

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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Holding a Criminal Term
Grand Jury Sworn in on May 15, 2009.

U.S. DISTRICT COURT

UNITED STATES OF AMERICA	:	Criminal Number:
	:	
v.	:	VIOLATIONS:
	:	
NGOZI POLE	:	COUNTS 1-5: 18 U.S.C. §§ 1343, 2
	:	(Wire Fraud)
Defendant.	:	
	:	COUNT 6: 18 U.S.C. §§ 641, 2
	:	(Theft of Government Property)

INDICTMENT

The Grand Jury charges that:

GENERAL ALLEGATIONS

All dates in this Indictment are alleged to be "on or about" the specific date stated. All dollar amounts in this Indictment are alleged to be "approximately" the specific amount stated.

At all times relevant in this Indictment:

1. DEFENDANT NGOZI POLE worked as the office manager for the Office of United States Senator Edward M. Kennedy (the "Kennedy Office").
2. Employees in the Kennedy Office received an annual salary.
3. The Kennedy Office generally paid its staff a holiday bonus in December or January of a calendar year. Such bonuses generally ranged from \$1,000 to \$2,000 per employee.
4. The Kennedy Office also generally paid its employees an end-of-the-fiscal-year bonus. The fiscal year ended September 30, and such bonuses generally ranged from \$3,000 to \$5,000 per employee.

5. Only the Kennedy Office's Chief of Staff or Senator Kennedy could approve a bonus payment. The Kennedy Office had only one Chief of Staff at any one time, although there were successive Chiefs of Staff during the relevant period.

6. Once the Chief of Staff authorized a bonus payment, DEFENDANT POLE was responsible for, among other things, transmitting to the Senate Disbursing Office the information necessary to affect the authorized bonus payment. POLE transmitted the necessary information using a Payroll Action Authorization form ("PAA form").

7. DEFENDANT POLE also was responsible for maintaining records of salary amounts and bonus payments, and on occasion providing that information to the Chief of Staff.

8. Bonus payments to employees were made using temporary salary increases. Rather than provide one-time lump sum bonus payments, employees' annual salaries were raised for a short period, after which the employees' annual salaries were returned to their prior levels. The duration and size of the temporary salary increase was determined by the amount of bonus authorized.

COUNTS ONE THROUGH FIVE

18 U.S.C. §§ 1343 and 2

Wire Fraud

9. From at least 2003 through at least January 2007, in the District of Columbia and elsewhere, Defendant NGOZI POLE, devised and intended to devise a scheme and artifice to defraud, and for obtaining money by means of false and fraudulent pretenses, representations, and promises from the United States, the United States Senate, and the Office of United States Senator Edward M. Kennedy.

PURPOSE AND OBJECT OF THE SCHEME

10. It was a purpose of the scheme for DEFENDANT POLE to enrich himself by giving himself bonus payments and salary increases which were not authorized by the Chief of Staff or by Senator Kennedy and to which he was not entitled.

MANNER AND MEANS OF THE SCHEME

11. DEFENDANT POLE caused the Senate Disbursing Office to give him larger salary and bonus payments than had been authorized by the Chief of Staff, totaling more than \$75,000 between 2003 and 2007.

12. DEFENDANT POLE hid the existence of these unauthorized and larger-than-authorized payments by transmitting to the Chief of Staff information falsely stating that POLE received only the authorized bonus payments and not the larger-than-authorized payments which POLE actually had received.

ACTS IN FURTHERANCE OF THE SCHEME

2003 Fiscal Year-End Bonus

13. From July 2003 through September 2003, DEFENDANT POLE committed the following acts, among others, to defraud the Senate of \$10,720.65 by triggering excess payments of \$15,720.65 when, at most, only \$5,000 in bonus payments had been authorized:

- a. On July 16, 2003, POLE wrote a memorandum to the Chief of Staff captioned "Follow up from meeting" in which he summarized the bonuses which had been authorized for various employees, including a \$5,000 bonus which had been authorized for himself.

- b. On July 18, 2003, POLE completed and submitted a PAA form to the Senate Disbursing Office that caused POLE's annual salary to rise from \$70,000 to \$145,459 for the period July 16 until September 1.
- c. On July 26, 2003, POLE completed and submitted a PAA form to the Senate Disbursing Office that caused his salary increase to \$145,459 to remain in effect until October 1, resulting in a total bonus of \$15,720.65.
- d. On September 9, 2003, POLE emailed the Chief of Staff a "[r]eview of the previously approved bonuses" in which he summarized the bonus payments which had been authorized, including a \$5,000 payment to himself.
- e. On September 23, 2003, POLE wrote a memorandum to the Chief of Staff, captioned "NOTES ON INCREASES FROM OUR MEETINGS" in which he summarized the bonus payments which had been authorized, including a \$5,000 bonus payment to himself, when in fact POLE had received an additional \$15,720.65.

2003 Holiday Bonus

14. From November 2003 through December 2003, DEFENDANT POLE committed the following acts, among others, to defraud the Senate of \$3,000 by triggering excess payments of \$5,000 when only \$2,000 in bonus payments had been authorized:

- a. On November 23, 2003, POLE completed and submitted a PAA form to the Senate Disbursing Office that caused his annual salary to rise from \$70,000 to \$130,000 for the period November 16 until December 1.
- b. Notwithstanding that POLE had received an email from the Chief of Staff advising POLE that each staffer in the Kennedy Office would receive a \$2,000 Christmas bonus,

on December 9, 2003, POLE completed and submitted a PAA form to the Senate Disbursing Office that caused his salary increase to \$130,000 to remain in effect until December 16, resulting in a total bonus of \$5,000.

2004 Fiscal Year-End Bonus

15. From April 2004 through October 2004, DEFENDANT POLE committed the following acts, among others, to defraud the Senate of \$21,253.10 by triggering excess payments of \$26,253.10 when only \$5,000 in bonus payments had been authorized:

- a. On April 8, 2004, POLE completed and submitted a PAA form to the Senate Disbursing Office that caused his annual salary to rise from \$75,000 to \$153,000 for the period April 1 until April 16.
- b. On June 1, 2004, POLE completed and submitted a PAA form to the Senate Disbursing Office that caused his annual salary to rise from \$75,000 to \$150,000 for the period June 1 until July 1.
- c. On July 12, 2004, POLE sent an email to the Chief of Staff recommending \$5,000 bonuses for "senior staff," without disclosing that he already had received \$9,500 in excess payments in April and June.
- d. On July 15, 2004, POLE completed and caused to be completed and submitted a PAA form to the Senate Disbursing Office that caused his salary to increase from \$75,000 to \$155,415 effective July 16.
- e. On July 15, 2004, POLE completed and submitted a second PAA form to the Senate Disbursing Office that caused his salary increase to \$155,415 to remain in effect from July 16 until October 1, resulting in a total bonus of \$26,253.10.

Concealment of 2002, 2003, and 2004 Fiscal Year-End Bonuses

16. By spreadsheet dated July 19, 2004, DEFENDANT POLE provided the Chief of Staff with a false accounting of bonuses he and other Kennedy Office employees had received, which concealed the true amounts POLE had received and would receive as follows:

	Bonus Amount Reported by Pole	Approximate Actual Bonus Amount Pole Received
August 2002 Bonus	\$1,500	\$18,864.78
August 2003 Bonus	\$5,000	\$15,720.65
August 2004 Bonus	\$5,000	\$26,253.10

2004 Holiday Bonus

17. From December 2004 through January 2005, DEFENDANT POLE committed the following acts, among others, to defraud the Senate of \$9,007.37 by triggering excess payments of \$10,007.37 when only \$1,000 in bonus payments had been authorized:

- a. On December 6, 2004, POLE emailed the Chief of Staff, asking to discuss holiday bonuses with her some time that week.
- b. Notwithstanding that POLE had received an email telling him that a decision on bonuses would have to wait until the Chief of Staff learned what kind of cuts would be made to the budget, on January 16, 2005, POLE completed and submitted a PAA form to the Senate Disbursing Office that caused his annual salary to rise from \$75,000 to \$157,559 effective January 16.
- c. Notwithstanding that POLE received an email from the Chief of Staff authorizing him to implement bonuses of \$1,000 "for all staff \$100k or less for the next round of pay

period,” on January 31, 2005, POLE completed and submitted a PAA form to the Senate Disbursing Office that caused his salary increase to \$157,559 to remain in effect until March 1 resulting in a total bonus of \$10,007.37.

2005 Fiscal Year-End Bonus

18. From July 2005 through October 2005, DEFENDANT POLE committed the following acts, among others, to defraud the Senate of \$11,678.95 by triggering excess payments of \$16,678.95 when only \$5,000 in bonus payments had been authorized:

a. On July 20, 2005, POLE completed and submitted a PAA form to the Senate Disbursing Office that caused his annual salary to rise from \$77,500 to \$157,559 effective July 16.

b. Notwithstanding that POLE had received an email from the Chief of Staff advising that POLE would be receiving a \$5,000 bonus, on August 10, 2005, POLE completed and submitted a PAA form to the Senate Disbursing Office that caused his salary increase to \$157,559 to remain in effect until October 1, resulting in a total bonus of \$16,678.95.

2005 Holiday Bonus

19. From November 2005 through January 2006, DEFENDANT POLE committed the following acts, among others, to defraud the Senate of \$11,526.48 by triggering excess payments of \$13,026.48 when only \$1,500 in bonus payments had been authorized:

a. On November 18, 2005, POLE sent an email to another Senate employee writing that the Chief of Staff had approved “bonuses in the amount of \$1500 across the board.”

b. On November 18, 2005, POLE completed and submitted a PAA form to the Senate Disbursing Office that caused his annual salary to rise from \$82,000 to \$157,559 effective January 1, 2006.

c. On January 6, 2006, POLE completed and submitted a PAA form to the Senate Disbursing Office that caused his annual salary to rise from \$157,559 to \$160,659 for the period from January 1 until March 1, and then to return to \$82,500 effective March 1, resulting in a total bonus of \$13,026.48.

Concealment of 2002, 2003, 2004, and 2005 Fiscal Year-End Bonuses

20. By memorandum dated June 30, 2006, DEFENDANT POLE provided the Chief of Staff with a false accounting of bonuses he and other Kennedy Office employees had received, which concealed the true amounts POLE had received and would receive, as follows:

	Bonus Amount Reported by Pole	Approximate Actual Bonus Amount Pole Received
August 2002 Bonus	\$1,500	\$18,864.78
August 2003 Bonus	\$5,000	\$15,720.65
August 2004 Bonus	\$5,000	\$26,253.10
August 2005 Bonus	\$5,000	\$16,678.95

2006 Fiscal Year-End Bonus

21. From July 2006 through September 2006, DEFENDANT POLE committed the following acts, among others, to defraud the Senate of \$8,026.48 by triggering excess payments of \$13,026.48 when only \$5,000 in bonus payments had been authorized:

- a. On July 10, 2006, POLE completed and submitted a PAA form to the Senate Disbursing Office that caused his annual salary to rise from \$82,500 to \$160,659 for the period from July 1 until August 1.
- b. On July 17, 2006, POLE wrote a memorandum to the Chief of Staff, captioned "FY 2007" in which he wrote, "It is shaping up that it is inevitable that we are going to have smaller bonuses this fiscal year than we did last year," without advising the Chief of Staff that POLE had already begun paying himself a bonus.
- c. Notwithstanding that POLE had received an email from the Chief of Staff advising that POLE would receive a \$5,000 bonus, on August 8, 2006, POLE completed and submitted a PAA form to the Senate Disbursing Office that caused his salary increase to \$160,659 to remain in effect through August.
- d. On August 28, 2006, POLE completed and submitted a PAA form to the Senate Disbursing Office that caused his salary increase to \$160,659 to remain in effect until September 1, resulting in a total bonus of \$13,026.48.

2007 Bonus

22. In January 2007, DEFENDANT POLE committed the following act, among others, to defraud the Senate of \$2,395.83, by triggering excess payments in that amount when no bonus payments had been authorized:

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- a. On January 5, 2007, POLE submitted a PAA form to the Senate Disbursing Office that caused his annual salary to rise from \$82,500 to \$140,000 effective January 1.

Concealment of 2006 Fiscal Year-End and Holiday Bonuses

23. On January 23, 2007, DEFENDANT POLE sent an email to the Chief of Staff in which he wrote that POLE had been paid "an August bonus of 5k and a Christmas bonus of 2k" in 2006, notwithstanding that POLE actually had been paid an August 2006 bonus of \$13,026.48 and a 2005 Christmas bonus of \$13,026.48.

WIRE COMMUNICATIONS

24. On or about the dates set forth below, POLE executed and attempted to execute the scheme and artifice to defraud and to obtain money by means of false and fraudulent pretenses, representations, and promises, by transmitting and causing to be transmitted by means of wire in interstate commerce the following wire communications in the form of writings, signs, signals, pictures, and sounds as set forth in the count:

Count	Interstate Wire Communication	Approximate Date	Approximate Amount
1	Transmission from U.S. Senate Disbursing Office in Washington, DC, to Federal Reserve Bank in Atlanta, GA, instructing the Federal Reserve Bank to direct deposit money into Defendant's account at the Senate Federal Credit Union located in Alexandria, VA	2/28/2005	\$2,944.07
2	Transmission from U.S. Senate Disbursing Office in Washington, DC, to Federal Reserve Bank in Atlanta, GA, instructing the Federal Reserve Bank to direct deposit money into Defendant's account at the Senate Federal Credit Union located in Alexandria, VA	9/30/2005	\$2,532.07

Count	Interstate Wire Communication	Approximate Date	Approximate Amount
3	Transmission from U.S. Senate Disbursing Office in Washington, DC, to Federal Reserve Bank in Atlanta, GA, instructing the Federal Reserve Bank to direct deposit money into Defendant's account at the Senate Federal Credit Union located in Alexandria, VA	2/28/2006	\$2,784.54
4	Transmission from U.S. Senate Disbursing Office in Washington, DC, to Federal Reserve Bank in Atlanta, GA, instructing the Federal Reserve Bank to direct deposit money into Defendant's account at the Senate Federal Credit Union located in Alexandria, VA	8/31/2006	\$2,952.56
5	Transmission from U.S. Senate Disbursing Office in Washington, DC, to Federal Reserve Bank in Atlanta, GA, instructing the Federal Reserve Bank to direct deposit money into Defendant's account at the Senate Federal Credit Union located in Alexandria, VA	1/15/2007	\$2,566.49

All in violation of 18 U.S.C. §§ 1343 and 2.

COUNT SIX
18 U.S.C. §§ 641 and 2
Theft

25. Paragraphs 1 to 8 and 13 to 23 are incorporated herein by reference.

26. From January 2005 through at least January 2007, in the District of Columbia and elsewhere, defendant NGOZI POLE, did embezzle, steal, purloin, and knowingly convert to his use more than \$1,000 of money of the United States, the United States Senate, and the Office of United States Senator Edward M. Kennedy, that is, POLE engaged in a course-of-conduct through which he repeatedly caused the Senate Disbursing Office to pay him larger amounts of money than had been authorized by the Chief of Staff for whom he worked, and then hid the

existence of these larger-than-authorized payments by transmitting to the Chief of Staff records which falsely reflected that POLE had received only the authorized payments and not the larger payments which POLE actually had received.

All in violation of 18 U.S.C. §§ 641 and 2.

A TRUE BILL

FOREPERSON

RAYMOND N. HULSER
Acting Chief



M. Kendall Day
Ethan Levisohn
Trial Attorneys, Public Integrity Section
Criminal Division, U.S. Department of Justice