
UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA	:	Mag. No. 21-12282
	:	
v.	:	Hon. James B. Clark, III
	:	
JOSE SANTA MARIA,	:	<u>CRIMINAL COMPLAINT</u>
a/k/a "Joe"	:	

I, Brian Lukacsy, 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 United States Internal Revenue Service ("IRS"), and that this Complaint is based on the following facts:

SEE ATTACHMENT B

continued on the attached page and made a part hereof.

/s/Brian Lukacsy
Brian Lukacsy, Special Agent IRS

Special Agent Lukacsy attested to this Affidavit by telephone pursuant to FRCP 4.1(b)(2)(A) on the 16th day of June, 2021,

/s/James B. Clark, III
HONORABLE JAMES B. CLARK, III
UNITED STATES MAGISTRATE JUDGE

ATTACHMENT A

COUNTS ONE THROUGH FIVE
(Tax Evasion)

On or about the dates set forth in the chart below, in the District of New Jersey, and elsewhere, defendant,

JOSE SANTA MARIA,
a/k/a “Joe,”

knowingly and willfully did attempt to evade and defeat an income tax due and owing to the United States for the tax years set forth below, each constituting a separate count of this Complaint:

Count	Approximate Date	Tax Year	Approximate Amount not Reported	Approximate Tax Due & Owing
1	March 24, 2016	2015	\$153,747	\$33,765
2	March 5, 2017	2016	\$199,796	\$47,107
3	February 25, 2018	2017	\$181,597	\$42,679
4	March 3, 2019	2018	\$166,048	\$38,399
5	July 6, 2020	2019	\$54,682	\$16,080

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

COUNT SIX
(Kickbacks Related to an Employee Benefit Plan)

Between at least 2015 through at least in or about 2019 in the District of New Jersey and elsewhere, the defendant,

JOSE SANTA MARIA,
a/k/a “Joe,”

while serving as an administrator of an employee pension benefit plan, did give and agree to give a fee, kickback, commission, gift, loan, or money, namely at least approximately \$50,000 in U.S. currency, with intent to influence Individual-1 with respect to his actions, decisions, and other duties relating to matters concerning the employee pension benefit plan.

In violation of Title 18, United States Code, Sections 1954 and 2.

COUNT SEVEN
(False statements in Employee Plan Records)

On or about, August 15, 2019, in the District of New Jersey, and elsewhere, defendant,

JOSE SANTA MARIA,
a/k/a “Joe,”

in a document required by Title I of Employee Retirement Income Security Act of 1974 to be kept as part of the records of an employee welfare benefit plan, made false statements and representations of fact, knowing them to be false, knowingly concealed, covered up and failed to disclose facts the disclosure of which was necessary to verify, explain and clarify and check for accuracy and completeness of a report required by ERISA to be published, to wit, SANTA MARIA made false statements in the Form 5500 Annual Report of Union Health Fund-1, regarding commissions received by Company-1 from Insurance Company-1.

In violation of Title 18, United States Code, Sections 1027 and 2.

ATTACHMENT B

I, Brian Lukacsy, am a Special Agent with the IRS and have been since 2020. I have knowledge of the following facts based upon both my investigation and discussions with other law enforcement personnel and others. Because this affidavit is being submitted for the sole purpose of establishing probable cause to support the issuance of a complaint, I have not included each and every fact known to the government concerning this matter. Where statements of others are set forth herein, these statements are related in substance and in part. Where I assert that an event took place on a particular date, I am asserting that it took place on or about the date alleged.

The Defendant and Relevant Parties

1. At all times relevant to this Complaint:
 - a. Union Health Fund-1 and Union Training Fund-1 (collectively, the “Funds”) are benefit plans subject to Title I of the Employee Retirement Income Security Act of 1974, as amended (hereinafter “ERISA”), 29 U.S.C. § 1001, et seq.
 - b. Pursuant to ERISA, the Funds are required to annually file a Form 5500 with both the Internal Revenue Service (“IRS”) and the Department of Labor (“DOL”). A Form 5500 is intended to ensure that employee benefit plans are operated and managed in accordance with prescribed standards for accuracy and completeness.
 - c. Union Health Fund-1 was required by ERISA to report any and all payments for insurance commissions paid in relation to Union Health Fund-1 on Schedule A of the Form 5500. Additionally, the Funds are required to report any “non-exempt transactions with a party-in-interest” on each Form 5500.
 - d. Individual-1 was the managing partner of Law Firm-1 until approximately November 2017 when he became a partner of Law Firm-2; both firms provided legal services to the Board of Trustees of the Funds. Individual-1 also created Company-1 which provided administrative services to the Funds. Individual -1 appointed Individual-2, a relative, as President of Company-1. Individual-1 also owned Company-2, a consulting business.
 - e. Defendant JOSE SANTA MARIA, a/k/a “Joe” (“SANTA MARIA”) resided in North Haledon, New Jersey. He was appointed by Individual-1 as Vice President of Company-1 which provided administrative services to the Funds. SANTA MARIA was also a

salaried employee and worked under the direction of Individual-1 at Law Firm-1 and Law Firm-2. Both SANTA MARIA and Individual-1 ended their employment with Law Firm-2 in or around May 2020.

- f. Insurance Company-1 provided health insurance coverage to the participants of Union Health Fund-1. Individual-2 was a registered insurance broker with Insurance Company-1 for the coverage of Union Health Fund-1.
- g. Accounting Firm-1 provided accounting and auditing services to the Funds.
- h. Due to their roles at the Funds, as well as their relationships with each other, SANTA MARIA, Individual-1, and Individual-2 are each considered a “party-in-interest” and are therefore prohibited by law from conducting certain financial transactions with each other. Additionally, the Funds are required by law to accurately report any and all such “prohibited” financial transactions.

The Kickback and Tax Evasion Scheme

- 2. As advisor to the Funds, even though he had no lawful authority to vote on Funds matters, Individual-1 exercised considerable control over decisions made by the Board of Trustees of the Funds.
- 3. In or around April 2008, upon the recommendation and direction of Individual-1, Company-1 was hired to serve as Plan Administrator for Union Health Fund-1. The Board of Trustees of Union Health Fund-1 was not initially advised of Individual- 2’s involvement in Company-1. Also, in or around June 2008, a bank account was established for Company-1 (“Bank Account-1”) with SANTA MARIA and Individual-2 as signatories.
- 4. From at least in or around 2013 through in or around 2019, SANTA MARIA, as Vice President of Company-1, served as the Administrator for the Funds, while also reporting to Individual-1 at both Law Firm-1 and Law Firm-2. Additionally, SANTA MARIA served as a “fiduciary” for the Funds with signatory authority over their respective bank accounts.
- 5. From at least in and around 2013 through in or around 2019, Company-1 was paid approximately \$200,000 annually by the Funds. In addition, Company-1 was also paid approximately \$30,000 annually in commissions from Insurance Company-1 relating to the insurance coverage for Union Health Fund-1.

6. From at least in and around 2013 through in or around 2019, SANTA MARIA collected approximately \$170,000 annually in compensation from Company-1 via cash and checks from Bank Account-1.
7. From in or around 2016 through in or around 2020, SANTA MARIA prepared, filed, and signed his individual tax returns, on IRS Form 1040, for the tax years 2015 through 2019. For these years, SANTA MARIA intentionally failed to include a total of approximately \$750,000 of income and therefore failed to pay the related taxes on such income. The unreported income is derived from checks written to SANTA MARIA or to "CASH" from both Bank Account-1 and from a bank account for Law Firm -1 ("Bank Account-2"). Checks were either cashed or deposited into personal bank accounts controlled by SANTA MARIA.
8. Between at least in or around 2014 and in or around 2018, SANTA MARIA paid Individual-1, through Company-2, at least \$50,000 with the intent that Individual-1 be influenced with respect to his actions in advising the Board of Trustees for the Funds to maintain the services of Company-1 and SANTA MARIA. As such, SANTA MARIA's payments to Individual-1 were designed to maintain SANTA MARIA's position as the administrator of the Funds.
9. Additionally, between at least in or around 2015 and in or around 2019, SANTA MARIA concealed and failed to report, as required by law, the payments made between Company-1 and Company-2, described in paragraph 8 herein. Due to the relationships of SANTA MARIA, Individual-1, and Individual-2, such payments are considered "non-exempt transactions" between parties-in-interest and are therefore required by law to be reported on each 5500. No such payments were reported, thereby further concealing the activity.
10. From in or around 2016 through 2019, SANTA MARIA caused the Funds to submit falsified Form 5500's to the IRS and DOL which did not contain required information and disclosures. All Form 5500s for the Funds were prepared by Accounting Firm-1. Specifically, on or about August 15, 2019, a Form 5500 for the year 2018 was submitted to the DOL by Union Health Fund-1 which failed to report the approximately \$30,000 in commissions paid to Company-1 by Insurance Company-1 and failed to report that "non-exempt transactions with a party-in-interest" had occurred in the year 2018. Prior to the submission of this 2018 Form 5500, SANTA MARIA was responsible for communicating with Accounting Firm-1 and with the Board of Trustees of Union Health Fund-1 regarding preparation, signing, and submission of the Form 5500.