

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

U.S. DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA
FILED 5-30-2018
WILLIAM W. BLEVINS
CLERK JG

UNITED STATES OF AMERICA * CRIMINAL NO. 18-074
v. * SECTION: B
DON MANUEL ZEMO, JR. *
* * *

FACTUAL BASIS

The defendant, **DON MANUEL ZEMO, JR.**, (hereinafter, the “defendant” or “**ZEMO**”), has agreed to plead guilty as charged to the Bill of Information now pending against him, charging him with conspiracy, in violation of Title 18, United States Code, Section 371. Both the Government and the defendant, **DON MANUEL ZEMO, JR.**, do hereby stipulate and agree that the following facts set forth a sufficient factual basis for the crimes to which the defendant is pleading guilty. The Government and the defendant further stipulate that the Government would have proven, through the introduction of competent testimony and admissible, tangible exhibits, the following facts, beyond a reasonable doubt, to support the allegations in the Bill of Information now pending against the defendant:

Background

The Government would show that Company A was a privately owned and operated company headquartered in New Orleans, Louisiana, within the Eastern District of Louisiana, that provided portside services as a terminal operator and stevedore. Company A operated at multiple locations throughout the Gulf Coast, including at the Port of New Orleans. Among the services Company A provided were various warehouse operations and management logistics, as well as the transloading of bulk cargo from sea-going vessels onto rail. This process included securing,

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Defendant DZ
Defense Counsel LA

lashing, and unlash cargo. A profit margin of approximately fifteen (15) percent was typical in the industry. Company A owned and operated numerous pieces of specialized equipment to provide the services described above, including a crane, shore cranes, floating cranes, forklifts, and other types of stevedoring and port equipment. Company A employed approximately 50 full-time employees and between 100 and 150 casual labor dock workers.

The Government would establish, through the introduction of documentary evidence and the testimony of representatives of Company A, that Company A leased, maintained, and exclusively operated a portion of the terminal at the Port of New Orleans to perform stevedoring work. Company A's employees and third-party subcontractors worked at the terminal. To be eligible to work at Company A's terminal at the Port of New Orleans, third parties were required to demonstrate they had satisfied specific security protocols and possessed insurance coverage.

The Government would show that on about January 4, 1999, Company A hired **ZEMO**. In about January 2003, and continuing through about July 16, 2015, **ZEMO** served as the General Manager of Port Operations for Company A. In that capacity, **ZEMO** supervised operational managers who oversaw Company A's day-to-day operations at Company A's terminal at the Port of New Orleans. **ZEMO** was responsible for all financial documentation, personnel decisions, job scheduling, and implementation of Company A's policies at Company A's Port of New Orleans terminal. **ZEMO** was also responsible for facilitating the billing of Company A's customers. As such, **ZEMO** was responsible for preparing bids and quotes for services on behalf of Company A and transmitting that information to prospective customers.

The Government would further show that as part of the employment relationship between **ZEMO** and Company A, Company A paid **ZEMO** a salary of approximately \$132,000 in 2012, \$138,000 in 2013, \$159,000 in 2014, and \$110,000 in 2015 (until his employment ended in July 2015).

The Government would further show that in about August 2009, R.Z. and L.N. formed U.S. Gulf Trade, LLC (“USGT”) with the Louisiana Secretary of State. On or about, September 2010, L.N. was removed as a member of USGT, and R.Z. became the sole member and registered agent of USGT and its registered address was in River Ridge, Louisiana, within the Eastern District of Louisiana. USGT purported to be a third-party contractor for Company A. In about November 2010, R.Z. opened a financial account in the name of USGT, bearing Account No. XXXXX5776 at JPMorgan Chase Bank, N.A (“Chase”). R.Z. had sole signature authority on Chase Account No. XXXXX5776. Although **ZEMO** was not explicitly affiliated with USGT, he was familiar with USGT and involved in its day-to-day operations.

The Fraud

The Government would introduce documentary evidence, as well as the testimony of Internal Revenue Service – Criminal Investigations Special Agent Minh Tran, that beginning not later than about January 2012, and continuing through about July 2015, **ZEMO** diverted funds from Company A to his personal benefit and the benefit of USGT on numerous occasions, without Company A’s knowledge or authorization, in addition to receiving his regular salary. **ZEMO** did so in the following manner.

Despite his affiliation with USGT, **ZEMO** indicated to customers, as General Manager for Company A, that USGT was a separate entity. He did not disclose his relationship with R.Z. and

USGT to Company A's customers. After using Company A's equipment, employees, and material to perform services for customers at Company A's Port of New Orleans terminal, **ZEMO** represented to customers that USGT, and not Company A, had provided the services and materials. **ZEMO** and R.Z. caused invoices and related correspondence to be issued to customers instructing them to direct payment for the services and materials to USGT instead of Company A without Company A's knowledge or authorization. Customers issued payments to USGT, which were delivered by mail services or electronically to USGT's Chase bank account. Between January 2012 and August 2015, **ZEMO** and R.Z. used the funds, including those diverted from Company A, to pay for dozens of personal expenditures and expenditures related to the operation of USGT. **ZEMO** did not transmit any of the funds he obtained inappropriately from customers to Company A.


In total, the Government would admit documentary evidence and the testimony of eyewitnesses to establish that **ZEMO** and R.Z. diverted funds intended for Company A improperly in the manner described above on not fewer than 80 occasions between January 29, 2012, and July 7, 2015.

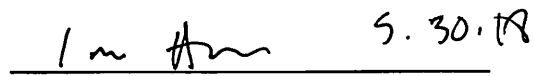
In total, **ZEMO** and R.Z. diverted approximately \$1,033,639.54 in proceeds from work performed on Company's A's facility using Company A's employees, material, and resources, for the benefit of **ZEMO**, R.Z., and USGT without Company A's knowledge and authorization.

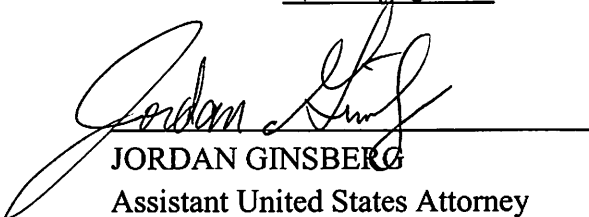
The Government would introduce documentary evidence and the testimony of Company A's customers that each time **ZEMO** caused one of the unauthorized transactions described above to occur, the U.S. Postal Service, another interstate mail carrier, or an electronic wire traveling interstate was used to transport the payment to USGT. Specifically, on or about May 22, 2015, **ZEMO** and R.Z. caused Hansa Meyer Global Transport USA, LLC to issue a payment to USGT

in the form of a check in the amount of \$49,498.49, when such funds should have been made payable to, and actually transmitted to, Company A. This check was delivered to USGT via U.S. Postal Service or another interstate mail carrier from Houston, Texas, to River Ridge, Louisiana.

The above facts come from an investigation conducted by, and would be proven at trial by credible testimony from, Special Agents from the Internal Revenue Service – Criminal Investigations, representatives of Company A, representatives of numerous financial and retail institutions, including JPMorgan Chase Bank, N.A., representatives of customers of Company A, business records from Company A, and documents and tangible exhibits in the custody of the Internal Revenue Service – Criminal Investigations.


DON MANUEL ZEMO, JR.
Defendant


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