

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Case:2:11-cr-20498
Judge: Cleland, Robert H.
MJ: Whalen, R. Steven
Filed: 08-08-2011 At 03:43 PM
indi USA V. CHAUDHURI, ET AL (TAM)

vs.

Offenses: Ct. 1: 18 U.S.C. § 371 -
Conspiracy to Defraud the United
States

D-1 ANTHONY KUMAR CHAUDHURI,

Cts. 2-12: 26 U.S.C. § 7202 and
18 U.S.C. § 2 - Failure to
Account For and Pay Over
Employment Taxes

D-2 MARGARET ANN CHAUDHURI

Ct. 13: 26 U.S.C. § 7212(a) -
Corruptly Endeavor to Obstruct or
Impede the Due Administration of
the Internal Revenue Laws

INDICTMENT

The Grand Jury charges that:

COUNT 1

(18 U.S.C. § 371 - Conspiracy to Defraud the United States)

D-1 ANTHONY KUMAR CHAUDHURI
D-2 MARGARET ANN CHAUDHURI

Introduction

At all times relevant to this Indictment:

1. Defendants ANTHONY CHAUDHURI and MARGARET CHAUDHURI have been married since 1989 and have resided in Naples, Florida since 1994.
2. From 1993 to 2008, the defendants owned and operated a hospital

inventory control software company that operated under the name "ARIEL COMPUTING" and various nominee names, including ADI, Ariel, Inc., Ariel Development Systems, Inc., Ariel Distributing Corporation, and Damara Development Systems (hereinafter "ARIEL COMPUTING"). Although the business operated under the various corporate names, at all times the business was under the control of ANTHONY CHAUDHURI and MARGARET CHAUDHURI, using the same employees and addresses, and with the same clients.

3. From March 31, 1996, to on or about March 31, 2008, ANTHONY CHAUDHURI and MARGARET CHAUDHURI failed to properly collect, account for, and pay over employment taxes. Rather than pay over to the United States the ARIEL COMPUTING employment taxes that were due and owing, ANTHONY and MARGARET CHAUDHURI spent significant sums of this money on business expenses, employee salaries, and personal expenses.

4. ANTHONY CHAUDHURI was the president of Ariel Distributing, Inc. ("ADI").

5. MARGARET CHAUDHURI was the president of Ariel Computing, Inc. ("ARIEL COMPUTING").

6. From in or about 1994 to 2008, ANTHONY CHAUDHURI and MARGARET CHAUDHURI operated ARIEL COMPUTING from the following addresses:

- (a) 455 East Eisenhower Parkway, Suite 220, Ann Arbor, Michigan;
- (b) 361 West Eisenhower Parkway, Suite 2, Ann Arbor, Michigan;
- (c) 2455 S. Industrial Hwy, Suite M1, Ann Arbor, Michigan;

- (d) 2455 S. Industrial Hwy, Suite M, Ann Arbor, Michigan; and
- (e) 3820 Packard, Suite 200, Ann Arbor, Michigan.

7. ADI also used a post office box address of P.O. Box 7734, Ann Arbor, Michigan.

Employment Taxes

8. The Internal Revenue Service ("IRS") is an agency of the United States Department of Treasury, responsible for administering and enforcing the tax laws of the United States, and collecting the taxes that are due and owing to the Treasury of the United States by its citizens and businesses.

9. Federal income tax withholding ("withholding taxes") and Federal Insurance Contribution Act taxes ("FICA taxes"), as more particularly described below, constitute employment taxes ("employment taxes").

(a) **Withholding Taxes:** In general, an employer must deduct and withhold income tax on the amount of wages that are paid to its employees, and pay over those withholding taxes to the IRS.

(b) **FICA Taxes:** The FICA tax is comprised of two elements: old-age, survivor and disability insurance, which is commonly referred to as "Social Security," and health insurance, which is commonly referred to as "Medicare." Social Security taxes are used to fund retirement and disability benefits, while Medicare taxes are used to provide health and medical benefits for the aged and disabled. An employer must deduct the employees' portion of FICA taxes from the employees' wages, based on the amount of wages that are paid to its employees, pay over those FICA taxes to the IRS, and pay over an equivalent amount as the employer's share of FICA taxes to the IRS.

10. ARIEL COMPUTING was required by law to withhold, report, and pay over employment taxes to the IRS on the amount of wages they paid to their employees on a quarterly or more frequent basis. The number of employees at ARIEL COMPUTING ranged between three and ten.

11. The Internal Revenue Code requires that an employer report employment taxes on an Employer's Quarterly Federal Tax Return, Form 941 ("Form 941"). The Form 941 is filed quarterly, and is due one month after the conclusion of each quarter. An employer must pay over employment taxes to the IRS in full by the due date of the Form 941.

12. MARGARET CHAUDHURI exercised signature authority on the ARIEL COMPUTING business checking account, and, as the president of ARIEL COMPUTING and a person with control over ARIEL COMPUTING's financial affairs, was responsible for collecting, accounting for, and paying over employment taxes for ARIEL COMPUTING.

13. Section 7501 of the Internal Revenue Code provides that whenever any person is required to withhold or collect any internal revenue tax from any other person and to pay over such tax to the United States, the amount of tax so withheld or collected shall be held in trust on behalf of the United States.

The Conspiracy

14. From in or about March 1996 to in or about December 2008, in the Eastern District of Michigan, and elsewhere, the defendants,

ANTHONY CHAUDHURI
and
MARGARET CHAUDHURI,

did knowingly and intentionally conspire and agree with each other, and with others, to defraud the United States for the purpose of impeding, impairing, obstructing, and defeating the lawful Government functions of the IRS in the ascertainment, assessment, computation and collection of the revenue, to wit, employment taxes of ARIEL COMPUTING.

Objects of the Conspiracy

15. The objects of the conspiracy were to:

(a) knowingly and intentionally fail to account for, collect, and fully pay to the IRS the ARIEL COMPUTING employment taxes that were due and owing to the IRS; and

(b) divert the funds for the payment of ARIEL COMPUTING employment taxes to the use of ARIEL COMPUTING and to ANTHONY and MARGARET CHAUDHURI's own personal use.

Manner and Means of the Conspiracy

Among the means and methods used by ANTHONY CHAUDHURI and MARGARET CHAUDHURI, the defendants, and their co-conspirators, to achieve the objects of the conspiracy were the following:

16. Beginning in or about August 1994, the exact date being unknown to the grand jury, through in or about December 2008, ANTHONY and MARGARET CHAUDHURI began using various nominee business entities to conduct ARIEL COMPUTING financial transactions. These nominee entities functioned as ARIEL COMPUTING's alter-egos and, as such, ARIEL COMPUTING remained liable for all

employment taxes due and owing.

17. It was further part of the conspiracy that from in or about March 1997 to in or about December 2008, ANTHONY CHAUDHURI caused ARIEL COMPUTING clients to remit payments to ARIEL COMPUTING nominee entities and directed those payments to be deposited into accounts controlled by ANTHONY CHAUDHURI.

18. It was further part of the conspiracy that from in or about March 1996 to in or about March 2008, MARGARET CHAUDHURI filed, or caused to be filed, Forms 941 for ARIEL COMPUTING that reflected the employment tax liability of ARIEL COMPUTING employees and ARIEL COMPUTING, but failed to remit the full payments of the outstanding employment tax liabilities to the IRS with the filed employment tax returns.

19. It was further part of the conspiracy that from in or about 1996 to in or about April 2008, ANTHONY and MARGARET CHAUDHURI caused ARIEL COMPUTING to prepare Forms W-2 for ARIEL COMPUTING employees that falsely reported that withheld employment taxes had been collected and paid over to the IRS for the tax years 1994 through 2008; these Forms W-2 were subsequently provided to ARIEL COMPUTING employees.

20. It was further part of the conspiracy that from in or about March 1996 through in or about April 2008, for forty (40) quarters, ANTHONY and MARGARET CHAUDHURI withheld and caused to be withheld approximately \$883,353.28 in employment taxes from ARIEL COMPUTING employees in connection with wages paid to those employees; but failed to pay over approximately \$600,984.11 of those withheld employment taxes to the IRS, as required by law.

21. It was further part of the conspiracy that ANTHONY and MARGARET CHAUDHURI diverted, or caused to be diverted, employment taxes to the use of ARIEL COMPUTING, various ARIEL COMPUTING nominee entities, and to their own personal use.

Overt Acts

In furtherance of the conspiracy and to effect its unlawful objects, defendants ANTHONY and MARGARET CHAUDHURI committed and caused to be committed the following overt acts in the Eastern District of Michigan and elsewhere:

22. The following chart shows the dates MARGARET CHAUDHURI caused an ARIEL COMPUTING Form 941 to be filed, the quarter each Form 941 was filed, the actual ARIEL COMPUTING employment tax liabilities that were due and owing to the IRS, the amount of ARIEL COMPUTING employment tax paid, and the approximate amount of unpaid ARIEL COMPUTING employment taxes:

Quarter Ended	Approximate Filing Date of Form 941	Employees' Income & FICA Taxes	Employees' Tax Paid Over to IRS	Unpaid Tax Delinquency
March 31, 1996	September 13, 1999	\$17,243.86	\$0	\$17,243.86
June 30, 1996	September 13, 1999	\$16,588.75	\$0	\$16,588.75
September 30, 1996	September 13, 1999	\$19,624.01	\$0	\$19,624.01
December 31, 1996	September 13, 1999	\$17,768.77	\$0	\$17,768.77
March 31, 1997	November 23, 1999	\$20,002.64	\$0	\$20,002.64

June 30, 1997	November 23, 1999	\$18,668.25	\$0	\$18,668.25
September 30, 1997	November 23, 1999	\$17,521.83	\$0	\$17,521.83
December 31, 1997	November 23, 1999	\$16,562.88	\$0	\$16,562.88
March 31, 1998	November 23, 1999	\$16,909.08	\$262.26	\$16,646.82
June 30, 1998	November 23, 1999	\$20,691.96	\$0	\$20,691.96
September 30, 1998	November 23, 1999	\$21,681.01	\$0	\$21,681.01
December 31, 1998	November 23, 1999	\$21,254.76	\$0	\$21,254.76
March 31, 1999	December 11, 1999	\$19,229.31	\$0	\$19,229.31
June 30, 1999	December 11, 1999	\$21,105.40	\$0	\$21,105.40
September 30, 1999	December 7, 1999	\$22,623.55	\$0	\$22,623.55
December 31, 1999	July 17, 2000	\$26,504.21	\$9,376.94	\$17,127.27
September 30, 2000	January 25, 2001	\$22,012.86	\$21,079.72	\$933.14
June 30, 2001	July 16, 2001	\$24,035.54	\$0	\$24,035.54
December 31, 2002	September 8, 2003	\$22,299.30	\$14,687.40	\$7,611.90
March 31, 2003	September 8, 2003	\$22,640.54	\$0	\$22,640.54
June 30, 2003	September 8, 2003	\$21,806.10	\$0	\$21,806.10
September 30, 2003	March 4, 2005	\$26,002.12	\$0	\$26,002.12

December 31, 2003	March 4, 2005	\$14,820.00	\$0	\$14,820.00
March 31, 2004	March 4, 2005	\$18,980.74	\$0	\$18,980.74
June 30, 2004	March 4, 2005	\$17,763.50	\$0	\$17,763.50
September 30, 2004	March 4, 2005	\$17,334.24	\$0	\$17,334.24
December 31, 2004	March 4, 2005	\$18,325.29	\$0	\$18,325.29
March 31, 2005	December 4, 2007	\$18,110.88	\$0	\$18,110.88
June 30, 2005	December 4, 2007	\$19,140.74	\$0	\$19,140.74
September 30, 2005	December 4, 2007	\$18,574.86	\$0	\$18,574.86
December 31, 2005	December 4, 2007	\$12,703.94	\$0	\$12,703.94
March 31, 2006	December 4, 2007	\$17,830.63	\$0	\$17,830.63
June 30, 2006	December 4, 2007	\$17,032.54	\$0	\$17,032.54
September 30, 2006	December 4, 2007	\$14,524.47	\$0	\$14,524.47
December 31, 2006	December 4, 2007	\$18,273.26	\$0	\$18,273.26
March 31, 2007	December 4, 2007	\$16,401.98	\$0	\$16,401.98
June 30, 2007	December 4, 2007	\$16,730.14	\$0	\$16,730.14
September 30, 2007	February 26, 2008	\$17,438.82	\$0	\$17,438.82
December 31, 2007	February 26, 2008	\$17,063.32	\$0	\$17,063.32

March 31, 2008	February 26, 2008	\$6,068.46	\$0	\$6,068.46
Total				\$600,984.11

23. On or about August 2, 1996, ANTHONY CHAUDHURI and MARGARET CHAUDHURI sent, or caused to be sent, an invoice directing an ARIEL COMPUTING client to make payment to "Ariel Development Systems, Inc."

24. On or about April 4, 1997, ANTHONY CHAUDHURI and MARGARET CHAUDHURI sent an invoice directing an ARIEL COMPUTING client to make payment to "Ariel Development Systems, Inc."

25. On or about April 14, 1998, MARGARET CHAUDHURI transferred her financial interest in the jointly-owned residential property belonging to ANTHONY and MARGARET CHAUDHURI in Naples, Florida to ANTHONY CHAUDHURI.

26. On or about April 22, 1998, ANTHONY CHAUDHURI and MARGARET CHAUDHURI sent an invoice directing an ARIEL COMPUTING client to make payment to "Ariel Development Systems, Inc."

27. On or about September 17, 2001, ANTHONY CHAUDHURI and MARGARET CHAUDHURI sent an invoice directing an ARIEL COMPUTING client to make payment to "ADI."

28. On or about June 7, 2002, ANTHONY CHAUDHURI and MARGARET CHAUDHURI sent an invoice directing an ARIEL COMPUTING client to make payment to "ADI."

29. In or about March 2004, ANTHONY CHAUDHURI negotiated a contract

on behalf of ARIEL COMPUTING that licensed software to CLIENT A ("CLIENT A contract").

30. On or about March 11, 2004, ANTHONY CHAUDHURI deposited, or caused to be deposited, a \$45,624.00 payment from an ARIEL COMPUTING client into an account in the name of ADI, over which ANTHONY CHAUDHURI exercised signature authority.

31. On or about March 15, 2004, ANTHONY CHAUDHURI deposited or caused to be deposited, a \$475,000.00 check from the CLIENT A contract, made payable to "Ariel, Inc." into an ADI bank account.

32. On or about May 19, 2004, ANTHONY CHAUDHURI deposited or caused to be deposited, a \$100,000.00 check from the CLIENT A contract, made payable to "Ariel, Inc." into an ADI bank account.

33. On or about November 2, 2005, ANTHONY CHAUDHURI deposited, or caused to be deposited, a \$6,700.00 payment from an ARIEL COMPUTING client into an account in the name of Ariel Distributing Corporation.

34. On or about January 5, 2006, ANTHONY CHAUDHURI deposited, or caused to be deposited a \$7,787.50 payment from an ARIEL COMPUTING client into an account in the name of Ariel Distributing Corporation, over which ANTHONY CHAUDHURI exercised signature authority.

35. On or about February 8, 2006, ANTHONY CHAUDHURI and MARGARET CHAUDHURI sent an invoice directing an ARIEL COMPUTING client to make payment to ADI.

36. On or about August 21, 2008, ANTHONY CHAUDHURI deposited

\$500.00 of ADI funds into his personal bank account.

37. On or about December 30, 2008, ANTHONY CHAUDHURI deposited \$700.00 of ADI funds into his personal bank account.

In violation of Title 18, United States Code, Section 371.

COUNTS 2-12

(26 U.S.C. § 7202 and 18 U.S.C. § 2 -Failure to Account For and Pay Over Employment Taxes)

D-1 ANTHONY KUMAR CHAUDHURI
D-2 MARGARET ANN CHAUDHURI

38. Paragraphs 1 through 13, 16 through 37 of Count 1 of this Indictment are realleged as if set forth in full herein.

39. On or about the dates set forth below, in the Eastern District of Michigan and elsewhere, defendants,

ANTHONY CHAUDHURI
and
MARGARET CHAUDHURI,

being persons required to collect, truthfully account for, and pay over employment taxes to the United States, namely the Internal Revenue Service, for eleven quarters corresponding to the below-listed counts, did knowingly and willfully fail to pay over the following federal employment taxes due and owing to the United States for ARIEL COMPUTING employees, in the manner and amount as described in paragraphs 1 through 13, and 16 through 37 of Counts 1 of this Indictment.

Count	Tax Year and Quarter	Quarterly Due Date	Approximate Unpaid Taxes
2	3Q 2005	October 31, 2005	\$18,574.86

3	4Q 2005	January 31, 2006	\$12,703.94
4	1Q 2006	April 30, 2006	\$17,830.63
5	2Q 2006	July 31, 2006	\$17,032.54
6	3Q 2006	October 31, 2006	\$14,524.47
7	4Q 2006	January 31, 2007	\$18,273.26
8	1Q 2007	April 30, 2007	\$16,401.98
9	2Q 2007	July 31, 2007	\$16,730.14
10	3Q 2007	October 31, 2007	\$17,438.82
11	4Q 2007	January 31, 2008	\$17,063.32
12	1Q 2008	April 30, 2008	\$6,068.46

In violation of Title 26, United States Code, Section 7202, and Title 18, United States Code, Section 2.

COUNT 13

(26 U.S.C. § 7212(a) - Corruptly Endeavor to Obstruct or Impede the
Due Administration of the Internal Revenue Laws)

D-1 ANTHONY KUMAR CHAUDHURI
D-2 MARGARET ANN CHAUDHURI

40. Paragraphs 1 through 13, and 16 through 37 of Count 1 of this Indictment are realleged as if set forth in full herein.

Income Taxes

41. ANTHONY CHAUDHURI derived substantial income from ARIEL COMPUTING through ADI. For example, his approximate adjusted gross income between tax years 2004 through 2007 was as follows:

2004	\$518,018.15
2005	\$242,537.19
2006	\$152,733.84
2007	\$72,568.21
TOTAL	\$985,857.39

42. Although required to do so, ANTHONY CHAUDHURI willfully failed to file a U.S. Individual Income Tax Return, Form 1040, ("federal income tax return") with the IRS for each of the tax years 2004 to 2008. Nor has ANTHONY CHAUDHURI paid any federal income taxes due and owing for tax years 2004 to 2008.

43. In tax years 2005 to 2007, ANTHONY CHAUDHURI and MARGARET CHAUDHURI were doing business in the name of ADI and generated substantial income, but failed to file any income tax return reporting that income. For example, ADI's total gross income in tax years 2004 and 2006 was as follows:

2004	\$1,102,685.95
2005	\$483,620.19
2006	\$473,016.49
TOTAL	\$2,059,295.63

IRS Collection Activity

44. On or about October 18, 1995, ANTHONY CHAUDHURI signed an IRS Proposed Assessment of Trust Fund Recovery Penalty indicating ANTHONY CHAUDHURI was the responsible person for \$26,278.82 in employment taxes due and owing on the behalf of Irie Enterprises, Inc., a predecessor company of ARIEL COMPUTING.

45. In or about August 1999, an IRS Revenue Officer contacted an ARIEL COMPUTING employee regarding delinquent and unfiled Forms 941 for the quarters ending June 30, 1994, through June 30, 1998, and unfiled Forms 940 (Federal Unemployment Tax Returns) for the tax years 1994 through 1998.

46. On or about April 24 and 25, 2000, the IRS filed Notice of Federal Tax Liens with the Register of Deeds in Ann Arbor, Michigan, and the Michigan Department of State Uniform Commercial Code Unit against ARIEL COMPUTING seeking unpaid employment taxes for the quarters ending March 30, 1995, through September 30, 1999.

47. On or about January 12, 2001, the IRS filed a Notice of Levy with Republic Bank seeking to levy funds for payment of unpaid employment taxes on the behalf of ARIEL COMPUTING, for the quarters ending June 30, 1994, through March 30, 2000.

48. On or about February 15, 2001, the IRS filed Notice of Federal Tax Liens with the Register of Deeds in Ann Arbor, Michigan, and the Michigan Department of State Uniform Commercial Code Unit against ARIEL COMPUTING seeking unpaid employment taxes for the quarter ending December 31, 1999.

49. From July 2001 to 2009, the IRS attempted to levy ARIEL COMPUTING bank accounts and ARIEL COMPUTING nominee bank accounts.

50. On or about April 23, 2003, ARIEL COMPUTING's primary business bank account was closed due to inactivity. Thereafter, ANTHONY CHAUDHURI and MARGARET CHAUDHURI used bank accounts in the name of Ariel Development Systems, Inc., ADI, and Ariel Distributing Corporation.

51. Beginning on or about March 31, 1996, and continuing thereafter up to and including the present, in the Eastern District of Michigan and elsewhere, defendants,

ANTHONY CHAUDHURI
and
MARGARET CHAUDHURI,

did corruptly endeavor to obstruct and impede the due administration of the Internal Revenue laws by, among other things,

- (a) Making false statements to the IRS misrepresenting their income and the source of their income;
- (b) Paying ARIEL COMPUTING employee salaries through ARIEL COMPUTING nominee entity accounts;
- (c) Using nominee entities to collect income and conduct financial transactions related to ARIEL COMPUTING business;
- (d) Issuing false and fraudulent Forms W-2 to ARIEL COMPUTING employees;
- (e) Failing to maintain accurate books and records for ARIEL COMPUTING and ARIEL COMPUTING nominee entities;

- (f) Willfully failing to file ANTHONY CHAUDHURI's individual federal Income Tax Returns with the IRS for tax years 2004 to 2008;
- (g) Willfully failing to report income generated in the name of ADI for tax years 2004 to 2008; and
- (h) Failing to fully pay to the IRS the employment taxes that were withheld from ARIEL COMPUTING employees, and that were due and owing to the IRS.

In violation of Title 26, United States Code, Section 7212(a).

A TRUE BILL

/s/ Grand Jury Foreperson
Grand Jury Foreperson

BARBARA L. MCQUADE
UNITED STATES ATTORNEY

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Dated: August 8, 2011

United States District Court
Eastern District of Michigan

Criminal Case Cover

Case:2:11-cr-20498
Judge: Cleland, Robert H.
MJ: Whalen, R. Steven
Filed: 08-08-2011 At 03:43 PM
indi USA V. CHAUDHURI, ET AL (TAM)

NOTE: It is the responsibility of the Assistant U.S. Attorney signing this form to complete

Reassignment/Recusal Information This matter was opened in the USAO prior to August 15, 2008 []

Companion Case Information	Companion Case Number:
This may be a companion case based upon LCrR 57.10 (b)(4) ¹ :	Judge Assigned:
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	AUSA's Initials: JAM

Case Title: USA v. D-1 ANTHONY KUMAR CHAUDHURI; D-2 MARGARET ANN CHAUDHURI

County where offense occurred : WASHTENAW

Check One: **Felony** **Misdemeanor** **Petty**

- Indictment/ Information --- no prior complaint.
- Indictment/ Information --- based upon prior complaint [Case number:]
- Indictment/ Information --- based upon LCrR 57.10 (d) [Complete Superseding section below].

Superseding Case Information


Superseding to Case No: _____ **Judge:** _____

- Original case was terminated; no additional charges or defendants.
- Corrects errors; no additional charges or defendants.
- Involves, for plea purposes, different charges or adds counts.
- Embraces same subject matter but adds the additional defendants or charges below:

<u>Defendant name</u>	<u>Charges</u>	<u>Prior Complaint (if applicable)</u>
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Please take notice that the below listed Assistant United States Attorney is the attorney of record for the above captioned case.

August 8, 2011
Date



MARK McDONALD
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¹ Companion cases are matters in which it appears that (1) substantially similar evidence will be offered at trial, (2) the same or related parties are present, and the cases arise out of the same transaction or occurrence. Cases may be companion cases even though one of them may have already been terminated.