

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA	:	Hon.
	:	
v.	:	Criminal No. 20-
	:	
THOMAS BERTOLI	:	26 U.S.C. §§ 7201, 7203, and 7212(a)

INDICTMENT

The Grand Jury, in and for the District of New Jersey, sitting at Newark, charges:

COUNT 1

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

The Defendant and Relevant Entities

1. At all times relevant to Count 1 of the Indictment, unless otherwise indicated:
 - A. Defendant THOMAS BERTOLI (“defendant BERTOLI”) was a resident of Matawan, New Jersey.
 - B. 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. 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.

Defendant BERTOLI's Income Earned and Taxes Owed

2. As a result of the payments from clients to defendant BERTOLI and the BERTOLI Companies for services rendered, including expediting services and political consulting services, defendant BERTOLI obtained hundreds of thousands of dollars in gross receipts for calendar years 2009 to 2016 and had a substantial tax due and owing for each of those calendar years.

Defendant BERTOLI's Scheme to Evade Payment of Taxes and Impede the IRS

3. 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 Internal Revenue Service ("IRS"), and pay any tax due, typically by on or about April 15 of the following year.

4. 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. As of that date, defendant BERTOLI had not paid any of the substantial tax due for each of those calendar years, 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. 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; (b) making false and fraudulent statements to the IRS; and (c) using the Urban Logistics bank account for personal expenditures, all as described below.

Defendant BERTOLI's Use of Check Cashers

A. 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 to conceal his income and assets from the IRS. 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).

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

B. 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. As of that date, defendant BERTOLI also had not filed tax returns for the calendar years from 1996 to 2006; he only had filed his tax returns for calendar years 2007 and 2008 in or about September 2009 in order to obtain a mortgage for the purchase of his Matawan residence. As a result of taxes that he owed for calendar years 2002, 2003, and 2008, in or about March 2010, defendant BERTOLI 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.

C. 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:

- i. 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;
- ii. 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 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;
- iii. 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
- iv. 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.

D. During the June 5, 2014 interview, defendant BERTOLI signed a "Summary of Taxpayer Contact," 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 others, issuing a summons and a notice of levy.

E. 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.

F. 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:

- i. 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
- ii. 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.

G. By the end of 2014, defendant BERTOLI was no longer being represented by Company 2. Defendant BERTOLI 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.

H. 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. 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. The satisfaction of those long-standing 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.

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

I. Not only did defendant BERTOLI attempt to hide the Urban Logistics bank account from the IRS, from at least in or about April 2014 to in or about December 2016, defendant BERTOLI also managed that bank account in a manner designed to conceal from the IRS his net income from Urban Logistics by using the Urban Logistics bank account to pay various personal expenses. During that period, 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.

J. In addition, from at least in or about April 2014 to in or about 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, to thwart the IRS's ability to levy more money from his personal bank account and conceal the true extent of his income, 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 to avoid leaving high balances there for extended periods of time.

The Charge

6. 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, as set forth in Paragraph 5.A above; (b) making false and fraudulent statements to the IRS, as set forth in Paragraph 5.C above; and (c) using the Urban Logistics bank account for personal expenditures, as set forth in Paragraphs 5.I and 5.J above.

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

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

1. Paragraphs 1 to 5 of Count 1 of this Indictment are realleged and incorporated by reference as though fully set forth herein.
2. During the time period relevant to Count 2 of this Indictment:
 - A. The IRS was an agency of the United States Department of the Treasury responsible for administering and enforcing the internal revenue laws of the United States and, as such, performed the lawful functions of ascertaining, computing, assessing, and collecting taxes owed to the United States.
 - B. 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.
 - C. 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.
3. The IRS took certain steps to collect the taxes owed by defendant BERTOLI and to have him file his delinquent tax returns. Those steps, of which defendant BERTOLI was aware, included the June 5, 2014 interview by the IRS collections officer at his Matawan residence; having defendant BERTOLI sign the "Summary of Taxpayer Contact" on June 5, 2014, acknowledging that, among the "Information/Documents required" by the IRS, he

had to complete IRS Form 433-A and file Forms 1040 for calendar years 2009 to 2013; and the issuance of levies.

4. 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, the IRS proceedings described in Paragraph 3 above, 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, as set forth in Paragraph 5.A of Count 1 of this Indictment, (b) making false and fraudulent statements to the IRS, as set forth in Paragraph 5.C of Count 1 of this Indictment; and (c) using the Urban Logistics bank account for personal expenditures, as set forth in Paragraphs 5.I and 5.J of Count 1 of this Indictment.

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

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

1. Paragraphs 1 to 5 of Count 1 of this Indictment are realleged and incorporated by reference as though fully set forth herein.

2. 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, as set forth in Paragraph 5.A of Count 1 of this Indictment; (b) making false and fraudulent statements to the IRS, as set forth in Paragraph 5.C of Count 1 of this Indictment; and (c) using the Urban Logistics bank account for personal expenditures, as set forth in Paragraphs 5.I and 5.J of Count 1 of this Indictment.

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

COUNT 4
(Evasion of Assessment of Tax Due and Owing – Calendar Year 2015)

1. Paragraphs 1 to 5.A, 5.I, and 5.J of Count 1 of this Indictment are realleged and incorporated by reference as though fully set forth herein.

2. From in or about January 2015 to on or about April 18, 2016, 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 2015, 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, as set forth in Paragraph 5.A of Count 1 of this Indictment and (b) using the Urban Logistics bank account for personal expenditures, as set forth in Paragraphs 5.I and 5.J of Count 1 of this Indictment.

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

COUNTS 5 to 8
(Failure to File Tax Returns - Calendar Years 2013, 2014, 2015, and 2016)

1. Paragraphs 1 to 4 of Count 1 of this Indictment are realleged and incorporated by reference as though fully set forth herein.
2. During each of the calendar years 2013, 2014, 2015, and 2016, defendant BERTOLI received substantial gross income exceeding hundreds of thousands of dollars.
3. By reason of that gross income, defendant BERTOLI was required by law, following the close of each of those calendar years and on or before April 15, 2014, April 15, 2015, April 18, 2016, and April 18, 2017, respectively, to make and file 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.
4. On or about the dates set forth below, in the District of New Jersey and elsewhere, defendant

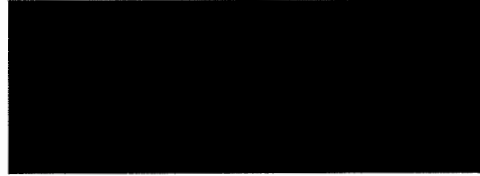
THOMAS BERTOLI

well knowing and believing all the foregoing, did willfully fail to make an income tax return to the IRS for each of the calendar years set forth below:

Count	Date	Calendar Year
5	April 15, 2014	2013
6	April 15, 2015	2014
7	April 18, 2016	2015
8	April 18, 2017	2016

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

A TRUE BILL



Craig Carpenito
CRAIG CARPENITO
UNITED STATES ATTORNEY

CASE NUMBER: 20-_____

United States District Court
District of New Jersey

UNITED STATES OF AMERICA

v.

THOMAS BERTOLI

INDICTMENT FOR
26 U.S.C. §§ 7201, 7203, AND 7212(a)

A True Bill

foreperson

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