

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA : Hon. Stanley R. Chesler, USDJ  
v. : Criminal No. 09-  
ANTHONY R. AMBROSIO : Title 18, U.S.C., §§ 371, 664  
and 2  
: Title 26 U.S.C. § 7201

I N F O R M A T I O N

The defendant having waived in open court prosecution by Indictment, the United States Attorney for the District of New Jersey charges:

COUNT 1

**(Conspiracy to Structure Financial Transactions  
to Evade Reporting Requirements)**

Introduction

At various times relevant to this Information:

1. Backhoe Services, Inc. (hereinafter "Backhoe Services"), located in Bayonne, New Jersey, was incorporated in the State of New Jersey in approximately 1987. The company engaged in the business of demolition, excavation and snow removal.

2. Defendant ANTHONY R. AMBROSIO (hereinafter "AMBROSIO"), was the general manager of Backhoe Services and ran the day to day operations of the company.

3. L.M.D., a coconspirator not charged as a defendant herein, sometime subsequent to 1987, became the owner and 100% shareholder of Backhoe Services.

4. Defendant AMBROSIO and L.M.D., as well as Backhoe Services, maintained various personal and business accounts at Wachovia Bank (formerly First Union National Bank) and Bayonne Community Bank. From at least November 25, 1997, Backhoe Services maintained three business accounts with Wachovia Bank. One such business account for Backhoe Services was "Bank Account A". A signature card for Bank Account A listed L.M.D. as president, the defendant AMBROSIO as general manager, and A.M.A. as signatories on these accounts.

5. On or about January 23, 1998, L.M.D. opened a personal savings account ("Bank Account B") for N.A. at the Wachovia Bank. L.M.D. was the sole signatory on Bank Account B.

6. On or about December 20, 2005, defendant AMBROSIO, opened a personal savings account for N.R.A. ("Bank Account C") and L.A.A. ("Bank Account D") at the Wachovia Bank. Defendant AMBROSIO was the sole signatory on these two accounts.

7. On or about October 31, 2005, defendant AMBROSIO, opened a personal savings account for N.R.A. ("Bank Account E") and L.A.A. ("Bank Account F") at the Bayonne Community Bank. Defendant AMBROSIO was the sole signatory on these two accounts.

8. A.M.A. also maintained a personal account ("Bank Account G") at the Wachovia Bank.

9. On or about September 5, 2005, a Wachovia Bank

signature card for Bank Account A was submitted for a name change for L.M.D. due to marriage.

10. Wachovia Bank and Bayonne Community Bank were domestic financial institutions within the meaning of Title 31, United States Code, Section 5313(a), and Title 31, Code of Federal Regulations, Sections 103.11 and 103.22(a).

11. At all times relevant to this Information, Title 31, United States Code, Section 5313(a), and Title 31, Code of Federal Regulations, Section 103.22(a), required that financial institutions file Currency Transaction Reports of each deposit, withdrawal, exchange of currency or other payment and transfer, by, through, or to such financial institution that involved a transaction in currency of more than \$10,000.

12. From in or about January 2004 through in or about May 2007, in Hudson County, in the District of New Jersey and elsewhere, the defendant

ANTHONY R. AMBROSIO

did knowingly and wilfully conspire with others, to structure, and assist in structuring, transactions with domestic financial institutions by: (i) cashing approximately \$3,156,500 in checks, each in amounts of approximately \$9,500, and (ii) depositing approximately \$466,885 in cash in amounts of less than \$10,000 for the purpose of evading the reporting requirements of Title 31, United States Code, Section 5313(a) with respect to such transactions, contrary to Title 31, United States Code, Section 5324(a)(3).

### **Object of the Conspiracy**

13. It was the object of the conspiracy that the defendant and his coconspirators would conduct financial transactions in a manner designed to avoid the filing of Currency Transaction Reports.

### **Manner and Means**

14. It was part of the conspiracy that L.M.D. would cash checks in the amount of \$9,500.00.

15. It was further part of the conspiracy that, with the proceeds of the checks as identified in Paragraph 14, L.M.D. would deposit a portion of that money, usually \$2,900.00, into Bank Account B.

16. It was further part of the conspiracy that, with the proceeds of the checks identified in Paragraph 14, L.M.D. would make cash deposits, of either \$1,200.00 or \$2,900.00, into Bank Account G, belonging to A.M.A..

17. It was further part of the conspiracy that between October 2005 and February 2007, the conspirators would deposit cash in Bank Accounts C, D, E and F, from the proceeds derived from the cashed checks identified in Paragraph 14.

18. It was further part of the conspiracy that, with the proceeds derived from the cashed checks identified in Paragraph 14, the conspirators also paid Backhoe Services employees, including some undocumented illegal immigrants being

kept "off the books", so that the appropriate payroll taxes would not be withheld.

**Overt Acts**

19. In furtherance of the conspiracy and to effect its unlawful object, the following overt acts were committed in the District of New Jersey and elsewhere:

a. On July 2, 2004, L.M.D. cashed a check in the amount of \$9,500.00 at the Wachovia Bank in Bayonne, New Jersey.

b. On July 2, 2004, L.M.D. deposited cash in the amount of \$2,900.00 into Bank Account B, at the Wachovia Bank in Bayonne, New Jersey.

c. On July 2, 2004, L.M.D. deposited cash in the amount of \$2,100.00 into Bank Account G, at the Wachovia Bank in Bayonne, New Jersey.

d. On July 11, 2005, L.M.D. cashed a check in the amount of \$9,500.00 at the Wachovia Bank in Bayonne, New Jersey.

e. On July 11, 2005, L.M.D. deposited cash in the amount of \$2,900.00 into Bank Account B, at the Wachovia Bank in Bayonne, New Jersey.

f. On July 11, 2005, L.M.D. deposited cash in the amount of \$2,100.00 into Bank Account G, at the Wachovia Bank in Bayonne, New Jersey.

g. On December 30, 2005, L.M.D. cashed a check in the amount of \$9,500.00 at the Wachovia Bank in Bayonne, New Jersey.

h. On December 30, 2005, defendant Ambrosio deposited cash in the amount of \$5,000.00 into Bank Account E, at the Bayonne Community Bank in Bayonne, New Jersey.

All in violation of Title 18, United States Code, Section 371.

COUNT 2

**(Embezzlement from Local 325 Benefit Funds)**

20. Paragraphs 1 through 3, 14, and 18 of Count 1 of this Information are re-alleged and incorporated as if set forth in full herein.

21. Local 325 of the Laborers International Union of North America (hereinafter "Local 325"), headquartered in Jersey City, New Jersey, was a "labor organization," as that term is defined in Title 29, United States Code, Sections 142(3), 152(5), 402(i) and (j). Local 325 represented, sought to represent, and would have admitted to membership the employees of companies who performed laborer's work in Hudson County, New Jersey. Local 325, through its officers and agents, and on behalf of its members, entered into collective bargaining agreements ("CBA") with employers that employed construction laborers, including among others, masons, plasterers, carpenters and other building and construction crafts. These agreements contained provisions pertaining to conditions of employment, such as hours, overtime, shifts, holidays, wages and fringe benefits.

22. Local 325, through its officers, agents, employees, and representatives, also ensured that employers made contributions on behalf of Local 325's members into several employee benefits plans, including a welfare fund, pension fund, and annuity fund, among others (hereinafter collectively "Local

325 Benefit Funds"). The contribution payments were based upon the amount of hours that union employees worked. The Local 325 Benefit Funds were subject to the provisions of Title I of the Employee Retirement Income Security Act of 1974 (commonly known as "ERISA"), Title 29, United States Code, Section 1001, et. seq.

23. Backhoe Services had a CBA with Local 325 and employed construction laborers who were represented by and would be admitted to membership in Local 325. Backhoe Services was an "employer" as that term is defined in Title 29, United States Code, Sections 142 and 152(2), and the employees of Backhoe Services were employed in an industry affecting commerce, namely, the construction industry.

24. From in or about January 2004 through in or about August 2007, Backhoe Services employed multiple non-union workers at construction projects throughout Hudson County, New Jersey yet did not contribute to the Local 325 Benefit Funds as required by the collective bargaining agreement.

25. From in or about January 2005 through in or about August 2007, in Hudson County, in the District of New Jersey and elsewhere, the defendant

ANTHONY R. AMBROSIO

knowingly and willfully embezzled, stole and unlawfully converted to his own use and the use of others, moneys, funds, premiums, credits, property, and other assets of the Local 325 Benefit Funds, and of a fund connected with such employee benefit plans,



that is, employer contributions due and owing from Backhoe Services to the Local 325 Benefit Funds with respect to the non-union employees working at projects throughout Hudson County.

In violation of Title 18, United States Code, Section 664 and section 2.

### COUNTS 3- 10

#### **(Tax Evasion Pertaining to Quarterly Employment Tax Returns for 2004 and 2005)**

26. Paragraphs 1 through 3, 14, and 18 of Count 1 of this Information are re-alleged and incorporated as if set forth in full herein.

#### Payroll Taxes

27. 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 owed to the Treasury of the United States.

28. Federal income tax withholding ("withholding taxes") and Federal Insurance Contribution Act taxes ("FICA taxes"), as more particularly described below, constitute payroll taxes which employers must pay on a quarterly basis.

(a) Withholding Taxes: In general, an employer must deduct and withhold income taxes on the amount of wages that are actually or constructively 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 hospital 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 FICA taxes on the amount of wages that are actually or constructively paid to his employees, and pay over those FICA taxes to the IRS.

29. Employers who pay employee wages that are subject to withholding taxes and FICA (collectively, the "payroll taxes") must file an Employer's Quarterly Federal Tax Return, Internal Revenue Service Form 941 ("Form 941").

Defendant's Failure to Pay Over Payroll Taxes

30. Defendant AMBROSIO, as the general manager of Backhoe Services, and L.M.D., as the owner and 100% shareholder of Backhoe Services, were required to withhold and pay over payroll taxes to the IRS on the amount of wages Backhoe Services paid to its employees each quarter.

31. During the calendar year 2004, defendant AMBROSIO and L.M.D. caused Backhoe Services to pay numerous employees, including undocumented illegal immigrants, "off the books," in cash without withholding appropriate payroll taxes. Based on the wages paid to these employees, the payroll taxes Backhoe Services owed to the United States for the tax year 2004 was approximately \$309,544.32.

32. During the calendar year 2005, defendant AMBROSIO and L.M.D. caused Backhoe Services to pay numerous employees, including undocumented illegal immigrants, "off the books," and in cash, without withholding appropriate payroll

taxes. Based on the wages paid to these employees, the payroll taxes Backhoe Services owed to the United States for the tax year 2005 was approximately \$40,461.20.

33. Defendant AMBROSIO and L.M.D. caused Backhoe Services to not file with the Internal Revenue Service Form 941 reflecting the cash payments made to these employees and the corresponding payroll taxes due and owing to the United States for the tax years 2004 and 2005.

34. On or about the filing dates set forth in the table below, in the District of New Jersey and elsewhere, defendant

ANTHONY R. AMBROSIO

did knowingly and willfully attempt to evade and defeat the payroll taxes due and owing by Backhoe Services to the United States of America by paying the employees of Backhoe Services in cash without withholding the appropriate payroll taxes and causing Backhoe Services to fail to file with the Internal Revenue Service a Form 941 on behalf of its employees, each constituting a separate count of this Information:

Count	Quarter Ending	Employee Wages Subject to Tax	Payroll Taxes Paid	Unpaid Payroll Taxes
3	03/31/04	\$192,025	\$0.00	\$77,386.08
4	06/30/04	\$192,025	\$0.00	\$77,386.08
5	09/30/04	\$192,025	\$0.00	\$77,386.08
6	12/31/04	\$192,025	\$0.00	\$77,386.08
7	03/31/05	\$25,100.00	\$0.00	\$10,115.30
8	06/30/05	\$25,100.00	\$0.00	\$10,115.30
9	09/30/05	\$25,100.00	\$0.00	\$10,115.30
10	12/31/05	\$25,100.00	\$0.00	\$10,115.30

In violation of Title 26, United States Code, Section 7201 and Title 18, United States Code, Section 2.

COUNT 11

**(Conspiracy to Defraud the United States by Aiding & Assisting in  
the Preparation of Backhoe Services' Quarterly Employment  
Tax Returns for 2004 and 2005)**

35. Paragraphs 1 through 3, 14, and 18 of Count 1, and paragraphs 27 through 33 of Counts 3 through 10 of this Information are re-alleged and incorporated as if set forth in full herein.

36. R.T., an accountant, a coconspirator not named as a defendant herein, assisted in the preparation of Backhoe Services' corporate income tax returns during the tax years 2004 and 2005, as well as, defendant AMBROSIO's and L.M.D.'s personal tax returns.

**The Conspiracy**

37. From in or around January 2004 through in or around January 2006, in the District of New Jersey and elsewhere, the defendant

ANTHONY R. AMBROSIO

did knowingly and intentionally conspire and agree with R.T., L.M.D. and others to file false Form 941 Quarterly Employment Tax Returns for quarters during the 2004 and 2005 tax years, which failed to report approximately \$868,500 in wages subject to approximately \$350,000 in payroll taxes, in order to impede, impair, obstruct and defeat the lawful governmental functions of the Internal Revenue Service, in the ascertainment, computation, assessment, and collection of those payroll taxes, contrary to

Title 26, United States Code, Section 7206(2).

**Object of the Conspiracy**

38. The object of the conspiracy was to conceal from the Internal Revenue Service wages paid in cash to numerous employees, including undocumented illegal immigrants, without withholding appropriate payroll taxes, which would have resulted in additional payroll taxes of approximately \$350,000, none of which were paid to the Internal Revenue Service.

**Manner and Means**

39. It was part of the conspiracy that defendant AMBROSIO and L.M.D. paid numerous employees, including undocumented illegal immigrants, "off the books," in cash without withholding appropriate payroll taxes.

40. It was further part of the conspiracy that defendant AMBROSIO, L.M.D. and R.T. caused Backhoe Services to fail to file with the Internal Revenue Service Forms 941 reflecting cash payments made to employees, including undocumented illegal immigrants, and the corresponding payroll taxes due and owing to the United States for the tax years 2004 and 2005.

**Overt Acts**

41. In furtherance of the conspiracy and to effect its unlawful object, the following overt acts were committed in the District of New Jersey and elsewhere:

a. On or about April 30, 2004, defendant AMBROSIO, L.M.D. and R.T. caused to be filed a false Form 941 for Backhoe Services which reported that, between January 1, 2004 and March 31, 2004, \$326,109.68 in wages were paid to Backhoe Services' employees that were subject to payroll taxes when in fact, as defendant AMBROSIO, L.M.D. and R.T. well knew and believed, the total wages earned by Backhoe Services' employees that were subject to payroll taxes during that time period was approximately \$518,134.68.

b. On or about July 31, 2004, defendant AMBROSIO, L.M.D. and R.T. caused to be filed a false Form 941 for Backhoe Services which reported that, between April 1, 2004 and June 30, 2004, \$433,016.01 in wages were paid to Backhoe Services' employees that were subject to payroll taxes when in fact, as defendant AMBROSIO, L.M.D. and R.T. well knew and believed, the total wages earned by Backhoe Services' employees that were subject to payroll taxes during that time period was approximately \$625,041.01.

c. On or about October 31, 2004, defendant AMBROSIO, L.M.D. and R.T. caused to be filed a false Form 941 for Backhoe Services which reported that, between July 1, 2004 and September 30, 2004, \$963,666.62 in wages were paid to Backhoe Services' employees that were subject to payroll taxes when in fact, as defendant AMBROSIO, L.M.D. and R.T. well knew and believed, the total wages earned by Backhoe Services' employees that were



subject to payroll taxes during that time period was approximately \$1,155,691.62.

d. On or about January 31, 2005, defendant AMBROSIO, L.M.D. and R.T. caused to be filed a false Form 941 for Backhoe Services which reported that, between October 1, 2004 and December 31, 2004, \$1,960,655.89 in wages were paid to Backhoe Services' employees that were subject to payroll taxes when in fact, as defendant AMBROSIO, L.M.D. and R.T. well knew and believed, the total wages earned by Backhoe Services' employees that were subject to payroll taxes during that time period was approximately \$2,152,680.89.

e. On or about April 30, 2005, defendant AMBROSIO, L.M.D. and R.T. caused to be filed a false Form 941 for Backhoe Services which reported that, between January 1, 2005 and March 31, 2005, \$481,372.00 in wages were paid to Backhoe Services' employees that were subject to payroll taxes when in fact, as defendant AMBROSIO, L.M.D. and R.T. well knew and believed, the total wages earned by Backhoe Services' employees that were subject to payroll taxes during that time period was approximately \$506,472.00.

f. On or about July 31, 2005, defendant AMBROSIO, L.M.D. and R.T. caused to be filed a false Form 941 for Backhoe Services which reported that, between April 1, 2005 and June 30, 2005, \$358,749.00 in wages were paid to Backhoe Services' employees that were subject to payroll taxes when in fact, as

defendant AMBROSIO, L.M.D. and R.T. well knew and believed, the total wages earned by Backhoe Services' employees that were subject to payroll taxes during that time period was approximately \$383,849.00.

g. On or about October 31, 2005, defendant AMBROSIO, L.M.D. and R.T. caused to be filed a false Form 941 for Backhoe Services which reported that, between July 1, 2005 and September 30, 2005, \$571,195.00 in wages were paid to Backhoe Services' employees that were subject to payroll taxes when in fact, as defendant AMBROSIO, L.M.D. and R.T. well knew and believed, the total wages earned by Backhoe Services' employees that were subject to payroll taxes during that time period was approximately \$596,295.00.

h. On or about January 31, 2006, defendant AMBROSIO, L.M.D. and R.T. caused to be filed a false Form 941 for Backhoe Services which reported that, between October 1, 2005 and December 31, 2005, \$673,697.00 in wages were paid to Backhoe Services' employees that were subject to payroll taxes when in fact, as defendant AMBROSIO, L.M.D. and R.T. well knew and believed, the total wages earned by Backhoe Services' employees that were subject to payroll taxes during that time period was approximately \$698,797.00.

All in violation of Title 18, United States Code, Section 371.

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RALPH J. MARRA, JR.  
Acting United States Attorney