

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA :

v. :

S1-09 CRIM 324 (AKH)

KRZYSZTOF KOCZON, :

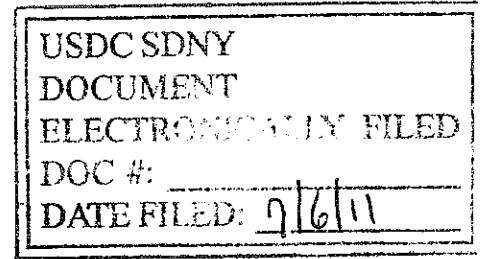
Violations: 18 U.S.C. § 371  
18 U.S.C. § 1001

Defendant. :

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SUPERSEDING INFORMATION

COUNT ONE - CONSPIRACY  
(18 U.S.C. § 371)



The United States of America, acting through its attorneys, charges:

1. KRZYSZTOF KOCZON ("KOCZON") is hereby made a Defendant on the charge stated below.

THE RELEVANT PARTIES AND ENTITIES

During the period covered by this Superseding Information:

2. KOCZON resided in Trumbull, Connecticut, and was a co-owner of a travel agency and an owner of a construction management company. KOCZON also worked as an employee of another construction management company that was at the same premises of his other businesses in Brooklyn, New York.

3. "CC-1," a co-conspirator not named as a defendant herein, was a co-owner with KOCZON of the travel agency and an owner of the construction management

company that employed KOCZON. CC-1 was also an employee of KOCZON's construction management company.

4. "CC-2," a co-conspirator not named as a defendant herein, was the 100 percent owner of a Subchapter S corporation ("Vendor-1") located in the Southern District of New York that was engaged in the business of providing maintenance and insulation services to the Facilities Operations and Engineering Department of New York Presbyterian Hospital and its predecessors or affiliates ("NYPH").

5. "CC-3," a co-conspirator not named as a defendant herein, was president of a corporation located in Pennsylvania that specialized in asbestos removal and installation.

6. Various other persons and firms, not made defendants herein, participated as co-conspirators in the offense charged herein and performed acts and made statements in furtherance thereof. Whenever in this Count reference is made to any act, deed, or transaction of any corporation, such allegation shall be deemed to mean that the corporation engaged in such act, deed, or transaction by or through its officers, directors, agents, employees, or representatives while they were actively engaged in the management, direction, control, or transaction of its business or affairs.

#### DESCRIPTION OF THE OFFENSE

7. Beginning in and around October 2000 and continuing until approximately February 2005, the exact dates being unknown to the United States, in the Southern District of New York and elsewhere, KOCZON, and others known and unknown,

unlawfully, willfully, and knowingly did combine, conspire, confederate, and agree together and with each other to defraud the United States of America and an agency thereof, namely the Internal Revenue Service ("IRS") of the United States Department of Treasury, and to commit an offense against the United States of America, to wit, to violate Title 26, United States Code, Section 7206(2), in violation of Title 18, United States Code, Section 371.

8. It was a part and object of the conspiracy that KOCZON, CC-1, CC-2 and CC-3; would and did defraud the United States of America and the IRS by impeding, impairing, obstructing and defeating the lawful government functions of the IRS in the ascertainment, computation, assessment and collection of federal income taxes due and owing from CC-2 by various means, including, among other things, by CC-2 issuing checks with falsely referenced invoice numbers, by KOCZON and CC-1 delivering cash to CC-2, and by causing false and fraudulent certificates of liability insurance to be issued by KOCZON and CC-1 to Vendor-1, which enabled CC-2 to take false federal tax deductions for payments received by Vendor-1.

9. It was a part and object of the conspiracy that KOCZON and his co-conspirators did willfully aid and assist in, and procure, counsel, and advise, the preparation and presentation to the IRS of United States Income Tax Returns for a Subchapter S Corporation, Forms 1120S and United States Individual Income Tax Returns, Forms 1040, which were false and fraudulent as to material matters, in that the Forms 1120S and 1040, and accompanying schedules and forms, falsely claimed

payments made to KOCZON's and CC-1's businesses by CC-2 as business expenses for Vendor-1 giving rise to deductions to which CC-2 was not entitled, in violation of Title 26, United States Code, Section 7206(2).

MEANS AND METHODS OF THE CONSPIRACY

The manner and means by which the conspiracy was sought to be accomplished included, among others, the following:

10. From October 2000 and continuing until at least December 2004, the exact dates being unknown to the United States, CC-2 issued checks on behalf of Vendor-1 payable to the businesses of KOCZON and CC-1 with falsely referenced invoice numbers. These checks totaled approximately \$229,100 in 2000, \$1,190,000 in 2001, \$760,000 in 2002, \$50,000 in 2003 and \$125,000 in 2004.
11. Upon receipt of the checks of Vendor-1 with falsely referenced invoice numbers, KOCZON and CC-1 negotiated the checks. KOCZON and CC-1 then gave the amount of the checks in cash to CC-3 minus a five percent fee.
12. At times, KOCZON and CC-1 included a false certificate of liability insurance with the cash that was provided to CC-2 by CC-3. Certificates of liability insurance were issued to Vendor-1 to purportedly demonstrate that KOCZON and CC-1's company had the requisite worker's compensation and employer's liability insurance to perform construction work for Vendor-1.
13. By KOCZON and CC-1 issuing false certificates of liability insurance to Vendor-1 and by CC-2 issuing checks on behalf of Vendor-1 with falsely referenced

invoice numbers to the businesses of KOCZON and CC-1, KOCZON, CC-1 and CC-2 created the false appearance that construction work was to be performed for Vendor-1 and concealed the true nature of the transaction, which was to generate cash for CC-2 and allow CC-2 to falsely claim payments that CC-2 made to the businesses of KOCZON and CC-1 as business expenses for Vendor-1. In fact, no construction work was performed pursuant to these transactions.

14. Through these means, KOCZON, CC-1 and CC-3 willfully aided CC-2 to file false and fraudulent United States Income Tax Returns for a Subchapter S Corporation, Forms 1120S, and United States Individual Income Tax Returns, Forms 1040, by CC-2 including as business expenses of Vendor-1 the payments to KOCZON's and CC-1's businesses and thereby substantially understating the true ordinary business income of CC-2, which falsely flowed through to the personal tax returns of CC-2 for the years 2000, 2001, 2002, 2003 and 2004.

#### OVERT ACTS

15. In furtherance of the conspiracy, and to effect the illegal objects thereof, KOCZON and others known and unknown, committed the following overt acts, among others, in the Southern District of New York and elsewhere:

a) On or about October 11, 2000, CC-2 caused a check in the amount of \$80,000 from Vendor-1 to be delivered from its offices in the Southern District of New York to KOCZON and CC-1 in Brooklyn, New York.

b) On or about December 31, 2004, CC-2 caused a check in the amount of \$75,000 from Vendor-1 to be delivered from its offices in the Southern District of New York to KOCZON and CC-1 in Brooklyn, New York.

c) On or about April 9, 2002, KOCZON and CC-1 gave cash and a false certificate of liability insurance to CC-3 for delivery to CC-2 in the Southern District of New York.

d) On or about February 13, 2001, CC-2 filed a false and fraudulent United States Income Tax Return for a Subchapter S Corporation, Forms 1120S and a United States Individual Income Tax Return, Forms 1040.

e) On or about February 16, 2002, CC-2 filed a false and fraudulent United States Income Tax Return for a Subchapter S Corporation, Forms 1120S, and a United States Individual Income Tax Return, Forms 1040.

f) On or about February 9, 2003, CC-2 filed a false and fraudulent United States Income Tax Return for a Subchapter S Corporation, Forms 1120S, and a United States Individual Income Tax Return, Forms 1040.

g) On or about February 9, 2004, CC-2 filed a false and fraudulent United States Income Tax Return for a Subchapter S Corporation, Forms 1120S, and a United States Individual Income Tax Return, Forms 1040.

h) On or about February 17, 2005, CC-2 filed a false and fraudulent United States Income Tax Return for a Subchapter S Corporation, Forms 1120S, and a United States Individual Income Tax Return, Forms 1040.

IN VIOLATION OF TITLE 18, UNITED STATES CODE, SECTION 371.

COUNT TWO - FALSE STATEMENT  
(18 U.S.C. § 1001)

The United States of America, acting through its attorneys, further charges:

THE RELEVANT PARTIES AND ENTITIES

During the period covered by this Count:

16. KRZYSZTOF KOCZON ("KOCZON") is hereby made a defendant on the charge stated below.

17. Paragraphs Two through Six of Count One of this Superseding Information are repeated, re-alleged, and incorporated in Count Two as if fully set forth in this Count.

18. "CC-4," a co-conspirator not named as a defendant herein, was the owner of a company that was located in Brooklyn, New York and provided renovation and construction services to various clients in and around New York City.

19. Whenever in this Count reference is made to any act, deed, or transaction of any corporation, such allegation shall be deemed to mean that the corporation engaged in such act, deed, or transaction by or through its officers, directors, agents, employees, or representatives while they were actively engaged in the management, direction, control, or transaction of its business or affairs.

DESCRIPTION OF THE OFFENSE

20. From at least as early as 2002 until at least December 2006, KOCZON, CC-1 and CC-4 engaged in a fraudulent scheme to generate cash for CC-4 in exchange

for a fee. CC-4 issued checks on behalf of his company payable to a business owned by KOCZON and CC-1. Upon receipt of the checks from CC-4, KOCZON and CC-1 negotiated the checks and then gave the amount of the checks in cash to CC-4, less their fee. The checks that were fraudulently negotiated by KOCZON and CC-1 totaled approximately \$550,000. At CC-4's direction, KOCZON and CC-1 also included a false invoice with the cash that was returned to CC-4. These false invoices were issued to CC-4 to purportedly demonstrate that KOCZON and CC-1's company performed construction services and/or security services at construction work sites for CC-4's company. Through the issuance of false invoices and checks with false references, KOCZON, CC-1 and CC-4 created the false appearance that construction services and/or security services were being performed at construction work sites and concealed the true nature of the transaction, which was to fraudulently generate cash for CC-4. In truth and in fact, as KOCZON well knew, no construction services or security services had been performed by KOCZON or CC-1's company.

21. The Antitrust Division of the United States Department of Justice ("Antitrust Division") was conducting a grand jury investigation to determine, among other things, if any person or company that provided renovation and construction services committed any violations of the Sherman Act, 15 U.S.C. § 1, or other federal criminal laws, in the Southern District of New York and elsewhere.

22. It was material to the Antitrust Division's grand jury investigation to determine whether KOCZON had knowledge of or information concerning bid rigging



agreements, kickbacks or other fraudulent conduct involving representatives of companies engaged in providing renovation and construction services. It was also material to the grand jury's investigation to determine whether KOCZON had participated in such conduct.

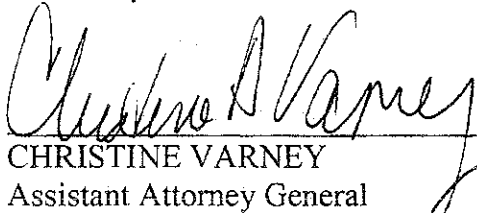
23. On April 22, 2008, in the Southern District of New York, KOCZON unlawfully, willfully, and knowingly, in a matter within the jurisdiction of the executive branch of the Government of the United States, made materially false, fictitious, and fraudulent statements and representations, to wit, in connection with a grand jury investigation by the Antitrust Division, KOCZON falsely stated during an interview with agents of the Federal Bureau of Investigation and representatives of the Antitrust Division, that his company was only a subcontractor to CC-4's company and failed to disclose the existence of the false invoice and check cashing scheme.

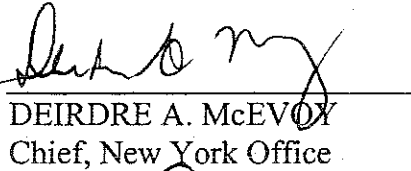
24. This statement and representation of KOCZON, as he then and there knew, was false in that he received checks from CC-4, created false invoices and delivered cash

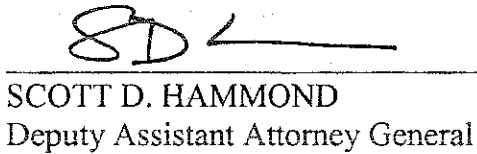
to CC-4 in exchange for a fee.

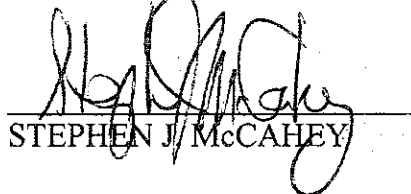
IN VIOLATION OF TITLE 18, UNITED STATES CODE, SECTION 1001(a)(2).

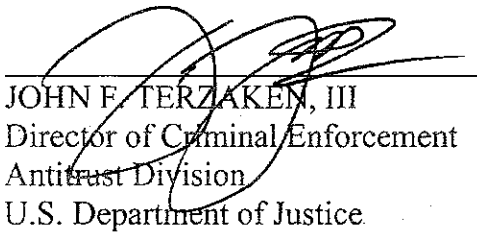
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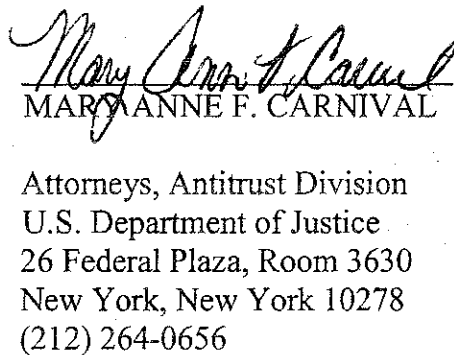
  
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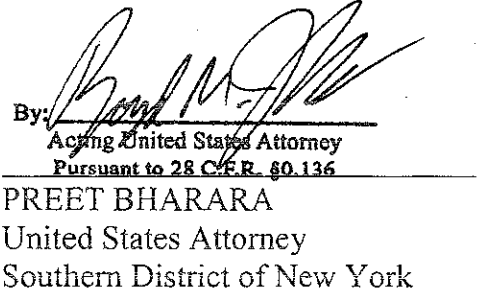
  
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