

ORIGINAL

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FILED IN THE
UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII

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UNITED STATES OF AMERICA

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

UNITED STATES OF AMERICA,

Plaintiff,

vs.

WAGDY A. GUIRGUIS (01),
MICHAEL H. HIGA (02),

Defendants.

) CR. NO. **CR 17 00487 HG**
)
) INDICTMENT
)
) 18 U.S.C. § 371
) 26 U.S.C. § 7206(1)
) 26 U.S.C. § 7206(2)
) 26 U.S.C. § 7203
) 26 U.S.C. § 7201
) 26 U.S.C. § 7212(a)
) 18 U.S.C. § 1512(b)(1)

INDICTMENT

The Grand Jury charges:

Introductory Allegations

At all times relevant to the Indictment:

1. Defendant WAGDY GUIRGUIS was an engineer and a resident of Oahu, Hawaii.
2. Defendant MICHAEL HIGA was a certified public accountant and a resident of Oahu, Hawaii.
3. The Internal Revenue Service (“IRS”) was 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 by taxpayers, including both individuals and corporations.
4. Employers are required to file an Employer’s Quarterly Federal Tax Return (“Employment Tax Return”), Form 941, with the IRS reporting all wages paid to employees during each calendar quarter and the federal withholding taxes, social security taxes and Medicare taxes due thereon (“federal employment taxes”) and pay over these taxes to the IRS.

Entities

5. Guam Power, Inc., was a corporation formed in 1988 for the purpose of establishing and operating a waste disposal business in Guam. Defendant

WAGDY GUIRGUIS controlled Guam Power, Inc., and was its president.

6. Defendant WAGDY GUIRGUIS also operated numerous engineering businesses through various corporations and entities, including:

GMP Associates, Inc. (initially formed as Ohio Pacific Tech., Inc.);

GMP Hawaii, Inc. (a subsidiary of GMP Associates, Inc.);

GMP International, Inc.;

GMP Guam, Inc.;

GMP International, LLC; and

GMP International Group, Ltd.

(“the GMP entities”). The GMP entities were successor entities of each other.

They all used the same offices, had the same employees, and performed the same type of work. Defendant WAGDY GUIRGUIS was responsible for filing tax returns for the GMP entities with the IRS, including the Employment Tax Returns, and was responsible for paying over its federal employment taxes to the IRS.

Defendant WAGDY GUIRGUIS exercised control over the day-to-day finances of the GMP entities, including their bank accounts, and directed how the funds in those accounts would be used.

7. From in or about 2002 through in or about the fall of 2011, Defendant MICHAEL HIGA was the controller of the GMP entities, and was responsible for maintaining the books and records for those entities, including keeping track of all

the GMP entities' cash balances. After he was no longer the controller of the GMP entities, Defendant MICHAEL HIGA continued to prepare corporate tax returns for some of the GMP entities.

8. Hawaii Pacific Finance, Ltd., ("Hawaii Pacific Finance") was a corporation formed in 2001 that was owned by Defendant WAGDY GUIRGUIS's brother and nephew. Despite not having an ownership interest in Hawaii Pacific Finance, Defendant WAGDY GUIRGUIS secretly controlled the corporation's day-to-day finances and activities through various nominee corporate officers, including Defendant MICHAEL HIGA, who became a corporate officer and director of the corporation on February 15, 2005. Thereafter, and continuing through the fall of 2011, both Defendants WAGDY GUIRGUIS and MICHAEL HIGA directed how the funds in Hawaii Pacific Finance's bank accounts would be used. After Defendant MICHAEL HIGA's departure from the company in the fall of 2011, Defendant WAGDY GUIRGUIS arranged for his wife to become an authorized signor on Hawaii Pacific Finance's bank accounts.

9. From 2001 through 2012, Defendant WAGDY GUIRGUIS diverted approximately \$1.5 million in funds from Hawaii Pacific Finance for his and his wife's personal benefit.

Unpaid Federal Employment Taxes

10. As of the end of 2001, GMP Associates, Inc., owed approximately

\$812,000 in unpaid federal employment taxes to the IRS for tax years 1999, 2000, and 2001.

11. In October 2002, the IRS assessed approximately \$812,000 in trust fund recovery penalties against Defendant WAGDY GUIRGUIS personally.

12. In addition to GMP Associates, Inc., other GMP entities owed unpaid federal employment taxes to the IRS in the following amounts:

Date Owed	Entity	Unpaid Federal Employment Taxes
07/31/07	GMP Guam, Inc.	\$131,988.77
01/13/09	GMP Hawaii, Inc.	\$128,152.29
07/07/11	GMP International, Inc.	\$117,985.13

13. Beginning at least in or about June 2009, and continuing up to at least January 2015, the IRS attempted to collect the unpaid federal employment taxes owed by the GMP entities, and the unpaid trust fund recovery penalties owed by Defendant WAGDY GUIRGUIS, by engaging in various collection activities, including contacting representatives of the GMP entities over the telephone, sending letters to the GMP entities, filing notices of federal tax liens, levying bank accounts, and serving notices of levy on third parties who owed money to Defendant WAGDY GUIRGUIS, including the tenants of his rental properties.

Nauru Tower Condominium

14. As of December 31, 2001, GMP Associates, Inc., owned a

condominium at 1330 Ala Moana Boulevard (the “Nauru Tower condominium”) valued at \$679,000, which Defendant WAGDY GUIRGUIS had been using as his personal residence since at least May of 2000. During 2005, Defendants WAGDY GUIRGUIS and MICHAEL HIGA used Hawaii Pacific Finance to fraudulently transfer ownership of the Nauru Tower condominium to Defendant WAGDY GUIRGUIS’s wife without fair consideration.

Bank Accounts

15. Various bank accounts were opened in the names of Guam Power, Inc., the GMP entities, and Hawaii Pacific Finance. These accounts were used to conduct financial transactions at the following banks:

Name	Abbreviation
American Savings Bank	ASB
First Hawaiian Bank	FHB
Bank of Hawaii	BOH
Bank of Guam	BOG
Hawaii National Bank	HNB
Central Pacific Bank	CPB
Bank of the Federated States of Micronesia	FSM

COUNT 1
(Conspiracy)

The Grand Jury further charges:

16. The Introductory Allegations of paragraphs 1 through 15 are incorporated by reference and re-alleged as though fully set forth herein.

Statutory Allegations

17. From in or about early 2005, and continuing up to the date of this Indictment, in the District of Hawaii and elsewhere, Defendants

WAGDY GUIRGUIS, and
MICHAEL HIGA,

together and with each other and with others known and unknown, did unlawfully, voluntarily, intentionally, and knowingly conspire, combine, confederate and agree to defraud the United States by deceitful and dishonest means for the purpose of impeding, impairing, obstructing, and defeating the lawful functions of the IRS in the ascertainment, computation, assessment, and collection of the revenue, that is, federal employment taxes, corporate income taxes, individual income taxes, and trust fund recovery penalties.

Manner and Means of the Conspiracy

18. Among the manner and means by which Defendants WAGDY GUIRGUIS and MICHAEL HIGA and their co-conspirators would and did carry out the objectives of the conspiracy were the following:

(1) They used Hawaii Pacific Finance's bank accounts to funnel funds from the GMP entities to Defendant WAGDY GUIRGUIS's personal bank accounts and to Guam Power, Inc., for the purpose of concealing Defendant WAGDY GUIRGUIS's income from the IRS.

(2) They placed GMP Associates, Inc.'s assets beyond the reach of the IRS by causing the ownership of the Nauru Tower condominium to be transferred to Defendant WAGDY GUIRGUIS's wife through transactions conducted by Hawaii Pacific Finance.

(3) They placed the GMP entities' income and assets beyond the reach of the IRS by causing the GMP entities to grant security interests in their accounts receivable to Hawaii Pacific Finance.

(4) After IRS collection activity, they transferred, and caused to be transferred, funds from the GMP entities to Hawaii Pacific Finance, Guam Power, Inc., and GMP International, LLC.

(5) After IRS collection activity, they caused the formation of GMP International, LLC, and opened a new bank account in the name of that entity.

(6) They caused adjustments on the books and records of the GMP entities that understated gross receipts.

(7) They altered, and caused to be altered, the books and records of

Hawaii Pacific Finance to conceal that Defendant WAGDY GUIRGUIS had diverted approximately \$1.5 million from Hawaii Pacific Finance for his and his wife's personal benefit.

(8) They caused the books and records of GMP Associates, Inc., to classify unpaid federal employment tax liabilities owed to the IRS instead as a loan payable to Defendant WAGDY GUIRGUIS.

(9) They prepared and filed, and caused to be prepared and filed, false and fraudulent tax returns with the IRS for the GMP entities, Hawaii Pacific Finance, and Defendant WAGDY GUIRGUIS and his wife.

Overt Acts

19. In furtherance of the conspiracy and to effect the illegal objects thereof, Defendants WAGDY GUIRGUIS and MICHAEL HIGA and their co-conspirators committed the following overt acts, among others, in the District of Hawaii and elsewhere:

(1) On or about February 15, 2005, Defendant WAGDY GUIRGUIS caused Defendant MICHAEL HIGA to become the secretary and treasurer of Hawaii Pacific Finance.

(2) On or about May 5, 2005, Defendant MICHAEL HIGA caused Hawaii Pacific Finance to issue a \$5,000 check payable to Title Guaranty.

(3) On or about July 5, 2005, Defendant MICHAEL HIGA

signed a deed on behalf of Hawaii Pacific Finance granting ownership of the Nauru Tower condominium to Defendant WAGDY GUIRGUIS's wife.

(4) On or about July 6, 2005, Defendant MICHAEL HIGA purchased, and caused to be purchased, \$134,000 in cashier's checks payable to Title Guaranty.

(5) On or about July 7, 2005, Defendant MICHAEL HIGA caused GMP Hawaii, Inc., to issue a \$120,000 check payable to Title Guaranty.

(6) On or about September 22, 2005, Defendant MICHAEL HIGA caused a letter regarding "Demand for Payment to Hawaii Pacific Finance" to be sent to GMP Associates, Inc.

(7) On or about June 14, 2007, Defendant WAGDY GUIRGUIS filed, and caused to be filed, a Uniform Commercial Code financing statement for GMP Hawaii, Inc., granting a security interest in all of its accounts receivable to Hawaii Pacific Finance.

(8) On or about October 24, 2008, Defendant MICHAEL HIGA filed, and caused to be filed, a Uniform Commercial Code financing statement for GMP International, Inc., granting a security interest in all of its accounts receivable to Hawaii Pacific Finance.

(9) On or about September 18, 2009, Defendant WAGDY GUIRGUIS registered GMP International, LLC as a limited liability company with

the State of Hawaii.

(10) On or about April 07, 2010, approximately six days after the IRS had collected \$15,727.31 from levying American Savings Bank account #1382 in the name of GMP International, Inc., Defendant MICHAEL HIGA signed a signature card to open First Hawaiian Bank account #7371 in the name of GMP International, LLC.

(11) On or about the dates and in the amounts set forth below, Defendant MICHAEL HIGA transferred, and caused to be transferred, funds from GMP International, Inc., to the following accounts:

	Date	Entity	Bank Account	Amount
(a)	04/08/10	Hawaii Pacific Finance	ASB #0510	\$13,700
(b)	05/05/10	Hawaii Pacific Finance	ASB #0510	\$19,000
(c)	06/29/10	GMP International, LLC	FHB #7371	\$70,000

(12) On or about the dates and in the amounts set forth below, Defendant MICHAEL HIGA transferred, and caused to be transferred, funds from GMP Guam, Inc., to the following account:

	Date	Entity	Bank Account	Amount
(a)	04/01/10	Hawaii Pacific Finance	ASB #0510	\$35,000
(b)	04/05/10	Hawaii Pacific Finance	ASB #0510	\$28,000
(c)	08/05/10	Hawaii Pacific Finance	ASB #0510	\$35,000
(d)	10/05/10	Hawaii Pacific Finance	ASB #0510	\$25,000

	Date	Entity	Bank Account	Amount
(e)	10/18/10	Hawaii Pacific Finance	ASB #0510	\$20,000

(13) On or about the dates and in the amounts set forth below, Defendant MICHAEL HIGA transferred, and caused to be transferred, funds from GMP Hawaii, Inc., to the following accounts:

	Date	Entity	Bank Account	Amount
(a)	05/03/10	Hawaii Pacific Finance	ASB #0510	\$39,000
(b)	06/01/10	Guam Power, Inc.	CPB #7153	\$15,000
(c)	01/25/11	Hawaii Pacific Finance	ASB #0510	\$36,000
(d)	01/26/11	Hawaii Pacific Finance	ASB #0510	\$25,000
(e)	02/10/11	Hawaii Pacific Finance	ASB #0510	\$23,000
(f)	06/06/11	Hawaii Pacific Finance	ASB #0510	\$32,000
(g)	08/16/11	Hawaii Pacific Finance	ASB #0510	\$51,800
(h)	10/13/11	Hawaii Pacific Finance	ASB #0510	\$14,000
(i)	10/14/11	Hawaii Pacific Finance	ASB #0510	\$12,000

(14) On or about May 28, 2010, Defendant WAGDY GUIRGUIS transferred, and caused to be transferred, \$35,000 in funds from GMP Hawaii, Inc., to Central Pacific Bank account #7153 in the name of Guam Power, Inc.

(15) On or about the dates and in the amounts set forth below, Defendant WAGDY GUIRGUIS transferred, and caused to be transferred, funds from GMP Guam, Inc., to the following account:

	Date	Entity	Bank Account	Amount
(a)	08/19/11	GMP International, LLC	FHB #7371	\$235,783
(b)	09/15/11	GMP International, LLC	FHB #7371	\$341,600

(16) On or about the dates set forth below, Defendant MICHAEL HIGA prepared, and caused to be prepared, and Defendant WAGDY GUIRGUIS signed, and caused to be filed with the IRS, the following tax returns:

	Date	Taxpayer	Tax Year
(a)	10/13/11	Wagdy Guirguis & M.G.	2010
(b)	02/17/12	Ohio Pacific Tech., Inc. and its subsidiary, GMP Hawaii, Inc.	2009
(c)	02/17/12	Ohio Pacific Tech., Inc. and its subsidiary, GMP Hawaii, Inc.	2010
(d)	03/06/12	GMP Guam, Inc.	2010
(e)	10/09/12	Wagdy Guirguis & M.G.	2011

(17) On or about January 24, 2012, Defendant WAGDY GUIRGUIS instructed the bookkeeper for the GMP entities to remove the unpaid federal employment tax liabilities from the balance sheet of GMP Associates, Inc., and reclassify the tax liabilities as a loan payable to him.

(18) On or about December 4, 2013, Defendant MICHAEL HIGA instructed the bookkeeper for the GMP entities to alter the books and records of Hawaii Pacific Finance.

(19) On or about February 24, 2015, Defendant MICHAEL HIGA

prepared, and caused to be prepared, Forms 1120, U.S. Corporation Income Tax Returns, for Hawaii Pacific Finance for tax years 2002 through 2010.

(20) On or about February 24, 2015, Defendant WAGDY GUIRGUIS caused the president of Hawaii Pacific Finance to sign tax returns for Hawaii Pacific Finance for tax years 2002 through 2010.

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

COUNTS 2-4

(Subscribing and Filing False Tax Returns)

The Grand Jury further charges:

20. On or about the dates listed below, in the District of Hawaii, Defendant WAGDY GUIRGUIS, a resident of Oahu, did willfully make and subscribe the tax returns for the taxpayers and calendar years listed below, which were verified by a written declaration that it were made under the penalties of perjury and were filed with the Internal Revenue Service, and which returns he did not believe to be true and correct as to every material matter. The returns were false and fraudulent as to material matters, as follows:

Count	Taxpayer/ Tax Return	Calendar Year	Approx. Filing Date	False and Fraudulent Matter
2	Ohio Pacific Tech., Inc., and its subsidiary, GMP Hawaii, Inc., Form 1120	2009	02/17/12	Line 1a reported "gross receipts or sales" of \$1,988,698 (which understated actual gross receipts by approx. \$775,000)

Count	Taxpayer/ Tax Return	Calendar Year	Approx. Filing Date	False and Fraudulent Matter
3	Ohio Pacific Tech., Inc., and its subsidiary, GMP Hawaii, Inc., Form 1120	2010	02/17/12	Line 1a reported "gross receipts or sales" of \$1,026,113 (which understated actual gross receipts by approx. \$966,000)
4	GMP Guam, Inc., Form 1120	2010	03/06/12	Line 1a reported "gross receipts or sales" of \$15,000 (which understated actual gross receipts by approx. \$1,344,000)

All in violation of Title 26, United States Code, Section 7206(1).

COUNTS 5-9

(Aiding and Assisting in the Preparation of a False Tax Return)

The Grand Jury further charges:

21. On or about the dates set forth below, in the District of Hawaii, Defendant MICHAEL HIGA, a resident of Oahu, did willfully aid and assist in, and procure, counsel, and advise the preparation and presentation to the Internal Revenue Service, the tax returns for the taxpayers and calendar years listed below. The tax returns were false and fraudulent as to material matters, as follows:

22.

Count	Taxpayer/ Tax Return	Calendar Year	Approx. Filing Date	False and Fraudulent Matter(s)
5	Ohio Pacific Tech., Inc., and its subsidiary, GMP Hawaii, Inc., Form 1120	2009	02/17/12	(a) Line 1a reported "gross receipts or sales" of \$1,988,698 (b) Schedule L, Line 21 reported "Advances from Shareholder" of \$537,775 and \$447,987
6	Ohio Pacific Tech., Inc., and its subsidiary, GMP Hawaii, Inc., Form 1120	2010	02/17/12	(a) Line 1a reported "gross receipts or sales" of \$1,026,113 (b) Schedule L, Line 21 reported "Advances from Shareholder" of \$447,987 and \$514,575
7	GMP Guam, Inc., Form 1120	2010	03/06/12	Line 1a reported "gross receipts or sales" of \$15,000
8	Wagdy Guirguis & M.G., Form 1040	2010	10/13/11	Line 22 reported "total income" of \$130,586
9	Wagdy Guirguis & M.G., Form 1040	2011	10/09/12	Line 22 reported "total income" of \$134,508

All in violation of Title 26, United States Code, Section 7206(2).

COUNT 10
(Failure to File Tax Return)

The Grand Jury further charges:

23. During the calendar year 2011, Defendant WAGDY GUIRGUIS was the president of GMP Guam, Inc., a corporation not expressly exempt from tax with gross receipts of approximately \$1.7 million during the year, with its principal place of business at Honolulu, Hawaii. He therefore was required by law, after the close of the calendar year 2011 and on or before March 15, 2012, to make an income tax return, for and on behalf of the corporation, to the Internal Revenue Service Center, at Ogden, Utah, or to the person assigned to receive returns at the local office of the Internal Revenue Service at Honolulu, Hawaii, stating specifically the items of the corporation's gross income and the deductions and credits allowed by law. Well knowing and believing all of the foregoing, he did willfully fail, on or about March 15, 2012, in the District of Hawaii, to make an income tax return at the time required by law.

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

COUNTS 11-13
(Attempted Tax Evasion)

The Grand Jury further charges:

24. During calendar years 2010, 2011, and 2012, Defendant WAGDY GUIRGUIS diverted approximately \$465,000 from Hawaii Pacific Finance for his

personal benefit that he failed to report as income on his personal tax returns.

25. During calendar year 2012, Defendant WAGDY GUIRGUIS diverted approximately \$87,000 from the GMP entities for his personal benefit that he failed to report as income on his personal tax returns.

26. From on or about January 1, 2010, through on or about December 4, 2013, in the District of Hawaii, Defendant WAGDY GUIRGUIS, a resident of Oahu, did willfully attempt to evade and defeat income tax due and owing by him and his wife to the United States of America for calendar years 2010, 2011 and 2012, with each year constituting a separate count, by committing the following affirmative acts, among others:

(1) using Hawaii Pacific Finance's bank accounts to funnel funds from the GMP entities to his personal bank accounts;

(2) causing the bookkeeper for the GMP entities to alter the books and records of Hawaii Pacific Finance; and

(3) on or about the dates listed below, by signing, and causing to be filed with the IRS, false and fraudulent U.S. Individual Income Tax Returns, Forms 1040, for Wagdy Guirguis & M.G. for the calendar years listed below, which understated their taxable income, and the tax due and owing thereon, by the following approximate amounts:

Count	Date	Calendar Year	Unreported Income	Tax Due and Owing
11	October 13, 2011	2010	\$263,000	\$83,000
12	October 9, 2012	2011	\$148,000	\$43,000
13	October 15, 2013	2012	\$140,000	\$39,000

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

COUNT 14

(Corrupt Endeavor to Obstruct and Impede the
Due Administration of the Internal Revenue Laws)

The Grand Jury further charges:

27. The allegations set forth in paragraphs 1, 3, 5, 6, 8 and 10-15 of this Indictment are repeated and re-alleged as if fully set forth herein.

28. Beginning on or about September 30, 2011, and continuing to a date unknown, but up to at least in or about December 2016, in the District of Hawaii, and elsewhere, Defendant WAGDY GUIRGUIS did corruptly endeavor to obstruct and impede the due administration of the internal revenue laws by, among other things, doing the following:

(1) opening new bank accounts in the names of GMP International, LLC, GMP Guam, Inc., and Guam Power, Inc., for the purpose of placing assets beyond the reach of the IRS;

(2) transferring, and causing to be transferred, and depositing, and causing to be deposited, funds from the GMP entities to the bank accounts of Guam Power, Inc., Hawaii Pacific Finance, and GMP International, LLC, for the

purpose of placing assets beyond the reach of the IRS;

(3) arranging for his wife to have signature authority on bank accounts used by his nominee entity, Hawaii Pacific Finance;

(4) directing that funds owed to GMP Guam, Inc., be paid to GMP International, LLC, for the purpose of placing assets beyond the reach of the IRS;

(5) causing the GMP entities to grant security interests in their accounts receivables to Hawaii Pacific Finance for the purpose of placing assets beyond the reach of the IRS;

(6) instructing a tenant of one of his rental properties to pay him, rather than the IRS, in disregard of IRS collection notices;

(7) making false and misleading statements to IRS revenue officers; and

(8) making false and misleading statements to IRS special agents.

All in violation of Title 26, United States Code, Section 7212(a).

COUNT 15
(Witness Tampering)

The Grand Jury further charges:

29. From on or about May 26, 2017, to on or about May 30, 2017, in the District of Hawaii, and elsewhere, Defendant WAGDY GUIRGUIS did knowingly corruptly persuade another person, and attempt to do so, and engage in misleading conduct toward another person, with the intent to influence the testimony of that

person in an official proceeding, to wit, knowing full well that an employee of the GMP entities had recently testified before a federal grand jury investigating potential criminal tax offenses committed by him, Defendant WAGDY GUIRGUIS made false statements to the employee, including stating that he had no knowledge of alterations made to the books and records of Hawaii Pacific Finance in December 2013, and asked the employee to sign a statement falsely stating that Defendant WAGDY GUIRGUIS had no knowledge of the alterations.

All in violation of Title 18, United States Code, Section 1512(b)(1).

DATED: August 30, 2017, in Honolulu, Hawaii.

A TRUE BILL

/s/ Foreperson
FOREPERSON

ELLIOT R. ENOKI
Acting United States Attorney
District of Hawaii

Lawrence L. Tong
LAWRENCE L. TONG
Chief, Fraud and Financial Crime Section

John E. Sullivan
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United States v. Wagdy Guirguis et al.
Cr. No.
"Indictment" **CR 17 00487 HG**