2007R01303/lfs

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA	:	Hon.
v.	:	Criminal No.
ANSELMO GENOVESE	:	18 U.S.C. §§ 371, 664 and 29 U.S.C. § 186(a)

I N D I C T M E N T

The Grand Jury in and for the District of New Jersey, sitting in Newark, charges as follows:

COUNT ONE

Conspiracy to Make Unlawful Labor Payments and Embezzle and Willfully Convert Assets of Employee Benefit Plans (Title 18, United States Code, Section 371)

Introduction

1. At all times relevant to this Indictment:

a. Defendant ANSELMO GENOVESE, a/k/a "SAMMY GENOVESE," was a Project Manager for 160 Broadway Corporation (hereinafter "Broadway Concrete"), a construction company incorporated in the State of New York.

b. L.M., a Co-Conspirator not named as a defendant herein, was employed by Local 325 of the Laborer's International Union of North America (hereinafter "Local 325") as its Business Manager.

b. Local 325, headquartered in Jersey City, New Jersey, was a "labor organization" as that term is defined in Title 29, United States Code, Sections 142(3) and 152(5). It

represented, sought to represent, and would have admitted laborers to membership. Local 325 represented approximately six hundred members, many of whom were employed at various construction projects in northern New Jersey. Local 325, through its officers and agents, entered into collective bargaining agreements (hereinafter "CBAs") with employers that employed laborers. These agreements contained provisions pertaining to conditions of employment, such as rates of pay and fringe benefits, and the circumstances under which an employer was obligated to use laborers, and to pay into various benefit funds.

c. Local 325, through its officers, agents, employees, and representatives, also ensured that employers made contributions on behalf of laborers working at the 77 Hudson Street Project to Local 325 for remittance to the New Jersey Building Laborers' Statewide Benefit Funds (hereinafter "New Jersey Benefit Funds"). The New Jersey Benefit Funds were employee benefit plans subject to the provisions of title I of the Employee Retirement Income Security Act of 1974, Title 29, United States Code, Section 1001, et. seq.

Construction Project at 77 Hudson Street, Jersey City

2. In early 2007, Broadway Concrete commenced work as a subcontractor at a high-rise construction project located at 77 Hudson Street, Jersey City, New Jersey (hereinafter "77 Hudson Street"). Broadway Concrete was subject to a CBA with Local 325, which required the company to employ laborers referred to work

through Local 325 at 77 Hudson Street. Accordingly, Broadway Concrete and defendant ANSELMO GENOVESE, as Project Manager, were "employers," as that term is defined in Title 29, United States Code, Section 142 and 152(2), and the employees of Broadway Concrete were employed in an industry affecting commerce. Defendant ANSELMO GENOVESE was also a person acting in the interest of said employer Broadway Concrete.

The Conspiracy

3. From in or about early 2007 through in or about April 2008, in the County of Hudson, in the District of New Jersey, and elsewhere, defendant

ANSELMO GENOVESE, a/k/a "SAMMY GENOVESE,"

knowingly and willfully conspired and agreed with Co-Conspirator L.M. and others to commit offenses against the United States, that is, to pay, lend, and deliver money and things of value to an employee of a labor organization in violation of Title 29, United States Code, Sections 186(a)(2) and (d)(2), and to embezzle and unlawfully convert assets of employee benefit plans, contrary to Title 18, United States Code, Section 664.

Object of the Conspiracy

4. It was an object of the conspiracy that defendant ANSELMO GENOVESE, being an employer and an individual acting in the interest of an employer, agreed with Co-Conspirator L.M. and others to pay, lend, and deliver money and other things of value,

namely, United States currency, to an employee of Local 325, by unlawfully paying approximately $8,000 in cash bribes to Co-Conspirator L.M. with respect to the employment of non-local 325 members at the 77 Hudson Street Project and the non-payment of benefit contributions on behalf of such employees to the New Jersey Benefit Funds.

5. It was further an object of the conspiracy that defendant ANSELMO GENOVESE agreed with Co-Conspirator L.M. and others to embezzle, steal, and unlawfully convert to the use of others the credits, property, and other assets of the New Jersey Benefit Funds, that is, the right to collect employer contributions contractually due and owing from Broadway Concrete to the New Jersey Benefit Funds, totaling in excess of $1.7 million, with respect to the New York laborers working at 77 Hudson Street.

Manner and Means of the Conspiracy

6. It was part of the conspiracy that defendant ANSELMO GENOVESE desired to employ laborers at the 77 Hudson Street Project who were members of Laborer's International Union of North America Locals based in New York (hereinafter "New York laborers"), rather than employees referred to work through Local 325 as required by the CBA.

7. It was further part of the conspiracy that in order to encourage New York laborers to work at the 77 Hudson Street

project, defendant ANSELMO GENOVESE caused Broadway Concrete to send fringe benefit funds earned by the New York laborers on the project to the Cement and Concrete Workers District Council Fringe Benefit Funds for the New York region rather than to Local 325 for remittance to the New Jersey Benefit Funds, as required by the CBA.

8. It was further part of the conspiracy that defendant ANSELMO GENOVESE caused the names and number of hours worked by New York laborers employed at the 77 Hudson Street Project to be excluded from Local 325 shop steward reports in order to conceal the number of New York laborers working on the project and the fact that benefit contributions which were due and owing were not being properly transmitted to the New Jersey Benefit Funds on their behalf. As a consequence, the New Jersey Benefit funds were denied financial benefits to its pension and welfare funds.

9. It was further part of the conspiracy that defendant ANSELMO GENOVESE agreed to pay Co-Conspirator L.M. $1,000 a week in exchange for permitting Broadway Concrete to circumvent its CBA with Local 325.

Overt Acts

10. In furtherance of the conspiracy and in order to effect the object thereof, defendant ANSELMO GENOVESE and Co-Conspirator L.M. committed and caused to be committed the following overt acts, among others, in the District of New Jersey and elsewhere:

a. In or about the spring/summer of 2007, defendant ANSELMO GENOVESE paid $4,000 in cash to Co-Conspirator L.M.

b. In or about the summer/fall of 2007, defendant ANSELMO GENOVESE caused an envelope containing an additional $4,000 in cash to be delivered to Co-Conspirator L.M.

c. On or about October 23, 2007, defendant ANSELMO GENOVESE caused Broadway Concrete to not remit benefit plan contributions on behalf of New York laborers working at 77 Hudson Street which were due and owing to the New Jersey Benefit Funds.

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

COUNTS TWO and THREE
Making an Unlawful Labor Payment
(Title 29, United States Code, Section 186)

1. The allegations set forth in Paragraphs 1, 2, 4, and 6 through 10 of Count One of this Indictment are hereby re-alleged and incorporated as if set forth in full herein.

2. On or about the dates set forth below, in the District of New Jersey and elsewhere, defendant

ANSELMO GENOVESE, a/k/a "SAMMY GENOVESE,"

being an employer, and an individual acting in the interest of such employer, did unlawfully and willfully pay lend, and deliver, and agree to pay, lend, and deliver money and things of value, namely, United States currency exceeding $1,000 in value, to Co-Conspirator L.M., an employee of Local 325, a labor organization that represented, sought to represent, and would have admitted to membership the employees of Broadway Concrete, who were employed in an industry affecting interstate commerce, namely, the construction industry, as set forth below:

Count	Approximate Date	Type of Payment	Amount
Two	spring/summer 2007	cash	$4,000
Three	summer/fall 2007	cash	$4,000

In violation of Title 29, United States Code, Sections 186(a)(1), 186(d)(2) and Title 18, United States Code, Section 2.

COUNT FOUR
Embezzlement from New Jersey Funds
(Title 18, United States Code, Section 664)

1. The allegations set forth in Paragraphs 1, 2, and 6 through 10 of Count One of this Indictment are re-alleged and incorporated as set forth in full herein.

2. From on or about May 1, 2007 through in or about April 2008, in the District of New Jersey, and elsewhere, defendant

ANSELMO GENOVESE, a/k/a "SAMMY GENOVESE,"

knowingly embezzled, stole and willfully and unlawfully converted to his own use and the use of others, credits, property, and other assets of the New Jersey Benefit Funds, that is, the right to collect employer contributions due and owing from Broadway Concrete to the New Jersey Benefit Funds, totaling in excess of approximately $1.7 million, with respect to New York laborers working at 77 Hudson Street.

In violation of Title 18, United States Code, Section 664 and Section 2.

A TRUE BILL

Paul J. Fishman

PAUL J. FISHMAN,
United States Attorney

CASE NUMBER: ____

United States District Court
District of New Jersey

UNITED STATES OF AMERICA

v.

ANSELMO GENOVESE

INDICTMENT

18 U.S.C. § 371, 664
29 U.S.C. § 186 (a)

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