I respectfully request that the Office of General Counsel conclude its review of RR 16L-10 with no further action against the committee or its treasurer and close its file on the matter.

Sincerely,



N. Bradley Litchfield, Counsel
Pawlowski2016.com and Lisa Pawlowski, Treasurer

Enclosures

abruptly on or about July 2, 2015. While he was campaign manager, Mr. Fleck had check signing authority with respect to the Committee's bank account at National Penn, account

This authority was terminated by me on July 6, 2015, when I visited the bank and removed Fleck's name as a signatory on the account and also changed the on-line banking password for the account.

3. On July 1, 2015, Mr. Fleck signed check number 1011 in the amount of \$76,500 and payable to H Street Strategies. (Copy of check number 1011 attached as Exhibit A.) On July 2, the check was deposited by Fleck himself or by another person on his behalf who is unknown to me.

4. To the best of my knowledge, information and belief, the payee on this check is an LLC controlled by Fleck and co-owned by him and his wife, Alison Fleck; Fleck is its chief executive officer. Mr. Fleck and the LLC had been retained by the Pawlowski U.S. Senate campaign to carry out various campaign functions, including campaign fundraising and campaign media development. The retainer arrangement with Fleck and his LLC was informal, and no written contract between the LLC or Fleck and Mayor Pawlowski, the Committee or me was ever executed. I have knowledge and information to the effect that a monthly campaign management fee was discussed between Fleck and Mayor Pawlowski in April or May 2015, that an amount proposed by Fleck was rejected by Mayor Pawlowski and that there never was a meeting of the minds between them regarding a fee amount.

5. Check number 1011 was deposited at National Penn into an account, separate and distinct from the Committee's account at National Penn, which Fleck or his LLC had established for their own purposes. It is my belief that the deposit was made in this manner so that Fleck could obtain the funds for his own unlawful, personal use at the earliest possible moment, and thus deprive me of knowledge of the transaction that would have enabled me to enter a stop payment order. National Penn honored check 1011 and, to the best of my knowledge, information and belief, most probably made the proceeds

(\$76,500) available in the Fleck-controlled account on July 2 or 3. My first knowledge of this check was on July 6, 2015.

6. The payment made via check number 1011 was not authorized by me or Mayor Pawlowski, or by any other person to whom either I or Mayor Pawlowski had delegated any such authority. The check was issued solely at the discretion of Fleck who acted in total disregard of his fiduciary duty to the Committee and in blatant contravention of my exclusive, undelegated power under Federal election campaign law, 52 U.S.C. §30102(a), to authorize all campaign expenditures of the Committee. Furthermore, I had no advance knowledge that Fleck was even considering signing check number 1011 and making it payable to H Street Strategies, an LLC that he co-owned and controlled. It is my carefully considered and adamantly held belief that Fleck failed to contact me to discuss this payment because he knew I would not authorize it under any circumstances.



Lisa Pawlowski

Sworn to and subscribed before me on this
29th day of June, 2016.

 Notary Public

RON GLOVER
NOTARY PUBLIC OF NEW JERSEY
My Commission Expires May 10, 2021
My ID # is 60037417

878 052915 - RSM - COMBINED STATEMENTS - Page 1 of 156269 - Windows Internet Explorer

NATIONAL PENN BANK

My Options | Checking - x

PAWLOWSKI2016.COM | Checking

Services | View Image

- Balance Information
- Account Information
- Account/Bank Float
- Account Holds
- ACH Information Inquiry
- Alternate Address
- User Fields
- Check Card Authorization
- Images
- Interest Information
- NSF/OD Information
- Relationships
- Special Instructions
- Stop Payments
- Order Checks - Delivery
- Account Analysis
- Charge Controls
- Regulatory Codes
- Tracking

History

- Account History
- Extended History
- Maintenance History

PAWLOWSKI2016.COM 1011
 840 WEST HAMILTON STREET
 SUITE 321
 ALLENTOWN PA 18101

DATE 7/1/15 60-978 313

PAY TO THE ORDER OF H Street Strategies \$76,500.00
Sev Six thousands and five hundred 00/100 DOLLARS

FOR April, Cons. & Rent Travel

NATIONAL PENN BANK

NAT PENN BANK

FOR DEPOSIT ONLY

Front Back

10:34 AM 7/6/2015

*April - Aug
 Consult + Rent + Travel ?*

**EXHIBIT A
 RR 16L-1D**

RECEIVED
FEDERAL ELECTION
COMMISSION

2016 JUN 31 10:03 AM UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA

OFFICE OF GENERAL
COUNSEL
UNITED STATES OF AMERICA : CRIMINAL NO. _____
v. : DATE FILED: _____
MICHAEL FLECK : VIOLATIONS:
: 18 U.S.C. § 371 (conspiracy to commit
: extortion and bribery offenses - 1 count)
: 26 U.S.C. § 7201 (tax evasion - 1 count)
: Notice of forfeiture

INFORMATION

COUNT ONE

THE UNITED STATES ATTORNEY CHARGES THAT:

At all times material to this information:

The Reading Public Officials

1. Public Official #1, known to the United States Attorney, was a public official who represented the City of Reading through an elective office. Public Official #1's office vested him with actual and perceived authority and influence over, among other things, the awarding of certain municipal contracts by the City of Reading.
2. Public Official #1's office also vested him with actual and perceived authority over certain other public officials ("the Reading officials"), including Special Assistant Eron Lloyd, charged elsewhere.
3. Public Official #1 was a candidate in the Democratic Party's primary election for re-election to his position, scheduled for May 19, 2015. Reading's Code of Ethics established certain limits on the amount of money which could be donated to candidates for the office that Public Official #1 held and sought to retain.

ENCLOSURES
RR 162-10

The Allentown Public Officials

4. Public Official #3, known to the United States Attorney, was a public official who represented the City of Allentown through an elective office. Public Official #3's office vested him with actual and perceived authority and influence over, among other things, the awarding of certain municipal contracts by the City of Allentown.

5. Public Official #3's office also vested him with actual and perceived authority over certain other public officials ("the Allentown officials"), including Finance Director Garret Strathearn and Assistant City Solicitor Dale Wiles, both charged elsewhere. City Controller Mary Ellen Koval, charged elsewhere, was an elected official who relied on Public Official #3 for political support, including campaign contributions and her appointment to the Allentown Parking Authority's Board of Directors. In the 2015 Democratic primary and general elections for City Controller of Allentown, Koval was a candidate for re-election.

6. On or about September 8, 2013, Public Official #3, while maintaining his elective office in Allentown, formally announced his candidacy in an election for a position in the state government. He terminated this campaign a few months later.

7. In early 2015, while maintaining his elective office in Allentown, Public Official #3 discussed seeking election for a position in the federal government. Federal law placed limits on the amount of money individuals could donate to a candidate for the federal position within a given election cycle. Federal law did not prohibit individuals from "bundling" multiple donations in order to present those donations to the candidate at once, provided that each individual donation was at or below the legal limits on contribution amounts. The primary and general elections for this position were scheduled for 2016. After privately deciding to run, Public Official #3 publicly announced his candidacy for this position on or about April 17, 2015.

Fleck Consulting

8. Defendant MICHAEL FLECK was a principal and co-owner of an Allentown-based consulting company that a) conducted fundraising and other campaign-related services for elected officials in Pennsylvania, including Public Official #1, Public Official #3, and Mary Ellen Koval (“the political clients”) and b) lobbied these same political clients on behalf of individuals and companies who sought contracts and other favorable treatment from local governments (“the business clients”). Between 2013 and 2015, defendant FLECK’s company underwent various changes to its name and corporate structure while keeping most of its employees, political clients, and business clients.

9. To maximize his chances of victory in the May 19, 2015, election, Public Official #1, while still serving as a public official in Reading, hired and directed defendant MICHAEL FLECK, Eron Lloyd, and others, known to the United States Attorney, to help him raise campaign contributions from donors, including parties who had profited from their dealings with the City of Reading and who sought favorable treatment from the City of Reading. Public Official #1 also caused and directed Lloyd and other Reading officials to give preferential treatment to certain of his past and potential political donors.

10. To realize his ultimate goal of ascending to a statewide elective office, Public Official #3, while still serving as a public official in Allentown, hired and directed defendant MICHAEL FLECK and others, known to the United States Attorney, to help him raise campaign contributions from donors, including parties who had profited from their dealings with the City of Allentown and who sought favorable treatment from the City of Allentown. Public Official #3 also caused and directed Allentown officials to give preferential treatment to certain of his past and potential political donors.

11. To maximize her chances of being re-elected in 2015, Mary Ellen Koval, while still serving as a public official in Allentown, hired and directed defendant MICHAEL FLECK and others, known to the United States Attorney, to help her raise campaign contributions from donors, including parties who had profited from their dealings with the City of Allentown and who sought favorable treatment from the City of Allentown.

The Donors

12. Donor #1, known to the United States Attorney, was a principal of a company which sought contracts with governmental organizations in Allentown and elsewhere.

13. Donor #2 and Donor #3, both known to the United States Attorney, represented companies that heavily relied on contracts with governmental organizations in Pennsylvania, including the cities of Allentown and Reading.

14. Donor #4, known to the United States Attorney, was a principal of Law Firm #4, also known to the United States Attorney, a Pennsylvania-based law firm which sought and received contracts to perform legal work on behalf of governmental organizations in Allentown and elsewhere.

15. Donor #5, known to the United States Attorney, was an entrepreneur who had business and property interests in Allentown and Reading, including actual and potential municipal contracts and projects which required approval by governing authorities in these areas.

16. Ramzi Haddad, charged elsewhere, was an entrepreneur who had business and property interests in Allentown, including potential municipal contracts and the actual and prospective ownership of properties which were regulated and overseen by governing authorities in Lehigh County.

17. An alliance between a Pennsylvania-based law firm and a revenue

collection company (collectively, "the Partnership"), all known to the United States Attorney, sought to service the City of Allentown's revenue collection contract on an annual basis.

The Schemes to Defraud

18. From at least on or about April 15, 2014, until at least on or about July 10, 2015, Public Official #1, Eron Lloyd, and others, known to the United States Attorney, knowingly devised and intended to devise a scheme and artifice to defraud and deprive the City of Reading and its citizens of the honest services of Public Official #1 and Lloyd through bribery and kickbacks, wherein Public Official #1, Lloyd, and others treated campaign contributions as incentives and rewards for past, continued, and future official actions that Public Official #1, Lloyd, and others took, attempted to take, agreed to take, and caused, attempted to cause, and agreed to cause the City of Reading to take.

19. From at least on or about January 7, 2014, until at least on or about December 8, 2015, Public Official #3, Mary Ellen Koval, and others, known to the United States Attorney, knowingly devised and intended to devise a scheme and artifice to defraud and deprive the City of Allentown and its citizens of the honest services of Public Official #3 and Koval through bribery and kickbacks, wherein Public Official #3, Koval, and others treated campaign contributions as incentives and rewards for past, continued, and future official actions that Public Official #3, Koval, and others took, attempted to take, agreed to take, and caused, attempted to cause, and agreed to cause the City of Allentown to take.

The Defendant's Participation in the Conspiracy

20. From at least on or about October 23, 2013, until on or about March 13, 2015, in Reading and Allentown, in the Eastern District of Pennsylvania, and elsewhere

defendant

MICHAEL FLECK,

together with Public Official #1, Eron Lloyd, Public Official #3, Mary Ellen Koval, and others, known to the United States Attorney, conspired and agreed to commit extortion and bribery offenses in violation of federal criminal law, that is:

- a) to knowingly devise schemes and artifices to defraud and deprive the cities of Reading and Allentown, and their respective citizens of their right to the honest services of public officials through bribery and kickbacks involving material misrepresentation, false statement, false pretense, and concealment of fact, and to use interstate wire communications to further the scheme to defraud, in violation of Title 18, United States Code, Sections 1343 and 1346;
- b) to obstruct, delay, and affect commerce, and the movement of article and commodities in commerce, by extortion, in that defendant MICHAEL FLECK and others conspired with public officials and others to obtain money and property, which were not due the public officials or their respective offices, in their respective capacities as public officials, with the consent of the victims, under color of official right, in violation of Title 18, United States Code, Section 1951(a); and
- c) to travel in interstate commerce and to use facilities in interstate and foreign commerce, that is telephones and the Internet, with the intent to promote, manage, establish, and carry on, and to facilitate the promotion, management, establishment, and carrying on, of an unlawful activity, that

is, Bribery in Official and Political Matters, in violation of Title 18 Pa. Cons. Stat. Ann. § 4701, and to thereafter perform and attempt to perform acts to promote, manage, establish, and carry on, and to facilitate the promotion, management, establishment, and carrying on of the unlawful activity, in violation of Title 18, United States Code, Section 1952(a)(3).

MANNER AND MEANS

21. Public Official #1 and Public Official #3 organized their respective campaign operations around certain time-sensitive fundraising goals.
 - a) Concerned about well-funded rivals, Public Official #1 instructed defendant MICHAEL FLECK, Eron Lloyd, and others that his best chance at winning the 2015 Democratic primary was to maximize contributions prior to May 19, 2015, even if the contributions would be in violation of Reading's Code of Ethics.
 - b) Disappointed by his poor fundraising in his earlier campaign for statewide office, Public Official #3 instructed defendant MICHAEL FLECK, Donor #1, Donor #2, Donor #4, Donor #5, Ramzi Haddad, and others that his best chance at winning his party's support as a candidate for the federal office was to maximize the campaign contributions that he received on or before a federal campaign reporting deadline of June 30, 2015.
22. Public Official #1, Public Official #3, and Mary Ellen Koval, directly and through defendant MICHAEL FLECK and others, communicated to certain donors that they were expected to provide items of value, including campaign contributions, in return for certain past or prospective official actions in Reading and Allentown.

23. Public Official #1 and Public Official #3 caused, agreed to cause, and attempted to cause other public officials, including Mary Ellen Koval, Garret Strathearn, Dale Wiles, and Eron Lloyd, to take official action favorable to certain donors who had provided, or were expected to provide significant campaign contributions.

24. Public Official #3 communicated to others, including Allentown officials and defendant MICHAEL FLECK, that the city of Allentown would withhold favorable treatment from certain donors who failed to provide satisfactory campaign contributions to Public Official #3.

25. To conceal their respective roles in the conspiracy, Public Official #1 and Public Official #3 limited their direct interactions with certain donors.

26. When donors, Allentown officials, and Reading officials raised concerns about having to interact with defendant MICHAEL FLECK and his employees in connection with official city business, Public Official #1 and Public Official #3 rebuffed their concerns and insisted that they interact with defendant FLECK and his employees.

27. Public Official #1, Eron Lloyd, Public Official #3, Mary Ellen Koval, defendant MICHAEL FLECK, and others, known to the United States Attorney, used facilities of interstate of commerce, that is, telephones and the Internet, in order to discuss, promote, manage, establish, carry on, and otherwise facilitate the conspiracy.

28. To conceal and continue the conspiracy, Public Official #1, Eron Lloyd, Public Official #3, Mary Ellen Koval, Garret Strathearn, Dale Wiles, and defendant MICHAEL FLECK employed countersurveillance maneuvers and obstructed justice by, among other things, making false statements to FBI agents conducting a federal criminal investigation into the relationship between campaign contributions and official action in Reading and Allentown.

OVERT ACTS

In furtherance of this conspiracy, defendant MICHAEL FLECK and others committed the following overt acts, among others:

Bribes, Contract Rigging, and Extortion of Donors**Donor # 1**

1. On diverse dates between on or about January 6, 2014, and on or about May 26, 2015, Public Official #3, Mary Ellen Koval, defendant MICHAEL FLECK, and others met for the purpose of helping Donor #1's company receive a "no-bid" contract from the City of Allentown as a reward for Donor #1's agreement to raise campaign contributions for Public Official #3.

Donor #2

2. On diverse dates between on or about April 14, 2014, and on or about June 11, 2015, Public Official #1, Eron Lloyd, defendant MICHAEL FLECK, and others met for the purpose of helping Donor #2's company receive a contract from the City of Reading in exchange for Donor #2's agreement to raise campaign contributions for Public Official #1

3. On or about August 8, 2014, Public Official #3 agreed to help Donor #2's company receive a contract from the City of Allentown as a reward for Donor #2's agreement to raise campaign contributions for Public Official #3.

4. On or about December 4, 2014, Mary Ellen Koval caused to be sent to Donor #2, in interstate commerce, an e-mail requesting a campaign contribution as consideration for efforts by Public Official #3 and Koval to award an Allentown city contract to Donor #2's company.

Donor #3

5. On diverse dates between on or about April 14, 2014, and on or about May 8, 2015, Donor #3 met with Public Official #1, Public Official #3, defendant MICHAEL FLECK, and others, known to the United States Attorney, to discuss trading municipal contracts in Allentown and Reading for campaign contributions from a political action committee over which Donor #3's company had influence and control.

6. On or about April 25, 2014, Public Official #1 directed an employee of defendant MICHAEL FLECK, known to the United States Attorney, to solicit a campaign contribution from Donor #3's company as a reward for Public Official #1's efforts to convince Reading officials to award a competitively bid contract to Donor #3's company instead of a competitor.

Donor #4

7. On or about January 30, 2015, Public Official #3, defendant MICHAEL FLECK, and others met to design a plan for extorting campaign contributions from Law Firm #4.

- a) Upon hearing that Donor #4 had expressed doubt about Law Firm #4's willingness to make future contributions, Public Official #3, complained "Really! I've given him millions of dollars.... Relatively, compared to other law firms, they've given nothing. [Donor #4] for sure will get nothing now.... You know, f--k them! And I'm not gonna [award work to Donor #4's law partner] or anything. Screw it all!"
- b) Defendant MICHAEL FLECK told Public Official #3 that he would "beat the crap out of" Donor #4 by making clear that Law Firm #4's ability to receive future legal contracts would be imperiled if the firm did not kick

back adequate campaign contributions to Public Official #3.

8. On or about February 3, 2015, Donor #4 agreed that in exchange for Public Official #3's agreement to steer legal contracts to Law Firm #4, Donor #4 would solicit attorneys at the firm to make campaign contributions to Public Official #3.

Donor #5

9. On diverse dates between on or about April 14, 2014, and on or about May 8, 2015, in order to receive favorable official action in Allentown and Reading, Donor #5 met with Public Official #3, defendant MICHAEL FLECK, and others, known to the United States Attorney, to discuss making campaign contributions to Public Official #1 and Public Official #3.

10. In or about February 2015, Public Official #1, acting in his official capacity as an elected official, used the U.S. mails to send a letter of support for a proposal in which Donor #5 had a business interest, in consideration for Donor #5's contribution to Public Official #1's 2015 campaign.

Ramzi Haddad

11. On or about December 19, 2014, at the direction of Public Official #3, an Allentown official, known to the United States Attorney, forwarded an e-mail about Ramzi Haddad's zoning application to his own personal e-mail account. From his personal e-mail account, the employee then forwarded the e-mail chain to an employee of defendant MICHAEL FLECK, known to the United States Attorney, along with guidance for Haddad.

12. On or about April 21, 2015, Public Official #3, acting in his official capacity as an elected official, used the U.S. mails to send a letter of support for a proposal in which Ramzi Haddad had a business interest, in consideration for Haddad's agreement to raise money for Public Official #3.

The Partnership

13. On or about January 8, 2014, Public Official #3 contacted Garret Strathearn to explain the importance of awarding the City of Allentown's 2014 revenue collection contract to the Partnership and ensure that Strathearn, in his official capacity, would help achieve that result, even though the City of Allentown had promised the Partnership's competitors that the contract award process would be open, merit-based, and confidential.

14. Between on or about January 8, 2014 and January 30, 2014, Garret Strathearn and defendant MICHAEL FLECK secretly shared information about the Partnership and the revenue collection contract award process in order to give the Partnership an unfair and undisclosed advantage in the award process.

15. On or about January 30, 2014, in order to give the false impression that the Partnership had earned the 2014 revenue collection contract on the merits, Garret Strathearn and Dale Wiles created a public record which was based on false and pretextual information.

16. On or about February 6, 2014, Garret Strathearn used a telephone to notify defendant MICHAEL FLECK that an award letter had been mailed to the Partnership.

Campaign Contributions from Donors

17. Between on or about November 5, 2014 and May 15, 2015, in consideration for official action in Reading, Donor #2, Donor #3, and Donor #5 caused thousands of dollars' worth of campaign contributions to be delivered to various campaign funds supporting and benefitting Public Official #1.

18. Between at least on or about October 23, 2013 and on or about July 1, 2015, Donor #1, Donor #2, Donor #4, Donor #5, Ramzi Haddad, and certain principals of the Partnership, collectively donated, bundled, and solicited others to donate, tens of thousands

dollars' worth of campaign contributions to various campaign funds supporting and benefiting Public Official #3. During this time period, Donor #2 also donated to Mary Ellen Koval's re-election fund as consideration for efforts by Public Official #3 and Koval to award an Allentown city contract to Donor #2's company.

Obstruction of Justice

19. On diverse dates between May 27, 2014 and December 8, 2015, in order to conceal and continue the conspiracy, defendant MICHAEL FLECK, Public Official #1, Eron Lloyd, Public Official #3, Mary Ellen Koval, Garret Strathearn, and Dale Wiles made materially false statements to agents of the Federal Bureau of Investigation who were investigating the conspiracy. For example, on March 11, 2015, defendant FLECK falsely stated to FBI agents that he had not told anyone that the agents had confronted him earlier that day when in fact, as FLECK well knew, he had disclosed the encounter to several others with the intention of warning Public Official #3 about the FBI's investigation into their bribery, kickback, and extortion schemes.

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

NOTICE OF FORFEITURE**THE UNITED STATES ATTORNEY FURTHER CHARGES THAT:**

1. As a result of the violations of Title 18, United States Code, Section 371 (conspiracy to commit honest services fraud, Travel Act bribery, and Hobbs Act extortion) set forth in this information, defendant

MICHAEL FLECK

shall forfeit to the United States of America any property, real or personal, that constitutes or is derived from proceeds traceable to the commission of such offenses, including, but not limited to, the sum of \$50,750 found in the following bank accounts:

- a. Provident Bank Account Numbers 80014154 and 80014146
- b. National Penn Bank Account Number 218579721

2. If any of the property subject to forfeiture, as a result of any act or omission of the defendant:

- 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 28, United States Code, Section 2461(c), incorporating Title 21, United States Code, Section 853(p), to seek forfeiture of any other property of the defendant(s) up to the value of the property subject to forfeiture.

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

Peter F Schenck for
ZANE DAVID MEMEGER
UNITED STATES ATTORNEY

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA :

v. :

MICHAEL FLECK :

CRIMINAL NO.

GOVERNMENT'S GUILTY PLEA MEMORANDUM

I. INTRODUCTION

The defendant agrees to plead guilty to Counts One and Two of an information, waiving prosecution by indictment, charging him with conspiracy to commit extortion and bribery offenses, in violation of 18 U.S.C. § 371, and tax evasion, in violation of 26 U.S.C. § 7201, all arising from his conspiring with others to exchange items of value for official action by public officials in Pennsylvania and from his failure to pay certain taxes due to the IRS in tax years 2011 through 2013. An unsigned copy of the Waiver of Indictment is attached as Exhibit A. The defendant has entered into a written plea agreement, a copy of which is attached as Exhibit B.

II. STATUTORY MAXIMUM PENALTY

The maximum penalty for a violation of 18 U.S.C. § 371 (conspiracy) is five years' imprisonment, a \$250,000 fine, three years supervised release, and a \$100 special assessment. The maximum penalty for a violation of 26 U.S.C. § 7201 (tax evasion) is also five years' imprisonment, a \$250,000 fine, three years supervised release, and a \$100 special assessment. Thus, the total maximum sentence is 10 years' imprisonment, a \$500,000 fine, three years supervised release, and a \$200 assessment.

III. ELEMENTS OF THE OFFENSES

A. Conspiracy

In order to prove the defendant guilty of committing conspiracy under 18 U.S.C. § 371, the government would have to prove the following elements beyond a reasonable doubt:

1. That the defendant knowingly entered into an agreement to commit an offense against the United States; and
2. That one or more persons did an overt act to effect or further the object of the conspiracy

The object offenses of the conspiracy charged in the information were extortion and certain bribery offenses, that is honest services fraud and Travel Act bribery. The elements of those offenses are defined below.

18 U.S.C. § 1951 (Hobbs Act extortion)

In order to establish a violation of Hobbs Act extortion, the government would have to prove the following elements beyond a reasonable doubt:

1. The defendant obtained property from another with that person's consent or attempted or conspired to do so;
2. Under color of official right;
3. In such a way as to interfere with or affect interstate commerce.

18 U.S.C. §§ 1343, 1346 (honest services wire fraud)

In order to establish a violation of the laws against honest services wire fraud, the government would have to prove the following elements beyond a reasonable doubt:

1. The defendant devised or participated in a scheme to defraud the public of its right to the honest services of a public official through bribery or kickbacks;

2. The defendant did so knowingly and with an intent to defraud;
3. The scheme or artifice to defraud involved a material misrepresentation, false statement, false pretense, or concealment of fact; and
4. In advancing, or furthering, or carrying out the scheme to defraud, the defendant transmitted, or caused to be transmitted, any writing, signal, or sound by means of a wire communication in interstate or foreign commerce.

18 U.S.C. § 1952 (Travel Act bribery)

In order to establish a violation of the Travel Act, the government would have to prove the following elements beyond a reasonable doubt:

1. That defendant used a facility in interstate commerce, or caused someone else to use such a facility;
2. That this use of an interstate facility was done with the intent to promote, manage, establish or carry on an unlawful activity, including extortion or bribery in violation of the laws of the State in which committed or of the United States; and
3. That after this use of an interstate facility, the defendant performed or attempted to perform, or aided, abetted or caused, an act in furtherance of this same unlawful activity.

In this case, the bribery was committed in Pennsylvania. Title 18 Pa. Cons. Stat. Ann. § 4701 (Bribery in official and political matters) provides as follows:

(a) Offenses defined.--A person is guilty of bribery, a felony of the third degree, if he offers, confers or agrees to confer upon another, or solicits, accepts or agrees to accept from another:

- (1) any pecuniary benefit as consideration for the decision, opinion, recommendation, vote or other exercise of discretion as a public servant, party official or voter by the recipient;
- (2) any benefit as consideration for the decision, vote, recommendation or other exercise of official discretion by the recipient in a judicial, administrative or legislative proceeding; or

(3) any benefit as consideration for a violation of a known legal duty as public servant or party official.

B. Tax Evasion

In order to prove the defendant guilty of committing tax evasion in violation of 26 U.S.C. § 7201, the government would have to prove the following elements beyond a reasonable doubt:

1. The existence of an additional tax due and owing, i.e. a tax deficiency;
2. That the defendant acted willfully in evading the assessment or collection of the tax due; and
3. That the defendant committed an affirmative act in an attempt to evade or defeat the tax due.

IV. FACTUAL BASIS FOR THE PLEA

A. Conspiracy to Commit Extortion and Bribery Offenses

The defendant was a principal and co-owner of an Allentown-based consulting company that a) conducted fundraising and other campaign-related services for certain elected officials in Pennsylvania (“the political clients”) and b) lobbied these same political clients on behalf of individuals and companies who sought contracts and other favorable treatment from local governments (“the business clients”). As alleged in the information, Public Official #1 of Reading and Public Official #3 and Mary Ellen Koval of Allentown were each elected officials in their respective cities as well as political clients of the defendant’s. Public Official #1 and Koval sought re-election to the offices that they held, while Public Official #3 aspired to win higher office through statewide election. Each of these three elected officials attempted to leverage their

respective public offices – which gave them actual and perceived authority over the awarding of municipal contracts – for items of value, including campaign contributions.

For example, as alleged in the information, Ramzi Haddad and the parties identified as Donor #1, Donor #2, Donor #3, Donor #4, Law Firm #4, Donor #5, and “the Partnership” all sought city contracts and/or other favorable treatment from local governments in the Eastern District of Pennsylvania. Donor s ## 1, 2,3,4 and 5, Haddad, and the Partnership all sought official action in Allentown, and Donors ##2, 3 and 5 also sought official action in Reading. Public Official #1, Public Official #3, and Koval each exploited their official positions in order to obtain campaign contributions from these individuals and organizations. In each of instances alleged in the information, a public official and /or a donor reached or attempted to reach an explicit quid pro quo exchange of campaign contributions and official action. As part of the “consulting” services that the defendant provided, he helped facilitate such quid pro quo solicitations, offers, and agreements.

Between on or about November 5, 2014 and May 15, 2015, in consideration for help in Reading, Donor #2, Donor #3, and Donor #5 caused thousands of dollars’ worth of campaign contributions to be delivered to various campaign funds supporting and benefitting Public Official #1. Between at least on or about October 23, 2013 and on or about July 1, 2015, Donor #1, Donor #2, Donor #4, Donor #5, Haddad, and certain principals of the Partnership collectively donated, bundled, and solicited others to donate, tens of thousands dollars’ worth of campaign contributions to various campaign funds supporting and benefitting Public Official #3. During this time period, Donor #2 also donated to Mary Ellen Koval’s re-election fund as consideration for efforts by Public Official #3 and Koval to award an Allentown city contract to Donor #2’s company.

The defendant and/or a co-conspirator helped the public officials obtain most of the above campaign contributions through the use of extortion, bribery, and/or fraud. In Allentown, for example, once the Partnership began making large campaign contributions for Public Official #3, the defendant helped manipulate a purportedly fair and confidential contract award process to the Partnership's advantage. Once Public Official #3 communicated his wishes to them, the defendant and Finance Director Gary Strathearn, with the help of Assistant City Solicitor Dale Wiles, sabotaged the award process to ensure that the Partnership prevailed over its competitors. Similarly, City Controller Mary Ellen Koval agreed to help Public Official #3 and the defendant by attempting to steer Allentown city contracts to certain of Public Official #3's donors, including Donor #1. In Reading, the defendant, Reading public official Eron Lloyd, and others helped Public Official #1 obtain campaign contributions from companies that relied heavily on government contracts, such as the companies represented by Donor #2 and Donor #3, as consideration for Public Official #1's efforts to steer Reading city contracts to them.

To conceal their respective roles in the conspiracy, Public Official #1 and Public Official #3 limited their direct interactions with certain donors. When donors, Allentown officials, and Reading officials raised concerns about having to interact with the defendant and/or his employees in connection with official city business, Public Official #1 and Public Official #3 rebuffed their concerns and insisted that they interact with the defendant and/or his employees. The defendant and his co-conspirators used telephones and the Internet, in interstate commerce, and traveled to New York and other states, all in order to discuss, promote, manage, establish, carry on, and otherwise facilitate the conspiracy. In numerous instances, after the interstate travel or use of an interstate facility, the defendant performed an act in furtherance of his schemes to bribe public officials in Pennsylvania.

To conceal and continue the conspiracy, Public Official #1, Eron Lloyd, Public Official #3, Mary Ellen Koval, Garret Strathearn, Dale Wiles, and the defendant employed countersurveillance maneuvers and obstructed justice by, among other things, making false statements to FBI agents conducting a federal criminal investigation into the relationship between campaign contributions and official action in Reading and Allentown. For example, on March 11, 2015, the defendant falsely stated to FBI agents that he had not told anyone that the agents had confronted him earlier that day when in fact, as the defendant well knew, he had disclosed the encounter to several others with the intention of warning Public Official #3 about the FBI's investigation into their bribery, kickback, and extortion schemes. Later that week, however, the defendant withdrew from the conspiracy and began to cooperate with the government in this investigation.

B. Tax Evasion

From 2011 to 2013, the defendant, a married resident of Allentown, received approximately \$921,951 in gross income, including income received through his consulting company ("company funds"). But between in or about April 2012 and on or about October 6, 2014, he willfully engaged in a continuing attempt to evade and defeat a large part of the tax due and owing by him and his spouse to the United States of America for the calendar years 2011 through 2013, as required by law, by failing to report and pay to the IRS these income taxes, and by concealing and attempting to conceal his true and correct income.

In order to evade the tax due, the defendant committed several affirmative acts in Allentown and elsewhere. For example, between April 2012 and October 6, 2014, the defendant filed false and fraudulent joint U.S. individual income tax returns for tax years 2011, 2012 and 2013, in which

he concealed company funds of approximately \$130,897.41, overstated certain deductions, and failed to remit approximately \$43,467 in payroll taxes. The defendant also made cash withdrawals of company funds in order to knowingly pay certain personal expenses with company funds. He then falsely reported to the IRS that certain expenditures of company funds were business expenses when in fact, as he well knew, they were personal expenses. Altogether, the defendant's violation of 26 U.S.C. § 7201 caused a tax loss of approximately \$77,738.

Respectfully submitted,

ZANE DAVID MEMEGER
United States Attorney

/s/ Joseph J. Khan

JOSEPH J. KHAN
ANTHONY WZOREK
Assistant United States Attorneys

CERTIFICATE OF SERVICE

I hereby certify that on or before this date I caused a true and correct copy of the foregoing Government's Guilty Plea Memorandum to be served by e-mail upon counsel for the defendant:

Philip D. Lauer, Esq.

/s/ Joseph J. Khan
JOSEPH J. KHAN
Assistant United States Attorney

Date: 4/20/16

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA :

v. :

CRIMINAL NO. 16- 171

MICHAEL FLECK :

CONDITIONS OF RELEASE ORDER

BAIL

Defendant is released on bail in the amount of: \$ 50,000 OR

PRETRIAL SERVICES

X Defendant shall report to Pretrial Services:
 X as directed by Pretrial Services.

PASSPORT

X Defendant shall surrender his passport on or before May 3, 2016.

TRAVEL

X Travel is restricted to the continental United States as of May 3, 2016 unless prior permission is granted by Pretrial Services.

FIREARMS

X Defendant shall surrender and/or refrain from obtaining any firearms. Any other firearms in any premises where the defendant resides while on supervised release must be removed from the premises and no firearms are to be brought into the premises during this period. The defendant shall execute a completed Prohibition on Possession of Firearms Agreement.

MISCELLANEOUS

 X Defendant shall have no contact with co-defendants, potential witnesses in this case, or individuals engaged in any criminal activity..

As a further condition of release, defendant shall not commit a Federal, State, or local crime during the period of release. The commission of a Federal offense while on pretrial release will result in an additional sentence of a term of imprisonment of not more than 10 years, if the offense is a felony; or a term of imprisonment of not more than 1 year, if the offense is a misdemeanor. This sentence shall be in addition to any other sentence.

AUSA

DEFENSE ATTORNEY

It is so ORDERED this 21st day of April 2016.

BY THE COURT:


HONORABLE JUAN R. SANCHEZ
UNITED STATES DISTRICT JUDGE