

**FILED**

SEP 02 2008

**SUPERIOR COURT  
CLERK'S OFFICE**

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION - CRIMINAL

State Grand Jury  
Number SGJ 562-08-15  
Superior Court  
Docket Number 08-09-00200-S

STATE OF NEW JERSEY )

INDICTMENT

v. )

ANTHONY FOTI )

and )

AN-JO CAR COMPANY, INC. )

trading as )

A & J CAR COMPANY )

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)

ANTHONY FOTI

and

AN-JO CAR COMPANY, INC., trading as A & J CAR COMPANY

between on or about April 20, 2001 and on or about July 20, 2004,  
at the Township of Dover, in the County of Ocean, at the City of  
Trenton, in the County of Mercer, elsewhere, and within the  
jurisdiction of this Court, purposely did obtain or 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 of such property, did deal with said property as their own and did fail to make the required payment or disposition, that is, the said ANTHONY FOTI and AN-JO CAR COMPANY, INC., trading as A & J CAR COMPANY, a New Jersey corporation, did purposely obtain or retain New Jersey Sales and Use Taxes in the approximate amount of \$79,392.26, collected from customers of said corporation and did fail to make the required payment or disposition of said sales and use taxes to the New Jersey Department of the Treasury, Division of Taxation, in accordance with N.J.S.A. 54:32B-18, contrary to the provisions of N.J.S.A. 2C:20-9, N.J.S.A. 2C:20-2b(4), N.J.S.A. 2C:2-6 and N.J.S.A. 2C:2-7, and against the peace of this State, the government and dignity of the same.

COUNT TWO

(Misapplication of Entrusted Property - Second Degree)

ANTHONY FOTI

and

AN-JO CAR COMPANY, INC., trading as A & J CAR COMPANY

between on or about April 20, 2001 and on or about July 20, 2004, at the Township of Dover, in the County of Ocean, at the City of Trenton, in the County of Mercer, elsewhere, and within the jurisdiction of this Court, did apply or dispose of property belonging to or required to be withheld for the benefit of the government, in a manner which they knew to be unlawful and that involved substantial risk of loss or detriment to the owner of the property and for whose benefit the property was entrusted and did derive a benefit therefrom of \$75,000 or more, that is, the said ANTHONY FOTI and AN-JO CAR COMPANY, INC., trading as A & J CAR COMPANY, a New Jersey Corporation, did apply or dispose of money in the approximate amount of \$79,392.26, being New Jersey Sales and Use Taxes, collected from customers of said corporation, collected for and belonging to the State of New Jersey Department of the Treasury, Division of Taxation, in a manner they knew to be in violation of the provisions of the Sales and Use Tax Act, N.J.S.A. 54:32B-1 et seq., as amended and supplemented, and involving a substantial risk of loss or

detriment to the State of New Jersey, contrary to the provisions of N.J.S.A. 2C:21-15, N.J.S.A. 2C:21-8.1b, N.J.S.A. 2C:2-6, N.J.S.A. 2C:2-7, and N.J.S.A. 2C:20-2b(4) and, against the peace of this State, the government and dignity of the same.

COUNT THREE

(Purposefully Failing to Turn Over New Jersey  
Sales and Use Taxes - Second Degree)

ANTHONY FOTI

and

AN-JO CAR COMPANY, INC., trading as A & J CAR COMPANY

between on or about April 20, 2001 and on or about July 20, 2004, at the Township of Dover, in the County of Ocean, at the City of Trenton, in the County of Mercer, elsewhere, and within the jurisdiction of this Court, after having collected or withheld the taxes as required by any State tax law, whether or not authorized, licensed or registered to collect or withhold taxes, purposely failed to turn over taxes to the Director of the Division of Taxation in a manner and at the time prescribed by law, that is, the said ANTHONY FOTI and AN-JO CAR COMPANY, INC., trading as A & J CAR COMPANY, a New Jersey corporation, collected sales and use taxes in the approximate amount of \$79,392.26 from customers for the purchase of motor vehicles and purposely failed to turn over the sales and use taxes to the Director of the Division of Taxation in the manner and at the time prescribed by the provisions of N.J.S.A. 54:32B-18, for the quarters ending March 31, 2001 through June 30, 2004, contrary to the provisions of N.J.S.A. 54:52-15, N.J.S.A. 2C:2-6 and N.J.S.A. 2C:2-7, and against the peace of this State, the government and dignity of the same.

COUNT FOUR

(Failure to File New Jersey  
Sales and Use Tax Return - Third Degree)

ANTHONY FOTI

and

AN-JO CAR COMPANY, INC. trading as A & J CAR COMPANY

between on or about April 20, 2003 and on or about July 20, 2004,  
at the Township of Dover, in the County of Ocean, at the City of  
Trenton, in the County of Mercer, elsewhere, and within the  
jurisdiction of this Court, did fail to file tax returns or  
reports as required by the provisions of any State tax law with  
the intent to defraud the State or to evade, avoid or otherwise  
not make timely payment of any tax, fee, penalty, interest or any  
part thereof pursuant to the provisions of the State Uniform Tax  
Procedure Law, N.J.S.A. 54:48-1 et seq., as amended and  
supplemented, or any State tax law, that is, the said ANTHONY  
FOTI and AN-JO CAR COMPANY, INC., trading as A & J CAR COMPANY, a  
New Jersey corporation, did fail to file quarterly sales and use  
tax returns, FORM ST-50, required to be filed pursuant to the  
provisions of N.J.S.A. 54:32B-18 with the intent to defraud or  
evade payment or any part thereof of New Jersey sales and use  
taxes, for the quarters ending March 31, 2003 through June 30,  
2004 to the Director of the Division of Taxation in the  
Department of the Treasury of the State of New Jersey, contrary  
to the provisions of N.J.S.A. 54:52-8, N.J.S.A. 2C:2-6 and

N.J.S.A. 2C:2-7, and against the peace of this State, the government and dignity of the same.

COUNT FIVE

(Failure to File Corporate Business  
Tax Return - Third Degree)

ANTHONY FOTI

and

AN-JO CAR COMPANY, INC. trading as A & J CAR COMPANY

between on or about April 15, 2002 and on or about April 15, 2005,  
at the Township of Dover, in the County of Ocean, at the City of  
Trenton, in the County of Mercer, elsewhere, and within the  
jurisdiction of this Court, did fail to file tax returns or  
reports as required by the provisions of the New Jersey  
Corporations Business Tax Act, N.J.S.A. 54:10A-1 et seq., with  
the intent to defraud the State or to evade, avoid or otherwise  
not make timely payment of any tax, fee, penalty, interest or any  
part thereof pursuant to the provisions of the State Uniform Tax  
Procedure Law, N.J.S.A. 54:48-1 et seq., that is, the said  
ANTHONY FOTI, a corporate officer of the said AN-JO CAR COMPANY,  
INC., trading as A & J CAR COMPANY, a New Jersey corporation,  
with the intent to defraud or evade payment of the corporate  
business tax, did fail to file the New Jersey Corporate Business  
Tax Return, Form CBT-100, for the calendar years ending 2001  
through 2004, to the Director of the Division of Taxation as

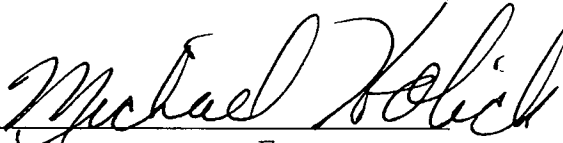


required by law, contrary to the provisions of N.J.S.A. 54:52-8,  
N.J.S.A. 2C:2-6 and N.J.S.A. 2C:2-7, and against the peace of  
this State, the government and dignity of the same.



Deborah L. Gramiccioni, Director  
Division of Criminal Justice

A TRUE BILL:



Foreperson

Dated:

9-2-08

**FILED**

SEP 02 2008

**SUPERIOR COURT  
CLERK'S OFFICE**

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION - CRIMINAL

State Grand Jury  
Number SGJ 562-08-14

Superior Court **08-09-00199-S**  
Docket Number \_\_\_\_\_

STATE OF NEW JERSEY )

INDICTMENT

v. )

ANTHONY J. FOTI, JR. )

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 - Third Degree)

ANTHONY J. FOTI, JR.

between on or about April 20, 2006 and on or about April 20, 2008, at the City of Asbury Park and at the Township of Middletown, both in the County of Monmouth, at the City of Trenton, in the County of Mercer, elsewhere, and within the jurisdiction of this Court, purposely did obtain or 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 of such property, did deal with said property as his own and did fail to make the required payment or disposition, that is, the said

ANTHONY J. FOTI, Jr. did purposely obtain or retain New Jersey Sales and Use Taxes in the approximate amount of \$37,211.00, collected from customers of Wheels Are Us and did fail to make the required payment or disposition of said sales and use taxes to the New Jersey Department of the Treasury, Division of Taxation, in accordance with N.J.S.A. 54:32B-18, contrary to the provisions of N.J.S.A. 2C:20-9, N.J.S.A. 2C:20-2b(4), N.J.S.A. 2C:2-6 and against the peace of this State, the government and dignity of the same.

COUNT TWO

(Misapplication of Entrusted Property - Third Degree)

ANTHONY J. FOTI, Jr.

between on or about April 20, 2006 and on or about April 20, 2008, at the City of Asbury Park and at the Township of Middletown, both in the County of Monmouth, at the City of Trenton, in the County of Mercer, elsewhere, and within the jurisdiction of this Court, did apply or dispose of property belonging to or required to be withheld for the benefit of the government, in a manner which he knew to be unlawful and that involved substantial risk of loss or detriment to the owner of the property and for whose benefit the property was entrusted and did derive a benefit therefrom of \$1,000 or more, that is, the said ANTHONY J. FOTI, JR. did apply or dispose of money in the approximate amount of \$37,211.00, being New Jersey Sales and Use Taxes, collected from customers of Wheels Are Us, collected for and belonging to the State of New Jersey Department of the Treasury, Division of Taxation, in a manner he knew to be in violation of the provisions of the Sales and Use Tax Act, N.J.S.A. 54:32B-1 et seq., as amended and supplemented, and involving a substantial risk of loss or detriment to the State of New Jersey, contrary to the provisions of N.J.S.A. 2C:21-15, N.J.S.A. 2C:21-8.1b, N.J.S.A. 2C:2-6 and N.J.S.A. 2C:20-2b(4), and against the peace of this State, the government and dignity of the same.

COUNT THREE

(Failure to Remit Sales and Use Taxes - Third Degree)

ANTHONY J. FOTI, JR.

between on or about April 20, 2006 and on or about April 20, 2008, at the City of Asbury Park and at the Township of Middletown, both in the County of Monmouth, at the City of Trenton, in the County of Mercer, elsewhere, and within the jurisdiction of this Court, did fail to pay or turn over when due any tax, fee, penalty or interests or any part thereof required to be paid pursuant to the provisions of the State Uniform Tax Procedure Law, N.J.S.A. 54:48-1 et seq., as amended and supplemented, or any State tax law, with the intent to evade, avoid or otherwise not make timely payment or deposit of any tax, fee, penalty or interest or any part thereof, that is, the said ANTHONY J. FOTI, JR. did fail to pay or turn over sales and use taxes for the quarters ending March 31, 2006 through March 31, 2008 to the Director of the Division of Taxation in the Department of the Treasury of the State of New Jersey, required to be paid pursuant to the provisions of the Sales and Use Tax Act, N.J.S.A. 54:32B-1 et seq., as amended and supplemented, or any State tax law, with the intent to evade, avoid or otherwise not make timely payment or deposit of said taxes, contrary to the provisions of N.J.S.A. 54:52-9 and N.J.S.A. 2C:2-6, and against the peace of this State, the government and dignity of the same.


COUNT FOUR

(Failure to File New Jersey  
Sales and Use Tax Return - Third Degree)

ANTHONY J. FOTI, JR.

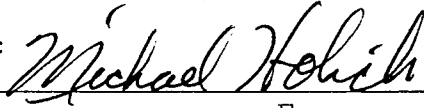
between on or about April 20, 2006 and on or about April 20, 2008, at the City of Asbury Park and at the Township of Middletown, both in the County of Monmouth, at the City of Trenton, in the County of Mercer, elsewhere, and within the jurisdiction of this Court, did fail to file tax returns or reports as required by the provisions of any State tax law with the intent to defraud the State or to evade, avoid or otherwise not make timely payment of any tax, fee, penalty, interest or any part thereof pursuant to the provisions of the State Uniform Tax Procedure Law, N.J.S.A. 54:48-1 et seq., as amended and supplemented, or any State tax law, that is, the said ANTHONY J. FOTI, JR. did fail to file quarterly sales and use tax returns, FORM ST-50, required to be filed pursuant to the provisions of N.J.S.A. 54:32B-18 with the intent to defraud or evade payment or any part thereof of New Jersey sales and use taxes, for the quarters ending March 31, 2006 through March 31, 2008 to the Director of the Division of Taxation in the Department of the Treasury of the State of New

Jersey, contrary to the provisions of N.J.S.A. 54:52-8, N.J.S.A. 2C:2-6 and N.J.S.A. 2C:2-7, and against the peace of this State, the government and dignity of the same.



Deborah L. Gramiccioni, Director  
Division of Criminal Justice

A TRUE BILL:



, Foreperson

Dated:

9-2-08