

1 JOSEPH P. RUSSONIELLO

2 United States Attorney

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7
8 IN THE UNITED STATES DISTRICT COURT FOR THE
9 NORTHERN DISTRICT OF CALIFORNIA
10 SAN JOSE DIVISION

11)
12 UNITED STATES OF AMERICA,)
13 Plaintiff,)
14 v.)
15 SAMUEL S. FUNG and)
16 ERIC AARON LIGHTER,)
17 Defendants.)
18)

No. CR 05-00215-JW

VIOLATIONS: 18 U.S.C. § 371
Conspiracy (Three Counts); 18 U.S.C.
§ 1343 - Wire Fraud (Eight Counts);
18 U.S.C. § 873 - Blackmail (Three
Counts); 18 U.S.C. § 1512(b)(1) - Witness
Tampering (Three Counts); 18 U.S.C. § 2 -
Aiding and Abetting (Fourteen Counts)

SAN JOSE VENUE

19
20 THIRD SUPERSEDING INDICTMENT

21
22 The Grand Jury charges:

23 At all times relevant to this Indictment:

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25 INTRODUCTORY ALLEGATIONS

26 1. The federal income tax system of the United States of America relies upon
27 citizens, including those individuals engaged in the profession of preparing income tax returns, to
28 truthfully, accurately, and timely report income and expense information to the Internal Revenue

1 Service, an agency of the United States within the Department of the Treasury of the United
2 States.

3 2. Samuel S. Fung (hereinafter defendant FUNG) was a resident of San Jose,
4 California; he now resides in Medford, Oregon.

5 3. Eric Aaron Lighter (hereinafter defendant LIGHTER) was a resident of Hawaii.

6 4. National Trust Services, which had addresses in California, Oregon and Utah, was
7 an organization purporting to provide financial advice and services.

8 5. Defendant Fung provided services for clients of National Trust Services, including
9 preparing tax returns, under the business names Cortland Tax Management and Professional
10 Business Consultants, LLC.

11 6. Credit Bureau International, Inc., Honolulu Inn, Inc. and Honolulu Rail and
12 Development, Ltd. were corporations controlled by defendant LIGHTER.

13 7. Introductory Allegations paragraphs 1 through 6 are alleged in each of the
14 following Counts of the Superseding Indictment as though fully set forth therein.

15 **Count 1**

16 **CONSPIRACY TO DEFRAUD THE UNITED STATES – 18 U.S.C. § 371**
17 **OBJECT OF THE CONSPIRACY**

18 8. Beginning on or before August 2, 1997, and continuing thereafter up to and
19 through March 31, 2006, within the Northern District of California and elsewhere, defendants

20 SAMUEL S. FUNG and
21 ERIC AARON LIGHTER

22 and others both known and unknown to the Grand Jury, unlawfully, knowingly and intentionally
23 combined, conspired, confederated, and agreed to defraud the United States by deceitful and
24 dishonest means by impeding, impairing, obstructing, and defeating the lawful government
25 functions of the Internal Revenue Service of the Department of the Treasury of the United States
26 of America, in the ascertainment, computation, assessment, and collection of federal income
27 taxes.

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2 **MEANS BY WHICH THE OBJECT OF
THE CONSPIRACY WAS TO BE ACCOMPLISHED**

3 9. Defendants and others both known and unknown to the Grand Jury carried out
4 their conspiracy through the following means, among others:

5 A. Defendants FUNG and LIGHTER, and others, individually and jointly, for
6 themselves and on behalf of others, established fictitious business names through which they and
7 others purported to receive income and hold assets in order to defraud the United States of
8 America by attempting to conceal theirs and others' assets and income from the Internal Revenue
9 Service;

10 B. Defendants FUNG and LIGHTER, and others prepared, and caused to be
11 prepared, false and fraudulent federal income tax returns;

12 C. Defendant FUNG referred clients to defendant LIGHTER;

13 D. Defendants FUNG and LIGHTER advised clients to establish, and helped
14 them establish, corporations;

15 E. Defendant LIGHTER offered to conduct, conducted or caused to be
16 conducted financial transactions to hide assets from the Internal Revenue Service for his clients,
17 including clients shared with defendant FUNG;

18 F. Defendants FUNG and LIGHTER provided false and fraudulent advice to
19 clients regarding the defendants' programs and practices;

20 G. Defendant LIGHTER prepared false and fraudulent documents, including
21 but not limited to, fraudulent liens on clients' assets;

22 **OVERT ACTS**

23 10. In furtherance of said conspiracy, and to effect the objects thereof, the following
24 overt acts, among others, were committed by members of the conspiracy in the Northern District
25 of California and elsewhere:

26 A. On or about August 2, 1997, defendant FUNG signed a document
27 purporting to appoint a successor trustee to a trust of Dr. Irwin Gootnick (hereinafter Gootnick),
28

1 the Gootnick Family Trust.

2 B. On or about April 1, 1998, defendant FUNG agreed to prepare both
3 personal income tax returns and trust tax returns for Gootnick, including the trusts previously
4 established by National Trust Services: the Gootnick Family Trust; the Full Dimension Trust;
5 and the Gootnick Charitable Trust, which was later changed to Gootnick Charitable Trust, Inc.
6 (hereinafter GCTI).

7 C. On or about August 16, 2000, defendant FUNG signed on behalf of
8 National Trust Services a letter addressed to National Trust Services Trustees.

9 D. In or about late 2003, defendant FUNG told Gootnick that the Internal
10 Revenue Service was aggressively pursuing, auditing, and penalizing individuals who set up
11 similar trusts.

12 E. On or about March 2, 2004, defendant FUNG told Gootnick that defendant
13 LIGHTER could help resolve Gootnick's potential problems with the Internal Revenue Service,
14 and defendant FUNG gave Gootnick defendant LIGHTER's contact information.

15 F. In or about early March 2004, defendant LIGHTER told Gootnick that
16 Gootnick's trusts were fake and that by using them, Gootnick had committed fraud, and
17 furthermore, that the Internal Revenue Service was vigorously and maliciously pursuing
18 individuals who used such trusts, often sending those individuals to prison or subjecting them to
19 excessive penalties and fines.

20 G. In or about the middle of March 2004, defendant FUNG called Gootnick
21 to inform him that defendant LIGHTER required \$10,000 in cash for defendant LIGHTER's
22 services.

23 H. On or about March 24, 2004, defendant FUNG met with Gootnick to
24 receive the \$10,000 cash payment.

25 I. On or after March 24, 2004, defendant FUNG transferred \$10,000 to
26 defendant LIGHTER;

27 J. On or about April 3, 2004, defendant LIGHTER prepared a Mutual
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1 Assignment of Stock that purported to grant defendant LIGHTER's interest in shares of
2 Hawaiian Colony Hotel Corporation stock to Gootnick in exchange for Gootnick granting
3 defendant LIGHTER shares of GCTI stock.

4 K. On or about April 15, 2004, defendant LIGHTER prepared tax returns for
5 Gootnick and GCTI, for the tax years 2000, 2001, 2002 and 2003.

6 L. On or about October 8, 2004, defendant LIGHTER had a conversation
7 with Gootnick regarding GCTI.

8 M. On or about October 14, 2004, defendant LIGHTER executed a "Real
9 Property Mortgage" from "GFT, by Eric Aaron LIGHTER, Its Trustee" to Honolulu Rail and
10 Development Ltd. in the amount of \$350,000, and recorded this instrument with the City and
11 County of San Francisco Office of the Assessor-Recorder.

12 N. On or about November 15, 2004, defendant LIGHTER executed a "Real
13 Property Mortgage" from "GFT, a California Trust, by and through its Trustee, Super Teaching
14 Corporation, a Hawaii Corporation" to Credit Bureau International, Inc., purportedly in
15 consideration for \$1,500,000, and recorded this instrument with the City and County of
16 San Francisco Office of the Assessor-Recorder.

17 O. On or about January 14, 2005, defendant LIGHTER, as President of
18 Honolulu Rail and Development Ltd., executed an "Assignment of Mortgage and Promissory
19 Note" from Honolulu Rail and Development Ltd. to Credit Bureau International, Inc., in the
20 amount of \$1,500,000, and recorded this instrument with the City and County of San Francisco
21 Office of the Assessor-Recorder.

22 P. In or about 1995, defendant FUNG agreed to prepare personal and trust tax
23 returns for Dr. Morris Brock (hereinafter Brock).

24 Q. In or about March 2003, defendant FUNG referred Brock to defendant
25 LIGHTER.

26 R. On or about March 28, 2003, defendant LIGHTER drafted documents
27 purporting to transfer of Brock's assets to Hawaiian Colony Hotel Corporation.

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1 S. On or about March 28, 2003, defendant LIGHTER instructed Brock to not
2 refer to the transferred assets in any conversations with the Internal Revenue Service and to tell
3 the Internal Revenue Service that Brock did not own any assets.

4 T. In or about 2003, defendant FUNG referred Jean-Paul Bourdier
5 (hereinafter Bourdier), a client for whom defendant FUNG prepared federal income tax returns,
6 to defendant LIGHTER.

7 U. On or about October 23, 2003, defendants FUNG and LIGHTER caused
8 the filing Articles of Incorporation for Heart Mind Corporation with the State of Oregon,
9 identifying Bourdier and his wife as the incorporators.

10 V. On or about October 29, 2003, defendant LIGHTER prepared a 2002
11 corporate income tax return for Heart Mind Corporation.

12 W. On or about the dates set forth below, in the Northern District of
13 California, defendant FUNG prepared for presentation to the Internal Revenue Service, false and
14 fraudulent U.S. Income Tax Returns for Estates and Trusts, Forms 1041, for the taxpayers,
15 entities and calendar years specified:

	<u>DATE</u>	<u>TAXPAYER(S)</u>	<u>ENTITY</u>	<u>YEAR</u>	
16					
17	1.	10/23/00	Dr. Morris Brock & Catherine Haney	B&B Trust	1999
18	2.	10/23/00	Dr. Morris Brock & Catherine Haney	Insight Co. Trust	1999
19	3.	07/18/01	Dr. Morris Brock & Catherine Haney	B&B Trust	2000
20	4.	07/19/01	Dr. Morris Brock & Catherine Haney	Insight Co. Trust	2000
21	5.	01/06/03	Dr. Morris Brock & Catherine Haney	B&B Trust	2001
22	6.	01/06/03	Dr. Morris Brock & Catherine Haney	Insight Co. Trust	2001
23	7.	11/28/99	Steve McKenzie	McKenzie Family Trust	1998
24	8.	11/28/99	Steve McKenzie	McKenzie Family Resonance Trust	1998
25	9.	01/23/01	Steve McKenzie	McKenzie Family Trust	1999
26	10.	01/22/01	Steve McKenzie	McKenzie Family Resonance Trust	1999
27	11.	10/18/02	Steve McKenzie	McKenzie Family Trust	2000

1	12.	10/18/02	Steve McKenzie	McKenzie Family Resonance Trust	2000
2	13.	04/18/99	William Garvey	Alpha Services Trust	1998
3	14.	04/18/99	William Garvey	Dancing Bear Trust	1998
4	15.	04/15/99	Ralph & Patricia Habura	RPH Management Trust	1998
5	16.	07/18/00	Ralph & Patricia Habura	RPH Management Trust	1999
6	17.	04/16/01	Ralph & Patricia Habura	RPH Management Trust	2000
7	18.	10/13/01	Elaine Campbell	Springfield Trust	2000
8	19.	10/13/01	Elaine Campbell	E & B Family Trust	2000
9	20.	04/15/01	Jean-Paul Bourdier & Minh-Ha Trinh	MG Trust	2000
10	21.	04/15/01	Jean-Paul Bourdier & Minh-Ha Trinh	Ninjaco Trust	2000
11	22.	04/15/01	Jean-Paul Bourdier & Minh-Ha Trinh	Murdrachi Trust	2000
12	23.	04/28/02	Jean-Paul Bourdier & Minh-Ha Trinh	MG Trust	2001
13	24.	04/28/02	Jean-Paul Bourdier & Minh-Ha Trinh	Ninjaco Trust	2001
14	25.	04/28/02	Jean-Paul Bourdier & Minh-Ha Trinh	Murdrachi Trust	2001
15	26.	04/15/99	Donald & Mary Brockhage	The Maridon Trust	1998
16	27.	04/15/99	Donald & Mary Brockhage	Brockhage Associated Trust	1998
17	28.	04/19/00	Donald & Mary Brockhage	The Maridon Trust	1999
18	29.	04/18/00	Donald & Mary Brockhage	Brockhage Associated Trust	1999
19	30.	04/15/99	Riley & Joyce Pendergraft	NHUSS Trust	1998
20	31.	04/15/99	Riley & Joyce Pendergraft	RJ Pendergraft Trust	1998
21	32.	04/15/99	Riley & Joyce Pendergraft	In God We Trust	1998
22	33.	04/17/00	Riley & Joyce Pendergraft	NHUSS Trust	1999
23	34.	04/17/00	Riley & Joyce Pendergraft	RJ Pendergraft Trust	1999
24	35.	04/17/00	Riley & Joyce Pendergraft	In God We Trust	1999
25	36.	04/16/01	Riley & Joyce Pendergraft	NHUSS Trust	2000
26	37.	04/16/01	Riley & Joyce Pendergraft	RJ Pendergraft Trust	2000
27	38.	04/16/01	Riley & Joyce Pendergraft	In God We Trust	2000

X. On or about the dates set forth below, in the Northern District of

1 California, defendant FUNG prepared for presentation to the Internal Revenue Service, false and
 2 fraudulent U.S. Corporation Income Tax Returns, Forms 1120, for the taxpayers, entities and
 3 calendar years specified:

	<u>DATE</u>	<u>TAXPAYER(S)</u>	<u>ENTITY</u>	<u>YEAR</u>	
4					
5	1.	08/10/03	Elaine Campbell	Springfield, Inc.	2001
6	2.	08/10/03	Elaine Campbell	E & B FT, Inc.	2001
7	3.	08/10/03	Elaine Campbell	Springfield, Inc	2002
8	4.	08/10/03	Elaine Campbell	E & B FT, Inc.	2002
9	5.	06/01/03	Jean-Paul Bourdier & Minh-Ha Trinh	MG Inc.	2002
10	6.	11/17/03	Jean-Paul Bourdier & Minh-Ha Trinh	Ninjaco, Inc.	2002
11	7.	06/01/03	Jean-Paul Bourdier & Minh-Ha Trinh	Mudrachi, Inc	2002

12 Y. On or about the dates set forth below, defendant FUNG prepared for
 13 presentation to the Internal Revenue Service, false and fraudulent U.S. Income Tax Returns,
 14 Forms 1040, either individual or joint, for the taxpayers and calendar years specified, which were
 15 false and fraudulent as to the material matters identified below:

	<u>DATE</u>	<u>TAXPAYER</u>	<u>TAX YEAR</u>	<u>TAX RETURN and MATERIAL FALSE ITEM(S)</u>	
16					
17	1.	04/17/00	Eric Chamness	1999	Line 21 - \$(6,416) Sch. A, Line 18 - \$35,424 Sch. A, Line 20 - \$17,714
18	2.	04/16/01	Eric Chamness	2000	Line 12 - \$(15,750) Sch. A, Line 18 - \$32,779 Sch. A, Line 20 - \$21,907
19	3.	04/15/02	Eric Chamness	2001	Line 21 - \$(6,040) Sch. A, Line 18 - \$71,164 Sch. A, Line 20 - \$29,119 Sch. A, Line 22 - \$10,000
20	4.	05/17/01	Shah Shahjahan	1999	Line 21 - \$(45,500) Sch. A, Line 18 - \$35,619
21	5.	10/22/00	Dr. Morris Brock & Catherine Haney	1999	Line 8a - \$882 Line 9 - \$188 Line 12 - \$0 Line 21 - \$(696,070)
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6.	07/18/01	Dr. Morris Brock. & Catherine Haney	2000	Line 8a - \$243 Line 9 - \$64 Line 12 - \$0 Line 17 - \$0
7.	01/06/03	Dr. Morris Brock & Catherine Haney	2001	Line 8a - \$66 Line 12 - \$0 Line 17 - \$0
8.	11/02/99	Steve McKenzie	1998	Line 12 - \$0
9.	01/23/01	Steve McKenzie	1999	Line 12 - \$0
10.	10/16/01	Steve McKenzie	2000	Line 12 - \$760
11.	04/15/99	William & Joyce Garvey	1998	Line 9 - \$34 Line 12 - \$(12,185) Line 13 - \$0
12.	04/15/99	Ralph & Patricia Habura	1998	Line 9 - \$0 Line 13 - \$0 Line 17 - \$(8,769)
13.	07/18/00	Ralph & Patricia Habura	1999	Line 9 - \$0 Line 13 - \$0 Line 17 - \$0
14.	04/15/01	Ralph & Patricia Habura	2000	Line 8a - \$2 Line 9 - \$31 Line 17 - \$0
15.	10/23/01	Elaine Campbell	2000	Line 8 - \$8,828 Line 9 - \$0 Line 13 - \$(1,106) Line 21 - \$(306,522)
16.	08/13/03	Elaine Campbell	2001	Line 8 - \$1,891 Line 9 - \$0 Line 13 - \$0
17.	08/16/03	Elaine Campbell	2002	Line 8 - \$12 Line 9 - \$0 Line 13 - \$0
18.	04/16/01	Jean-Paul Bourdier & Minh-Ha Trinh	2000	Sch. A, Line 10 - \$87,774
19.	04/28/02	Jean-Paul Bourdier & Minh-Ha Trinh	2001	Line 9 - \$0 Sch. A, Line 10 - \$95,612
20.	06/03/03	Jean-Paul Bourdier & Minh-Ha Trinh	2002	Line 9 - \$11 Sch A, Line 10 - \$76,477

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

1 COUNT TWO: (18 U.S.C. § 371 – Conspiracy to Commit Wire Fraud)

2 11. Beginning on or about March 25, 2003, and continuing thereafter up to and
3 through March 10, 2006, within the Northern District of California and elsewhere, defendants

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5 SAMUEL S. FUNG and
ERIC AARON LIGHTER

6 did unlawfully, willfully, and knowingly combine, conspire, confederate and agree among
7 themselves to commit wire fraud, in violation of Title 18, United States Code Section 1343.

8
9 **MEANS BY WHICH THE OBJECT OF
THE CONSPIRACY WAS TO BE ACCOMPLISHED**

10 12. Defendants and others both known and unknown to the Grand Jury carried out
11 their conspiracy through the following means, among others:

12 A. Defendant FUNG referred clients to defendant LIGHTER;

13 B. Defendants FUNG and LIGHTER purported to fight the Internal Revenue
14 Service on behalf of clients;

15 C. Defendants FUNG and LIGHTER advised clients to establish, and helped
16 them establish, corporations;

17 D. Defendant LIGHTER offered to conduct, conducted or caused to be
18 conducted financial transactions to hide assets from the Internal Revenue Service for his clients,
19 including clients shared with Defendant FUNG;

20 E. Defendants FUNG and LIGHTER provided false and fraudulent advice to
21 clients that the programs promoted by defendants were legal;

22 F. Defendant LIGHTER purported to exchange clients' interests in their
23 businesses for interests in defendant LIGHTER'S businesses;

24 G. Defendant LIGHTER prepared false and fraudulent documents, including
25 but not limited to, fraudulent liens on client assets;

26 H. Defendant FUNG and LIGHTER threatened to and did make disclosures
27 to law enforcement agencies in retaliation to clients not acquiescing in defendants' actions.

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1 I. Defendant FUNG and LIGHTER transmitted and caused to be
 2 transmitted wire communications.

3 **OVERT ACTS**

4 13. In furtherance of said conspiracy, and to effect the objects thereof, the following
 5 overt acts, among others, were committed by members of the conspiracy in the Northern District
 6 of California and elsewhere:

7 A. Overt Acts D through O, and Q through V from Count One, Conspiracy to
 8 Defraud, are incorporated as though fully set forth herein.

9 B. On or about the dates set forth in Counts 3 through 10 below, defendants
 10 FUNG and LIGHTER did use or cause to be used the wire transmissions identified.

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

12 **COUNTS THREE THROUGH TEN: (18 U.S.C. §§ 1343 and 2 –Wire Fraud; Aiding and**
 13 **Abetting)**

14 14. On or about the dates set forth below, in the Northern District of California, the
 15 defendants

16 **SAMUEL S. FUNG and**
 17 **ERIC AARON LIGHTER**

18 did knowingly devise or participate in a scheme or plan to defraud, or a scheme or plan for
 19 obtaining money or property by means of materially false or fraudulent pretenses,
 20 representations, or promises with the intent to defraud; and in advancing or carrying out the
 21 scheme, the defendants used, or caused to be used, the wires in that the defendants participated in
 22 a scheme to obtain money and property from the individuals identified below by means of
 23 materially false or fraudulent pretenses, representations, or promises with the intent to defraud,
 24 and in doing so the defendants did and did aid and abet the same, knowingly cause to be
 25 delivered by wire communications in interstate commerce the following items:

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Count	Date of Wire	Description of Item Transmitted By Wire
3	04/08/03	West Coast Credit and Development, Inc. Articles of Incorporation wired to Brock

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28

4	04/11/03	Document stating unreported income on trusts wired to Brock
5	09/23/03	\$5,500 transmitted by Bourdier
6	10/14/04	\$33,000 transmitted by Gootnick
7	10/21/04	\$150,000 transmitted by Gootnick
8	10/22/04	\$200,000 transmitted by Gootnick
9	10/27/04	\$90,000 transmitted by Gootnick
10	11/18/04	\$20,000 transmitted by Gootnick

All in violation of Title 18, United States Code, Sections 1343 and 2.

INTRODUCTORY ALLEGATIONS COMMON TO COUNTS 11 THROUGH 17

15. On or about April 12, 2005, the grand jury sitting in the Northern District of California returned a 49-count indictment alleging that defendant FUNG aided and assisted the preparation and presentation of false and fraudulent tax returns.

16. On or about May 18, 2005, Gootnick and his wife filed a verified complaint against defendant LIGHTER in the Superior Court of the State of California asserting two causes of action. This state court action was subsequently removed to the United States District Court for the Northern District of California.

COUNT ELEVEN: (18 U.S.C. § 371: Conspiracy to Commit Blackmail and Witness Tampering)

17. Beginning on or about March 2, 2006 and continuing until on or about April 30, 2006, in the Northern District of California, the defendants

SAMUEL S. FUNG and
ERIC AARON LIGHTER

knowingly entered into a criminal agreement with one another and possibly others to obstruct justice by committing blackmail and by knowingly attempting to persuade a witness to provide false testimony or to withhold evidence with the intent to influence, delay, or prevent the witness's testimony in an official proceeding and that an overt act was committed by one of the conspirators for the purpose of carrying out the conspiracy, in violation of Title 18, United States Code Sections 873 and 1512(b)(1).

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2 **MEANS BY WHICH THE OBJECT OF
THE CONSPIRACY WAS TO BE ACCOMPLISHED**

3 18. Defendant FUNG pressured Gootnick to provide false, favorable testimony in
4 favor of defendant FUNG in defendant FUNG's pending criminal case, and attempted to
5 convince Gootnick to dismiss the civil case against defendant LIGHTER.

6 19. Defendant FUNG and LIGHTER threatened to and did provide information to the
7 Internal Revenue Service regarding tax crimes allegedly committed by Gootnick.

8 20. Defendant FUNG and LIGHTER communicated with Gootnick and with each
9 other by telephone to achieve their ends.

10 OVERT ACTS

11 21. In furtherance of the conspiracy and to effect the objects thereof, the following
12 overt acts were committed in the Northern District of California and elsewhere:

13 A. On or about March 2, 2006, during a telephone call, defendant FUNG
14 threatened Gootnick.

15 B. On or about March 3, 2006, during a telephone conversation that began at
16 approximately 5:00 p.m., defendant FUNG stated that "the government is deciding whether
17 they're going to prosecute you criminally," and suggested that Gootnick should drop his lawsuit
18 against defendant LIGHTER.

19 C. On or about March 3, 2006, at approximately 5:25 p.m., defendant FUNG
20 telephoned defendant LIGHTER.

21 D. On or about March 3, 2006, during a telephone conversation that began at
22 approximately 5:30 p.m., defendant FUNG stated that defendant LIGHTER would "cancel the
23 bankruptcy" and "would testify for us instead of against us" if Gootnick dropped the lawsuit.

24 E. On or about March 3, 2006, at approximately 5:33 p.m., defendant FUNG
25 telephoned defendant LIGHTER.

26 F. On or about March 3, 2006, at approximately 5:35 p.m., defendant FUNG
27 telephoned Gootnick and stated if Gootnick dropped his lawsuit against defendant LIGHTER,
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1 defendant LIGHTER would “drop the bankruptcy” and would not turn over documents to the
2 government that could send Gootnick to jail.

3 G. On or about March 10, 2006, during a telephone conversation with
4 Gootnick that began at approximately 2:55 p.m., defendant FUNG stated that Gootnick could
5 either be defendant FUNG’s friend or his enemy. Later in the conversation, defendant FUNG
6 stated that defendant LIGHTER possessed five boxes of evidence which, if provided to the
7 Internal Revenue Service or the California Franchise Tax Board, could result in Gootnick’s being
8 criminally charged with tax evasion.

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

10
11 COUNT TWELVE: (18 U.S.C. §§ 1512(b)(1) and 2 –Witness Tampering; Aiding and Abetting)

12 22. On or about March 2, 2006, in the Northern District of California, the defendants

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14 SAMUEL S. FUNG and
ERIC AARON LIGHTER

15 knowingly attempted to intimidate, threaten, and corruptly persuade Gootnick with the intent to
16 influence or prevent Gootnick’s testimony in an official proceeding, in that the defendants
17 threatened that Gootnick would go to jail for tax evasion if Gootnick testified for the government
18 in the criminal trial against defendant FUNG.

19 All in violation of Title 18, United States Code, Sections 1512(b)(1) and 2.

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21 COUNT THIRTEEN: (18 U.S.C. §§ 1512(b)(1) and 2 –Witness Tampering; Aiding and
Abetting)

22 23. On or about March 3, 2006, in the Northern District of California, the defendants

23
24 SAMUEL S. FUNG and
ERIC AARON LIGHTER

25 knowingly attempted to intimidate, threaten, and corruptly persuade Gootnick with the intent to
26 influence or prevent Gootnick's testimony in an official proceeding, in that the defendants
27 threatened that Gootnick would go to jail for tax evasion if Gootnick testified for the government

1 in the criminal trial against defendant FUNG.

2 All in violation of Title 18, United States Code, Sections 1512(b)(1) and 2.

3 COUNT FOURTEEN: (18 U.S.C. §§ 1512(b)(1) and 2 –Witness Tampering; Aiding and
4 Abetting)

5 24. On or about March 10, 2006, in the Northern District of California, the defendants

6 SAMUEL S. FUNG and
7 ERIC AARON LIGHTER

8 knowingly attempted to intimidate, threaten, and corruptly persuade Gootnick with the intent to
9 influence or prevent Gootnick's testimony in an official proceeding, in that the defendants
10 threatened that Gootnick would go to jail for tax evasion if Gootnick testified for the government
11 in the criminal trial against defendant FUNG.

12 All in violation of Title 18, United States Code, Sections 1512(b)(1) and 2.

13
14 COUNT FIFTEEN (18 U.S.C. §§ 873 and 2 –Blackmail; Aiding and Abetting)

15 25. On or about March 2, 2006, in the Northern District of California, the defendants

16 SAMUEL S. FUNG and
17 ERIC AARON LIGHTER

18 threatened to expose a violation of federal law in exchange for a thing of value in that the
19 defendant FUNG threatened to report Gootnick to the Internal Revenue Service for tax evasion in
20 order to persuade Gootnick to dismiss his civil suit against defendant LIGHTER.

21 All in violation of Title 18, United States Code, Sections 873 and 2.

22
23 COUNT SIXTEEN: (18 U.S.C. §§ 873 and 2 –Blackmail; Aiding and Abetting)

24 26. On or about March 3, 2006, in the Northern District of California, the defendants

25 SAMUEL S. FUNG and
26 ERIC AARON LIGHTER

27 threatened to expose a violation of federal law in exchange for a thing of value in that the
28

1 defendant FUNG threatened to report Gootnick to the Internal Revenue Service for tax evasion in
2 order to persuade Gootnick to dismiss his civil suit against defendant LIGHTER.

3 All in violation of Title 18, United States Code, Sections 873 and 2.
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5 COUNT SEVENTEEN: (18 U.S.C. §§ 873 and 2 –Blackmail; Aiding and Abetting)

6 27. On or about March 10, 2006, in the Northern District of California, the defendants

7
8 SAMUEL S. FUNG and
ERIC AARON LIGHTER

9 threatened to expose a violation of federal law in exchange for a thing of value in that the
10 defendant FUNG threatened to report Gootnick to the Internal Revenue Service for tax evasion in
11 order to persuade Gootnick to dismiss his civil suit against defendant LIGHTER.

12 All in violation of Title 18, United States Code, Sections 873 and 2.
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