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WILLIAM HOLLEY AND JOSEPH FUNK CONVICTED OF TAX FRAUD, WIRE FRAUD AND ERISA FRAUD

David C. Weiss, United States Attorney for the District of Delaware, announced today that William C. Holley, age 44, of Middletown, and Joseph E. Funk, Jr., age 61, of Newark, were found guilty by a federal jury yesterday of various fraud-related crimes. Mr. Holley and Mr. Funk were both convicted of one count of conspiracy to defraud the United States and one count of conspiracy to commit wire fraud. Mr. Holley was separately convicted of 12 counts of tax evasion and 3 counts of willful failure to account for and pay over taxes. Mr. Funk was separately convicted of nine counts of ERISA fraud. The defendants face a maximum term of 30 years imprisonment and a maximum fine of $1,000,000 with respect to the conspiracy to commit wire fraud conviction. They face a maximum term of five years imprisonment on each of the additional counts of conviction.

Mr. Holley and Mr. Funk were the President and Vice President, respectively, of a Wilmington-based demolition company, Holley Enterprises, Incorporated ("HEI"). From 2004 through May 2007, they engaged in a number of fraud schemes designed to wrongfully retain payroll taxes that should have been paid over to the U.S. Internal Revenue Service ("IRS"), wages that they were obligated to pay their workers pursuant to state law and benefits that they were obligated to pay to employee benefit funds on behalf of their union-affiliated employees.

With respect to the tax fraud-related convictions, the defendants falsely reported to the IRS that for each quarter in 2004, 2005 and 2006, HEI had either three or four employees. In fact, the company employed anywhere from 25-50 employees during each of those quarters. As a result of the fraudulent tax returns submitted by the company, it wrongfully failed to pay over $363,000 in federal payroll taxes to the IRS during these years.

The defendants also engaged in a scheme in which they failed to pay HEI employees the prevailing wage set by state or local law for certain demolition projects, including three projects located in Delaware – the Louis L. Redding Middle School in Middletown, the Bancroft Elementary School in Wilmington, and the Hockessin Library in Hockessin. Instead of paying their employees the wages required by law, the defendants paid them one-third or one-fourth of that prevailing wage rate. Later, when the Delaware and New Jersey Departments of Labor investigated HEI regarding some of these construction projects, the defendants sent the agencies various types of false documents, all designed to cover up the scheme. These fraudulent documents included falsified checks, false payroll sheets, false tax documents, false insurance certificates, and false address information for their employees. All told, on just the six prevailing wage jobs identified in the Indictment, the defendants wrongfully failed to pay over $195,000 in wages to their employees.

Lastly, Mr. Funk made numerous false statements on documents submitted to Employee Retirement Income Security Act ("ERISA") benefit plans. Mr. Funk knowingly under-reported or failed to report the hours worked by HEI employees on a 2005 demolition project on the ACE Insurance building at 436 Walnut Street in Philadelphia. As a result, HEI failed to pay the benefit plans over $208,000 in benefit payments that HEI was obligated to pay for the project.

U.S. Attorney Weiss stated: "The defendants in this case did not play by the rules that other companies must live by – they did not pay federal payroll taxes regarding their employee's wages, they did not pay their own workers the wages required by state law and they did not pay the pension, health care and other benefits they were obligated to pay on behalf of their union workers. More than that, they created all manner of false and fraudulent documents to cover up their actions – documents intended to defraud federal and state government agencies, union benefit plans, general contractors and even their own employees. We are pleased with the jury's verdict, which recognized the harm that this type of fraud causes for our government and for workers in Delaware and throughout the tri-state area."

The case was investigated by the IRS – Criminal Investigative Division ("CID"), the Federal Bureau of Investigation ("FBI") and the U.S. Department of Labor ("USDOL") Office of Labor Racketeering and Fraud Investigations.

Troy N. Stemen, IRS-CID Acting Special Agent-in-Charge of the Philadelphia Field Office, said: "In today's challenging times, those who manipulate their financial records and use illegal accounting practices to fraudulently represent their businesses create an even greater burden on the honest businesspeople that support our economy. IRS-CID will continue to use our financial investigative expertise, along with our other law enforcement partners, to bring such individuals to justice."

Richard A. McFeely, Special Agent-in-Charge of the FBI's Baltimore Division, said, "While combating terrorism remains the FBI's top priority, this case demonstrates our continuing commitment to aggressively investigate complex financial crimes."

John T. Spratley, Special Agent-in-Charge of the Philadelphia Regional Office of the USDOL Office of Inspector General, stated, "It is reprehensible to deprive hard-working Americans of their pension and welfare benefits. These convictions send a clear message that those who defraud employee benefit plans will be brought to justice. We will continue to work vigorously with the U.S. Attorney's Office and our law enforcement partners to investigate crimes that undermine the financial well-being of union benefit funds."

The case was prosecuted by Assistant U.S. Attorneys Christopher J. Burke and Edmond Falgowski.

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