

STATE OF NEW YORK: ONONDAGA COUNTY
TOWN COURT: TOWN OF GEDDES

FELONY COMPLAINT

PEOPLE OF THE STATE OF NEW YORK,

John F. Carroll
Assistant Attorney
General

-against-

PETER CAPPUCILLI, Jr.,

Criminal Division
Public Integrity Bureau

Defendant.

(212) 416-8173

INVESTIGATOR GERARD MATHESON of the New York State Attorney General's Office located at 120 Broadway, New York, New York, deposes and states the following under penalty of perjury pursuant to Penal Law section 210.45:

In the Town of Geddes, County of Onondaga, State of New York, PETER CAPPUCILLI, JR. ("Defendant"), committed the following offenses at dates and times specified below:

DEFRAUDING THE GOVERNMENT (P.L. §195.20) (E felony) (one count) in that Defendant, being a public servant, engaged in a scheme constituting a systematic ongoing course of conduct with intent to defraud the state or a political subdivision of the state or a governmental instrumentality within the state or to obtain property, services or other resources from the state or a political subdivision of the state or a governmental instrumentality within the state by false or fraudulent pretenses, representations or promises and so obtained property, services or other resources with a value in excess of one thousand dollars from such state, political subdivision or governmental instrumentality.

GRAND LARCENY IN THE THIRD DEGREE (P.L. § 155.35) (D felony) (one count) in that Defendant stole property with a value in excess of three thousand dollars.

OFFICIAL MISCONDUCT (P.L. § 195.00(1)) (A misdemeanor) (one count) in that as a public servant and with intent to obtain a benefit or deprive another person of a benefit Defendant committed an act relating to his office but which constituted an unauthorized exercise of his official functions, knowing that such act was unauthorized.

OFFICIAL MISCONDUCT (P.L. § 195.00(2)) (A misdemeanor) (one count) in that as a public servant and with intent to obtain a benefit or deprive another person of a benefit Defendant knowingly refrained from performing a duty which is imposed upon him by law or is clearly inherent in the nature of his office.

OVERVIEW OF CAPPUCILLI'S SCHEME

1. At all relevant times, Defendant Peter Cappuccilli, Jr. (hereinafter "Defendant" or "Cappuccilli"), served as the Director of the New York State Fair (the "Fair"). As such, Defendant was a public officer and public servant. In order to conduct its business, the State extends to public officers like Defendant the authority and discretion to make decisions and otherwise act on the State's behalf. In exercising this authority and discretion, Cappuccilli and all public officers must act with undivided loyalty to the State, and forgo any opportunity for their own personal enrichment. Instead of adhering to these requirements, Cappuccilli exploited his position to obtain improper personal benefits and steal property from the State for himself and his family.

2. In 2002, a wedding for one of Cappuccilli's daughters was held on the fairgrounds in a room that had just been substantially renovated by Fair staff and at Fair expense. In connection with that wedding, Cappuccilli received an improper discount on wedding catering from Catering with a Flair, a Fair

licensee that, at the time of the wedding, was doing business with the Fair subject to Cappuccilli's supervision as Fair Director.

3. Cappuccilli abused his position further to wrongfully obtain over \$66,000 in benefits relating to his other daughter's wedding, which took place at the fairgrounds in 2004. In connection with this wedding, Cappuccilli secured a discount of over \$20,000 from Catering with a Flair, which was still at that time a Fair licensee doing business with the Fair. He also improperly shut down surrounding fairgrounds facilities during the wedding, depriving the State Fair of over \$46,000 in concert and rental revenue, so that he could enhance the privacy of the wedding. Cappuccilli also wrongfully used State Fair resources to help arrange the wedding and to alter the fairgrounds especially for the wedding. Subsequently, Cappuccilli attempted to conceal his wrongful conduct by removing invoices and related records from State Fair files.

4. During his tenure, Cappuccilli presided over and received the benefit of lavish (and notorious) annual open-bar holiday parties on the Fairgrounds provided by Catering with a Flair.

5. In furtherance of his corrupt scheme, Cappuccilli failed to require Catering with a Flair to provide renovations required under the State Fair catering contract and oversaw the renovation of catering spaces that benefited Catering with a Flair.

6. Defendant had neither permission nor authority to take such personal benefits, breach his duties to the public, nor otherwise avail himself of the property of the State of New York.

FACTS SUPPORTING THE COMPLAINT

7. Among the sources of information for the below facts are the following: where not otherwise stated, the below information is based upon official New York State records which I believe to be true and accurate representations of certain facts and events. Other sources of information include witness interviews conducted by the New York Inspector General in the course of a multi-year investigation; interviews conducted by this office, as well as my own information and belief.

8. New York's State Fair is one of the largest and longest running in the country. First held in 1841, the Fair takes place on the 365-acre state-owned fairgrounds every year in August and September.

9. When the annual Fair is not taking place, fairgrounds facilities, including grandstands, a dirt track, and large exhibit halls are available for rent to the public for concerts, horse shows, banquets, and trade shows.

10. The chief executive officer responsible to manage the fairgrounds (consisting of 110 buildings, over forty full-time employees, and as many as 1,700 part-time or seasonal employees) during the Fair and otherwise, is the Fair Director, at all relevant times, Defendant Peter Cappuccilli.

11. Defendant served as Fair Director for the New York State Fair from his appointment in 1995 until his resignation in November 2005.

12. In his capacity as Fair Director, Cappuccilli was an employee of the New York State Department of Agriculture and Markets, and therefore a public servant and a public officer as defined in the Public Officers law.

13. As Fair Director, Defendant was its highest ranking executive and exercised functional year-round control over fairgrounds operations.

14. At the time of the events in question, New York's Public Officer's law, among other duties and requirements, forbid Defendant from engaging in business transactions which placed his interests in substantial conflict with the State's, from otherwise securing for himself unwarranted exemptions or privileges, and from engaging in conduct which may raise public suspicion that he has likely engaged in acts that violate the public trust.¹

15. According to a former Fair employee in a managerial position, between 2002 and 2005, Cappuccilli caused to be held annual Christmas parties on the fairgrounds, expanding on the practice of previous Fair Directors to include hundreds more guests from the community.

16. Business records of Catering with a Flair show that Catering with a Flair catered these events.

17. Business records of Catering with a Flair show that the actual cost of these events ranged from \$16,000 to \$20,000 annually.

¹ Public Officers Law § 74 (a), (b), and (c).

18. Business records and statements of the same former Fair employee show that Catering with a Flair, however, charged the Fair on average approximately \$2,400.

19. Business records, official New York State records, and statements of the same former Fair employee show that, Catering with a Flair prepared two invoices for the 2005 holiday party: one a detailed bill for \$18,408 reflecting the party's actual cost; and a second for \$2,808, representing only the service charge or gratuity, which was submitted to the Fair for payment.

20. Business records and statements of witnesses known to me tend to show that Catering with a Flair provided the continuing benefit of the holiday parties, and other benefits to Cappuccilli and his family as described below, at least in part because of favors bestowed on Catering with a Flair by Cappuccilli, including use of Fair staff and resources to benefit Catering with a Flair.

21. I am informed by the same former Fair employee that Cappuccilli had one or more conversations with that employee in which Cappuccilli described how he had entered into an understanding with Catering with a Flair whereby Catering with a Flair would only invoice a nominal amount, around \$2,000 to \$3,000, for the holiday parties rather than the actual cost of the parties, which tended to be between \$15,000 to \$20,000 and in exchange for this accommodation Cappuccilli would use Fair resources to benefit Catering with a Flair.

22. Records of the Fair and Catering with a Flair show that, during Cappuccilli's tenure, a contract between Catering with a Flair and the Fair that required Catering with a Flair to make \$83,000 worth of improvements to Fair facilities was not enforced.

23. Instead, Fair business records and statements of Fair employees known to me show that Fair staff and resources were used to improve, at Fair expense, a space on Fair property that was used by Catering with a Flair to host private events to its benefit.

24. Based on statements of another former senior Fair employee known to me, on June 19, 2004, while Cappuccilli was serving as Fair Director, Cappuccilli's daughter was married on a drained pond located within the State's fairgrounds in the Town of Geddes, New York.

25. Based on statements of that same former employee, prior to his daughter's wedding, Defendant caused Fair employees to perform several tasks in preparation for the wedding reception, including the following:

- (a) Drain and paint a pond upon which wedding festivities would be held;
- (b) Build stairs and a ramp for the specific purpose of and exclusive use at the wedding;
- (c) Purchase and install decorative tree lights in the vicinity of the drained pond.

26. Based on my review of official New York State records, the cost to the State of these improvements exceeded \$3,000 yet Cappuccilli never reimbursed the State for this cost.

27. Based on statements by that same former employee, in connection with the 2004 wedding, Cappuccilli asked that employee while that employee worked at the Fair under Cappuccilli, to coordinate preparations for the Cappuccilli wedding in the days leading up to the reception. The employee then spent three full days just prior to the wedding coordinating preparations for the wedding reception. The employee believed it was inappropriate to conduct such work on State time. As a result, the employee chose (without direction from Cappuccilli to do so) to take these days off from her job to avoid cost to the State.

28. Also in connection with the 2004 wedding reception, based on official New York State records and statements of the same former Fair employee and a current employee known to me, Defendant directed buildings near the wedding site to be "blocked out" from June 17, 2004 through June 20, 2004, to prevent them from being used for any other event during the period when the wedding was to occur.

29. Defendant's apparent purpose in booking these event spaces, which adjoined the area where the wedding reception was scheduled to take place, was to avoid disturbing the guests at his daughter's wedding.

30. Based on my review of official New York State records, the blocked out spaces included the Center for Progress, the Horticulture Center, the International Building, and a concert venue now known as Chevy Court.

31. Based on official New York State records, the daily rental fee for these spaces in 2004 was: \$3,575 for the Center for Progress, \$2,530 for the

Horticulture Center, \$1,875 for the International Building, and \$3,000 for the concert venue. The aggregate cost for renting the four spaces for four days at the 2004 daily rental rate was \$43,920, but Defendant did not pay this rental fee.

32. Therefore, by blocking these four rooms for four days, the aggregate value of benefits wrongfully obtained by Defendant exceeded \$43,000.

33. Records and statements by a Fair employee and Fair vendor known to me tend to show that, at Defendant's direction, one major concert event that had been previously scheduled to take place at the grandstand on the fairgrounds during the Cappuccilli wedding festivities was cancelled, apparently, once again, to avoid disturbing Cappuccilli's guests and family members at the wedding.

34. Based on official New York State records and statements by these witnesses known to me, the concert was expected to take place during the weekend of Cappuccilli's daughter's wedding, but was cancelled because the space where it would have taken place was "blocked out" as described above.

35. Based on official New York State records, the Fair would have profited from concession sales during the cancelled event in addition to the rental fees which would have been paid for use of the fairgrounds grand stand facilities.

36. Cappuccilli thereby deprived the State of this concession income, which, based on official State Fair records, exceeded \$3,000 in prior years.

37. Defendant procured catering services for his daughter's 2004 wedding from Catering with a Flair. Based on my review of official New York State records and statements of a Fair vendor known to me, Defendant knowingly received a discount of over \$20,000 from Catering with a Flair for the cost of catering the wedding.

38. At the time he received this discount, official New York State records show that Catering with a Flair had an ongoing License Agreement with the New York State Fair and as such, was a Fair vendor doing business with the Fair.

39. Based on statements of a Fair accounting employee known to me, following the 2004 wedding reception, Catering with a Flair's invoices for June 2004 (the month of the wedding) were not delivered to the Fair's accountant, as was expected pursuant to the Fair's typical business practices for Catering with a Flair records. Instead, according to that witness, Cappuccilli said that he did not intend to give the accountant the invoices for June telling the accountant, "I don't want everyone to know my business" and that "these reports will be put into my office safe."

40. Based on New York State records, records related to Catering with a Flair events in June 2004 were not found in Fair files in response to a recent investigative request for documents, even though Fair files contained records for every other month from July 2002 to June 2009.

41. Based on official New York State records, statements of a Fair vendor, and statements of Fair supervisors known to me, Cappuccilli also received a discount from Catering with a Flair for catering services they provided for his other daughter's wedding, which was held on the fairgrounds in 2002 in a room that had recently been renovated at Fair expense.

42. As Director of the New York State Fair, Defendant did not have permission or authority to use State resources for his personal gain, resulting in a benefit which, collectively, exceeded \$46,000.00, to the detriment of the State.

43. Based on the foregoing, Defendant committed the above-specified crimes by exploiting the trust bestowed upon him by the State for his own personal benefit.

False statements made herein are punishable as a Class A Misdemeanor Pursuant to Penal Law § 210.45.

Dated: December 20, 2010
New York, New York



Investigator Gerard Matheson
Public Integrity Bureau

New York State Attorney General's Office