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F.#2010R00420

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U.S. DISTRICT COURT E.D.N.Y
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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

BROOKLYN OFFICE

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UNITED STATES OF AMERICA

- against -

PEDRO ESPADA, JR. and
PEDRO GAUTIER ESPADA,

Defendants.

INDICTMENT
CR 10 - 985
Cr. No. _____
(T. 18, U.S.C., §§ 371,
666(a)(1)(A), 2 and
3551 et seq.)

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THE GRAND JURY CHARGES:

VITALIANO, J.
ROOM, M.J.

INTRODUCTION TO ALL COUNTS

At all times relevant to this Indictment, unless otherwise indicated:

I. The Defendants

1. PEDRO ESPADA, JR. ("ESPADA") was the Chief Executive Officer and President of Comprehensive Community Development Corporation ("CCDC"), also known as Soundview Healthcare Network ("Soundview"). Beginning in January 2009, ESPADA was also an elected member of the New York State Senate, representing the 33rd Senatorial District in the Bronx, New York. Prior to representing the 33rd Senatorial District, ESPADA served several terms in the New York State Senate representing the 32nd Senatorial District and also ran for other elected positions.

2. PEDRO GAUTIER ESPADA ("GAUTIER ESPADA"), ESPADA's eldest son, was the Director of Environmental Care at Soundview. GAUTIER ESPADA also held positions in Community Expansion Development Corporation ("CEDC") and Soundview Management Enterprises ("SME"), janitorial service companies founded and owned by ESPADA.

II. The Relevant Companies

A. Soundview Healthcare Network

3. ESPADA founded Soundview in 1978 as a charitable not-for-profit organization under Section 501(c)(3) of the Internal Revenue Code. Soundview was a network of health care clinics located in the Bronx. Soundview received more than \$1 million per year each year from 2005 through 2009 in grant money from the United States Department of Health and Human Services, which grant money was administered through the Health Resources and Services Administration ("HRSA").

4. As a non-profit organization, Soundview had to meet several requirements to be granted and to maintain tax-exempt status. Those requirements, under section 501(c)(3) of the Internal Revenue Code, included the following:

- a. the organization must be "organized and operated exclusively for exempt purposes set forth in section 501(c)(3)";
- b. the organization must not be organized or operated for the benefit of private interests;

- c. "none of [the organization's] earnings may inure to any private shareholder or individual";
 - d. the organization "may not participate in any campaign activity for or against political candidates"; and
 - e. the organization's assets must be permanently dedicated to an exempt purpose.
5. Soundview's amended Articles of Incorporation

stated the following:

The purposes for which this corporation is formed are exclusively charitable and are to establish, operate, maintain, and lease a diagnostic and treatment health care center for the prevention, diagnosis and treatment of human disease, pain, injury, deformity and other physical conditions.

6. Further, Soundview's Articles of Incorporation expressly required that it operate in a manner that would not jeopardize its tax-exempt 501(c)(3) status.

7. Soundview leased several properties, including 731 White Plains Road in the Bronx, where it maintained its headquarters, and several satellite clinics.

B. Community Expansion Development Corporation

8. CEDC was a for-profit janitorial services company incorporated by ESPADA in 1980 and owned by him. From 1994 until 2002, CEDC provided Soundview with janitorial and maintenance services for all the Soundview facilities. Soundview paid CEDC twice each month.

9. In approximately 2003, CEDC employees were placed on the Soundview payroll. As Soundview employees, those individuals were paid by Soundview and received full Soundview employee benefits.

10. In January 2005, Soundview purchased CEDC from ESPADA for \$1, making it a subsidiary of Soundview. In January 2006, notwithstanding Soundview's purchase of CEDC the prior year, ESPADA declared to the Soundview Board of Directors that he was "donating" his purported remaining 49% interest in CEDC to Soundview.

C. Soundview Management Enterprises

11. SME was a for-profit janitorial services company incorporated by ESPADA in April 2007. ESPADA was the sole owner of SME. GAUTIER ESPADA managed SME on a daily basis, controlled the hiring and firing of all employees, issued checks to employees, decided who received bonuses, and, until 2009, collected the time sheets from SME employees.

III. The Defendants' Compensation

12. Soundview provided for ESPADA to be paid a base salary ranging from approximately \$235,000 in 2003 to \$246,750 in 2009. Soundview paid GAUTIER ESPADA a base salary and fringe benefits in amounts ranging from \$94,678 in 2003 to \$111,667 in 2009. CEDC paid GAUTIER ESPADA a base salary in amounts ranging from \$40,200 in 2005 to \$65,100 in 2007, and SME paid him \$50,840

in 2007.

13. As set forth below, ESPADA and GAUTIER ESPADA devised and executed various schemes to obtain money and other property from Soundview significantly above and beyond that which they were entitled to as employees of Soundview.

IV. The Schemes To Embezzle, Steal, Misapply and Defraud

A. Soundview American Express Card Scheme

14. In or about 2004, at ESPADA's direction, the Chief Financial Officer ("CFO") of Soundview applied for a Soundview corporate American Express card (the "AMEX card"). Due to the poor credit history of Soundview and ESPADA, American Express required the CFO to serve as a guarantor and assume personal responsibility for payment as a condition for issuing the corporate card. The only authorized users of the AMEX card were ESPADA and the CFO.

15. According to ESPADA's employment contract with Soundview and the minutes of meetings of the Soundview Board of Directors, ESPADA was permitted to use the AMEX card for personal as well as business expenses, provided that he reimbursed Soundview for all personal expenses charged on the card. ESPADA's Soundview employment contract permitted him to reimburse Soundview for his personal AMEX card charges by deducting days from his accrued sick and vacation time to cover the total amount of his personal AMEX charges. ESPADA's employment contract

provided him with eight weeks of paid vacation time and six weeks of paid sick time.

16. Each month, the CFO provided ESPADA with the monthly AMEX statement so that ESPADA could identify which charges were his personal expenses. Any AMEX charges not specifically marked "personal" by ESPADA on those statements were fully paid for by Soundview as business expenses. When reviewing the monthly Soundview AMEX statements, ESPADA intentionally failed to identify more than \$180,000 in personal charges as his personal expenses. As a result, Soundview, rather than ESPADA, paid for those personal expenses.

B. The CEDC Scheme

17. As noted above, CEDC became a wholly-owned for-profit subsidiary of Soundview, a charitable not-for-profit corporation. A tax-exempt nonprofit corporation may own a for-profit subsidiary, but the accounts of such a subsidiary must be kept separate, and the profits of the for-profit subsidiary must inure to the benefit of the nonprofit parent corporation. While separate accounts were maintained for CEDC, ESPADA and GAUTIER ESPADA controlled and operated CEDC as if it were their private company that existed for their personal benefit. CEDC did not have a Board of Directors and the only individuals who had access to the books, records, receipts, and accounts of CEDC were

ESPADA, GAUTIER ESPADA, and Family Member #1.^{1/} The only authorized signatories for the CEDC bank accounts were, depending on the account, either ESPADA solely, or ESPADA and Family Member #1.

18. ESPADA used CEDC funds to pay personal expenses, including expenses related to his political campaigns, and transferred CEDC money to, and for the benefit of, his family members at will. CEDC had no separate corporate management structure, and ESPADA and GAUTIER ESPADA controlled and managed it with no oversight from Soundview's other officers or employees. Throughout CEDC's existence, neither the CFO nor the Controller of Soundview had access to the books, records, receipts, and accounts of CEDC, nor was such information provided to Soundview even though CEDC was its subsidiary.

19. As a subsidiary of Soundview, a 501(c)(3) organization, CEDC's profits and assets were to inure to the benefit of Soundview, and not to the benefit of any private individual. However, ESPADA and GAUTIER ESPADA consistently siphoned money from CEDC, which money was used for their personal benefit and the benefit of their family members and associates.

C. The Rent Payment Scheme

20. As the leaseholder at various properties,

¹ Family Members #1 through #8, whose identities are known to the Grand Jury, are relatives of ESPADA and/or GAUTIER ESPADA by blood or affinity.

Soundview subleased conference rooms and other facilities to medical professionals, religious organizations and other subtenants. In or about and between 1999 and 2009, ESPADA and GAUTIER ESPADA caused subtenants of Soundview to make rent payments and other payments to themselves, to CEDC, and to SME, rather than to Soundview. Between 2005 and 2009, the subtenant rent payments ESPADA and GAUTIER ESPADA caused to be diverted from Soundview exceeded \$200,000.

D. The SME Bid Rigging Scheme

21. In or about July 2007, Soundview began soliciting bids for a janitorial services contract. As detailed below, GAUTIER ESPADA orchestrated the bidding process to ensure that SME, the for-profit corporation founded by ESPADA in April 2007, would win the contract by providing inflated contract specifications to the other bidders, including one in Melville, Long Island. As a result of this manipulation, SME appeared to submit the lowest bid.

22. In December 2007, the Executive Committee of Soundview's Board of Directors voted to award Soundview's janitorial contract to SME. The Executive Committee's decision was ratified by the entire Board on December 20, 2007, at a Christmas Party held at The Water's Edge in Long Island City, Queens, because the Board had been told that SME had submitted the lowest bid.

23. On January 15, 2008, Soundview and SME entered

into a formal one-year contract for SME to provide janitorial services to Soundview for approximately \$34,000 per month.

COUNT ONE

(Conspiracy to Commit Theft, Embezzlement and Misapplication of Federal Funds)

24. The allegations contained in paragraphs 1 through 23 are realleged and incorporated as if fully set forth in this paragraph.

25. On or about and between January 1, 2005 and December 31, 2009, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendants PEDRO ESPADA JR. and PEDRO GAUTIER ESPADA, agents of Soundview, did knowingly and willfully conspire to embezzle, steal, obtain by fraud, intentionally misapply, and otherwise without lawful authority knowingly convert to the use of a person other than the rightful owner, property of Soundview, an organization that received within a one-year period benefits in excess of \$10,000 under a Federal program involving a grant, contract, subsidy, loan, guarantee, insurance and other form of Federal assistance, which property was valued at \$5,000 or more, and was owned by and under the care, custody, and control of Soundview, contrary to Title 18, United States Code, Section 666(a)(1)(A).

26. In furtherance of the conspiracy, and to effect its objectives, within the Eastern District of New York and

elsewhere, the defendants PEDRO ESPADA, JR. and PEDRO GAUTIER ESPADA committed and caused to be committed the following:

OVERT ACTS

(a) In or about and between 2005 and 2007, ESPADA used CEDC funds to pay two different law firms for work they performed in connection with litigation related to ESPADA's political campaigns.

(b) In or about and between May 2005 and August 2005, ESPADA used CEDC funds to pay for after-school tutoring for Family Member #2.

(c) In or about 2005, ESPADA used CEDC funds to pay a ghostwriter to work on a personal book project.

(d) In or about May 2006, ESPADA used CEDC funds to pay a plumbing, heating and air conditioning service company in connection with servicing the air conditioning system at ESPADA's home in Mamaroneck, New York.

(e) In or about June 2006, ESPADA used CEDC funds to pay an individual to cater Family Member #3's birthday party, held at ESPADA's home in Mamaroneck, New York.

(f) In or about June 2006, ESPADA used CEDC funds to pay an individual to videotape the June 2006 birthday party held at ESPADA's home.

(g) In or about June 2006, ESPADA used CEDC funds to pay the Bronx Equestrian Center to provide a petting zoo and

pony for the June 2006 birthday party held at ESPADA's home.

(h) In or about October 2006, at Bentley of Long Island, ESPADA presented a check from one of CEDC's bank accounts in the amount of \$49,000 as a down-payment for a Bentley automobile worth \$125,000. Ultimately, the check was not negotiated because ESPADA's financing application was rejected.

(i) In or about May 2007, ESPADA used CEDC funds to pay Profusion Management, a credit-repair company hired by ESPADA to improve his personal credit score.

(j) In or about January 2008, ESPADA used CEDC funds to pay a printer for campaign materials produced for ESPADA's 2008 New York State Senatorial campaign.

(k) In or about and between January 2008 and October 2008, ESPADA used CEDC funds to pay rent for ESPADA's campaign headquarters for the 2008 New York State Senatorial campaign.

(l) In or about 2007, GAUTIER ESPADA caused CEDC to pay him approximately \$5,200 for expenses purportedly incurred by him, but which expenses CEDC had already paid for through its corporate American Express card.

(m) - (11) In or about the months set forth below, ESPADA caused CEDC to pay funds via checks to himself, GAUTIER ESPADA and the following family members and associates, which funds were outright gifts, purported loans, "consulting fees" and

false reimbursements:

OVERT ACT	DATE	RECIPIENT	AMOUNT	MEMO	SIGNATURE
m	July 2005	ESPADA	\$1,500	Loan	ESPADA
n	September 2005	GAUTIER ESPADA	\$1,500	Loan	ESPADA
o	November 2005	ESPADA	\$5,000	Loan	ESPADA
p	December 2005	Family Member #4	\$499.50	Blank	ESPADA
q	January 2006	ESPADA	\$5,000	Loan	ESPADA
r	February 2006	Family Member #5	\$5,000	Loan	ESPADA
s	March 2006	Family Member #4	\$500	Loan	ESPADA
t	July 2006	GAUTIER ESPADA	\$4,234	Loan	ESPADA
u	September 2006	Family Member #6	\$2,999	Blank	ESPADA
v	November 2006	Family Member #7	\$1,000	Loan	ESPADA
w	January 2007	ESPADA	\$5,830	Repayment	ESPADA
x	May 2007	ESPADA	\$952.50	Reimbursement	ESPADA
y	May 2007	ESPADA	\$2,500	Consulting Fee	ESPADA
z	May 2007	GAUTIER ESPADA	\$1,000	Consulting Fee	ESPADA
aa	June 2007	GAUTIER ESPADA	\$2,200	Loan	ESPADA
bb	June 2007	ESPADA	\$955	Reimbursement	ESPADA

cc	July 2007	ESPADA	\$5,000	Loan	ESPADA
dd	July 2007	SME	\$3,000	Blank	ESPADA
ee	October 2007	Family Member #8	\$500	Gift	ESPADA
ff	November 2007	GAUTIER ESPADA	\$2,500	Loan	ESPADA
gg	November 2007	ESPADA	\$1,500	Consulting Fee	ESPADA
hh	March 2008	ESPADA	\$365.50	Reimbursement	ESPADA
ii	March 2008	ESPADA	\$254	Reimbursement	ESPADA
jj	May 2008	GAUTIER ESPADA	\$300	Gift	ESPADA
kk	August 2008	ESPADA	\$4,300	Loan	ESPADA
ll	April 2009	ESPADA	\$440	Blank	ESPADA

(mm) In or about and between 2007 and 2008, GAUTIER ESPADA caused an individual to pay him \$500 per month in cash for the right to use a Soundview conference room to conduct Sunday religious services.

(nn) In or about and between late 2008 and mid 2009, ESPADA caused a tenant renting space inside of one of Soundview's locations to pay rent in the approximate amount of \$11,200 to SME rather than to Soundview.

(oo) In or about and between May 2005 and September 2008, ESPADA caused Weight Watchers to pay CEDC a total of approximately \$16,000 in checks to rent a Soundview

conference room for its weekly class, which checks were issued from Jericho, Long Island.

(pp) In or about and between December 2005 and November 2009, ESPADA charged, caused to be charged, and caused Soundview to pay charges for more than \$110,000 in personal meals on the Soundview AMEX card. Those charges included, but were not limited to, the following:

- (i) \$3,997.78 in charges at Lum Yen Restaurant in Mamaroneck, New York between 2006 and 2009;
- (ii) \$20,482.96 in charges at Toyo Sushi in Mamaroneck, New York between 2006 and 2009;
- (iii) \$4,659.37 in charges at the Mamaroneck Diner in Mamaroneck, New York between 2006 and 2009;
- (iv) \$3,657.50 in charges at the Nautilus Diner in Mamaroneck, New York between 2006 and 2009;
- (v) \$6,989.68 in charges at Legal Sea Foods in White Plains, New York between 2006 and 2009; and
- (vi) \$5,122.11 in charges at Seasons Japanese Cuisine in White Plains, New York between 2006 and 2009.

(qq) In or about and between 2006 and 2009, ESPADA charged, caused to be charged, and caused Soundview to pay charges for over \$3,000 in purchases from Edible Arrangements on the Soundview AMEX card.

(rr) In or about January 2008, ESPADA charged,

caused to be charged, and caused Soundview to pay charges for \$4,852 in home central air conditioning services on the Soundview AMEX card.

(ss) In or about 2008, ESPADA charged, caused to be charged, and caused Soundview to pay charges totaling \$1,055.57 for home window treatments on the Soundview AMEX card.

(tt) In or about and between 2006 and 2009, ESPADA charged, caused to be charged, and caused Soundview to pay charges for over \$14,000 in sports, theater, and concert tickets purchased from Ticket Box, including tickets for Mamma Mia, Jersey Boys, Mary Poppins, Radio City Music Hall Christmas Spectacular, a Neyo concert, the New York Mets, and the New York Yankees, on the Soundview AMEX card.

(uu) In or about and between 2006 and 2009, ESPADA charged, caused to be charged, and caused Soundview to pay charges for over \$8,000 in tickets from Ticket Master, including tickets to a Kenny G concert, New York Nets games, and New York Yankees games, on the Soundview AMEX card.

(Title 18, United States Code, Sections 371 and 3551 et seq.)

COUNTS TWO THROUGH SIX

(Theft, Embezzlement and Misapplication of Federal Funds)

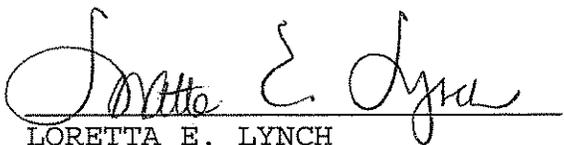
27. The allegations contained in paragraphs 1 through 23 are realleged and incorporated as if fully set forth in this paragraph.

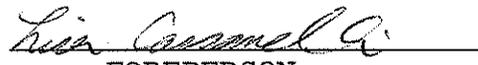
28. In the years listed below, within the Eastern District of New York and elsewhere, the defendants PEDRO ESPADA, JR. and PEDRO GAUTIER ESPADA, being agents of Soundview, did knowingly and intentionally embezzle, steal, obtain by fraud, misapply and, without authority, knowingly convert to the use of a person other than the rightful owner, property of Soundview, an organization that received in excess of \$10,000 involving grants, contracts, subsidies, loans, guarantees, insurance, and other forms of federal funds assistance, which property was valued at \$5,000 or more and which property was owned by, and was under the care, custody, and control of, Soundview:

<u>COUNT</u>	<u>YEAR</u>	<u>APPROXIMATE DOLLAR AMOUNT</u>
TWO	2005	More than \$70,000
THREE	2006	More than \$145,000
FOUR	2007	More than \$160,000
FIVE	2008	More than \$164,000
SIX	2009	More than \$65,000

(Title 18, United States Code, Sections 666(a)(1)(A), 2 and 3551 et seq.)

A TRUE BILL


 LORETTA E. LYNCH
 UNITED STATES ATTORNEY
 EASTERN DISTRICT OF NEW YORK


 FOREPERSON

No. 2010R00420

UNITED STATES DISTRICT COURT

EASTERN District of NEW YORK

THE UNITED STATES OF AMERICA

vs.

PEDRO ESPADA, JR. and PEDRO GAUTIER ESPADA,
Defendant(s).

I N D I C T M E N T

(T. 18, U.S.C., §§, 371, 666(a) (1) (A),
2 and 3551 et seq.)

A true bill.

John C. ...
Foreman

Filed in open court this _____ day.

of _____ A.D. 19 _____

Clerk

Bail, \$ _____

COLLEEN KAVANAGH, AUSA (718) 254-6556