

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

FILED
IN CLERKS OFFICE

UNITED STATES OF AMERICA)
)
v.)
)
GLENN A. MARSHALL,)
)
Defendant.)

CRIMINAL NO.)
VIOLATIONS: 2008 DEC 15 A 10: 54)
2 U.S.C. § 441b, 437g)
(Federal Election Campaign Act)
18 U.S.C. § 1343 (Wire Fraud))
26 U.S.C. § 7206(1) (False Tax Returns))
42 U.S.C. § 408(a)(4) (Social Security Fraud))
18 U.S.C. § 981(a)(1)(C) (Forfeiture)

INFORMATION

THE UNITED STATES ATTORNEY CHARGES THAT:

General Allegations

1. At all times material to this Information, defendant GLENN A. MARSHALL was a resident of Mashpee, Massachusetts and from February 2000 to August 2007, the chairman of the Mashpee Wampanoag Indian Tribal Council, Inc.

2. At all times material to this Information, the Mashpee Wampanoag Indian Tribe (the "Tribe") was a Native American tribe. The Tribe had over one thousand members, most of whom lived in or near the Town of Mashpee. On or about February 15, 2007, the Secretary of the Interior recognized the Tribe as an Indian tribe under federal law.

3. At all times material to this Information, the Mashpee Wampanoag Indian Tribal Council, Inc. (the "Tribal Council") was a not-for-profit corporation organized under the laws of the Commonwealth of Massachusetts, whose headquarters were located at 483 Great Neck Road in Mashpee. The Tribal Council served as the governing body of the Tribe, and was headed by a chairman and a Tribal Council comprised of approximately seven members of the Tribe. The chairman and the officers of the Tribal Council were elected directly by the Tribe's membership.

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4. At all times material to this Information, AtMashpee LLC ("AtMashpee") was a limited liability corporation organized under the laws of the State of Michigan, with over two hundred shareholders. AtMashpee was formed to provide financial assistance to the Tribe in its effort to secure federal recognition in exchange for a financial stake in any casino that the Tribe, once recognized, might build.

5. At all times material to this Information, Investor A was the founder, "Manager," and largest investor in AtMashpee, and oversaw AtMashpee's investments in the Tribe.

6. At all times material to this Information, Investor B was a resident of Michigan, an investor in AtMashpee, and an acquaintance of certain members of the Tribe's leadership.

7. At all times material to this Information, Political Consultant A was hired by the Tribal Council in 2002 to coordinate its lobbying activities in support of the Tribe's effort to secure federal recognition and authorization to build and operate a casino.

8. From in or about 1994 to in or about 2004, Jack A. Abramoff was a Washington, D.C. lobbyist. As part of his job, Abramoff solicited and obtained lobbying business from groups and companies throughout the United States, including Native American tribal governments operating, and interested in operating, casinos. From 2002 to 2004, Abramoff and his team of lobbyists provided lobbying services to the Tribe.

9. At all times material to this Information, the Mashpee Fisherman's Association, Inc. (the "Fisherman's Association") was a non-profit Massachusetts corporation with its nominal headquarters at 483 Great Neck Road in Mashpee. The Fisherman's Association was originally established in 1998 to promote the Tribe's ancestral shell fishing interests on the southern shore of Cape Cod. At all times material to this Information, the Fisherman's Association was dormant, with no ongoing operations or activities.

The Indian Gaming Regulatory Act and the Federal Recognition Process

10. In 1988, Congress passed the Indian Gaming Regulatory Act (the "IGRA" or the "Act"), to regulate the establishment and operation of gambling facilities on Indian lands. The stated purposes of the Act were (1) to provide a "statutory basis for the operation of gaming by Indian tribes as a means of promoting tribal economic development, self-sufficiency, and strong tribal governments" and (2) to "shield" Indian gambling from "organized crime and other corrupting influences, to ensure that the Indian tribe is the primary beneficiary of the gaming operation, and to assure that gaming is conducted fairly and honestly" The Act further provided that "Indian tribes have the exclusive right to regulate gaming activity on Indian lands if the gaming activity is not specifically prohibited by Federal law and is conducted within a State which does not, as a matter of criminal law and public policy, prohibit such gaming activity."

11. The IGRA established three categories of "gaming" facilities that are subject to different regulations. "Class I" gaming consists of "social games solely for prizes of minimal value or traditional forms of Indian gaming" Class I gaming is subject to the exclusive jurisdiction of the Indian tribes. *Id.* § 2710(a)(1). "Class II" gaming includes bingo and its variants, along with non-banking games, such as poker, that meet certain state provisions; it specifically excludes banking card games, slot machines, and other electronic versions of games of chance. Class II gaming is allowed on tribal lands in states that permit gambling for any purpose by any person. Tribes may regulate Class II gaming with oversight by the National Indian Gaming Commission, an agency within the Department of the Interior. "Class III" gaming facilities may offer a full range of gambling activities, such as slot machines and high-stakes card games. Class III facilities are considered to be the most lucrative and are subject to stricter

regulations. In most instances, a tribe may not establish a Class III facility unless it has entered into a compact with the state in which it resides, to govern the casino's operations and finances.

12. No Indian tribe may avail itself of the benefits of the Act unless it is recognized by the United States government.

13. In 1978, the Bureau of Indian Affairs (BIA) standardized the process for recognizing Indian tribes. The first step in the process is for an unrecognized "group" to file a letter of intent to petition the BIA for recognition. The BIA then may contact the group periodically and request clarification of its intent to continue with the petitioning process. Until a group has filed its formal petition, the BIA may also provide the petitioners with suggestions and advice regarding preparation of the documented petition.

14. A group's formal petition, once filed, is subject to rigorous scrutiny. Specifically, the petition must contain, "detailed, specific evidence," satisfying all of the following criteria: (a) the group has been identified from historical times to the present, on a "substantially continuous basis" as Indian; (b) "a substantial portion of the . . . group inhabits a specific area or lives in a community viewed as American Indian and distinct from other populations in the area, and . . . its members are descendants of an Indian tribe which historically inhabited a specific area;" (c) the group has "maintained tribal political influence or other authority over its members as an autonomous entity throughout history until the present;" (d) the group has a governing document; (e) the group has lists of members demonstrating their descent from a tribe that existed historically; (f) most of the members are not members of any other Indian tribe; and (g) the group's status as a tribe is not precluded by congressional legislation. The process often takes many years from the filing of a petition until BIA issues a final order.

15. Apart from the benefits of the IGRA, federal recognition entitles an Indian tribe to an array of federal program benefits, including tax advantages, workforce training, government contract preferences, housing subsidies, and healthcare assistance. It also confers upon tribes semi-sovereign status under U.S. law with certain rights of self-government.

The Tribe's Petition for Federal Recognition

16. In or about 1974, the Tribe notified BIA of its intent to file a petition for federal recognition.

17. In or about 1980, two years after the BIA promulgated new regulations governing recognition, the Tribe filed a formal letter of intent to seek recognition.

18. During the 1980's, BIA sought, and the Tribe provided, information concerning the Tribe's eligibility for recognition.

19. In or about 1990, the Tribe filed its formal petition for recognition.

20. In or about July 1991, the BIA notified the Tribe of the need to provide additional anthropological and genealogical information.

21. In or about January 1996, the Tribe responded to the request, and submitted a revised petition.

22. In or about February 1996, the BIA placed the petition on the "ready to be placed on active consideration" list.

23. In or about 1999, Investor B, who had done work for the Tribe and was aware of its recognition petition, contacted Investor A to see whether Investor A would be interested in providing financial support to the Tribe's recognition effort in exchange for a financial stake in any casino that the Tribe, once it obtained recognition, might build. Investor A, who had

successfully led the effort to legalize casino gambling in the State of Michigan in the early-1990's, agreed to meet with the then-chairman of the Tribal Council.

24. In or about 1999, Investor A met with the then-chairman of the Tribal Council. As a result of the meeting, Investor A agreed to support the Tribe's recognition effort by providing the Tribal Council \$10,000 per month, with an understanding that the parties would enter into a formal agreement at some point thereafter.

The Election of Marshall as Chairman of the Tribal Council

25. In or about 1999, as a member of the Tribal Council, MARSHALL met with Investor A and thereafter voted in favor of the funding arrangement.

26. In or about February 2000, MARSHALL was elected by a majority of the membership of the Tribe to be the chairman of the Tribal Council. Central to his campaign for the office was his assurance to the Tribe that he would aggressively pursue federal recognition.

27. In or about May 2000, on behalf of the Tribal Council, MARSHALL negotiated with Investor A an "interim agreement" between the Tribal Council and AtMashpee, in which AtMashpee agreed to pay the Tribal Council \$40,000 per month, to be used as the Tribal Council saw fit, including to support the recognition effort. In exchange, the Tribal Council agreed that AtMashpee would have "the exclusive right to negotiate for a management agreement to develop and manage a Class III tribal gaming facility" operated by the Tribe, and that the management agreement would pay AtMashpee 35% of the "net revenues" from the casino. In addition, AtMashpee agreed to pay the fees of any consultants or lobbyists hired by the Tribe in support of the recognition effort. (AtMashpee and the Tribal Council ultimately amended the agreement in 2006, requiring, among other obligations, that AtMashpee increase its funding to \$100,000 per

month in exchange for 6.5% of the gross revenue of the Class III casino that the Tribe might build).

28. As the Chairman of the Tribal Council, MARSHALL was in charge of the Tribe's affairs, including its effort to obtain federal recognition. With the input of the other officers of the Tribal Council, MARSHALL was authorized to decide which professionals to retain on the Tribal Council's behalf to assist the recognition effort. These included genealogists and attorneys specializing in Indian law who worked together to refine the Tribe's petition, as well as political consultants and lobbyists to promote the Tribe's interests in Congress and before the Massachusetts legislature.

29. On January 19, 2001, at MARSHALL'S direction and in keeping with his assurances that he would attempt to hasten the recognition process, certain Washington, D.C.-based attorneys hired by AtMashpee filed a lawsuit on behalf of the Tribal Council against the Department of the Interior ("DOI") to force the BIA, which is part of DOI, to act on the Tribe's petition for recognition.

30. MARSHALL also hired Washington, D.C. lobbyists recommended and paid for by AtMashpee to make the Tribe's case to members of Congress. From time to time, these lobbyists arranged meetings for MARSHALL and others principals in the Tribe with Congressional staffs in order to discuss the status of the Tribe's recognition petition. These lobbyists also recommended that MARSHALL and other members of the Tribe make campaign contributions to certain Members of Congress and political action committees as part of the Tribe's effort to win support for the recognition effort. From time to time, MARSHALL and others affiliated with the Tribe made such contributions.

COUNT ONE

(Federal Election Campaign Act – 2 U.S.C. § 441b(a), 437g(d)(1)(A)(I))

31. The United States Attorney re-alleges and incorporates paragraphs 1 through 30 of this Information as if fully set forth herein.

32. In or about late-2001, in an attempt to bolster the Tribe's lobbying efforts, MARSHALL hired Political Consultant A to oversee the Tribe's lobbying and public relations activities. Political Consultant A worked directly with the Washington, D.C.-based lobbyists paid for by AtMashpee.

33. In or about mid-2002, MARSHALL concluded that the Washington, D.C. lobbyists recommended by AtMashpee had failed to build sufficient political pressure in Congress for the Tribe's petition. In or about September 2002, after consulting with another officer of the Tribal Council, MARSHALL decided to replace the lobbyists and directed Political Consultant A to find a Washington, D.C. lobbyist who would be more effective in presenting the Tribe's case for recognition to relevant federal officials, including Members of Congress and officials in the DOI.

34. Consistent with MARSHALL's directive, in or about November 2002, Political Consultant A contacted an associate of Jack A. Abramoff to determine whether Abramoff would be interested in providing lobbying services on behalf of the Tribe.

35. In early-2003, Abramoff and his team of lobbyists began to work for the Tribe informally without charging a fee, and in December 2003 entered into a formal services agreement with the Tribal Council, under which the Tribal Council paid the Abramoff team \$12,000 per month. Initially, the team focused their efforts on contacting members of Congress and senior officials in the DOI concerning the status of the Tribe's recognition petition.

36. In or about January 2003, MARSHALL, along with Political Consultant A and another officer of the Tribal Council, met with Abramoff and his associates concerning the Tribe's lobbying strategy. Abramoff advised them that in order to advance its recognition effort, the Tribe needed to make significant political contributions to certain Members of Congress so that they might build political pressure on the DOI to act favorably on the Tribe's petition.

37. Around the same time, Political Consultant A and certain of the other professionals hired by the Tribal Council told MARSHALL that they preferred to be paid directly by the Tribal Council, rather than by AtMashpee. MARSHALL then arranged with Investor A that AtMashpee would fund the Tribal Council for the payment of such services, and that such funds would be transferred into an account in the name of the Fisherman's Association, on which MARSHALL and another officer of the Tribal Council were authorized signatories. The account had been dormant for several years up to that point.

38. From 2003 to 2007, AtMashpee paid approximately \$4 million into the Fisherman's Account. MARSHALL used most of the money to pay for legal, lobbying and public relations expenses in connection with the Tribe's recognition effort. The legal services included those provided by Washington-based law firms that represented the Tribe in litigation with the DOI, along with attorneys in Boston who provided advice concerning tribal governance and casino licensing. The Tribe's lobbyists included Abramoff until in or about 2004, and thereafter, Abramoff's former associates, who lobbied members of Congress and DOI officials concerning the Tribe's petition. The Tribe also hired lobbyists and a public relations firm in Boston to make the case before state legislators and other state officials that, once the Tribe became federally recognized, the state should enter into a compact with the Tribe that would

permit the Tribe to operate a Class III casino. A total of over \$1.3 million of the Fisherman's Association account funds were spent on lobbying.

39. From the Fisherman's Association account, MARSHALL also paid the fees of Political Consultant A, which began at \$7,500 per month plus expenses in 2003 and later rose to \$20,000 per month plus expenses.

40. In consultation with Abramoff and his team and with the Tribe's Boston-based lobbyists, Political Consultant A recommended on numerous occasions to MARSHALL which state and federal legislators should receive campaign contributions. To finance these contributions, MARSHALL turned to the Tribal Council funds in the Fisherman's Association account.

41. Beginning in or about 2003 and continuing through 2006, MARSHALL used funds in the Fisherman's Association account to make campaign contributions to various elected officials in order to curry favor for the Tribe's recognition petition and its effort to build a Class III gaming facility on tribal land.

42. In or about 2003, MARSHALL became aware that federal law prohibited corporations, including the Tribal Council, from making contributions to federal campaigns.

43. In order to disguise the source of the contributions, MARSHALL solicited various individuals to act as straw contributors, including members of his family and officers of the Tribal Council. In each instance, MARSHALL asked the straw contributor to write a check to a candidate's reelection committee, insisting that the contribution was necessary to further the Tribe's recognition effort and promising the straw contributor that the Tribal Council would reimburse him or her for the contribution. MARSHALL himself also made such straw contributions.

44. From in or about 2003 to 2007, MARSHALL caused the Tribal Council, through payments from the Fisherman's Association account, to reimburse straw contributors a total of \$49,950.00 in federal campaign contributions, and another \$10,550.00 in straw contributions to elected state officials. MARSHALL paid all of the reimbursements by check or cash drawn from the Tribal Council funds in the Fisherman's Association account.

45. On or about the dates set forth below, in the District of Massachusetts, the defendant,

GLENN A. MARSHALL,

being an officer of a corporation, namely the Mashpee Wampanoag Tribal Council, Inc., did knowingly and willfully consent to contributions and expenditures by that corporation in connection with an election in which Members of Congress were to be voted for, in an amount greater than \$25,000 in calendar year 2005, to wit: by causing contributions to be made to the campaign committees of Members of Congress and a federal political action committee based on promises that the straw contributors would be reimbursed with Tribal Council funds and in fact reimbursing such straw contributors, for the following contributions:

Date	Recipient	Amount of Contribution
March 7, 2005	Political Action Committee A	\$8,000
April 19, 2005	Campaign Committee of Member of Congress A	\$4,000
April 21, 2005	Campaign Committee of Member of Congress B	\$12,000
September 28, 2005	Campaign Committee of Member of Congress A	\$800
October 14, 2005	Campaign Committee of Member of Congress A	\$900

October 17, 2005	Campaign Committee of Member of Congress C	\$6,000
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All in violation of Title 2, United States Code, Sections 441b and 437g(d)(1)(A)(I), and Title 18, United States Code, Section 2.

COUNT TWO

(False Tax Returns – 26 U.S.C. § 7206(1))

46. The United States Attorney re-alleges and incorporates paragraphs 1 through 30 and 32 to 44 of this Information as if fully set forth herein.

47. As chairman of the Tribal Council, MARSHALL was responsible for filing tax returns on behalf of the Tribal Council. Such returns included IRS Form 990, which is the annual tax return for not-for-profit organizations.

48. On behalf of the Tribal Council, MARSHALL utilized the services of a professional tax preparer to prepare the Tribal Council's Forms 990s for tax years 2001 to 2004.

49. MARSHALL was aware that Line 1 of Form 990 requires the organization to enter the total "contributions, gifts, grants, and similar amounts received" by the organization during the tax year.

50. To conceal the funds paid by AtMashpee to the Tribal Council that were deposited into the Fisherman's Association account, MARSHALL did not report those payments to the tax preparer. MARSHALL knew that the tax preparer relied on his representations in completing the Form 990.

51. MARSHALL signed the Form 990 and filed it with the IRS, knowing that it falsely omitted the amount of funds that were deposited into the Fisherman's Association account.

52. On or about July 7, 2006, in the District of Massachusetts, the defendant,

GLENN A. MARSHALL,

did willfully make and subscribe a Return of Organization Exempt from Income Tax (IRS Form 990), for tax year 2004, which was verified by a written declaration that it was made under the

penalties of perjury and was filed with the Internal Revenue Service, which return MARSHALL did not believe to be true and correct as to every material matter in that the return reflected total “contributions, gifts, grants, and similar amounts received” in the amount of \$819,611, which amount, as MARSHALL well knew, did not include a total of \$704,085 in payments from AtMashpee to the Tribal Council that were deposited into the Fisherman’s Association account.

All in violation of Title 26, United States Code, Section 7206(1).

COUNT THREE
(Wire Fraud – 18 U.S.C. § 1343)

53. The United States Attorney re-alleges and incorporates paragraphs 1 through 30, 32 through 44, and 47 through 51 of this Information as if fully set forth herein.

54. As chairman of the Tribal Council, MARSHALL owed a fiduciary duty to the Tribal Council to use its funds consistent with its interests, including the funds deposited by AtMashpee into the Fisherman's Association account.

55. From in or about February 2003 to April 2007, MARSHALL engaged in a scheme to defraud whereby, in violation of this fiduciary duty, he spent funds in the Fisherman's Association account for various personal expenses without informing the Tribal Council.

56. Specifically, MARSHALL spent approximately \$380,000 from the Fisherman's Association account on such personal expenses as groceries, vacation trips, tuition payments for his daughter, restaurant tabs, home repairs, home mortgage payments, and jewelry. In addition, MARSHALL also paid out regular stipends of up to \$2000 to certain favored members of the Tribe, and provided financial assistance to others.

57. MARSHALL made these payments by check or by wire transfer from the Fisherman's Association account.

58. None of these payments was disclosed to the Tribal Council. MARSHALL was aware that these payments were not authorized by the Tribal Council and were contrary to the Tribe's interests.

59. On or about April 7, 2006, in the District of Massachusetts, the defendant,

GLENN A. MARSHALL,

having devised and intending to devise a scheme and artifice to defraud and to obtain money by means of false and fraudulent pretenses, representations and promises concerning material matters, did cause sounds and signals to be transmitted by means of wire communication in interstate commerce for the purpose of executing such scheme and artifice: to wit, by causing funds to be wire transferred from the Mashpee Fisherman's Association account at Bank of America in Massachusetts to the account of Countrywide Mortgage, Inc. at JPMorganChase Bank in New York for the purpose of making a monthly mortgage payment on a house in Mashpee owned by MARSHALL.

All in violation of Title 18, United States Code, Sections 1343 and 2.

COUNT FOUR

(False Tax Returns – 26 U.S.C. § 7206(1))

60. The United States Attorney re-alleges and incorporates paragraphs 1 through 30, 32 through 44, 47 through 51, and 54 through 58 of this Information as if fully set forth herein.

61. From 2001 to 2007, MARSHALL received an average annual salary from the Tribal Council of approximately \$40,000.

62. MARSHALL further knew that items he purchased for himself with funds from the Fisherman's Association account were a form of personal income which he was required to report on his personal income tax returns.

63. On or about April 15, 2004, in the District of Massachusetts, the defendant,

GLENN A. MARSHALL,

did willfully make and subscribe a U.S. Personal Income Tax Return, Form 1040, for tax year 2003, which was verified by a written declaration that it was made under the penalties of perjury and was filed with the Internal Revenue Service, which return MARSHALL did not believe to be true and correct as to every material matter in that the return reflected total income of \$41.00, which sum was false because it did not include the value of the personal items MARSHALL paid for out of the Fisherman's Account or his salary from the Tribal Council in 2003.

All in violation of Title 26, United States Code, Section 7206(1).

COUNT FIVE

(Social Security Fraud – 42 U.S.C. § 408(a)(4))

64. The United States Attorney re-alleges and incorporates paragraphs 1 through 30, 32-44, 47 through 51, 54 through 58, 61 and 62 of this Information as if fully set forth herein.

65. On or about May 11, 1988, MARSHALL completed an application with the Social Security Administration (“SSA”) for social security disability benefits. MARSHALL claimed that he was entitled to disability benefits because he was unable to work as a result of a disability. As part of the application, MARSHALL agreed to notify the Social Security Administration if he returned to work, an event that would disqualify him from future benefits.

66. Based on this application, MARSHALL thereafter received disability benefits on a monthly basis.

67. While receiving disability benefits, MARSHALL completed and signed an SSA Report of Continuing Disability, in which MARSHALL stated that he had not worked and did not foresee returning to work. He also completed an Authorization and Notification Statement, in which he agreed to notify SSA if he went back to work.

68. Notwithstanding his assurance that he would report to SSA that he had begun to work, MARSHALL earned an average annual salary of approximately \$40,000 as chairman of the Tribal Council, a position in which he worked full-time.

69. At no point did MARSHALL notify SSA that he was working or receiving a salary. Instead, knowing that his employment would disqualify him from future SSA benefits, MARSHALL continued to receive SSA benefits of approximately \$10,000 per year while he was chairman.

70. From in or about 2003 to 2007, in the District of Massachusetts, the defendant,

GLENN A. MARSHALL,

having knowledge of the occurrence of an event affecting his continued right to payment of social security disability benefits, did conceal and fail to disclose such event with an intent fraudulently to secure payment when no payment was authorized; to wit, by failing to disclose to the Social Security Administration that he had returned to full time work.

All in violation of Title 42, United States Code, Section 408(a)(4).

FORFEITURE ALLEGATION
18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461

71. The United States Attorney re-alleges and incorporates by reference paragraphs 1 through 70 this Information and further charges that:

72. Upon conviction of the offense alleged in Count Three, the defendant,

GLENN A. MARSHALL,

shall forfeit to the United States, pursuant to 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c), any and all property constituting, or derived from, proceeds traceable to such violation.

73. If any forfeitable property, as a result of any act or omission of the defendant:

- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third party;
- c. has been placed beyond the jurisdiction of the Court;
- d. has been substantially diminished in value; or
- e. has been commingled with other property which cannot be subdivided without difficulty;

it is the intent of the United States, pursuant to 21 U.S.C. § 853(p), as incorporated by 28 U.S.C.

§ 2461(c), to seek forfeiture of any other property of the defendant up to the value of the above forfeitable property.

All in accordance with Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c).

MICHAEL J. SULLIVAN
United States Attorney

By: 

JONATHAN F. MITCHELL
Assistant U.S. Attorney