

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA)	Criminal No. 23cr10107
)	
v.)	Violations:
)	
RODOLFO MEMBRENO,)	<u>Counts One—Six:</u>
)	Tax Evasion
Defendant.)	(26 U.S.C. § 7201)
)	
)	<u>Counts Seven—Ten:</u>
)	Failure to File
)	(26 U.S.C. § 7203)
)	

INDICTMENT

The Grand Jury charges that:

GENERAL ALLEGATIONS

At times material to this Indictment:

Introduction

1. Defendant RODOLFO MEMBRENO resided in Fall River, Massachusetts.
2. Defendant MEMBRENO worked as a commercial fisherman and deckhand for various companies, for which he received substantial compensation.
3. The Internal Revenue Service (“IRS”) was an agency of the United States Department of the Treasury responsible for administering and enforcing the tax laws of the United States, and collecting taxes owed to the United States.
4. To accomplish its mission, the IRS used, among other means, various forms, returns, and return information that taxpayers and employers were required to file pursuant to the tax laws of the United States.

5. In the commercial fishing industry, companies paid compensation to deckhands like defendant MEMBRENO as non-employee independent contractors, and were required by law to file directly with the IRS at year end Forms 1099-MISC documenting, on Line 5, as “Fishing boat proceeds,” any compensation they paid to fishermen in excess of \$600.

6. A copy of the filed Form 1099-MISC was typically also provided by the fishing companies directly to recipients such as MEMBRENO so that fishermen could prepare and file their own individual tax returns, such as Forms 1040, U.S. Individual Income Tax Return. If fishermen’s gross income was in excess of the minimum filing requirement set by law for each year, they were required to file and report their total income, any allowable deductions, and their tax liability.

7. Despite receiving substantial income well in excess of the minimum tax return filing requirements, as well as Forms 1099-MISC documenting that income from the fishing companies who paid him, defendant MEMBRENO failed to file individual tax returns for at least tax years 2013 through 2019 and 2021, and failed to pay any tax on this income. Defendant MEMBRENO also filed a false tax return for tax year 2020, and evaded payment of his tax year 2012 liability.

Defendant’s Tax Evasion

8. From in or about 2013 through 2021, defendant MEMBRENO attempted to evade income taxes due and owing on approximately \$1.4 million in income he received as a commercial fisherman.

9. Defendant MEMBRENO failed to file tax returns between 2013 and 2019. Prior to 2020, defendant MEMBRENO had last filed an individual income tax return for calendar year

2012, in which he reported, by self-assessment, approximately \$15,741 in taxes due and owing. Defendant MEMBRENO failed to pay the taxes due.

10. On or about August 26, 2013, the IRS assessed penalties and interest charges for late payment, and sent defendant MEMBRENO notice of these actions.

11. On or about September 12, 2013, the IRS and defendant MEMBRENO established a payment plan for his 2012 federal tax liability. The IRS cancelled the payment plan on or about June 2, 2014, after defendant MEMBRENO failed to make any payments towards his liability. On or about January 23, 2015, the IRS placed a lien on defendant MEMBRENO's assets. The IRS issued notices of its actions on or about January 27, 2015, and on or about April 10, 2017.

12. On or about April 17, 2017, the IRS issued a levy. Between in or about April 2017 and June 2019, defendant MEMBRENO made seven \$1,000 payments towards his 2012 tax liability. These payments were significantly less than the substantial income he earned during the period, and substantially less than the tax liability he owed.

13. Defendant MEMBRENO, rather than deposit the paychecks he received from the fishing companies into a bank account, cashed his paychecks in order to conceal the source and disposition of income he earned as a fisherman.

14. Defendant MEMBRENO lived a cash lifestyle, paying for personal expenditures using cash.

15. In or around November 2019, defendant MEMBRENO hired a tax preparer to prepare income tax returns for calendar years 2016 through 2018. MEMBRENO provided the tax preparer with false and fraudulent information that overstated his business expenses. The tax

preparer gave defendant MEMBRENO prepared federal and state returns for tax years 2016 through 2018.

16. Defendant MEMBRENO failed to file the federal returns prepared by the tax preparer, but he did file the state returns with the Commonwealth of Massachusetts for tax years 2016 through 2020. These returns were based on the false expense information that defendant MEMBRENO provided to his tax preparer.

17. In or around March and April 2021, defendant MEMBRENO hired the same tax preparer to prepare his 2019 and 2020 tax returns. Defendant MEMBRENO again provided the preparer with false and fraudulent information, and authorized the tax preparer to electronically file his 2020 federal tax return, which contained false and fraudulent information by overstating his business expenses.

COUNT ONE
Tax Evasion
(26 U.S.C. § 7201)

The Grand Jury further charges:

18. Paragraphs 1 through 17 of this Indictment are incorporated by reference herein.

19. From in or about April 2013 through in or about December 2021, in the District of Massachusetts and elsewhere, the defendant

RODOLFO MEMBRENO,

willfully attempted to evade and defeat substantial income tax due and owing by him to the United States of America, for the calendar year 2012, by committing the following affirmative acts, among others: (1) cashing income checks to conceal the nature, source, and disposition of the reportable income he received; and (2) using cash to pay for personal expenditures.

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

COUNTS TWO THROUGH FIVE

Tax Evasion
(26 U.S.C. § 7201)

The Grand Jury further charges:

20. Paragraphs 1 through 17 of this Indictment are incorporated by reference herein.

21. During the calendar years set forth in the table below, the defendant,

RODOLFO MEMBRENO,

received taxable income, upon which there was a substantial tax due and owing to the United States of America. Knowing the foregoing facts and failing to make an income tax return on or before the dates set forth below, as required by law, to any proper officer of the Internal Revenue Service, and to pay the income tax to the Internal Revenue Service, MEMBRENO, from on or about January of each calendar year to on or about the tax return due dates for each calendar year as set forth in the table below, in the District of Massachusetts and elsewhere, willfully attempted to evade and defeat income tax due and owing by him to the United States of America, by committing the following affirmative acts, among others: (1) cashing income checks to conceal the nature, source, and disposition of the reportable income he received; and (2) using cash to pay for personal expenditures:

Count	Tax Year	Date Return Due
2	2017	April 17, 2018
3	2018	April 15, 2019
4	2019	July 15, 2020
5	2021	April 18, 2022

All in violation of Title 26, United States Code, Section 7201.

COUNT SIX
Tax Evasion
(26 U.S.C. § 7201)

The Grand Jury further charges:

22. Paragraphs 1 through 17 of this Indictment are incorporated by reference herein.

23. From in or about January 2020 through in or about April 2021, in the District of Massachusetts and elsewhere, the defendant,

RODOLFO MEMBRENO,

willfully attempted to evade and defeat substantial income tax due and owing by him to the United States of America, for the calendar year 2020, by committing the following affirmative acts, among others: (1) cashing income checks to conceal the nature, source, and disposition of the payments he received; (2) using cash to pay for personal expenditures; and (3) preparing and causing to be prepared, and signing and causing to be signed, a false and fraudulent 2020 U.S. Individual Income Tax Return, Form 1040, which was submitted to the Internal Revenue Service.

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

COUNTS SEVEN THROUGH TEN

Failure to File
(26 U.S.C. § 7203)

The Grand Jury further charges:

24. Paragraphs 1 through 17 of this Indictment are incorporated by reference herein.
25. During the calendar years set forth in the table below, the defendant,

RODOLFO MEMBRENO,

had and received gross income in excess of the filing thresholds set by statute. By reason of such income, MEMBRENO was required by law, following the close of the calendar years, and on or before the dates set out below, to make an income tax return to the Internal Revenue Service, stating specifically the items of his gross income and any deductions and credits to which he was entitled. Knowing and believing all of the foregoing, MEMBRENO did willfully fail, on or about the dates listed below, in the District of Massachusetts and elsewhere, to make an income tax return.

Count	Calendar Year	Filing Deadline
7	2017	April 17, 2018
8	2018	April 15, 2019
9	2019	July 15, 2020
10	2021	April 18, 2022


All in violation of Title 26, United States Code, Section 7203.

A TRUE BILL



FOREPERSON OF THE GRAND JURY

DAVID A. HUBBERT
Deputy Assistant Attorney General
United States Department of Justice, Tax Division

By: 

JOHN N. KANE, JR.
Assistant Chief, Northern Criminal Enforcement Section

DISTRICT OF MASSACHUSETTS: April 13th, 2023

Returned into the District Court by the Grand Jurors and filed.

 3:25pm

DEPUTY CLERK