

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

UNITED STATES OF AMERICA	:	Hon.
	:	
v.	:	Crim. No.
	:	
ALAIN RODRIGUES	:	26 U.S.C. § 7201
	:	26 U.S.C. § 7202

INFORMATION

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

COUNT ONE
(Tax Evasion)

1. At all times relevant to this Information:
 - a. Defendant Alain Rodrigues (“RODRIGUES”) was a resident of Newark and/or Old Bridge, New Jersey.
 - b. The Internal Revenue Service (“IRS”) was an agency of the United States Department of the Treasury. The IRS 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 residents.
 - c. The Internal Revenue Code and associated statutes and regulations required every citizen and resident of the United States who received income in excess of the minimum filing amount established by law for a particular tax year to make and file annually a U.S. Individual Income Tax Return, Form 1040 (“Form 1040”), reporting, among other things, income, deductions, and tax due and owing. Generally, individuals were required by law to prepare and file a Form 1040

with the IRS, and pay any tax liability, by on or about April 15 of each year for the preceding calendar year unless the taxpayer obtained an extension.

d. The Internal Revenue Code and associated statutes and regulations also required every C Corporation—an entity that pays a corporate income tax—to make and annually file a U.S. Corporation Income Tax Return, Form 1120 (“Form 1120”) reporting, among other items, its ordinary or net business income.

e. RODRIGUES owned and operated a New Jersey-based company that provided masonry services (the “Company”). RODRIGUES’s family members were nominal owners of the Company, which RODRIGUES operated as the manager. RODRIGUES operated the Company as a C Corporation under the Internal Revenue Code.

f. From at least in or around 2017 through in or around 2020, the Company earned income and RODRIGUES earned income through the Company.

g. From at least in or around 2017 through in or around 2020, RODRIGUES or a family member acting at his direction, used check cashing businesses to convert a portion of the Company’s revenues into cash and/or money orders. RODRIGUES then deposited a portion of the cash and/or money orders into a personal bank account (the “Personal Account”) and used a portion of the cash to pay the Company’s employees. RODRIGUES also deposited a portion of the Company’s revenue directly into a business bank account (the “Business Account”).

h. For each tax year from 2017 to 2020, RODRIGUES provided records, including bank records, to an accountant (the “Accountant”) and directed the Accountant to prepare personal tax returns for Rodrigues and business tax returns

for the Company. RODRIGUES provided the Accountant with records from the Business Account, but did not provide records that reflected the Company revenues that were converted to cash and/or money orders. RODRIGUES also did not inform the Accountant that the cash and/or money orders derived from the Company revenues and deposited in the Personal Account were income RODRIGUES earned through the Company.

i. As a citizen and resident of the United States who received income in excess of the minimum filing amount established by law for each tax year, RODRIGUES was required to make and file annually a Form 1040. RODRIGUES was responsible for accurately reporting on the Form 1040, among other items, his total income, including income RODRIGUES earned from the Company.

j. As a C Corporation operating in the United States, the Company was required to report income on a Form 1120. As the manager of the Company, RODRIGUES was responsible for filing the Form 1120 and accurately reporting on the Form 1120 the income earned by the Company, and also for paying any taxes due and owing from the Company's net taxable income.

k. RODRIGUES's total net taxable income from the Company for the tax years 2017 through 2020 was approximately \$1,014,671. For each tax year 2017 through 2020, RODRIGUES filed a Form 1040 in which RODRIGUES reported taxable income below the actual amount and paid less in taxes than he owed, as follows:

Tax Year	Approximate Actual Income	Approximate Reported Income	Approximate Tax Paid	Approximate Additional Tax Owed
2017	\$ 156,584	\$ 61,784	\$ 2,736	\$ 27,522
2018	\$ 289,488	\$ 54,943	\$ 0	\$ 60,429
2019	\$ 308,699	\$ 111,799	\$ 7,311	\$ 49,803
2020	\$ 259,900	\$ 162,200	\$ 20,402	\$ 25,309
Total	\$ 1,014,671	\$ 390,726	\$ 30,449	\$ 163,063

1. The Company's total net taxable income for the tax years 2017 through 2019 was approximately \$3,525,774. For each tax year 2017 through 2019, RODRIGUES caused a Form 1120 to be filed for the Company that reported taxable income below the actual amount and the Company paid less in taxes than it owed, as follows:

Tax Year	Approximate Actual Income	Approximate Reported Income	Approximate Taxes Paid	Approximate Additional Tax Owed
2017	\$ 785,381	\$ 330,733	\$ 485	\$ 108,728
2018	\$ 1,162,041	\$ 340,280	\$ 921	\$ 122,548
2019	\$ 1,578,352	\$ 590,510	\$ 1,518	\$ 160,534
Total	\$ 3,525,774	\$ 1,261,523	\$ 2,924	\$ 391,810

2. From on or about January 1, 2018, through on or about April 13, 2019, in Essex County, in the District of New Jersey, and elsewhere, the defendant,

ALAIN RODRIGUES,

willfully attempted to evade and defeat income tax due and owing by him to the United States for the calendar year 2018 by committing the following affirmative acts, among others:

a. On or about November 30, 2018, RODRIGUES received a \$14,306 check made out to the Company from a customer as payment for services provided by the Company to the customer.

b. Also on or about November 30, 2018, RODRIGUES used a check cashing service to exchange the \$14,306 check for four money orders of \$1,000 each (the “November 30 Money Orders”) and approximately \$10,000 in cash.

c. On or about December 14, 2018, RODRIGUES deposited two of the November 30 Money Orders and \$1,400 in cash in a personal bank account.

d. In 2018, RODRIGUES paid employees approximately \$696,340 in cash.

e. On or about February 16, 2019, RODRIGUES filed a Form 1040 which understated his personal income for the year 2018 because it did not include earnings from the Company that he deposited in his personal bank account in the form of cash and money orders.

f. On or about April 13, 2019, RODRIGUES caused a Form 1120 to be filed on behalf of the Company, which understated the Company’s income for the year 2018 because it only included revenue that was deposited in the Company’s business bank account, and it excluded the revenue that was converted to cash and money orders.

In violation of Title 26, United States Code, Section 7201.

COUNT TWO
(Failure to Collect or Pay Over Taxes)

3. Paragraph 1 of Count One of this Information is re-alleged and incorporated as if fully set forth herein.

4. At all times relevant to this Information:

a. The Internal Revenue Code and associated statutes and regulations required employers to withhold amounts from their employees' gross pay including Federal Insurance Contribution Act ("FICA") taxes, which represent Social Security and Medicare taxes, and federal income taxes. These taxes are typically referred to as "trust fund taxes," because employers hold the withheld amounts in trust until paid over to the United States. Employers are required to remit these withheld, trust fund amounts to the IRS on a quarterly basis, no later than the last day of month following the end of the quarter.

b. In addition to the trust fund taxes that must be withheld from pay, employers are separately required to make contributions under FICA for Social Security and Medicare in amounts matching the amounts withheld from their employees' pay for those purposes (the "employer contributions"). Such employer contributions are likewise required to be remitted to the IRS no later than the last day of the month following the end of the quarter.

c. Finally, employers are required to pay federal unemployment taxes, under the Federal Unemployment Tax Act (the "unemployment taxes"). Employers are required to pay these unemployment taxes on an annual basis at the end of the month following the end of the year.

d. Collectively, these taxes are commonly referred to as “employment taxes.”

e. Employers are required to file, one month after the conclusion of the calendar quarter, an Employer’s Quarterly Federal Tax Return, Form 941 (“Form 941”), setting forth the total amount of income taxes withheld, the total amount of Social Security and Medicare taxes due, and the total tax deposits.

f. Employers are required to file, one month after the conclusion of the year, an Employer’s Annual Federal Unemployment Tax Return, Form 940 (“Form 940”), setting forth the total amount of unemployment taxes owed by the company.

g. A person is responsible for collecting, accounting for, and paying over the employment taxes if he or she has the authority required to exercise significant control over the employer’s financial affairs, regardless of whether the individual exercised such control in fact.

h. As a person who exercised control over the Company’s financial affairs, RODRIGUES was responsible for collecting trust fund taxes, accounting for the employment taxes by filing Forms 940 and 941 with the IRS, and paying over to the IRS the employment taxes for the Company’s employees.

5. During the tax years 2018 through 2020, RODRIGUES paid actual wages totaling approximately \$2,237,704, but reported only approximately \$171,000 in wages. RODRIGUES failed to collect and pay over to the IRS approximately \$793,139 in employment taxes owed by the Company.

6. From on or about October 1, 2020, through on or about December 31, 2020, in Essex County, in the District of New Jersey, and elsewhere, the defendant,

ALAIN RODRIGUES,

being a person required to collect, truthfully account for, and pay over payroll taxes to the IRS, did knowingly and willfully fail to collect, truthfully account for, and pay over to the IRS approximately \$45,833 in the trust fund taxes due and owing to the IRS on behalf of the employees of the Company.

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



PHILIP R. SELLINGER
United States Attorney