

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA	:	Criminal No. 12-
	:	
v.	:	26 U.S.C. § 7201
	:	
MARK TRAWINSKI	:	<u>I N F O R M A T I O N</u>

The defendant having waived in open court prosecution by indictment, the United States Attorney for the District of New Jersey charges:

1. At all times relevant to this Information:

a. Defendant MARK TRAWINSKI was a resident of Morganville, New Jersey, who owned and operated numerous heating and air conditioning businesses.

b. The Internal Revenue laws required employers to withhold federal income tax from their employees' wages. The Internal Revenue laws also required employers to withhold part of Social Security and Medicare taxes from their employees' wages and pay a matching amount of the taxes (collectively "Trust Fund Taxes") directly to the Internal Revenue Service ("IRS") on behalf of the employees. Those taxes were referred to as Trust Fund Taxes because employers held the withheld amounts in trust until paid to the government.

c. The Internal Revenue laws required employers to report the Trust Fund Taxes to the IRS by filing IRS Forms 941 -

Employer's Quarterly Federal Tax Return. With the submission of the quarterly Form 941, the employer was required to pay over the Trust Fund Taxes to the IRS for deposit with the United States Treasury.

d. If the Trust Fund Taxes were not withheld or were not deposited or paid to the IRS, the IRS could impose a penalty of one hundred percent of the Trust Fund Taxes on the employer, making the employer then responsible to pay the entire amount. This penalty was called the Trust Fund Recovery Penalty ("TFRP").

e. Defendant MARK TRAWINSKI maintained a nominee bank account at Atlantic Federal Credit Union Bank in the name of his mother.

f. Washington Mutual Bank was a financial institution that, among other things, provided home mortgages.

2. During the period from 2002 through 2006, defendant MARK TRAWINSKI owned and operated three heating and air conditioning businesses: (1) Air Joy Service, Heating and Cooling Corp. ("Air Joy Heating and Cooling"); (2) Air Joy Service, Inc. ("Air Joy Service"); and (3) Air Joy Sheet Metal.

3. As the owner of Air Joy Heating and Cooling, Air Joy Service, and Air Joy Sheet Metal, defendant MARK TRAWINSKI was required to report the employment taxes for all his employees to the IRS by filing IRS Forms 941. Defendant TRAWINSKI was also required to pay to the IRS the employment taxes for his employees

on a quarterly basis.

4. For the tax quarters ending in March 31, 2002 through December 31, 2004 and for the tax quarters ending in June 30, 2006 through September 30, 2007, defendant MARK TRAWINSKI filed Forms 941 for Air Joy Heating and Cooling. Defendant TRAWINSKI did not pay the employment tax liabilities reported on the Forms 941.

5. For the tax quarters ending in March 31, 2002 through December 31, 2004, defendant MARK TRAWINSKI filed Forms 941 for Air Joy Service. Defendant TRAWINSKI did not pay the employment tax liabilities reported on the Forms 941.

6. For the tax quarters ending in September 30, 2003 through December 31, 2004 and for the tax quarters ending in March 31, 2006 through June 30, 2006, defendant MARK TRAWINSKI filed Forms 941 for Air Joy Sheet Metal. Defendant TRAWINSKI did not pay the employment tax liabilities reported on the Forms 941.

7. At various times between in or about 2006 and in or about 2008, the IRS assessed the Trust Fund Recovery Penalty against defendant MARK TRAWINSKI for the previously assessed employment tax liabilities in the approximate amount of \$713,759. Thereafter, the IRS commenced collection actions against defendant TRAWINSKI.

8. In 2005, defendant MARK TRAWINSKI purchased a vacation home in Port Orange, Florida for \$1,000,000, although he caused

the deed and mortgage to be placed in a nominee name, specifically, his mother's name.

9. Between 2005 and 2010, defendant MARK TRAWINSKI made, or caused to be made, approximately \$544,673 in mortgage payments to Washington Mutual Bank in the following amounts in the following years with checks drawn on the heating and air conditioning businesses' bank accounts and also a bank account in his mother's name, which were controlled by defendant TRAWINKSI:

- a. In 2005 - \$33,777;
- b. In 2006 - \$102,619;
- c. In 2007 - \$129,178;
- d. In 2008 - \$116,814;
- e. In 2009 - \$102,720; and
- f. In 2010 - \$59,562.

10. In 2007, defendant MARK TRAWINSKI filed a bankruptcy petition in an attempt to have his debts discharged. During the bankruptcy proceeding, defendant TRAWINSKI failed to list the Port Orange, Florida property as an asset on his bankruptcy petition.

11. In or about June 2009, the Small Business/Self Employment Collections Division of IRS levied several of defendant MARK TRAWINSKI's bank accounts, including the account at Atlantic Federal Credit Union, to recoup the Trust Fund Recovery Penalty.

12. In or about November 2009, defendant MARK TRAWINSKI met with an IRS Revenue Agent and submitted Form 433A, Collection Information Statement for Wage Earners and Self-Employed Individuals, which was signed under penalty of perjury. On Form 433A, defendant TRAWINSKI failed to disclose his ownership of the vacation home in Port Orange, Florida. Defendant TRAWINSKI also falsely told the Revenue Agent that his son ran the heating and cooling business even though his son had no experience in the business. Defendant TRAWINSKI further told the Revenue Agent that he was not receiving a salary and that he had no assets or income of any kind.

13. Between in or about 2006 to in or about 2010, in the District of New Jersey and elsewhere, defendant

MARK TRAWINSKI

did knowingly and willfully attempt to evade and defeat the payment of a substantial part of the Trust Fund Recovery Penalty, assessed by the IRS in calendar years 2006, 2007 and 2008, and due and owing by him to the United States, in an approximate amount of \$713,759, exclusive of interest and penalties.

Defendant TRAWINSKI attempted to evade and defeat payment of the Trust Fund Recovery Penalty by, among other things, purchasing a vacation home in Florida in the name of a nominee, using his business bank accounts to pay the mortgage, depositing and causing to be deposited in nominee bank accounts his personal

assets, and by failing to file his individual income tax returns ("Form 1040") for calendar years 2006, 2007, and 2008.

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

  
PAUL J. FISHMAN  
United States Attorney

CASE NUMBER: 12-

---

**United States District Court  
District of New Jersey**

---

**UNITED STATES OF AMERICA**

v.

**MARK TRAWINSKI**

---

**INFORMATION FOR**

26 U.S.C. § 7201

---

**PAUL J. FISHMAN.**  
*U.S. ATTORNEY NEWARK, NEW JERSEY*

---

**JASON M. RICHARDSON**  
*Assistant U.S. Attorney  
CAMDEN, New Jersey  
(856) 757-5026*

---