

1 KEVIN V. RYAN (CASBN 118321)
United States Attorney

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

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UNITED STATES OF AMERICA

No.

0236

VRW

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Plaintiff,

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v.

15

NIKOLAI TEHIN,

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Defendant.

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VIOLATIONS: 18 U.S.C. §§ 1341 and
1346 – Mail Fraud; 18 U.S.C.
§ 1956(a)(1)(A)(i) – Laundering of
Monetary Instruments; 18 U.S.C. § 1957
– Engaging in Monetary Transactions in
Criminally Derived Property; 18 U.S.C.
§ 2 – Aiding and Abetting; 18 U.S.C.
§ 982(a)(1) – Criminal Forfeiture

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SAN FRANCISCO VENUE

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INDICTMENT

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The Grand Jury charges:

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COUNTS ONE THROUGH SIX: (18 U.S.C. §§ 1341, 1346, and 2 – Mail Fraud; Aiding
and Abetting)

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INTRODUCTION

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At all times relevant to this Indictment:

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1. Defendant NIKOLAI TEHIN (hereafter TEHIN) was an attorney licensed
to practice law in the State of California. He began practicing law in approximately 1972.

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2. From approximately 1997 through 2002, TEHIN was the named partner in
Tehin + Partners, a law firm he co-founded. The firm was typically retained on a

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INDICTMENT

1 contingency-fee basis, and the lawyers specialized in litigation involving medical
2 malpractice, personal injury, legal malpractice, and commercial disputes. The offices of
3 Tehin + Partners were located at 555 California Street, in San Francisco, California, until
4 approximately September 2002.

5 3. Tehin + Partners maintained a client trust account that was used for the
6 deposit and disbursement of client funds. The firm's principal client trust account, during
7 the relevant period, was Bank of America Account No. 16647-01154. For a short time,
8 Tehin + Partners also operated a second client trust account – Bank of America Account
9 No. 00330-031441 – but this account was closed in mid-June of 2001.

10 DUTY OF HONEST SERVICES

11 4. Attorneys practicing law in California owe both a fiduciary duty to their
12 clients and a duty of loyalty to act in their clients' best interests, both financially and
13 otherwise, and to comply with the California Rules of Professional Conduct.

14 5. Rule 4-100 of the California Rules of Professional Conduct imposes certain
15 rules regarding an attorney's handling of settlement funds belonging to clients, including,
16 but not limited to, the following:

17 a. All funds held for the benefit of clients must be placed in a client
18 trust account that is separate from the attorney's own funds.

19 b. An attorney is prohibited from commingling any of his or her own
20 funds – or those of the law firm – with funds held for the benefit of clients.

21 c. An attorney is prohibited from using or borrowing any of the funds
22 in a client trust account for his or her own benefit, even temporarily.

23 d. An attorney's client trust account must, at all times, contain all of the
24 funds received or held for the benefit of clients.

25 e. An attorney must keep a complete and accurate record of all funds
26 held for the benefit of clients. The attorney's responsibility to safeguard funds in the
27 client trust account cannot be delegated to other individuals.

28 f. An attorney must promptly notify the client whenever he or she

1 receives settlement funds or other property on a client's behalf.

2 g. An attorney is required to pay or deliver all funds belonging to a
3 client promptly upon the client's request.

4 THE SCHEME TO DEFRAUD

5 6. From in or about January 2001 through January 2003, in the Northern
6 District of California and elsewhere, the defendant

7 NIKOLAI TEHIN

8 knowingly and willfully devised and intended to devise a scheme and artifice: (A) to
9 defraud; (B) to obtain money and property by means of materially false and fraudulent
10 pretenses, representations, promises, and omissions; (C) and to deprive his clients of their
11 intangible right to his honest services as their attorney.

12 7. It was part of the scheme that TEHIN, acting contrary to his fiduciary duty
13 as an attorney, knowingly misused and converted money belonging to his clients for his
14 own benefit, and for the benefit of others, without the clients' knowledge or consent.

15 8. It was further a part of the scheme that TEHIN deliberately concealed his
16 wrongdoing from his clients and from others, and further violated his duty to provide
17 honest services to his clients, in the following ways, among others:

18 a. TEHIN both failed to advise clients that he had received or deposited
19 settlement funds on their behalves, and falsely informed clients that settlement funds had
20 not been received when, in fact, he had received them;

21 b. TEHIN failed to inform clients that their settlement funds had been
22 used for purposes unrelated to their own cases, including personal expenditures and
23 payments to other clients;

24 c. TEHIN falsely assured clients that their settlement funds were
25 deposited in the client trust account when TEHIN knew that his clients' funds had been
26 transferred to other accounts and spent;

27 d. TEHIN directed that funds belonging to some clients be used to pay
28 other clients whose funds he had previously stolen;

1 e. TEHIN fraudulently charged a client thousands of dollars in
2 expenses that were never incurred in that client's case; and

3 f. TEHIN, in response to an inquiry, caused phony and fabricated
4 documents to be submitted to the State Bar of California in an effort to justify a
5 fraudulent bill that was issued to one of his clients.

6 The Vintage Ranch Tenants

7 9. Beginning in 2000, TEHIN was retained to represent a group of over 100
8 low-income tenants in Napa, California (the "Vintage Ranch Tenants"), who sued the
9 owners of their apartment buildings for failing to maintain the dwellings in safe and
10 habitable conditions.

11 10. In early 2001, TEHIN settled the Vintage Ranch lawsuit for \$2 million. In
12 the ensuing months, TEHIN received payments from the defendant apartment owners in
13 installments. By the end of July 2001, TEHIN had received the entire \$2 million
14 settlement on behalf of the Vintage Ranch Tenants and caused these funds to be deposited
15 into Tehin + Partners' client trust accounts at the Bank of America.

16 11. After deducting for attorneys' fees and costs under the terms of TEHIN's
17 fee arrangement with his clients, the Vintage Ranch Tenants were owed approximately
18 \$1,303,000 of the \$2 million settlement.

19 12. From approximately May 2, 2001 through November 30, 2001, however,
20 before any of the Vintage Ranch Tenants had been paid, TEHIN spent in excess of
21 \$1,300,000 of the funds belonging to the Vintage Ranch Tenants to pay for unauthorized
22 personal and business expenses, including payments to repair the defendant's yacht and
23 mortgage payments on the defendant's personal residence.

24 13. TEHIN never informed the Vintage Ranch Tenants, or their representatives,
25 that their settlement funds had been transferred out of the client trust accounts and used
26 for purposes unrelated to the Vintage Ranch case.

27 14. In or about January 2002, TEHIN falsely represented to the Vintage Ranch
28 Tenants that their settlement funds were deposited in the firm's client trust account, when

1 much of their money had been spent, and the full settlement amount was not on deposit in
2 the firm's client trust accounts.

3 15. In approximately January 2002, in order to prevent some of the unpaid
4 Vintage Ranch Tenants from exposing his misconduct to the State Bar of California and
5 criminal law enforcement authorities, TEHIN misappropriated settlement funds from
6 other clients of Tehin + Partners, which he used to pay money that was owed to the
7 remaining Vintage Ranch Tenants.

8 CLIENT A

9 16. In 2000, TEHIN was retained to represent Client A, a minor child, in a
10 medical malpractice lawsuit arising out of severe neurologic injuries that Client A
11 sustained during his birth.

12 17. On or about November 27, 2001, TEHIN settled the case against one of the
13 defendants for \$250,000. In an order that authorized the settlement, the Superior Court
14 judge specifically ordered that \$154,813.14 of this \$250,000 payment be "held in trust"
15 pending a further hearing by the court for an order establishing a "Special Needs Trust"
16 for Client A.

17 18. On or about January 15, 2002, TEHIN received the \$250,000 settlement
18 check intended for Client A and caused it to be deposited into his firm's client trust
19 account at the Bank of America.

20 19. Within approximately two weeks from the date that TEHIN received the
21 \$250,000 on Client A's behalf, however, TEHIN spent about \$154,000 of the funds
22 belonging to Client A to make settlement payments to Vintage Ranch Tenants whose
23 settlement funds TEHIN had earlier misappropriated.

24 20. From approximately January through August 2002, TEHIN failed to notify
25 Client A's family or legal guardian that he had received Client A's settlement check.
26 TEHIN never informed them that Client A's settlement funds had been transferred out of
27 the client trust account and used for purposes unrelated to Client A's case.

28 21. In or about August 2002, TEHIN falsely represented to Client A's father

1 that the settlement funds were deposited in the firm's client trust account, when much of
2 Client A's money had been spent, and the full settlement amount was not on deposit in
3 the firm's client trust account.

4 CLIENTS B AND C

5 22. Beginning in approximately 2000, TEHIN was retained to represent Clients
6 B and C, two infant children afflicted with cystic fibrosis, along with their parents, as
7 guardians ad litem, in a medical malpractice action brought against a San Francisco
8 fertility center.

9 23. In or about March 2002, the parents of Clients B and C agreed in principle
10 to settle their case against one of the individual defendants, a doctor, for \$1 million. On
11 or about March 29, 2002, pursuant to that agreement, TEHIN obtained a \$1 million check
12 issued to the parents of Clients B and C and to TEHIN, as their attorney. The
13 accompanying letter, addressed to TEHIN, specified that TEHIN was only permitted to
14 deposit the check after his clients had executed a formal release of claims and a request
15 for dismissal of the lawsuit against the doctor.

16 24. Despite these instructions, on or about March 29, 2002, the day that TEHIN
17 received the \$1 million settlement check, TEHIN caused the check to be deposited into
18 his firm's client trust account, without the knowledge or consent of the parents of Clients
19 B and C, and without the required endorsement from the father of Clients B and C.

20 25. After deducting for attorneys' fees and costs under the terms of TEHIN's
21 fee arrangement with these clients, Clients B and C were owed approximately \$682,154
22 of this \$1 million settlement.

23 26. Within approximately ten days from the date TEHIN received the \$1
24 million check on behalf of Clients B and C, however, TEHIN spent about \$584,000 of the
25 funds belonging to Clients B and C to pay for personal and business expenses unrelated to
26 their case, including a mortgage payment on TEHIN's personal residence, payments to
27 finance the loan on TEHIN's vehicle, and payments to Vintage Ranch Tenants and
28 another Tehin + Partners client.

1 27. From March through June 2002, TEHIN failed to notify the parents of
2 Clients B and C that he had received and deposited their settlement check. TEHIN never
3 informed them that their settlement funds had been transferred out of the client trust
4 account and used for purposes unrelated to the case involving Clients B and C; and

5 28. In or about June 2002, TEHIN falsely represented to the father of Clients B
6 and C that the children's settlement funds were deposited in the firm's client trust
7 account, when much of the settlement money for Clients B and C had been spent, and the
8 full settlement amount was not on deposit in the firm's client trust account.

9 CLIENT D

10 29. Beginning in 1998, TEHIN was retained to represent Client D in a medical
11 malpractice action relating to injuries sustained by Client D's daughter while under the
12 care of medical professionals.

13 30. TEHIN settled the case in or about December 2001 for \$200,000. On or
14 about January 31, 2002, TEHIN received a \$200,000 settlement check for Client D and
15 caused it to be deposited into his firm's client trust account at the Bank of America.

16 31. After deducting for attorneys' fees and costs under the terms of TEHIN's
17 fee arrangement with the client, Client D was owed approximately \$132,000 of this
18 \$200,000 settlement.

19 32. Within approximately one week from the date that TEHIN received the
20 \$200,000 for Client D, however, TEHIN used all of the funds belonging to Client D to
21 pay for business expenses unrelated to Client D's case, including payments to Vintage
22 Ranch Tenants whose funds TEHIN had earlier misappropriated.

23 33. In or about April 2002, TEHIN misled Client D about when he had received
24 the settlement check.

25 34. From January through April 2002, TEHIN failed to notify Client D that he
26 had received the settlement funds. TEHIN never informed Client D that the settlement
27 funds had been spent for purposes unrelated to Client D's case, including payments to
28 other Tehin + Partners clients who were owed money.

1 42. In or about October 2002, TEHIN falsely represented to Client F that her
2 funds were deposited in the firm's client trust account, when much of the settlement
3 money belonging to Clients E and F had been spent, and the full settlement amount was
4 not on deposit in the firm's client trust account.

5 USE OF THE MAIL

6 43. On or about the dates set forth below, in the Northern District of California
7 and elsewhere, for the purpose of executing the scheme and artifice to defraud, TEHIN
8 caused to be placed in a post office and authorized depository for mail the items listed
9 below to be sent and delivered by the United States Postal Service according to the
10 directions thereon:

| 11 Count | 12 Approximate Date of the Mailing | 13 Description of Item Mailed |
|-----------------|---|---|
| 14 ONE | 15 March 5, 2001 | 16 Letter from opposing counsel in Vintage 17 Ranch case to TEHIN, forwarding settlement 18 check |
| 19 TWO | 20 January 31, 2002 | 21 Letter, signed by TEHIN, addressed to a 22 Vintage Ranch Tenant |
| 23 THREE | 24 January 11, 2002 | 25 Letter, signed by TEHIN, addressed to 26 opposing counsel in Client A's case |
| 27 FOUR | 28 December 14, 2001 | Letter, signed by TEHIN, addressed to opposing counsel in Client B and C's case |
| FIVE | May 22, 2002 | Letter from Tehin + Partners addressed to Client D, enclosing "Statement of Costs" |
| SIX | May 3, 2002 | Letter, signed by TEHIN, to opposing counsel in Client E and F's case |

21 All in violation of Title 18, United States Code, Sections 1341, 1346, and 2.

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23 COUNTS SEVEN THROUGH ELEVEN: (18 U.S.C. §§ 1956(a)(1)(A)(i) and 2-
24 Laundering of Monetary Instruments; Aiding and Abetting)

25 44. The allegations contained in Counts One through Six of this Indictment are
26 realleged as though fully set forth herein.

27 45. On or about the dates set forth below, in the Northern District of California

1 and elsewhere, the defendant

2 NIKOLAI TEHIN

3 did knowingly conduct financial transactions which affected interstate commerce with the
4 proceeds of a specified unlawful activity – namely, mail fraud, a violation of Title 18,
5 United States Code, Sections 1341 and 1346 – with the intent to promote the carrying on
6 of the specified unlawful activity, as follows:

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| Count | Date of Financial Transaction | Description of Financial Transaction | Amount |
|-------|-------------------------------|--|--------------|
| 8 7 | January 30, 2002 | Check No. 7364, drawn on Bank of America Account 16647-01154, issued to Vintage Ranch Tenant #1 | \$12,700.00 |
| 9 8 | January 30, 2002 | Check No. 7365, drawn on Bank of America Account 16647-01154, issued to Vintage Ranch Tenant #2 | \$12,700.00 |
| 10 9 | April 5, 2002 | Check No. 7447, drawn on Bank of America Account 16647-01154, issued to Client G, a client of Tehin + Partners known to the Grand Jury | \$84,969.08 |
| 11 10 | May 20, 2002 | Check No. 7479, drawn on Bank of America Account 16647-01154, issued to Client H, a client of Tehin + Partners known to the Grand Jury | \$123,710.32 |
| 12 11 | June 6, 2002 | Check No. 7478 drawn on Bank of America Account 16647-01154, issued to Client D | \$103,864.47 |

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21 All in violation of Title 18, United States Code, Sections 1956(a)(1)(A)(i) and 2.

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23 **COUNTS TWELVE THROUGH FIFTEEN:** (18 U.S.C. §§ 1957 and 2 – Engaging in
24 Monetary Transactions in Property Derived from Specified Unlawful Activity; Aiding
and Abetting)

25 46. The allegations contained in Counts One through Six of this Indictment are
26 realleged as though fully set forth herein.

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INDICTMENT

1 47. On or about the dates set forth below, in the Northern District of California
2 and elsewhere, the defendant

3 NIKOLAI TEHIN

4 did knowingly engage in monetary transactions which affected interstate commerce in
5 criminally derived property of a value greater than \$10,000 and derived from specified
6 unlawful activities – namely, mail fraud, a violation of Title 18, United States Code,
7 Sections 1341 and 1346, as follows:

| 8 Count | Date of Financial Transaction | Description of Monetary Transaction | Amount |
|----------------|--------------------------------------|---|---------------|
| 9 12 | May 15, 2001 | Check No. 5576, drawn on Bank of America Account No. 00336-31443, issued to KKMI | \$50,000.00 |
| 10 13 | June 1, 2001 | Wire Transfer from Bank of America Account No. 00336-31443 to Pacific Coast Investment Company | \$237,528.78 |
| 11 14 | July 2, 2001 | Wire Transfer from Bank of America Account No. 00336-31443 to Pacific Coast Investment Company | \$53,122.81 |
| 12 15 | April 9, 2002 | Check No. 6168, drawn on Bank of America Account No. 00336-31443, issued to Investment Grade Loans, a/k/a “IGL, Inc.” | \$60,416.67 |

13 All in violation of Title 18, United States Code, Sections 1957 and 2.

14 **FORFEITURE ALLEGATION:** (18 U.S.C. § 982(a)(1) – Forfeiture)

15 48. The allegations contained in Counts One through Six of this Indictment are
16 realleged as though fully set forth herein.

17 49. As a result of the money laundering offenses, in violation of Title 18,
18 United States Code, Sections 1956(a)(1)(A)(i) and 1957, as alleged in Counts Seven
19 through Fifteen above, the defendant

20 NIKOLAI TEHIN

21 shall forfeit to the United States the sum of \$739,012.13, as property involved in or

1 traceable to the above-described money laundering violations.

2 **5o.** If, as a result of any act or omission of the defendant, any of the above-
3 described property

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

10 then the defendant shall forfeit to the United States any and all interest that the defendant
11 has in any other property (not to exceed the value of the above forfeitable property),
12 including but not limited to the following:

13 The residence located at:
14 2676 Pacific Avenue
San Francisco, CA

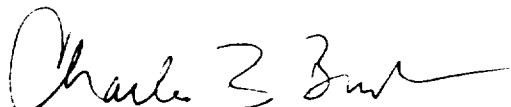
15 All in violation of Title 18, United States Code, Section 982(a)(1).

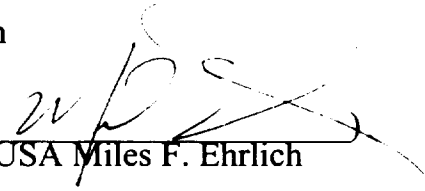
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17 DATED:

A TRUE BILL.

18
19 FOREPERSON

20 KEVIN V. RYAN
United States Attorney

21 
22 CHARLES B. BURCH
23 Chief, Criminal Division

24
25 (Approved as to form: 
AUSA Miles F. Ehrlich

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27
28
INDICTMENT

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