

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
**11-60125-CR-MARRA/HOPKINS**  
18 U.S.C. §371

UNITED STATES OF AMERICA,

Plaintiff,

v.

HOWARD KUSNICK,

Defendant.

INFORMATION

The United States Attorney charges that, at all times relevant to this Information:

GENERAL ALLEGATIONS

1. Rothstein, Rosenfeldt and Adler, [REDACTED] (hereinafter referred to as "RRA") was a law firm with offices located at 401 East Las Olas Boulevard, Fort Lauderdale, Florida and elsewhere. The law firm employed approximately seventy attorneys and engaged in the practice of law involving a wide range of specialties, including labor and employment law.

2. Scott W. Rothstein (hereinafter referred to as "Rothstein") was an attorney and was the Chief Executive Officer (CEO) and Chairman of RRA.

3. Defendant HOWARD KUSNICK (hereinafter referred to as "KUSNICK") was an attorney at RRA.

4. Clients 1 and 2 were clients of Rothstein at RRA. Clients 1 and 2 hired Rothstein and members of RRA to pursue litigation against a general contractor and subcontractors who were building a single family residence for Clients 1 and 2. Pursuant to that representation, Rothstein filed a lawsuit against the general contractor on behalf of Clients 1 and 2. Thereafter Rothstein

settled the lawsuit, without the consent of Clients 1 and 2. As part of the settlement, Rothstein, without the knowledge and consent of Clients 1 and 2, agreed that Clients 1 and 2 would pay the general contractor approximately \$500,000. In order to perpetrate a fraud, Rothstein falsely informed Clients 1 and 2 that they had won their lawsuit against the general contractor and further falsely informed them that the general contractor owed Clients 1 and 2 approximately \$20 million.

5. Rothstein would communicate with KUSNICK, and with Clients 1 and 2 about the lawsuit, its alleged disposition and related matters, including supposed collection efforts and a subcontractors lawsuit, through e-mail transmissions which traveled through servers in interstate commerce .

### **COUNT 1**

(Conspiracy to Commit Wire Fraud, 18 U.S.C. 371)

1. The General Allegations of this Information, numbered 1 through 5, are realleged and expressly incorporated herein as if set forth in full.

2. From in or about September 2009 through in or about October 2009, in Broward County in the Southern District of Florida and elsewhere, the defendant,

**HOWARD KUSNICK,**

did knowingly and willfully combine, conspire, confederate, and agree with Rothstein and with other persons known and unknown to the United States Attorney to commit an offense against the United States of America, that is, to devise and intend to devise a scheme and artifice to defraud and for obtaining money and property by means of materially false and fraudulent pretenses, representations, and promises, and, for the purpose of executing, and attempting to execute, such scheme and artifice to defraud and for obtaining money and property by means of materially false and fraudulent pretenses, representations, and promises, to knowingly transmit and cause to be transmitted by means

of wire communication in interstate and foreign commerce, certain signs, signals, and sounds, in violation of Title 18, United States Code, Section 1343 (Wire Fraud).

The Purpose and Object of the Conspiracy

3. The purpose and object of the conspiracy was to induce Clients 1 and 2 to refrain from efforts to collect money from Rothstein and RRA, which money had been unlawfully obtained by Rothstein and RRA from Clients 1 and 2, through the use of false and fraudulent pretenses, representations and promises.

Manner and Means of the Conspiracy

4. It was part of the conspiracy that Rothstein falsely informed Clients 1 and 2 that, in order to collect the \$20 million judgment that Rothstein had purportedly won on behalf of Clients 1 and 2 from the general contractor, Clients 1 and 2 were required to post a bond totaling two and one-half times the judgment amount.

5. It was further part of the conspiracy that Clients 1 and 2 paid Rothstein approximately \$57 million which Clients 1 and 2 believed was being used to post a bond in furtherance of collecting the purported \$20 million judgment.

6. It was further part of the conspiracy that, after Rothstein received approximately \$57 million, Rothstein repeatedly provided false information to Clients 1 and 2 as to the status of the litigation and why the judgment could not be collected.

7. It was further part of the conspiracy that Rothstein utilized the money obtained from Clients 1 and 2 to further a fraudulent investment scheme, including paying some of the investors in that fraudulent scheme.

8. It was further part of the conspiracy that, in order to appease Clients 1 and 2, Rothstein needed to show Clients 1 and 2 that he was allegedly pursuing litigation against a number of subcontractors.

9. It was further a part of the conspiracy that Rothstein solicited KUSNICK to pose as counsel for one of the subcontractors who was building the single family residence for Clients 1 and 2 (hereinafter referred to as "Subcontractor"), who Rothstein claimed to have sued on behalf of Clients 1 and 2.

10. It was further part of the conspiracy that KUSNICK prepared a fraudulent settlement letter on behalf of Subcontractor purporting to resolve the non-existent litigation in favor of Clients 1 and 2.

11. It was further a part of the conspiracy that KUSNICK caused the fraudulent settlement letter to be forwarded to Rothstein, who then forwarded it to Clients 1 and 2.

12. It was further part of the conspiracy that KUSNICK did not represent Subcontractor, that no such litigation was ever instituted, and that the settlement letter was fraudulent in its entirety.

#### **OVERT ACTS**

In furtherance of the conspiracy and to achieve the purpose and object thereof, the defendant and his coconspirators committed and caused to be committed in the Southern District of Florida and elsewhere, at least one of the following acts, among others:

13. In or about September 2009, Rothstein sent to KUSNICK an e-mail requesting that KUSNICK create a letter falsely purporting that Subcontractor agreed to settle its litigation by paying \$310,000 to Clients 1 and 2.

14. In or about September 2009 KUSNICK directed a legal assistant at RRA to create a letterhead for a law firm entitled "Howard Kusnick and Associates" and to use KUSNICK'S home address as the address of the law firm.

15. In or about September 2009, KUSNICK caused the fraudulent settlement letter to be placed on letterhead titled "Howard Kusnick and Associates," which KUSNICK then signed on behalf of the Subcontractor.

16. In or about September 2009, KUSNICK caused the fraudulent settlement letter, which had been backdated to June 2009, to be forwarded to Rothstein, who then forwarded it to Clients 1 and 2.

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

  
\_\_\_\_\_  
WIFREDO A. FERRER  
UNITED STATES ATTORNEY

  
\_\_\_\_\_  
JEFFREY N. KAPLAN  
ASSISTANT UNITED STATES ATTORNEY

*for*   
\_\_\_\_\_  
PAUL F. SCHWARTZ  
ASSISTANT UNITED STATES ATTORNEY

  
\_\_\_\_\_  
LAWRENCE D. LAVECCHIO  
ASSISTANT UNITED STATES ATTORNEY

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

UNITED STATES OF AMERICA

CASE NO. \_\_\_\_\_

vs.

CERTIFICATE OF TRIAL ATTORNEY\*

HOWARD KUSNICK,

Defendant.

Superseding Case Information:

Court Division: (Select One)

X Miami      Key West  
FTL      WPB      FTP

New Defendant(s) Yes      No       
Number of New Defendants       
Total number of counts     

I do hereby certify that:

- I have carefully considered the allegations of the indictment, the number of defendants, the number of probable witnesses and the legal complexities of the Indictment/Information attached hereto.
- I am aware that the information supplied on this statement will be relied upon by the Judges of this Court in setting their calendars and scheduling criminal trials under the mandate of the Speedy Trial Act, Title 28 U.S.C. Section 3161.

3. Interpreter: (Yes or No) No  
List language and/or dialect \_\_\_\_\_

4. This case will take 0 days for the parties to try.

5. Please check appropriate category and type of offense listed below:  
(Check only one) (Check only one)

I	0 to 5 days	<u>X</u>	Petty	<u>    </u>
II	6 to 10 days	<u>    </u>	Minor	<u>    </u>
III	11 to 20 days	<u>    </u>	Misdem.	<u>    </u>
IV	21 to 60 days	<u>    </u>	Felony	<u>    </u>
V	61 days and over	<u>    </u>		

6. Has this case been previously filed in this District Court? (Yes or No) No

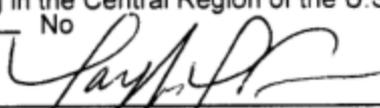
If yes:  
Judge: \_\_\_\_\_ Case No. \_\_\_\_\_  
(Attach copy of dispositive order)

Has a complaint been filed in this matter? (Yes or No)     

If yes:  
Magistrate Case No. \_\_\_\_\_  
Related Miscellaneous numbers: \_\_\_\_\_  
Defendant(s) in federal custody as of \_\_\_\_\_  
Defendant(s) in state custody as of \_\_\_\_\_  
Rule 20 from the \_\_\_\_\_ District of \_\_\_\_\_

Is this a potential death penalty case? (Yes or No) No

- Does this case originate from a matter pending in the U.S. Attorney's Office prior to April 1, 2003?      Yes X No
- Does this case originate from a matter pending in the U. S. Attorney's Office prior to April 1, 1999?      Yes X No  
If yes, was it pending in the Central Region?      Yes      No
- Does this case originate from a matter pending in the Northern Region of the U.S. Attorney's Office prior to October 14, 2003?      Yes X No
- Does this case originate from a matter pending in the Narcotics Section (Miami) prior to May 18, 2003?      Yes X No
- Does this case originate from a matter pending in the Central Region of the U.S. Attorney's Office prior to September 1, 2007?      Yes X No

  
\_\_\_\_\_  
LAWRENCE D. LAVECCHIO  
ASSISTANT UNITED STATES ATTORNEY  
Florida Bar No. 0305405

\*Penalty Sheet(s) attached

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA**

PENALTY SHEET

**Defendant's Name:** HOWARD KUSNICK

**Case No:** \_\_\_\_\_

**Count #: 1**

Conspiracy to Commit Wire Fraud

Title 18, United States Code, Section 371

**\* Max. Penalty: 5 Years' Imprisonment; \$250,000.00 Fine**

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UNITED STATES DISTRICT COURT  
for the  
Southern District of Florida

United States of America )  
v. ) Case No.  
HOWARD KUSNICK )  
Defendant. )

**WAIVER OF AN INDICTMENT**

I understand that I have been accused of one or more offenses punishable by imprisonment for more than one year. I was advised in open court of my rights and the nature of the proposed charges against me.

After receiving this advice, I waive my right to prosecution by indictment and consent to prosecution by information.

Date: \_\_\_\_\_

\_\_\_\_\_

*Defendant's signature*

\_\_\_\_\_

*Signature of defendant's attorney*

\_\_\_\_\_

*Printed name of defendant's attorney*

\_\_\_\_\_

*Judge's signature*

\_\_\_\_\_

*Judge's printed name and title*