SUPERIOR COURT OF N.J.
FILED
AUG 01 2007

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION - CRIMINAL

State Grand Jury
Number SGJ 543-07-7
Superior Court
Docket Number 07-08-00103-S

STATE OF NEW JERSEY)
v.)
DAVID M. LOMBARDO)

INDICTMENT

The Grand Jurors of and for the State of New Jersey, upon their oaths, present that:

COUNT ONE

(Theft by Failure to Make Required Disposition of Property Received - Second Degree)

DAVID M. LOMBARDO

between on or about February 1, 2001 and on or about February 1, 2003, at the Borough of Oakland, in the County of Bergen, elsewhere and within the jurisdiction of this court, did purposely obtain and retain property having a value of $75,000 or more, upon agreement or subject to a known legal obligation to make specified payment or other disposition, did deal with the property as his own and did fail to make the required payment or disposition, that is, the said DAVID M. LOMBARDO, did purposely obtain and retain money belonging to Morton and Doris Rosenheim, subject to the known legal obligation of a Morgan Stanley Investment Advisor to make payment or disposition to Morton and Doris Rosenheim, and did deal with the property as his own by depositing six Morgan Stanley checks totaling approximately $109,685 and payable to Morton and/or Doris Rosenheim into the bank account of the said DAVID M. LOMBARDO and did fail to make the required payment or disposition to Morton and Doris Rosenheim, contrary to the provisions of <u>N.J.S.A.</u> 2C:20-9, and against the peace of this State, the government and dignity of the same.

COUNT TWO

(Misapplication of Entrusted Property - Second Degree)

DAVID M. LOMBARDO

between on or about February 1, 2001 and on or about February 1, 2003, at the Borough of Oakland, in the County of Bergen, elsewhere and within the jurisdiction of this Court, did apply or dispose of property, that was entrusted to him as a fiduciary, in a manner which he knew to be unlawful and involved substantial risk of loss or detriment to the owner of the property and did derive a benefit of $75,000 or more, that is, the said DAVID M. LOMBARDO, did deposit six Morgan Stanley checks totaling approximately $109,685 and payable to Morton and/or Doris Rosenheim into the bank account of the said DAVID M. LOMBARDO, entrusted to the said DAVID M. LOMBARDO as a fiduciary in his capacity as a Morgan Stanley Financial Advisor, in a manner which he knew to be unlawful and involving a substantial risk of loss or detriment to Morton and Doris Rosenheim, thereby deriving a benefit of approximately $109,685, contrary to the provisions of N.J.S.A. 2C:21-15, and against the peace of this State, the government and dignity of the same.

COUNT THREE

(Securities Fraud - Second Degree)

DAVID M. LOMBARDO

between on or about February 1, 2001 and on or about February 1, 2003, at the Borough of Oakland, in the County of Bergen, elsewhere, and within the jurisdiction of this Court, knowingly did in connection with the offer, sale, or purchase of any security, in an amount of $75,000 or more, directly or indirectly engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person, in that the said DAVID M. LOMBARDO, a Morgan Stanley Financial Advisor, in connection with the withdrawal of approximately $109,685 from the Morgan Stanley account of Morton and/or Doris Rosenheim, and did engage in the course of business that operated as a fraud upon Morton and Doris Rosenheim, by depositing six Morgan Stanley checks totaling approximately $109,685 and payable to Morton and/or Doris Rosenheim, into the bank account of the said DAVID M. LOMBARDO, contrary to the provisions of N.J.S.A. 49:3-52c and N.J.S.A. 49:3-70, and against the peace of this State, the government and dignity of the same.

COUNT FOUR

(Theft by Failure to Make Required Disposition of Property Received - Third Degree)

DAVID M. LOMBARDO

between on or about February 1, 2005 and on or about March 30, 2005, at the Borough of Paramus, in the County of Bergen, elsewhere and within the jurisdiction of this court, did purposely obtain and retain property having a value of $500 or more, upon agreement or subject to a known legal obligation to make specified payment or other disposition, did deal with the property as his own and did fail to make the required payment or disposition, that is, the said DAVID M. LOMBARDO, did purposely obtain and retain money belonging to Anita Strauss, subject to the known legal obligation of a Bank of America Investment Advisor to make payment or disposition to Anita Strauss, and did deal with the property as his own by depositing a Franklin Templeton Investments check for $21,267.52 and payable to Anita Strauss into the bank account of the said DAVID M. LOMBARDO and did fail to make the required payment or disposition to Anita Strauss, contrary to the provisions of N.J.S.A. 2C:20-9, and against the peace of this State, the government and dignity of the same.

COUNT FIVE

(Misapplication of Entrusted Property - Third Degree)

DAVID M. LOMBARDO

between on or about February 1, 2005 and on or about March 30, 2005, at the Borough of Paramus, in the County of Bergen, elsewhere and within the jurisdiction of this Court, did apply or dispose of property, that was entrusted to him as a fiduciary, in a manner which he knew to be unlawful and involved substantial risk of loss or detriment to the owner of the property and did derive a benefit of $500 or more, that is, the said DAVID M. LOMBARDO, did deposit a Franklin Templeton Investments check for $21,267.52 and payable to Anita Strauss into the bank account of the said DAVID M. LOMBARDO, entrusted to the said DAVID M. LOMBARDO as a fiduciary in his capacity as a Bank of America Financial Advisor, in a manner which he knew to be unlawful and involving a substantial risk of loss or detriment to Anita Strauss, thereby deriving a benefit of $21,267.52, contrary to the provisions of N.J.S.A. 2C:21-15, and against the peace of this State, the government and dignity of the same.

COUNT SIX

(Securities Fraud - Third Degree)

DAVID M. LOMBARDO

between on or about February 1, 2005 and on or about March 30, 2005, at the Borough of Paramus, in the County of Bergen, elsewhere, and within the jurisdiction of this Court, knowingly did in connection with the offer, sale, or purchase of any security, in an amount of $500 or more, directly or indirectly engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person, in that the said DAVID M. LOMBARDO, a Bank of America Financial Advisor, in connection with the sale of a Franklin Templeton Investments account, did engage in the course of business that operated as a fraud upon Anita Strauss, by depositing a Franklin Templeton Investments check for $21,267.52 and payable to Anita Strauss into the bank account of the said DAVID M. LOMBARDO, contrary to the provisions of N.J.S.A. 49:3-52c and N.J.S.A. 49:3-70, and against the peace of this State, the government and dignity of the same.

COUNT SEVEN

(Forgery - Fourth Degree)

DAVID M. LOMBARDO

on or about March 10, 2005, at the Borough of Paramus, in the County of Bergen, elsewhere, and within the jurisdiction of this Court, with purpose to defraud or injure anyone, knowingly did utter check number 1094272250, drawn on the account of Franklin Templeton Investments, at the Bank of America, payable to Anita Strauss, in the amount of $21,267.52, knowing that it purported to be endorsed by Anita Strauss who did not authorize that act, contrary to the provisions of N.J.S.A. 2C:21-1a(3)and against the peace of this State, the government and dignity of the same.

Gregory Paw

Gregory A. Paw
Director
Division of Criminal Justice

A TRUE BILL:

Boris Isaye

Deputy Foreperson

SUPERIOR COURT OF N.J.
FILED

AUG 0 1 2007

[signature]
Acting Clerk

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION - CRIMINAL

State Grand Jury
Number SGJ543-07-7
Superior Court
Docket Number 07-08-00103-S

STATE OF NEW JERSEY	)	
v.	)	ORDER OF VENUE
DAVID M. LOMBARDO	)	

An Indictment having been returned to this Court by the State Grand Jury in the above captioned matter,

IT IS ORDERED on this 1st day of August, 2007, pursuant to paragraph 8 of the State Grand Jury Act, that the County of Bergen be and hereby is designated as the County of venue for the purpose of trial.

IT IS FURTHER ORDERED that the Clerk of the Superior Court shall transmit forthwith the Indictment in this matter and a certified copy of this Order to the Criminal Division Manager of the County of Bergen for filing.

[signature]
~~Linda R. Feinberg, A.J.S.C.~~
Maria Marinari Sypek, P.J.Cr.