

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA : Hon.  
 :  
 .v. : Criminal No.  
 :  
 SERGIO ACOSTA : Title 18, United States Code,  
 Sections 664 and 2

SUPERSEDING INFORMATION

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

**(Embezzlement from an Employee Benefit Plan -  
Title 18, United States Code, Sections 664 and 2)**

**Background**

1. At all times relevant to this Superseding Information:
  - a. Local 2326 of the International Auto Workers Union (hereinafter "Local 2326" or "Union"), headquartered at 56 Vineyard Rd. Edison, New Jersey, was a "labor organization" as that term is defined in Title 29, United States Code, Sections 142(3), 152(5), 402(i) and (j). Local 2326 represented, sought to represent, and would have admitted individuals to membership in the auto industry and various other industries.
  - b. Local 2326 Health & Welfare Fund (hereinafter "Welfare Fund" or "Fund"), was an employee benefit plan within the meaning of the Employee Retirement and Income Security Act of 1974, Title 29, United States Code, Section 1002(1) and (3). The Welfare Fund was a multiemployer employee

health and welfare plan established pursuant to the terms of the Trust Agreement between Local 2326 and participating employers and eligible employees. The Welfare Fund was also headquartered at 56 Vineyard Rd., Edison, New Jersey and provided medical, dental, and prescription drug benefits to Local 2326's members. The employers made monthly or quarterly premium contributions on behalf of their employees. Throughout the relevant period, the Welfare Fund was "self-funded", where medical claims submitted by eligible participants for payment were paid, not by an independent insurance carrier, but by the Welfare Fund.

c. Defendant SERGIO ACOSTA (hereinafter "ACOSTA") was an employee of International Auto Workers Union who was assigned to Local 2326 as a full time Representative. Throughout this period, Acosta also served on the Board of Trustees of the Local 2326 Welfare Fund as the designated trustee, and directed the day-to-day operations and administration of the Fund.

### **The Scheme to Embezzle Money from the Welfare Fund**

2. In or about 2001, Lawrence Ackerman formed ABA as a "shell" company, for the purpose of deriving personal monetary gain by using the Local 2326 Welfare Fund to provide medical insurance coverage to individuals who were not employees of either company but who were willing to pay excessive monthly premiums to obtain comprehensive medical and hospitalization coverage provided by the Fund because they were otherwise

unable to procure such coverage in the group or individual insurance market.

3. Simultaneous to the recruitment of hundreds of ineligible participants into the Local 2326 Welfare Fund by Lawrence Ackerman (Ackerman”), defendant Acosta began withholding the required premiums owed to the Fund on behalf of the employees of the Local. The amount of premiums withheld from the Fund was no more than \$550,000.

4. Between July 2011 and October 2012, in Middlesex County, in the District of New Jersey and elsewhere, defendant

SERGIO ACOSTA

knowingly embezzled, stole, and unlawfully and willfully abstracted and converted to his use and the use of others, namely Local 2326, money, funds, property, and assets of the Local 2326 Welfare Fund, an employee benefit plan subject to Title I of the Employee Retirement and Income Security Act of 1974.

In violation of Title 18, United States Code, Section 664 and Section 2.

  
CRAIG CARPENITO.  
United States Attorney

CASE NUMBER: \_\_\_\_\_

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**UNITED STATES OF AMERICA**

**v.**

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**SUPERSEDING INFORMATION**

Title 18 U.S.C. Section 664

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**CRAIG CARPENITO**

**UNITED STATES ATTORNEY, NEWARK, NEW JERSEY**

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**V. GRADY O'MALLEY**

*SENIOR LITIGATION COUNSEL*

*NEWARK, NEW JERSEY*

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