

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. **10-20242** CR-ALTONAGA

18 U.S.C. § 1341
18 U.S.C. § 1957
18 U.S.C. § 2

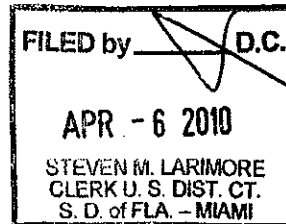
MAGISTRATE JUDGE
BROWN

UNITED STATES OF AMERICA

vs.

JOHN J. UTSICK,

Defendant.



INDICTMENT

The Grand Jury charges that:

GENERAL ALLEGATIONS

At all times relevant to this Indictment:

1. Defendant **JOHN P. UTSICK** was a resident of Miami Beach, Florida and was engaged in various business ventures devoted to the promotion and production of concerts, musical acts, theatrical events and other stage performances, as well as a wide range of additional activities commonly associated with the entertainment industry.

2. Commencing in mid-1994, **JOHN P. UTSICK** conducted his entertainment business through The Entertainment Group Fund, Inc. ("TEGFI"), a Florida corporation which was originally operated from Jupiter, Florida, and later Miami Beach, Florida. TEGFI was solely owned by **UTSICK**. Through TEGFI, **UTSICK** promoted and produced concerts and other stage productions, frequently using the trade name "Jack Utsick Presents." These entertainment events were usually conducted in connection with multi-city tours by notable entertainers who would perform on

multiple occasions over a defined period of time in accordance with predetermined touring schedules.

3. In 2003, **JOHN P. UTSICK** created another solely owned corporation by the name of Worldwide Entertainment, Inc. ("Worldwide"). Worldwide, which was incorporated in the State of Delaware and operated from offices in Miami Beach, Florida, soon supplanted TEGFI as the principal entity through which **UTSICK** conducted most of his entertainment business. As was the case with TEGFI, Worldwide continued **UTSICK's** business of promoting and producing tour-related concerts and stage productions, as well as engaging in various other types of entertainment ventures (hereinafter collectively referred to as "entertainment projects").

4. The entertainment projects promoted and produced by **JOHN P. UTSICK** through TEGFI, and later through Worldwide, were conducted by each of these two companies in a singular fashion or, at times, in conjunction with one of a number of other commercial entities which had been established by **UTSICK** as wholly-owned subsidiaries or affiliates of TEGFI or Worldwide.

5. In order to acquire the funds necessary to meet the significant up-front costs, expenses, and contractual payment obligations that would arise from **JOHN P. UTSICK's** entertainment projects, both TEGFI and Worldwide, through the actions of **UTSICK** and his associates, solicited potential and existing investors to provide funds to TEGFI or Worldwide for each such entertainment project. This form of financing was accomplished in connection with promissory note investments, which would mature upon a date usually coinciding with the date in which the underlying entertainment project was scheduled to conclude, and which promised to pay investors fixed rates of return.

6. Commencing in approximately 2003, **JOHN P. UTSICK** and certain of his associates utilized an additional method through which to acquire investment funds whereby investors were solicited to invest in individual limited liability companies ("LLC's"), each of which was structured to coincide with one of **UTSICK's** planned entertainment projects. These LLC-related investments involved either a promissory note evidencing an investor's loan to the LLC or an equity investment in the LLC by the investor through his or her purchase of certain equity investment units in the LLC. It was the exclusive business of each LLC to then loan the bulk of its investor-supplied funds to TEGFI or Worldwide through a so-called "Business Loan Agreement" for the purpose of financing the specific entertainment project(s) addressed by the particular LLC. Moreover, in a fashion similar to the previously described direct promissory note investments in TEGFI or Worldwide, each LLC-related investment would also mature upon a future date associated with the underlying entertainment project's date of conclusion, and would pay fixed rates of return.

COUNT 1
Mail Fraud
(18 U.S.C. § 1341)

1. Paragraphs 1 through 6 of the General Allegations section of this Indictment are realleged and incorporated by reference as though fully set forth herein.

2. From in or around at least as early as January 1996, to in or around January 2006, in the Southern District of Florida, and elsewhere, the defendant,

JOHN P. UTSICK,

did knowingly, and with intent to defraud, devise, and intend to devise, a scheme and artifice to defraud and to obtain money and property by means of materially false and fraudulent pretenses, representations and promises, knowing that the pretenses, representations and promises were false

and fraudulent when made.

THE SCHEME AND ARTIFICE

3. It was the purpose of the scheme and artifice for **JOHN P. UTSICK** to defraud both potential investors and existing investors (hereinafter collectively referred to as "investors") and to obtain money and property by means of materially false and fraudulent pretenses, representations, and promises, in connection with investments in entertainment projects conducted and planned for TEGFI and Worldwide by: (a) soliciting and causing others to solicit millions of dollars of funds from said investors under false pretenses consisting of materially false statements and omissions of material facts, (b) intentionally failing to utilize investors' funds in the manner which had been promised, (c) misappropriating and converting investors' funds to **UTSICK's** own benefit and the benefit of others without the knowledge or authorization of the investors, and (d) engaging in other activities designed to fraudulently conceal such conduct.

MANNER AND MEANS OF THE SCHEME AND ARTIFICE

4. In order to induce individuals to invest, **JOHN P. UTSICK** falsely represented, and caused others to represent, within various written materials provided to investors, including promissory notes, private placement memoranda, Business Loan Agreements, assorted additional offering and investment-related documents, and periodic newsletters and other types of investor communications (hereinafter collectively referred to as "offering materials"), that the funds which investors were being solicited to supply would be used by TEGFI or Worldwide for purposes consistent with the funding of the specifically described entertainment projects which were the subjects of the investments being offered. **UTSICK** and his associates also falsely stated that investors would eventually be paid applicable interest in amounts ranging from 15% to 25% and/or

certain promised profit percentages, all from supposed revenues generated by the entertainment project(s) which each LLC-related investment or direct promissory note investment was alleged to fund.

5. As part of the scheme and artifice, **JOHN P. UTSICK** supplied investors, and caused investors to be supplied, with the aforementioned offering materials containing materially false statements and omissions through deliveries which **UTSICK** caused to be made by both the United States Postal Service and private and commercial interstate carriers, as well as through interstate wire communications conducted and caused to be conducted by **UTSICK** through such wire communication methods as telephone fax transmissions and internet e-mails.

6. As part of the scheme and artifice, **JOHN P. UTSICK** eventually succeeded in inducing investors, and causing the inducement of investors, through the previously described fraudulent means, to supply new funds and/or to "roll over" previously invested funds, to TEGFI or Worldwide for the purpose of investing in one or more of **UTSICK's** planned entertainment projects. Thereafter, as part of the scheme and artifice, **UTSICK** eventually obtained the funds which he fraudulently sought from investors through interstate wire transfers from financial institutions located outside the State of Florida to TEGFI or Worldwide bank accounts controlled by **UTSICK** in the Southern District of Florida, as well as through mailings and deliveries by the United States Postal Service and private and commercial interstate carriers which contained checks from investors which eventually were delivered to **UTSICK's** companies' offices in the Southern District of Florida.

7. Contrary to the representations which **JOHN P. UTSICK** made and caused to be made to investors, and as part of the scheme and artifice, **UTSICK** intentionally failed to use

significant portions of the above-described investor funds for the stated purpose of financing applicable entertainment projects, nor for any entertainment project whatsoever. Rather, from the outset of the scheme, and continuing throughout its operation, **UTSICK** routinely misappropriated investor-supplied funds by frequently and repeatedly disbursing and causing the disbursement of such funds from his companies' bank accounts by means of interstate wire transfers which **UTSICK** initiated, as well as through checks drawn on said bank accounts which **UTSICK** issued, signed, caused to be signed, and subsequently supplied, and caused to be supplied, to third parties.

8. As part of the scheme and artifice, **JOHN P. UTSICK** repeatedly and fraudulently used funds acquired from recent investors whom he had successfully solicited and caused to be solicited, in order to satisfy earlier investors' "redemptions" (referring to the process of returning funds to an investor who, at the time of maturity, elects not to "roll over" the funds which he/she invested into another entertainment project) and/or their interest and profit sharing payments. This fraudulent and unauthorized use of more current investors' funds, which had nothing whatsoever to do with the project(s) in which these investors had invested, constituted a material fact which was never contemplated or disclosed to any investor in any of the offering materials or disclosed at any other time in any fashion whatsoever.

9. As part of the scheme and artifice, **JOHN P. UTSICK** made and caused to be made materially false statements to earlier investors by means of individual investor account statements and other writings which **UTSICK** caused to be delivered, by the United States Postal Service and private and commercial interstate carriers, and through other means of communication, including interstate telephone fax transmissions and internet emails. These statements and writings falsely represented to earlier investors that the values of their total investments with TEGFI and/or

Worldwide had increased due to purported accumulated interest earnings and profit distributions, all the while never informing these investors that the reported appreciated values of their investments were not caused by the success of the project(s) in which they had invested but, rather, were largely fictitious or had appreciated merely as a result of **UTSICK's** fraudulent utilization of investment funds supplied by more current investors. Thus, **UTSICK** falsely represented to potential investors, as well as existing investors who were being fraudulently induced to "roll over" their investment funds, that the business ventures in which they had invested were profitable when, in fact, most such projects operated at significant loss and could only meet their obligations to investors by **UTSICK's** misappropriation and fraudulent utilization of other investors' funds in this fraudulent manner.

10. As part of the scheme and artifice, **JOHN P. UTSICK** also converted investor-supplied funds which he had misappropriated to his own personal use and to the use of third parties with whom he had relationships, and used these funds for purposes which had no connection whatsoever to any entertainment project or entertainment-related activity, including, but not limited to, alimony and child support payments supplied to **UTSICK's** ex-wife, artwork for **UTSICK's** personal residence, leasing, repairs, and accessories for four collector cars owned by **UTSICK**, payment of credit card and other expenditures for personal items obtained at department stores, lingerie stores, clothing stores and appliance stores, payments made to a college fund established for a relative of **UTSICK's** girlfriend, as well as payments in connection with camps, tutors and private schools for the relative of **UTSICK's** girlfriend, insurance policy premium payments, **UTSICK's** personal medical expenses, legal fees advanced to at least one attorney whom **UTSICK** retained to represent him in connection with a purely personal matter, mortgage and maintenance payments concerning a Miami Beach condominium in which **UTSICK** resided, the purchase of a yacht, travel

expenses incurred by **UTSICK**'s girlfriend and family members, flowers, and grocery bills, which fraudulent and unauthorized uses of investor funds constituted a material fact which was never contemplated or disclosed to investors in any of the previously described offering materials or at any other time in any fashion whatsoever.

11. As a part of the scheme and artifice, significant additional portions of investor-supplied funds which were misappropriated and made the subject of the above-described wire transfers and check issuances by **JOHN P. UTSICK**, were eventually deposited by **UTSICK**, and caused by **UTSICK** to be deposited, into certain other bank accounts, each of which were maintained by certain broker-dealers or, in certain instances, their clearing agents in connection with one or more brokerage accounts established at each of these same broker-dealers by **UTSICK** and over which **UTSICK** had sole control.

12. As a part of the scheme and artifice, **JOHN P. UTSICK** used the portion of the investor funds which he had misappropriated in the above-described manner to purchase and aggressively trade various securities and highly speculative stock options through the various brokerage accounts which he had established, which use of investor funds constituted a material fact which fact was never contemplated or disclosed to investors in any of the previously described writings, nor disclosed in any other fashion whatsoever to investors. In addition, the vast majority of the funds misappropriated in this manner were eventually lost as a result of **UTSICK**'s aggressive trading, another material fact which was never disclosed in any fashion to investors.

EXECUTION OF THE SCHEME AND ARTIFICE

13. For the purpose of executing the scheme and artifice to defraud and to obtain money and property by means of false and fraudulent pretenses, representations and promises, and

attempting so to do, defendant **JOHN P. UTSICK** did deposit and cause to be deposited a thing to be sent and delivered by the United States Postal Service and private and commercial interstate carriers, and did knowingly cause to be delivered by such carrier according to the directions thereon, and at the place at which it was directed to be delivered by the persons to whom it was addressed, such thing; to wit, between on or about April 13, 2005 and on or about April 14, 2005, **UTSICK** sent and caused to be sent and delivered via Federal Express a/k/a FEDEX, a commercial interstate carrier, a delivery item addressed to an identified individual at "GunnAllen Financial," a broker-dealer, at "7837 4th Avenue South, St. Petersburg, FL 33707," which delivery item contained a check in the amount of \$5,000,000 which was drawn on an RBC Centura Bank checking account titled under the name "The Entertainment Group Fund, Inc." and made payable to the order of "Pershing," a broker-dealer clearing firm then acting as the clearing agent for GunnAllen Financial.

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

COUNT 2
Money Laundering
(18 U.S.C. § 1957)

1. Between on or about April 12, 2005 and on or about April 16, 2005, in the Southern District of Florida and elsewhere, the defendant,

JOHN P. UTSICK,

did knowingly engage and attempt to engage in monetary transactions in and affecting interstate commerce, by, through and to a financial institution, in criminally derived property that was of a value greater than \$10,000 and was derived from specified unlawful activity; to wit, on or about April 15, 2005, **UTSICK** caused \$5,000,000 in funds, which was property constituting and derived from proceeds obtained from mail fraud, as set forth in Count 1 of the Indictment, to be deposited, by means of a check representing said funds, into an account at a financial institution, to wit, Bank of America customer account number xxxxxxx645, titled in the name of Pershing.

In violation of Title 18, United States Code, Sections 1957 and 2.

COUNT 3
Money Laundering
(18 U.S.C. § 1957)

1. Between on or about April 12, 2005 and on or about April 19, 2005, in the Southern District of Florida and elsewhere, the defendant,

JOHN P. UTSICK,

knowingly engaged and attempted to engage in monetary transactions in and affecting interstate commerce, by, through and to a financial institution, in criminally derived property that was of a value greater than \$10,000 and was derived from specified unlawful activity; to wit, on or about April 18, 2005, **UTSICK** caused the purchase of a total of five hundred (500) Standard & Poors 500 Index call options, for a total price of \$476,995 in connection with GunnAllen Financial, Inc. account number 0CK-202145, an account over which **UTSICK** had control, which purchase was funded by property constituting and derived from proceeds obtained from mail fraud, as described in Count 1 of the Indictment, which purchase was conducted by means of the withdrawal, transfer, and exchange of said funds by, through, and to financial institutions, including, GunnAllen Financial, Inc., Pershing, LLC and Alliance Capital Management, LP.

All in violation of Title 18 United States Code, Sections 1957 and 2.

A TRUE BILL

FOREPERSON



JEFFREY H. SLOMAN
UNITED STATES ATTORNEY



PETER B. OUTERBRIDGE
ASSISTANT UNITED STATES ATTORNEY

UNITED STATES OF AMERICA

CASE NO. _____

vs.

CERTIFICATE OF TRIAL ATTORNEY*

JOHN P. UTSICK,

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:

1. 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.

2. 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 15 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 _____ Petty _____
II 6 to 10 days _____ Minor _____
III 11 to 20 days X _____ Misdem. _____
IV 21 to 60 days _____ Felony X _____
V 61 days and over _____

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)

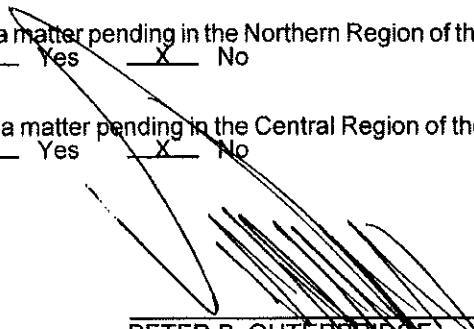
Has a complaint been filed in this matter? (Yes or No) No

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

7. 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

8. 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


PETER B. OUTERBRIDGE
ASSISTANT UNITED STATES ATTORNEY
Florida Bar No. 0289914

*Penalty Sheet(s) attached

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

PENALTY SHEET

Defendant's Name: JOHN P. UTSICK

Case No:

Count #: 1

Mail Fraud

Title 18, United States Code, Section 1341

*** Max. Penalty:** Twenty (20) years' imprisonment

Counts #: 2-3

Money Laundering

Title 18, United States Code, Section 1957

***Max. Penalty:** Ten (10) years' imprisonment

***Refers only to possible term of incarceration, does not include possible fines, restitution, special assessments, parole terms, or forfeitures that may be applicable.**