

6. Pursuant to the Internal Revenue Code and associated statutes and regulations, including the Federal Insurance Contributions Act ("FICA"), employers are required to withhold certain amounts from the paychecks of their employees and then remit those amounts over to the IRS on a quarterly basis.

7. Federal income tax withholding ("withholding taxes") and 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 actually or constructively 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 FICA taxes from the amount of wages that actually or constructively are paid to its employees, and pay over those FICA taxes to the IRS.

8. To account for payroll taxes that must be paid to the IRS, the tax laws require employers and payors, either directly or through third-party payroll services acting on their behalf, to prepare and submit tax forms, including:

a. Form 941, "Employer's Quarterly Federal Tax Return," to be filed quarterly with the IRS to report employer wages paid to employees, together with payment to the IRS for all payroll taxes due based upon those wages;

b. Form W-2, "Wage and Tax Statement," to be filed annually with the IRS, to report to the IRS employee wages paid and payroll taxes due and withheld based on those wages, and to be given annually to employees for inclusion with the employees' individual income tax returns; and

c. Form 1099-MISC, "Miscellaneous Income," to be filed annually with the IRS, to report amounts paid to persons who are not employees, such as independent contractors, and to be given to such persons for preparation of their individual income tax returns.

9. VANNA KEM had a duty and responsibility to collect, truthfully account for, and pay over to the IRS employment taxes from the wages paid to the employees of Tri State.

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

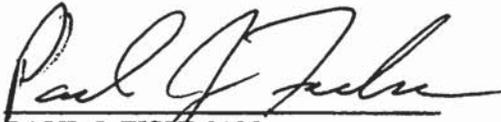
VANNA KEM

knowingly and willfully did attempt to evade and defeat part of the federal employment taxes due and owing to the United States in the approximate amounts set forth below, in that she failed to file Forms 941 for the quarters listed below and committed the following affirmative acts designed to conceal the employment taxes due and owing to the IRS:

- a. KEM operated Tri State in the name of nominees.
- b. KEM maintained a Tri State bank account in the name of nominees.
- c. KEM paid employees of Tri State wages in cash.

Quarter Ended	Form 941 Due Date	Total Wages	Employees' Share of FICA Taxes	Employer's Share of FICA Taxes	Total FICA Taxes Due and Owing
03/31/2006	04/30/2006	\$85,444.95	\$6,536.54	\$6,536.54	\$13,073.08
06/30/2006	07/31/2006	\$141,391.75	\$10,816.47	\$10,816.47	\$21,632.94
09/30/2006	10/31/2006	\$118,457.75	\$9,062.02	\$9,062.02	\$18,124.04
12/31/2006	01/31/2007	\$70,425.75	\$5,387.57	\$5,387.57	\$10,775.14
03/31/2007	04/30/2007	\$62,120.40	\$4,752.21	\$4,752.21	\$9,504.42
06/30/2007	07/31/2007	\$129,418.00	\$9,900.48	\$9,900.48	\$19,800.96
09/30/2007	10/31/2007	\$106,715.53	\$8,163.74	\$8,163.74	\$16,327.48
12/31/2007	01/31/2008	\$80,297.43	\$6,142.75	\$6,142.75	\$12,285.50
03/31/2008	04/30/2008	\$44,241.75	\$3,384.49	\$3,384.49	\$6,768.98
06/30/2008	07/31/2008	\$130,599.63	\$9,990.87	\$9,990.87	\$19,981.74
09/30/2008	10/31/2008	\$67,578.50	\$5,169.75	\$5,169.75	\$10,339.50
12/31/2008	01/31/2009	\$34,144.75	\$2,612.07	\$2,612.07	\$5,224.14

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



PAUL J. FISHMAN
United States Attorney
District of New Jersey