
UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA : Mag. No. 16-1506 (DEA)
 :
 v. : Hon. Dougals E. Arpert
 :
 JOHN SCHOLTZ :
 :
 : **CRIMINAL COMPLAINT**

I, Stephen Montgomery, being duly sworn, state the following is true and correct to the best of my knowledge and belief. From in or about June 2015 to in or about December 2015, in Mercer County, in the District of New Jersey, and elsewhere, defendant JOHN SCHOLTZ did:

SEE ATTACHMENT A

I further state that I am a Special Agent with the Federal Bureau of Investigation and that this complaint is based on the following facts:

SEE ATTACHMENT B

continued on the attached page and made a part hereof.



Stephen Montgomery, Special Agent
Federal Bureau of Investigation

Sworn to before me and subscribed in my presence,
March 16, 2016 at Trenton, New Jersey



HONORABLE DOUGLAS E. ARPERT
UNITED STATES MAGISTRATE JUDGE

ATTACHMENT A

COUNT 1

(Wire Fraud)

From at least as early as in or about June 2015 to in or about December 2015, in the District of New Jersey and elsewhere, defendant

JOHN SCHOLTZ

knowingly and intentionally did devise and intend to devise a scheme and artifice to defraud clients of Innovative Payroll Services, LLC ("IPS") of money and property by means of materially false and fraudulent pretenses, representations and promises, and for the purpose of executing such scheme and artifice, did knowingly and intentionally transmit and cause to be transmitted in interstate commerce by means of wire, radio, and television communication writings, signs, signals, pictures, and sounds, namely, an email communication on or about October 19, 2015, from IPS in West Berlin, New Jersey, to an IPS client in Trenton, New Jersey, which email passed through the IPS server located in Philadelphia, Pennsylvania.

In violation of Title 18, United States Code, Section 1343 and Section 2.

COUNT 2

(Fraud Against a Local Government Receiving Federal Benefits)

From at least as early as in or about June 2015 to in or about December 2015, in the District of New Jersey and elsewhere, defendant

JOHN SCHOLTZ,

being an agent of the City of Trenton for purposes of remitting payroll taxes to the Internal Revenue Service and other taxing authorities, said City of Trenton receiving in the one year period beginning January 1, 2015, federal benefits in excess of \$10,000, embezzled, stole, obtained by fraud, and otherwise without authority knowingly converted to his own use and the use of others, and intentionally misapplied, property worth at least \$5,000 and owned by the City of Trenton, that is, payroll tax funds provided by the City of Trenton for remission to the Internal Revenue Service and other taxing authorities.

In violation of Title 18, United States Code, Section 666(a)(1)(A) and Section 2.

COUNT 3

(Transacting in Criminal Proceeds)

On or about June 5, 2015, in the District of New Jersey and elsewhere, defendant

JOHN SCHOLTZ

knowingly engaged and attempted to engage in a monetary transaction affecting interstate commerce in criminally derived property of a value greater than \$10,000, namely, a transfer in the amount of approximately \$380,000 from SCHOLTZ's personal bank account to an account held by a third party in Florida to pay part of a deposit on a house for SCHOLTZ, such property having been derived from specified unlawful activity, that is fraud against a local government receiving federal benefits in violation of 18, United States Code, Section 666(a)(1)(A).

In violation of Title 18, United States Code, Section 1957 and Section 2.

ATTACHMENT B

I, Stephen Montgomery, have been a Special Agent with the Federal Bureau of Investigation (“FBI”) for approximately 25 years, and I have been personally involved in the investigation of this matter. The information contained in this Complaint is based upon my personal knowledge, as well as information obtained from other sources, including: (a) statements made or reported by various witnesses with knowledge of relevant facts; (b) documents obtained from various sources; and (c) discussions with other law enforcement officials. Because this Complaint is being submitted for the limited purpose of establishing probable cause, it does not include every fact that I have learned during the course of the investigation. Where the content of documents and the actions, statements, and conversations of others are reported herein, they are reported in substance and in part, except where otherwise indicated.

1. At all times relevant to this Complaint:
 - a. Innovative Payroll Services, LLC (“IPS”) was a business that provided payroll services to clients located in New Jersey and elsewhere. Such clients included municipalities, educational institutions, and various small to medium-sized privately held companies. The payroll services offered by IPS included processing clients’ payroll; preparing, signing, and filing clients’ federal, state and local tax returns (including quarterly federal tax forms 941 (“941”)); and collecting and remitting clients’ payroll taxes to the Internal Revenue Service (“IRS”) and state and local taxing authorities on a semi-weekly or monthly basis. IPS maintained its primary office in West Berlin, New Jersey.
 - b. JOHN SCHOLTZ (“SCHOLTZ”) was the majority owner and President of IPS. From at least as early as March 2013 to June 2015, SCHOLTZ resided in New Jersey. In or about January 2015, SCHOLTZ began spending the majority of his time living in Florida, but maintained frequent contact with the IPS office in New Jersey.
 - c. The City of Trenton (“Trenton”) was a client of IPS from in or about July 2009 to in or about January 2016. Accordingly, IPS was responsible for processing Trenton’s payroll; preparing, signing, and filing Trenton’s federal, state and local tax returns; and collecting and remitting Trenton’s federal, state and local payroll tax deposits. During that same time period, Trenton received annual federal benefits in excess of \$10,000 under various programs.
2. In connection with its payroll tax service, each payroll period, IPS provided its clients with a payroll summary setting forth the payroll taxes owed for that period. IPS clients then deposited the specified payroll taxes into the IPS “Main Tax Impound Account,” held at M&T Bank, where they were commingled. This account served as a “trust” account to receive and maintain clients’ tax funds until they were remitted to the taxing authorities.

IPS held other accounts at M&T Bank, including an operating account (the "Operating Account") and a wire account (the "Wire Account").

3. From as early as in or about June 2015 to in or about December 2015, SCHOLTZ withdrew or directed others at IPS to withdraw funds from the Main Tax Impound Account, knowing that these funds constituted clients' tax deposits, and used these funds for his own personal use, including as a deposit on a house, credit card payments, investments in other businesses, and payments for cars, boats and airplanes.
4. Over time, this ongoing misappropriation of funds from the Main Tax Impound Account caused many IPS clients to be in delinquent status with the IRS and state and local taxing authorities. Accordingly, as clients' tax deposit funds came into the Main Tax Impound Account, IPS used such funds to pay other clients' taxes owed for prior pay periods, as well as penalties and interest. The investigation to date shows that, as a result of SCHOLTZ's scheme, more than 50 IPS clients sustained over \$5.6 million in losses based on federal tax deposits that IPS failed to make, as well as associated penalties and interest.
5. During the second quarter of 2015, Trenton transferred to IPS approximately \$4.2 million in federal tax deposits. However, IPS failed to remit all of these funds to the IRS in a timely manner, as some of these funds were diverted for the personal use of SCHOLTZ. For example, on or about June 3, 2015, Trenton deposited approximately \$869,573 into the IPS Main Tax Impound Account for purposes of payroll taxes for the prior two-week pay period. The same day, at the direction of SCHOLTZ, approximately \$400,000 was transferred from the Main Tax Impound Account to the Operating Account, then transferred to the Wire Account, and then transmitted via wire transfer to an account held by SCHOLTZ. Two days later, on or about June 5, 2015, SCHOLTZ transferred \$380,000 of the \$400,000 from his account to a third party in Florida to serve as part of a deposit on a \$1.8 million dollar home in Florida. Having misappropriated these tax funds, IPS then used Trenton's subsequent tax deposits and other clients' tax deposits to pay Trenton's overdue tax liabilities.
6. During the third quarter of 2015, Trenton transferred to IPS approximately \$5.4 million in federal tax deposits. However, due to the ongoing fraud, IPS remitted only approximately \$3.5 million to the IRS. IPS used the remainder of Trenton's third quarter tax deposits for the personal use of SCHOLTZ, and for the payment of other clients' overdue taxes and penalties. For example, on or about September 23, 2015, Trenton deposited approximately \$921,235 into the IPS Main Tax Impound Account for purposes of payroll taxes for the prior two-week pay period. The same day, at the direction of SCHOLTZ, approximately \$175,275 was transferred from the Main Tax Impound Account to the Operating Account, and then transferred to the Wire Account. The next day, at the direction of SCHOLTZ, approximately \$175,275 was transmitted via wire transfer from the Wire Account to a yacht and ship services company in Florida.

7. Although IPS failed to remit all of Trenton's third quarter 2015 payroll tax deposits as promised, IPS nonetheless represented to Trenton that all federal taxes had been paid for that quarter. In particular, on or about October 19, 2015, IPS sent an email to a Trenton employee attaching a copy of Trenton's 941 for the third quarter of 2015. The cover page of this 941 stated, "No payment is required. All 941 Tax Deposits have been made." The 941 itself further showed that no balance was due and that Trenton had overpaid by approximately \$432. Such email traveled from the IPS main office in West Berlin, New Jersey, through the IPS server located in Philadelphia, Pennsylvania, to the Trenton employee in Trenton, New Jersey.