

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA : Criminal No. 16-

v. :

PHILLIP HUI : 18 U.S.C. §§ 371 and 2
8 U.S.C. §1324(a)(1)(A)(iii)

INFORMATION

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

Count 1
[18 U.S.C. § 371 – Conspiracy to Evade Payroll Taxes]

The Defendant and Other Entities or Organizations

1. At all times relevant to this Information:
 - a. Defendant PHILLIP HUI was a resident of Sicklerville, New Jersey and was part owner of New Eastern Cleaners.
 - b. K.L. was a resident of Williamstown, New Jersey, and was part owner of New Eastern Cleaners.
 - c. B.L., who was an accomplice and co-conspirator but not named as a defendant herein, was a resident of Williamstown, New Jersey and owner of Minute Man Cleaners.
 - d. New Eastern Cleaners was a business in Voorhees Township, New Jersey offering dry cleaning services.

e. Minute Man Cleaners was a business in Williamstown, New Jersey offering dry cleaning services.

f. Co-conspirators K.L. and B.L. owned a property on South Main Street, Williamstown, New Jersey ("the Residence") which housed aliens and undocumented workers employed at Minute Man Cleaners and New Eastern Cleaners.

g. The Internal Revenue Service ("IRS") was an agency of the United States Department of the Treasury, responsible for administering and enforcing the tax laws of the United States, and collecting the taxes that were due and owing to the Treasury of the United States by its citizens and businesses.

h. Immigration and Customs Enforcement ("ICE") was an agency of the United States Department of Homeland Security, responsible for the oversight and regulation of immigration laws in the United States, including the enforcement of immigration laws in the work place.

Immigration Laws and Regulations

2. The laws and regulations of the United States provided that citizens of the United Mexican States ("Mexico"), the Republic of Guatemala ("Guatemala"), the Republic of Colombia ("Colombia"), and other nations, seeking to enter the United States (either temporarily or as immigrants) must obtain a visa from the U.S. Embassy or Consulate abroad. The visa allowed its holder to travel to the United States and seek admission at the border. Non-immigrant visas did not allow aliens (which means any person not a citizen or

national of the United States) to obtain employment in and reside and remain in the United States beyond their authorized visit. Non-immigrant visitors were required to depart the United States at the expiration of their authorized period of admission.

Employee Immigration Forms

3. Section 274A of the Immigration and Nationality Act (“the Act”), as amended by the Immigration Reform and Control Act of 1986, required employers to hire only United States citizens and aliens who were authorized to work in the United States. The Act required employers to verify employment eligibility of any persons hired after November 6, 1986 using the Form I-9.

4. The Act required the employer to examine, at the time of hire, the documentation provided by the individual that established the identity and employment eligibility to ensure that the documents presented were genuine. The employer had to retain the Form I-9 for three years after the date of hiring, or one year after the date the individual’s employment was terminated, whichever was later.

5. Section 1 of the Form I-9 had to be completed and signed by the employee at the time the employee was hired. Section 1 required personal identifying information for the employee and an attestation, under penalty of perjury, by the employee that he/she was a citizen or national of the United States, a lawful permanent resident, or an alien authorized to work. If a person other than the employee prepared Section 1 or if someone translated Section 1 to the employee, the form required the signature and attestation,

under penalty of perjury, of the person who assisted in the completed of the form.

6. Section 2 of the I-9 form, "Employee Review and Verification" required the employer to examine evidence of identity and employment eligibility within three days of employment, and to list the documents provided by the employee for employment verification. Section 2 contained a certification section for the employer to attest, under penalty of perjury, that the employer had examined the documents presented, that the documents appeared to be genuine, and that to the best of the employer's knowledge, the employee was eligible to work in the United States.

Federal Employment (Payroll) Taxes

7. Federal tax laws required employers to file Form 941, Employers Federal Quarterly Tax Return, which employers used to report and pay all Federal employment taxes as well as income taxes withheld from employees. Federal tax law required employers to file Form 941 four times per year, one for each quarter ending March 31st, June 30th, September 30th and December 31st. An employer had to pay over employment taxes to the IRS, in full, by the due date of the Form 941.

8. Federal employment taxes were made up of federal income tax withholding ("withholding taxes") and Federal Insurance Contribution Act taxes ("FICA taxes") (collectively "employment taxes").

a. Withholding Taxes: In general, an employer had to deduct and withhold income tax on the amount of wages that actually or

constructively were paid to its employees, and pay over those withholding taxes to the IRS.

b. FICA Taxes: The FICA tax was comprised of two elements: old age, survivor and disability insurance, which was commonly referred to as "Social Security," and health insurance, which was commonly referred to as "Medicare." Social Security taxes were used to fund retirement and disability benefits, while Medicare taxes were used to provide health and medical benefits for the aged and disabled. An employer had to deduct FICA taxes on the amount of wages that actually or constructively were paid to its employees, and pay over those FICA taxes to the IRS. The employee portion of FICA taxes, along with federal withholding taxes, were collectively referred to as "Trust Fund Taxes."

9. Section 7501 of the Internal Revenue Code provided that whenever any person was required to withhold or collect any internal revenue tax from any other person and to pay over such tax to the United States, the amount of tax so withheld or collected was to be held in trust on behalf of the United States.

The Conspiracy

10. From in or about 2012 through in or about March 2013, in Camden County, in the District of New Jersey and elsewhere, defendant

PHILLIP HUI

did knowingly and intentionally conspire and agree with K.L., and with others to defraud the United States and a department and agency thereof, specifically,

the IRS of the Department of Treasury, by impeding, impairing, obstructing and defeating the lawful governmental functions of the IRS in the ascertainment, computation, assessment, and collection of revenue from federal employment taxes, contrary to Title 26, United States Code, Section 7202.

Object of the Conspiracy

11. The object of the conspiracy was for defendant PHILLIP HUI, K.L. and other co-conspirators, both known and unknown, to employ illegal aliens at their dry cleaning business, pay them wages, not report those wages to the IRS and not collect and pay over the employment taxes to the IRS.

Manner and Means of the Conspiracy

12. It was part of the conspiracy that beginning at least as early as in or about January 2012, the conspirators hired illegal aliens from Mexico, Guatemala, Colombia and elsewhere to work at dry cleaning businesses in southern New Jersey.

13. It was further part of the conspiracy that the conspirators hired individuals qualified to work within the United States (“legal employees”) and also illegal aliens (“illegal alien employees”).

14. It was further part of the conspiracy that co-conspirators K.L. and B.L. maintained the Residence where the illegal alien employees lived.

15. It was further part of the conspiracy that defendant PHILLIP HUI, B.L., and others used multiple vehicles, owned by the dry cleaning companies,

to pick up the illegal alien employees at the Residence and transport them to the dry cleaners and back to the Residence after their work shift ended.

16. It was further part of the conspiracy that the conspirators paid the illegal alien employees' wages in cash.

17. It was further part of the conspiracy that defendant PHILLIP HUI and K.L. filed, and caused to be filed, Forms 941 with the IRS for various quarters in 2012 and 2013 and only reported to the IRS the wages paid to the legal employees.

18. It was further part of the conspiracy that defendant PHILLIP HUI and K.L.'s failure to pay federal employment taxes on the cash wages of their illegal alien employees caused a loss to the Treasury of approximately \$97,104.

Overt Acts

19. In furtherance of the conspiracy and to effect its object, defendant PHILLIP HUI and his co-conspirators, both known and unknown, committed the following overt acts, among others, in the District of New Jersey and elsewhere:

a. At various times since January 2012, defendant PHILLIP HUI hired illegal aliens from Mexico, Guatemala, Colombia and other places to work at New Eastern Cleaners.

b. Defendant PHILLIP HUI and co-conspirator K.L. had the illegal aliens stay at the Residence on South Main Street in Williamstown, New Jersey

c. At various times defendant PHILLIP HUI and others drove the illegal aliens from the Residence on South Main Street in Williamstown, New Jersey to work at New Eastern Cleaners and back to the Residence at the end of the day.

d. At various times between January 2012 and March 2013, defendant PHILLIP HUI or K.L. paid the illegal aliens working at New Eastern Cleaners wages in cash.

e. For all tax quarters in 2012, co-conspirator K.L. filed Forms 941 with the IRS that only reported wages and paid over employment taxes for five legal employees and failed to report and pay over the employment taxes for at least 13 illegal alien employees.

f. For the first three tax quarters in 2013, co-conspirator K.L. filed Forms 941 with the IRS that only reported wages and paid over employment taxes for six legal employees and failed to report and pay over the employment taxes for at least 14 illegal alien employees.

In violation of Title 18, United States Code, Section 371.

COUNT 2
[8 U.S.C. § 1324(a)(1)(A)(iii) – Harboring Illegal Aliens]

1. Paragraphs 1 through 9 and 11 through 19 of Count 1 of this Information are incorporated as if set forth in full herein.

2. From in or about 2010 to on or about October 29, 2013, in the District of New Jersey and elsewhere, defendant

PHILLIP HUI

did knowingly and in reckless disregard of the fact that aliens had come to, entered and remained in the United States in violation of law, did conceal, harbor, and shield from detection such aliens in the Residence on South Main Street in Williamstown, New Jersey, and other places for the purpose of commercial advantage and private financial gain.

In violation of Title 8, United States Code, Sections 1324(a)(1)(A)(iii), and Title 18, United States Code, Section 2.


PAUL J. FISHMAN
United States Attorney

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18 U.S.C. § 2

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