

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA

v.

JOHN C. KIM,
THOMAS MARTIN HNAT,
THOMAS WHITE,
KENNETH KRISCIUNAS,
JOHN LISKA,
FRANK KUCIA,
JOSELITO JAKOSALEM,
NICHOLAS GALLO,
THOMAS MCGEE,
SANTE FURIO,
SCOTT GIGLIOTTI,
THOMAS CONDON,
MICHAEL MCKAY, and
ROBERT SAWINSKI

No.

95CR00214

Violation: Title 18,
United States Code,
Section 371

RECEIVED

APR 11 1995

H. STUART CUNNINGHAM, CLERK
UNITED STATES DISTRICT COURT

JUDGE HORDERMAN

MAGISTRATE JUDGE ASHMAN

The SPECIAL JUNE 1994 GRAND JURY charges:

1. At times material to this indictment:

(a) Defendant JOHN C. KIM and an organization referred to herein as the "Kim organization" owned, controlled, and operated martial arts schools located in the Chicago area as well as in cities and suburbs in several other states, including Minnesota and Texas. These schools had various names including: the John C. Kim Style School of Chung Moo Quan, the John C. Kim Style School of Chung Moo Doe, the School of Chung Moo Quan, and the School of Chung Moo Doe. All such schools are hereinafter referred to as the "John C. Kim martial arts schools."

(b) Members of the Kim organization held various titles and performed various functions for the Kim organization, as described below:

various times, those holding these titles included defendants THOMAS CONDON, MICHAEL MCKAY, and ROBERT SAWINSKI.

(v) Many members of the Kim organization progressed up the hierarchy gradually over time. Typically, an individual started out as a student at a John C. Kim martial arts school, then became an Instructor, then an Assistant Head Instructor, and so on.

(c) Several companies located in Illinois, Texas and other states were run and operated by members of the Kim organization, including defendants NICHOLAS GALLO, THOMAS MARTIN HNAT, JOHN LISKA, SANTE FURIO, and SCOTT GIGLIOTTI. These companies were referred to by members of the Kim organization as "Indirect Line Companies," and included Renaissance International, Orience, Briceton Laboratories, Panax, the National Printing Group ("N.P.G."), the National Pharmagraphics Group, and Pure Health International.

2. Beginning no later than the early 1970s and continuing thereafter until on or about the date of the Indictment, in the Northern District of Illinois, Eastern Division, and elsewhere,

JOHN C. KIM,
THOMAS MARTIN HNAT,
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JOHN LISKA,
FRANK KUCIA,
JOSELITO JAKOSALEM,
NICHOLAS GALLO,
THOMAS MCGEE,
SANTE FURIO,
SCOTT GIGLIOTTI,
THOMAS CONDON,
MICHAEL MCKAY, and
ROBERT SAWINSKI,

private and advanced courses, including courses called the Special Private Course, the Blackbelt Course, the Olympic Course, and the Instructors Course.

5. It was further part of the conspiracy that defendants and other coconspirators directed and required, and caused others to direct and require, students and others taking courses to pay in cash for the private and advanced courses, which cost from \$900 to over \$18,000.

6. It was further part of the conspiracy that defendants and other coconspirators directed, and caused others to direct, students and those taking courses to deliver cash to them and others associated with the John C. Kim martial arts schools for purposes in addition to the payment of private and advanced courses, including the payment of "test fees."

7. It was further part of the conspiracy that defendants and other coconspirators prepared, and caused to be prepared, coded records regarding the operation of the John C. Kim martial arts schools, including the amount of money received from students and others at the schools. The code was used to disguise and conceal the amounts of monies actually received by the schools for course payments, test fees, and other purposes.

Pooling and Skimming of Money from the Schools

8. It was further part of the conspiracy that each day, usually in the evenings after the schools closed, the monies taken in that day by John C. Kim martial arts schools in a particular

under reported the gross receipts and income from John C. Kim martial arts schools for which they were reporting by reporting only a portion of the money paid to the schools, when, in fact, additional monies had been paid by students and others at the schools and these additional gross receipts had been collected and delivered to defendant JOHN C. KIM and others at the direction of defendant KIM and other defendants and coconspirators.

13. It was further part of the conspiracy that defendants and other coconspirators attempted to make it appear on tax returns filed with the IRS that the businesses being operated at the addresses specified on the tax returns -- that is, John C. Kim martial arts schools -- were operated as sole proprietorships, when, in fact, the schools were not individually owned and controlled and were not sole proprietorships.

14. It was further part of the conspiracy that defendants and other coconspirators attempted to make it appear on tax returns filed with the IRS that individual martial arts businesses -- which in fact were the John C. Kim martial arts schools -- had been sold, by reporting installment sales, interest, capital gains, and other income on various schedules and forms that were part of those returns, when, in fact, the businesses had not been individually "owned" and "sold" and remained under the control of defendant JOHN C. KIM and the Kim organization.

15. It was further part of the conspiracy that the skimmed monies were used for various purposes including to pay expenses of the Kim organization and members of the Kim organization, to

agreements and associated records and payments were created for the purpose of concealing this fact.

19. It was further part of the conspiracy that in 1990, defendants and other coconspirators formed, and caused to be formed, corporations to serve as the so-called "owners" of various John C. Kim martial arts schools, in order to further conceal defendant JOHN C. KIM's and the Kim organization's true interest and control over the schools and the gross receipts and income generated by the schools.

20. It was further part of the conspiracy that defendants and other coconspirators would and did use force and threats of force, and caused the use of force and threats of force, to conceal the conspiracy and further its purposes.

21. It was further part of the conspiracy that defendants and other coconspirators would and did misrepresent, conceal and hide, and cause to be misrepresented, concealed and hidden, the conspiracy and the purposes of and the acts done in furtherance of the conspiracy, including the acts listed in paragraph 22 below.

OVERT ACTS

22. In furtherance of the conspiracy and to effect its objectives, defendants committed and caused to be committed the following overt acts in the Northern District of Illinois, Eastern Division, and elsewhere:

False Returns

a. Defendants JOHN C. KIM, THOMAS MARTIN HNAT, THOMAS WHITE, KENNETH KRISCIUNAS, JOHN LISKA, THOMAS MCGEE, SANTE FURIO,

c. Defendants JOHN C. KIM, FRANK KUCIA, and JOSELITO JAKOSALEM prepared and filed with the IRS, and caused others to prepare and file with the IRS, individual income tax returns and accompanying schedules and forms, including Schedules C and D, and Form 4797, for calendar years 1984, 1985, 1986, 1987, 1988, and 1989, that falsely reported gross receipts and income from John C. Kim martial arts schools located in Minnesota, and falsely represented ownership and control of, and sales and transfers of those schools and their assets, and did so, and caused it to be done, on or about, respectively, April 15, 1985; April 15, 1986; April 15, 1987; April 15, 1988; April 17, 1989; and April 16, 1990. The preparation or filing, or the causing of the preparation or filing, of any one of these returns by any one of the defendants named constitutes one overt act.

Pooling of Money

d. From as early as the 1970s and continuing to at least on or about August 30, 1990, defendants JOHN C. KIM, THOMAS MARTIN HNAT, THOMAS WHITE, KENNETH KRISCIUNAS, JOHN LISKA, FRANK KUCIA, JOSELITO JAKOSALEM, NICHOLAS GALLO, THOMAS MCGEE, SANTE FURIO, SCOTT GIGLIOTTI, THOMAS CONDON, MICHAEL MCKAY, and ROBERT SAWINSKI and others on a daily basis pooled together and caused to be pooled together the monies taken in by individual schools in each geographic area. The pooling together of the monies, or the causing of the monies to be pooled together, on any one of these occasions by any one of the defendants constitutes one overt act.

h. On numerous occasions during 1986, including in or about September of 1986, defendant THOMAS MARTIN HNAT caused his parents to deposit cash into their bank accounts. Each instance of causing the deposit of the cash by either parent constitutes one overt act.

i. On numerous occasions during 1986, including in or about September of 1986, defendant THOMAS MARTIN HNAT caused his parents to write checks on their bank accounts, and to obtain cashier's checks, all made payable to defendant THOMAS MARTIN HNAT. Causing the writing or obtaining of any one of these checks or cashiers checks constitutes one overt act.

j. In or about September 1986, defendant THOMAS MARTIN HNAT obtained loans, and caused his parents to obtain loans on his behalf, from banks in Pennsylvania. Obtaining or causing the obtaining of any one of these loans constitutes one overt act.

k. In or about September of 1986, defendant THOMAS MARTIN HNAT delivered, and caused to be delivered, to defendant NICHOLAS GALLO the bank loan proceeds and additional checks and cashier's checks obtained from defendant THOMAS MARTIN HNAT's parents in September of 1986.

l. In or about September of 1986, defendant NICHOLAS GALLO caused the funds received from defendant THOMAS MARTIN HNAT to be used toward the purchase a multi-acre property in Tomball, Texas, hereinafter referred to as the "Texas ranch."

m. In or about September of 1986, defendants JOHN C. KIM, THOMAS MARTIN HNAT, NICHOLAS GALLO, KENNETH KRISCIUNAS, and

r. On or about October 5, 1989, defendant SCOTT GIGLIOTTI delivered cash, totalling \$10,000, to his father in Naperville, Illinois.

s. On or about October 6, 1989, defendant SCOTT GIGLIOTTI caused his parents to deposit this \$10,000 cash into his parents' bank accounts in Naperville, Illinois.

t. On or about October 6, 1989, in Naperville, Illinois, defendant SCOTT GIGLIOTTI caused his father to write a check in an amount over \$10,000 to defendant SCOTT GIGLIOTTI.

u. In or about October of 1989, defendant SCOTT GIGLIOTTI deposited, and caused to be deposited, the check received from his father into a bank account in Texas.

v. In or about 1987, defendants JOHN C. KIM, NICHOLAS GALLO, and THOMAS MARTIN HNAT started and caused to be started Indirect Line Companies called Briceton Laboratories and Orience.

w. In or about November and December of 1987, defendant NICHOLAS GALLO caused to be deposited cash totalling approximately \$12,500 into the bank account of an Indirect Line Company, and caused the funds to be falsely recorded on the books and records of an Indirect Line Company as the purchase of stock by a particular individual. The causing of any one such deposit or any one such false recording constitutes one overt act.

x. In or about December of 1987, defendant NICHOLAS GALLO caused to be deposited cash totalling about \$2,000 into the bank account of an Indirect Line Company, and caused the funds to

cc. In or about the spring of 1991, defendant THOMAS MARTIN HNAT attempted to purchase a \$1.5 million house in Pebble Beach, California.

dd. In or about June of 1994, defendant THOMAS MARTIN HNAT purchased and caused to be purchased a house in La Jolla, California.

Preparation and Destruction of Records

ee. From as early as the 1970s and continuing to at least on or about August 30, 1990, defendants JOHN C. KIM, THOMAS MARTIN HNAT, THOMAS WHITE, KENNETH KRISCIUNAS, JOHN LISKA, FRANK KUCIA, JOSELITO JAKOSALEM, NICHOLAS GALLO, THOMAS MCGEE, SANTE FURIO, SCOTT GIGLIOTTE, THOMAS CONDON, MICHAEL MCKAY, and ROBERT SAWINSKI prepared and caused others to prepare on a daily basis coded records regarding gross receipts taken in by the John C. Kim martial arts schools. The preparation of such records, or the causing of the preparation of such records, on any one occasion by any one of the defendants constitutes one overt act.

ff. From as early as the 1970s and continuing to at least on or about August 30, 1990, defendants JOHN C. KIM, THOMAS MARTIN HNAT, THOMAS WHITE, KENNETH KRISCIUNAS, JOHN LISKA, FRANK KUCIA, JOSELITO JAKOSALEM, NICHOLAS GALLO, THOMAS MCGEE, SANTE FURIO, SCOTT GIGLIOTTE, THOMAS CONDON, MICHAEL MCKAY, and ROBERT SAWINSKI destroyed and caused others to destroy records regarding the operation of the John C. Kim martial arts schools and records reflecting the amount of monies taken in by John C. Kim martial arts schools. The destruction, or the causing of the destruction,

of such records on any one occasion by any one of the defendants
constitutes one overt act;

In violation of Title 18, United States Code, Section 371.

A TRUE BILL:

FOREPERSON

UNITED STATES ATTORNEY

be falsely recorded on the books and records of an Indirect Line Company as a loan to the company made by a particular individual.

y. Between in or about May of 1988 and in or about September of 1988, defendant NICHOLAS GALLO caused multiple checks from Indirect Line Companies to be prepared and made payable to a particular individual, and to be falsely characterized as "loan repayments." The causing of the preparation of any one of these checks constitutes one overt act.

z. In or about September of 1990, in the Northern District of Illinois, defendant NICHOLAS GALLO caused a \$2,500 check from an Indirect Line Company for "stock purchase" to be prepared and made payable to a particular individual.

aa. On numerous occasions during 1991, defendant THOMAS MARTIN HNAT delivered, and caused to be delivered, to his father cash totalling over \$40,000. The delivery, or the causing of the delivery, of the cash on any one of these occasions constitutes one overt act.

bb. On numerous occasions during 1991, defendant THOMAS MARTIN HNAT deposited cash, and caused cash to be deposited, into the bank account of a business called Waterfowl Art, and into various other bank accounts that defendant THOMAS MARTIN HNAT opened and caused his father to open. The deposit, or the causing of the deposit, of the cash on any one of these occasions constitutes one overt act.

SCOTT GIGLIOTTI purchased and caused to be purchased the Texas ranch.

n. On multiple occasions, from in or about 1986 to in or about 1990, defendants SCOTT GIGLIOTTI and KENNETH KRISCIUNAS used cash, and caused cash to be used, to pay for improvements to, and expenses relating to, the Texas ranch. The use of such cash, or the causing of such cash to be used, on any one of these occasions by either defendant constitutes one overt act.

o. Between in or about December of 1986 and in or about June 1987, defendant SCOTT GIGLIOTTI, on two occasions, delivered cash, totalling at least \$19,500, to his father in Naperville, Illinois. The delivery of such cash on any one of these occasions constitutes one overt act.

p. Between in or about December of 1986 and in or about June of 1987, defendant SCOTT GIGLIOTTI, on two occasions, caused his parents to deposit cash into his parents' bank accounts in Naperville, Illinois, and to write checks to defendant SCOTT GIGLIOTTI. The causing of any one of these deposits or the writing of any one of these checks constitutes one overt act.

q. Between in or about December of 1986 and in or about June of 1987, defendant SCOTT GIGLIOTTI deposited, and caused to be deposited, the two checks received from his parents into various bank accounts in Texas. The deposit of any one of these checks, or the causing of any one of these checks to be deposited, constitutes one overt act.

e. From as early as the 1970s and continuing to at least on or about August 30, 1990, defendants JOHN C. KIM, THOMAS MARTIN HNAT, THOMAS WHITE, KENNETH KRISCIUNAS, JOHN LISKA, FRANK KUCIA, JOSELITO JAKOSALEM, NICHOLAS GALLO, THOMAS MCGEE, SANTE FURIO, SCOTT GIGLIOTTI, THOMAS CONDON, MICHAEL MCKAY, and ROBERT SAWINSKI, on numerous occasions, deposited and caused to be deposited into school bank accounts checks and only part of the cash taken in by John C. Kim martial arts schools. The depositing of such funds, or the causing of such funds to be deposited by others, on any one of these occasions by any one of the defendants constitutes one overt act.

f. From as early as the 1970s and continuing to at least on or about August 30, 1990, defendants THOMAS WHITE, KENNETH KRISCIUNAS, THOMAS MARTIN HNAT, and MICHAEL MCKAY, on numerous occasions, delivered cash not deposited into school bank accounts to defendant JOHN C. KIM and to others at the direction of defendant Kim and other defendants and coconspirators. The delivery of such cash by any one of these defendants on any one of these occasions constitutes one overt act.

Use of Skimmed Cash

g. On numerous occasions during 1986, including in or about September of 1986, defendant THOMAS MARTIN HNAT delivered, and caused to be delivered, to his father thousands of dollars of cash. The delivery of such cash, or the causing of the delivery of such cash, on any one of these occasions constitutes one overt act.

THOMAS CONDON, MICHAEL MCKAY, and ROBERT SAWINSKI prepared and filed with the IRS, and caused others to prepare and file with the IRS, individual income tax returns and accompanying schedules and forms, including Schedules B, C, and D, and Forms 4797 and 6252, for calendar years 1985, 1986, 1987, 1988, and 1989, that falsely reported gross receipts and income from John C. Kim martial arts schools located in Illinois, and falsely represented ownership and control of, and sales and transfers of those schools and their assets, and did so, and caused it to be done, on or about, respectively, April 15, 1986; April 15, 1987; April 15, 1988; April 17, 1989; and April 16, 1990. The preparation or filing, or the causing of the preparation or filing, of any one of these returns by any one of the defendants named constitutes one overt act.

b. Defendants JOHN C. KIM and SCOTT GIGLIOTTI prepared and filed with the IRS, and caused others to prepare and file with the IRS, individual income tax returns and accompanying schedules, including Schedule C, for calendar years 1986, 1987, 1988, and 1989, that falsely reported gross receipts and income from John C. Kim martial arts schools located in Texas, and falsely represented the ownership and control of those schools, and did so, and caused it to be done, on or about, respectively, April 15, 1987; April 15, 1988; April 17, 1989; and April 16, 1990. The preparation or filing, or the causing of the preparation or filing, of any one of these returns by either of the defendants named constitutes one overt act.

purchase, and make improvements to, properties in states including Texas, Illinois and California, and to fund Indirect Line Companies.

Additional Parts of the Conspiracy

16. It was further part of the conspiracy that defendants and other coconspirators destroyed and caused to be destroyed records regarding the operation of the schools and monies actually taken in from the operation of the John C. Kim martial arts schools.

17. It was further part of the conspiracy that defendants JOHN C. KIM, NICHOLAS GALLO, THOMAS MARTIN HNAT, and SCOTT GIGLIOTTI used relatives, bank accounts of relatives, and businesses of relatives to assist in hiding and concealing cash skimmed from the John C. Kim martial arts schools, and caused this to be done.

18. It was further part of the conspiracy that defendants and other coconspirators created, and caused to be created, documents and records, including licensing agreements and checks in payment of "licensing fees," to make it appear that defendant JOHN C. KIM's relationship with the individual John C. Kim martial arts schools was a licensing arrangement, in which defendant JOHN C. KIM gave those involved with the operation of the John C. Kim martial arts schools the right to use his name in exchange for the payment of licensing fees; when, in fact, defendant JOHN C. KIM and the Kim organization as a whole controlled the schools and the operation, gross receipts and income of the schools, and the licensing

geographic area and certain coded records prepared in connection with these monies were collected by members of the Kim organization. Defendants and other coconspirators turned in such monies and coded records, and caused others to do so. Members of the Kim organization who collected these monies and records also included the defendants and other coconspirators.

9. It was further part of the conspiracy that defendants and other coconspirators arranged for, and caused, the checks and only a portion of the cash collected each day to be deposited into particular school bank accounts and reported to the IRS by certain individuals as gross receipts and income from individual John C. Kim martial arts schools.

10. It was further part of the conspiracy that defendants and other coconspirators delivered and caused to be delivered to defendant JOHN C. KIM, and to others at the direction of defendant KIM, other defendants, and coconspirators, cash receipts that were collected by individual schools and not deposited into school bank accounts and not reported to the IRS.

11. It was further part of the conspiracy that defendants and other coconspirators arranged for and caused large amounts of the cash generated and collected from the operation of the John C. Kim martial arts schools never to be reported to the IRS as gross receipts and income from the schools or of defendant JOHN C. KIM.

12. It was further part of the conspiracy that defendants and other coconspirators filed with the IRS, and caused to be filed, false tax returns in which they and other coconspirators falsely

defendants herein, did knowingly combine, conspire, confederate and agree with each other, and with others known and unknown to the Grand Jury, to defraud the United States of America by combining, conspiring, confederating and agreeing to impede, impair, and obstruct the Internal Revenue Service ("IRS"), Department of the Treasury, in the exercise of its lawful governmental functions, namely:

(a) the collection and analysis of income information on various tax forms, including Forms 1040 and accompanying schedules such as: Schedule C on which sole proprietors report the gross receipts, expenses, profit or loss from their businesses and professions; Schedule B for reporting interest income; Schedule D for reporting capital gains and losses; Form 6252 for reporting installment sales; and Form 4797 for reporting gains and losses from the sale or exchange of assets used in a trade or business;

(b) the correct attribution of income, sources of income and expenses; and

(c) the ascertainment, computation, assessment, levy and collection of income taxes imposed by law.

3. It was part of the conspiracy that the defendants and other coconspirators agreed to skim large sums of cash obtained from the operation of the John C. Kim schools, while concealing the receipt of that cash from the IRS.

School Courses and Cash Payments

4. It was further part of the conspiracy that defendants and other coconspirators recruited students at the John C. Kim martial

(i) Defendant JOHN C. KIM was the head of the organization.

(ii) Immediately beneath defendant JOHN C. KIM in the hierarchy of the organization were persons holding the title of "National Instructor." National Instructors traveled around the country to various John C. Kim martial arts schools, and oversaw the schools and the Kim organization on behalf of defendant JOHN C. KIM at a national level. At various times, those holding the title National Instructor included defendants THOMAS WHITE, KENNETH KRISCIUNAS, JOHN LISKA, THOMAS MARTIN HNAT, FRANK KUCIA, and JOSELITO JAKOSALEM.

(iii) Immediately beneath the National Instructors in the hierarchy of the organization were persons holding the title "Regional Head Instructor." Regional Head Instructors helped to oversee the John C. Kim martial arts schools and the Kim organization. At various times, those holding the title Regional Head Instructor included defendants SANTE FURIO, NICHOLAS GALLO, THOMAS MCGEE, and SCOTT GIGLIOTTI.

(iv) Beneath the Regional Head Instructors were persons holding the titles of "Assistant Regional Head Instructor," "Head Instructor," "Assistant Head Instructor," and "Instructor." Persons holding these titles performed various functions depending on the needs of the organization, and also helped to operate and, in some cases, oversee the John C. Kim martial arts schools on behalf of defendant JOHN C. KIM and the Kim organization. At