

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

No. 08-3218

UNITED STATES OF AMERICA

v.

JOHN J. RIGAS;  
TIMOTHY J. RIGAS,  
Appellants

(MDPA Nos. 05-cr-00402-001 and 002)

PRESENT: SCIRICA, Chief Judge, McKEE, RENDELL, BARRY, AMBRO,  
FUENTES, SMITH, FISHER, CHAGARES, JORDAN, HARDIMAN,  
and ROTH, Circuit Judges

**ORDER**

Upon consideration of the petition for rehearing filed by Appellee the United States of America and the answer filed by Appellants John J. Rigas and Timothy Rigas, it is hereby O R D E R E D that the petition for rehearing en banc is granted on the sole issue of whether the two clauses in 18 U.S.C. § 371 -- the "offense" clause and the "defraud" clause -- constitute separate offenses under the Double Jeopardy Clause of the United States Constitution.

The Clerk of this Court shall list the appeal for rehearing en banc on Wednesday, February 17, 2010, at 10:00 a.m. Additional briefing in this matter is not required. The parties are directed to file an additional 25 copies of the briefs which were previously filed with the Clerk within 14 days from the date of this order.

By the Court,

/s/ Anthony J. Scirica  
Chief Judge

Date: January 13, 2010  
ARL/cc: AH; APR; GJR; MPF; LGM; JUM; PMN;