

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

UNITED STATES OF AMERICA * CRIMINAL NO. 20-130

v. *

B XPRESS-ELYSIAN FIELDS, LLC * SECTION: "F"

*

* * *

FACTUAL BASIS

The defendant, **B XPRESS-ELYSIAN FIELDS, LLC**, has agreed to plead guilty as charged to the one-count bill of information charging it with false statements in violation of Title 18, United States Code, Section 1001(a)(2).

Should this matter have gone to trial, the government would have proven, through the introduction of competent testimony and other admissible evidence, the following facts, beyond a reasonable doubt, to support the allegations in the bill of information now pending against the defendant:

Witnesses would testify that Homeland Security Investigations and the United States Department of Labor, Wage and Hour Division are agencies of the United States government that were investigating **B XPRESS-ELYSIAN FIELDS, LLC**.

In November 2015, Homeland Security Investigations received information that undocumented workers were possibly being employed at **B XPRESS-ELYSIAN FIELDS, LLC**. Based on that information and the fact that the company had been previously informed of the proper hiring procedures during a previous immigration audit, a worksite enforcement

JMM
DEF
ATTY

investigation was initiated in the Eastern District of Louisiana in conjunction with the United States Department of Labor, Wage and Hour Division.

As a result, numerous interviews were conducted of employees of the business and agents reviewed payroll records for a number of years. On March 2, 2016, in response to a Form I-9 audit requesting worker documentation from Homeland Security Investigations agents,


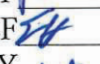

B XPRESS-ELYSIAN FIELDS, LLC submitted inaccurate records that failed to mention an illegal worker employed at the business. A few months later on August 11, 2016, agents of the United States Department of Labor, Wage and Hour Division (WHD) arrived at **B XPRESS-ELYSIAN FIELDS, LLC** located on Elysian Fields Avenue, New Orleans, Louisiana. Department of Labor staff identified themselves to the corporate representative, Omar Hamdan, who identified himself as the person in charge of operations and activities at **B XPRESS-ELYSIAN FIELDS, LLC**. The agents indicated that they were conducting an investigation of possible wage and hour violations committed by **B XPRESS-ELYSIAN FIELDS, LLC**. Hamdan confirmed that he was qualified to answer questions about **B XPRESS-ELYSIAN FIELDS, LLC**'s business, including matters related to business operations, personnel, hours worked by staff, and payments made to workers. The investigation also revealed that this corporate representative met the definition of an employer as defined in section 3(d) of the Fair Labor Standards Act since he performed duties which included but were not limited to: hiring and firing workers, assigning work to workers, setting and adjusting pay rates for workers, monitoring the performance of workers and determining whether work performance was acceptable.

B XPRESS-ELYSIAN FIELDS, LLC knowingly and willfully provided materially false, fictitious, or fraudulent statements or representations to the agents of the United States Department

JMM 
 DEB 
 ATTY 

of Labor. These materially false statements included that **B XPRESS-ELYSIAN FIELDS, LLC** did not utilize a timekeeping system to record the hours that employees actually worked. The company also falsely stated that it did not retain records of hours worked by any staff members. **B XPRESS-ELYSIAN FIELDS, LLC** also falsely stated that some workers were classified as independent contractors and that workers did not work more than 30 hours per week. Records and testimony would prove that that workers did in fact record their hours of work using the timekeeping system required by and maintained by **B XPRESS-ELYSIAN FIELDS, LLC**. The subsequent investigation also revealed that **B XPRESS-ELYSIAN FIELDS, LLC** did in fact retain records of hours worked by staff members contrary to the statements of **B XPRESS-ELYSIAN FIELDS, LLC**. Interviews of employees as well as documents and records show that workers did in fact routinely work in excess of 30 hours per week, with many staff members working significant numbers of overtime hours, which are defined by the Fair Labor Standards Act as hours worked in excess of 40 per work week.

After interviewing employees and reviewing bank records, business records, and other relevant documents, WHD investigators have calculated back wages for overtime and minimum wage liability due and owing to **B XPRESS-ELYSIAN FIELDS, LLC** employees. **B XPRESS-ELYSIAN FIELDS, LLC** admits and agrees that it made false statements to the agents of the United States Department of Homeland Security and the United States Department of Labor, Wage and Hour Division. **B XPRESS-ELYSIAN FIELDS, LLC** agrees that the false statements were made knowingly and willfully and were material in that such statements were capable of influencing United States Department of Labor's decision whether to bring civil and/or criminal charges in the investigation. **B XPRESS-ELYSIAN FIELDS, LLC** has agreed to pay restitution

JMM 
 DEF 
 ATTY 

for back wage and overtime liability in the amount of \$50,000 to the United States Department of Labor, Wage and Hour Division and has also agreed to forfeit \$29,068.00 to Homeland Security Investigations related to their investigation.

B XPRESS-ELYSIAN FIELDS, LLC admits and agrees that these are not all the facts known to **B XPRESS-ELYSIAN FIELDS, LLC**, but that these facts are sufficient to satisfy the elements of the crime charged in Count One of the bill of information, and that these facts, as summarized in the factual basis, are true and correct.



JON MAESTRI
Assistant United States Attorney

7/14/21

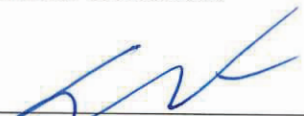
Date



IAN ATKINSON
Counsel for Defendant

7/14/21

Date



FATMAH HAMDAN for
B XPRESS-ELYSIAN FIELDS, LLC
Defendant

7/14/21

Date