

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

FILED

DEC 28 2015

U.S. DISTRICT COURT
DISTRICT OF RHODE ISLAND

CR 15

125M

UNITED STATES OF AMERICA

v.

STEVEN F. PAGLIARINI,
Defendant.

Criminal Case No. _____

(Falsification of Documents Required to be
Kept by ERISA, 18 U.S.C. § 1027;
False Statements, 18 U.S.C. § 1001;
Mail Fraud, 18 U.S.C. § 1341)

INFORMATION

The United States Attorney for the District of Rhode Island charges that:

Introduction

At all times relevant to this Information,

1. Defendant STEVEN F. PAGLIARINI ("PAGLIARINI") was the Secretary and Executive Vice-President of Central Landscape Construction Company (hereinafter referred to as "Central Landscape"), a landscape contracting and construction company.

2. Central Landscape was incorporated in Rhode Island in 1984. Central Landscape's primary operating facility is located in Johnston, Rhode Island.

3. Central Nurseries, Inc. (hereinafter referred to as "Central Nurseries") was a nursery and landscape gardening company incorporated in 1953. Central Nurseries primary locations were located in Johnston and Chepachet, Rhode Island. Defendant STEVEN F. PAGLIARINI was the Executive Vice-President of Central Nurseries.

4. The Laborers International Union of North America ("LIUNA"), through its affiliated locals, represented and admitted to membership persons who were employed by various companies involved in the construction industry throughout the United States.

5. The Rhode Island Laborers' District Council of the LIUNA (the "RILDC") was a labor organization in which employees who were employed in an industry affecting commerce,

that is, the construction trade industry, participated through their local unions and other subordinate bodies of the RILDC, and which existed for the purpose of dealing with employees concerning such employees' hours, wages and working conditions within the meaning of Sections 142, 152, 402 and 1003 of Title 29, United States Code. The RILDC acted as an intermediary between LIUNA and its local unions.

6. Local 271 of LIUNA ("Local 271") was a labor organization headquartered in Providence, Rhode Island, in which employees who were employed in an industry affecting commerce, that is the construction trade industry, participated in, and which existed for the purpose of dealing with employers concerning such employees' hours, wages and working conditions within the meaning of Sections 142, 152, 402, and 1003 of Title 29, United States Code.

7. In or around June 2009, the RIDLC, on behalf of its affiliates including LIUNA Local 271, entered into collective bargaining agreements (the "CBAs") with the Labor Relations Division of the Rhode Island Chapter, Associated General Contractors of America, Inc. Members of Local 271 represented laborers at commercial worksites in Rhode Island that were covered by Local 271's master collective bargaining agreement (the "Local 271 Master Agreement"), which Local 271 negotiated and executed with the Rhode Island Chapter, Associated General Contractors of America, Inc.

8. The CBAs governed the remittance of fringe benefit contributions to, among others, the following employee welfare and pension benefit plans, each of which were subject to the provisions of Title I of the Employee Retirement Income Security Act of 1974 ("ERISA"); the Rhode Island Laborers' Health, Pension, Training, Legal and Annuity Funds (collectively the

“Laborers’ ERISA funds”). The CBA’s requirements applied to all heavy and highway construction work and building and site construction work that took place in Rhode Island between June 1, 2009 and May 31, 2013.

9. In or around November 12, 2008, defendant PAGLIARINI, on behalf of Central Landscape, agreed to be bound by any collective bargaining agreement by and between the RILDC and the Labor Relations Division of the Rhode Island Chapter, Associated General Contractors of America. Central Landscape had historically agreed to be bound to such collective bargaining agreements signing one in February 1987 and PAGLIARINI signed another in January 2009. Defendant PAGLIARINI and Central Landscape were, therefore, employers within the meaning of Title 29, United States Code, Section 186, and were required to accurately report to the Laborer’s ERISA funds the number of hours worked by members of LIUNA and to make contributions to the Laborers’ ERISA funds accordingly. This generally was accomplished by filing monthly “remittance reports” with the Laborers’ ERISA funds, reporting hours worked by Central Landscape employees and making contributions to the funds. PAGLIARINI sent monthly remittance reports, accompanied by Central Landscape checks made payable to the Laborers’ ERISA funds, purportedly in the amounts of the required payments to the funds, by mail.

10. The International Union of Operating Engineers, AFL – CIO, (“IUOE”), through its affiliated locals, represented and admitted to membership persons who were employed by various companies involved in the construction industry throughout the United States.

11. IUOE Local 57 (“Local 57”) was a labor organization headquartered in Providence, Rhode Island, in which employees who were employed in an industry affecting

commerce, that is the construction trade industry, participated in, and which existed for the purpose of dealing with employers concerning such employees' hours, wages and working conditions within the meaning of Sections 142, 152, 402, and 1003 of Title 29, United States Code.

12. During the period May 1, 2005, through April 30, 2009, IUOE through its affiliate Local 57, was a party to a collective bargaining agreement (the "2005 IUOE CBA") with the Construction Industries of Rhode Island. Local 57 represented equipment operators at construction and commercial worksites in Rhode Island that were covered by the Local 57 collective bargaining agreement, which Local 57 negotiated and executed with the Construction Industries of Rhode Island. During the period May 1, 2005, through April 30, 2009, Defendant PAGLIARINI and Central Landscape agreed to be bound by the 2005 IUOE CBA and adopted it as an Independent Contractor.

13. During the period May 1, 2009, through April 30, 2013, IUOE through its affiliate Local 57, was a party to a collective bargaining agreement (the "2009 IUOE CBA") with the Construction Industries of Rhode Island. Local 57 represented equipment operators at construction and commercial worksites in Rhode Island that were covered by the Local 57 collective bargaining agreement, which Local 57 negotiated and executed with the Construction Industries of Rhode Island. On or about July 31, 2009, Central Landscape agreed to be bound by this same CBA and adopted it as an Independent Contractor.

14. The 2005 and 2009 IUOE CBAs governed the remittance of fringe benefit contributions to, among others, the following employee welfare and pension benefit plans, each of which were subject to the provisions of ERISA; the International Union of Operating

Engineers Local 57 Health, Pension, Training, Legal and Annuity Funds (collectively the "IUOE ERISA funds").

15. During the period of the 2005 and 2009 IUOE CBAs, May 1, 2005 through April 30, 2013, defendant PAGLIARINI, on behalf of Central Landscape, agreed to be bound by the terms of the collective bargaining agreements with IUOE. Defendant PAGLIARINI and Central Landscape were, therefore, employers within the meaning of Title 29, United States Code, Section 186, and were required to accurately report to the IUOE ERISA funds the number of hours worked by members of the IUOE and to make contributions to the IUOE ERISA funds accordingly. This generally was accomplished by filing monthly "remittance reports" with the IUOE ERISA Funds, reporting hours worked by Central Landscape employees and making contributions to the funds. PAGLIARINI sent monthly remittance reports, accompanied by Central Landscape checks made payable to the IUOE ERISA funds, purportedly in the amounts of the required payments to the funds, by mail.

COUNT ONE

(Falsification of Documents Required to be Kept by ERISA, 18 U.S.C. § 1027)

16. The United States Attorney re alleges and incorporates by reference paragraphs 1 through 15 of this Information.

17. On or about and between January 2007 and December 2010, in the District of Rhode Island and elsewhere, defendant STEVEN F. PAGLIARINI in documents required by Title I of ERISA to be published and kept as part of the records of employee welfare benefit plans and employee pension benefit plans, did make and cause to be made false statements and representations of fact, knowing them to be false, and did knowingly conceal, cover up and fail

to disclose facts, the disclosure of which was required by Title I of ERISA, and was necessary to verify, explain, clarify and check for accuracy and completeness reports required by such title to be published, to wit: STEVEN F. PAGLIARINI submitted to the Laborers' ERISA funds and IUOE ERISA funds false remittance reports in which he knowingly and willfully omitted hours worked by Central Landscape employees.

All in violation of Title 18, United States Code, Section 1027.

COUNT TWO

(False Statements, 18 U.S.C. § 1001)

18. The United States Attorney re alleges and incorporates by reference paragraphs 1 through 15 of this Information as if fully set forth herein.

19. On or about between May 22, 2010 and December 11, 2010, in the District of Rhode Island and elsewhere, defendant STEVEN F. PAGLIARINI did knowingly and willfully make and use a false writing and document, knowing the same to contain materially false, fictitious, and fraudulent statements and entries in a matter within the jurisdiction of the executive branch of the Government of the United States, to wit: the United States Department of Housing and Urban Development, in that defendant PAGLIARINI in certified payroll documents submitted for Central Landscape employees' work at the Hartford Park Project, Rhode Island project number 10-065, funded by the United States Department of Housing and Urban Development, falsely stated and represented the identity of employees, the number of hours worked by employees and the wages paid to employees.

All in violation of Title 18, United States Code, Section 1001.

COUNT THREE

(False Statements, 18 U.S.C. § 1001)

20. The United States Attorney re alleges and incorporates by reference paragraphs 1 through 14 of this Information as if fully set forth herein.

21. On or about between June 26, 2010 and December 11, 2010, in the District of Rhode Island and elsewhere, defendant STEVEN F. PAGLIARINI did knowingly and willfully make and use a false writing and document, knowing the same to contain materially false, fictitious, and fraudulent statements and entries in a matter within the jurisdiction of the executive branch of the Government of the United States, to wit: the United States Department of Transportation, in that defendant PAGLIARINI in certified payroll documents submitted for Central Landscape employees' work on the I-195 Relocation Project, Rhode Island project number 2009-CL-033, funded by the Federal Highway Administration, falsely stated and represented the identity of employees, the number of hours worked by employees and the wages paid to employees.

All in violation of Title 18, United States Code, Section 1001.

COUNT FOUR

(Mail Fraud, 18 U.S.C. § 1341)

22. The United States Attorney realleges and incorporates by reference paragraphs 1 and 14 of this Information as if fully set forth herein.

23. The Federal and State Unemployment Insurance ("UI") System is designed to provide benefits to persons out of work through no fault of their own. The UI program is administered on behalf of the United States Department of Labor by workforce agencies in each state. In Rhode Island, the UI program is operated by the State of Rhode Island Department of

Labor and Training (“RIDLT”).

24. To receive UI benefits, an unemployed worker has to file a claim, either telephonically or on the Internet with RIDLT. The claim includes information on the claimant’s last employer and the reason for the separation. If the claim is approved, the worker would receive UI benefits paid through direct deposit into his bank account or an electronic payment card (EPC). In order to receive continuing benefits each week thereafter, the claimant is required to telephonically contact RIDLT or contact RIDLT via the Internet, identify himself through the use of a four-digit Personal Identification Number (PIN), and certifies whether he had worked and received any earnings during the weekly period. The worker also had to certify whether he was able and available for work, and was actively seeking full-time work. If the certification was accepted, a weekly UI payment was issued through direct deposit into the worker’s bank account or on an EPC.

25. When a worker applies for UI benefits, RIDLT sends an Employee Separation Report and Notice of Claim Filed form (the “Notice of Claim form”) to his recent employers. The Notice of Claim form notifies the claimant’s employer(s) of their opportunity to provide information on the reasons for separation from employment.

26. The Notice of Claim form asks the employer to answer several questions relating to the worker’s claim for UI, including, but not limited to the following:

- a. Is the claimant employed on a part time basis?
- b. Is the claimant’s statement that he or she is no longer employed due to being laid off correct?
- c. When do you expect to recall this employee?

27. At the bottom of the Notice of Claim form, the person preparing the report on behalf of the employer is asked to certify, to the best of his or her knowledge, that the report it is submitting contains true statements of the report contains a true statement of the required information.

The Scheme and Artifice to Defraud

28. Beginning at a time unknown, but no later than on or about November 2009 through on or about April 2010, in the District of Rhode Island and elsewhere, defendant STEVEN F. PAGLIARINI, did willfully and knowingly devise and intend to devise a scheme and artifice to defraud RIDLT of money for the benefit of Central Nurseries, by making fraudulent representations to RIDLT for payment of UI benefits to employees of Central Nurseries.

Object of the Scheme and Artifice to Defraud

29. It was the object of the scheme and artifice to defraud RIDLT of UI benefits in the approximate amount of \$68,487, by causing employees of Central Nurseries to file false UI claims with RIDLT stating that they were not employed by Central Nurseries so that Central Nurseries did not have to pay employees their full salaries, thereby saving Central Nurseries money.

Manner and Means

30. It was part of the scheme and artifice to defraud that defendant STEVEN F. PAGLIARINI instructed employees of Central Nurseries to file claims for UI with RIDLT and state that they were laid off from Central Nurseries and had no wages, and thus were eligible to receive UI benefits, when in truth defendant intended employees to continue to work for Central

Nurseries and receive deferred wages.

31. It was further part of the scheme and artifice to defraud that, defendant STEVEN F. PAGLIARINI filed false Notices of Claim forms with RIDLT which falsely stated, among other things, that: (1) Central Nurseries employees were not employed on a part time basis; (2) Central Nurseries employees' statements that they were no longer employed due to being laid off for lack of work were true; and (3) Central Nurseries did not expect to recall the employees until April 2010.

32. It was further part of the scheme and artifice to defraud that defendant STEVEN F. PAGLIARINI instructed employees of Central Nurseries to falsely certify each week that they had not worked part-time nor received any wages for the previous week, when in truth, starting in approximately December 2009 and continuing through approximately April 2010, defendant required Central Nurseries employees to work part-time each week.


Execution of the Scheme

33. On or about December 23, 2009, in the District of Rhode Island and elsewhere, defendant STEVEN F. PAGLIARINI, for the purpose of executing aforesaid scheme and artifice to defraud and to obtain money and property by means of materially false and fraudulent pretenses, representations and promises, mailed and caused to be mailed through the United States Postal Service, false Notice of Claim Filed forms for the purpose of securing UI benefits to which employees of Central Nurseries were not entitled.

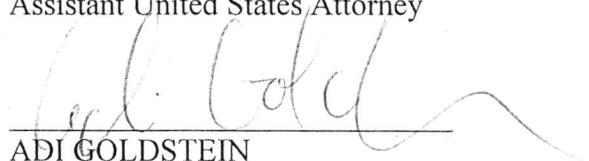
All in violation of Title 18, United States Code Section 1341.

PETER F. NERONHA
United States Attorney

By:



DULCE DONOVAN
Assistant United States Attorney



ADI GOLDSTEIN
Assistant United States Attorney
Chief, Criminal Division

DATED: DECEMBER 28, 2015