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## **GENERAL ALLEGATIONS**

The Grand Jury charges:

### **The Catholic Diocese of Cleveland (“Diocese”) and related entities**

At relevant times:

1. The Catholic Diocese of Cleveland (“Diocese”) was an Ohio charitable trust which operated, supervised, and/or provided services to numerous Catholic organizations and institutions (hereinafter “constituent organizations”) within an eight-county geographical area in the north-central part of Ohio. The administration of the Diocese was organized by major areas of responsibility into administrative components, mostly designated as Secretariats, each headed by a Secretary or other senior official appointed by the Bishop. One of the administrative components was the Financial and Legal Office, headed by the Financial and Legal Secretary. The Bishop and auxiliary bishops had supervisory authority over the Secretaries and other senior officials.
2. The Diocese had a Diocesan Financial Advisory Committee (also referred to as the Advisory Council or Canonical Advisors), presided over by the Bishop or his delegated representative, consisting of lay persons appointed by the Bishop, which had responsibilities for advising the Bishop and the Financial and Legal Secretary on financial matters and approving certain Diocese expenditures.
3. The Catholic Cemeteries Association (“CCA”) was a separate corporate entity from the Diocese, the operations of which were under the supervisory authority of the Diocese Financial and Legal Office.

4. The Borromeo Seminary, St. Mary's Seminary, and the Center for Pastoral Leadership (also jointly hereinafter "the Seminaries") were each separate corporate entities from the Diocese, under the supervisory authority of the Diocese Secretariat for Clergy and Religious.

5. The Office of Education was a Secretariat of the Diocese, the responsibilities of which included supervision over nine Diocesan-owned high schools.

**Defendant JOSEPH H. SMITH and related entities**

6. Defendant JOSEPH H. SMITH ("SMITH") was employed by the Diocese in the Financial and Legal Office from the early 1980s through February 17, 2004. During the relevant time period, he initially held the positions of Treasurer and then Chief Financial Officer ("CFO"), with principal responsibilities for the Diocese Finance Office under the supervision of the Financial and Legal Secretary. In approximately mid-2000, he was promoted to be Financial and Legal Secretary, while continuing to maintain the position of CFO. During the relevant time period, he was a licensed attorney and a certified public accountant ("CPA") and resided in Westlake and then Avon Lake, Ohio.

7. Upon becoming Financial and Legal Secretary, SMITH's compensation was determined annually by the Bishop, upon recommendation of the Diocesan Financial Advisory Committee.

8. SMITH was also a member of the Boards of Trustees of the Catholic Cemeteries Association, the Center for Pastoral Leadership, and the Borromeo and St. Mary Seminaries.

9. In his employment at the Diocese, SMITH had a duty to provide honest services to the Diocese, its constituent organizations, and the members of the public to whom the Diocese had a fiduciary duty as a charitable trust.

10. **Tee Sports, Inc.** At all relevant times, SMITH was the sole owner and operator of a corporation known as Tee Sports, Inc. (“Tee Sports”), which was engaged in the business of selling golf paraphernalia and other items and occasionally consulting on the operation of golf outings. SMITH disclosed his ownership of Tee Sports and its above-described business activities to Diocese officials and the Financial Advisory Committee, representing that he conducted Tee Sports business from his home primarily during evenings and weekends.

11. SMITH prepared and filed corporate income tax returns for Tee Sports, Inc., as a taxable entity through the year 2002. For the year 2003, he elected Subchapter S corporation status for Tee Sports, Inc., making the corporation’s income reportable on his personal tax returns on a flow-through basis.

12. **JHS Enterprises.** SMITH used the name JHS Enterprises to receive and disburse funds for various purposes. JHS Enterprises did not have a independent legal existence. SMITH reported certain financial transactions using the name JHS Enterprises on Schedule C of his personal income tax returns, as a purported sole proprietorship business.

13. At all relevant times, SMITH maintained a bank account in the name of JHS Enterprises at Provident Bank (account number ending “547” -- hereinafter the “JHS Enterprises Account”).

14. On or about March 31, 1999, SMITH applied for P.O. Box 40092, in Bay Village, Ohio, in the names of JHS Enterprises and Tee Sports, which he maintained at all relevant times thereafter.

**Defendant ANTON ZGOZNIK and related entities**

15. From approximately October 1995 through January 1997, defendant ANTON ZGOZNIK performed services for the Diocese in the Financial and Legal Office as an independent contractor. From approximately February 1997 through January 1999, he was an employee of the Diocese, in the Financial and Legal Office, holding the position of Assistant Treasurer. From approximately February 1999 through the end of 2003, ZGOZNIK continued to serve as Assistant Treasurer on an “outsourced” basis through an agreement between the Diocese and certain accounting and consulting firms he controlled.

16. During the period from approximately October 1996 through at least December 2003, ZGOZNIK was the principal or sole owner of a number of corporations, which provided accounting, tax, financial, and computer technology services, with the principal clients being the Diocese and certain of its constituent organizations. The corporations, which will also be referred to herein collectively as the “ZGOZNIK Entities,” are described as follows:

**ZJ & Associates, Inc. (“ZJA”), later re-named Institutional Financial Advisors, Inc. (“IFA”)**

a. On approximately October 1, 1996, ZGOZNIK and Zrino Jukic established a business known as ZJ & Associates, Inc. (“ZJA”), located in Mentor, Ohio. SMITH did the legal work to incorporate the business for them. In December 2001, the corporation’s name was changed to Institutional Financial Advisors, Inc. (“IFA”). The corporation will also be referred to herein as “ZJA/IFA.”

b. Throughout the existence of ZJA/IFA, Jukic was held out to be the President and owner of the company, with the initials “ZJ” supposedly representing Jukic’s

name, when, in fact, ZGOZNIK was the true owner and exercised the principal control over the company. In approximately late 2002, Jukic's active relationship with IFA ended.

**Institutional Business Systems, Inc. ("IBS"), and its predecessor entities**

c. On approximately July 1, 1999, ZGOZNIK incorporated Monastra & Associates, Inc. In April 2001, ZGOZNIK renamed the corporation Zgoznik & Associates, Inc. In February 2003, he again renamed the corporation Institutional Business Solutions, Inc. ("IBS"). ZGOZNIK initially had a 99 percent ownership and later became the sole owner.

d. During most of its existence, IBS and predecessors did business as a public accounting firm. Beginning in early 2003, ZGOZNIK stopped using IFA as a business entity and began using IBS to provide the same consulting/accounting services to the Diocese and constituent organizations that ZJA/IFA had provided. In 2003, ZGOZNIK also used IBS to provide computer technology services.

**Alexander Systems Group, Inc.**

e. On approximately July 1, 1999, ZGOZNIK incorporated Alexander Systems Group, a computer technology consulting business for which he was the sole owner. In February 2003, he changed the name of the corporation to Zgoznik and Associates, Inc. (at the same time the corporation previously using that name became IBS).

**Diocese Outsourcing of Services to the Zgoznik Entities**

17. From early 1996 through December 2003, SMITH caused and induced certain offices and departments of the Diocese and certain of its constituent organizations, including but not limited to the CCA, the Seminaries, and the Diocesan-owned high schools, to retain the services of the Zgoznik Entities to perform accounting, computer, financial, and other related

services, including outsourcing of certain functions previously performed in-house by the Diocese and those constituent organizations. The Diocese, CCA, Seminaries, and Diocesan-owned high schools together paid approximately the following amounts to Zgoznik Entities during these years:

<b>Year</b>	<b>Amounts paid by the Diocese and constituent organizations to the Zgoznik Entities</b>
1996	\$12,090
1997	\$618,378
1998	\$1,263,447
1999	\$2,048,588
2000	\$2,867,345
2001	\$3,190,567
2002	\$3,819,699
2003	\$3,713,216
<b>TOTAL</b>	<b>\$17,533,330</b>

**Kickback Scheme with the Zgoznik Entities**

18. From approximately June 1997 through February 2004, ZGOZNIK and SMITH devised and executed a scheme to defraud and to obtain money by false and fraudulent pretenses, representations, and promises, by which SMITH, in violation of his duty of honest services to the Diocese, its constituent organizations, and the members of the public to whom the Diocese had a fiduciary duty as a charitable trust, and to the financial detriment of the Diocese and its constituent organizations, steered substantial business to the Zgoznik Entities in consideration for which and while receiving substantial undisclosed kickback payments from ZJA, IFA, and IBS -- as described in more detail in the following paragraphs.

19. SMITH caused and induced the Diocese and certain of its constituent organizations to retain and pay the Zgoznik Entities to perform outsourced services, without disclosing on the records of the Diocese or to officials responsible for finances of the Diocese and the constituent organizations that he was receiving substantial kickbacks from certain of the Zgoznik Entities, namely, ZJA, IFA, and IBS.

20. The Zgoznik Entities billed and received payments from the Diocese and constituent organizations for the outsourced services. In many instances, particularly with respect to the billings to and payments by the CCA, the Seminaries, the Office of Catholic Education, and some Diocese-owned high schools, the billings and payments were sent by U.S. mail.

21. ZGOZNIK and SMITH caused the Diocese and constituent organizations to pay for more outsourced services by the Zgoznik Entities and to pay higher costs for the outsourcing than they would otherwise have paid in order to generate funds to pay the kickbacks to SMITH.

22. In at least one instance in 2002 and on some invoices in 2003, ZGOZNIK caused invoices from a Zgoznik Entity to the Diocese to inflate the amount billed for purported services to the Diocese by an amount to cover the next kickback check paid to SMITH.

23. SMITH and ZGOZNIK disguised the kickback arrangement by having ZJA, and later IFA and then IBS, pay the kickbacks by checks payable to JHS Enterprises and Tee Sports, Inc., for purported business services. The kickbacks were paid in the following yearly amounts:

<b>Year</b>	<b>Checks payable to JHS Enterprises</b>	<b>Checks payable to Tee Sports, Inc.</b>	<b>Total</b>
1997	\$38,050.00	none	\$38,050.00

<b>Year</b>	<b>Checks payable to JHS Enterprises</b>	<b>Checks payable to Tee Sports, Inc.</b>	<b>Total</b>
1998	\$101,735.00	none	\$101,735.00
1999	\$77,963.75	\$33,634.00	\$111,597.75
2000	\$86,375.00	\$106,932.00	\$193,307.00
2001	\$112,752.50	none	\$112,752.50
2002	\$83,650.00	\$31,260.00	\$114,910.00
2003	none	\$112,275.00	\$112,275.00
Total	\$500,526.25	\$284,101.00	\$784,627.25

24. ZGOZNIK caused the kickback payments from his entities to be falsely recorded on the books and records of those corporations as being payments for purported legal, consulting, and other services which SMITH and his business entities did not, in fact, render to those ZGOZNIK entities.

25. In many instances, false and fictitious invoices from Tee Sports, Inc., and JHS Enterprises were prepared and maintained in the records of ZJA and IFA for purported legal, consulting and other services, which SMITH and Tee Sports, Inc., did not, in fact, perform, as documentation to conceal the true nature of the kickback payments.

26. SMITH deposited the kickback checks payable to JHS Enterprises into the JHS Enterprises Account and recorded the deposits on a register he maintained for that account as consulting income.

27. On or about May 3, 1999, SMITH opened a bank account in the name of Joseph H. Smith, DBA Tee Sports, Inc., at Fifth Third Bank (account number ending "739" -- hereinafter the "DBA Tee Sports Account"). SMITH listed the federal tax identification number for the corporation, Tee Sports, Inc., on the account opening document. SMITH made the initial

deposit with the first kickback check from ZJA payable to Tee Sports, Inc. SMITH thereafter deposited all but two of the kickback checks payable in the name of Tee Sports, Inc., into the DBA Tee Sports Account. At all relevant times, SMITH used the DBA Tee Sports account primarily or exclusively for personal purposes, and not to conduct the legitimate business activities of Tee Sports, Inc.

28. During 2003, SMITH misled the Diocesan Financial Advisory Council by misrepresenting the amount paid by the Diocese to the Zgoznic Entities for outsourced services.

29. During early 2004, after the Diocese received anonymous information of the payments to SMITH from the Zgoznic Entities:

a. ZGOZNIK misled the Diocese by presenting false and misleading documents that concealed the kickback arrangement with SMITH and the inflating of certain invoices to cover kickback payments to SMITH, and

b. SMITH misled the Diocese by falsely representing that payments he received from the Zgoznic Entities were for actual services he had rendered to those entities.

#### **The DOC Fidelity Account Scheme**

30. In approximately March 1996, an arrangement was made between SMITH and the then Financial and Legal Secretary, for SMITH to be paid a substantial lump-sum payment, in addition to his regular salary, in order for him to remain at the Diocese, rather than seeking a more lucrative position in the private sector. The understanding was that the payment would be in lieu of any additional raises for the next five years, other than cost of living increases. ZGOZNIK participated in the arrangement by helping to urge the Financial and Legal Secretary to agree to the payment and by helping transfer the Diocese funds under the arrangement.

31. To effectuate the above arrangement, a not-for-profit organization account was set up at Fidelity Investments using the tax identification number of the Diocese, under the account name “D.O.C. Special Administration” (hereinafter the “DOC Fidelity Account”), with SMITH and the Financial and Legal Secretary as the authorized individuals to transact business, using SMITH’s home address as the mailing address. The account was opened on approximately April 1, 1996, with an initial deposit of \$185,000, made by a Diocese check payable in that amount to Fidelity Investments. A purported memo to Smith was created, stating that the \$185,000 was being transferred into “a Special Administration account held outside of the Finance Office to handle sensitive items impacting the Diocese.”

32. In August 1997, SMITH and ZGOZNIK caused an additional \$85,000 of Diocese funds to be deposited into the DOC Fidelity Account by another Diocese check.

33. No formal entries were made on the Diocese records to reflect that SMITH received the \$270,000 as compensation, and the Diocese did not report the benefit SMITH received from this account to the Internal Revenue Service (“IRS”) on any tax reporting form.

34. At all times, SMITH used the DOC Fidelity Account as a personal investment account, through which he received the entire benefit of the \$270,000 of Diocese funds deposited into the account. He made purchases and sales of stocks and other securities and periodically withdrew funds from the account for personal expenditures through approximately August 2002, when the account was left with a minimal balance. SMITH, however, did not report the \$270,000 deposited into the account, his receipt of funds withdrawn from the account, or any dividends, capital gains, or other income generated from account activity on his federal income tax returns.

**Payments to SMITH through the Catholic Cemeteries Association (“CCA”)**

35. In January of 1997, 1998, 1999, and 2000, SMITH, without authorization, caused Diocese funds to be paid to him, indirectly by checks from the CCA to JHS Enterprises, as follows:

36. In January of each of the four years 1997 through 2000, SMITH caused the CCA to issue a check payable to JHS Enterprises, which he deposited to the JHS Enterprises Account. The 1997 check was in the amount of \$12,500; in each of the other three years the check was in the amount of \$15,000. Each check was recorded on the books of the CCA as being for executive and professional services.

37. Following the issuance of each check, SMITH caused the Diocese Finance Office to issue a check in the same amount payable to the CCA. Each check was recorded on the books of the Diocese Finance Office as a reimbursement of part of the yearly fee (or “administrative tax”) the Diocese charged the CCA for Diocesan services.

38. No formal entries were made on the Diocese records to reflect that SMITH received the yearly payments from the CCA as compensation, and the payments to SMITH were not reported to the IRS by either the Diocese or the CCA on any tax reporting form.

39. SMITH concealed and disguised his receipt of the CCA January payments by not reporting the income on some of his federal income tax returns and by including the amount in the gross receipts reported on the JHS Enterprises Schedule C on at least one of his returns.

**SMITH’s Kickback Scheme with an Insurance Brokerage Firm**

40. During the relevant time period, SMITH arranged for the Diocese to retain the Cleveland office of an insurance brokerage firm (“Insurance Firm”) to provide periodic insurance consulting services to the Diocese and to serve as a broker for obtaining certain insurance coverage for the Diocese.

41. Beginning in approximately May 1994 and continuing through approximately December 2000, SMITH, without Diocese authorization, received monthly kickback payments from the Insurance Firm, by checks payable to JHS Enterprises. The monthly payments were in the amount of \$833 until approximately May 1998, when they increased to \$1,250.

42. Until approximately May 1998, the monthly payments were recorded on the books of the Insurance Firm as being for supposed consulting services provided by SMITH to the Insurance Firm, even though SMITH provided no regular monthly services.

43. In approximately May 1998, SMITH and an Insurance Firm executive signed a purported lease agreement, seemingly providing for the Insurance Firm to lease a condominium SMITH owned at the Saddlebrook Resort in Tampa, Florida, at monthly lease charge of \$1,250. Despite the purported lease, Smith kept full control over the condominium.

44. SMITH concealed and disguised his receipt of the kickback payments from the Insurance Firm by not reporting the income on some of his federal income tax returns and by including the amounts in the gross receipts reported on the JHS Enterprises Schedule C on at least one of his returns.

**STATUTORY CHARGES**

COUNT 1

Conspiracy to Commit Mail Fraud, 18 U.S.C. §§ 371 and 1349

Defendants: JOSEPH H. SMITH and ANTON ZGOZNIK

The Grand Jury further charges:

1. The allegations in paragraphs 1-29 of the General Allegations are re-alleged and incorporated by reference in this count, as though fully restated herein.

2. From approximately June 1997 through February 2004, the exact dates unknown to the Grand Jury, in the Northern District of Ohio, Eastern Division, and elsewhere, the defendants, JOSEPH H. SMITH and ANTON ZGOZNIK, did unlawfully, willfully and knowingly, conspire, combine, confederate, and agree together and with each other and with others, both known and unknown to the Grand Jury, to commit offenses in violation of Title 18, United States Code, Sections 1341 and 1346, to wit, mail fraud.

3. The object of the conspiracy was to devise and execute a scheme and artifice to defraud the Diocese, its constituent organizations, and the members of the public to whom the Diocese owed a fiduciary duty and to obtain money from the Diocese by means of false and fraudulent pretenses, representations, and promises, to wit, the Kickback Scheme with the Zgoznic Entities alleged in paragraphs 18-29 of the General Allegations.

**Manner and Means of Carrying Out the Conspiracy**

4. The manner and means of carrying out of the conspiracy included, but were not limited to, the conduct alleged as the Kickback Scheme with the Zgoznic Entities in paragraphs 18-29 of the General Allegations.

**Overt Acts**

On and after July 30, 2002, in furtherance of the conspiracy, and to effect its illegal objects, the following overt acts, among others, were committed in the Northern District of Ohio, Eastern Division, and elsewhere:

5. On approximately a monthly basis during the period from July 30, 2002, through December 31, 2003, the Zgoznic Entities sent invoices for outsourced services to the Diocese, components of the Diocese, and constituent organizations, at the Diocese office in Cleveland, Ohio.

6. On approximately a monthly basis, during the period from July 30, 2002, through December 31, 2003, the Zgoznic Entities sent invoices for outsourced services by United States mail to the following Catholic organizations or institutions, at the addresses indicated below:

	<b>Entities issuing the invoices</b>	<b>Entities Receiving the invoices</b>	<b>Address</b>
a.	Alexander Systems Group (“ASG”), IFA, and IBS	Catholic Cemeteries Association (“CCA”)	10000 Miles Avenue, Cleveland, Ohio 44105
b.	IFA and IBS	St. Mary Seminary, Borromeo Seminary, and Center for Pastoral Leadership	28700 Euclid Avenue, Wickliffe, Ohio 44092

7. From August 2002 through December 2003, the Diocese sent checks to the Zgoznic Entities in payment of invoices for outsourced services.

8. From August 2002 through December 2003, defendants SMITH and ZGOZNIK and co-conspirators, the following Catholic organizations or institutions sent checks by United States mail to the following Zgoznik Entities at 7325 Production Drive, Mentor, Ohio, in payment of invoices for outsourced services, indicated below:

	<b>Catholic organization or institution issuing the checks</b>	<b>Zgoznik Entities to which the checks were payable</b>
a.	CCA	ASG, IFA, and IBS
b.	Center for Pastoral Leadership, in payment of invoices to the Center and to the St. Mary and Borromeo Seminaries	IFA and IBS

9. From August 2002 through December 2003, defendant ZGOZNIK made kickback payments to SMITH by issuing and causing to be issued checks from IFA and IBS payable to JHS Enterprises and Tee Sports, some of which were addressed to P.O. Box 40092, Bay Village, Ohio, as follows:

- a. Three checks dated from August 19 through October 16, 2002, from IFA to JHS Enterprises, totaling \$24,675.
- b. Six checks dated from December 3, 2002, through March 25, 2003, from IFA to Tee Sports, totaling \$55,235.
- c. Nine checks dated from May 2 through December 29, 2003, from IBS to Tee Sports, totaling \$73,300.

10. On or about January 6, 2004, SMITH made false representations to a member of the Diocesan Financial Advisors and a Diocese attorney, that the payments he received from the Zgoznik Entities were for actual services SMITH claimed to have rendered to those Entities.

11. During January or February 2004, ZGOZNIK caused false and misleading written statements to be presented to the Diocese in response to a Diocese request for backup documentation for IBS invoices to the Diocese.

All in violation of Title 18, United States Code, Sections 371, as punishable under Title 18, United States Code, Section 1349.

COUNTS 2 - 9

Mail Fraud, 18 U.S.C. §§ 1341 and 1346

Defendants: JOSEPH H. SMITH and ANTON ZGOZNIK

The Grand Jury further charges:

1. The allegations in paragraphs 1-29 of the General Allegations are re-alleged and incorporated by reference in this count, as though fully restated herein.

**Scheme to Defraud**

2. During the period from approximately June 1997 through February 2004, the defendants, JOSEPH H. SMITH and ANTON ZGOZNIK, devised and intended to devise a scheme and artifice to defraud and to obtain money by means of false and fraudulent pretenses and representations, to wit, the Kickback Scheme with the Zgoznic Entities alleged in paragraphs 18-29 of the General Allegations.

3. During the periods listed below, in the Northern District of Ohio, Eastern Division, defendants SMITH and ZGOZNIK, for the purpose of executing the aforesaid scheme and artifice, and attempting to do so, would and did place and caused to be placed in a post office and an authorized depository for mail to be sent and delivered by the United States Postal Service and would and did knowingly cause to be delivered by the United States mail according

to the directions thereon, envelopes containing the items listed below, which were addressed as stated below:

COUNT 2: For the period from approximately July 30 to December 31, 2002, envelopes containing invoices from IFA to CCA, including but not limited to:

<b>Invoice date</b>	<b>Invoice number</b>	<b>Amount</b>
07/30/2002	17160	\$11,283
12/31/2002	17630	\$22,236

COUNT 3: For the period from approximately August 22, 2002, to February 3, 2003, envelopes containing checks from CCA to IFA, including but not limited to:

<b>Check date</b>	<b>Check number</b>	<b>Amount</b>
08/22/2002	059048	\$11,283
02/03/2003	061373	\$23,236

COUNT 4: For the period from approximately January 31 to October 31, 2003, envelopes containing invoices from IBS to CCA, including but not limited to:

<b>Invoice date</b>	<b>Invoice number</b>	<b>Amount</b>
01/31/2003	2003FebIBS45	\$11,258
10/31/2003	18583	\$33,748

COUNT 5: For the period from approximately March 10 to December 5, 2003, envelopes containing checks from CCA to IBS, including but not limited to:

<b>Check date</b>	<b>Check number</b>	<b>Amount</b>
03/10/2003	061846	\$11,258
12/05/2003	065099	\$16,083

COUNT 6: For the period from approximately August 31 to December 31, 2002, envelopes containing invoices from IFA to the Center for Pastoral Leadership, including but not limited to:

<b>Invoice date</b>	<b>Invoice number</b>	<b>Amount</b>
08/31/2002	17313	\$4,000
12/31/2002	17640	\$8,000

COUNT 7: For the period from approximately August 22, 2002, to January 23, 2003, envelopes containing checks from the Center for Pastoral Leadership to IFA, including but not limited to:

<b>Check date</b>	<b>Check number</b>	<b>Amount</b>
08/22/2002	23415	\$6,000
01/23/2003	24231	\$12,000

COUNT 8: For the period from approximately January 31 to November 30, 2003, envelopes containing invoices from IBS to the Center for Pastoral Leadership, including but not limited to:

<b>Invoice date</b>	<b>Invoice number</b>	<b>Amount</b>
01/31/2003	2003FebIBS31	\$4,000
11/30/2003	18622	\$1,000

COUNT 9: For the period from approximately February 24 to December 22, 2003, envelopes containing checks from the Center for Pastoral Leadership to IBS, including but not limited to:

<b>Check date</b>	<b>Check number</b>	<b>Amount</b>
02/24/2003	24423	\$6,000
12/22/2003	26078	\$3,000

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

COUNTS 10 - 17

Money Laundering, 18 U.S.C. § 1956(a)(1)(B)(i)  
Defendant: JOSEPH H. SMITH

The Grand Jury further charges:

1. The allegations in paragraphs 1-29 of the General Allegations are re-alleged and incorporated by reference in this count, as though fully restated herein.
2. On or about the dates set forth below, in the Northern District of Ohio, Eastern Division, the defendant, JOSEPH H. SMITH, did knowingly conduct and attempt to conduct the following financial transactions affecting interstate and foreign commerce, which involved the proceeds of specified unlawful activity, that is mail fraud in violation of Title 18, Sections 1341 and 1346, United States Code, knowing that the transaction was designed in whole and in part to conceal and disguise, the nature, location, source, ownership, and control of the proceeds of said specified unlawful activity and that while conducting and attempting to conduct such financial transactions, the defendant knew that the property involved in the financial transactions -- that is, the checks described below -- represented the proceeds of some form of unlawful activity.
3. Each financial transaction charged in Counts 10 through 17 was a payment by a check issued on the DBA Tee Sports Account at Fifth Third Bank, a federally-insured financial institution engaged in business in and affecting interstate commerce, as follows:

<b>Count</b>	<b>Date</b>	<b>Check No.</b>	<b>Amount</b>	<b>Payee and type of expense</b>
10	04/25/2002	1060	\$9,000.00	Fidelity Investments - deposit to personal investment account of SMITH
11	04/29/2002	1061	\$1,500.00	Fifth Third Funds - deposit to personal investment account of SMITH
12	07/10/2002	1064	\$3,218.87	Contemporary Landscapes - payment for services at SMITH's family residence

<b>Count</b>	<b>Date</b>	<b>Check No.</b>	<b>Amount</b>	<b>Payee and type of expense</b>
13	02/10/2003	1106	\$1,741.75	Smart Tuition - payment of school tuition for SMITH's daughter
14	05/21/2003	1179	\$1,300.78	Saddlebrook Resort - payment on resort membership account for SMITH and his wife
15	08/18/2003	1209	\$2,100.00	Holy Trinity School - payment of school tuition for SMITH's son
16	10/22/2003	1233	\$1,722.72	South Trust Mortgage Corp. - mortgage loan payment for condominium owned by SMITH and his wife in Florida
17	01/13/2004	1251	\$1,949.93	Fairway Association, Inc. - payment of charges relating to condominium owned by SMITH and his wife in Florida

All in violation of Title 18, United States Code, Section 1956(a)(1)(B)(i)

COUNT 18

Conspiracy to Defraud the IRS, 18 U.S.C. § 371  
Defendants: JOSEPH H. SMITH and ANTON ZGOZNIK

The Grand Jury further charges:

1. The allegations in paragraphs 1-44 of the General Allegations are re-alleged and incorporated by reference in this count, as though fully restated herein.

**Conspiracy to Defraud the United States**

2. From approximately March 1996 through December 2003, the exact dates unknown to the Grand Jury, the defendants, JOSEPH H. SMITH and ANTON ZGOZNIK, in the Northern District of Ohio, Eastern Division, and elsewhere, did unlawfully, willfully and knowingly, conspire, combine, confederate, and agree together and with each other and with others, both known and unknown to the Grand Jury, to defraud the United States by impeding,

impairing, obstructing, and defeating the lawful functions of the Internal Revenue Service of the United States Treasury Department in the ascertainment, computation, and assessment of income taxes owing by JOSEPH H. SMITH and by two of the Zgoznik Entities -- ZJA/IFA and IBS.

### **Objects of the Conspiracy**

3. The objects of the conspiracy were for the coconspirators to conceal the income SMITH was receiving through the DOC Fidelity Account and through payments from ZJA, IFA, and IBS and to conceal and disguise the tax consequences to SMITH and those Zgoznik Entities.

### **Manner and Means by which the Conspiracy was Carried Out**

The manner and means by which the conspiracy was sought to be accomplished included, among others, the following:

4. SMITH's receipt of income deposited into and earned through the DOC Fidelity Account was concealed by transferring Diocese funds into the account without recording the transfers as compensation to him on the Diocese records or having the Diocese report the transfers to the IRS and by placing the account under his personal control while maintaining it under the name and tax identification number of the Diocese.

5. SMITH received kickback income by checks from ZJA, IFA, and IBS payable either to JHS Enterprises or Tee Sports, Inc., which ZGOZNIK caused to be falsely recorded on the books and records of the Zgoznik Entities as payments for legal, consulting and other professional services purportedly rendered under those names.

6. In many instances, false and fictitious invoices under the names of JHS Enterprises and Tee Sports, Inc., were prepared and maintained in the files of ZJA and IFA,

reflecting purported legal, consulting and other professional services rendered, in the amounts of the kickback payments.

7. ZGOZNIK caused the income tax returns of ZJA and IFA to claim false deductions for payments to JHS Enterprises and Tee Sports as purported business expenses, even though the payments were not for such expenses and were actually non-deductible kickbacks.

8. SMITH deposited the kickback checks payable to JHS Enterprises into the JHS Enterprises Account and recorded the deposits on a register for that account as consulting income.

9. SMITH deposited most of the kickback checks payable to Tee Sports Inc., into the DBA Tee Sports Account.

10. SMITH prepared and filed false federal income tax returns which did not report his income deposited into or earned through the DOC Fidelity Account and which concealed and disguised his receipt of income from the Zgoznic Entities as follows:

a. SMITH did not report the transfers into the DOC Fidelity Account, his subsequent expenditures from the account, or the dividend and capital gains earned through the account on his returns.

b. SMITH reported the kickback checks payable to JHS Enterprises as business gross receipts on the JHS Enterprises Schedule C but reduced the amount of reported profit by claiming offsetting deductions for purported business expenses which he was not entitled to claim. The Schedule C deductions included the type of office, travel and other expenses that he would be entitled to deduct if honestly incurred in operating an actual business, but which were not actually incurred in such a business. By reporting the kickbacks as purported

business receipts, the Schedule C gave the false apparent legitimacy to the deducted business expenses.

c. For the years 1999, 2000, and 2002, SMITH did not report the kickback income he received from Zgoznic Entity checks payable to Tee Sports, Inc., on his federal income tax returns or on the income tax returns of Tee Sports, Inc.

d. For 2003, SMITH reported most of the kickback check payments to Tee Sports, Inc., on the S Corporation tax return for that corporation, and then reported the S Corporation income as flow-through income on his personal return, thereby disguising the nature of the income as being corporate business receipts.

11. During an IRS examination (“audit”) of SMITH’s 1999 federal income tax return, ZGOZNIK represented SMITH, during which time ZGOZNIK made false representations to the IRS Revenue Agent that JHS Enterprises was a legal and consulting business, the receipts of which represented payments for consulting services, and concealed the fact that most of the amounts reported as receipts were actually kickback payments. ZGOZNIK also fraudulently presented documentation of expenses purportedly incurred by SMITH in the course of the supposed consulting business. ZGOZNIK also misrepresented that SMITH had no other sources of income than reported on his return, thereby concealing SMITH’s income from kickback checks payable in the name of Tee Sports, Inc.

12. During IRS audits of ZJA/IFA’s June 1998, June 1999, and June 2000 fiscal year tax liabilities, ZGOZNIK provided a false unsigned corporate income tax return for the June 2000 tax year and false and fictitious invoices from JHS Enterprises and Tee Sports to support deductions for purported consulting services that were actually kickback payments to SMITH.

**Overt Acts**

In furtherance of the conspiracy, and to effect its illegal objects, the following overt acts, among others, were committed in the Northern District of Ohio, Eastern Division, and

elsewhere: a. On or about April 1, 1996, and August 22, 1997, checks written on a Diocese account in the amounts of \$185,000 and \$85,000, respectively, were deposited into the DOC Fidelity Account.

13. From approximately June 30, 1997, through December 26, 2003, checks were periodically issued on accounts of ZJA, IFA, and IBS payable in the names of JHS Enterprises and Tee Sports, Inc., for purported legal, consulting, and other services.

14. During 1997 through 2002, invoices in the names of JHS Enterprises and Tee Sports, Inc., for purported legal, consulting and other services were prepared and placed in the files of ZJA and IFA.

15. During 1999, 2000, 2002, and 2003, ZJA, IFA, and IBS checks payable to Tee Sports, Inc., were deposited to the DBA Tee Sports Account.

16. On or about October 16, 2000, October 18, 2001, October 15, 2002, and October 10, 2003, respectively, SMITH filed federal income tax returns for the years 1999 through 2002 that were false in the manner described above.

17. On May 8, 2001, during the IRS audit of SMITH's 1999 federal income tax return, ZGOZNIK, as representative of SMITH, provided information and documents to the IRS Revenue Agent that were false and misleading in the manner described above.

18. ZGOZNIK caused federal corporation income tax returns to be prepared and filed for ZJA for the fiscal year 1999, on or about March 17, 2000, and for the fiscal years 2001 and

2002, and the tax period from July through December 2002, on or about July 30, 2003, that were false in the manner described above.

19. During the audit of ZJA/IFA for the June 1999 and June 2000 fiscal years, ZGOZNIK provided the IRS Revenue Agent conducting the audit:

- a. copies of false purported invoices from JHS Enterprises in support of deductions claimed on the June 1999 corporation income tax return;
- b. an unsigned corporation income tax return of ZJA/IFA for the June 2000 fiscal year that was false in the manner described above; and
- c. copies of three false purported invoices from Tee Sports, Inc., in support of deductions claimed on the unsigned corporation income tax return.

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

COUNT 19

Making a false return, 26 U.S.C. § 7206(1),  
Defendant: JOSEPH H. SMITH; Re: 1999 Form 1040

The Grand Jury further charges:

1. The allegations in paragraphs 1-44 of the General Allegations are re-alleged and incorporated by reference in this count, as though fully restated herein.
2. On or about October 16, 2000, in the Northern District of Ohio, Eastern Division, the defendant, JOSEPH H. SMITH, did willfully make and subscribe a U.S. Individual Income Tax Return, Form 1040, for the calendar year 1999, which was verified by a written declaration that it was made under the penalties of perjury and was filed with the Internal Revenue Service on his and his wife's joint behalf, which said return the defendant did not believe to be true and

correct as to every material matter, in that, as the defendant then and there knew well knew and believed, said return was false as follows:

- a. the return reported ordinary dividends of \$2,941 on line 9 and on Schedule B, which failed to include additional dividends of approximately \$2,153 the defendant had that year from the DOC Fidelity Account;
- b. the return overstated the amount of capital loss claimed on line 13, as computed on Schedule D, by failing to report capital gains the defendant had that year from the sales of securities held through the DOC Fidelity Account, as follows:

Capital loss reported on Schedule D:	\$4,200
Capital loss claimed on line 13:	\$3,000 (maximum allowed)
Unreported capital gains:	\$3,117
Correct Schedule D and line 13 loss:	\$1,083

- c. the return contained a Schedule C, reporting a purported net profit of \$59,126 for a sole proprietorship business identified as Joseph H. Smith, doing business as JHS Enterprises, which disguised the nature of the income reported on the Schedule and falsely understated his income in that:

- (i) Part I of Schedule C reported gross receipts and sales from the purported business in the amount of \$107,964, when, in fact, that amount was not income from a trade or business, reportable on Schedule C, but actually consisted of the following payments deposited into the JHS Enterprises Account:

Kickback payments from ZJA	\$77,964
Kickback payments from the Insurance Firm	\$15,000
Improper payment from the CCA	\$15,000

and;

- (ii) Part II of Schedule C claimed expenses totaling \$48,838 which the defendant was not entitled to claim, in that the amounts claimed were not deductible expenses of a business and were not deductible from the income reported in Part I of the Schedule;

- d. the return failed to report income of approximately \$33,634 the defendant had that year in the form of checks from ZJA payable to Tee Sports, Inc., which he deposited into the DBA Tee Sports Account; and
- e. the return reported (on line 22) that the defendant had total income of \$197,713, when, in fact, the defendant's actual total income for that year was approximately \$284,255.

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

COUNT 20

Making a false return, 26 U.S.C. § 7206(1),  
Defendant: JOSEPH H. SMITH; Re: 2000 Form 1040

The Grand Jury further charges:

- 1. The allegations in paragraphs 1-44 of the General Allegations are re-alleged and incorporated by reference in this count, as though fully restated herein.
- 2. On or about October 18, 2001, in the Northern District of Ohio, Eastern Division, the defendant, JOSEPH H. SMITH, did willfully make and subscribe a U.S. Individual Income Tax Return, Form 1040, for the calendar year 2000, which was verified by a written declaration that it was made under the penalties of perjury and was filed with the Internal Revenue Service on his and his wife's joint behalf, which said return the defendant did not believe to be true and correct as to every material matter, in that, as the defendant then and there knew well knew and believed, said return was false as follows:
  - a. the return reported ordinary dividends of \$5,806 on line 9 and on Schedule B, which failed to include additional dividends of approximately \$702 the defendant had that year from the DOC Fidelity Account;
  - b. the return overstated the amount of capital loss claimed on line 13, as computed on Schedule D, by failing to report capital gains the defendant had that year from the sales of securities held through the DOC Fidelity Account and by including a false carry forward loss from the prior year's return, as follows:

Capital loss reported on Schedule D and line 13:	\$2,352
Unreported capital gains:	\$ 643
Falsely claimed carry forward loss:	\$1,200
Correct Schedule D and line 13 loss:	\$ 509

- c. the return contained a Schedule C, reporting a purported net profit of \$47,058 for a sole proprietorship business identified as Joseph H. Smith, doing business as JHS Enterprises, which disguised the nature of the income reported on the Schedule and falsely understated his income in that:
- (i) Part I of Schedule C reported gross receipts and sales from the purported business in the amount of \$101,375, when, in fact, that amount was not income from a trade or business, reportable on Schedule C, but actually consisted of the following payments deposited into the JHS Enterprises Account:

Kickback payments from ZJA:	\$86,375
Kickback payments from the Insurance Firm or improper payment from the CCA:	\$15,000

and;
  - (ii) Part II of Schedule C claimed expenses totaling \$54,317 which the defendant was not entitled to claim, in that the amounts claimed were not deductible expenses of a business and were not deductible from the income reported in Part I of the Schedule;
- d. the return failed to report income of approximately \$106,932 the defendant had that year in the form of checks from ZJA payable to Tee Sports, Inc., which he deposited into the DBA Tee Sports Account;
- e. the return failed to report income of approximately \$15,000 the defendant had that year, representing the amount of income he deposited into the JHS Enterprises Account that he did report as gross receipts on the JHS Enterprises Schedule C; and
- f. the return reported (on line 22) that the defendant had total income of \$209,111, when, in fact, the defendant's actual total income for that year was approximately \$386,705.

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

COUNT 21

Making a false return, 26 U.S.C. § 7206(1),  
Defendant: JOSEPH H. SMITH; Re: 2001 Form 1040

The Grand Jury further charges:

1. The allegations in paragraphs 1-34 of the General Allegations are re-alleged and incorporated by reference in this count, as though fully restated herein.

2. On or about October 15, 2002, in the Northern District of Ohio, Eastern Division, the defendant, JOSEPH H. SMITH, did willfully make and subscribe a U.S. Individual Income Tax Return, Form 1040, for the calendar year 2001, which was verified by a written declaration that it was made under the penalties of perjury and was filed with the Internal Revenue Service on his and his wife's joint behalf, which said return the defendant did not believe to be true and correct as to every material matter, in that, as the defendant then and there knew well knew and believed, said return was false as follows:

- a. the return reported ordinary dividends of \$3,087 on line 9 and on Schedule B, which failed to include additional dividends of approximately \$325 the defendant had that year from the DOC Fidelity Account;
- b. the return overstated the amount of capital loss claimed on line 13, as computed on Schedule D, by failing to report capital gains the defendant had that year from the sales of securities held through the DOC Fidelity Account, as follows:

Capital loss reported on Schedule D:	\$5,243
Capital loss claimed on line 13:	\$3,000 (maximum allowed)
Unreported capital gains:	\$2,293
Correct Schedule D and line 13 loss:	\$2,950

- c. the return contained a Schedule C, reporting a purported net profit of \$45,374 for a sole proprietorship business identified as Joseph H. Smith, doing business as JHS Enterprises, which disguised the nature of the income reported on the Schedule and falsely understated his income in that:

- (i) Part I of Schedule C reported gross receipts and sales from the purported business in the amount of \$112,753, when, in fact, that amount was not income from a trade or business, reportable on Schedule C, but actually consisted of kickback payments from ZJA and IFA deposited into the JHS Enterprises Account; and
  - (ii) Part II of Schedule C claimed expenses totaling \$67,379 which the defendant was not entitled to claim, in that the amounts claimed were not deductible expenses of a business and were not deductible from the income reported in Part I of the Schedule; and
- d. the return reported (on line 22) that the defendant had total income of \$208,639, when, in fact, the defendant's actual total income for that year was approximately \$276,393.

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

COUNT 22

Making a false return, 26 U.S.C. § 7206(1),  
Defendant: JOSEPH H. SMITH; Re: 2002 Form 1040

The Grand Jury further charges:

1. The allegations in paragraphs 1-34 of the General Allegations are re-alleged and incorporated by reference in this count, as though fully restated herein.
2. On or about October 10, 2003, in the Northern District of Ohio, Eastern Division, the defendant, JOSEPH H. SMITH, did willfully make and subscribe a U.S. Individual Income Tax Return, Form 1040, for the calendar year 2002, which was verified by a written declaration that it was made under the penalties of perjury and was filed with the Internal Revenue Service on his and his wife's joint behalf, which said return the defendant did not believe to be true and correct as to every material matter, in that, as the defendant then and there knew well knew and believed, said return was false as follows:

- a. the return reported ordinary dividends of \$2,745 on line 9 and on Schedule B, which failed to include additional dividends of approximately \$11 the defendant had that year from the DOC Fidelity Account;
- b. the return overstated the amount of capital loss claimed on line 13, as computed on Schedule D, by including a false carry forward loss from the prior year's return, as follows:

Capital loss reported on Schedule D and line 13:	\$2,484
Falsely claimed carry forward loss:	\$2,243
Correct Schedule D and line 13 loss:	\$ 241

- c. the return contained a Schedule C, reporting a purported net profit of \$27,165 for a sole proprietorship business identified as Joseph H. Smith, doing business as JHS Enterprises, which disguised the nature of the income reported on the Schedule and falsely understated his income in that:

- (i) Part I of Schedule C, reported gross receipts and sales from the purported business in the amount of \$88,050, when, in fact, that amount was not income from a trade or business, reportable on Schedule C, but actually consisted of the following payments deposited into the JHS Enterprises Account:

Kickback payments from ZJA:	\$83,650
Board of Directors fees:	\$ 4,400

and;

- (ii) Part II of Schedule C claimed expenses totaling \$60,885 which the defendant was not entitled to claim, in that the amounts claimed were not deductible expenses of a business and were not deductible from the income reported in Part I of the Schedule;

- d. the return failed to report income of approximately \$31,260 the defendant had that year in the form of checks from IFA payable to Tee Sports, Inc., which he deposited into the DBA Tee Sports Account; and
- e. the return reported (on line 22) that the defendant had total income of \$200,861, when, in fact, the defendant's actual total income for that year was approximately \$295,249.

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

COUNT 23

Corruptly Endeavoring to Obstruct and Impede, 26 U.S.C. § 7212(a),  
Defendants: JOSEPH H. SMITH and ANTON ZGOZNIK  
Re: IRS audit of SMITH's 1999 Form 1040

The Grand Jury further charges:

1. The allegations in paragraphs 1-29 of the General Allegations are re-alleged and incorporated by reference in this count, as though fully restated herein.
2. From approximately April 23 through May 18, 2001, the exact dates unknown to the Grand Jury, in the Northern District of Ohio, Eastern Division, the defendants, JOSEPH H. SMITH and ANTON ZGOZNIK, did corruptly endeavor to obstruct and impede the due administration of the internal revenue laws (Title 26, United States Code) as follows:

**BACKGROUND OF THE IRS AUDIT**

3. On May 8, 2001, Revenue Agent Egan of the IRS conducted an examination ("audit") of the 1999 personal income tax return filed by SMITH, pursuant to a pre-arranged appointment. SMITH did not appear at the audit, and, instead, signed a power of attorney authorizing ZGOZNIK to appear and represent him.
4. Based on the information and documents presented by ZGOZNIK on behalf of SMITH during the audit, the IRS accepted SMITH's return as filed, without any changes or proposed assessments of additional taxes.

**OBJECTS OF THE OFFENSE**

5. The objects of the offense were for the defendants to cause false and fraudulent documents and information to be presented to the IRS during an audit of SMITH's 1999 tax return, in order to prevent the IRS from determining (a) the true nature of the amounts reported

as receipts on the JHS Enterprises Schedule C, (b) the non-deductibility of the expenses claimed as deductions on that Schedule C, (c) the failure of the return to report other income SMITH had that year in the form of checks from ZJA payable to Tee Sports, Inc., and (d) the additional taxes owing to the IRS by SMITH.

### **MANNER AND MEANS**

The manner and means by which the defendants corruptly endeavored to obstruct and impede the due administration of the internal revenue laws are as follows:

6. During the audit, ZGOZNIK made false representations and omissions of material facts concerning the amounts reported as business receipts on Schedule C of the return, in the name of JHS Enterprises, including:

- a. that JHS Enterprises was a legal and consulting business conducted by SMITH from his home as an attorney and CPA, including services involving valuations and investments;
- b. that SMITH had a local client base and also worked for clients of other large law firms throughout northern Ohio; and
- c. that SMITH had engagement letters with clients by which he billed them on an hourly basis;

when, in fact, the amounts reported as receipts of JHS Enterprises were not receipts of a legal and/or consulting business, but were actually kickback and other improper payments received by SMITH through checks payable to JHS Enterprises.

7. In response to the Revenue Agent's inquiry whether all sources of SMITH's income were reported on the return, ZGOZNIK falsely represented that all sources were reported, and failed to disclose other kickback income ZGOZNIK paid and caused to be paid to SMITH in the form of ZJA checks payable to Tee Sports, Inc.

8. ZGOZNIK provided purported documentation of expenses supposedly incurred by SMITH in the ordinary course of the JHS Enterprises legal and consulting business, when, in fact, SMITH had not incurred the expenses in the course of a business and was not entitled to deduct the amounts against the kickback and other income reported as receipts on the Schedule C.

All in violation of Title 26, Section 7212(a), United States Code.

COUNT 24

Aiding and Assisting Preparation of a False Document, 26 U.S.C. § 7206(2),  
Defendant: ANTON ZGOZNIK; Re: ZJA unsigned Form 1120 for tax year June 2000

The Grand Jury further charges:

1. The allegations in paragraphs 1-29 of the General Allegations are re-alleged and incorporated by reference in this count, as though fully restated herein.
2. On or about September 18, 2000, a U.S. Corporation Income Tax Return, Form 1120, of Z J & Associates, Inc., was filed with the Internal Revenue Service, reporting activity of the corporation for the period from July 1 through December 31, 1999. The return was signed by defendant ZGOZNIK as preparer.
3. During an IRS examination (“audit”) of ZJA, an IRS Revenue Agent (“Revenue Agent”) notified the certified public accountant (“CPA”) representing the corporation that because ZJA had not complied with the procedure to change its tax year from a June fiscal year to a calendar year, the Form 1120 would have to be adjusted to include the period through the end of the June 2000 fiscal year.

4. As a result, an arrangement was made for the CPA to prepare and provide the Revenue Agent an unsigned Form 1120, reporting the income and expenses claimed by the corporation for the entire fiscal year ended June 30, 2000, for use in the audit.

5. On or about January 22, 2003, in the Northern District of Ohio, Eastern Division, the defendant, ANTON ZGOZNIK, did willfully aid and assist in, and procure, counsel, and advise the preparation and presentation to the Internal Revenue Service, of an unsigned U.S. Corporation Income Tax Return, Form 1120, of Z J & Associates, Inc., for the tax year ended June 30, 2000, for use in the audit described above, which was false and fraudulent as to a material matter, in that, as the defendant then and there well knew and believed:

- a. the supporting schedule of "Other deductions" ("Statement 4") listed \$342,474 of deductions for "Consulting Services," when, in fact, that amount included checks totaling \$62,363.50 payable to JHS Enterprises and checks totaling \$78,566 payable to Tee Sports Inc., which were not payments for such expenses of the corporation; and
- b. the total amount of "Other deductions" on Statement 4 and on line 26 of the return was falsely inflated by including non-deductible kickback payments to Joseph H. Smith of approximately \$140,929.50.

All in violation of Title 26, United States Code, Section 7206(2).

COUNT 25

Aiding and Assisting Preparation of a False Return, 26 U.S.C. § 7206(2)  
Defendant: ANTON ZGOZNIK; Re: IFA Form 1120 for tax year June 2001

The Grand Jury further charges:

1. The allegations in paragraphs 1-29 of the General Allegations are re-alleged and incorporated by reference in this count, as though fully restated herein.
2. On or about July 30, 2003, in the Northern District of Ohio, Eastern Division, the defendant, ANTON ZGOZNIK, did willfully aid and assist in, and procure, counsel, and advise the preparation and presentation to the Internal Revenue Service, of a U.S. Corporation Income

Tax Return, Form 1120, of Institutional Financial Advisors, Inc., for the tax year ended June 30, 2001, which was false and fraudulent as to a material matter, in that, as the defendant then and there well knew and believed:

- a. the supporting schedule of "Other deductions" ("Statement 5") listed \$85,778 of "Management Consulting" expenses, when, in fact, that amount actually consisted of checks payable to JHS Enterprises, which were not payments for such expenses of the corporation;
- b. Statement 5 listed \$50,000 of "Professional Advisory Services" expenses, when, in fact, that amount actually consisted of checks payable to Tee Sports Inc., which were not payments for such expenses of the corporation; and
- c. the total amount of "Other deductions" on Statement 5 and on line 26 of the return was falsely inflated by including non-deductible kickback payments to Joseph H. Smith of approximately \$135,778.

All in violation of Title 26, United States Code, Section 7206(2).

COUNT 26

Aiding and Assisting Preparation of a False Return, 26 U.S.C. § 7206(2)  
Defendant: ANTON ZGOZNIK; Re: IFA Form 1120 for tax year June 2002

The Grand Jury further charges:

1. The allegations in paragraphs 1-29 of the General Allegations are re-alleged and incorporated by reference in this count, as though fully restated herein.
2. On or about July 30, 2003, in the Northern District of Ohio, Eastern Division, the defendant, ANTON ZGOZNIK, did willfully aid and assist in, and procure, counsel, and advise the preparation and presentation to the Internal Revenue Service, of a U.S. Corporation Income Tax Return, Form 1120, of Institutional Financial Advisors, Inc., for the tax year ended June 30, 2002, which was false and fraudulent as to a material matter, in that, as the defendant then and there well knew and believed:
  - a. the supporting schedule of "Other deductions" ("Statement 3") listed \$124,375 of "Management Consulting" expenses, when, in fact, that amount actually consisted of checks payable to JHS Enterprises, which were not payments for such expenses of the corporation;
  - b. Statement 5 listed \$15,000 of "Professional Advisory Services" expenses when, in fact, that amount actually consisted of checks payable to Tee Sports Inc., which were not payments for such expenses of the corporation; and
  - c. the total amount of "Other deductions" on Statement 5 and on line 26 of the return was falsely inflated by including non-deductible kickback payments to Joseph H. Smith of approximately \$139,375.

All in violation of Title 26, United States Code, Section 7206(2).

COUNT 27

Aiding and Assisting Preparation of a False Return, 26 U.S.C. § 7206(2)  
Defendant: ANTON ZGOZNIK; Re: IFA Form 1120S for tax period July-December 2002

The Grand Jury further charges:

1. The allegations in paragraphs 1-29 of the General Allegations are re-alleged and incorporated by reference in this count, as though fully restated herein.
2. On or about July 30, 2003, in the Northern District of Ohio, Eastern Division, the defendant, ANTON ZGOZNIK, did willfully aid and assist in, and procure, counsel, and advise the preparation and presentation to the Internal Revenue Service, of a U.S. Income Tax Return for an S Corporation, Form 1120S, of Institutional Financial Advisors, Inc., for the tax period July 1 through December 31, 2002, which was false and fraudulent as to a material matter, in that, as the defendant then and there well knew and believed:
  - a. the supporting schedule of "Other deductions" ("Statement 3") listed \$48,985 of "Management Consulting" expenses, when, in fact, that amount actually consisted of checks totaling \$32,725 payable to JHS Enterprises and checks totaling \$16,260 payable to Tee Sports Inc., which were not payments for such expenses of the corporation; and
  - b. The total amount of "Other deductions" on Statement 5 and on line 19 of the return was falsely inflated by including non-deductible kickback payments to Joseph H. Smith of approximately \$48,985.

All in violation of Title 26, United States Code, Section 7206(2).

A TRUE BILL.

Original document – Signatures on file with the Clerk of Courts, pursuant to the E-Government Act of 2002.

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A TRUE BILL.

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Foreperson

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GREGORY A. WHITE  
United States Attorney