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

UNITED STATES OF AMERICA : Hon. Leda Dunn Wettre
 :
 v. : Mag. No. 20-13241
 :
 THOMAS BERTOLI : **CRIMINAL COMPLAINT**

I, Kenneth K. Long, being duly sworn, state the following is true and correct to the best of my knowledge and belief.

SEE ATTACHMENT A

I further state that I am a Special Agent with the Internal Revenue Service – Criminal Investigation, and that this Complaint, which is submitted, pursuant to 26 U.S.C. § 6531, to extend the six-year statute of limitations period applicable to the offenses herein alleged under 26 U.S.C. §§ 7201, 7212(a), and 7203 is based on the following facts:

SEE ATTACHMENT B

continued on the attached pages and made a part of this Complaint.

Kenneth Long

Kenneth K. Long
Special Agent, Internal Revenue Service –
Criminal Investigation

Sworn to before me,
and subscribed in my presence
on the 3rd day of June, 2020
at Newark, New Jersey

s/ Leda D. Wettre

THE HONORABLE LEDA DUNN WETTRE
UNITED STATES MAGISTRATE JUDGE

Leda Dunn Wettre

Signature of Judicial Officer

*** Special Agent Kenneth K. Long, Internal Revenue Service – Criminal Investigation attested to the contents of the written affidavit submitted as Attachment B to this Criminal Complaint by telephone pursuant to Rule 4.1(b)(2)(A) of the Federal Rules of Criminal Procedure.

ATTACHMENT A

COUNT 1

**(Evasion of Payment of Taxes Due and Owning –
Calendar Years 2009, 2010, 2011, 2012, and 2013)**

From in or about January 2014 to in or about December 2016, in Monmouth County, in the District of New Jersey, and elsewhere, defendant

THOMAS BERTOLI

willfully did attempt to evade and defeat the payment of the substantial income tax due and owing by him to the United States of America for calendar years 2009, 2010, 2011, 2012, and 2013, by failing to file a federal tax return for each of those years, as required by law, and by committing the following affirmative acts, among others: (a) cashing at a check casher checks that his clients paid him for his services; (b) making false and fraudulent statements to the Internal Revenue Service (“IRS”); and (c) using the bank account of one of his companies, specifically, Urban Logistics LLC (“Urban Logistics”), for personal expenditures.

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

COUNT 2
(Corrupt Interference with
Administration of the Internal Revenue Laws)

Between on or about June 5, 2014 to in or about November 2015, in Monmouth County, in the District of New Jersey, and elsewhere, defendant

THOMAS BERTOLI

did corruptly endeavor to obstruct and impede the due administration of the internal revenue laws, that is, IRS proceedings to collect the taxes owed by defendant BERTOLI and to have him file delinquent tax returns, by committing and causing to be committed the following acts, among others, (a) cashing at a check casher checks that his clients paid him for his services; (b) making false and fraudulent statements to the IRS; and (c) using the Urban Logistics bank account for personal expenditures.

In violation of Title 26, United States Code, Section 7212(a).

COUNT 3
(Evasion of Assessment of Tax Due and Owing – Calendar Year 2014)

From in or about January 2014 to on or about April 15, 2015, in Monmouth County, in the District of New Jersey, and elsewhere, defendant

THOMAS BERTOLI

willfully did attempt to evade and defeat the assessment of the substantial income tax due and owing by him to the United States of America for calendar year 2014, by failing to file a federal tax return for such calendar year, as required by law, and by committing the following affirmative acts, among others: (a) cashing at a check casher checks that his clients paid him for his services; (b) making false and fraudulent statements to the IRS; and (c) using the Urban Logistics bank account for personal expenditures.

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

COUNT 4
(Failure to File Tax Return - Calendar Year 2013)

On or about April 15, 2014, in the District of New Jersey and elsewhere, defendant

THOMAS BERTOLI

having received substantial gross income in calendar year 2013 and by reason of that gross income, knowing and believing that he was required by law, following the close of 2013 and on or before April 15, 2014 to make an income tax return to the IRS, stating specifically the items of his gross income and any deductions and credits to which he was entitled, did willfully fail to make an income tax return to the IRS for calendar year 2013.

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

ATTACHMENT B

I, Kenneth K. Long, am a Special Agent with Internal Revenue Service – Criminal Investigation. I am fully familiar with the following facts based on my conversations with law enforcement agents who have participated in the investigation and my review of documents and other items of evidence. Because this Complaint is being submitted for the limited purpose of establishing probable cause, I have not included each and every fact known to me concerning this investigation. I have set forth only the facts that I believe are necessary to establish probable cause. All conversations and statements described in this affidavit are related in substance and in part, unless otherwise indicated.

1. During the time period relevant to the Complaint:
 - a. Defendant THOMAS BERTOLI (“defendant BERTOLI”) was a resident of Matawan, New Jersey.
 - b. According to records obtained during the investigation, which I have reviewed, defendant BERTOLI operated the following businesses: The Doormen Inc.; City Street Associates, LLC a/k/a CSA LLC; and Urban Logistics LLC (“Urban Logistics”) (collectively referred to as the “BERTOLI Companies”).
 - c. Based on my review of records that were obtained from defendant BERTOLI’s clients, check cashers used by defendant BERTOLI to cash checks, and defendant BERTOLI’s financial records as well as my discussions with agents who have participated in this investigation, I have learned that defendant BERTOLI, individually and through the BERTOLI Companies, obtained payments from clients for services provided, including payments from developers and construction firms for expediting services on real estate development and construction projects, primarily in Jersey City, New Jersey, and payments from political campaigns for political consulting services in New Jersey. Expediting in the construction industry typically refers to facilitating the acquisition of building permits and other government agency approvals required for the completion of real estate development and construction projects.
 - d. The Internal Revenue Service (“IRS”), an agency within the United States Department of Treasury, was responsible for administering and enforcing the tax laws of the United States, including the federal income tax laws.
 - e. When an individual who was required to file a United States Individual Income Tax Return failed to do so, the IRS had the authority under the internal revenue laws to compute the individual’s tax based on the individual’s income reported to the IRS by third parties, such as the individual’s employer or bank, and to assess the amount of tax due.

- f. If an individual had not paid all tax that was owed, the IRS had the authority under the internal revenue laws to collect the tax that was owed. In furtherance of tax collection, the IRS could serve a notice of levy to attach an individual's property, such as a bank account in the name of the individual, and could seize such property to satisfy the individual's tax liability to the United States.

Defendant BERTOLI's Tax Evasion Scheme and Obstruction of the IRS

2. Pursuant to the Internal Revenue Code and attendant regulations, citizens and residents of the United States who received gross income in excess of the minimum filing amount established by law for a particular year were required to make and file annually a United States Individual Income Tax Return, Form 1040 ("Form 1040") for that calendar year with the IRS, and pay any tax due, typically by on or about April 15 of the following year.

3. Based on my review of records showing payments by defendant BERTOLI's clients to him and the BERTOLI Companies as well as my discussions with agents who have participated in this investigation, I have learned that defendant BERTOLI obtained hundreds of thousands of dollars in gross receipts for calendar years 2009 to 2016. According to IRS records which I have reviewed, as of April 18, 2017, defendant BERTOLI had not filed Forms 1040 for calendar years 2009, 2010, 2011, 2012, 2013, 2014, 2015, and 2016, despite receiving substantial gross receipts in each of those calendar years and having a substantial tax due and owing for each of those calendar years.

4. Moreover, according to IRS records which I have reviewed, as of April 18, 2017, defendant BERTOLI had not paid any of the substantial tax due for calendar years 2009, 2010, 2011, 2012, 2013, 2014, 2015, and 2016, except for a nominal payment of \$5,000 made on or about September 9, 2014, purportedly as an estimated tax payment for calendar year 2014.

5. Furthermore, evidence obtained during the investigation indicates that from in or about January 2009 to in or about December 2016, defendant BERTOLI concealed and attempted to conceal from the IRS his income and assets through various means, including, among others: (A) cashing at check cashers checks that his clients paid him for his services, such as expediting and political consulting; (B) making false and fraudulent statements to the IRS; and (C) using the Urban Logistics bank account for personal expenditures, all as described below.

A. Defendant BERTOLI's Use of Check Cashers

6. Records obtained during the investigation, which I have reviewed, show that from in or about 2009 to in or about 2016, defendant BERTOLI cashed numerous checks issued by his business clients made payable to defendant BERTOLI or one of the BERTOLI Companies at check cashers in New Jersey. Through his check cashing activity from in or about 2009 to in or about 2016, defendant BERTOLI obtained hundreds of thousands of dollars in net cash (amount of the checks less check cashing fees).

B. *Defendant BERTOLI's False and Fraudulent Statements to the IRS and to a Tax Services Company to Impede the IRS*

7. Based on my review of IRS records, I have learned that on or about June 5, 2014, defendant BERTOLI was interviewed by an IRS collections officer at his Matawan residence concerning his delinquent tax returns for calendar years 2009 to 2013, the payment of any tax due for those calendar years, and unpaid taxes that had been assessed for calendar years 2002, 2003, and 2008. According to IRS records which I have reviewed, as of that date, defendant BERTOLI also had not filed tax returns for the calendar years from 1996 to 2006.

8. My review of IRS records also revealed that prior to June 5, 2014, defendant BERTOLI had previously received collection notices from the IRS for outstanding tax liabilities. These records show that as a result of taxes that defendant BERTOLI owed for calendar years 2002, 2003, and 2008, in or about March 2010, he had received Collection Due Process Notices from the IRS regarding the taxes due and owing and informing him of the IRS's intent to levy his assets.

9. According to IRS records and other records obtained during the investigation which I have reviewed and based on my discussions with agents who have participated in this investigation, during the June 5, 2014 interview, defendant BERTOLI made the following false and fraudulent statements to the IRS collections officer concerning his efforts to complete his delinquent tax returns, his sources of income, and his purported inability to pay his unpaid taxes in order to conceal his income and assets from the IRS:

- a. that he was in the process of having his delinquent tax returns prepared by an accounting firm ("Company 1"), but that Company 1 was slow and he would be seeking another accountant to complete his delinquent tax returns;
- b. that he was employed as a construction worker at a construction company (the "Construction Company"), receiving wages as well as IRS Form 1099 income, despite the fact that, as described above in paragraphs 1b and 1c, he was self-employed as an expeditor and political consultant and operated the BERTOLI Companies, including Urban Logistics, which he was using to obtain payments from numerous clients, including the Construction Company;
- c. that he could not pay the full amount of his unpaid taxes, despite the fact that he was receiving ongoing payments for his expediting services from multiple sources and that he was using those payments to fund various and substantial personal expenses; and
- d. that he did not have all information readily available to complete IRS Form 433-A (entitled "Collection Information Statement for Wage Earners and Self-Employed Individuals") ("IRS Form 433-A"), which required disclosure of information concerning the taxpayer's sources of income and assets, despite the fact that defendant BERTOLI knew that he operated the BERTOLI Companies, earned income through the BERTOLI Companies, was receiving

ongoing payments for his expediting services from multiple sources, and was using the Urban Logistics bank account to pay for personal expenses, as set forth further below.

10. In addition, during the June 5, 2014 interview, defendant BERTOLI signed a “Summary of Taxpayer Contact,” which I have reviewed, acknowledging that, among the “Information/Documents required” by the IRS, were a completed IRS Form 433-A and filed Forms 1040 for calendar years 2009 to 2013. Defendant BERTOLI also acknowledged that the consequences of his failure to meet the deadlines set by the IRS might require the IRS to take certain actions including, among other, issuing a summons and a notice of levy.

11. According to my review of records obtained during the investigation and my discussions with agents who have participated in this investigation, after the June 5, 2014 interview of defendant BERTOLI, the IRS collections officer continued efforts to ensure that defendant BERTOLI filed his delinquent tax returns and to collect on defendant BERTOLI’s unpaid taxes. The IRS collection officer’s efforts included, among other things, levying defendant BERTOLI’s personal bank account and the Construction Company, and communicating with a tax services company based in California (“Company 2”), which defendant BERTOLI retained on or about June 25, 2014 to communicate with the IRS on his behalf as described below.

12. Based on my review of records obtained during the investigation and my discussions with agents who have participated in this investigation, from on or about June 25, 2014 to in or about December 2014, knowing that Company 2 was communicating with the IRS on his behalf concerning his income and assets, defendant BERTOLI made false and fraudulent statements to Company 2, to include, among others, the following:

- a. On or about June 25, 2014, defendant BERTOLI faxed and caused to be faxed to Company 2 an intake form, which called for defendant BERTOLI to provide, among other things, his name, social security number, date of birth, address, business name, business address, and business tax identification number. Defendant BERTOLI deliberately omitted information concerning his business, Urban Logistics, on this form; and
- b. On or about October 17, 2014, following Company 2’s request to defendant BERTOLI to complete an IRS Form 433-A, defendant BERTOLI sent Company 2 a false and fraudulent IRS Form 433-A. In the IRS Form 433-A that he submitted to Company 2, defendant BERTOLI: (i) falsely declared that his monthly gross wages were \$30,000, even though he was earning substantially more than that from his operation of Urban Logistics; and (ii) signed the IRS Form 433-A falsely certifying “[u]nder penalties of perjury . . . that to the best of [his] knowledge and belief this statement of assets, liabilities, and other information [was] true, correct, and complete,” despite purposefully not providing information about Urban Logistics and deliberately not including the last two pages of the IRS Form 433-A which called for information concerning any businesses owned by the taxpayer, business income, and business bank accounts.

13. According to my review of records obtained during the investigation and my discussions with agents who have participated in this investigation, by the end of 2014, defendant BERTOLI was no longer being represented by Company 2 and he never submitted to Company 2 the last two pages of the IRS Form 433-A, which called for him to disclose information concerning Urban Logistics and his business income.

14. According to IRS records which I have reviewed, by the end of 2015, defendant BERTOLI still had not filed with the IRS Forms 1040 for calendar years 2009 to 2014, and only had completed the filing of tax returns for calendar years 1996 to 2008. Furthermore, by the end of 2015, defendant BERTOLI had not paid the substantial tax due and owing for each of calendar years 2009 to 2014, except a nominal purported estimated tax payment of \$5,000 for calendar year 2014.

15. IRS records which I have reviewed also showed that by the end of 2015, the only outstanding tax liabilities that defendant BERTOLI had satisfied were the amounts due and owing for calendar years 1996 to 2008. My review of IRS records and defendant BERTOLI's bank records show that the satisfaction of those long-standing tax liabilities was secured through levies by the IRS, payments from defendant BERTOLI to the IRS, and payments from the Construction Company due to defendant BERTOLI that he redirected to the IRS.

C. *Defendant BERTOLI's Use of the Urban Logistics Bank Account for Personal Expenditures*

16. Defendant BERTOLI's bank records which I have reviewed, show that at least in or about April 2014 to in or about December 2016, defendant BERTOLI also used the Urban Logistics bank account to pay various personal expenses. Based on my review of those records and my discussions with agents who have participated in this investigation, I have learned that defendant BERTOLI deposited payments for his expediting services to his Urban Logistics bank account and paid for personal expenditures directly from that account, including, among others, payments to his spouse and payments for real estate, home improvements, travel expenses, a family member's hair salon business, and political donations.

17. In addition, defendant BERTOLI's bank records and information provided by agents who participated in this investigation reveal that, from at least in or about April 2014 to December 2016, defendant BERTOLI transferred over a million dollars from the Urban Logistics bank account to his personal bank account to fund payments for personal expenses, including, among others, payments to his spouse and payments for real estate, the mortgage on his Matawan residence, travel expenses, a family member's hair salon business, educational expenses for another family member, vehicles, and political donations. Typically, defendant BERTOLI moved money from the Urban Logistics account into his personal account and thereafter made payments for personal expenses from his personal bank account, and did not leave high balances in the personal bank account for any extended period of time.