

FILED IN OPEN COURT
U.S.D.C. Atlanta

FEB 04 2014

JAMES N. HATTEN, Clerk
By:  Deputy Clerk

ORIGINAL

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

UNITED STATES OF AMERICA

v.

ANNAMALAI ANNAMALAI
A/K/A DR. COMMANDER SELVAM
A/K/A
SWAMIJI SRI SELVAM SIDDHAR AND
KUMAR CHINNATHAMBI

Criminal Indictment - First
Superseding

No. 1:13-CR-437 -TCB

THE GRAND JURY CHARGES THAT:

**Counts One Through Seven
(Bank Fraud)
ANNAMALAI ANNAMALAI**

1. Beginning in or about April 2007, and continuing to in or about May 2012, in the Northern District of Georgia and elsewhere, the defendant, ANNAMALAI ANNAMALAI, aided and abetted by others known and unknown to the Grand Jury, knowingly executed and attempted to execute a scheme and artifice to defraud financial institutions insured by the Federal Deposit Insurance Corporation, and to obtain moneys, funds and credits owned by and under the custody or control of financial institutions insured by the Federal Deposit Insurance Corporation, by means of materially false and fraudulent pretenses, representations and promises, and by the omission of material facts.

The Scheme To Defraud

2. ANNAMALAI ANNAMALAI formed the Hindu Temple and Community Center of Georgia, Inc. ("the Hindu Temple"), a non-profit Georgia corporation, on or about July 25, 2005.

3. The Hindu Temple, under the control of ANNAMALAI ANNAMALAI, generated income by charging fees to its followers in exchange for providing spiritual or related services. The income generated by the Hindu Temple was used to fund, directly or indirectly, the personal lifestyle of ANNAMALAI ANNAMALAI and his family, who owned or controlled numerous homes and real properties, luxury vehicles, and foreign bank accounts in India.

4. The Hindu Temple, under the control of ANNAMALAI ANNAMALAI, directly or indirectly operated a number of websites and magazines, including "Siddhi Times" and "Siddhi Times USA", which solicited followers to purchase spiritual or related services from the Hindu Temple. These services included, but were not limited to, astrological readings and "poojas", which are prayer rituals in the Hindu religion. The websites and magazines directed followers to call telephone numbers that were in the possession, custody or control of ANNAMALAI ANNAMALAI.

5. In a typical transaction, a follower who called one of the telephone numbers listed on the website or magazine spoke with ANNAMALAI ANNAMALAI or someone working at his direction. If the follower agreed to purchase a particular service or series of services for a communicated price, the

follower provided a credit card number to guarantee payment. In a majority of instances, the entire transaction was conducted over the telephone.

6. In some instances, ANNAMALAI ANNAMALAI caused the followers' credit card numbers to be charged on multiple occasions, in excess of the agreed amount and without authorization. These excessive and unauthorized credit card charges were drawn on financial institutions that were insured by the Federal Deposit Insurance Corporation.

7. If the followers disputed the excessive and unauthorized credit card charges with ANNAMALAI ANNAMALAI or someone working at his direction, the followers were told that there was a "no refund" policy and that a religious service could not be cancelled or stopped once it had started.

8. If the followers disputed the excessive and unauthorized credit card charges from the Hindu Temple with their respective financial institutions, ANNAMALAI ANNAMALAI caused materially false and fraudulent documents to be submitted to the financial institutions for the purpose of causing or attempting to cause the financial institutions to accept and pay the charges to the Hindu Temple.

9. The materially false and fraudulent documents that ANNAMALAI ANNAMALAI caused to be submitted to the financial institutions included, but were not limited to, certified mail receipts from the United States Postal Service, signed by the followers or by someone on the followers' behalf. ANNAMALAI ANNAMALAI submitted the signed certified mail receipts to the financial

institutions as purported proof that the followers had accepted the charged services from the Hindu Temple. In fact, the packages that had been mailed through the United States Postal Service with certified mail receipts contained items that had not been ordered or requested by the followers, such as a copy of the 'Siddhi Times' magazine.

10. On at least one occasion, in response to a disputed charge from a follower with initials T.L., ANNAMALAI ANNAMALAI caused documents to be submitted to T.L.'s financial institution that he caused to be intentionally altered or manipulated to make it appear as if T.L. had agreed to accept the disputed charge.

Execution Of The Scheme

11. On or about the dates set forth below, in the Northern District of Georgia, defendant ANNAMALAI ANNAMALAI, aided and abetted by others known and unknown to the Grand Jury, for the purpose of executing and attempting to execute the scheme and artifice to defraud as set forth above, caused the following charges to be drawn on the financial institutions identified below:

COUNT	DATE	FOLLOWER (INITIALS)	UNAUTHORIZED CHARGE	FINANCIAL INSTITUTION
1	07/03/2008	T.L.	\$1,751.00	AMERICAN EXPRESS
2	09/24/2008	P.P.	\$1,001.00	DISCOVER
3	10/20/2008	P.P.	\$1,101.00	DISCOVER

COUNT	DATE	FOLLOWER (INITIALS)	UNAUTHORIZED CHARGE	FINANCIAL INSTITUTION
4	12/26/2008	S.P.	\$1,401.00	CAPITAL ONE
5	01/02/2009	S.P.	\$1,401.00	CAPITAL ONE
6	01/10/2009	S.P.	\$1,401.00	CAPITAL ONE
7	04/19/2009	B.V.	\$2,201.00	AMERICAN EXPRESS

All in violation of Title 18, United States Code, Sections 1344 and 2.

Count Eight
(False Federal Income Tax Return)
ANNAMALAI ANNAMALAI

12. The factual allegations contained in paragraphs 1 through 10 of this Indictment are realleged and incorporated by reference as though fully set forth herein.

13. On or about February 22, 2008, in the Northern District of Georgia, the defendant, ANNAMALAI ANNAMALAI, willfully made and subscribed to a U.S. joint individual Income Tax Return (Form 1040) for the calendar year 2007, which was verified by a written declaration that it was made under the penalties of perjury and which was filed with the Internal Revenue Service, and which ANNAMALAI ANNAMALAI did not believe to be true and correct as to every material matter in that ANNAMALAI ANNAMALAI stated "No" to Part III (Foreign Accounts and Trusts) of Schedule B, Question Number 7a, which required ANNAMALAI ANNAMALAI to disclose whether, at any time during

2007, he and his spouse had any interest in or signature or other authority over a financial account in a foreign country, such as a bank account, securities account, or other financial account. In truth, ANNAMALAI ANNAMALAI then and there well knew and believed that his response to the above-described question on his 2007 joint individual Income Tax Return was materially false because he and his spouse did have an interest in or signature or other authority over foreign bank accounts held in his native country of India during calendar year 2007.

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

Count Nine
(Conspiracy To Commit Bankruptcy Fraud)
ANNAMALAI ANNAMALAI
KUMAR CHINNATHAMBI

14. The factual allegations contained in paragraphs 1 through 10 of this Indictment are realleged and incorporated by reference as though fully set forth herein.

15. Beginning on or about August 30, 2009, and continuing through on or about December 28, 2010, in the Northern District of Georgia and elsewhere, the defendants, ANNAMALAI ANNAMALAI and KUMAR CHINNATHAMBI, did combine, conspire, confederate, agree, and have a tacit understanding with each other and others known and unknown to the Grand Jury, to commit certain offenses against the United States, that is, to knowingly and fraudulently conceal property belonging to the Hindu Temple, a debtor in bankruptcy, from the

trustee charged with control of the debtor's property and from the creditors and the United States Trustee, in violation of Title 18, United States Code, Section 152(1).

Background

It was material to the conspiracy that:

16. ANNAMALAI ANNAMALAI was listed on Georgia Secretary of State corporation records as the President of the Hindu Temple from its formation on or about July 25, 2005 until on or about October 12, 2008, at which point his name was removed and KUMAR CHINNATHAMBI was listed as the Chief Executive Officer. On or about August 30, 2009, an individual with initials V.L. was listed as the Chief Financial Officer and Secretary. At all relevant times, however, ANNAMALAI ANNAMALAI continued to run the day-to-day operations of the Hindu Temple.

17. On or about August 31, 2009, the Hindu Temple filed for Chapter 11 bankruptcy in the Northern District of Georgia, Case Number 09-82915. ANNAMALAI ANNAMALAI signed the voluntary petition for bankruptcy on behalf of the Hindu Temple as President and Chief Executive Officer.

Manner and Means of the Conspiracy

18. On or about November 9, 2009, five days after a trustee was appointed to oversee the Hindu Temple's property in bankruptcy, KUMAR CHINNATHAMBI registered a new temple with the Georgia Secretary of State,

called Shiva Vishnu Temple of Georgia, Inc. ("Shiva Vishnu"), which listed V.L. as the Chief Executive Officer.

19. On or about November 12, 2009, ANNAMALAI ANNAMALAI, KUMAR CHINNATHAMBI and V.L. opened a Bank of America bank account in the name of Shiva Vishnu.

20. From on or about November 12, 2009, through on or about December 28, 2010, ANNAMALAI ANNAMALAI, KUMAR CHINNATHAMBI and V.L. caused funds that were intended for the Hindu Temple, including but not limited to credit card charges paid by followers for spiritual or related services, and donations to the Hindu Temple, to be diverted and deposited into Shiva Vishnu's Bank of America bank account, without disclosing the funds to the trustee charged with control of the debtor Hindu Temple's property in bankruptcy, or creditors of the Hindu Temple or the United States Trustee.

Overt Acts in Furtherance of the Conspiracy

In furtherance of the conspiracy, and to effect the objects thereof, the following overt acts were committed in the Northern District of Georgia and elsewhere:

21. On or about November 10, 2009, V.L. attempted to open a bank account with Bank of Atlanta in the name of Shiva Vishnu.

22. On or about November 12, 2009, KUMAR CHINNATHAMBI opened a bank account with Bank of America in the name of Shiva Vishnu.

23. On or about November 13, 2009, KUMAR CHINNATHAMBI caused American Express, a merchant services company, to change the name on the Hindu Temple's merchant account to Shiva Vishnu, and caused American Express to change the depositing bank account information for the Hindu Temple's credit card receipts to Shiva Vishnu's bank account at Bank of America.

24. On or about November 16, 2009, V.L. caused Elavon, Inc., a merchant services company, to change the name on the Hindu Temple's merchant account to Shiva Vishnu, and caused Elavon, Inc. to change the depositing bank account information for the Hindu Temple's credit card receipts to Shiva Vishnu's bank account at Bank of America.

25. On or about November 20, 2009, ANNAMALAI ANNAMALAI and KUMAR CHINNATHAMBI converted a cashier's check in the amount of \$150,000 into six cashier's checks of \$25,000 each. Some of these cashier's checks were later deposited into Shiva Vishnu's bank account at Bank of America.

26. On or about November 23, 2009, V.L. caused Global Payments Direct, Inc., a merchant services company, to open a new merchant account in the name of Shiva Vishnu, with depositing bank account information to Shiva Vishnu's bank account at Bank of America.

27. On or about January 8, 2010, KUMAR CHINNATHAMBI caused a check made payable to the Hindu Temple, in the amount of \$3,000, to be deposited into Shiva Vishnu's bank account at Bank of America.

All in violation of Title 18, United States Code, Section 371.

**Counts Ten Through Nineteen
(Bankruptcy Fraud)
ANNAMALAI ANNAMALAI
KUMAR CHINNATHAMBI**

28. The factual allegations contained in paragraphs 1 through 10 and 15 through 20 of this Indictment are realleged and incorporated by reference as though fully set forth herein.

29. On or about the dates specified below, in the Northern District of Georgia, the defendants, ANNAMALAI ANNAMALAI and KUMAR CHINNATHAMBI, aided and abetted by each other and others known and unknown to the Grand Jury, knowingly and fraudulently concealed the property specified below belonging to the Hindu Temple, then a debtor in bankruptcy under Title 11, Case No. 09-82915, from the trustee charged with control of the debtor's property and from the creditors and the United States Trustee:

<u>COUNT</u>	<u>DATE</u>	<u>PROPERTY</u>	<u>AMOUNT</u>
10	11/25/09	Credit card receivables through American Express	\$1,942.05
11	12/07/09	Credit card receivables through Global Payments Direct	\$3,902.21
12	12/08/09	Credit card receivables through Elavon	\$5,556.00

<u>COUNT</u>	<u>DATE</u>	<u>PROPERTY</u>	<u>AMOUNT</u>
13	01/07/10	Credit card receivables through Elavon	\$3,001.00
14	01/08/10	Donation check to Hindu Temple from V.S. and S.S.	\$3,000.00
15	03/02/10	Credit card receivables through American Express	\$3,301.44
16	03/16/10	Credit card receivables through Global Payments Direct	\$2,153.80
17	06/21/10	Credit card receivables through American Express	\$3,885.07
18	07/14/10	Credit card receivables through Global Payments Direct	\$2,938.96
19	10/25/10	Credit card receivables through American Express	\$2,428.42

All in violation of Title 18, United States Code, Sections 152(1) and 2.

**Counts Twenty Through Twenty-Nine
(Money Laundering)
ANNAMALAI ANNAMALAI**

30. The factual allegations contained in paragraphs 1 through 10 and 15 through 20 of this Indictment are realleged and incorporated by reference as though fully set forth herein.

31. On or about the dates specified below, in the Northern District of Georgia, the defendant, ANNAMALAI ANNAMALAI, aided and abetted by others known and unknown to the Grand Jury, knowingly conducted the following financial transactions affecting interstate commerce, which involved the proceeds of a specified unlawful activity, that is, bankruptcy fraud in violation of 18 U.S.C. § 152(1), knowing that the transaction was designed in whole or in part to conceal and disguise the nature, location, source, ownership and control of the proceeds of some form of unlawful activity:

<u>COUNT</u>	<u>DATE</u>	<u>TRANSACTION</u>	<u>AMOUNT</u>
20	12/29/09	Mortgage payment for 14982 Riverside Drive, Apple Valley, CA	\$2,894.12
21	12/29/09	Mortgage payment for 2990 N. Highway 27, Carrollton, GA	\$3,968.39
22	02/02/10	Mortgage payment for 14982 Riverside Drive, Apple Valley, CA	\$2,894.12

<u>COUNT</u>	<u>DATE</u>	<u>TRANSACTION</u>	<u>AMOUNT</u>
23	02/02/10	Mortgage payment for 2990 N. Highway 27, Carrollton, GA	\$3,968.39
24	02/02/10	Mortgage payment for 2786 Eudora Trail, Duluth, GA	\$6,055.48
25	03/11/10	Check payable to Annamalai Annamalai	\$2,500
26	04/19/10	Check payable to Annamalai Annamalai	\$2,500
27	07/12/10	Check payable to Annamalai Annamalai	\$2,500
28	09/20/10	Mortgage payment for 14982 Riverside Drive, Apple Valley, CA	\$2,756.73
29	11/23/10	Mortgage payment for 1950 Hollow Trace, Norcross, GA	\$1,180.76

All in violation of Title 18, United States Code, Sections 1956(a)(1)(B)(i) and

2.

Count Thirty
(False Statement)
ANNAMALAI ANNAMALAI

32. The factual allegations contained in paragraphs 1 through 10, 13, and 15 through 20 of this Indictment are realleged and incorporated by reference as though fully set forth herein.

33. On or about March 9, 2013, in the Northern District of Georgia, the defendant, ANNAMALAI ANNAMALAI, willfully and knowingly made and caused to be made, and used and caused to be used, a false writing or document, knowing the same to contain a materially false, fictitious, and fraudulent statement, in a matter within the jurisdiction of an agency or department of the United States, specifically the Internal Revenue Service, United States Department of Treasury, in that ANNAMALAI ANNAMALAI transmitted or caused to be transmitted an email to a Special Agent of the Internal Revenue Service who was conducting a criminal investigation of ANNAMALAI ANNAMALAI, which was falsely, fictitiously and fraudulently made to appear as if the email had been written and authored by a witness of the criminal investigation.

In violation of Title 18, United States Code, Sections 1001(a)(3) and 2.

Count Thirty-One
(Obstruction of Justice)
ANNAMALAI ANNAMALAI

34. The factual allegations contained in paragraphs 1 through 10, 13 and 15 through 20 of this Indictment are realleged and incorporated by reference as though fully set forth herein.

35. On or about April 10, 2013, in the Northern District of Georgia, the defendant, ANNAMALAI ANNAMALAI, did corruptly endeavor to influence and impede members of the grand jury in the due and proper execution of their duties to investigate violations of federal law, by submitting a signed affidavit in response to a grand jury subpoena which contained material omissions of facts relating to the defendant's financial interest or signature authority over foreign bank accounts, with knowledge that such facts were relevant to the grand jury investigation.

In violation of Title 18, United States Code, Sections 1503 and 2.

Count Thirty-Two
(False Statement Under Oath in Bankruptcy Proceeding)
ANNAMALAI ANNAMALAI

36. The factual allegations contained in paragraphs 1 through 10 and 15 through 20 of this Indictment are realleged and incorporated by reference as though fully set forth herein.

37. On or about October 3, 2013, in the Northern District of Georgia, the defendant, ANNAMALAI ANNAMALAI, knowingly and fraudulently made a false material statement under oath in and in relation to a federal bankruptcy

case under Title 11, *In re: Hindu Temple and Community Center of Georgia Inc.*, Case Number 09-82915, by submitting an affidavit in support of a Motion to Recuse the Honorable James E. Massey, a United States Bankruptcy Court Judge, which falsely alleged that the court-appointed trustee told ANNAMALAI ANNAMALAI that he needed to give “kickbacks” to individuals around Judge Massey and to another individual in the United States Trustee’s Office.

In violation of Title 18, United States Code, Sections 152(2) and 2.

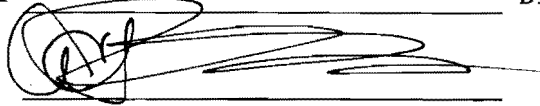
Forfeiture

38. As a result of committing one or more of the offenses alleged in Counts One through Seven of this Indictment, the defendant, ANNAMALAI ANNAMALAI, shall forfeit to the United States any and all property, real and personal, which constitutes proceeds traceable to such offenses, pursuant to Title 18, United States Code, Sections 982(a)(2)(a) and 981(a)(1)(C) and Title 28, United States Code, Section 2461.

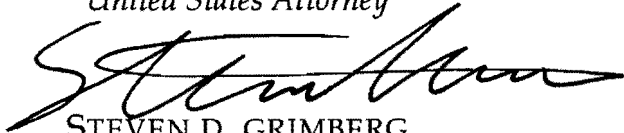
39. As a result of committing one or more of the offenses alleged in Counts Nine through Nineteen and Thirty-One through Thirty-Two of this Indictment, the defendants, ANNAMALAI ANNAMALAI and KUMAR CHINNATHAMBI, shall forfeit to the United States any and all property, real and personal, which constitutes proceeds traceable to such offenses pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461.

40. As a result of committing one or more of the money laundering offenses alleged in Counts Twenty through Twenty-Nine of this Indictment, the defendant, ANNAMALAI ANNAMALAI, shall forfeit to the United States any and all property, real and personal, involved in such offenses and all property traceable to such offenses, pursuant to Title 18, United States Code, Sections 981(a)(1)(A) and 982(a)(1) and Title 28, United States Code, Section 2461.

41. If, as a result of any act or omission of a defendant, property subject to forfeiture cannot be located upon the exercise of due diligence; has been transferred to, sold to, or deposited with, a third party; has been placed beyond the jurisdiction of the court; has been substantially diminished in value; or has been commingled with other property, which cannot be divided without difficulty, the United States intends, pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 18, United States Code, Section 982(b) and Title 28, United States Code, Section 2461, to seek forfeiture of any other property of defendants, ANNAMALAI ANNAMALAI or KUMAR CHINNATHAMBI, up to the value of the forfeitable property described above.

A TRUE BILL

FOREPERSON

SALLY QUILLIAN YATES
United States Attorney

A handwritten signature in black ink, appearing to read 'S. Grimberg', written over a horizontal line.

STEVEN D. GRIMBERG
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