

Supreme Court of the State of New York
Appellate Division: Second Judicial Department

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_____AD3d_____

Argued - June 3, 2008

REINALDO E. RIVERA, J.P.
PETER B. SKELOS
EDWARD D. CARNI
CHERYL E. CHAMBERS, JJ.

2006-05437
2006-11345

DECISION & ORDER

The People, etc., respondent,
v James Simmons, appellant.

(Ind. No. 05-356)

Law Offices of Laura G. Weiss, Attorney at Law, P.C., Pearl River, N.Y., for appellant.

Thomas P. Zugibe, District Attorney, New City, N.Y. (Carrie A. Ciganek of counsel), for respondent.

Appeal by the defendant from (1) a judgment of the County Court, Rockland County (Bartlett, J.), rendered May 23, 2006, convicting him of grand larceny in the second degree, falsifying business records in the first degree (five counts), and conspiracy in the fifth degree, upon a jury verdict, and imposing sentence, and (2) an amended sentence of the same court dated November 15, 2006, which, after a hearing, directed him to pay restitution in the total sum of \$142,297.64.

ORDERED that the judgment and the amended sentence are affirmed.

Viewing the evidence in the light most favorable to the prosecution (*see People v Contes*, 60 NY2d 620), we find that it was legally sufficient to establish the defendant's guilt of grand larceny in the second degree beyond a reasonable doubt. Moreover, upon the exercise of our factual review power (*see CPL 470.15[5]*), we are satisfied that the verdict of guilt was not against the weight of the evidence (*see People v Romero*, 7 NY3d 633; *People v Bleakley*, 69 NY2d 490, 495).

The court did not err in directing the defendant, after a hearing, to pay restitution in

September 30, 2008

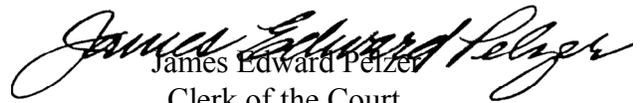
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the total sum of \$142,297.64 (see Penal Law §§ 60.25, 60.27; *People v Tzitzikalakis*, 8 NY3d 217, 220; *People v Consalvo*, 89 NY2d 140).

RIVERA, J.P., SKELOS, CARNI and CHAMBERS, JJ., concur.

ENTER:


James Edward Peizer
Clerk of the Court