

ALVIN BRAGG

Assistant United States Attorney

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Attorney

Answer: ☐ 1 ☐ 2 ☐ 3 ☐ 4 ☐ 5 ☐ 6 ☐ 7 ☐ 8 ☐ 9 ☐ 10 ☐ 11 ☐ 12 ☐ 13 ☐ 14 ☐ 15 ☐ 16 ☐ 17 ☐ 18 ☐ 19 ☐ 20 ☐ 21 ☐ 22 ☐ 23 ☐ 24 ☐ 25 ☐ 26 ☐ 27 ☐ 28 ☐ 29 ☐ 30 ☐ 31 ☐ 32 ☐ 33 ☐ 34 ☐ 35 ☐ 36 ☐ 37 ☐ 38 ☐ 39 ☐ 40 ☐ 41 ☐ 42 ☐ 43 ☐ 44 ☐ 45 ☐ 46 ☐ 47 ☐ 48 ☐ 49 ☐ 50 ☐ 51 ☐ 52 ☐ 53 ☐ 54 ☐ 55 ☐ 56 ☐ 57 ☐ 58 ☐ 59 ☐ 60 ☐ 61 ☐ 62 ☐ 63 ☐ 64 ☐ 65 ☐ 66 ☐ 67 ☐ 68 ☐ 69 ☐ 70 ☐ 71 ☐ 72 ☐ 73 ☐ 74 ☐ 75 ☐ 76 ☐ 77 ☐ 78 ☐ 79 ☐ 80 ☐ 81 ☐ 82 ☐ 83 ☐ 84 ☐ 85 ☐ 86 ☐ 87 ☐ 88 ☐ 89 ☐ 90 ☐ 91 ☐ 92 ☐ 93 ☐ 94 ☐ 95 ☐ 96 ☐ 97 ☐ 98 ☐ 99 ☐ 100 ☐ 101 ☐ 102 ☐ 103 ☐ 104 ☐ 105 ☐ 106 ☐ 107 ☐ 108 ☐ 109 ☐ 110 ☐ 111 ☐ 112 ☐ 113 ☐ 114 ☐ 115 ☐ 116 ☐ 117 ☐ 118 ☐ 119 ☐ 120 ☐ 121 ☐ 122 ☐ 123 ☐ 124 ☐ 125 ☐ 126 ☐ 127 ☐ 128 ☐ 129 ☐ 130 ☐ 131 ☐ 132 ☐ 133 ☐ 134 ☐ 135 ☐ 136 ☐ 137 ☐ 138 ☐ 139 ☐ 140 ☐ 141 ☐ 142 ☐ 143 ☐ 144 ☐ 145 ☐ 146 ☐ 147 ☐ 148 ☐ 149 ☐ 150 ☐ 151 ☐ 152 ☐ 153 ☐ 154 ☐ 155 ☐ 156 ☐ 157 ☐ 158 ☐ 159 ☐ 160 ☐ 161 ☐ 162 ☐ 163 ☐ 164 ☐ 165 ☐ 166 ☐ 167 ☐ 168 ☐ 169 ☐ 170 ☐ 171 ☐ 172 ☐ 173 ☐ 174 ☐ 175 ☐ 176 ☐ 177 ☐ 178 ☐ 179 ☐ 180 ☐ 181 ☐ 182 ☐ 183 ☐ 184 ☐ 185 ☐ 186 ☐ 187 ☐ 188 ☐ 189 ☐ 190 ☐ 191 ☐ 192 ☐ 193 ☐ 194 ☐ 195 ☐ 196 ☐ 197 ☐ 198 ☐ 199 ☐ 200 ☐ 201 ☐ 202 ☐ 203 ☐ 204 ☐ 205 ☐ 206 ☐ 207 ☐ 208 ☐ 209 ☐ 210 ☐ 211 ☐ 212 ☐ 213 ☐ 214 ☐ 215 ☐ 216 ☐ 217 ☐ 218 ☐ 219 ☐ 220 ☐ 221 ☐ 222 ☐ 223 ☐ 224 ☐ 225 ☐ 226 ☐ 227 ☐ 228 ☐ 229 ☐ 230 ☐ 231 ☐ 232 ☐ 233 ☐ 234 ☐ 235 ☐ 236 ☐ 237 ☐ 238 ☐ 239 ☐ 240 ☐ 241 ☐ 242 ☐ 243 ☐ 244 ☐ 245 ☐ 246 ☐ 247 ☐ 248 ☐ 249 ☐ 250 ☐ 251 ☐ 252 ☐ 253 ☐ 254 ☐ 255 ☐ 256 ☐ 257 ☐ 258 ☐ 259 ☐ 260 ☐ 261 ☐ 262 ☐ 263 ☐ 264 ☐ 265 ☐ 266 ☐ 267 ☐ 268 ☐ 269 ☐ 270 ☐ 271 ☐ 272 ☐ 273 ☐ 274 ☐ 275 ☐ 276 ☐ 277 ☐ 278 ☐ 279 ☐ 280 ☐ 281 ☐ 282 ☐ 283 ☐ 284 ☐ 285 ☐ 286 ☐ 287 ☐ 288 ☐ 289 ☐ 290 ☐ 291 ☐ 292 ☐ 293 ☐ 294 ☐ 295 ☐ 296 ☐ 297 ☐ 298 ☐ 299 ☐ 300 ☐ 301 ☐ 302 ☐ 303 ☐ 304 ☐ 305 ☐ 306 ☐ 307 ☐ 308 ☐ 309 ☐ 310 ☐ 311 ☐ 312 ☐ 313 ☐ 314 ☐ 315 ☐ 316 ☐ 317 ☐ 318 ☐ 319 ☐ 320 ☐ 321 ☐ 322 ☐ 323 ☐ 324 ☐ 325 ☐ 326 ☐ 327 ☐ 328 ☐ 329 ☐ 330 ☐ 331 ☐ 332 ☐ 333 ☐ 334 ☐ 335 ☐ 336 ☐ 337 ☐ 338 ☐ 339 ☐ 340 ☐ 341 ☐ 342 ☐ 343 ☐ 344 ☐ 345 ☐ 346 ☐ 347 ☐ 348 ☐ 349 ☐ 350 ☐ 351 ☐ 352 ☐ 353 ☐ 354 ☐ 355 ☐ 356 ☐ 357 ☐ 358 ☐ 359 ☐ 360 ☐ 361 ☐ 362 ☐ 363 ☐ 364 ☐ 365 ☐ 366 ☐ 367 ☐ 368 ☐ 369 ☐ 370 ☐ 371 ☐ 372 ☐ 373 ☐ 374 ☐ 375 ☐ 376 ☐ 377 ☐ 378 ☐ 379 ☐ 380 ☐ 381 ☐ 382 ☐ 383 ☐ 384 ☐ 385 ☐ 386 ☐ 387 ☐ 388 ☐ 389 ☐ 390 ☐ 391 ☐ 392 ☐ 393 ☐ 394 ☐ 395 ☐ 396 ☐ 397 ☐ 398 ☐ 399 ☐ 400 ☐ 401 ☐ 402 ☐ 403 ☐ 404 ☐ 405 ☐ 406 ☐ 407 ☐ 408 ☐ 409 ☐ 410 ☐ 411 ☐ 412 ☐ 413 ☐ 414 ☐ 415 ☐ 416 ☐ 417 ☐ 418 ☐ 419 ☐ 420

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TIINA SISAS, being duly sworn, deposes and says that she is a Special Agent with the United States Department of Labor ("DOL"), and charges as follows:

1. From at least in or about August 2009, up to and including in or about February 2010, in the Southern District of New York and elsewhere, JOVER NARANJO and LUPERIO NARANJO, SR., the defendants, willfully and knowingly, did combine, conspire, confederate, and agree together and with each other to commit an offense against the United States, to wit, to violate Section 1341 of Title 18, United States Code.

2. It was a part and object of the conspiracy that JOVER NARANJO and LUPERIO NARANJO, SR., the defendants, willfully and knowingly, having devised and intending to devise a scheme and artifice to defraud, and for obtaining money and property by means of false and fraudulent pretenses, representations, and promises, and attempting to do so, would and did place in a post office and authorized depository for mail matter, a matter and thing to be sent and delivered by the Postal Service and did deposit and cause to be deposited a matter and thing to be sent and delivered by private and commercial interstate carrier, and did take and receive therefrom, such matter and thing, and did

knowingly cause to be delivered by mail and such carrier according to the direction thereon, such matter and thing, in violation of Title 18, United States Code, Section 1341.

#### OVERT ACTS

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

a. On or about August 3, 2009, JOVER NARANJO, the defendant, in his capacity as President of Enviro & Demo Masters, Inc. ("Enviro"), a demolition company that he owned, executed a contract (the "August 2009 Contract") with Lettire Construction Corporation ("Lettire"), a general contractor. The August 2009 Contract was for a project, funded by the City of New York (the "City") using federal monies, to perform demolition work on a group of five buildings in New York, New York (the "Buildings" or the "Ciena Project"). Pursuant to federal law, the August 2009 Contract provided that Enviro was to pay its employees a prevailing wage pursuant to a specific wage schedule and that its wage and benefits payments were to be supported by certified payroll reports.

b. From at least in or about August 2009, up to and including in or about February 2010, JOVER NARANJO, the defendant, submitted payroll forms for approximately thirty weekly pay periods (the "Payroll Forms") fraudulently claiming that: (i) laborers who did work on the Buildings were paid the required prevailing wage rates when, in truth and in fact, Enviro paid its employees well below the required wage rates; and/or (ii) one or more of JOVER NARANJO's relatives performed work on the Ciena Project that they did not actually perform. In total, Enviro paid its employees approximately \$650,000 below the required wage rates.

c. From at least in or about August 2009, up to and including in or about February 2010, LUPERIO NARANJO, SR., the defendant, was in charge of the day-to-day operations of Enviro at the Ciena Project and, in that role, LUPERIO NARANJO, SR. oversaw Enviro's employees' hours and the nature of the work they performed.

d. From at least in or about August 2009, up to and including in or about February 2010, Lettire mailed certain of the Payroll Forms to an office of the New York City Department

of Housing Preservation and Development ("HPD") located in New York, New York.

(Title 18, United States Code, Section 1349).

COUNT TWO

4. From at least in or about August 2009, up to and including in or about February 2010, in the Southern District of New York and elsewhere, JOVER NARANJO and LUPERIO NARANJO, SR., the defendants, willfully and knowingly, having devised and intending to devise a scheme and artifice to defraud, and for obtaining money and property by means of false and fraudulent pretenses, representations, and promises, and attempting to do so, would and did place in a post office and authorized depository for mail matter, a matter and thing to be sent and delivered by the Postal Service and did deposit and cause to be deposited a matter and thing to be sent and delivered by private and commercial interstate carrier, and did take and receive therefrom, such matter and thing, and did knowingly cause to be delivered by mail and such carrier according to the direction thereon, such matter and thing, to wit, JOVER NARANJO and LUPERIO NARANJO, SR. engaged in a scheme to violate federal prevailing wage laws by underpaying Enviro's employees.

(Title 18, United States Code, Sections 1341 and 2.)

COUNT THREE

5. From at least on or about December 3, 2009, up to and including in or about February 2010, in the Southern District of New York and elsewhere, JOVER NARANJO and LUPERIO NARANJO, SR., the defendants, willfully and knowingly, did combine, conspire, confederate, and agree together and with each other to commit an offense against the United States, to wit, to violate Section 1512(b) of Title 18, United States Code.

6. It was a part and object of the conspiracy that JOVER NARANJO and LUPERIO NARANJO, SR., the defendants, willfully and knowingly used intimidation, threatened, and corruptly attempted to persuade another person with intent to influence, delay, and prevent the testimony of another person in an official proceeding, to wit, JOVER NARANJO and LUPERIO NARANJO, SR. instructed Enviro employees at the Ciena Project to hide when DOL investigators arrived and to lie to the investigators about, among other things, their pay rates, in violation of Title 18, United States Code, Section 1512(b)(1).

### OVERT ACTS

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

a. Between December 3, 2009 and February 2010, LUPERIO NARANJO, SR., the defendant, told several employees at the Ciena Project to hide when DOL investigators arrived and told several employees to lie about their identities, work schedules, and pay rates if they were questioned by investigators.

b. On or about February 11, 2010, DOL investigators interviewed employees at the Ciena Project. One employee ("Employee-1") truthfully stated his/her work hours and pay rate. Shortly thereafter, LUPERIO NARANJO, SR. told Employee-1 that, because of Employee-1's statements to the DOL, Enviro no longer wanted Employee-1 to work on the Ciena Project. On or about February 27, 2010, JOVER NARANJO, the defendant, instructed Employee-1 to recant his/her statement to the DOL.

(Title 18, United States Code, Section 371.)

### COUNT FOUR

8. From at least on or about December 3, 2009, up to and including in or about February 2010, in the Southern District of New York and elsewhere, JOVER NARANJO and LUPERIO NARANJO, SR., the defendants, willfully and knowingly used intimidation, threatened, and corruptly attempted to persuade another person with intent to influence, delay, and prevent the testimony of another person in an official proceeding, to wit, JOVER NARANJO and LUPERIO NARANJO, SR. instructed employees for Enviro to misrepresent their work schedules, pay rates, and identities to representatives of the DOL after JOVER NARANJO and LUPERIO NARANJO, SR. were aware that DOL was investigating Enviro for wage and hour violations.

(Title 18, United States Code, Sections 1512(b)(1) and 2.)

The bases for deponent's knowledge and for the foregoing charges are, in part, as follows:

9. I have been a Special Agent with the DOL since 2005. While with the DOL, I have participated in multiple investigations of wage and hour violations, fraud, and obstruction of justice.

10. I am familiar with the facts and circumstances set forth below from my participation in the investigation of this case and my conversations with other law enforcement officers, including agents with the United States Environmental Protection Agency ("EPA") and the New York City Department of Investigation ("DOI"). Among other things, other law enforcement officers and I have conducted interviews of persons who worked for Enviro on the Ciena Project, and I have reviewed various documents, including the Payroll Forms submitted to the HPD and other business records maintained by Enviro. Because this Affidavit is being submitted for the limited purpose of establishing probable cause, I have not included every fact I have learned during the investigation. Where the actions, statements and conversations of others are recounted herein, they are related in substance and in part, unless otherwise indicated.

#### **Background**

11. At all times relevant to this Complaint, federal regulations implementing the Davis-Bacon Act, Title 40, United States Code, Section 3142 et seq., required, among other things, that contracts in excess of \$2,000 for work on projects financed in whole or in part by loans or grants from the United States government ("federally funded projects") contain a provision requiring that contractors and subcontractors (a) pay laborers and mechanics working on the projects at a rate not less than the prevailing wage for laborers and mechanics employed on similar projects in the same geographical area in which the work was to be performed and (b) submit payrolls to the government agency that is a party to the contract, along with a certification that the contractor paid its employees not less than the prevailing wage.

12. The Ciena Project was a federally funded project. Specifically, costs for the demolition and construction work for the Ciena Project were paid by an HPD loan that was funded by, among other federal funds, monies disbursed pursuant to the American Recovery and Reinvestment Act of 2009.

13. The August 2009 Contract provided that, for \$785,000, Enviro would perform demolition work and remove debris caused by such demolition work. It further provided that Enviro was to pay its employees for such work at the "prevailing wage" and to document such payments through "certified payroll reports." The signature line on behalf of Enviro for the August 2009 Contract bears the signature of "Jover Naranjo," who is listed as the president of Enviro.

14. A schedule of prevailing wages was attached to the August 2009 Contract. The schedule specified two tiers of demolition laborers. "Tier A" demolition laborers were responsible for the demolition of structures within the interior of the Buildings. The basic hourly rate for Tier A demolition laborers was set at \$30.38. The hourly rate for Tier A demolition laborers for fringe benefits was set at \$18.91. "Tier B" demolition laborers were responsible for shoveling debris into containers and moving the containers to the outside of the Buildings. The basic hourly rate for Tier B demolition laborers was set at the rate of \$20.74. The hourly rate for Tier B demolition laborers for fringe benefits was set at \$12.41.

15. The Payroll Forms, which are dated from August 2009 to April 2010, list the following information: (a) the name, address and social security number of an Enviro employee; (b) the "work classification" of the employee, which specified whether the employee was a Tier A or Tier B demolition laborer or another type of employee; (c) the dates the laborer worked in the payroll period; (d) the laborer's hourly rate; (e) the laborer's gross amount earned for the payroll period; (f) several payroll deductions, including for social security payments and health care; and (g) the net amount paid to the laborer for the payroll period.

16. The Payroll Forms for approximately 20 weekly payroll periods are supported by a certification stating that "Jover Naranjo," the president of Enviro, paid or supervised the payment of persons employed by Enviro on the Ciena Project and that: "Each laborer or mechanic listed in the above referenced payroll has been paid, as indicated on the payroll, an amount not less than the sum of the applicable basic hourly wage rate plus the amount of the required fringe benefits as listed in the contract. . . ." Immediately below the signature line is the following capitalized language: "THE WILLFUL FALSIFICATION OF ANY OF THE ABOVE STATEMENTS MAY SUBJECT THE CONTRACTOR OR SUBCONTRACTOR TO CIVIL OR CRIMINAL PROSECUTION." This language is followed by citations to two federal statutes.

17. Certain Payroll Forms list JOVER NARANJO and LUPERIO NARANJO, SR., the defendants, as Tier A demolition laborers. In addition, Luperio Naranjo, Jr., JOVER NARANJO's brother and LUPERIO NARANJO, SR.'s son, is listed as a Tier A demolition laborer and Marcia Gonzalez, JOVER NARANJO's sister, is listed as a Tier B demolition laborer. As set forth in more detail below, JOVER NARANJO, LUPERIO NARANJO, SR., Luperio Naranjo, Jr., and Marcia Gonzalez (who is also known as Marcia Naranjo) did not actually do any manual labor for the Ciena Project. Based upon my experience and familiarity with this investigation, I believe that JOVER NARANJO and LUPERIO NARANJO, JR. falsely listed themselves and their relatives on the Payroll Forms, because they were seeking to conceal the identities of many of the real employees and/or the number of hours worked by real employees. Simply omitting employees' names without filling in replacement or "placeholder" names would have caused HPD to become suspicious, as HPD checks payroll forms to determine if sufficient employees and employee hours are listed to complete a project.

#### Overview of the DOL's Investigation

18. Based upon my involvement in the investigation and a review of memoranda prepared by other agents and investigators, I know the following, which indicates that JOVER NARANJO and LUPERIO NARANJO, SR., the defendants, were aware that the DOL was conducting a prevailing wage investigation concerning the Ciena Project at the time that they engaged in the obstructive conduct set forth below:

a. DOL wage and hour investigators first visited the Ciena Project on or about September 1, 2009, to investigate possible prevailing wage violations. The agents asked LUPERIO NARANJO, SR., the defendant, and several Enviro employees, about their hourly pay rates. In June 2012, the DOL held an administrative hearing (the "DOL Hearing").<sup>1</sup> At the DOL Hearing, a DOL wage and hour investigator ("Investigator-1") testified that, during this interview, LUPERIO NARANJO, SR. told Investigator-1 that LUPERIO NARANJO, SR. was the foreman at the Ciena Project and that the employees at the site only worked five days per week and did not work over 40 hours in a week.

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<sup>1</sup>A decision has not been issued in connection with the DOL Hearing yet.

b. On December 3, 2009, JOVER NARANJO attended a meeting with the DOL, at which he provided Enviro documents to DOL. A DOL investigator ("Investigator-2") testified at the DOL Hearing about the December 3, 2009 meeting between the DOL and JOVER NARANJO. Specifically, Investigator-2 testified that, during the meeting, (i) Investigator-2 told JOVER NARANJO that the Ciena Project was a job that required JOVER NARANJO to pay his employees federal prevailing wages; and (ii) JOVER NARANJO indicated that he already was aware that the Ciena Project was a prevailing wage job.

19. At a deposition in connection with the DOL Hearing on November 22, 2011, JOVER NARANJO, the defendant, testified that he had been the owner of Enviro, but had decided to no longer conduct business through Enviro as of two weeks prior to the deposition. Based upon my review of the DOL Hearing transcript, it is my understanding that JOVER NARANJO stipulated at the DOL Hearing that he owned Enviro during the time period relevant to this Complaint.

**The Employees' Prior Testimony And Statements To DOL**

20. At the DOL Hearing, 13 former Enviro employees testified that they were not paid the prevailing wage on the Ciena Project. As set forth below in more detail, there was also testimony that (a) LUPERIO NARANJO, SR., the defendant, instructed employees to lie to DOL investigators about the wages they were paid; and (b) JOVER NARANJO and LUPERIO NARANJO, SR., the defendants, and their relatives Luperio Naranjo, Jr. and Marcia Gonzalez did not do any manual labor for the Ciena Project (contrary to representations on the Payroll Forms).

21. Employee-1 testified at the DOL Hearing that:

a. Employee-1 did demolition work on the Ciena Project from July 2009 to February 2010. For the first four months, he/she regularly worked from Monday to Saturday, from 7:00 a.m. to 6:00 p.m., with one hour off for lunch. After the first four months, there was not as much work to do, so he/she worked from Monday through Friday from 7:30 a.m. to 3:30 p.m. Throughout his/her work on the Ciena Project, Employee-1 was paid \$15 per hour. He/she did not receive any health or pension benefits.

b. Contrary to Enviro's representations on the Payroll Forms, Employee-1 never saw LUPERIO NARANJO, SR. or JOVER NARANJO, the defendants, or Luperio Naranjo, Jr. do any



demolition work at the Buildings. Employee-1 did not testify about whether Marcia Gonzalez did any manual labor for the Ciena Project.

c. LUPERIO NARANJO, SR. told Employee-1 to hide from the DOL when DOL investigators visited the Ciena Project. He also provided Employee-1 with an identification card with someone else's name on it. LUPERIO NARANJO, SR. told Employee-1 that Employee-1 had to use this name because that person "was legal." Employee-1 subsequently had another identification card issued to him under Employee-1's own name. When LUPERIO NARANJO, SR. found out about this new card, LUPERIO NARANJO, SR. told Employee-1 that Employee-1 was going to die.

d. In February 2010, Employee-1 gave a written statement to government investigators, who spoke with him/her near the Ciena Project. In the statement, Employee-1 wrote that his/her hours throughout his/her work on the Ciena Project were from 7:30 a.m. to 3:30 p.m. Employee-1 made this misrepresentation because LUPERIO NARANJO, SR. had told Employee-1 not to tell the truth if investigators interviewed him/her. However, in the statement, Employee-1 did truthfully state that his/her pay rate was \$15 per hour.

e. Shortly after Employee-1 provided the government investigators with this written statement, LUPERIO NARANJO, SR. told Employee-1 "there was no more work for [him/her] for opening [his/her] mouth too much." Employee-1's relative, who also had worked on the Ciena Project, was fired shortly thereafter.

22. I interviewed Employee-1 on or about July 22, 2010. Employee-1 told me that, after LUPERIO NARANJO, SR., the defendant, fired Employee-1, JOVER NARANJO, the defendant, told Employee-1 that the next time Employee-1 was interviewed by the DOL, Employee-1 should not tell the truth. Based upon a review of a DOL interview memo, I know that Employee-1 was interviewed by other DOL agents on March 30, 2010. Similar to what Employee-1 told me, Employee-1 told these agents that: (a) after Employee-1 was fired, Employee-1 went to the Enviro office in Queens, New York to pick up his/her last check; (b) while Employee-1 was there, JOVER NARANJO asked about the DOL's interview of Employee-1 and Employee-1 told JOVER NARANJO that Employee-1 truthfully had told the DOL that Employee-1 was paid \$15 per hour; and (c) in response, JOVER NARANJO told Employee-1 that if the DOL interviewed him/her again, Employee-1 should claim that he/she was paid \$33 per hour.

23. I reviewed the Payroll Forms, and Employee-1 is listed as a Tier B demolition laborer on six Payroll Forms in January and February 2010. Contrary to Employee-1's testimony at the DOL Hearing, on these six Payroll Forms, Employee-1's pay rate is listed as \$33.15 and there are payroll deductions for social security and health care. In addition, Employee-1 is listed as working only from one to three days per week for eight hours or less per day for these six pay periods. In contrast, the name of the person whose identification card LUPERIO NARANJO, the defendant, told Employee-1 to use is listed on many of the Payroll Forms as either a Tier A demolition laborer or as an asbestos abatement employee.

24. A second Enviro employee who worked on the Ciena Project ("Employee-2") testified at the DOL Hearing that:

a. Employee-2 worked on the Ciena Project doing demolition work and removing garbage. Employee-2 started on the first day of the Ciena Project, and he/she did not remember how long he/she worked at the Ciena Project. Employee-2 usually worked Monday through Saturday from 7:00 a.m. to 6:00 p.m., with an hour lunch break. Employee-2 was paid \$13 per hour, and he/she did not receive health insurance or pension benefits.

b. Employee-2 was interviewed by government inspectors at the Ciena Project on September 1, 2009, and he/she provided them with a written statement. In the statement, Employee-2 falsely claimed that he/she worked at the Ciena Project 45 hours per week and was paid \$15 per hour in basic pay and \$30 per hour for overtime hours. When Employee-2 made these false statements, LUPERIO NARANJO, SR., the defendant, was nearby and Employee-2 made these false statements "[f]or fear of being thrown out of [his/her] job." Employee-2 did not speak to government inspectors at the Ciena Project on any other occasions because LUPERIO NARANJO, SR. directed Employee-2 to hide when the inspectors came.

c. Contrary to Enviro's representations on the Payroll Forms, Employee-2 never saw JOVER NARANJO or LUPERIO NARANJO, SR., the defendants, or Luperio Naranjo, Jr. or Marcia Gonzalez do any demolition work or take out any trash at the Buildings.

25. The Payroll Forms list Employee-2 as working at the Ciena Project only during the week ending on September 6, 2009. Contrary to Employee-2's testimony at the DOL Hearing, this

Payroll Form states that Employee-2 worked four seven-hour days that week, was paid \$33.15 and had deductions taken out of his pay for social security and health care. The Payroll Form lists Employee-2 as a Tier B demolition laborer.

26. A third Enviro employee who worked on the Ciena Project ("Employee-3") testified at the DOL Hearing that:

a. Employee-3 is Employee-1's relative. Employee-3 did demolition work on the Ciena Project for Enviro. Employee-3 believes that he/she started working on the Ciena Project around the time that Employee-1 did and that Employee-3 stopped working on the Ciena Project in or about February or March of 2010. LUPERIO NARANJO, SR., the defendant, told Employee-3 to stop working on the Ciena Project and LUPERIO NARANJO, SR. told Employee-3 that the reason Employee-3 could not come back to work was "because the Labor Department spoke with" his/her relative.

b. When Employee-3 worked on the Ciena Project, Employee-3 usually worked from 7:00 a.m. to 6:00 p.m., with an hour break for lunch, from Monday through Saturday. Employee-3 also worked on the Ciena Project on approximately three Sundays. Employee-3 was paid in cash at first, and then later by check three or four times. Employee-3 was paid \$13 per hour, except that around the time that he/she started being paid by check, he/she was paid almost \$40 per hour. Employee-3 did not receive any health insurance or pension benefits.

c. LUPERIO NARANJO, SR. told Employee-3 to hide when government inspectors visited the Ciena Project. LUPERIO NARANJO, SR. also told Employee-3 that, if Employee-3 were asked about his/her pay rate and schedule, Employee-3 should say that he/she was paid \$35 or \$49 per hour and that Employee-3 worked 40 hours per week. In addition, LUPERIO NARANJO, SR. gave Employee-3 a fake name to use in connection with his/her work on the Ciena Project.

d. Contrary to Enviro's representations on the Payroll Forms, Employee-3 never saw LUPERIO NARANJO, SR. or JOVER NARANJO, the defendants, or Luperio Naranjo, Jr. or Marcia Naranjo do any demolition work or take out any garbage at the Buildings.

27. As noted above, I have reviewed the Payroll Forms. Employee-3 is listed as a Tier B demolition laborer on six Payroll Forms in January and February 2010, notwithstanding that

Employee-3's testimony indicated that he/she started working on the project several months before January 2010. In contrast, the name that LUPERIO NARANJO, the defendant, told Employee-3 to use is listed on 20 of the Payroll Forms as a Tier A demolition laborer. Further, contrary to Employee-3's testimony about his/her pay rate, the Payroll Forms state that Employee-3's pay rate was \$33.15 and that deductions for social security and health care were taken out of his/her pay. Likewise, the Payroll Forms state that Employee-3 worked only from one to three days per week and only for eight hours or less per day, notwithstanding Employee-3's testimony that he/she worked more days per week and more hours per day.

28. A fourth Enviro employee who worked on the Ciena Project ("Employee-4") testified at the DOL Hearing that:

a. Employee-4 started working at the Buildings on the first day of the Ciena Project in early August 2009 and stopped working at the Buildings in early October 2009.

b. Employee-4's duties involved filling wheelbarrows with dirt, taking out garbage, and cleaning the street outside of the Buildings.

c. LUPERIO NARANJO, SR., the defendant, was at the Ciena Project every day and he set Employee-4's schedule, which for the most part was from 7:00 a.m. to 5:00 p.m. Monday through Friday and from 8:00 a.m. to 5:00 p.m. on Saturdays, with a one hour lunch break during the week and on Saturdays.

d. LUPERIO NARANJO, SR., told Employee-4 that he/she would be paid \$13 per hour and that is the rate that he/she was paid. Employee-4 was never paid health insurance or pension benefits by Enviro in connection with his/her work on the Ciena Project.

e. Contrary to Enviro's representations on the Payroll Forms, Employee-4 never saw JOVER NARANJO or LUPERIO NARANJO, SR., the defendants, or Luperio Naranjo, Jr. do any demolition work or take out any trash at the Buildings. Employee-4 testified that he/she did not know Marcia Gonzalez.

f. On at least one occasion when investigators were at the Ciena Project site, LUPERIO NARANJO, SR. sent Employee-4 and other employees to hide and he instructed Employee-4 (who did the work of a Tier B laborer) to claim to

investigators that Employee-4 was paid \$23 per hour, which was above the Tier B pay rate.

29. Notwithstanding Employee-4's testimony that he/she worked at the Ciena Project from early August 2009 to early October 2009, the Payroll Forms indicate that Employee-4 did not work at the Ciena Project.

30. A fifth Enviro employee who worked on the Ciena Project ("Employee-5") testified at the DOL Hearing that:

a. Employee-5 worked at the Buildings starting on the first day of the Ciena Project. Employee-5's primary duty was to take out garbage, but he/she also did some demolition work. Until mid-October 2009, Employee-5 generally worked Monday through Saturday at the Buildings. He/she typically started work at 7:00 a.m. Employee-5 did not have a specific time to stop work each day. He/she sometimes worked to 5:00 p.m., sometimes to 6:00 p.m., and sometimes later than 6:00 p.m. Employee-5 had a one hour lunch break each work day. Employee-5 worked on two Sundays from 8:00 a.m. to 3:00 p.m. In mid-October 2009, LUPERIO NARANJO, SR., the defendant, "removed" Employee-5 from his/her regular schedule on the Ciena Project. After that time, LUPERIO NARANJO, SR., took Employee-5 and other employees to the Ciena Project for two or three hours, two to three times per week, for two or three weeks.

b. Employee-5 was paid \$13 per hour for his/her work on the Ciena Project. LUPERIO NARANJO, SR., told Employee-5 that he could not pay Employee-5 a higher rate than \$13 per hour. Employee-5 did not receive any health or pension benefits in connection with his/her work on the Ciena Project.

c. LUPERIO NARANJO, SR., gave Employee-5 a name that was not Employee-5's name that he/she was supposed to use if anyone asked Employee-5 his/her name in connection with the Ciena Project. LUPERIO NARANJO, SR. (or another employee on his behalf) instructed employees to hide when government inspectors were at the Buildings and LUPERIO NARANJO, SR. told Employee-5 that, if Employee-5 were asked about his/her pay rate, Employee-5 was to claim that he/she was paid \$30.33 per hour.

d. Contrary to Enviro's representations on the Payroll Forms, Employee-5 never saw JOVER NARANJO or LUPERIO NARANJO, SR., the defendants, or Luperio Naranjo, Jr. do any demolition work at the Ciena Project, and Employee-5 never saw

Marcia Gonzalez (who Employee-5 knows as Marcia Naranjo) do any manual labor at the Buildings.

31. Contrary to Employee-5's testimony, the Payroll Forms indicate that Employee-5 did not work at the Ciena Project. In contrast, according to the Payroll Forms, the name that LUPERIO NARANJO, SR., the defendant, told Employee-5 to use in connection with the Ciena Project is listed as a Tier A demolition laborer on three Payroll Forms in August 2009.

32. A sixth Enviro employee who worked on the Ciena Project ("Employee-6") testified at the DOL Hearing that:

a. Employee-6 worked on the Ciena Project from early August 2009 to early October 2009. LUPERIO NARANJO, SR., the defendant, hired Employee-6. His/her duties were to take out garbage, clean the Buildings, and do demolition work. Employee-6 typically worked Monday through Saturday from 7:00 a.m. to 6:00 p.m., with a one hour break for lunch. Employee-6 ended work at 5:00 p.m. on paydays and on some Saturdays. After early October 2009, Employee-6 also worked at the Ciena Project on two or three Saturdays.

b. Employee-6 was paid \$13 per hour. He/she never received any health insurance or pension benefits. Employee-6 was paid in cash, except that on one occasion, he/she was paid by check. The payment by check was at a rate higher than his/her \$13 per hour rate. However, per an arrangement with the wife of JOVER NARANJO, the defendant, who worked as a secretary at Enviro, the amount paid in excess of Employee-6's \$13 per hour rate was taken out of his/her next payment from Enviro. Employee-6 was told that Enviro needed to make this arrangement in order to prove which laborers were working at the Ciena Project.

c. Employee-6 talked to government inspectors twice about the Ciena Project. At the instruction of LUPERIO NARANJO, SR., Employee-6 did not use his real name when he talked to the inspectors, and Employee-6 falsely told inspectors that he/she made either \$23 per hour or \$33 per hour. LUPERIO NARANJO, SR. told Employee-6 that if he/she did not follow LUPERIO NARANJO, SR.'s instructions, Employee-6 was "going to have problems."

d. Contrary to Enviro's representations on the Payroll Forms, Employee-6 never saw JOVER NARANJO or LUPERIO NARANJO, SR., the defendants, or Luperio Naranjo, Jr. do any

demolition work or take out garbage at the Ciena Project. Employee-6 did not testify about whether Marcia Gonzalez did any manual labor for the Ciena Project.

33. Notwithstanding Employee-6's testimony that he/she worked on the Ciena Project from early August 2009 to early October 2009, the Payroll Forms list Employee-6 as only working during the week ending on August 30, 2009. According to this Payroll Form, Employee-6 worked seven hours per day from Monday to Thursday that week, was paid an hourly rate of \$33.15, and had deductions withheld for social security and health care.

34. A seventh Enviro employee who worked on the Ciena Project ("Employee-7") testified at the DOL Hearing that:

a. Employee-7 started working at the Buildings on the first day of the Ciena Project. Employee-7 did demolition work and removed garbage. He/she regularly worked Mondays through Saturdays from 7:00 a.m. to 6:00 p.m., with one hour off for lunch (and he/she sometimes left at 5:00 p.m. on Saturdays). Employee-7 did not recall on what day or week he/she stopped working at the Ciena Project.

b. LUPERIO NARANJO, SR., the defendant, told Employee-7 that he/she was going to be paid \$13 per hour and that he/she could not be paid more. Employee-7 was never paid health insurance or pension benefits in connection with his/her work on the Ciena Project.

c. LUPERIO NARANJO, SR. told Employee-7 and other employees that when government inspectors visited the Buildings, they should "[c]hange [their] names" and, if they did not, they would be sent home. LUPERIO NARANJO also told Employee-7 to tell inspectors that he was being paid "33 an hour." Employee-7 was not certain whether "33 an hour" was a reference to 33 dollars per hour.

d. Employee-7 was paid in cash by Enviro for his/her work on the Ciena Project, except that on one occasion, he/she was paid by check. The payment by check was at a rate higher than his/her \$13 per hour rate. At the direction of a secretary at Enviro, Employee-7 returned to Enviro the portion of the payment that was above his/her regular rate of \$13 per hour.

e. Contrary to Enviro's representations on the Payroll Forms, Employee-7 never saw LUPERIO NARANJO, SR. or Luperio Naranjo, Jr. do any demolition work or take out garbage

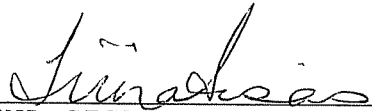
at the Ciena Project. He/she also never saw JOVER NARANJO, the defendant, do any demolition work or Marcia Gonzalez do any manual labor at the Ciena Project.

35. Employee-7 is only listed on the Payroll Forms for the week ending on December 6, 2009 as a Tier B demolition laborer. Contrary to Employee-7's testimony about his/her work schedule and pay rate, the Payroll Form for that week states that Employee-7 worked two seven-hour days, was paid \$33.15 per hour, and had deductions withheld for social security and health care.

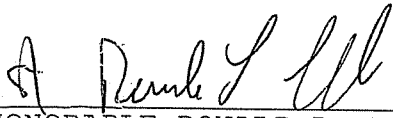
36. Subsequent to the DOL Hearing, the DOL submitted a post-hearing brief. This submission calculated that, for the period from early August 2009 through mid-February 2012, Enviro owed 37 employees a total of \$656,646.93 in back wages. This calculation was based upon a review of, among other documents, time records maintained by certain employees, interview statements of various employees, and checks to employees that were produced by Enviro.

37. Based upon the foregoing, I believe that there is probable cause to believe that JOVER NARANJO and LUPERIO NARANJO, SR., the defendants, engaged in a scheme to submit false payroll forms to HPD and further engaged in a scheme to obstruct the DOL's investigation of their fraudulent conduct.

WHEREFORE, deponent respectfully requests that warrants be issued for the arrests of JOVER NARANJO and LUPERIO NARANJO, SR., the defendants, and that they be imprisoned or bailed, as the case may be.

  
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TIINA SISAS  
Special Agent  
United States Department of Labor

Sworn to before me this  
13th day of March 2013

  
\_\_\_\_\_  
HONORABLE RONALD L. ELLIS  
UNITED STATES MAGISTRATE JUDGE  
SOUTHERN DISTRICT OF NEW YORK