
**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

UNITED STATES OF AMERICA

Hon. James B. Clark III

v.

Mag. No. 13-3080

FRANK CHIMENTO III

CRIMINAL COMPLAINT

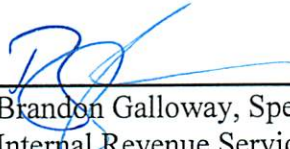
I, Brandon Galloway, being duly sworn, state the following is true and correct to the best of my knowledge and belief:

SEE ATTACHMENT A

I further state that I am a Special Agent of the Internal Revenue Service, and that this complaint is based on the following facts:

SEE ATTACHMENT B

continued on the attached pages and made a part hereof.



Brandon Galloway, Special Agent
Internal Revenue Service, Criminal Investigation

Sworn to before me, and
subscribed in my presence on
November 19, 2013 at
Newark, New Jersey

HONORABLE JAMES B. CLARK III
UNITED STATES MAGISTRATE JUDGE



Signature of Judicial Officer

ATTACHMENT A

Count One
(Filing a False 2007 Individual Income Tax Return)

1. On or about May 20, 2008, in the District of New Jersey and elsewhere, defendant

FRANK CHIMENTO III

knowingly and willfully did make and subscribe a 2007 United States Individual Income Tax Return, Form 1040, which contained and was verified by a written declaration that it was made under penalties of perjury, which he did not believe to be true and correct as to every material matter, in that the return did not include approximately \$45,860 in taxable income.

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

Count Two
(Willful Failure to File a 2008 Individual Income Tax Return)

2. During the calendar year 2008, defendant FRANK CHIMENTO III had and received gross income of approximately \$100,000.
3. Having received this gross income, defendant FRANK CHIMENTO III was required by law, following the close of the calendar year 2008, and on or before the requested extension date of October 15, 2009, to make an individual income tax return to the Internal Revenue Service stating specifically the items of gross income and any deductions and credits to which he was entitled.
4. On or about October 15, 2009, in the District of New Jersey and elsewhere, defendant

FRANK CHIMENTO III

knowing and believing the foregoing facts, did knowingly and willfully fail to make an individual income tax return to the Internal Revenue Service.

In violation of Title 26, United States Code, Section 7203.

Count Three
(Willful Failure to File a 2009 Individual Income Tax Return)

5. During the calendar year 2009, defendant FRANK CHIMENTO III had and received gross income of approximately \$116,523.

6. Having received this gross income, defendant FRANK CHIMENTO III was required by law, following the close of the calendar year 2009, and on or before April 15, 2010, to make an individual income tax return to the Internal Revenue Service stating specifically the items of gross income and any deductions and credits to which he was entitled.

7. On or about April 15, 2010, in the District of New Jersey and elsewhere, defendant

FRANK CHIMENTO III

knowing and believing the foregoing facts, did knowingly and willfully fail to make an individual income tax return to the Internal Revenue Service.

In violation of Title 26, United States Code, Section 7203.

Count Four
(Willful Failure to File a 2010 Individual Income Tax Return)

8. During the calendar year 2010, defendant FRANK CHIMENTO III had and received gross income of approximately \$116,875.

9. Having received this gross income, defendant FRANK CHIMENTO III was required by law, following the close of the calendar year 2010, and on or before April 15, 2011, to make an individual income tax return to the Internal Revenue Service stating specifically the items of gross income and any deductions and credits to which he was entitled.

10. On or about April 15, 2011, in the District of New Jersey and elsewhere, defendant

FRANK CHIMENTO III

knowing and believing the foregoing facts, did knowingly and willfully fail to make an individual income tax return to the Internal Revenue Service.

In violation of Title 26, United States Code, Section 7203.

Count Five
(Willful Failure to File a 2011 Individual Income Tax Return)

11. During the calendar year 2011, defendant FRANK CHIMENTO III had and received gross income of approximately \$118,390.

12. Having received this gross income, defendant FRANK CHIMENTO III was required by law, following the close of the calendar year 2011, and on or before April 17, 2012, to make an individual income tax return to the Internal Revenue Service stating specifically the items of gross income and any deductions and credits to which he was entitled.

13. On or about April 17, 2012, in the District of New Jersey and elsewhere, defendant

FRANK CHIMENTO III

knowing and believing the foregoing facts, did knowingly and willfully fail to make an individual income tax return to the Internal Revenue Service.

In violation of Title 26, United States Code, Section 7203.

ATTACHMENT B

I, Brandon Galloway, a Special Agent with the Internal Revenue Service, Criminal Investigation, having conducted an investigation and discussed this matter with other law enforcement officers who have participated in this investigation, have knowledge of the following facts. Because this Complaint is being submitted for the limited purpose of establishing probable cause, I have not included each and every fact known to me concerning this investigation. I have set forth only the facts which I believe are necessary to establish probable cause. Unless specifically indicated, all conversations and statements described in this affidavit are related in substance and in part.

The Investigation

1. At all times relevant to this complaint, Chimento Construction, Chimento Construction Services, and FAC Construction, were inter-related and commingled companies specializing in commercial masonry and concrete work (collectively, the "Chimento Companies"). The Chimento Companies were initially located in Belleville, New Jersey but relocated to Parsippany, New Jersey in or about the spring/summer of 2011. During the time period on or about 2008 through on or about 2011, the primary construction project of the Chimento Companies was located at Palmer Square in Princeton, New Jersey.

2. Defendant FRANK CHIMENTO III has worked for the Chimento Companies since at least as early as 2002 to the present. He resided in West Caldwell, New Jersey until he moved to Verona, New Jersey in or about the fall of 2011.

Individual Income Tax Return - 2007

3. A cooperating witness ("CC-1") has worked for the Chimento Companies for more than ten years. The investigation has established that the Chimento Companies operated a cash payroll for a significant portion of the wages paid to employees during the period 2006 through 2011. CC-1 would prepare envelopes containing cash payroll based on the hour and wage information provided by the company owner and project superintendents.

4. According to CC-1, defendant CHIMENTO III was one of the employees that received cash wages since CC-1 initially began working for the Chimento Companies.

5. In 2007, defendant FRANK CHIMENTO III briefly operated his own excavation business Frank Chimento III, LLC. An analysis of defendant CHIMENTO III's bank accounts showed payments in 2007 to Frank Chimento III and Frank Chimento III, LLC from the Chimento Companies totaling approximately \$85,860. This money was deposited into CHIMENTO III's bank accounts in the form of checks, cash, and transfers from the Chimento Companies.

6. Defendant FRANK CHIMENTO III provided his tax return preparer a Form 1099 from Chimento Construction in the amount of \$40,000 for 2007. Defendant CHIMENTO III advised the preparer that this was his sole source of income in 2007.

7. On or about May 20, 2008, defendant FRANK CHIMENTO III signed, filed, and caused to be filed with the Internal Revenue Service a 2007 Individual Income Tax Return on his behalf. The tax return was electronically signed by defendant CHIMENTO III and contained a written declaration that it was signed under penalties of perjury.

8. The tax return was not true and correct as it did not include the approximately \$45,860 that defendant FRANK CHIMENTO III received from his employment with the Chimento Companies.

Individual Income Tax Return - 2008

9. In 2008, defendant FRANK CHIMENTO III requested and received a Form 1099 in the amount of \$100,000 from the Chimento Companies.

10. Defendant FRANK CHIMENTO III did not file a 2008 individual income tax return for 2008 and therefore did not report the \$100,000 in cash income received from the Chimento Companies.

Individual Income Tax Returns – 2009 through 2011

11. Project timecards were obtained from the CHIMENTO COMPANIES for the years 2009, 2010, and 2011. According to CC-1, cash amounts paid to workers of the Chimento Companies, including defendant FRANK CHIMENTO III were handwritten next to the worker's name on the timecards.

12. An analysis of the Chimento Companies' project timecards showed that defendant FRANK CHIMENTO III received cash wages in the amount of \$116,523, \$116,875, and \$118,390 respectively, in 2009, 2010, and 2011.

13. Defendant FRANK CHIMENTO III did not file his 2009, 2010, or 2011 individual income tax returns and therefore did not report the \$351,788 in cash wages he received from the Chimento Companies during those years.