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FILED IN THE
UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII

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UNITED STATES OF AMERICA

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

UNITED STATES OF AMERICA,)	CR. NO. 02-00438 DAE
)	
Plaintiff,)	SECOND SUPERSEDING INDICTMENT
)	
vs.)	
)	
AARON A. RUTLEDGE,	(01))	Count 1: 18 U.S.C. § 371;
ANTHONY A. RUTLEDGE, SR.,	(02))	Count 2: 18 U.S.C. §
a/k/a "TONY" RUTLEDGE,)	1512(b)(2)(A)&(B);
STAR-BEACHBOYS, INC.	(03))	Count 3: 26 U.S.C. § 7206(1);
)	Count 4: 26 U.S.C. § 7206(2);
Defendants.)	Count 5: 26 U.S.C. § 7206(2)
)	

SECOND SUPERSEDING INDICTMENT

COUNT 1
(18 U.S.C. § 371)
(Conspiracy to Defraud
the United States of America)

The Grand Jury charges:

I. GENERAL ALLEGATIONS

PARTIES, PERSONS AND ENTITIES

At all times relevant and material to this Second
Superseding Indictment:

1). Defendant STAR-BEACHBOYS, INC. was incorporated on May 19, 1972, in the State of Hawaii. Since that time and continuing until in or about March 1999, Defendant STAR-BEACHBOYS, INC. held a license to operate a beach concession stand on Waikiki Beach in Honolulu, Hawaii, renting out surfboards, kayaks, boogie boards, and other beach equipment to tourists and local residents and from which surfing instructors provided private lessons. During the years at issue, the beach concession stand was exclusively a cash business. In or about March 1999, Defendant STAR-BEACHBOYS, INC. lost its license to operate the beach concession stand on Waikiki Beach, however, the corporation is still in existence and continues to have substantial assets. During the years at issue, Defendant STAR-BEACHBOYS, INC. utilized a fiscal year ending June 30 for financial accounting and tax purposes and filed federal income tax returns as a "Subchapter C" corporation under the Internal Revenue Code.

2). During the years at issue, Defendant ANTHONY A. RUTLEDGE, SR. a/k/a "TONY" RUTLEDGE, Defendant AARON A. RUTLEDGE, and Defendant STAR-BEACHBOYS, INC. (hereinafter sometimes referred to collectively as "Defendants") conspired with the late Arthur A. Rutledge, and other individuals known and unknown to the Grand Jury, to defraud the United States Department of Treasury, Internal Revenue Service, in the collection and assessment of income taxes. The conspiracy included, among other conduct, that during at least a five-year period, Defendants and the late Arthur A. Rutledge skimmed in excess of \$350,000.00 in cash receipts that were earned through the beach concession stand on Waikiki Beach in Honolulu, Hawaii. As part of the scheme, Defendants concealed the skimmed cash by placing the currency into at least four different safe deposit boxes under their control at banks in Honolulu, Hawaii. Defendants used the skimmed cash as a slush fund, having unrestricted access to the cash through the use of the safe deposit boxes. By using the safe deposit boxes, Defendants were able to deposit and withdraw cash without generating a record of the amount of currency deposited or withdrawn thereby facilitating the tax fraud scheme. For at least the fiscal years ending June 30, 1993, June 30, 1994, June 30, 1995, June 30, 1996, and June 30, 1997, Defendants and the late Arthur A. Rutledge failed to report the skimmed cash on federal and State

of Hawaii income and excise tax returns for Defendant STAR-BEACHBOYS, INC. Defendants and the late Arthur A. Rutledge repeatedly failed to inform their accountants, bookkeepers, tax return preparers, and others of the existence of the skimmed cash that was concealed in the safe deposit boxes.

3). Arthur A. Rutledge, who died on September 22, 1997 at the age of ninety (90), was a labor leader in the State of Hawaii. Since its incorporation in 1972, Arthur A. Rutledge exerted influence and direction over the operations of STAR-BEACHBOYS, INC. until his health declined with repeated hospitalizations and incapacitating illnesses in the years preceding his death.

4). Defendant ANTHONY A. RUTLEDGE, SR. a/k/a "TONY" RUTLEDGE was born on July 21, 1946, and is the son of the late Arthur A. Rutledge. During the years at issue, Defendant ANTHONY A. RUTLEDGE, SR. a/k/a "TONY" RUTLEDGE was sole-stockholder in STAR-BEACHBOYS, INC. and he exercised influence and control over the operations of the corporation. At various times, Defendant ANTHONY A. RUTLEDGE, SR. a/k/a "TONY" RUTLEDGE served as a Director and Officer of Defendant STAR-BEACHBOYS, INC., including President, Vice President, and Secretary-Treasurer.

5). Defendant AARON A. RUTLEDGE was born March 17, 1970, and is the son of Defendant ANTHONY A. RUTLEDGE, SR. a/k/a "TONY" RUTLEDGE. During the years at issue, Defendant AARON A. RUTLEDGE ran the daily operations of the beach concession stand on Waikiki Beach for Defendant STAR-BEACHBOYS, INC. At times, he served as a Director and Officer of the corporation, including Vice President and Secretary-Treasurer.

6). From 1992 through April 1997, Defendant ANTHONY A. RUTLEDGE, SR. a/k/a "TONY" RUTLEDGE and the late Arthur A. Rutledge co-rented two safe deposit boxes numbers 1313 and 1314 at First Hawaiian Bank in Honolulu, Hawaii.

7). From on or about April 14, 1997 and continuing until in or about October 1997, Defendants ANTHONY A. RUTLEDGE, SR. a/k/a "TONY" RUTLEDGE and AARON A. RUTLEDGE co-rented a safe deposit box number 877 at Bank of America in Honolulu, Hawaii. On or about October 6, 1997, Defendant AARON A. RUTLEDGE rented safe deposit box number 818 at Bank of America in Honolulu, Hawaii.

8). The Hotel Employees and Restaurant Employees, Local 5 (sometimes referred to "Local 5"), which was founded in 1938, is a union that includes the membership of hotel and restaurant employees in the Honolulu, Hawaii area. The late Arthur A. Rutledge was a founder of Local 5, and served as its President for 40 years. From approximately 1986 until April

2000, Defendant ANTHONY A. RUTLEDGE, SR. a/k/a "TONY" RUTLEDGE was the elected head (i.e., Financial Secretary-Treasurer) of Local 5.

9). Unity House, Inc., which was founded by Arthur A. Rutledge in 1951, is a Honolulu-based nonprofit, federal tax-exempt organization that is funded with the monetary contributions of union employees for the stated purpose of providing educational assistance, childcare, disaster assistance and other services to union members and retirees. Since 1991, Defendant ANTHONY A. RUTLEDGE, SR. a/k/a "TONY" RUTLEDGE has been the head of Unity House, Inc.

II. THE CONSPIRACY

From a precise date unknown to the Grand Jury, but starting by approximately 1992, and continuing thereafter up and until the date of this Second Superseding Indictment, in the District of Hawaii and elsewhere, defendants AARON A. RUTLEDGE, ANTHONY A. RUTLEDGE, SR. a/k/a "TONY" RUTLEDGE, and STAR-BEACHBOYS, INC., and others known and unknown to the Grand Jury, 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 of America by dishonest and deceitful means for the purpose of impeding, impairing, obstructing and defeating the

lawful functions of the United States Department of Treasury, Internal Revenue Service, in the ascertainment, computation, assessment and collection of taxes.

III. THE MANNER AND MEANS BY WHICH
THE CONSPIRACY WAS CARRIED OUT

The dishonest and deceitful manner and means by which the conspiracy to defraud the United States of America was sought to be accomplished included, among other things, the following:

1). Beginning on a precise date unknown to the Grand Jury, Defendants, the late Arthur A. Rutledge, and others known and unknown to the Grand Jury, participated in a scheme to skim a large portion of the daily cash receipts of Defendant STAR-BEACHBOYS, INC. that it earned through the beach concession stand on Waikiki Beach in Honolulu, Hawaii. As part of the conspiracy, Defendants and the late Arthur A. Rutledge skimmed in excess of \$350,000.00 from the beach concession stand and concealed the skimmed cash by placing the currency into at least four different safe deposit boxes located at banks in the State of Hawaii. As part of the conspiracy, Defendants and the late Arthur A. Rutledge maintained complete control over the safe deposit boxes and used the skimmed cash as a slush fund, having unrestricted access to the cash through the use of the safe deposit boxes. By using the safe deposit boxes, Defendants and

the late Arthur A. Rutledge were able to deposit and withdraw currency from the boxes without generating a record of the amount of cash deposited or withdrawn thereby facilitating the tax fraud scheme.

2). It was also part of the conspiracy that Defendants and the late Arthur A. Rutledge caused the filing of false federal income tax returns and State of Hawaii income and excise tax returns for Defendant STAR-BEACHBOYS, INC. by failing to report the skimmed cash receipts. Defendants and the late Arthur A. Rutledge repeatedly failed to inform their accountants, bookkeepers, tax return preparers, and others of the existence of the skimmed cash that was concealed in the safe deposit boxes.

3). In furtherance of the conspiracy, after the execution of federal search warrants in or about October and November 1997, and with knowledge of the ongoing criminal investigation, Defendants concealed their participation in the cash skim scheme from their accountants, bookkeepers, tax return preparers, the U.S. Department of the Treasury, Internal Revenue Service, and others. In order to further conceal their participation in the conspiracy, after his death on September 22, 1997, Defendants falsely blamed the cash skim scheme solely on the actions of the late Arthur A. Rutledge in legal pleadings and otherwise.

4). As part of the conspiracy and following the death of Arthur A. Rutledge and the execution of Federal search warrants on or about October 30, 1997, Defendants ANTHONY A. RUTLEDGE, SR. a/k/a "TONY" RUTLEDGE and AARON A. RUTLEDGE deposited \$589,214.00 in cash at First Hawaiian Bank on or about November 5, 1997, and falsely stated to a bank employee that the cash was found at the residence of the late Arthur A. Rutledge.

5). In furtherance of the conspiracy, after the execution of federal search warrants in or about October and November 1997, and with knowledge of the ongoing criminal investigation, Defendants ANTHONY A. RUTLEDGE, SR. a/k/a "TONY" RUTLEDGE and AARON A. RUTLEDGE failed to disclose to their accountants, tax return preparers, and others their participation in the conspiracy and the true extent of the amount of cash they had skimmed from Defendant STAR-BEACHBOYS, INC. in the prior years, which caused the filing of a false U.S. Corporation Income Tax Return for the fiscal year ending June 30, 1999.

6). As part of the conspiracy, Defendant ANTHONY A. RUTLEDGE, SR. a/k/a "TONY" RUTLEDGE withdrew in excess of \$200,000.00 in funds from Defendant STAR-BEACHBOYS, INC. purportedly as loans, when in fact the loans were not bona fide loans that he intended to repay in full. As part of the conspiracy, Defendant ANTHONY A. RUTLEDGE, SR. a/k/a "TONY" RUTLEDGE failed to meet the terms of the loans that he

established himself on behalf of Defendant STAR-BEACHBOYS, INC. in his capacity as President and Sole-Stockholder of the corporation.

7). As part of the conspiracy, Defendant ANTHONY A. RUTLEDGE, SR. a/k/a "TONY" RUTLEDGE conducted administrative activities of STAR-BEACHBOYS, INC. out of his elected office at the Hotel Employees and Restaurant Employees, Local 5 in Honolulu, Hawaii, which included the use of salaried employees of Local 5 to perform services that benefitted himself, Defendant STAR-BEACHBOYS, INC., Defendant AARON A. RUTLEDGE, and the late Arthur A. Rutledge.

8). As part of the conspiracy, Defendant ANTHONY A. RUTLEDGE, SR. a/k/a "TONY" RUTLEDGE caused funds from Unity House, Inc. to be used for the benefit of Defendant STAR-BEACHBOYS, INC. and himself.

IV. OVERT ACTS

In furtherance of the conspiracy, and to effect the object thereof, the following overt acts, among others, were committed in the District of Hawaii and elsewhere:

1). On or about April 21, 1992, Arthur A. Rutledge and Defendant ANTHONY A. RUTLEDGE, SR. a/k/a "TONY" RUTLEDGE co-rented safe deposit box number 1314 at First Hawaiian Bank.

2). On or about June 16, 1992, Arthur A. Rutledge and Defendant ANTHONY A. RUTLEDGE, SR. a/k/a "TONY" RUTLEDGE co-rented safe deposit box number 1313 at First Hawaiian Bank.

3). On or about February 22, 1993, Arthur A. Rutledge entered safe deposit box number 1313 at First Hawaiian Bank.

4). On or about March 30, 1993, Arthur A. Rutledge entered safe deposit box number 1313 at First Hawaiian Bank.

5). On or about April 8, 1993, Arthur A. Rutledge entered safe deposit box number 1314 at First Hawaiian Bank.

6). On or about April 15, 1993, Arthur A. Rutledge entered safe deposit box number 1313 at First Hawaiian Bank.

7). On or about May 7, 1993, Arthur A. Rutledge entered safe deposit box number 1314 at First Hawaiian Bank.

8). On or about July 12, 1993, Arthur A. Rutledge entered safe deposit box number 1313 at First Hawaiian Bank.

9). On or about July 28, 1993, Arthur A. Rutledge entered safe deposit box number 1314 at First Hawaiian Bank.

10). On or about August 2, 1993, Arthur A. Rutledge entered safe deposit box number 1313 at First Hawaiian Bank.

11). On or about August 23, 1993, Defendant ANTHONY A. RUTLEDGE, SR. a/k/a "TONY" RUTLEDGE entered safe deposit box number 1314 and First Hawaiian Bank.

12). On or about September 21, 1993, Arthur A. Rutledge visited safe deposit box number 1314 at First Hawaiian Bank.

13). On or about October 14, 1993, Arthur A. Rutledge entered safe deposit box number 1313 at First Hawaiian Bank.

14). On or about November 5, 1993, Arthur A. Rutledge entered safe deposit box number 1314 at First Hawaiian Bank.

15). On or about December 21, 1993, Arthur A. Rutledge entered safe deposit box number 1313 at First Hawaiian Bank.

16). On or about January 11, 1994, Arthur A. Rutledge entered safe deposit box number 1313 at First Hawaiian Bank.

17). On or about February 14, 1994, Defendants and the late Arthur A. Rutledge caused the filing of a false U.S. Corporation Income Tax Return for the fiscal year ending June 30, 1993 for Defendant STAR-BEACHBOYS, INC., said tax return being false in that it reported gross rents at line 6 of \$90,100, which

substantially understated the true amount by failing to report cash skimmed from the beach concession stand.

18). On or about March 28, 1994, Arthur A. Rutledge entered safe deposit box number 1313 at First Hawaiian Bank.

19). On or about April 11, 1994, Arthur A. Rutledge entered safe deposit box number 1313 at First Hawaiian Bank.

20). On or about May 31, 1994, Arthur A. Rutledge entered safe deposit box number 1313 at First Hawaiian Bank.

21). On or about August 17, 1994, Arthur A. Rutledge entered safe deposit box number 1314 at First Hawaiian Bank.

22). On or about August 23, 1994, Arthur A. Rutledge entered safe deposit box number 1313 at First Hawaiian Bank.

23). On or about September 17, 1994, Defendants and the late Arthur A. Rutledge caused the filing of a false U.S. Corporation Income Tax Return for the fiscal year ending June 30, 1994 for Defendant STAR-BEACHBOYS, INC., said tax return being false in that it reported gross rents at line 6 of \$77,900, which substantially understated the true amount by failing to report cash skimmed from the beach concession stand.

24). On or about October 20, 1994, Arthur A. Rutledge entered safe deposit box number 1313 at First Hawaiian Bank.

25). On or about December 23, 1994, Arthur A. Rutledge entered safe deposit box number 1313 at First Hawaiian Bank.

26). On or about January 6, 1995, Arthur A. Rutledge entered safe deposit box number 1313 at First Hawaiian Bank.

27). On or about March 14, 1995, Arthur A. Rutledge entered safe deposit box number 1313 at First Hawaiian Bank.

28). On or about April 11, 1995, Arthur A. Rutledge entered safe deposit box number 1313 at First Hawaiian Bank.

29). On or about May 8, 1995, Arthur A. Rutledge entered safe deposit box number 1313 at First Hawaiian Bank.

30). On or about June 7, 1995, Arthur A. Rutledge entered safe deposit box number 1313 at First Hawaiian Bank.

31). On or about August 11, 1995, Arthur A. Rutledge entered safe deposit box number 1313 at First Hawaiian Bank.

32). On or about September 11, 1995, Arthur A. Rutledge entered safe deposit box number 1313 at First Hawaiian Bank.

33). On or about September 19, 1995, Defendants and the late Arthur A. Rutledge caused the filing of a false U.S. Corporation Income Tax Return for the fiscal year ending June 30, 1995 for Defendant STAR-BEACHBOYS, INC., said tax return being false in that it reported gross rents at line 6 of \$96,900, which substantially understated the true amount by failing to report cash skimmed from the beach concession stand.

34). On or about October 31, 1995, Arthur A. Rutledge entered safe deposit box number 1313 at First Hawaiian Bank.

35). On or about November 7, 1995, Arthur A. Rutledge entered safe deposit box number 1314 at First Hawaiian Bank.

36). On or about December 21, 1995, Arthur A. Rutledge entered safe deposit box number 1313 at First Hawaiian Bank.

37). On or about January 3, 1996, Arthur A. Rutledge entered safe deposit box number 1313 at First Hawaiian Bank.

38). On or about February 14, 1996, Arthur A. Rutledge entered safe deposit box number 1313 at First Hawaiian Bank.

39). On or about March 15, 1996, Arthur A. Rutledge entered safe deposit box number 1313 at First Hawaiian Bank.

40). On or about March 25, 1996, Arthur A. Rutledge entered safe deposit box number 1314 at First Hawaiian Bank.

41). On or about April 8, 1996, Arthur A. Rutledge entered safe deposit box number 1313 at First Hawaiian Bank.

42). On or about May 10, 1996, Arthur A. Rutledge entered safe deposit box number 1314 at First Hawaiian Bank.

43). On or about June 4, 1996, Arthur A. Rutledge entered safe deposit box number 1313 at First Hawaiian Bank.

44). On or about June 18, 1996, Arthur A. Rutledge entered safe deposit box number 1313 at First Hawaiian Bank.

45). On or about June 27, 1996, Defendant ANTHONY A. RUTLEDGE, SR. a/k/a "TONY" RUTLEDGE entered safe deposit box number 1314 at First Hawaiian Bank.

46). On or about July 5, 1996, Arthur A. Rutledge entered safe deposit box number 1314 at First Hawaiian Bank.

47). On or about July 10, 1996, Arthur A. Rutledge entered safe deposit box number 1314 at First Hawaiian Bank.

48). On or about July 15, 1996, Arthur A. Rutledge entered safe deposit boxes numbers 1313 and 1314 at First Hawaiian Bank.

49). On or about July 31, 1996, Arthur A. Rutledge entered safe deposit box number 1314 at First Hawaiian Bank.

50). On or about August 1, 1996, Arthur A. Rutledge entered safe deposit box number 1313 at First Hawaiian Bank.

51). On or about August 12, 1996, Arthur A. Rutledge entered safe deposit box number 1314 at First Hawaiian Bank.

52). On or about September 10, 1996, Defendant ANTHONY A. RUTLEDGE, SR. a/k/a "TONY" RUTLEDGE entered safe deposit box number 1313 at First Hawaiian Bank.

53). On or about September 11, 1996, Defendants and the late Arthur A. Rutledge caused the filing of a false U.S. Corporation Income Tax Return for the fiscal year ending June 30, 1996 for Defendant STAR-BEACHBOYS, INC., said tax return being

false in that it reported gross receipts at line 1a of \$65,000, which substantially understated the true amount by failing to report cash skimmed from the beach concession stand.

54). On or about September 20, 1996, Defendant ANTHONY A. RUTLEDGE, SR. a/k/a "TONY" RUTLEDGE entered safe deposit box number 1314 at First Hawaiian Bank.

55). On or about September 26, 1996, Arthur A. Rutledge entered safe deposit box numbers 1313 and 1314 at First Hawaiian Bank.

56). On or about October 2, 1996, Arthur A. Rutledge entered safe deposit box number 1314 at First Hawaiian Bank.

57). On or about October 14, 1996, Arthur A. Rutledge entered safe deposit box number 1313 at First Hawaiian Bank.

58). On or about November 1, 1996, in his capacity as Financial Secretary-Treasurer of Local 5, Defendant ANTHONY A. RUTLEDGE, SR. a/k/a "TONY" RUTLEDGE caused L.P., an individual known to the Grand Jury, to begin providing services for the benefit of himself, Defendant STAR-BEACHBOYS, INC., Defendant AARON A. RUTLEDGE, and the late Arthur A. Rutledge while being paid by the Hotel Employees and Restaurant Employees, Local 5.

59). On or about November 6, 1996, Defendant ANTHONY A. RUTLEDGE, SR. a/k/a "TONY" RUTLEDGE entered safe deposit box number 1314 at First Hawaiian Bank.

60). On or about December 27, 1996, Arthur A. Rutledge entered safe deposit box number 1313 at First Hawaiian Bank.

61). On or about January 2, 1997, Arthur A. Rutledge entered safe deposit box number 1313 at First Hawaiian Bank.

62). On or about January 9, 1997, Arthur A. Rutledge entered safe deposit box number 1314 at First Hawaiian Bank.

63). On or about January 17, 1997, Defendant ANTHONY A. RUTLEDGE, SR. a/k/a "TONY" RUTLEDGE entered safe deposit box number 1314 at First Hawaiian Bank.

64). On or about February 4, 1997, Arthur A. Rutledge entered safe deposit box number 1314 at First Hawaiian Bank.

65). On or about April 9, 1997, Defendant ANTHONY A. RUTLEDGE, SR. a/k/a "TONY" RUTLEDGE entered safe deposit box number 1314 at First Hawaiian Bank.

66). On or about April 14, 1997, Defendant AARON A. RUTLEDGE and Defendant ANTHONY A. RUTLEDGE, SR. a/k/a "TONY" RUTLEDGE opened safe deposit box number 877 at Bank of America.

67). On or about April 14, 1997, Defendant ANTHONY A. RUTLEDGE, SR. a/k/a "TONY" RUTLEDGE entered safe deposit box number 877 at Bank of America.

68). On or about April 18, 1997, Defendant ANTHONY A. RUTLEDGE, SR. a/k/a "TONY" RUTLEDGE entered and closed two safe deposit boxes numbers 1313 and 1314 at First Hawaiian Bank.

69). On or about April 21, 1997, Defendant AARON A. RUTLEDGE entered safe deposit box number 877 at Bank of America.

70). On or about May 3, 1997, Defendant ANTHONY A. RUTLEDGE, SR. a/k/a "TONY" RUTLEDGE entered safe deposit box number 877 at Bank of America.

71). On or about May 14, 1997, Defendant ANTHONY A. RUTLEDGE, SR. a/k/a "TONY" RUTLEDGE entered safe deposit box number 877 at Bank of America.

72). On or about June 3, 1997, Defendant AARON A. RUTLEDGE entered safe deposit box number 877 at Bank of America.

73). On or about June 6, 1997, Defendant ANTHONY A. RUTLEDGE, SR. a/k/a "TONY" RUTLEDGE entered safe deposit box number 877 at Bank of America.

74). On or about July 1, 1997, Defendant AARON A. RUTLEDGE entered safe deposit box number 877 at Bank of America.

75). On or about July 22, 1997, Defendants caused the filing of a false U.S. Corporation Income Tax Return for the fiscal year ending June 30, 1997 for Defendant STAR-BEACHBOYS, INC., said tax return being false in that it reported gross receipts at line 1a of \$85,305, which substantially understated the true amount by failing to report cash skimmed from the beach concession stand.

76). On or about August 4, 1997, Defendant AARON A. RUTLEDGE entered safe deposit box number 877 at Bank of America.

77). On or about September 3, 1997, Defendant AARON A. RUTLEDGE entered safe deposit box number 877 at Bank of America.

78). On or about October 6, 1997, Defendant AARON A. RUTLEDGE entered safe deposit box number 877 at Bank of America.

79). On or about October 6, 1997, Defendant AARON A. RUTLEDGE opened and entered safe deposit box number 818 at Bank of America.

80). On or about October 25, 1997, Defendant AARON A. RUTLEDGE entered safe deposit boxes numbers 818 and 877 at Bank of America.

81). On or about October 30, 1997, Defendant AARON A. RUTLEDGE telephoned D.S., whose full name is known to

the Grand Jury, and caused the destruction of evidence reflecting income earned by Defendant STAR-BEACHBOYS, INC.

82). On or about November 5, 1997, Defendants AARON A. RUTLEDGE and ANTHONY A. RUTLEDGE, SR. a/k/a "TONY" RUTLEDGE deposited \$589,214.00 in cash at First Hawaiian Bank and stated to a bank employee that the cash was found at the residence of the late Arthur A. Rutledge.

83). On or about May 13, 1998, Defendant ANTHONY A. RUTLEDGE, SR. a/k/a "TONY" RUTLEDGE caused a \$175,000 check from an account in the name of Defendant STAR-BEACHBOYS, INC. to be made payable to "Michael J. Green Client Trust Account" and to be treated on the financial statements and tax returns of Defendant STAR-BEACHBOYS, INC. as a loan to himself.

84). On or about May 13, 1998, Defendant ANTHONY A. RUTLEDGE, SR. a/k/a "TONY" RUTLEDGE executed a promissory note in the amount of \$175,000 in favor of Defendant STAR-BEACHBOYS, INC.

85). On or about July 13, 1998, Defendant ANTHONY A. RUTLEDGE, SR. a/k/a "TONY" RUTLEDGE issued a check made payable to Defendant STAR-BEACHBOYS, INC. in the amount of \$355,592 from bank account number 482833 at Prudential Securities Bank in the name of "Mr. Anthony A. Rutledge, Personal Representative of the Estate of Mr. Arthur A. Rutledge" and caused such amount to be recorded as income on the financial

statements of the corporation, knowing that such amount did not reflect the true extent of cash skimmed from the corporation in the preceding years.

86). On or about December 14, 1998, Defendant ANTHONY A. RUTLEDGE, SR. a/k/a "TONY" RUTLEDGE caused Defendant STAR-BEACHBOYS, INC. to make a \$250,000 investment in Capital West Advisors, L.L.C.

87). On or about February 28, 1999, in pleadings filed in U.S. District Court for the District of Hawaii, Defendant STAR-BEACHBOYS, INC. falsely blamed the cash skim scheme solely on the actions of the late Arthur A. Rutledge stating in part, "this matter is really about an infirm, 91-year-old man, who for a reason none involved will ever be certain, determined to divert this cash, over a five-year period, from the hands of a legitimate business."

88). On or about October 17, 1999, Defendant ANTHONY A. RUTLEDGE, SR. a/k/a "TONY" RUTLEDGE and Defendant AARON A. RUTLEDGE caused the filing of a false U.S. Corporation Income Tax Return for the fiscal year ending June 30, 1999 for Star-Beachboys Inc., said tax return being false in that it understated gross receipts at line 1c by failing to report the true extent of the cash skimmed from the corporation in the preceding years.

89). On or about March 16, 2000, Defendant ANTHONY A. RUTLEDGE, SR. a/k/a "TONY" RUTLEDGE withdrew \$10,000 in corporate funds from Defendant STAR-BEACHBOYS, INC. and caused the transaction to be treated on the financial statements and tax returns of Defendant STAR-BEACHBOYS, INC. as a loan to himself.

90). On or about April 16, 2000, Defendant ANTHONY A. RUTLEDGE, SR. a/k/a "TONY" RUTLEDGE withdrew \$45,000 in corporate funds from Defendant STAR-BEACHBOYS, INC. and caused the transaction to be treated on the corporate financial statements and tax returns of Defendant STAR-BEACHBOYS, INC. as a loan to himself.

91). On or about June 30, 2000, Defendant ANTHONY A. RUTLEDGE, SR. a/k/a "TONY" RUTLEDGE executed a promissory note in the amount of \$216,017.17 in favor of Defendant STAR-BEACHBOYS, INC.

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

COUNT 2
(18 U.S.C. § 1512(b)(2)(A) & (B))
(Witness Tampering)

The Grand Jury further charges:

On or about October 30, 1997, in the District of Hawaii, Defendant AARON A. RUTLEDGE did knowingly corruptly persuade, and attempt to persuade, an individual known to the Grand Jury with the intent to cause and induce said person to (A)

withhold a record, document and other object from an official proceeding, to wit: a Federal grand jury proceeding and its related criminal investigation, and (B) alter, destroy, mutilate and conceal objects with intent to impair the objects' integrity and availability for use in such official proceeding.

All in violation of Title 18, United States Code, Section 1512(b)(2)(A) & (B).

COUNT 3

(26 U.S.C. § 7206(1))

(Subscribing to a False Income Tax Return)

The Grand Jury further charges:

On or about July 22, 1997, in the District of Hawaii, Defendant AARON A. RUTLEDGE, did willfully make and subscribe a Form 1120 United States Corporation Income Tax Return for the entity known as Star-Beachboys, Inc., in his capacity as Secretary-Treasurer of that corporation for the tax year ending June 30, 1997, which was verified by a written declaration that it was made under the penalties of perjury, which was filed with the Internal Revenue Service and was false as to a material matter, which said income tax return he did not believe to be true and correct as to every material matter in that Line 1A reported gross receipts totaling \$85,305.00, whereas defendant AARON A. RUTLEDGE then and there well knew and believed that the total gross receipts as reported on said income return were substantially understated.

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

COUNT 4
(26 U.S.C. § 7206(2))
(Aiding & Assisting in Filing
a False Income Tax Return)

The Grand Jury further charges:

On or about July 22, 1997, in the District of Hawaii,
Defendant ANTHONY A. RUTLEDGE, SR. a/k/a "TONY" RUTLEDGE, did
willfully aid and assist in and procure, counsel and advise the
preparation and presentation to the Internal Revenue Service of a
Form 1120 United States Corporation Income Tax Return for the
entity known as Star-Beachboys, Inc., for the tax year ending
June 30, 1997, which was false as to a material matter, in that
Line 1A reported gross receipts totaling \$85,305.00, whereas
Defendant ANTHONY A. RUTLEDGE, SR. a/k/a "TONY" RUTLEDGE then and
there well knew and believed that said income tax return
substantially understated reported gross receipts.

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

COUNT 5
(26 U.S.C. § 7206(2))
(Aiding & Assisting in Filing
a False Income Tax Return)

The Grand Jury further charges:

On or about July 22, 1997, in the District of Hawaii,
defendant STAR-BEACHBOYS, INC., did willfully aid and assist in

and procure, counsel and advise the preparation and presentation to the Internal Revenue Service of a Form 1120 United States Corporation Income Tax Return for the tax year ending June 30, 1997, which was false as to a material matter, in that Line 1A reported gross receipts totaling \$85,305.00, whereas defendant STAR-BEACHBOYS, INC. then and there well knew and believed that said income tax return substantially understated reported gross receipts.

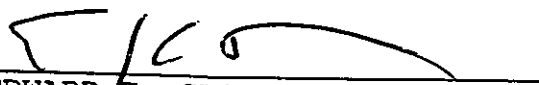
All in violation of Title 26, United States Code, Section 7206(2).

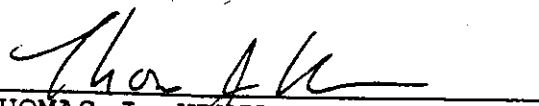
DATED: Aug 20, 2003, at Honolulu, Hawaii.

A TRUE BILL


FOREPERSON, GRAND JURY

EDWARD H. KUBO, JR.
United States Attorney
District of Hawaii


EDWARD E. GROVES
Trial Attorney
U.S. Department of Justice, Tax Division


THOMAS J. KRYSA
Trial Attorney
U.S. Department of Justice, Tax Division

United States of America v. Aaron A. Rutledge; Anthony A. Rutledge, Sr. a/k/a "Tony" Rutledge & Star-Beachboys, Inc.;
Second Superseding Indictment; Cr. No. 02-00438 DAE