

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA : Criminal No. 22-

v. :

JOHN DEGAN : 26 U.S.C. §§ 7202 and 7203
18 U.S.C. §§ 1344 and 2

INFORMATION

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

Count 1

[26 U.S.C. § 7202 – Failure to Collect, Account for and Pay Over Payroll Taxes]

The Defendant and Other Entities or Organizations

1. At all times relevant to this Information:

a. Defendant JOHN DEGAN was a resident of Philadelphia, Pennsylvania. Defendant DEGAN's principal place of business was New Jersey.

b. Companion Services Group Inc. ("CSG") was a building maintenance and restoration service company located in Gloucester City, New Jersey. Defendant DEGAN has owned CSG since approximately 1994. CSG was operated by defendant DEGAN, who was responsible for, among other things, hiring, scheduling, and firing of workers.

c. Defendant JOHN DEGAN maintained a personal bank account for himself as well as a business bank account for CSG at TD Bank,

N.A. ("TD Bank"). TD Bank was a "financial institution" within the meaning of Title 18, United States Code, Section 20.

d. The Internal Revenue Service ("IRS") was an agency of the United States Department of the Treasury and was 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.

e. In order to accurately assess and collect taxes, the IRS was required to, among other things, determine taxpayers' actual income, credits, and deductions. To help fulfill the IRS's mission, the tax laws of the United States required taxpayers to file tax returns and forms, including, among others:

i. Form 1040: U.S. Individual Income Tax Return, Form 1040 ("Form 1040"), and related IRS Schedules and Forms, were types of annual tax returns used by individual taxpayers to report their income, any allowable deductions, and tax liability;

ii. Form 1120: U.S. Corporation Income Tax Returns, Form 1120 ("IRS Form 1120"), and related IRS Schedules and Forms, were types of annual tax returns used by domestic corporations ("C Corporations") to report the income, deductions, gains, and losses from their operations. C Corporations were taxed separately from their owners;

iii. Form 941: Employer's Quarterly Federal Tax Return, Form 941 ("Form 941"), was a type of tax return used by employers. Employers

were required to withhold, account for, and pay over to the IRS certain taxes from employee wages, including federal income taxes, Medicare taxes, and Social Security taxes, and to further account for and pay over their own share of such taxes based upon the total wages they paid (collectively “payroll taxes” or “employment taxes”). To account for such payroll taxes, employers were required to prepare and submit Forms 941, among other forms, disclosing all wages paid, taxes withheld, and payroll taxes due and owing.

f. Federal income tax withholding (“withholding taxes”) and Federal Insurance Contribution Act taxes (“FICA taxes”), as more particularly described below, constituted employment taxes (“employment taxes”).

i. Withholding Taxes: In general, an employer had to deduct and withhold income tax on the amount of wages that the employer actually or constructively paid to its employees, and then pay over those withholding taxes to the IRS.

ii. FICA Taxes: The FICA tax was comprised of two elements. The first element included old age, survivor and disability insurance, which was commonly and collectively referred to as “Social Security.” The second element included 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 then pay over those FICA taxes to the IRS. The employee portion of FICA taxes

and federal withholding taxes commonly and collectively were referred to as “Trust Fund Taxes.”

g. The IRS required that an employer report employment taxes on an Employer's Quarterly Federal Tax Return, Form 941 (“Form 941”). The Form 941 was filed quarterly and was due one month after the conclusion of each quarter. An employer was required to pay over employment taxes to the IRS, in full, by the due date indicated on the Form 941.

h. In addition, every employer generally was required to file and provide to its employees a United States Wage and Tax Statement, Form W-2 (“Form W-2”), to report, among other things, the income tax that the employer withheld from the employee and paid to the IRS.

i. 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.

2. As the owner of CSG, defendant JOHN DEGAN exercised significant control over CSG’s financial affairs. Defendant DEGAN paid wages to employees of CSG and himself. Defendant DEGAN issued Forms W-2 to himself and his employees.

3. As the owner of CSG, defendant JOHN DEGAN was required to file corporate tax returns for CSG with the IRS. Defendant DEGAN last filed a Form 1120 with the IRS for tax year 2001.

4. As the owner of CSG, defendant JOHN DEGAN was required to report the Trust Fund Taxes for all his employees to the IRS by filing IRS Forms 941. Defendant DEGAN was also required to pay to the IRS the Trust Fund Taxes for his employees on a quarterly basis.

5. For tax years 2016 through 2020, defendant JOHN DEGAN failed to file Quarterly Employment Tax Returns, Forms 941 for CSG. Defendant DEGAN made no payments to the IRS, amassing an employment tax liability of at least \$600,629 for CSG.

6. For the tax quarter ending on December 31, 2020, in Camden County, in the District of New Jersey and elsewhere, defendant

JOHN DEGAN

being a person required to collect, truthfully account for, and pay over payroll taxes to the Internal Revenue Service, did willfully fail to file Quarterly Employment Tax Returns (Forms 941) with the Internal Revenue Service and fail to pay over such taxes in the approximate amount of \$36,053.

In violation of Title 26, United States Code, Section 7202 and Title 18, United States Code, Section 2.

COUNT 2
(Failure to File Income Tax Returns - 26 U.S.C. § 7203)

1. Paragraphs 1 through 5 of Count 1 of this Information are realleged and incorporated by reference as if set forth in full herein.
2. Defendant JOHN DEGAN, as owner of CSG, received income from the business and prepared Forms W-2 that showed he received wages from the company, as described in Count 1 of this Information.
3. During the calendar years 2016 through 2020, defendant JOHN DEGAN had and received gross pay from CSG of approximately \$140,000 in 2016, \$171,000 in 2017, \$163,087 in 2018, \$149,999 in 2019 and \$149,999 in 2020, respectively.
4. Having received the above income, defendant JOHN DEGAN was required by law, following the close of the calendar year, and on or before the tax return date, as established by the Internal Revenue Service, to make an individual income tax return to the Internal Revenue Service stating specifically the items of his gross income and any deductions and credits to which he was entitled.
5. For years 2016 through 2020, defendant JOHN DEGAN failed to file income tax returns with the Internal Revenue Service.
6. By failing to file income tax returns for calendar years 2016 through 2020, defendant JOHN DEGAN failed to pay to the IRS approximately \$152,191 in taxes due and owing.
7. On or about April 15, 2021, in Camden County, in the District of New Jersey and elsewhere, defendant

JOHN DEGAN

having his principal place of business in Gloucester City, New Jersey and had received gross income substantially in excess of the minimum filing requirement, willfully failed to file with the Internal Revenue Service an income tax return for calendar year 2020.

In violation of Title 26, United States Code, Section 7203, and Title 18, United States Code, Section 2.

COUNT THREE
(Bank Fraud - 18 U.S.C. § 1344)

1. Paragraphs 1 through 5 of Count 1 and paragraphs 2 through 6 of Count 2 of this Information are realleged and incorporated by reference as if set forth in full herein.

2. At all times relevant to Count 3 of this Information:

a. TD Bank participated as a lender in the Payment Protection Program (“PPP”), as described herein.

The Paycheck Protection Program

b. The Coronavirus Aid, Relief, and Economic Security (“CARES”) Act was a federal law enacted in or around March 2020 and was designed to provide emergency financial assistance to the millions of Americans who suffered the economic effects caused by the COVID-19 pandemic. One source of relief provided by the CARES Act was the authorization of billions of dollars in forgivable loans to small businesses for job retention and certain other expenses, through a program referred to as the Paycheck Protection Program (“PPP”).

c. To obtain a PPP loan, a qualifying business had to submit a PPP loan application signed by an authorized representative of the business. The applicant of a PPP loan was required to acknowledge the program rules and make certain affirmative certifications in order to be eligible to obtain the PPP loan. In the PPP loan application, the applicant had to state, among other things, its average monthly payroll expenses and number of employees. These figures were used to calculate the amount of money the business was eligible to

receive under the PPP. In addition, businesses applying for a PPP loan had to provide documentation showing their payroll expenses.

d. A PPP loan application had to be processed by a participating financial institution, that is, the lender. If the PPP loan application was approved, the lender funded the PPP loan using its own monies, which were 100% guaranteed by the Small Business Administration (“SBA”). Data from the application, including information about the borrower, the total amount of the loan, and the listed number of employees, was transmitted by the lender to the SBA in the course of processing the loan.

e. PPP loan proceeds could only be used by the business for certain permissible expenses, including payroll costs, interest on mortgages, rent, and utilities. The PPP allowed the interest and principal on the PPP loan to be entirely forgiven if the business used the loan proceeds on these expense items within a designated period of time after receiving the proceeds and used a certain amount of the PPP loan proceeds on payroll expenses.

The Scheme to Defraud

3. From in or around April 2020 through in or around May 2020, in Camden County in the District of New Jersey and elsewhere, defendant

JOHN DEGAN

knowingly and intentionally devised and intended to devise a scheme and artifice to defraud TD Bank and to obtain money and property by means of materially false and fraudulent pretenses, representations, and promises, which scheme and artifice was in substance as set forth below.

Purpose of the Scheme to Defraud

4. The purpose of the scheme was for defendant JOHN DEGAN to unjustly enrich himself by obtaining PPP proceeds under false and misleading pretenses, including by making false statements about the number of CSG employees and CSG's payroll, and by providing false documentation.

Manner and Means of the Scheme

5. It was part of the scheme that:

- a. On or about April 8, 2020, defendant JOHN DEGAN submitted a PPP application to TD Bank, on behalf of CSG, seeking a loan for approximately \$193,407 (the "Application"). Defendant DEGAN submitted the Application in his own name and listed himself as the owner of CSG.
- b. The Application contained materially false and fraudulent information, including that CSG had 18 employees and had an average monthly payroll of \$77,363. Defendant JOHN DEGAN prepared and submitted IRS Forms 940, 941 and 944, along with other tax related information.
- c. As part of the application, defendant JOHN DEGAN submitted to TD Bank: (1) a 2019 Form 940 for CSG, which specified the compensation purportedly paid to the company's employees; (2) a Form 941 for the first quarter of 2020 for CSG, which specified the compensation purportedly paid to the company's employees for that specific quarter; and (3) a Form 944 for tax year 2019 for CSG, which specified annual compensation purportedly paid the company's employees. These supporting documents were

created for purposes of applying for the PPP loan and were never submitted to the IRS.

Based on the Application, TD Bank approved the loan to CSG and, on or about May 5, 2020, TD Bank disbursed approximately \$193,407 to CSG's bank account at TD Bank, which was controlled by defendant JOHN DEGAN.

In violation of Title 18, United States Code, Section 1344.

FORFEITURE ALLEGATION

1. As a result of committing the offense charged in Count 3 of this Information, defendant JOHN DEGAN shall forfeit to the United States, pursuant to 18 U.S.C. § 982(a)(2), all property, real or personal, constituting or derived from proceeds traceable to the offense, the value of which totaled \$193,407.

SUBSTITUTE ASSETS PROVISION

2. If any of the property described above, as a result of any act or omission of the defendant:

- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third party;
- c. has been placed beyond the jurisdiction of the court;
- d. has been substantially diminished in value; or
- e. has been commingled with other property which cannot be divided without difficulty,

the United States shall be entitled, pursuant to 21 U.S.C. § 853(p), as incorporated by 18 U.S.C. § 982(b)(1) and 28 U.S.C. § 2461(c), to forfeiture of any other property of the defendant up to the value of the above-described forfeitable property.


PHILIP R. SELLINGER
United States Attorney

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18 U.S.C. § 2

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