

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

COPY

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UNITED STATES OF AMERICA :

-v- :

INDICTMENT

JOSEPH SCALI, :

16 Cr. 466

Defendant. :

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COUNT ONE

(Mail Fraud)

The Grand Jury charges:

1. In or about 1974, JOSEPH SCALI, the defendant, was admitted to practice law in New York State.

2. At times relevant to the charges herein, Joseph G. Scali, P.C., was a corporation whose principal place of business was in Orange County, New York.

3. At all times relevant to the charges herein, the New York State rules governing the professional conduct of attorneys required that they: (a) maintain the funds of clients and third parties in a special bank account known as an Attorney Special Account, Attorney Trust Account, or Attorney Escrow Account; (b) maintain records of, among other things, the source of all funds deposited into

such accounts; and (c) not commingle the funds of clients and third parties with funds of their own.

4. At all times relevant to the charges herein, JOSEPH SCALI, the defendant, maintained an Attorney Trust Account at TD Bank, formerly known as Commerce Bank.

5. From in or about January 2011, up to and including on or about August 28, 2012, in the Southern District of New York and elsewhere, JOSEPH SCALI, the defendant, unlawfully, willfully and knowingly, having devised and intending to devise a scheme and artifice to defraud and for obtaining property by means of false and fraudulent pretenses, representations or promises, for the purpose of executing such scheme and artifice and attempting to do so, placed in a post office and authorized depository for mail matter, a matter and thing to be sent and delivered by the Postal Service, and deposited and caused to be deposited a matter and thing to be sent and delivered by a private and commercial interstate carrier, and took and received therefrom, a matter and thing, and knowingly caused to be delivered by mail and such carrier according to the direction thereon, and at the place at which it is directed to be delivered by the person to whom it is addressed, a matter and thing, as set forth below.

6. In or about January 2011, a prospective buyer of real estate ("the prospective buyer") entered into a contract to purchase two tracts of land from a seller in Pennsylvania ("the seller"), who

was represented by JOSEPH SCALI, the defendant, in that transaction. After signing the contract, the prospective buyer gave JOSEPH SCALI approximately \$1.6 million towards the real estate purchase to hold in escrow pending the closing of the transaction, and SCALI deposited those funds into his Attorney Trust Account.

7. In or about October 2011, the prospective buyer and the seller signed a written agreement rescinding the contract.

8. On or about October 5, 2011, an attorney for the prospective buyer informed JOSEPH SCALI, the defendant, that he was to return approximately half of the funds that he was holding in escrow to the prospective buyer and to retain the balance of the monies in escrow until the prospective buyer and the seller entered into a new contract regarding oil and gas drilling operations on the real estate in question.

9. On or about October 20, 2011, JOSEPH SCALI, the defendant sent a letter to the attorney for the prospective buyer via Federal Express, enclosing checks returning half of the monies he was holding in escrow and agreeing to retain the balance pending a new agreement between the parties.

10. On or about May 23, 2012, the attorney for the prospective buyer wrote to JOSEPH SCALI, the defendant, informing him that the parties had not reached a new agreement and demanding that he return the remaining \$850,000 he was holding in escrow to the

prospective buyer. Thereafter, on or about August 28 and December 17, 2012, the attorney for the prospective buyer wrote to SCALI demanding the return of the funds.

11. JOSEPH SCALI, the defendant, never responded to the prospective buyer's attorney's written demands and never returned the balance of the escrow funds to the prospective buyer.

12. JOSEPH SCALI, the defendant, had, prior to the May 23, 2012 written demand from the prospective buyer's attorney, spent almost all of the prospective buyer's funds by writing checks and making electronic payments directly from his Attorney Trust Account to third parties in order to pay for personal and business expenses.

(Title 18, United States Code, Section 1341.)

**COUNT TWO**

**(Structuring to Evade Currency Transaction Reports)**

The Grand Jury further charges:

13. At all times relevant to the charges herein:

A. Title 31, United States Code, Section 5313(a), and the regulations prescribed thereunder, required every financial institution, as defined in Title 31, United States Code, Section 5312(a)(2), and the regulations prescribed thereunder, to file a Currency Transaction Report ("CTR") with the Internal Revenue Service for each transaction involving currency in excess of \$10,000. CTRs are intended to reveal the identity of both the person who conducted

the transaction and the person for whom the transaction was conducted. Title 31, United States Code, Section 5324(a)(3), and the regulations prescribed thereunder, prohibited conduct causing a financial institution to fail to file CTRs, and the structuring of transactions for the purpose of evading the filing of CTRs. "Structuring" includes the practice of subdividing an amount of currency in excess of \$10,000 into amounts of \$10,000 or less and then conducting separate transactions in currency with those amounts to evade the requirement of filing a CTR.

B. TD Bank, with branch offices located in the State of New York, was a financial institution as defined in Title 31, United States Code, Section 5312(a)(2), and the regulations prescribed thereunder.

14. From on or about December 18, 2012, up to and including on or about December 19, 2012, in the Southern District of New York and elsewhere, JOSEPH SCALI, the defendant, unlawfully, willfully and knowingly, and for the purpose of evading the reporting requirements of Title 31, United States Code, Section 5313(a), and the regulations prescribed thereunder, did structure and assist in structuring, and attempt to structure and assist in structuring, transactions with one and more domestic financial institutions, to wit, the defendant made and caused to be made the following cash deposits into his attorney's trust account at TD Bank:

<u>DATE</u>	<u>AMOUNT</u>
12/18/12	\$ 9,600
12/18/12	\$ 9,100
12/18/12	\$ 8,000
12/19/12	\$ 5,700
TOTAL	\$ 32,400 =====

(Title 31, United States Code, Section 5324(a)(3).)

**COUNT THREE**

**(Corruptly Endeavoring to Obstruct and Impede  
the Due Administration of the Internal Revenue Laws)**

The Grand Jury further charges:

15. The allegations contained in paragraphs 1 through 14 are incorporated by reference as though fully set forth herein.

16. Beginning in or about 2006, and continuing thereafter up to and including November 14, 2013, in the Southern District of New York and elsewhere, JOSEPH SCALI, the defendant, did corruptly endeavor to obstruct and impede the due administration of the internal revenue laws by: (a) providing materially false, incomplete, and misleading information to a Revenue Officer of the Internal Revenue Service, namely, false, misleading, and incomplete information as to which years he had filed tax returns for in the past, the reasons why SCALI had not filed tax returns for certain years, and the amount of income received by SCALI during tax year 2012; (b) commingling client funds and personal funds in his

Attorney Trust Account; (c) paying for personal items directly out of his Attorney Trust Account; (d) structuring cash deposits to his Attorney Trust Account; (e) failing to file U.S. Individual Income Tax Returns, Forms 1040, notwithstanding that he was required by law to file a return for each year (2006 through 2012); (f) failing to file U.S. Corporate Income Tax Returns, Forms 1120, for his law firm, Joseph G. Scali, P.C., notwithstanding that the law firm was required by law to file a return for each year (2006 through 2012); and (g) failing to maintain required records concerning his Attorney Trust Account.

(Title 26, United States Code, Section 7212(a).)

**COUNT FOUR**

**(Tax Evasion)**

The Grand Jury further charges:

17. The allegations contained in paragraphs 1 through 16 are incorporated by reference as though fully set forth herein.

18. From on or about January 1, 2012 through on or about November 14, 2013, in the Southern District of New York and elsewhere, JOSEPH SCALI, the defendant, willfully and knowingly did attempt to evade and defeat a substantial part of the income tax due and owing by JOSEPH SCALI to the United States of America for the calendar year 2012, by various means, including, among others: (a) by failing to make an income tax return for the said calendar year on or about the

date required by law to any proper officer of the IRS, stating specifically the items of his gross income and any deductions and credits to which he was entitled; (b) dispersing, from his Attorney Trust Account, funds belonging to a third party in order to pay personal expenses; and (c) providing materially false, incomplete, and misleading information about his income to the Internal Revenue Service in connection with his request that it generate a tax return for him for the 2012 tax year, whereas, as JOSEPH SCALI, the defendant, then and there well knew and believed, in the said calendar year he had substantial taxable income, upon which taxable income there was a substantial amount of tax due and owing to the United States of America.

(Title 26, United States Code, Section 7201.)

**COUNT FIVE**

**(Obstruction of Justice)**

The Grand Jury further charges:

19. On or about June 4, 2015, JOSEPH SCALI, the defendant, corruptly endeavored to influence, obstruct, and impede the due administration of justice, as set forth below.

20. On or about November 25, 2013, JOSEPH SCALI, the defendant, was suspended from the practice of law by the Second Judicial Department of the Appellate Division of the Supreme Court of the State of New York ("the Appellate Division").



21. The Appellate Division suspended the defendant because he failed to cooperate into its investigation of matters having to do with his law practice, namely, complaints from JOSEPH SCALI's law clients concerning his law practice and a complaint from the Grievance Committee for the Ninth Judicial District concerning the JOSEPH SCALI's attorney's trust account.

22. On or about May 23, 2014, the United States District Court for the Southern District of New York disbarred JOSEPH SCALI, the defendant, after he failed to respond to a complaint brought against him by a Southern District of New York Bankruptcy Judge.

23. On or about June 4, 2015, JOSEPH SCALI, the defendant, filed a motion in the United States District Court for the Southern District of New York seeking to vacate his disbarment by that court. SCALI, in an affidavit submitted in support of that motion, swore under oath that, "... I closed my office at 594 Main Street, Middletown, New York in early January 2014, following my temporary suspension from New York State practice for non-cooperation in the investigation of a matter that had nothing to do with my law practice."

(Title 18, United States Code, Section 1503.)

**COUNT SIX**

**(Perjury)**

24. The allegations of paragraphs 19 through 23 are incorporated by reference as though fully set forth herein.

25. On or about June 4, 2015, in the Southern District of New York, JOSEPH SCALI, the defendant, in a proceeding before and ancillary to a court of the United States, knowingly made a false material declaration and made and used other information, including a book, paper, document, record, recording, and other material, knowing the same to contain a false material declaration.

(Title 18, United States Code, Section 1623.)

**FORFEITURE ALLEGATION**  
**WITH RESPECT TO**  
**COUNT ONE**

26. As the result of committing the offense charged in Count One of this Indictment, JOSEPH SCALI, the defendant, shall forfeit to the United States, pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461, all property, real and personal, that constitutes or is derived from proceeds traceable to the commission of that offense, and all property traceable to such property.

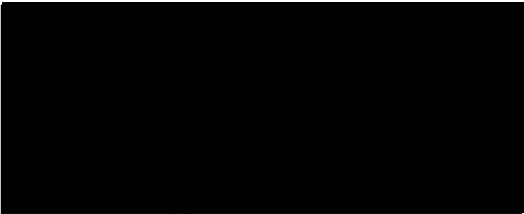
**Substitute Asset Provision**

27. If any of the above-described forfeitable property in Paragraph 26, as a result of any act or omission of the defendant,

- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third person;
- c. has been placed beyond the jurisdiction of the Court;
- d. has been substantially diminished in value; or
- e. has been commingled with other property which cannot be subdivided without difficulty;

it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), to seek forfeiture of any other property of the defendant up to the value of the forfeitable property described above.

(Title 18, United States Code, Section 981(a)(1)(C);  
Title 21, United States Code, Section 853(p);  
and Title 28, United States Code, Section 2461.)



*Preet Bharara*

PREET BHARARA

United States Attorney

*United States District Court*

SOUTHERN DISTRICT OF NEW YORK

**THE UNITED STATES OF AMERICA**

vs.

**JOSEPH SCALI**

**Defendant.**

**INDICTMENT**

**16 Cr.**

**(In Violation of Title 18, United States Code, Section 1341)**  
**(In Violation of Title 31, United States Code, Section 5324(a)(3))**  
**(In Violation of Title 26, United States Code, Section 7212(a))**  
**(In Violation of Title 26, United States Code, Section 7201)**  
**(In Violation of Title 18, United States Code, Section 1503)**  
**(In Violation of Title 18, United States Code, Section 1623)**

**PREET BHARARA**

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**United States Attorney**

**A TRUE BILL**



For person