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APPLICATION AND AFFIDAVIT FOR SEARCH WARRANTS

Samantha Bell (SA Bell) and Richard J. Krug (SA Krug),
being duly sworn, do depose and say:

INTRODUCTION

1. Samantha Bell is a Special Agent with the Federal Bureau of Investigation and has been so employed for 6 years. She is currently assigned to Squad 15 of the Pittsburgh Field Office of the FBI. Squad 15 investigates crimes involving government fraud, public corruption and civil rights in the Western District of Pennsylvania. As a Special Agent of the FBI, she is empowered to investigate a wide range of offenses under Title 18, United States Code. These crimes, among many others, include mail fraud, wire fraud, money laundering, bribery, extortion, theft of honest services. She is also empowered to investigate campaign finance offenses. She has participated in several investigations of such crimes using, among other techniques, wire and physical surveillance, surveillance of undercover transactions, the introduction of undercover agents, cooperating witnesses, and confidential informants, the execution of search warrants, debriefings of informants and other witnesses, and reviews of taped conversations. Through her training, education and experience, she has become familiar with investigating crimes involving government fraud, public corruption, and civil rights.

2. Richard Krug, Jr. has been a Special Agent of the Internal Revenue Service - Criminal Investigation for approximately eleven years. He is presently assigned to the IRS-CI Pittsburgh office. His responsibilities include the investigation of possible criminal violations of the Internal Revenue laws (Title 26, United States Code), the Currency and Foreign Transaction Reporting Act (Title 31, United States Code), the Money Laundering Control Act (Title 18, United States Code), and related offenses. SA Krug has attended IRS-CI training classes relative to the investigation and prosecution of tax violations under Title 26, United States Code, Sections 7201, 7203, 7206(1), 7206(2), and 7212(a) as well as Title 18, United States Code, Sections 1956, 1957, and 371. He has personally conducted or assisted in numerous investigations of alleged criminal violations of the Internal Revenue laws. He has also participated in the execution and planning of many search and seizure warrants in the Western District of Pennsylvania. These warrants covered the search of locations ranging from residences and business offices of subjects, to business offices used by accounting and tax professionals.

3. The facts in this affidavit come from our personal observation, training and experience, and information obtained from other agents with the FBI, IRS-CI, and U.S. Department of Education-OIG, and non-law enforcement witnesses. Because this

affidavit is submitted for the limited purpose of providing probable cause for searches of the identified premises, it does not set forth each and every fact uncovered in the investigation.

LOCATIONS TO BE SEARCHED

4. This affidavit is submitted in support of an application for warrants to search the following locations:

a. The offices of Nicholas Trombetta and Brenda Smith located within Pennsylvania Cyber Charter School headquarters, 1200 Midland Avenue, Midland, PA 15059. These premises are further described as a one story, red and tan brick commercial building with tan concrete surrounding the glass front entrance, located at 1200 Midland Ave, Midland, PA 15059. Located in front of the building are a flag pole with an American flag, a stone sculpture and a blue sign with yellow writing that reads: "1200, PA CYBER CHARTER SCHOOL, 1-888-PACYBER." There is a FedEx dropbox located on the curb in front of the building. Once you enter the building you immediately come to a reception desk. Nicholas Trombetta's and Brenda Smith's office are at the end of the hall to the immediate left of the reception desk. Neither have their name on the door. However, they are unique in that Smith's office has a copier in it and has a door connecting it to Trombetta's office. Trombetta's office has footballs, basketballs and a TV cabinet in it. These are visible through the window from

the street outside, which shows that Trombetta has not cleaned out his office at the Pennsylvania Cyber Charter School.

b. The offices of Avanti Management Group (Avanti), located at 50416 Calcutta Smithferry Road, East Liverpool, Ohio 43920. Avanti is located at 50416 Calcutta Smithferry Road, East Liverpool, Ohio 43920, a farmhouse located approximately 130 meters north of the intersection of Calcutta Smithferry Road and a paved drive. A sign at said intersection points the way to the farmhouse with an arrow and wording which reads, "50416 STRAIGHT AHEAD AND TO THE RIGHT." The farmhouse is more particularly described as a two-story structure constructed of light colored red brick with a grayish metal roof and a large front porch which is painted in white trim. There is a chimney on the eastern side of the roof. There are five windows on the upper floor, and four windows on the bottom floor of the front of the farmhouse, which are painted in white trim. There is an addition built onto the northern side of the original farmhouse that is constructed in part of light brown siding. There is a large white barn with a red concrete block or brick substructure located to the north west of the farmhouse.

c. The residence of Elaine Trombetta Neill located at 180 Hall Road, Aliquippa, Pennsylvania 15001. Elaine Trombetta Neill is the President and Owner of One2One, Inc. The residence is

further described as a single family residence, grey in color with white trim and a dark colored front door with a window in the center, and has a handicap access ramp to the front door. The dwelling is located on Hall Road and is accessed by the first driveway on the left hand side upon turning onto Hall Road from W. Woodland Drive.

d. The residence located at 106 Woodridge Drive, Aliquippa, Pennsylvania 15001. This premises is the residence of Elia Trombetta, the mother of Nicholas Trombetta and Elaine Trombetta Neill. It is also the address of One2One, a company owned by Neill. It is further described as a single family residence, one-story, beige in color. The number 106 is located on the front of the house by the attached garage.

e. The office of certified public accountant Neal Prence, d/b/a Prence LLC, 2501 2nd Avenue, Koppel, Pennsylvania 16136. The premises is further described as a three story yellow brick single family detached home that has been converted to the offices of Prence LLC. Affixed to the outside of the building next to the front door is the house number 2501. The location is further identified by a large sign in the front yard which reads "PRENCE, LLC, CERTIFIED PUBLIC ACCOUNTANTS. 724-846-0668." Upon entering the front door, Prence's office is directly to the left, and on the right a second office is occupied by Cindy Oliver.

There is a kitchen in the left rear of the house and one additional room on the right rear of the building which is used for storage. The second floor of the building consists mostly of storage and a play area for the child of Neal Prence and Cindy Oliver. It is unknown if the third floor of the building contains any office or storage space.

SUMMARY OF INVESTIGATION

5. As shown in detail below, Nicholas Trombetta (Trombetta) was the founder and, until June 30, 2012, the Chief Executive Officer (CEO) of the Pennsylvania Cyber Charter School (PCCS). PCCS is funded by direct payments from public school districts, as well as from state and federal grant monies. As CEO of PCCS, Trombetta was paid a salary of approximately \$150,000 per year. Trombetta's federal income tax returns for relevant years declare his PCCS salary as the large majority of his income. However, he has used his position as Chief Executive Officer of PCCS, and his de facto control of two other entities, National Network of Digital Schools (NNDS) and Avanti Management Group (Avanti), to enrich himself without reporting income related to those entities. Such income resulted from contracts between PCCS and NNDS, and between NNDS and Avanti, which were used to funnel PCCS money to Avanti, where it was then disbursed to Trombetta through payments to entities he controls and to provide him with

personal benefits, such as the use of a Florida home and the use of private airplane.

6. As set forth below, it also appears that Trombetta has used his position as CEO of PCCS to enter into a kickback scheme with a computer vendor, NCS Technologies (NCS). The investigation has revealed that for every computer purchased by PCCS, NCS sends a \$50 payment to Avanti, even though it appears that there is no legitimate business relationship between Avanti and NCS.

7. One2One is a company owned by Trombetta's sister, Elaine Trombetta Neill. Both Elaine Neill and Trombetta are signatories on One2One's bank account. As set forth below, any current legitimate work performed by One2One is difficult to ascertain, and the company appears to be an entity whose primary purpose is to receive funds for the benefit of Trombetta. Such funds are paid directly to One2One from Avanti, and also from outside entities. Some of the payments to One2One are from contractors who do business with PCCS or NNDS, again indicating that such payments may be unlawful kickbacks.

8. The investigation has also revealed the PCCS has entered into certain real estate transactions, which may be to the financial detriment of PCCS, but to the benefit of NNDS and Avanti, with a portion of the profits enriching Trombetta.

9. The evidence developed to date has come from four primary sources: 1) Interviews of two cooperators, CHS#1 and CHS#2, as more fully described below; 2) consensual recordings made by CHS#1 and CHS#2 in cooperation with the FBI; 3) records and documents gathered in the investigation thus far, including certain bank records; and 4) a court-authorized Title III interception of the cellular telephone used by Trombetta. The court-authorized interception was authorized by United States District Judge Terrence F. McVerry at Misc. No. 12-212. Interceptions began on May 22, 2012 and have continued uninterrupted since that date. Interceptions consist both of voice transmissions and text messages.

10. As shown below, there is probable cause to believe that Nicholas Trombetta and others have committed, and continue to commit, violations of the following federal criminal statutes:

(a) Wire Fraud (Title 18, United States Code, Section 1343), (b) Mail Fraud (Title 18, United States Code, Section 1341), (c) Misapplication of federal funds (Title 18, United States Code, Section 666), (d) Conspiracy (Title 18, United States Code, Section 371), (e) Prohibitions on making campaign contributions through conduits (Title 2, United States Code, Sections 441f), (f) Tax Evasion (Title 26, United States Code, Section 7201), (g) Klein Conspiracy (Title 18, United States Code, Section 371), (h) Making

and Subscribing a false tax return under penalty of perjury (Title 26, United States Code, Section 7206(1)), and (i) Aiding and assisting the preparation of a false tax return (Title 26, United States Code, Section 7206(2)).

CONFIDENTIAL SOURCES

11. Two primary confidential human sources have assisted the government in this investigation. The confidential human sources are labeled "CHS" (followed by a number designation) for the sake of brevity.

12. CHS#1 and CHS#2 began providing information to the FBI in the winter of 2011-2012. CHS#1 and CHS#2 are both long-time employees and associates of Trombetta. CHS#1 has known Trombetta since 2001, while CHS#2 has known Trombetta since 2000. CHS#1 and CHS#2 were hired by Trombetta in the early 2000's as employees of PCCS. When Trombetta founded NNDS in 2005, he transferred each of them to NNDS. Then, in 2008, when Trombetta caused Avanti to be created, he again had CHS#1 and CHS#2 change their employment, this time to Avanti, where both are currently employed. CHS#1 and CHS#2 are each 25% owners and officers of Avanti. CHS#1 is the Chief Executive Officer of Avanti; CHS#2 is the President of Avanti. Thus, CHS#1 and CHS#2 are the highest ranking officers at Avanti. They began cooperating with the FBI after their individual attorneys jointly approached the United States Attorney's Office in

late December 2011. No federal law enforcement agency had an open matter relative to the allegations set forth in this Affidavit prior to CHS#1 and CHS#2 coming forward. Counsel for CHS#1 and CHS#2 negotiated an immunity agreement with the government on their behalf in return for their full, complete and truthful cooperation. CHS#1 and CHS#2 were granted letter immunity by the United States Attorney's Office (USAO), Western District of Pennsylvania (WDPA). On July 5, 2012, court-ordered immunity was granted to each of them by a United States District Judge.

13. The information provided by CHS#1 and CHS#2 has consistently been found to be reliable. Information furnished by CHS#1 and CHS#2 has been corroborated via physical surveillance, review of tax returns, bank and other financial records, consensually monitored recordings, the Title III interceptions and a review/analysis of other records. Additionally, via their legal counsel, CHS#1 and CHS#2 have provided significant documentary evidence and financial records which have further corroborated information they have furnished. Neither CHS#1 nor CHS#2 has a criminal record. No promises have been made to either CHS#1 or CHS#2 in return for their cooperation, other than the immunity discussed above.

REDACTED

BACKGROUND

Pennsylvania Cyber Charter School (PCCS)

14. According to CHS#1 and CHS#2, in or around July 2000, Trombetta and others created a cyber charter school, PCCS, which was granted a charter to operate a public charter school located in Midland, Beaver County, Pennsylvania. In 2000, PCCS began with approximately 500 students. As of 2011, PCCS had an enrollment of over 9500 students. Until his retirement on June 30, 2012, Trombetta was the Chief Executive Officer for PCCS and, as such, oversaw the daily operations of PCCS. (SA Bell has confirmed this information, provided by CHS#1 and CHS#2, from the PCCS's website www.pacyber.org). The headquarters of PCCS is presently located at 1200 Midland Avenue, Midland, PA 15059.

15. According to CHS#1 and the most recent Charter Annual Report for PCCS,¹ PCCS receives federal funding (consisting of Title I funds, Title II funds and what are called 'E-Rates') both directly and indirectly, in excess of \$3,000,000 per year. PCCS also receives money directly from the Commonwealth of

¹ The most recent Charter Annual Report for PCCS available on the Pennsylvania Department of Education web site is the one dated February 14, 2011. References to the PCCS "annual report" are to this document.

Pennsylvania. Most of PCCS's funding comes from the individual school districts whose students are enrolled at PCCS.² A formula determines the amount that each school district pays PCCS for every student from that school district who attends PCCS. According to the formula, the school district pays PCCS approximately 80% of the cost of a student attending a "brick and mortar" public school within the district. According to CHS#1 and CHS#2, PCCS had annual revenue of approximately \$100,000,000 for the last fiscal year. (SA Bell confirmed these figures, provided by CHS#1 and CHS#2, through the U.S. Department of Education).

16. Although PCCS is governed by a board, CHS#1 and CHS#2 characterize the board as "captive" to Trombetta. That is, the board does as Trombetta directs with little if any independent planning or resistance to Trombetta's instruction. Trombetta is able to have this control, in part, because individuals in Midland, including family members and friends of other board members, rely on the jobs that Trombetta has created in the Midland area.

17. According to the PCCS annual report, PCCS is a "public charter school whose doors are open to any qualified resident student in Pennsylvania." PCCS Annual Report, Section I.

² Of course, some of the money paid by local school districts to PCCS is comprised of federal and/or state funds which were granted to that school district.

PCCS's most recent reapplication for a charter was approved by the Pennsylvania Department of Education and is effective for the period July 1, 2010 to June 30, 2015. Id. Nick Trombetta is listed as the CEO. Id., Section V. He is a non-voting member of the Board of Trustees, as is Brenda Starr-Smith, the Secretary for the Board. Id. As a public school, PCCS does not hold fund raising activities. Id., Section VI.

**PENNSYLVANIA ETHICS LAWS GOVERNING CYBER CHARTER
SCHOOLS AND ITS OFFICIALS AND EMPLOYEES**

18. Pursuant to Title 24, Pennsylvania Consolidated Statutes Annotated, Section 17-1749-A(a), cyber charter schools are subject to numerous provisions of the charter school law, including Section 17-1715-A. Section 17-1715-A(12) of Title 24, Pennsylvania Consolidated Statutes Annotated, provides:

A person who serves as an administrator for a charter school shall not receive compensation from another charter school or from a company that provides management or other services to another charter school. The term "administrator" shall include the chief executive officer of a charter school and all other employees of a charter school who by virtue of their positions exercise management or operational oversight responsibilities. A person who serves as an administrator for a charter school shall be a public official under 65 Pa.C.S. Ch. 11 (relating to ethics standards and financial disclosure).

A violation of this clause shall constitute a violation of 65 Pa.C.S. § 1103(a) (relating to restricted activities) and the violator shall be subject to the penalties imposed under the jurisdiction of the State Ethics Commission.

19. Thus, as a "public official" in his role as CEO of PCCS, Trombetta was subject to the Pennsylvania Public Official & Employee Ethics Act which prohibits certain conflicts of interest. Section 1103(a) of Title 65, Pennsylvania Consolidated Statutes Annotated, provides:

(a) Conflict of Interest - No public official or public employee shall engage in conduct that constitutes a conflict of interest.

Section 1102 defines "Conflict" or "conflict of interest" as follows:

Use by a public official or public employee of the authority of his office or employment or any confidential information received through his holding public office or employment for the private pecuniary benefit of himself, a member of his immediate family or a business with which he or a member of his immediate family is associated. The term does not include an action having a de minimis economic impact or [which affects the public or an industry class to the same degree].

Violation of Section 1103 constitutes a felony punishable by up to five years in prison. 65 Pa.C.S.A. § 1109(a). This law

is intended to fulfill the policy enunciated by the state legislature in Section 1101.1(a) of Title 65: "The Legislature hereby declares that public office is a public trust and that any effort to realize personal financial gain through public office other than compensation provided by law is a violation of that trust."

20. Trombetta, as CEO of a public cyber charter school, was subject to the conflict of interest law cited above. On an annual basis, Trombetta signed a document entitled, "Assurance for Compliance with the Public Official & Employee Ethics Act" assuring, as CEO, that PCCS would comply with all requirements of the Act. It is important to note that PCCS is the only entity with which Trombetta had a formal relationship. As shown below, although he effectively controlled all aspects of the business of NNDS and Avanti, he has no formal role or affiliation with either company - he is not an officer, director, or employee of NNDS or Avanti. He has no formal ownership interest in Avanti.

National Network of Digital Schools (NNDS)

21. According to CHS#1 and CHS#2, in 2005 Trombetta and others started a non-profit company, the National Network of Digital Schools (NNDS). NNDS is a management company and curriculum provider for cyber schools. (SA Bell has confirmed the information provided above through the NNDS website). According to

CHS#1 and CHS#2, NNDS's first and most profitable contract is for providing management services and curriculum to PCCS. Trombetta was initially listed as the President of NNDS, but later removed his name after being told it was a conflict of interest for NNDS to do business with PCCS if Trombetta was associated with both entities. (SA Bell confirmed, through a newspaper article, that Trombetta was the founder of NNDS but is no longer listed as an officer of NNDS). NNDS is located at 100 Third Street, Suite 2, Beaver, Pennsylvania 15009 (no search warrant is being sought for NNDS).

22. According to CHS#1 and CHS#2, NNDS currently provides management services to PCCS (for a fee of 12% of the total revenue of PCCS) and sells curriculum to PCCS. The amounts representing curriculum sales are not included in the 12% fee but are cost based, per student per course. CHS#1 and CHS#2 advised that NNDS had gross revenue of approximately \$50,000,000 last year, with approximately 80% of that revenue being generated from NNDS's contract with PCCS. As mentioned before, CHS#1 and CHS#2 were both previously employed by NNDS. Because PCCS is a public institution, the money provided to NNDS from PCCS constitutes taxpayer funds (a substantial portion of which consists of federal funds).

23. NNDS is governed by a board. CHS#1 and CHS#2 believe that this board is effectively controlled by Trombetta and

simply does as he directs them. Trombetta is able to have this control because he has hand selected the board members and the majority of the board members have family members employed by one of the companies Trombetta controls.

24. As an example of Trombetta's control, per a Title III interception in this investigation, on June 13, 2012, Trombetta left a voicemail message for a female named Mimi and said, "Hey just wanted to give you a heads up, everybody is getting 3%. Avanti, NNDS, the universe." From the context and from other texts and conversations it is clear that this 3% is a salary increase. Trombetta appears to have authority to set the pay rate for companies with which he has no formal affiliation.³

Avanti Management Group (Avanti)

25. As previously stated, CHS#1 and CHS#2 are officers/employees of Avanti and as such have substantial information regarding Avanti's activities and Trombetta's use of Avanti to channel taxpayer funds from PCCS to his own use. In 2008, Trombetta told CHS#1 and CHS#2 that they would be leaving the employ of NNDS, and become the CEO and President, respectively, of

³ All summaries of conversations are approximations of the conversations in question. They are not meant to be read or understood as verbatim transcriptions. They are submitted, in certain instances, in transcript form so as to give the reader a sense of the substance of the exchange.

a new company named Avanti Management Group (Avanti). Avanti is a for-profit limited liability company. Avanti's principal and most profitable contract is with NNDS, for which Avanti is supposed to provide management, marketing and consulting services. According to CHS#1 and CHS#2, Avanti provides education management support to NNDS for a fee of 13% of the total gross revenue of NNDS, regardless of the source of the revenue. (SA Bell confirmed the above information provided by CHS#1 and CHS#2 through a report created by Horovitz, Rudoy & Roteman, certified public accountants and business advisors hired by NNDS to review the contract between NNDS and Avanti. The terms of the contract between NNDS and Avanti have been in place since July 1, 2008. According to the Horowitz report, the terms of the contract originally gave Avanti a 13% fee based on NNDS's revenue generated solely from the sales of Lincoln Interactive, an on-line curriculum product. However in March 2010 the 13% fee to Avanti was expanded to cover all revenue received by NNDS, not just revenue from sales of Lincoln Interactive curricula. The Horowitz report was provided to the government by CHS#1 and CHS#2.)

26. In 2011 Avanti's revenue was approximately \$9,000,000. (SA Bell confirmed Avanti's 2011 revenue information through bank records and tax returns which were provided by CHS#1 and CHS#2). As NNDS is primarily funded by PCCS and PCCS's income

is primarily from local school districts and the federal government, the money provided to Avanti from NNDS also originates with those same sources.

27. The operating agreement for Avanti states that Avanti is owned by four individuals, CHS#1, CHS#2, Rebecca Manning (Manning) and Robert "Coach" Babish (Babish). Per CHS#2, Trombetta stated that Manning and Babish would join Avanti as Vice Presidents. According to CHS#1 and CHS#2, Babish is in charge of operating an entity known as The Digital Print Shoppe (which is in fact a printing shop), an entity owned/controlled by Avanti. Manning, one of the supposed owners of Avanti, actually works full time as the CEO of Lincoln Park Performing Arts Charter School (LPPACS), per the instructions of Trombetta. (SA Bell has confirmed that Manning is the CEO of LPPACS through its website). Trombetta handpicked CHS#1, CHS#2, Manning and Babish (Trombetta's former high school football coach) to be the nominee owners of Avanti. While Trombetta's name appears nowhere as an officer, owner, employee or independent contractor of Avanti, Trombetta in fact directs and controls virtually all of the decisions made by or which affect Avanti. Per CHS#1 and CHS#2, they and the other two owners were given these positions by Trombetta because of their willingness to comply with his directives. For instance, Trombetta directed Avanti to purchase a plane (which he uses far more than

anyone else), to purchase his luxury vacation home in Florida (which he still uses), to purchase his former girlfriend's residence, and to purchase at least one vehicle for his personal use, as is detailed below. Trombetta possesses an Avanti company credit card, upon which he has charged personal items unrelated to Avanti. According to CHS#1 and CHS#2, Avanti purchased vehicles for the four owners⁴ as well as for Trombetta. (SA Bell has confirmed this information through documents provided by CHS#1 and CHS#2).

28. The operating agreement for Avanti lists the four owners of Avanti as each having a 25% ownership interest. Avanti's federal tax returns also list CHS#1, CHS#2, Babish and Manning as officers and 25% owners, for a total of 100%. However, both CHS#1 and CHS#2 advised that there was an unwritten (CHS #1 has indicated this agreement may have also been put in writing at one point, but

⁴ For ease of reference, CHS#1, CHS#2, Babish and Manning are referred to throughout this Affidavit as the "owners" of Avanti. However, "owners" in this context is used in the sense that they are owners on paper (per the operating agreement), but with the understanding that Trombetta is the true owner of Avanti, as he controls and directs all of its operations, and has told the four "owners" that they are essentially placeholders for him until he is no longer affiliated with PCCS and can assume legal ownership of Avanti or any successor corporation. CHS#1 and CHS#2 both informed the government, at the outset of their cooperation, that they did not consider themselves to actually own 25% of Avanti, but rather were owners on paper at the behest of the true owner, Trombetta.

CHS#1 does not have a copy) agreement, understood and accepted by all four "owners," that Trombetta would, at some future time, retire from his position at PCCS and take ownership of Avanti. At that time, Trombetta's stated intention was that he would take an 80% ownership position in Avanti and each of the four named "owners" would convert their 25% ownership share into an interest of only 5% of the company. The consideration for this conversion of a 25% interest into a 5% interest was to be a lump sum payment to each of the four individuals of \$500,000. (However, in June 2012, Trombetta advised the four that the previous arrangement would be voided to the extent that there would be no \$500,000 payment.) Shortly after the particulars of this agreement were discussed, Trombetta advised that when he assumed a controlling interest in Avanti, he would bring Sean Tanner, the current Superintendent for Midland School District, into Avanti as an owner. Trombetta further advised that Sean Tanner would also get a 5% ownership share of the company. The four original 'owners' had no say in the arrangement involving Tanner. (SA Bell has confirmed the information above, which was provided by CHS#1 and CHS#2, by reviewing the operating agreement, which was provided by CHS#1 and CHS#2, and by listening to several consensually recorded conversations (February 7, 2012 and February 15, 2012), in which

Trombetta talks about this unwritten agreement and his ownership of Avanti).

29. According to CHS#1 and CHS#2, Sean Tanner receives a monthly check of \$2,000 from Avanti. CHS#1 and CHS#2 advised that shortly after Trombetta said that Sean Tanner would become a part owner of Avanti, Trombetta instructed that monthly payments be made to Sean Tanner. Neither CHS#1 nor CHS#2 know the purpose of the payments and are unaware of any work performed by Tanner for Avanti. (CHS#1 and CHS#2 have provided copies of the monthly checks paid to Sean Tanner).....

30. On June 23, 2012, Trombetta engaged in a telephone conversation with Manning which corroborates the above described arrangement:

RM: I was just going to say because business is growing in Florida.

NT: So, we're doing business in Florida, so we go down there. Yeah. I mean. Now, do you fill out an ethics form? Yes.

Manning: Yes

NT: On the ethics form do you put down who pays you, Avanti?

RM: I put down that I'm a 25 percent owner.

NT: You're a five percent owner.

RM: I meant, what?

NT: You're only a five percent owner honey.
Are you a 25 percent owner?

RM: Yeah

NT: You bitch. I gave you more? I got
nothing then.

RM: No, until you move over, remember we're
all ...we all have 25 (talking over each
other)

NT: Yeah, you're 25 percent owners. Yeah
you're right. That's good. That covers me.
See, I mean.

RM: I know. That must have been on my ethics
form ever since.

NT: Yep, you put it on there every year,
you're 25 percent owner.

RM: Yep

NT: And what do you get for that? You get
\$125,000 dollars a year.

RM: Yep

31. Most recently Trombetta has formed a new company in Ohio called Presidio. Trombetta has told the Avanti "owners" that Presidio will take over the contracts of Avanti and that if they wish to continue in their present work they will have to go to work for him (at Presidio). This action would appear to be consistent with Trombetta's long held and stated plan to "take over" Avanti after his retirement from PCCS.

Neal Prence

32. Neal Prence is the owner of Prence LLC, an accounting firm. The firm is located in a building located at 2501 2nd Avenue, Koppel, Pennsylvania 16136. Prence is a certified public accountant. Prence is the accountant for Avanti. In preparing Avanti's tax returns, he includes the tax information for Palatine Development, LLC, Digital Print Shoppe, and Prima Child Care, all of which are subsidiaries of Avanti and thus are included on Avanti's consolidated tax return. He prepares the individual federal and state income tax returns for Trombetta, CHS#1, CHS#2, Babish, Manning, Sean Tanner and Elaine Trombetta Neill. He also is the accountant for and prepares the returns for One2One (see below). Per CHS#1, Prence did the 2009, 2010 and 2011 annual audits for NNDS. As set forth below, he is involved in the activity directed by Trombetta which is designed to conceal Trombetta's affiliation with Avanti from public disclosure.

One2One

33. According to CHS#1 and CHS#2, One2One is a company owned by Elaine Trombetta Neill, Trombetta's sister. This is verified by review of Elaine Trombetta Neill's federal income tax returns for the years 2006 to 2010, wherein she reports One2One as a Schedule C business. As a Schedule C business on Neill's personal return, One2One appears to be solely owned by her.

According to CHS#1 and CHS#2, One2One originally existed to provide consulting services for the establishment of a day care center for Midland. According to CHS#1, once the day care center was built, One2One's role ended and Prima Childcare LLC, was incorporated to operate the day care center, which is known as Prima Learning Center. Prima Childcare LLC was a wholly owned subsidiary of Avanti. Avanti sold it to NNDS. It was incorporated on January 22, 2010 with a mailing address of 2501 Second Avenue, Koppel, PA 16136 (the address of Prence LLC).

34. Trombetta has caused Avanti to make significant and regular payments to One2One. Despite the fact that CHS#1 and CHS#2 are the CEO and President of Avanti, neither knows the purpose of the payments made to One2One by Avanti, as directed by Trombetta. Both CHS#1 and CHS#2 recall conversations in which Trombetta described the money that goes to One2One from Avanti as his "consulting fee."

35. In 2008, not long after the creation of Avanti, Trombetta directed CHS#1 to make a disbursement of \$50,000 from Avanti's bank account to Trombetta. CHS#1 drew up a promissory note documenting what CHS#1 believed to be a loan from Avanti to Trombetta. When Prence, the accountant for Avanti, saw the promissory note he told CHS#1 "stop it with the stupid paperwork shit." CHS#1 then wrote two separate checks for approximately

\$25,000 each, days apart from one another. At the time the checks were drawn, CHS#1 had no knowledge as to why Trombetta required the money. CHS#1 recalled that Trombetta later stated that one check was used to pay for his daughter's graduation party. CHS#1 indicates that the \$50,000 has not been repaid.

36. According to CHS#1 and CHS#2, after this event, Avanti began paying Prence's accounting firm \$10,000 a month. CHS #1 believes that Prence would take a portion of that payment and give it to Trombetta in cash. CHS#1 believes these monthly payments between Prence and Trombetta began shortly after Avanti was created. CHS#1 cannot recall how much Prence's accounting firm was paid prior to the payments of \$10,000 a month. After about a year of this activity, Trombetta told CHS#1 "I can no longer accept cash in bags in a Pizza Hut parking lot." According to CHS#1, it was after this statement was made by Trombetta that regular payments by Avanti to One2One started. The pattern of activity indicates that Trombetta first received cash payments from Avanti through Prence; however, Trombetta modified this arrangement by requiring that payments be made by Avanti to his sister's company, One2One. These monthly payments from Avanti to One2One began as \$12,000 per month in September 2009; they were subsequently increased to \$18,000 per month in August 2010.

37. On January 3, 2012, at approximately 5:40 pm, CHS#1 received a text message from Prence, telephone number 724-944-1901, regarding a \$90,000 check from Avanti to One2One. The content of that text exchange reads as follows:

Neal Prence: FYI - I SPOKE TO THE MAN TODAY. HE AUTHORIZED A \$90k CHECK TO ONE2ONE FOR YEAR END SERVICES. NOT YET PAID. Date 12-30 [Meaning the check was to be dated 12/30/2011]

CHS#1: Ok. Go ahead and send to Marsha [Marsha is an administrative assistant in the offices of Avanti who frequently prepares checks for the signatures of CHS#1 and CHS#2. According to CHS#1 and CHS#2, at that time the checks for Avanti were maintained at Prence's office].

38. According to CHS#1, when Prence refers to "THE MAN" and "HE" in his text message to CHS#1, he is referring to Trombetta. According to CHS#1, this \$90,000 payment to One2One had something to do with Trombetta's mother's house. However, CHS#1 was never told by Trombetta and/or Prence the purpose of the \$90,000 payment. SA Bell was shown the above text message by CHS#1. According to CHS#1 and CHS#2, Marsha Rizzilli, an administrative assistant at Avanti, is tasked by Trombetta with issuing various checks from the Avanti account pursuant to his instructions.

39. On January 4, 2012, Elaine Trombetta Neill came to the Avanti office with the \$90,000 check for CHS#1 to sign. CHS#1 signed the check and returned it to Neill. A review of toll

records shows that the Trombetta contacted Prentice's telephone number, 724-944-1901, on January 3, 2012 at approximately 4:42 pm, which was approximately one hour before Prentice sent the text message to CHS#1 regarding the \$90,000 check (which was brought to the Avanti office the next day by Trombetta's sister). Review of the One2One bank account confirms the deposit of the \$90,000 check from Avanti to One2One.

40. According to bank documents provided by Huntington Bank, Elaine Trombetta Neill opened a checking account for One2One on January 11, 2006 with SKY BANK. The account was modified on July 7, 2006, to include Nicholas Trombetta as an account holder with signatory authority on the One2One account. Huntington Bank later purchased Sky Bank. Review of the One2One checking account records for 2008 to 2011 reveals that approximately \$971,601 was deposited into the account. Of that total, approximately \$452,900 came from Avanti. An analysis of Huntington Bank account number 0159764626, in the name of One2One, identified bank deposit items written by the following individuals/entities to include: Pascal M. Nardelli (aka) Pat Nardelli, Avanti Management Group (Avanti), Palatine Development, LLC, Martlin Management, Inc., National Network of Digital Schools (NNDS), Castlebrook Development Group, LLC, Castlebrook Management, LLC, Buckeye Online School for Success (BOSS), Kellaur Corp. (owned by Karen Dorsch), Academic Leadership

Services, National Cyber School Management Inc. (NCSM), and Gem Real Estate.

41. Approximately \$55,000 in checks were written directly from the One2One account to Trombetta or to cash and were then endorsed by Trombetta. Monthly transfers between \$500 to \$2,000 are regularly made from the One2One account into Neill's personal account and into Elia Trombetta's personal account. Elia Trombetta is the mother of Nicholas Trombetta and Elaine Trombetta Neill. According to a Huntington Bank representative, two credit/debit cards were issued for the account, one to Nicholas Trombetta and one to Elaine Trombetta Neill. Both cards are used regularly for purchases at restaurants, gas stations, grocery stores and department stores, reflective of personal transactions. There are also regular monthly payments to Chrysler Financial and "W. Pennsylvania Comm1 Loan." It is clear from the records of the various transactions that Trombetta uses the One2One accounts to funnel money to himself and to other family members from Avanti.

42. When it was incorporated, One2One's address was 611 Owens Street, Aliquippa, Pennsylvania 15001. Old invoices and checks for One2One list this address. The Owens street house was the residence of Elia Trombetta. However, the Owens Street house is now empty and for sale. Elia Trombetta's new residence is 106 Woodridge Drive, Aliquippa, Pennsylvania. CHS#1 has confirmed that

the address of One2One is now 106 Woodridge. In March 2012, Elaine Neill told Marsha Rizilli, CHS#1's administrative assistant, that the new address for One2One was 106 Woodridge. Invoices from One2One now contain the address 106 Woodridge. CHS#1 sends checks payable to One2One from Avanti to the 106 Woodridge address. However, One2One also uses the address of Elaine Trombetta's Neill's residence at 180 Hall Road, Aliquippa, Pennsylvania 15001. Agents conducted trash pulls at 180 Hall Road on June 20 and 27, 2012. Located in the trash were numerous items addressed to One2One or One to One Enterprises LLC. Some items were addressed to One2One at 611 Owens Street; others were addressed to 180 Hall Road. For instance, a letter from the Pennsylvania Department of Revenue dated March 21, 2011 was addressed to ONE TO ONE ENTERPRISES LLC, 180 Hall Road, Aliquippa, PA 15001-1429. Mail from Huntingdon National Bank to One2One has the 611 Owens Road address, but was thrown out in the trash at 180 Hall Road. A One2One purchase order form, dated September 21, 2009 for a Konica color copier/printer/scanner/fax has the 611 Owens Road address but was thrown out in the trash at 180 Hall Road. Check stubs for One2One from Castlebrook Development Group, LLC, both dated December 2, 2011 were thrown out in the trash at 180 Hall Road.

EVIDENCE OF KICKBACKS TO TROMBETTA

NCS Technologies

43. CHS#1 advised that PCCS has had a contract with NCS TECHNOLOGIES (hereinafter NCS) a computer sales company operating out of Virginia, to purchase laptop computers since 2009. PCCS purchases thousands of laptop computers each year from NCS to provide to the students of PCCS. For each laptop purchased by PCCS from NCS, NCS pays Avanti \$50. Avanti provides no role in securing the laptop computers for PCCS nor any other benefit or thing of value to NCS. CHS#1 advised that this arrangement was put in place by Trombetta with NCS employees An Nguyen and Mark Christopher. According to CHS#1, a component part of this arrangement is that Avanti sends an invoice to NCS each year for purported consulting services to conceal what is in essence a kickback scheme. For the 2011 calendar year NCS paid Avanti \$200,000. The Affiant confirmed this by reviewing the invoice from Avanti to NCS (for \$200,000). The invoice was provided by CHS#1. The invoice was sent via email from Avanti to NCS.

44. On April 25, 2012, CHS#1 placed an outgoing call to Trombetta regarding the NCS contract. The call was recorded. Below is an excerpt of that call (per CHS#1, Bryan LaQuinta is an employee of PCCS who was not aware of the kickback scheme):

CHS#1: I'm leaving with Bryan LaQuinta(sp) in the morning and we are going down to um NCS. Everything's um status quo, same as we have done in previous years with the computers?

Trombetta: Whatever Bryan says.

CHS#1: Ok.

Trombetta: I don't know if there is anything else to do.

CHS#1: He said, he um.

Trombetta: We got no commitments from anywhere else.

CHS#1: No he said he was ordering 4,000 more from them this year.

Trombetta: They pay us? (Affiant believes Trombetta is talking about NCS)

CHS#1: Um they paid us last year, and I just wanted to cause uh, uh it turned out to be about 200,000 dollars last year. (Affiant believes CHS#1 is referring to the \$200,000.00 NCS paid Avanti last year).

Trombetta: yeah we definitely need paid this year.

CHS#1: Ok

45. According to CHS #1, Avanti had no role in the purchase of the computers by PCCS from NCS and was not entitled to any payment. He referred to the payment as a "kickback". In a

telephone conversation on June 23, 2012 between Trombetta and Steve Catanzerite, an employee of Baden Academy, Trombetta stated that Avanti did "nothing" for PA Cyber.

46. The only reasonable conclusion which may be drawn from the scenario set forth above is that Trombetta considers his negotiation of the original (and succeeding) contracts wherein PCCS purchases laptop computers from NCS to constitute "consulting" that he performs on behalf of Avanti. However, a negotiation with an outside vendor falls within his job duties as the CEO of PCCS. Furthermore, Avanti provides management services to NNDS, not PCCS, as acknowledged by Trombetta in the conversation noted in the preceding paragraph. Thus, there appears to be no legal justification for the \$50 payments per computer to Avanti. If the superintendent of a public school district directed an outside vendor to the district to pay a certain amount to an outside company controlled by the superintendent, on an item by item basis, it would clearly constitute a kickback. This situation is no different. Moreover, the willingness of NCS to pay \$50 per computer to Avanti shows that PCCS could have negotiated a purchase price from NCS which was \$50 lower per computer.

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SCHEME TO CHANNEL TAXPAYER FUNDS TO TROMBETTA

52. Approximately 80% of Avanti's income is from its contract with NNDS. NNDS, in turn, is funded primarily from contracts with PCCS, including sales of curricula to PCCS.⁵ As set forth above, as a public entity, PCCS is funded almost entirely with taxpayer monies, including federal funds. Avanti thus operates as a mechanism for Trombetta to funnel taxpayer funds from PCCS through NNDS into Avanti. Avanti then makes payments to One2One and otherwise which inure directly to Trombetta's personal benefit. Trombetta controls and directs all three entities, either through the board members or the individual owners. According to CHS#1 and CHS#2, Trombetta also controls all of the contracts for all three entities.

53. All three entities do provide some level of legitimate services to one another and to unrelated third parties.

⁵ It is important to note that both Avanti and NNDS provide services to and/or sell products to cyber charter schools other than PCCS.

Trombetta actively seeks business on behalf of NNDS and Avanti, in addition to PCCS, and provides advice to all three entities in the course of his exercise of control. However, Trombetta has gone to great lengths to avoid any official affiliation with NNDS or Avanti, as he undoubtedly realizes that such affiliation would constitute a "conflict of interest" under the Pennsylvania Public Official and Employee Ethics Act, which would constitute a felony. By serving as the CEO of PCCS, yet controlling NNDS, which is PCCS's largest vendor, by far, and controlling Avanti, the company which manages NNDS, he has an obvious conflict of interest. As set forth in more detail below, nearly all of the extensive personal benefits which he receives from Avanti, through One2One and otherwise, are due to NNDS's lucrative contracts with PCCS. As the CEO of PCCS, he has no incentive to bargain hard on behalf of PCCS with NNDS; in fact, his incentive (as borne out by the millions of dollars which NNDS and Avanti have made from PCCS) is exactly the opposite.

54. As the above makes clear, through his control of outside entities which receive funds from his public employer, and the subsequent funneling of a portion of those funds to him for his own personal benefit, Trombetta has engaged in a pattern of undisclosed self-dealing. In *Skilling v. United States*, ___ U.S. ___, 130 S.Ct. 2896, 177 L.Ed.2d 619 (2010), the United States

Supreme Court held that only bribes and kickbacks, and not undisclosed self-dealing, could serve as the basis for an "honest services fraud" prosecution under Title 18, United States Code, Section 1346. *United States v. Riley*, 621 F.3d 312, 321, citing *Skilling*, 130 S.Ct. at 2928, 2931, 2932. However, undisclosed self-dealing may still serve as the basis for "pecuniary fraud," where the deprivation of money or property is the object of the fraud under Section 1341 or Section 666, as opposed to fraud with the object of deprivation of honest services of a public official. *Riley*, 621 F.3d at 327. *Riley* makes clear that the underlying fraudulent act may be "non-disclosure of a conflict of interest," which may make it appear similar to honest services fraud, but it is a valid fraud if the object of the fraud is the deprivation of money or property, or even the risk of loss of money or property.

Id. Such is the situation here as self-dealing on behalf of NNDS and Avanti was to the detriment of the public institution which he managed as CEO, PCCS. Given his control of all three entities, transactions between PCCS and NNDS, and NNDS and Avanti, were not "arm's length transactions" and PCCS either entered into less favorable contracts, or at a minimum, was exposed to a risk of less favorable contracts, due to Trombetta's actions. Similarly, this scenario creates a misapplication of federal funds, as such funds are provided to PCCS solely to enhance its educational mission, and

any use of those funds for other purposes, such as through the scheme outlined herein to channel them away from PCCS for the personal use of Trombetta, constitutes a violation of Title 18, United States Code, Section 666.

55. Trombetta's control of all three entities is evidenced in a conversation intercepted on June 11, 2012 between Trombetta and an Unknown Female(UF). The UF told Trombetta about someone in a leadership position at NNDS who was questioning the utility of Avanti. The UF quotes the rejoinder she offered to this unidentified NNDS employee. She states that she said, "Do you understand the purpose of why we all work together and we're all one company? [PCCS, NNDS, Avanti] We're separate companies but there's a reason. But there's one person that's in charge, that runs things." In context, the UF is clearly indicating that Trombetta is the "one person that's in charge" of PCCS, NNDS and Avanti. In response, Trombetta does not dispute this characterization of his role.

PERSONAL BENEFITS FLOWING TO TROMBETTA

56. CHS#1 and CHS#2 advised that Trombetta has an Avanti American Express card which is paid for by Avanti. CHS#1 and CHS#2 have said that Trombetta is not an employee of Avanti, instead both have advised that Trombetta is the actual owner of Avanti, though his name appears nowhere on the documents that created Avanti nor

on the books and records of Avanti. SA Bell has reviewed months of American Express bills for Trombetta's account through Avanti, and the majority of the expenses appear to be personal in nature, including purchases for gas, food, Weight Watchers membership and Netflix membership. In addition, as noted earlier, Avanti makes monthly payments of \$18,000 to One 2 One which appear to be for Trombetta's personal benefit.

57. On May 24, 2012, at approximately 1:57 pm, Trombetta telephonically called Michelle Poskin, a PCCS employee. In the context of a discussion of Poskin's credit card debt the following exchange occurs:

Trombetta: Mine are all debits.
Mine are all debits. And anything I buy, see I don't take a salary from Avanti or anything like that but they cover my expenses. So, you know, I work there. I don't take any. I have no credit cards. Nothing.

POSKIN: Wow

The Florida Property

58. CHS#1 advised that in 2010 Trombetta decided to purchase a home in Florida. Trombetta then called CHS#1 and told CHS#1 to have Palatine Development, LLC (Palatine), a company owned and controlled by Avanti, pay for the home using Avanti funds. CHS#1 advised that Palatine was created by Avanti so that all the

property acquired by Avanti would be in the name Palatine and not Avanti. CHS#1 further advised that Palatine is funded by Avanti. SA Bell has reviewed the bank records for Palatine, which were provided by CHS#1, and has confirmed that Avanti is the source of funding for Palatine. CHS#1 has signatory authority on the Palatine bank account. CHS#1 advised that Brenda Starr-Smith, Trombetta's administrative assistant, also has signatory authority on a Palatine bank account which was set up to manage the Florida property. According to CHS#1, Brenda Starr-Smith manages Trombetta's personal and business affairs, including his calendar, appointments and records of business contacts. Brenda Starr-Smith controls access to the Florida property under the direction of Trombetta. CHS#1 advised he/she purchased the condo in Florida on behalf of Trombetta. According to CHS#1, this initial transaction resulted in the condo being titled in Trombetta's name, even though Avanti, through Palatine, had actually paid for the condo.

59. SA Krug has reviewed Florida property records which confirm that Nicholas Trombetta purchased a condominium located at 23717 Trevi Court, Bonita Springs, Florida, 34134, on April 29, 2011, for \$933,000. Public records indicate that the property is a 4 bedroom, 5 bathroom condominium with 3,829 sq. ft. of living space. The property is located in a complex called Villa Trevi at the Colony.

60. The HUD-1 paperwork for this transaction lists Trombetta as the buyer. The closing on the Florida condo between Trombetta and the original property owner occurred on April 29, 2011, and was handled by Henderson, Franklin, Starnes & Holt, P.A. Palatine wired \$941,832.42 (Avanti funds) from its bank account to Sun Trust Bank, located in Fort Myers, FL, on or about April 27, 2011, to cover the amount due from the buyer, as noted on the HUD-1 paperwork. Palatine paid for the Florida condo, in full, on or about April 29, 2011. However, the property remained in Trombetta's name until December 2011. Public records show that on December 15, 2011, Trombetta transferred ownership of the condominium to Palatine. Property tax records for the property show that the mailing address listed on the tax collector's website for the property for the 2010 tax year was that of Trombetta's home in East Liverpool, Ohio. The mailing address listed on the tax collector's website for the property for the 2011 tax year was that of Palatine. The property records and closing documents for the Florida property show the condo originally being purchased by Trombetta with title ultimately being transferred to Palatine.

REDACTED

REDACTED

62. CHS#1 and CHS#2 advised that the Florida property is used mainly by Trombetta and infrequently, at the direction of Trombetta, by other persons. During the spring break season of 2012 Trombetta required Avanti to pay for air transportation for Trombetta's daughter and two friends to travel to the condo for

spring break. In June 2012, Trombetta used the property to entertain personnel from Franciscan University of Steubenville, Ohio, the ultimate object of which is a contract between Trombetta (through an entity controlled by him) and the university which will inure to Trombetta's financial benefit. Furthermore, CHS#1 advised that Trombetta and his daughter are listed on the homeowner association paperwork as the residents of the home. According to CHS#1, Palatine currently pays for all repairs and fees associated with the Florida condo (using Avanti funds). This has been confirmed by reviewing Palatine's bank records.

Mingo Junction Property

63. According to CHS#1, in 2009 Trombetta instructed CHS#1 to have Avanti purchase the residence of his then girlfriend, Kelli Dicarlo, located in Mingo Junction, Ohio. CHS#1 did as Trombetta instructed. A review of Jefferson County, Ohio on-line property records reveals that 108 Edwards Street, Mingo Junction, Ohio was purchased by Avanti on July 13, 2009 for \$73,000. The deed of sale confirms that the owner of this property at the time of sale was Kelli Dicarlo. Closing documents for the Mingo Junction house show Kelli Dicarlo as the original owner and it being purchased and paid in full by Avanti. Kelli Dicarlo bought the property in 2003 for \$34,000. A home inspection of the property prior to the July 2009 sale noted many areas of

deficiency. Trombetta caused Avanti to purchase the house of his then girlfriend, Kelli Dicarlo, at what appears to be an inflated price of \$73,000, using Avanti funds. According to CHS#1 and CHS#2, the CEO and President of Avanti, there was no business reason for Avanti to purchase this property other than the direction of Trombetta to do so.

Steubenville Property

64. According to CHS#1, Trombetta also instructed CHS#1 to cause Palatine to purchase Trombetta's own former residence. CHS#1 did as Trombetta instructed. Jefferson County, Ohio on-line property records reveal that 1816 Norton Place, Steubenville, Ohio was purchased by Palatine (using Avanti funds) on November 22, 2010, for \$160,000. County property records show the property as a 2-story, 1664 sq.ft. home occupying .14 acres of land. The deed of sale regarding this transaction lists the owner of the property at the time of the sale as Trombetta. Per the HUD-1 paperwork, as a result of the sale, Trombetta's existing lien of approximately \$110,310.93 was satisfied and \$47,695.41 was paid directly to Trombetta. The closing documents for the Steubenville house show the house originally being owned by Trombetta and then being purchased by Palatine. According to CHS#1 and CHS#2, there was no business reason for Avanti to purchase this property other than the direction from Trombetta to do so.

The Airplane

65. In the spring of 2011, Trombetta instructed CHS#1 to have Palatine purchase a twin engine plane. CHS#1 did as Trombetta instructed. It has been confirmed through the Federal Aviation Administration registry that Palatine purchased a fixed wing multi-engine Piper plane, serial number 31-8112049, on June 9, 2011. According to CHS#1 and CHS#2, this plane is used principally by Trombetta. CHS#1 advised that in November/December 2011, Trombetta, along with his friends, flew to Cincinnati, Ohio for the Pittsburgh Steeler-Cincinnati Bengals football game. This information has been confirmed through the web site www.flightaware.com, which indicates that this airplane filed 125 flight plans in 2011. One of those flights occurred on November 13, 2011, with the plane taking off from Beaver County airport and landing at Cincinnati Muni airport, with a return flight later that day. On November 13, 2011, the Pittsburgh Steelers played the Cincinnati Bengals in Cincinnati, Ohio.

66. This further demonstrates Trombetta's receipt of personal benefits from Avanti and/or Palatine. It also further shows that CHS#1 and CHS#2, while trusted by Trombetta, are not considered close friends/confidants of Trombetta. Neither CHS#1 nor CHS#2 know when the plane is used, who uses the plane or where the plane travels. According to CHS#1 and CHS#2, Trombetta

speaks/coordinates directly with the pilot, Ronald Koehler, concerning the plane and he does so using his personal cell phone. Ron Koehler called Trombetta on June 6, 2012, to inquire of him regarding the availability of the plane. The pilot was clearly deferential to Trombetta regarding use of Palatine's (and thus Avanti's) airplane.

Real Estate/Land Transactions

67. According to CHS#1, Trombetta has directed that Avanti engage in multiple real estate transactions which are outside the scope of the contracts between PCCS, NNDS and Avanti and which ultimately result in cash flowing to Avanti (per its contract with NNDS). These transactions show one manner in which funds are funneled from PCCS through NNDS to Avanti and ultimately to Trombetta's benefit. The information provided below has been confirmed through HUD-1 statements, deeds and title documents.

68. In March 2007, NNDS purchased three parcels of land for \$145,000. In June 2011, NNDS sold the smallest parcel of land (approximately .31 acres) to PCCS for \$170,000. NNDS made a profit of \$25,000 and still retained two of the parcels of land. Avanti made 13% of \$170,000, or approximately \$22,100 from this transaction as a result of the revised contract Avanti negotiated with NNDS in 2010 which stated that the 13% management fee charged by Avanti to NNDS covered all of NNDS's revenue. This transaction

was a direct transfer of funds from the PCCS to NNDS having nothing to do with the NNDS's contract with the PCCS. NNDS and ultimately Avanti profited from this transaction.

69. In October 2005, PCCS purchased two parcels of land for \$75,000. In May 2007, PCCS sold both parcels to NNDS for \$113,982. In March 2011, NNDS sold the two parcels of land back to PCCS for \$113,982. Through this sale, Avanti realized approximately \$14,817 (13% of the sale price). This type of property flip occurred more than once. In July of 2006 PCCS purchased two parcels of land for \$65,000. PCCS sold the two parcels of land to NNDS in May 2007 for \$81,400. NNDS then sold both parcels of land back to PCCS for \$81,400 in March 2011. Through this sale, Avanti made approximately \$10,582 (13% of the sale price).

70. In May 2009, Avanti and a company named Beaver County Homes bought an old apartment complex then under foreclosure for \$276,700. Avanti paid 50% of the purchase price plus a portion of the closing costs, or approximately \$144,000. Beaver County Homes paid the other part of the purchase price. The apartment complex was torn down and the property, without further improvement, was then sold to NNDS for \$900,000 in January 2011. Through a sales agreement between Beaver County Homes and NNDS dated January 31, 2011, NNDS agreed to pay Beaver County Homes two

payments of \$300,000 (in 2011 and 2012) and one payment of \$299,000 in 2013. According to CHS#1, Beaver County Homes agreed to pay 50% of the money received from NNDS to Avanti. CHS#1 stated that Beaver County Homes has already paid \$150,000 to Avanti in 2011 and another \$150,000 to Avanti in 2012.

71. In January 2007, NNDS purchased three parcels of land from a private corporation. Based on a review of available county property records, it appears that all three parcels were purchased for a total of \$126,645.67. NNDS then purchased an adjacent parcel of land for \$25,000 on February 2008. These four parcels of land were in close proximity to one another in downtown Midland (an economically distressed community) and together they totaled slightly more than 1/3 of an acre. According to CHS#1, between the winter of 2007 and the spring/summer of 2008, Castlebrook constructed a building on the property, 735 Midland Avenue, pursuant to a contract with NNDS. The developed property was then sold by NNDS to PCCS for \$3,268,187.79 in June of 2010. Through this sale, Avanti received approximately \$424,864 (via the 13% agreement).

72. The above described real estate transactions appear to have nothing to do with the contracts between PCCS and NNDS or the contracts between NNDS and Avanti. However, they do serve as

a means to funnel PCCS money to Avanti. Once funds are received by Avanti, some of the funds go to Trombetta for his own benefit.

CONTRACT DISCUSSIONS WITH FRANCISCAN UNIVERSITY

73. On June 15, 2012, Trombetta engaged in a telephone call with CHS#1. During the call, they discussed the percentage of profit from a contract between Avanti and Franciscan University of Steubenville, Ohio. They discussed the flow of the funds and whether they should go to Avanti or Presidio. Presidio is a company recently created by Trombetta. Trombetta informed CHS#1 that the money should go to Presidio and told CHS#1 that he just wanted the money, wanted to get paid and "Get the money buddy".

REDACTED

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TAX OFFENSES

79. The investigation has revealed probable cause to believe that various federal tax offenses have been committed by Trombetta, Prence, Neill and others. Therefore, this affidavit is also seeking authority to search for evidence of federal tax violations.

Trombetta Personal Tax Returns

80. A review of the federal tax returns for Trombetta discloses that none of the funds flowing from PCCS to NNDS to Avanti to One2One to the benefit of Trombetta or the payments from

Martlin Management or Castlebrook are reflected in any way on his federal tax returns.

81. Trombetta has filed his U.S. Individual Income Tax Returns, Form 1040, from 2006 through 2011. All Federal Tax Returns have been prepared by Neal Prence. SA Krug and other IRS-CI agents have reviewed such returns and the following information has been revealed. In 2006 the reported Income on Line 22 is \$205,940. Such amount is comprised of two separate W-2's from PCCS (for \$122,790) and Midland Boro School District (for \$77,094), Taxable Interest of \$610, Taxable Refunds of \$109, Capital Gains from the sale of stock for \$8456 and a Schedule C loss of \$3119. The Schedule C loss of \$3119 is from purported consulting income of \$15,000 offset by expenses of \$18,119. The 2006 return is the only such return to show any consulting income reported by Trombetta. A review of the return on which One2One was reported and the One2One bank account reveals a \$15,000 payment for consulting that is believed to be the amount reported by Trombetta on the Schedule C.

82. In 2007 Trombetta reported Total Income, Line 22, of \$206,349 which was comprised of W-2's from PCCS (for \$140,844) and Midland Boro School District (for \$64,894). The only additional amount of income reported was \$611 of Taxable Interest.

83. In 2008 Trombetta reports Total Income, Line 22, of \$142,682 which is comprised of a W-2 from PCCS for \$141,403; Taxable Interest of \$279; and other income of \$1000, the source of which is unknown. It should be noted that Trombetta stopped receiving W-2 income from Midland Boro School District at the end of 2007 because it was a conflict for him to receive that salary while also performing his duties as the CEO of PCCS.

84. In 2009 Trombetta reports Total Income, Line 22, of \$127,010 which is comprised of his W-2 from PCCS for \$127,176; Taxable Interest of \$171, Ordinary Dividends of \$1014, a Taxable Refund of \$1649 and a Capital Loss from the sale of stock for \$3000.

85. In 2010 Trombetta reports Total Income, Line 22, of \$130,313 which is comprised of his W-2 from PCCS for \$127,861; Taxable Interest of \$75; Ordinary Dividends of \$1500; a Taxable Refund of \$1264 and a Capital Loss of \$387.

86. Finally, in 2011 Trombetta reports Total Income, Line 22, of \$133,899 which comprises of his W-2 from PCCS of \$130,069; Taxable Interest of \$39; Ordinary Dividends of \$1897; Taxable Refunds of \$1220 and a Capital Gain of \$674.

87. A review of all Federal Tax returns filed by Trombetta shows no income from Avanti, One2One (except \$15,000 in 2006), BOSS, Martlin Management, Kellaur Corporation, Castlebrook

or any other related entity or transaction discussed within this affidavit.

Elaine Neill personal tax returns

88. The business One2One reports its net income on the personal Federal Tax Return of Donald and Elaine Neill as a Schedule C business. The first year that One2One reports such net income is in 2006. All Federal Tax Returns filed by Donald and Elaine Neill that include the Schedule C One2One net income are prepared by Neal Prence. The following are the amounts reported as Gross Receipts by One2One: in 2006, \$301,500; in 2007, \$183,000; in 2008, \$123,250; in 2009, \$69,700; and in 2010, \$140,000. It should be noted that in 2009, deposits into the One2One bank account were approximately \$118,000 of which \$80,000 was from Avanti. And in 2010 the deposits into the One2One account were approximately \$254,000 of which \$204,895 was from Avanti or Palatine (a wholly owned business of Avanti). Additionally, the reported net income for One2One on the filed Federal Tax Returns are as follows: in 2006, \$58,333; in 2007, \$58,302; in 2008, \$61,386; in 2009, \$7571; and in 2010, \$49,400. A review of One2One Schedule C filings reveal a large amount of expenses being taken to offset the reported Gross Receipts and as such lower the net income that is subject to tax especially in the years when Avanti is paying

One2One. No copy of the 2011 return has been received or reviewed by the agents to date.

Neal Prence

89. CHS#1 and CHS#2 have stated that Neal Prence is the accountant for Avanti and as such prepares its federal income tax returns, specifically U.S. Income Tax Returns for an S-Corporation, Forms 1120S, for the years 2008 to 2011.

90. CHS #1 and CHS#2 have stated that since the formation of the corporate entity known as Avanti, Neal Prence has prepared their U.S. Individual Income Tax Returns, Forms 1040, for the years 2008 to the present. CHS#1 and CHS#2 have stated the Neal Prence has also prepared the Forms 1040 of the other two owners of Avanti, Robert Babish and Rebecca Manning.

91. CHS#1 stated all of Avanti's accounting records are maintained on Quickbooks software. Cindy Oliver, an employee of Prence LLC, posts Avanti's deposits and checks using Quickbooks.

92. CHS#1 stated Prence filed the Articles of Incorporation for Avanti using the address of Prence and Associates at 2501 2nd Avenue, Koppel, PA 16136 as the corporate address. Avanti's corporate checks and bank statements also list the address of Prence and Associates. The bank statements from Avanti's operating account held at 1st National Community Bank are mailed

directly to the Post Office Box of Neal Prence and Associates at PO Box 155, Koppel, PA 16136.

93. In the recent past Prence performed the audit of NNDS and was reportedly told that it was a conflict of interest, because he does the accounting for Avanti. Prence addressed the conflict by continuing to do Avanti's accounting, but having the billing invoice list another accountant, John Desanzo, as the one who performed the service. Avanti has issued checks in the name of John Desanzo as payee but the checks were endorsed by Neal Prence.

94. Avanti is organized as a Limited Liability Company. Avanti has elected to be treated as an S-Corporation and as such files Form 1120S. The Form 1120S is an information return that reports the income and expenses of the corporation. A Form K-1 is then issued to each shareholder of Avanti which reports their percentage of the net income. According to Avanti's written operating agreement, each of Avanti's shareholders (CHS#1, CHS#2, Manning and Babish) own 25% of the corporation. Prence prepares each shareholder's U.S. Individual Income Tax Return, Form 1040, showing each shareholder's proportion of income earned from Avanti. As per Prence's direction, Avanti then writes a check to the IRS for each shareholder's individual tax due resulting from their supposed earned income from Avanti. Prence also computes the tax for each supposed shareholder to determine his or her tax situation

exclusive of the Avanti Form K-1 income, that is, what might be called their "real" or "true" return. The purpose of this exercise is to distribute to the "shareholders" any refund that would have been due had their respective tax situations been reported truthfully and had the false Avanti (non)distribution of income not been reported on their filed return. This series of computations nullifies all the tax effects of the ownership of Avanti by the four "shareholders," supporting CHS#1's and CHS#2's contention that they are not the true owners of Avanti, but only nominee owners. The four owners/shareholders receive only a salary as compensation from Avanti and do not actually receive a cash or property distribution. Based upon the income and earnings of Avanti they would in fact be entitled to a cash distribution from Avanti (as reported by Prence on their falsified returns) if they were in fact the true owners of Avanti and functioning as such.

95. The four owners of Avanti were instructed by Prence that they needed to claim the vehicles purchased by Avanti for their benefit on their tax returns. On February 7, 2012, CHS#1 and CHS#2 recorded a meeting they had at Avanti's office with Babish, Manning and Neal Prence. During the meeting the four owners complained about having to claim the vehicles as income for their personal taxes. Prence explained that this needed to be done because the four owners used them for personal use. Prence was

then asked, by one of the four owners, if everyone who had a vehicle provided to them by Avanti claimed the vehicle on their federal tax returns. Prence stated that Trombetta does not claim the vehicle owned by Avanti, a Jeep Cherokee, which Trombetta uses, on his tax return. (SA Bell confirmed through the Ohio Department of Motor Vehicles that a 2011 Jeep Grand Cherokee Overland, 4WD, VIN 1J4RR6GT1BC536676, Ohio license tag EPL-4015, is registered in the name of Avanti.) This is the vehicle used by Trombetta per many observations by CHS#1 and CHS#2. The use of this Avanti company vehicle should be reflected on Trombetta's individual income tax returns. A review of Trombetta's federal income tax returns for the years 2008 to 2011 shows that he does not claim the benefit of the personal use of this vehicle on his income tax returns. It is reasonable to infer that Trombetta does not claim the vehicle on his tax returns because he does not want any formal record of his affiliation with Avanti and it is a means to avoid paying taxes on this income.

96. On June 25, 2012, Neal Prence called Trombetta regarding the flow of cash on hand at Avanti to Trombetta's new company (Presidio) and how Avanti will be left with no profit for 2012. Prence opined that there needed to be sufficient funds left with Avanti to pay the four owners' quarterly taxes. Prence offered that it might be preferable to set up a company in

Trombetta's sister's name to get the profits out of Avanti. Trombetta at one point asked Prence how much money they were talking about removing from Avanti to Presidio (after paying quarterly taxes on non-existent distributions to the four owners). Prence talked about an amount near \$3,000,000.

97. On February 7, 2012, CHS#1, CHS#2, Trombetta, Prence, Babish, Manning and Sean Tanner met at Avanti's office. CHS#1 and CHS#2 consensually recorded this meeting. During the meeting Sean Tanner referred to the meeting as the "annual tax evasion meeting." Though this may have been said in jest it offers some insight into how even a layman like Tanner could perceive what in fact is taking place via the Prence manipulations.

98. On March 28, 2012, CHS#1, CHS#2, Prence, Babish, Manning and Tanner met at Avanti's office to go over their individual income tax returns for the year 2011. CHS#1 and CHS#2 consensually recorded this meeting. Prence used a laptop computer to review their returns with them. Manning, Babish, Sean Tanner, CHS#1 and CHS#2 met with Prence individually, so that Prence could go over their respective tax returns as they would actually look if Prence was not falsifying their returns by reporting an ownership distribution from Avanti, as outlined above. (Again, this could be called the "true" return or the "real" return. However, this return is not the one which Prence would eventually file on their

behalf.) During this meeting Prence informed CHS#1 that both Prence and CHS#1 would be in trouble if anyone questioned these tax returns. Prence further stated that he knows that he reports income on the four owners' tax returns which they never receive. It is SA Krug's belief that CHS#1, CHS#2, Babish, Manning and Sean Tanner all know that their tax returns are in fact false returns. However, they continue to permit Prence to file these returns because this is how Trombetta has instructed them to be filed.

99. Based upon review of Trombetta's U.S. Individual Income Tax Returns by SA Krug and other IRS-CI agents, Trombetta does not claim any of the benefits he receives from Avanti and/or One2One and/or Palatine on his own tax returns. Thus, the tax returns prepared and filed by Prence for Avanti, for the four supposed "owners" of Avanti, and for Trombetta are all false and fraudulent. A review of Trombetta's tax returns shows that he only reports income reflecting his salary from PCCS. Analysis of the tax returns for all parties is still ongoing.

100. Trombetta appears to recognize that his actions may violate the tax laws. On June 7, 2012, at approximately 9:05 pm, Trombetta received a phone call from CHS#1. During the call CHS#1 and Trombetta discuss a news article that was released that day by Andy Sheehan, from KDKA TV. The article talks about Trombetta funneling PCCS funding to other entities and a \$5,000 donation made

to Governor Corbett from Avanti, with Trombetta's name on the check.

Trombetta: I talked to Judy Shoppe. The thing is to sue Ron Sofo [superintendent from a nearby school district that has been highly critical of the funding of PCCS and who was interviewed by a reporter on KDKA TV in Pittsburgh]. We talked more about suing Ron Sofo, making him pay for what he did and not wait until he leaves Freedom. So I mean and Joe Askar, I will talk to him tomorrow but I am not going to over react and say 'ok somebody do something.' No one's asked our record we have a clean audit. (Unintelligible) I mean we have been very open about the farm. I told everybody that I don't get a salary from them. I don't have a W-2 from you do I?

CHS#1: I'm sorry a what?

Trombetta: I don't get a W-2 from you?

CHS#1: No

Trombetta: You cover my expenses.

CHS#1: Yep

Trombetta: If I have to do something bad I promote the company [Avanti]. I think they're great. I think they promote my local foundation that I created [NNDS]. Yeah they do that. You know I am leaving at the end of this month. I think this was his last shot.

CHS#1: You don't think that the whole concept of covering your expenses, you don't think that is an issue do you?

Trombetta: No. No. Not at all, not at all. And if it is it would be just a taxable thing. And I'll pay it.

Trombetta: I will tell you it is a taxable thing. I always thought that I could cover my expenses. I don't think they man [typo] you know no one can that's between mostly me and you and Marsha and I don't think it is. It has never been a point of contention before. I am like 30 days from I am 25 days not even 23 days away from this shit going away. It's going to be fun once I am out of it.

NATURE OF TAX RECORDS

101. Based upon SA Krug's training, experience, and participation in other financial investigations, and through discussions with other agents from the Internal Revenue Service - Criminal Investigation, SA Krug can state:

a. Individuals and entities that conduct business, derive income, and incur expenses on a regular basis maintain books and records of this activity. These records usually consist of journals, ledgers, invoices, receipts, loan documentation, deposit tickets and canceled checks, computerized spreadsheets, and other records showing the receipt and disposition of funds. Under modern

business practice, such records are maintained both in electronic and paper form. The aforementioned records are maintained where the persons have ready access to them, (i.e. homes, offices, and automobiles).

b. The flow of funds into and out of a company can be tracked by tracing the "paper trail", i.e., by following entries into the business records and bank accounts, and by comparing documents prepared and/or received to support a transaction.

c. The business records of individuals, partnerships, and corporations are used as a basis for the preparation of individual, partnership, and corporate tax returns.

d. Business and personal records of income and expenses are ordinarily kept for long periods of time, often several years, in order to provide support for financial and tax matters, to establish ownership, for contractual liability and insurance purposes, etc. In regard to the retention of business records, Title 26, United States Code, Section 6001, requires that every person liable for any tax imposed by Title 26, shall keep records sufficient to show whether or not such person is liable for tax under this Title.

e. One of the elements of the criminal offense of income tax evasion, in violation of Title 26, United States Code, Section 7201, is a tax deficiency. With regard to both businesses

and individuals, this requires that the government present evidence to prove actual income and expenses of the taxpayer(s), and the resulting correct tax liability. Consequently, all of the taxpayer's records relevant to income and expenses/deductions are evidence of the offense, which may be subject to seizure pursuant to a warrant based on probable cause to believe an offense has been committed.

f. There are many ways whereby businesses and individuals may file false returns and evade taxes, including the falsification and misclassification of receipts and/or expenses.

g. Persons involved in schemes to defraud the IRS often use computers, to include laptops and servers, to maintain recordings of their assets, expenditures, liabilities, properties, bank/brokerage accounts, safe deposit boxes, storage units, inventories, financial transactions, associates' identification, and even references to their illegal activities.

CONDUIT POLITICAL CONTRIBUTIONS

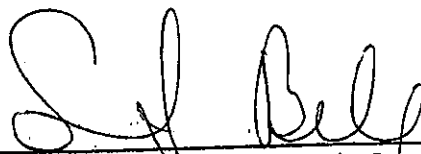
102. CHS#1 and CHS#2 stated that between 2008 and 2012, each of them, Babish and Manning received a yearly \$5,000 distribution from Avanti which was to be used for conduit campaign contributions. Tanner received a similar \$5,000 distribution from Avanti. Trombetta directed these individuals to make campaign contributions in their own name and their spouse's name to various

federal, state and local political campaigns. Based upon my review of public campaign records, CHS#1, CHS#2, Babish and Manning (including their spouses) contributed approximately \$39,700 to local, state and federal political candidates and campaigns. Using conduits in this way to make contributions to political campaigns in federal elections violates Title 2, United States Code, Section 441f.

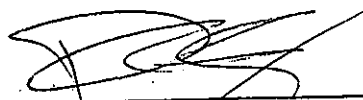
CONCLUSION

103. Based upon the above information set forth above there is probable cause to believe that violations of the following federal statutes have occurred as set forth above: (a) Wire Fraud (Title 18, United States Code, Section 1343), (b) Mail Fraud (Title 18, United States Code, Section 1341), (c) Misapplication of federal funds (Title 18, United States Code, Section 666), (d) Conspiracy (Title 18, United States Code, Section 371), (e) Prohibitions on making campaign contributions through conduits (Title 2, United States Code, Sections 441f), (f) Tax Evasion (Title 26, United States Code, Section 7201), (g) Klein Conspiracy (Title 18, United States Code, Section 371), (h) Making and Subscribing a false tax return under penalty of perjury (Title 26, United States Code, Section 7206(1)), and (i) Aiding and assisting the preparation of a false tax return (Title 26, United States Code, Section 7206(2)), and that evidence, fruits and

instrumentalities of those crimes, as set forth in the individualized Attachment A to the search warrant for each location, will in fact be found at the locations to be searched as set forth above.

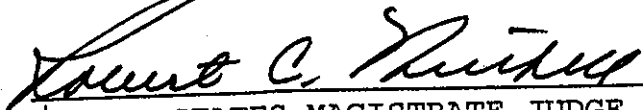


SAMANTHA BELL, Special Agent
Federal Bureau of Investigation



RICHARD J. KRUG, Special Agent
Internal Revenue Service
Criminal Investigation

Sworn and subscribed to before me
this 11th day of July, 2012



UNITED STATES MAGISTRATE JUDGE
WESTERN DISTRICT OF PENNSYLVANIA