

Former Sussex Political Party Chairman and Others Charged with Embezzling from Union and Bankrupt Health Fund

NEWARK - A federal grand jury today returned a five-count indictment against a former Sussex County political party chairman and two other individuals for their roles in embezzlement schemes that victimized Local 16 of the United Service Workers of America in Newton and its now-bankrupt health fund.

Charles W. Cart, Charles H. Wiener and Marvin Raphael are charged with conspiring to embezzle a total of approximately \$284,000 in health fund and union funds as a result of a multi-faceted fraud scheme existing between May 2000 and November, 2001. Susan Donato, 47, of St. Cloud, Fla., formerly the President of Local 16 and the administrator of the Local 16 Health Fund was previously charged in a separate one-count Information.

Donato pleaded guilty in January to conspiracy to embezzle from the Health Fund and is presently cooperating in the government's investigation.

Cart, 56, of Newton, is a former Sussex County political party chairman as well as the founder and former President of Local 16. He is also the CEO of Health Choice, Inc, a third-party health benefits administrator, also located in Newton. Wiener, 68, of New Port Richey, Fla., is Cart's stepfather. Raphael, 63, Boca Raton, Fla., is the owner of Marvin & Tedi, Inc., also of Boca Raton.

The Indictment portrays Cart as the union founder who left to create Health Choice. Subsequently, Cart and his co-conspirators' schemes contributed to the demise of the union with the alleged embezzlement of the health fund that the union workers paid into, said Christie.

"On the one hand, this defendant led people to believe he was on their side as a labor organizer," said Christie. "Yet, as we allege, he then turned them into victims by embezzling from them, their union and their health fund."

The main source for the embezzled funds was an alleged scheme to generate cash from the Local 16 Health Fund by fraudulently increasing the "per member" administration fee paid to Health Choice, the third-party administrator that processed Local 16 medical claims. These increased payments were then diverted to Wiener and another Cart family member who is not identified in the Indictment.

For example, between May 2000 and November 2001, Cart caused approximately \$144,000 in checks to be sent from his company, Health Choice, to another company, identified as Company-1 in the indictment, under the guise of paying fees incurred by Company-1 on behalf of Local 16, according to the Indictment. In truth, Company-1 had performed no services for Local 16 and was being used solely as a conduit by Cart to get the money to his stepfather Charles Wiener.

Cart is also charged with conspiring with Raphael and Donato to defraud Local 16 of \$84,000 by

creating a consulting position at Local 16 for defendant Raphael, for which no legitimate services were expected or provided. Between approximately August, 2000 and July, 2001, Raphael received monthly payments of \$7,000 pursuant to the consulting agreement. Thereafter, Raphael re-directed approximately \$56,000 to Cart directly or through his horse farm, Horsearound Stables, according to the Indictment.

Cart and Wiener are also charged in Counts Three and Four of the Indictment with a mail fraud conspiracy for trying to deprive the union members of the honest and faithful services of co-defendant Sue Donato in her representation of Local 16 and the Local 16 Health Fund. Count Five charges both Cart and Wiener with money laundering.

Conviction on Count One, the conspiracy to embezzle from the Local 16 Health Fund, carries a maximum sentence of five years in prison, a \$250,000 fine and restitution to the fund. Count Two, the conspiracy to embezzle from the Local 16 Union, carries a maximum sentence of five years in prison, a \$250,000 fine and restitution to the union. Counts Three and four carry a maximum sentence of 20 years each in prison and a \$250,000 fine. Count Five, the money laundering count, carries a maximum sentence of 20 years in prison and a \$500,000 fine.

In determining an actual sentence, the judge to whom the case is assigned would, upon a conviction, consult the U.S. Sentencing Guidelines, which provide appropriate sentencing ranges that take into account the severity and characteristics of the offense, the defendant's criminal history, if any, and other factors. The judge, however, is not bound by those guidelines in determining a sentence.

Parole has been abolished in the federal system. Defendants who are given custodial terms must serve nearly all that time.

Despite indictment, all defendants are presumed innocent unless and until proven guilty beyond a reasonable doubt in a court of law.

Christie credits Special Agents from the Department of Labor, OIG, under the direction of James Vandenberg, Assistant Regional Inspector General. Christie also credited Special Agents from the Labor Department's Employee Benefit Security Administration, Acting Regional Director Jonathan Kay, with assisting in the investigation.

The case is being prosecuted by Assistant U.S. Attorney V. Grady O'Malley, Senior Litigation Counsel, and Assistant U.S. Attorney Matthew Boxer, both of the U.S. Attorney's Office in Newark.

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Defense Counsel:

Cart: Alfred DeCotiis, Esq. Teaneck
Wiener: Samuel Molthrop, Esq. Morristown
Raphael: Michael Quiat, Esq. Hackensack