

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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UNITED STATES OF AMERICA :

- v - :

INDICTMENT

TSEN TOMA, :

05 Cr. 352 (CM)

Defendant. :

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COUNT ONE

The Grand Jury charges:

Introduction

1. At the times relevant to this Information, TSEN TOMA, the defendant, was a resident of Woodside, Queens, New York.

2. During the calendar years 1996 through 1998, TSEN TOMA, the defendant, owned and operated Tomo Painting Construction (“Tomo Painting”), a painting contracting business based in Queens, New York, which performed painting contracting jobs throughout the New York metropolitan area, including in Manhattan, Westchester County, and New Jersey. TSEN TOMA, the defendant, maintained a bank account for Tomo Painting at Chase Manhattan Bank in Queens.

3. TSEN TOMA, the defendant, reported the receipts, expenses, and profits of Tomo Painting Construction on his own U.S. Individual Income Tax Return, Form 1040, Schedule C.

The Check Diversion Scheme

4. In connection with certain painting contracts carried out by Tomo Painting between 1996 and 1998, TSEN TOMA, the defendant, took the checks he received as payment for the contracts and, rather than depositing the checks in the Tomo Painting bank account, cashed the checks at a check cashing business located in New York, New York. TSEN TOMA, the defendant, thereafter (a) knowingly failed to record the receipts on the books and records of Tomo Painting; (b) knowingly failed to advise his tax preparer, who was also the accountant for Tomo Painting, of his receipt of the checks on behalf of Tomo Painting; (c) knowingly failed to report the diverted receipts to the IRS on his U.S. Individual Income Tax Returns, Forms 1040; and (d) made personal use of some or all of the proceeds. As a result of the check diversion scheme described above, TSEN TOMA, the defendant, failed to report to the IRS his receipt of the following amounts of income for the following years: 1996 — \$41,354; 1997 — \$518,266; and 1998 — \$460,681.

Statutory Allegations

5. From on or about January 1, 1998, through on or about April 15, 1999, in the Southern District of New York and elsewhere, TSEN TOMA, the defendant, unlawfully, wilfully, and knowingly, did attempt to evade and defeat a substantial part of the income tax due and owing by him to the United States of America for the calendar year 1998, including, among other things, by (a) causing checks payable to Tomo Painting to be cashed at a check-cashing business in New York, New York, and (b) preparing and causing to be prepared, signing and causing to be signed, and filing and causing to be filed with the Internal Revenue Service, a false and fraudulent United States Individual Income Tax Return, Form 1040, for the calendar year 1998, wherein TSEN TOMA failed to report certain income he received as a result of work carried on through Tomo Painting and thus falsely stated that his taxable income was in the amount set forth below, and that the amount

of tax due and owing thereon was in the amount set forth below, whereas, as TSEN TOMA, the defendant, then and there well knew and believed, the correct taxable income and correct tax due and owing for the calendar year 1998 were substantially in excess of the amounts reported, as set forth below:

REPORTED TAXABLE INCOME	REPORTED TAX DUE	CORRECTED TAXABLE INCOME	CORRECTED TAX DUE	ADDITIONAL TAX DUE
\$29,901	\$10,685	\$452,244	\$179,403	\$168,718

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

COUNT TWO

(Obstructing And Impeding The Administration Of The IRS)

_____ The Grand Jury further charges:

6. The allegations in paragraphs 1 through 4 of this Indictment are repeated and realleged as though fully set forth herein.

7. From in or about January 1996, through and including April 15, 1999, in the Southern District of New York and elsewhere, the defendant, TSEN TOMA, did corruptly obstruct and impede, and endeavor to obstruct and impede, as set forth above, the due administration of the Internal Revenue Laws.

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

FOREPERSON

DAVID N. KELLEY
United States Attorney