

SUPREME COURT: COUNTY OF NASSAU
STATE OF NEW YORK

THE PEOPLE OF THE STATE OF NEW YORK

-against-

FREDERICK IPPOLITO, JOHN VENDITTO,
RICHARD PORCELLI, and FRANK NOCERINO,

Indictment No. 1020N/17

Defendants.

THE GRAND JURY OF THE COUNTY OF NASSAU, by this indictment, accuses the defendants FREDERICK IPPOLITO, JOHN VENDITTO, and RICHARD PORCELLI of the crime of CONSPIRACY IN THE SIXTH DEGREE, a class B misdemeanor, in violation of Section 105.00 of the Penal Law of the State of New York, committed as follows:

The defendants, FREDERICK IPPOLITO, JOHN VENDITTO, and RICHARD PORCELLI, with intent that conduct constituting a crime be performed, namely Official Misconduct, agreed with one or more persons to engage in or cause the performance of such conduct, to wit:

The defendants used their positions as public servants serving the Town of Oyster Bay to commit an act relating to their respective positions, but constituting unauthorized exercises of those positions, knowing the act was in fact unauthorized.

The Town of Oyster Bay (hereinafter "TOB") was one of three town governments in Nassau County, New York. There were nine elected officials in the TOB government: the Supervisor (who is the head of the TOB government), six town council members, the Town Clerk, and the Receiver of Taxes.

TOB government was comprised of seventeen different departments, including the Executive Department, the Department of Planning and Development, and the Department of Parks. The Supervisor was the principal executive officer and administrative head of the executive department. The Supervisor had the power and authority to appoint and remove officers and employees under his jurisdiction, namely the Executive Department, in accordance with the applicable laws.

The Supervisor and the six council members comprised the Town Board. The Board was the legislative body of the Town of Oyster Bay. It had the final responsibility for all matters pertaining to the operation of the Town. The Board, by majority decision, appointed and removed any officer or employee of the Office of the Town Board under its jurisdiction not otherwise prohibited by law. The Board had the authority to appoint commissioners to head the various departments, including the Planning and Development Department and the Parks Department.

The Commissioner of Planning and Development was the head of the Planning and Development Department and had the power and authority to appoint and remove officers and employees under his jurisdiction, namely the Planning and Development Department, in accordance with the Civil Service Law and other applicable laws. In addition, the commissioner was deemed the building inspector of the Town of Oyster Bay.

The Commissioner of the Parks Department was the head of the department and had the authority to appoint and remove officers and employees under his jurisdiction, namely the Parks Department, in accordance with the Civil Service Law and other applicable laws.

VENDITTO was the Supervisor of TOB and held that office from 1998 through January 3, 2017. He was also the Leader of the North Massapequa Republican Club, which had its headquarters at 692 Broadway, North Massapequa, New York.

IPPOLITO was employed in various titles within the TOB government from 1956 to 1987 and then returned to TOB in 2009 as the Commissioner of Planning and Development. IPPOLITO was purportedly removed from office pursuant to Public Officers Law § 30 (1)(e) on January 26, 2016. Notwithstanding his ostensible removal from office, IPPOLITO, with the knowledge and approval of VENDITTO, continued to play an active role in the management of TOB government.

PORCELLI was the Deputy Executive Leader of the North Massapequa Republican Club. Although he was not employed by TOB, he was considered VENDITTO's "right-hand" man. TOB employees took direction from PORCELLI because he was deemed to have the power of the Town Supervisor behind him.

Officers of the Town of Oyster Bay hold their positions to serve and benefit the public, and not to obtain unwarranted personal or private gain in the exercise and performance of their official powers and duties. Despite this fundamental principal, from on or about August 22, 2016 to on or about September 29, 2016, the defendants, along with other conspirators, subverted the rules relating to the governing and division of authority within TOB, and used their positions and authority to terminate Individual B's, a person known to the Grand Jury, employment with the TOB in an effort to benefit defendant IPPOLITO in a purported ongoing civil action. In an effort to conceal the corrupt motive for Individual B's termination, the conspirators worked to create a list of employees to be fired with Individual B.

Overt Acts

In furtherance of their illicit agreement and in order to effect the object of the conspiracy, the defendants, acting together and with other individuals, performed and caused to be performed the following overt acts, among others:

1. On or about September 6, 2016, defendant VENDITTO met with Frank Nocerino to review plans to fire Individual B. During that meeting, VENDITTO learned

that Individual B was a part-time employee, not a seasonal worker, which, according to VENDITTO, presented a complication in terminating Individual B. VENDITTO explained this issue and his concern to IPPOLITO in a recorded telephone conversation that took place on September 6, 2016 at about 9:17 in the morning.

2. On or about and between September 6, 2016 and September 20, 2016, a list of people to be terminated which included Individual B and two other TOB employees was sent to the Human Resources Division of TOB.

In an intercepted communication occurring on or about September 7, 2016, IPPOLITO advised PORCELLI that because he won a lawsuit against Individual B's mother, Individual B could not be fired alone. PORCELLI agreed that if Individual B were fired alone it would look like retaliation.

In a different intercepted communication occurring on or about the same date, PORCELLI advised VENDITTO that Individual B had to go with a batch of other people. VENDITTO agreed and acknowledged that if Individual B were fired alone, IPPOLITO would "get in more trouble."

In a third intercepted communication occurring on or about September 7, 2016 PORCELLI advised IPPOLITO that Individual B would be "let go with a bunch of other part timers. PORCELLI assured IPPOLITO that PORCELLI would "make this happen." When IPPOLITO instructed PORCELLI to "pick five shit heads and . . .let 'em go," PORCELLI said that he would, and advised IPPOLITO that he was "an old pro," and "knew what to do."

In an intercepted communication occurring on or about September 13, 2016, IPPOLITO told PORCELLI that he was calling to "remind [him] about Individual B." PORCELLI said, "[Individual B] is done, he's been told," and that his last day would be September 14, 2016.

In an intercepted communication occurring on or about September 14, 2016, IPPOLITO told PORCELLI that VENDITTO told IPPOLITO that PORCELLI took care of Individual B. In the same conversation, PORCELLI told IPPOLITO that Individual B's last day was September 13, 2016, and that it was "him and four other people."

In an intercepted communication occurring on or about September 20, 2016, when IPPOLITO asked VENDITTO if he was certain that Individual B was not working, VENDITTO replied, "Positive." In that same conversation, VENDITTO directed PORCELLI to call Vicki Spinelli and ask for a list of the "part-timers who were laid off" from the Parks Department. VENDITTO advised IPPOLITO that he was "told in no uncertain terms," that Individual B was terminated

“Thursday of last week.”

3. In a separate intercepted communication of September 20, 2016, PORCELLI called Vicky Spinelli and inquired about the individuals from the Parks Department who were recently terminated. Spinelli advised PORCELLI that she was given a list of three people, including Individual B, who were to be terminated and that the termination would become effective September 29, 2016.
4. On or about September 20, 2016, in the same conversation referenced in item 3, above, defendant PORCELLI directed Vicki Spinelli to make the termination of Individual B and the two other TOB employees effective that same date, but then advised her to “hang in for further instructions.”

In a separate intercepted communication on the same date, PORCELLI advised IPPOLITO that Individual B would not “be terminated until the end of the payroll period unless they want to single him out, which we don’t want to do.”

5. On or about September 29, 2016, Individual B and the two other TOB employees referenced above were terminated from TOB.

SECOND COUNT

AND THE GRAND JURY OF THE COUNTY OF NASSAU, by this indictment, accuses the defendants FREDERICK IPPOLITO, JOHN VENDITTO, and RICHARD PORCELLI of the crime of OFFICIAL MISCONDUCT, a class A misdemeanor, in violation of Section 195.00(1) of the Penal Law of the State of New York, committed as follows:

The defendants, FREDERICK IPPOLITO, JOHN VENDITTO, and RICHARD PORCELLI, on or about and between September 6, 2016 and September 20, 2016, were public servants in the county of Nassau, State of New York, and acting individually or in concert, with intent to obtain a benefit or deprive another person of a benefit, committed an act relating to their offices but constituting an unauthorized exercise of their official functions, knowing that such act is unauthorized, to wit: Frederick Ippolito, John Venditto, and Richard Porcelli orchestrated the dismissal of Individual B, a person known to the grand jury, from paid TOB employment; and that Ippolito, Venditto, and Porcelli did so with the intent to obtain a benefit for Ippolito.

THIRD COUNT

AND THE GRAND JURY OF THE COUNTY OF NASSAU, by this indictment, accuses the defendants FREDERICK IPPOLITO, JOHN VENDITTO, and RICHARD PORCELLI of the crime of OFFICIAL MISCONDUCT, a class A misdemeanor, in violation of Section 195.00(1) of the Penal Law of the State of New York, committed as follows:

The defendants, FREDERICK IPPOLITO, JOHN VENDITTO, and RICHARD PORCELLI, on or about and between September 6, 2016 and September 20, 2016, were public servants in the county of Nassau, State of New York, and acting individually or in concert, with intent to obtain a benefit or deprive another person of a benefit, committed an act relating to their offices but constituting an unauthorized exercise of their official functions, knowing that such act is unauthorized, to wit: Frederick Ippolito, John Venditto, and Richard Porcelli orchestrated the arbitrary choosing of multiple TOB employees to be dismissed, alongside Individual B; and that Ippolito, Venditto, and Porcelli did so with the intent to obtain a benefit for Ippolito, Venditto, and Porcelli.

FOURTH COUNT

AND THE GRAND JURY OF THE COUNTY OF NASSAU, by this indictment, accuses the defendant FREDERICK IPPOLITO of the crime of OFFERING A FALSE INSTRUMENT FOR FILING IN THE FIRST DEGREE, a class E felony, in violation of Section 175.35 (1) of the Penal Law of the State of New York, committed as follows:

The defendant, FREDERICK IPPOLITO, on or about and between December 2, 2015 and December 3, 2015, in the county of Nassau, State of New York, knowing that a written instrument contained a false statement or false information, and with intent to defraud the state or any political subdivision, public authority or public benefit corporation of the state, did offer or present it to a public office, public servant, public authority or public benefit corporation with the knowledge or belief that it will be filed with, registered or recorded in or otherwise become a part of the records of such public office, public servant, public authority or public benefit corporation, to wit: Frederick Ippolito, knowing that it contained a false statement or false information, offered or presented a Request for Investigation form pertaining to the premises at 54 1st Street, Bethpage, Nassau County to the TOB Planning and Development Department; and he offered or presented the Request for Investigation form with intent to defraud the TOB government.

FIFTH COUNT

AND THE GRAND JURY OF THE COUNTY OF NASSAU, by this indictment, accuses the defendant FREDERICK IPPOLITO of the crime of FALSIFYING BUSINESS RECORDS IN THE FIRST DEGREE, a class E felony, in violation of Section 175.10 of the Penal Law of the State of New York, committed as follows:

The defendant, FREDERICK IPPOLITO, on or about and between December 2, 2015 and December 3, 2015, in the county of Nassau, State of New York, committed the crime of falsifying business records in the second degree, and his intent to defraud includes an intent to commit another crime or to aid or conceal the commission thereof, to wit: Frederick Ippolito made or caused a false entry in a Request for Investigation form, a business record of the TOB government.

SIXTH COUNT

AND THE GRAND JURY OF THE COUNTY OF NASSAU, by this indictment, accuses the defendant, FREDERICK IPPOLITO, of the crime of CORRUPT USE OF POSITION OR AUTHORITY, a class E felony, in violation of Section 200.56(1) of the Penal Law of the State of New York, committed as follows:

The defendant, FREDERICK IPPOLITO, on or about and between May 18, 2016 and June 15, 2016, in the county of Nassau, State of New York, while holding public office, or being nominated or seeking a nomination therefor, corruptly used or promised to use, directly, or indirectly, any official authority or influence he possessed or anticipated, in the way of conferring upon any person – to wit, Individual B, a person known to the Grand Jury, or in order to secure, or aid any person in securing, any office or public employment, or any nomination, confirmation, promotion or increase of salary, upon consideration that the vote or political influence or action of the person so to be benefited or of any other person, shall be given or used in behalf of any candidate, officer or party or upon any other corrupt condition or consideration, to wit: The companionship and sexual favors from Individual A, a person known to the grand jury.

SEVENTH COUNT

AND THE GRAND JURY OF THE COUNTY OF NASSAU, by this indictment, accuses the defendant, JOHN VENDITTO, of the crime of CORRUPT USE OF POSITION OR AUTHORITY, a class E felony, in violation of Section 200.56(1) of the Penal Law of the State of New York, committed as follows:

The defendant, JOHN VENDITTO, on or about and between May 18, 2016 and June 15, 2016, in the county of Nassau, State of New York, while holding public office, or being nominated or seeking a nomination therefor, corruptly used or promised to use, directly, or indirectly, any official authority or influence possessed or anticipated, in the way of conferring upon any person – to wit, Individual B, a person known to the Grand Jury, or in order to secure, or aid any person in securing, any office or public employment, or any nomination, confirmation, promotion or increase of salary, and that Venditto did so upon a corrupt condition or consideration, to wit: The unwarranted personal gain of his friend Frederick Ippolito.

EIGHTH COUNT

AND THE GRAND JURY OF THE COUNTY OF NASSAU, by this indictment, accuses the defendant, FREDERICK IPPOLITO, of the crime of BRIBE RECEIVING IN THE THIRD DEGREE, a class D felony, in violation of Section 200.10 of the Penal Law of the State of New York, committed as follows:

The defendant, FREDERICK IPPOLITO, on or about and between May 18, 2016 and June 15, 2016, in the county of Nassau, State of New York, solicited, accepted or agreed to accept any benefit from another person upon an agreement or understanding that his or her vote, opinion,

judgment, action, decision or exercise of discretion as a public servant will thereby be influenced, to wit: Frederick Ippolito solicited, accepted, or agreed to accept companionship and sexual favors from Individual A; and that Ippolito did so upon an agreement or understanding that his vote, opinion, judgment, action, decision or exercise of discretion as a public servant would thereby be influenced.

NINTH COUNT

AND THE GRAND JURY OF THE COUNTY OF NASSAU, by this indictment, accuses the defendant, FREDERICK IPPOLITO, of the crime of OFFICIAL MISCONDUCT, a class A misdemeanor, in violation of Section 195.00(1) of the Penal Law of the State of New York, committed as follows:

The defendant, FREDERICK IPPOLITO, on or about and between May 18, 2016 and May 25, 2016, in the county of Nassau, State of New York, Frederick Ippolito was a public servant, and with intent to obtain a benefit or deprive another person of a benefit, he committed an act relating to his office but constituting an unauthorized exercise of his official functions, knowing that such act is unauthorized, to wit: Frederick Ippolito ordered the reinstatement of Individual B to paid TOB employment; and that Ippolito did so with the intent to obtain a benefit for himself, Individual A, and Individual B.

TENTH COUNT

AND THE GRAND JURY OF THE COUNTY OF NASSAU, by this indictment, accuses the defendant, FRANK NOCERINO, of the crime of OFFICIAL MISCONDUCT, a class A misdemeanor, in violation of Section 195.00(2) of the Penal Law of the State of New York, committed as follows:

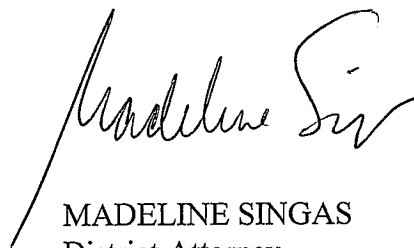
The defendant, FRANK NOCERINO, on or about May 23, 2016, in the county of Nassau, State of New York, Frank Nocerino was a public servant and with intent to obtain a benefit or deprive another person of a benefit, knowingly refrained from performing a duty which is imposed upon him by law or is clearly inherent in the nature of his office, to wit: Frank Nocerino failed to perform his duty as Commissioner of TOB Parks Department when he abdicated to others, outside the Parks Department, the staffing decision of whether to permit Individual B to be reinstated to paid employment in a position within the Parks Department; and that Nocerino did so with the intent to benefit Frederick Ippolito and Individual B.

ELEVENTH COUNT

AND THE GRAND JURY OF THE COUNTY OF NASSAU, by this indictment, accuses the defendant, JOHN VENDITTO, of the crime of OFFICIAL MISCONDUCT, a class A misdemeanor, in violation of Section 195.00(1) of the Penal Law of the State of New York, committed as follows:

The defendant, JOHN VENDITTO, on or about and between April 26, 2016, and November 18, 2016, in the county of Nassau, State of New York, John Venditto was a public servant and with intent to obtain a benefit or deprive another person of a benefit, committed an act relating to his office but constituting an unauthorized exercise of his official functions, knowing that such act is unauthorized, to wit: John Venditto allowed Frederick Ippolito to play an active role in the management of the TOB after Ippolito had been removed from TOB public office pursuant to section 30(1)(e) of the Public Officers Law; and that Venditto did so with the intent to obtain a benefit for himself and Frederick Ippolito.

Dated *June 21, 2017*
Mineola, New York


MADELINE SINGAS
District Attorney

PLEASE TAKE NOTICE that in accordance with the provisions of Section 240.30 of the Criminal Procedure Law, the People hereby demand that within fifteen days of the date of service of this Demand, you disclose and make available to the District Attorney of Nassau County for inspection, photographing, copying, or testing: (a) any written report or document or portion thereof, concerning a physical or mental examination, or scientific test, experiment, or comparisons, made by or at the request or direction of the defendant, if the defendant intends to introduce same at trial of this action, or if the defendant has filed a notice of intent to proffer psychiatric evidence and such report or document relates thereto, or if same was made by a person, other than the defendant, whom the defendant intends to call as a witness at trial; and (b) any photograph, drawing, tape, or other electronic recording which the defendant intends to introduce at trial.

PLEASE TAKE FURTHER NOTICE that in accordance with the provisions of Section 250.20 of the Criminal Procedure Law I hereby demand from you and each of you that if you intend upon the trial of this indictment to offer, for any purpose whatever, testimony which may tend to establish your presence elsewhere than at the scene of the crime or crimes with which you are charged, at the time of their commission, you must, within eight days from the date of service of this Demand, serve upon the District Attorney of Nassau County, and file with this court, a copy thereof, a notice of alibi which shall set forth in detail the place or places where you claim to have been together with the names, post office addresses, residences and places of employment and the addresses thereof of the witnesses upon whom you intend to rely to establish your presence elsewhere than at the scene of the crime or crimes at the time of their commission.

If at the trial of this action the defendant calls such an alibi witness without having served a notice of alibi pursuant to the demand, or, if having served such a notice he calls a witness not specified therein, a motion will be made pursuant to the provisions of Section 250.20 of the Criminal Procedure Law to exclude any testimony of such witness relating to the alibi defense.

PLEASE TAKE FURTHER NOTICE that pursuant to Section 710.30 of the Criminal Procedure Law, the People intend to offer at the trial of this indictment evidence of oral and/or written statement(s) made to a public servant pertaining to the charge set forth in this indictment.

PLEASE TAKE FURTHER NOTICE that pursuant to Section 710.30 of the Criminal Procedure Law, during the trial of this matter, the People expect to introduce testimony identifying the defendant as a person who committed the offenses charged as set forth in this indictment, which testimony will be given by at witness (witnesses) who has (have) previously identified the defendant.

PLEASE TAKE FURTHER NOTICE that pursuant to Section 220.51 of the Criminal Procedure Law, if at the time of the alleged felony crime the defendant was a public official, as defined in subdivision six of section one hundred fifty-six of the retirement and social security law, the defendant's plea of guilty and the court's acceptance thereof or conviction after trial may result in proceedings for the reduction or revocation of such defendant's pension pursuant to article three-B of the retirement and social security law.

MADLINE SINGAS
District Attorney
Nassau County, New York

IND NO. 1020N/17

SUPREME COURT : COUNTY OF NASSAU

THE PEOPLE OF THE STATE OF NEW YORK

- against -

FREDERICK IPPOLITO, JOHN VENDITTO
RICHARD PORCELLI and FRANK NOCERINO,

Defendants.

MADELINE SINGAS

District Attorney

INDICTMENT FOR

FREDERICK IPPOLITO: CONSPIRACY IN THE SIXTH DEGREE
OFFICIAL MISCONDUCT (3 CTS)
OFFERING A FALSE INSTRUMENT FOR FILING IN THE FIRST DEGREE
FALSIFYING BUSINESS RECORDS IN THE FIRST DEGREE
CORRUPT USE OF POSITION OR AUTHORITY
BRIBE RECEIVING IN THE THIRD DEGREE

JOHN VENDITTO: CONSPIRACY IN THE SIXTH DEGREE
OFFICIAL MISCONDUCT (3 CTS)
CORRUPT USE OF POSITION OR AUTHORITY

RICHARD PORCELLI: CONSPIRACY IN THE SIXTH DEGREE
OFFICIAL MISCONDUCT (2 CTS)

FRANK NOCERINO: OFFICIAL MISCONDUCT
A TRUE BILL

Foreperson

