

STATE OF NEW YORK: COUNTY OF WESTCHESTER
MOUNT VERNON CITY COURT: CITY OF MOUNT VERNON

THE PEOPLE OF THE STATE OF NEW YORK

-against-

RICHARD THOMAS,

Defendant.

FELONY COMPLAINT

Angel LaPorte, an Investigator with the New York State Office of the Attorney General (the "OAG"), being duly sworn, deposes and says that between on or about September 14, 2015, and on or about May 31, 2017, in Westchester County and elsewhere in the State of New York, the defendant, Richard Thomas, committed the offenses of:

Grand Larceny in the Third Degree in violation of Penal Law ("PL") § 155.35, a class D felony, in that the defendant stole property and the value exceeded three thousand dollars. (1 count)

Offering a False Instrument for Filing in the First Degree in violation of PL § 175.35(1), a class E felony, in that the defendant knowing that a written instrument contains a false statement or false information, and with intent to defraud the state or any political subdivision, public authority or public benefit corporation of the state, he offered or presented it to a public office, public servant, public authority or public benefit corporation with the knowledge or belief that it will be filed with, registered or recorded in or otherwise become a part of the records of such public office, public servant, public authority or public benefit corporation. (2 counts)

Offering a False Instrument for Filing in the Second Degree in violation of PL § 175.30, a class A misdemeanor, in that the defendant knowing that a written instrument contained a false statement or false information, offered or presented it to a public office or public servant with the knowledge or belief that it would be filed with, registered or recorded in or otherwise become a part of the records of such public office or public servant. (2 counts)

The offenses were committed under these circumstances:

1. This complaint is based on my personal knowledge, my review of records and other materials obtained during the course of this investigation, including interview reports, as well as information provided to me by other members of the OAG with knowledge related to this investigation. I have not included every fact known to me concerning this investigation. Rather, I have set forth only those facts that I believe are sufficient to establish the necessary foundation for this complaint.

Background

2. The defendant Richard Thomas ("THOMAS") is the current mayor of the City of Mount Vernon, New York (the "City"). When THOMAS ran for mayor in the 2015 election, his campaign committee, the Friends of Richard Thomas ("FORT"), was registered with the New York State Board of Elections ("NYSBOE").

3. Both FORT's treasurer and THOMAS were authorized signers on the FORT bank account (the "FORT account") at People's United Bank.

THOMAS Received Personal Payments During the Campaign

4. In mid-September 2015, while THOMAS was running for mayor, three payments from three separate entities ("Company-1," "Company-2," and "Company-3") totaling \$2,800.00 were paid to THOMAS' personal American Express card (the "Thomas Amex").

a. The payments, made by three checks, all dated September 14, 2015, appeared to have covered the previous balance on the account.

b. Two of the checks, from Company-1 and Company-2 respectively, each had the word "Thomas" on the memo line.

c. All three companies are controlled by the same individual ("Individual-1").

THOMAS Took FORT Funds During the Campaign

5. On or about October 2, 2015, a \$6,400 withdrawal was made from the FORT account. THOMAS signed the withdrawal slip and a cashier's check was issued payable to THOMAS. THOMAS deposited this check into a personal checking account that THOMAS had at Citibank (the "Thomas Citi account") the same day. The words "expense reimbursement" were handwritten on the check. The deposit brought the balance in the Thomas Citi account from \$615.15, to \$7,015.15. THOMAS then spent the money on personal expenditures, such as the following items:

a. Two payments to the Ford Motor Company (\$1,213.89 and \$629.23). THOMAS and his wife were co-lessees on the vehicle lease agreement for a 2015 Ford Explorer. Ford Motor Company documents establish that at the time of the \$1,213.89 payment, THOMAS was 40 days late in making a payment, with a late charge tacked on as well. His previous payment had been 29 days late.

b. A check issued for \$2,050 from the Thomas Citi account (#606) for the monthly rental payment on a home that THOMAS rented for himself and his family.

c. A payment to GEICO for \$435.51. This payment covered amounts owed on three automobile insurance policies including the previously referenced Ford Explorer with THOMAS and his wife listed as authorized owners, as well as a 2012 Volkswagen Touareg with THOMAS listed as the owner, and a 2007 Nissan Quest registered to one of THOMAS' relatives.

d. Additional disbursements included an \$85.00 payment to the Internal Revenue Service ("IRS"), and two payments to Nordstrom's and The Home Depot each for \$35.00, as nominal payments towards previously incurred balances on consumer credit cards.

e. A "pre-authorized transfer" of \$237.79 was made to THOMAS' Checking Plus account, also held at Citibank. This payment went towards a credit line (loan) of \$13,800, on which, at the time, THOMAS owed approximately \$7,800.

f. A payment to Superior Payment Plan Inc., for \$342.64. This payment was for a "premium finance agreement" (or loan) of \$2,987.88, which THOMAS took out on March 11, 2015, and used to pay for homeowner's insurance on his family residence.

g. A payment on November 3, 2015 for \$638.11 was made to Bank of the West, which was for a \$40,000 consumer loan THOMAS had taken out in late March 2014 to purchase the previously referenced Volkswagen Touareg.

6. THOMAS was elected mayor of the City of Mount Vernon on November 3, 2015.

THOMAS Took FORT Funds After the Election

7. On or about November 6, 2015, THOMAS deposited a \$4,000 check into the Thomas Citi account, which he had previously issued to himself on October 31, 2015, from the FORT account.

a. The deposit brought the balance in the Thomas Citi account from \$136.15, to \$4,136.15.

b. Outflows from the Thomas Citi account were similar to the previous month for various personal payments, including rent on the family residence, automobile insurance, personal loans, and to the IRS.

c. This expenditure was never reported on a disclosure report to the NYSBOE.

THOMAS Received Another Personal Payment from Company-3

8. On November 16, 2015, a wire payment from Company-3's bank account at Westchester Bank for \$5,263.88 was made to the Thomas Amex.

a. No payment had been applied in October 2015 and at the time of the November wire payment from Company-3, the account was past due.

b. This payment appeared to have covered the October 2015 balance (\$4,544.83) along with additional charges that appeared on the November 2015 statement.

THOMAS Misappropriated Additional FORT Funds After the Election

9. On or about November 25, 2015, with the Thomas Citi account balance at approximately \$600, THOMAS issued himself a check from the FORT account for \$2,500.

a. The deposit brought the balance in the Thomas Citi account from \$603.70 to \$3,103.70.

b. After the funds were deposited into the Thomas Citi account, THOMAS used the funds towards a car payment for a personal family vehicle and personal loans.

10. In December 2015, after winning the election, THOMAS took his family on a vacation to Mexico.

a. On December 21, 2015, THOMAS used a credit card linked to the FORT account to pay for a \$118.84 meal (breakfast for four) in Terminal 5 at John F. Kennedy International Airport.

b. On December 29, 2015, another meal was charged to the FORT account at a Bubba Gump restaurant in the Benito Juarez Airport in Mexico City. The meal cost \$114.55 and incurred a \$3.44 charge for currency conversion.

11. I am informed by a knowledgeable employee of the NYSBOE, that pursuant to New York State Election Law, contributions received by a candidate or a political committee may not be converted by any person to a personal use which is unrelated to a political campaign or the holding of a public office or party position. I am further informed that contributions converted by any person to a personal use include expenditures that are exclusively for the personal benefit of the candidate or any other individual, not in connection with a political campaign or the holding of a public office or party position.

THOMAS Filed False Disclosure Reports with NYSBOE

12. On November 27, 2015, THOMAS submitted three disclosure reports for the 2015 cycle (the 32 Day Pre Primary, 11 Day Pre Primary, and 27 Day Post General reports) in three separate emails to the NYSBOE from his personal Gmail account.

a. THOMAS had used this same email address on his NYSBOE "Candidate's Authorization for a Committee to make Campaign Financial Disclosures" CF16-form filed with the NYSBOE in April 2011.

b. THOMAS disclosed to the NYSBOE in the 2015 27 Day Post General report (Schedule F), the November 25 \$2,500 payment to himself, referenced above in paragraph 10, as a "reimbursement."

c. By claiming that he was reimbursed for campaign expenditures that he never made, when in truth and in fact he was using campaign funds for personal use, THOMAS filed this document with false information.

13. On February 1, 2016, THOMAS submitted a 2016 January Periodic disclosure report to the NYSBOE on behalf of FORT.

a. THOMAS again used his personal Gmail account.

b. THOMAS falsely disclosed the previously described family breakfast at JFK Airport on the NYSBOE 2016 January Periodic filing as a housekeeping expense for "food." While the restaurant, OTG, was located at JFK Airport in Queens, THOMAS falsely listed the corporate address, 352 Park Avenue, on the disclosure as the place of expenditure.

c. Likewise, THOMAS falsely disclosed the previously described meal at a Bubba Gump restaurant in Mexico with the address of the Bubba Gump restaurant located in Times Square in Manhattan, rather than in Mexico. THOMAS also falsely designated the meal as a "volunteer appreciation" event, when in fact it was a meal with his family while on an international vacation.

The Richard Thomas Inaugural Committee

14. On or about December 29, 2015, "Individual-2", a certified public accountant, and "Relative-1," a close relative of THOMAS, opened a bank account for the Richard Thomas Inaugural Committee ("RTIC") at TD Bank (the "RTIC account").

a. Beginning in January 2016, various corporations and individuals donated to RTIC. THOMAS was involved in fundraising efforts. Between January 6, 2016, and January 27, 2016, more than \$180,000 was deposited into the RTIC account from donations.

b. Certain payments were made from the RTIC account consistent with planning a large event, including payments to a photographer, videographer, florist and printer. RTIC paid the country club where an inaugural gala was held more than \$50,000.

15. THOMAS was sworn in as mayor on January 4, 2016.

16. Shortly after taking office, THOMAS appointed Individual-1 -- the same person who had paid over \$8,000 towards the Thomas AMEX account -- to a high-ranking position with a City agency that deals with public safety, although he had no prior law enforcement experience.

17. Beginning in January 2016, funds from the RTIC account were used to pay the monthly balance on the Thomas Amex.

a. Both THOMAS and his wife were cardholders and used the Thomas Amex account for personal expenses.

b. On January 20, 2016, a payment for \$8,538.16 was made from the RTIC account to the Thomas Amex. Included in those expenses was the previously mentioned family vacation to Mexico.

c. On February 27, 2016, a payment for \$6,000 was made from the RTIC account to the Thomas Amex. Included in this balance was the purchase of a Chanel purse that cost more than \$2,000.

d. In both March 2016 and May 2016, two separate \$5,000 payments were made from the RTIC account to the Thomas Amex, totaling \$10,000.

May 2016 City-Required Filing

18. As mayor, THOMAS was required - pursuant to the City Charter -- to file a financial disclosure statement with the City's Board of Ethics on an annual basis. When THOMAS filed in 2016, there was no constituted board, so the Clerk of the City collected all disclosure statements from the required filers.

a. The disclosure statement requires filers to disclose various types of financial activity and income, including business positions, outside employment, real estate interests, gifts, debts, and honorariums.

b. The instructions required the filer to "FILL OUT IN DETAIL" and return by May 31, 2016. Exact dollar amounts were not required, but rather there are ranges identified by a letter (example "Category B: \$5,001 - \$10,000").

c. The form required filers to list the "source of all gifts aggregating in excess of \$250 received during the last year by you, your spouse or dependent children." The filer was asked to exclude gifts from a relative. According to the form, a gift "includes gifts of cash, property, personal items and complimentary events, payments to third parties on your behalf, forgiveness of debt, honorariums and any other payments that are not reportable as income."

19. THOMAS filed the 2016 statement on May 31, 2016.

a. In nearly all of the questions provided, including those concerning any business position with financial interests, investments, other income and assets, third-party reimbursements (for travel related to official duties) and gifts and honorariums, THOMAS' disclosure contained "N/A" and dashes through the fields. In the question concerning debts, the report listed three different "debts," including his school loans.

b. The previously described payments from Company-1, Company-2, Company-3, Individual-1 and RTIC to the Thomas Amex are gifts ("payments to third parties on your behalf"), debts, or income, and therefore, THOMAS should have disclosed them on his 2016 financial disclosure form.

c. By not disclosing the payments to the Thomas Amex on his disclosure statement, THOMAS withheld this information and thus filed the document with false information.

Additional Funding

20. In June 2016, THOMAS had a person, ("Individual-3"), pay money towards his tuition balance of approximately \$12,000 at New York University ("NYU") Stern School of Business. Individual-3 sent a \$6,000 check to NYU on behalf of THOMAS.

21. During this same period, THOMAS raised funds for RTIC using his title as mayor of the City. For example, on or about June 27, 2016, RTIC held "Mayor Richard Thomas' Inaugural Golf

Outing." Contributions to the event were to be made payable to RTIC.

22. RTIC continued to pay the Thomas Amex, which was used for personal expenses, in June 2016 (\$2,882.60), July 2016 (\$3,584.12), and August 2016 (\$2,320.22).

23. On August 18, 2016, two checks, each for \$8,500 (check numbers 261 and 262), were issued from the RTIC account to two separate entities, Company-4 and Company-5.

a. A close personal relative of THOMAS ("Relative-2") owns and operates Company-4. Another close personal relative of THOMAS ("Relative-3") owns and operates Company-5.

b. The \$8,500 RTIC check to Company-4 was deposited into Relative-2's JPMorgan Chase ("JPMC") business account, on August 19, 2016. The next day, \$8,000 was transferred to Relative-2's JPMC personal checking account. Two checks, both dated August 19, 2016, were then issued from Relative-2's JPMC personal checking account to THOMAS for \$6,000, and to another relative for \$2,000.

c. THOMAS' \$6,000 check was deposited into a joint checking account held with THOMAS' wife at Webster Bank.

d. The \$8,500 RTIC check to Company-5 was deposited into Relative-3's Westchester Bank business account on August 19, 2016. One check for \$8,000, which appears to have been originally dated August 18, 2016, but changed to August 19, 2016, was issued to THOMAS from Company-5's Westchester Bank business account and deposited into the Thomas Citi account. Prior to this deposit, the Thomas Citi account had an account balance of -\$6.21.

24. The RTIC account continued to pay the Thomas Amex, which was used for personal expenses, in October 2016 (\$5,320.99), November 2016 (\$2,993.18) and December 2016 (\$3,685.14).

25. In early December 2016, it is probable that THOMAS became aware of the investigation when I served subpoenas on FORT, RTIC and the Richard Thomas for Mayor campaign committees.

26. On April 19, 2017, THOMAS deposited \$11,900 into the Thomas Citi account.

a. \$2,200 of this deposit was cash. \$9,700 of the deposit was from two checks from two individuals ("Individual-4" and "Individual-5"). The check from Individual-4 was for \$4,800 and the check from Individual-5 was for \$4,900.

b. That same day, THOMAS wrote a check payable to RTIC for \$10,000.

May 2017 City-Required Filing

27. During the course of this investigation, THOMAS was again required to file a financial disclosure statement with the City's Board of Ethics. On May 31, 2017, THOMAS filed two statements - two hours apart - with the City Clerk.

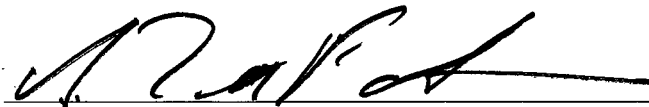
a. A review of his final submission, (stamped 5:05pm) was similar to the previous year's filing with "N/A" marked throughout a majority of the fields.

b. THOMAS listed RTIC in the "Debts" section with the "Category Amount" listed as "D" which denotes a range of \$25,001 to \$50,000.

c. The previously described payments from Relative-2 or Relative-2's business Company-4, Company-5, Individual-3, Individual-4, and Individual-5 - totaling nearly \$30,000 - are gifts, debts, or income, and therefore, THOMAS should have disclosed them on his 2017 financial disclosure form.

d. By not disclosing the payments THOMAS personally received on his disclosure statement, THOMAS withheld this information and thus filed the document with false information.

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



Investigator Angel LaPorte
New York State Office of the Attorney General

Dated: New York, New York
March 11, 2018