

ORIGINAL FILED

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

AUG 5 2010
MADELINE COX ARLEO
U.S. MAG. JUDGE

UNITED STATES OF AMERICA : CRIMINAL COMPLAINT
v. :
STEVEN M. ZAVIDOW : Mag. No.: 10-8179 (MCA)

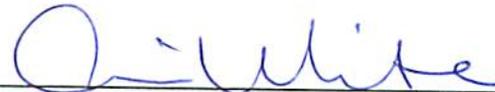
I, the undersigned complainant, being duly sworn, state the following is true and correct to the best of my knowledge and belief.

SEE ATTACHMENT A

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

SEE ATTACHMENT B

continued on the attached page and made a part hereof.



Ani White, Special Agent
Department of Labor, Office of
Inspector General, Office of
Labor Racketeering and Fraud
Investigations

Sworn to before me and subscribed in my presence,
August 5, 2010, at Newark, New Jersey

HONORABLE MADELINE COX ARLEO
UNITED STATES MAGISTRATE JUDGE


Signature of Judicial Officer

ATTACHMENT A

Counts One through Six

On or about the dates set forth below, in the District of New Jersey and elsewhere, defendant STEVEN M. ZAVIDOW knowingly and willfully embezzled, stole, unlawfully abstracted, and converted, and caused to be embezzled, stolen, unlawfully abstracted, and converted to his use and the use of others, money, funds, and assets of the Zavco Industries Retirement Trust, an employee benefit plan subject to Title I of the Employee Retirement and Income Security Act of 1974, as set forth in the table below and as described in Attachment B to this Criminal Complaint:

Count	Approximate Date of Check	Payor	Payee	Amount
One	March 2, 2006	Zavco Industries Retirement Trust	Steven Zavidow	\$130,000
Two	April 6, 2006	Zavco Industries Retirement Trust	Steven Zavidow	\$50,000
Three	May 2, 2006	Zavco Industries Retirement Trust	Steven Zavidow	\$40,000
Four	June 13, 2006	Zavco Industries Retirement Trust	SLZ Processing Corp.	\$25,000
Five	August 11, 2006	Zavco Industries Retirement Trust	Steven Zavidow	\$11,000
Six	August 30, 2006	Zavco Industries Retirement Trust	Steven Zavidow	\$7,000

All in violation of Title 18, United States Code, Section 664 and Section 2.

ATTACHMENT B

I, Ani White, am a Special Agent with the Department of Labor, Office of Inspector General, Office of Labor Racketeering and Fraud. I have knowledge of the facts set forth herein through my personal participation in this investigation and through oral and written reports from other federal agents or other law enforcement officers. Where statements of others are related herein, they are related in substance and part. Since this Criminal Complaint is being submitted for a limited purpose, I have not set forth every fact that I know concerning this investigation. I have only set forth those facts that I believe are sufficient to show probable cause exists to believe that the defendant has committed the offenses set forth in Attachment A. Where I assert that an event took place on a particular date, I am asserting that it took place on or about the date alleged.

Introduction

1. At all times relevant to this Criminal Complaint:
 - a. Defendant STEVEN M. ZAVIDOW was a resident of Demarest, New Jersey and is currently a resident of Hillsdale, New Jersey.
 - b. Defendant STEVEN M. ZAVIDOW and his father, J.Z., an individual not named as a defendant herein, were principals of approximately eleven Burger King restaurants located in New York. Each restaurant was separately incorporated in New York (hereinafter collectively the "Companies"). The Companies employed individuals who worked at each restaurant (hereinafter collectively the "Employees").
 - c. On or about January 30, 1984, defendant STEVEN M. ZAVIDOW and J.Z., as employers from the Companies, established the Zavco Industries Retirement Trust (hereinafter the "Retirement Trust"), which trust became effective on or about March 1, 1983. The Retirement Trust was created to provide retirement benefits to the trust's participants, namely, the Employees. Defendant STEVEN M. ZAVIDOW and J.Z. were the Retirement Trust's trustees. In or about 2006, defendant STEVEN M. ZAVIDOW was the administrator of the Retirement Trust.
 - d. The Retirement Trust was a defined benefit plan subject to Title I of the Employee Retirement and Income Security Act of 1974 (hereinafter "ERISA"), a type of pension plan whereby the Companies agreed to make monetary contributions, on an annual basis, into the Retirement Trust as determined by an actuarial

based on the Employee's earnings history, tenure of service, and age, rather than depending on investment returns. An eligible participant was permitted to collect retirement benefits under the trust at the age of 65, or if deceased, the participant's beneficiary (i.e., spouse). The Retirement Trust maintained a bank account in New York, and defendant STEVEN M. ZAVIDOW was a signatory on this account (hereinafter the "Trust Bank Account"). The money in the Trust Bank Account was property of the Retirement Trust, and any contributions made into the Trust Bank Account by the Companies constituted property of the Retirement Trust.

e. As a trustee and administrator to the Retirement Trust, defendant STEVEN M. ZAVIDOW, under Title 29, United States Code, Section 1104 of ERISA, was a fiduciary and required to act solely in the interest of the Retirement Trust's participants and beneficiaries for the exclusive purpose of providing benefits to such individuals with the care, skill, prudence, and diligence of a prudent person under the circumstances, and in accordance with the Retirement Trust governing documents, including its trust agreement. Furthermore, under Title 29, United States Code, Section 1106(b) of ERISA, defendant STEVEN M. ZAVIDOW was prohibited from dealing with the assets of the Retirement Trust in his own interest or for his own account.

f. As of the date of this Criminal Complaint, the Retirement Trust has approximately 129 participants or beneficiaries; however, only approximately 29 individuals are eligible to collect benefits under the trust. Defendant STEVEN M. ZAVIDOW, who was born in 1958, is a participant of the Retirement Trust; however, he is not currently eligible to collect any benefits under the trust because he is not age 65.

g. S.Z.Z., an individual not named as a defendant herein, was the wife of defendant STEVEN M. ZAVIDOW. S.Z.Z. maintained a bank account at a bank in New Jersey (hereinafter "S.Z.Z. Account"). Defendant STEVEN M. ZAVIDOW was not a signatory on the S.Z.Z. Account.

h. S.L.Z, an individual not named as a defendant herein, was a resident of Boca Raton, Florida. S.L.Z. maintained a business account at a bank in Florida in the name of SLZ Processing Corporation (hereinafter "SLZ Processing Corp."), a company whose business purpose is currently unknown to Your Affiant (hereinafter the "SLZ Account"). S.L.Z. was not a participant of the Retirement Trust.

The Embezzlement Scheme

2. Beginning in or about March 2006, contrary to his fiduciary duties, defendant STEVEN M. ZAVIDOW embezzled approximately \$263,000 from the Retirement Trust, as described in Paragraphs 3 through 9 below.

3. On or about the dates set forth in the table below, defendant STEVEN M. ZAVIDOW issued Retirement Trust checks, drawn on the Trust Bank Account and made payable to himself, which checks he then endorsed and deposited into the S.Z.Z. Account, as follows:

Approximate Date of Check	Payor	Payee	Amount
March 2, 2006	Retirement Trust	Steven Zavidow	\$130,000
April 6, 2006	Retirement Trust	Steven Zavidow	\$50,000
May 2, 2006	Retirement Trust	Steven Zavidow	\$40,000

4. On or about the dates set forth in the table below, defendant STEVEN M. ZAVIDOW issued Retirement Trust checks, drawn on the Trust Bank Account and made payable to himself, which checks he then endorsed and cashed at a check cashing store in Paterson, New Jersey, as follows:

Approximate Date of Check	Payor	Payee	Amount
August 11, 2006	Retirement Trust	Steven Zavidow	\$11,000
August 30, 2006	Retirement Trust	Steven Zavidow	\$7,000

5. During this investigation, Your Affiant and other law enforcement officers interviewed the owner (hereinafter the "Owner") of the check cashing store in Paterson, New Jersey, referred to in Paragraph 4 above. During this investigation, the Owner provided business records to Your Affiant that revealed that defendant STEVEN M. ZAVIDOW was a customer of the check cashing store. In particular, according to the Owner, to establish his identity and obtain a customer account with the check cashing store, defendant STEVEN M. ZAVIDOW provided a copy

of his New Jersey driver's license to the check cashing business. Your Affiant has reviewed a copy of the driver's license on file with this check cashing store, and the information on this driver's license corresponds with defendant STEVEN M. ZAVIDOW's personal identifiers, including his date of birth and former address in Demarest, New Jersey, as known to Your Affiant from public and law enforcement data bases. In addition, according to the Owner, each time defendant STEVEN M. ZAVIDOW presented a check to be cashed, his photograph was taken, affixed to a copy of the cashed check, and maintained by the business. Your Affiant has reviewed the photographs affixed to the two checks referred to in Paragraph 4 above, and Your Affiant submits that each photograph is an image of defendant STEVEN M. ZAVIDOW.

6. On or about June 13, 2006, defendant STEVEN M. ZAVIDOW issued a Retirement Trust check, drawn on the Trust Bank Account and made payable to S.L.Z. Processing Corp., in the amount of \$25,000. This check was endorsed for "deposit only" and deposited in a bank branch in Carlstadt, New Jersey.

7. On or about March 3, 2006, S.Z.Z. issued a check, drawn on the S.Z.Z. Account in the amount of \$95,777, to pay for the costs associated with remodeling a residential home, located in Demarest, New Jersey, held solely in her name.

8. On or about March 7, 2006, American Express received an electronic payment, issued from the S.Z.Z. Account, in the amount of approximately \$6,775 to pay for charges on an American Express credit card in S.Z.Z.'s name.

9. Your Affiant has reviewed the records from the Trust Bank Account. Currently, the account has a zero balance.