UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA v. AI ZHEN XU, Defendant.	**SEALED INDICTMENT** 24 Cr. 24 CRIM 015

COUNT ONE
(Conspiracy to Defraud the Internal Revenue Service)

The Grand Jury charges:

Introduction

1. From at least in or about 2016 through at least in or about 2021, AI ZHEN XU, the defendant, and others known and unknown, conspired to defraud the Internal Revenue Service ("IRS") by designing and implementing a fraudulent tax evasion scheme using the means and methods described below to conceal revenue generated by XU's employer, Winner Fashions, Inc. ("Winner Fashions"), and to evade payroll taxes due to the IRS by Winner Fashions (the "Tax Evasion Scheme").

The Defendant, Winner Fashions, and Winner Fashions' Tax Obligations

2. At all times relevant to this Indictment, AI ZHEN XU, the defendant, was the vice president and secretary of Winner Fashions.

3. At all times relevant to this Indictment, Winner Fashions was a New York corporation in the business of, among other things, manufacturing garments on behalf of its clients, which were primarily clothing retailers.

4. At all times relevant to this Indictment, "Accountant-1" was an accountant employed by Winner Fashions responsible for, among other things, preparing weekly payroll

checks issued to Winner Fashions' employees as wages; preparing Winner Fashions' quarterly Forms 941, Employer's Quarterly Federal Tax Return ("Forms 941"); and preparing Winner Fashions' annual Forms 1120, Corporation Income Tax Return ("Forms 1120").

5. At all times relevant to this Indictment, Winner Fashions was required to file, on a quarterly basis, Forms 941. Forms 941 require employers to provide to the IRS, with respect to the relevant quarter, among other information: the number of the employer's employees who received wages, tips, or other compensation; the total of those wages, tips, and other compensation; the amount of income tax, Social Security tax, and/or Medicare tax withheld from employees' paychecks; and the amount of Social Security tax, Medicare Tax, and/or federal unemployment tax owed by the employer.

6. At all times relevant to this Indictment, Winner Fashions was required to file, on an annual basis, Forms 1120. Forms 1120 require corporations to provide to the IRS, with respect to the relevant year, among other information: gross receipts or sales; cost of goods sold; gross profit; total income; taxable income; and the amount of income tax owed.

The Tax Evasion Scheme

The means and methods by which the Tax Evasion Scheme was sought to be accomplished included, among others, the following:

7. During the relevant time period, AI ZHEN XU, the defendant, and others used the services of a check cashing business in New York, New York ("Check Cashing Business-1") to cash checks issued to Winner Fashions by, among others, its clients, as payment for Winner Fashions' services. XU and others did not report this cash revenue to Accountant-1, resulting in Winner Fashions' Forms 1120, and accompanying forms and schedules for Winner Fashions, during the relevant time period, omitting substantial amounts of gross receipts earned by

Winner Fashions.

8. Furthermore, during the relevant time period, AI ZHEN XU, the defendant, and others arranged to and did pay Winner Fashions employees via a combination of cash payments and payroll checks generated by Accountant-1 using information provided to him by XU and others. XU and others did not report the cash payments to Accountant-1, resulting in Winner Fashions' Forms 941, during the relevant time period, omitting substantial amounts of employee wages and in Winner Fashions' failure to pay over to the IRS payroll taxes associated with these cash payments.

9. As a result of the Tax Evasion Scheme, Winner Fashions failed to report in excess of approximately $3,800,000 in gross receipts and evaded in excess of approximately $290,000 in payroll taxes.

Statutory Allegations

10. From at least in or about 2016 through at least in or about 2021, in the Southern District of New York and elsewhere, AI ZHEN XU, the defendant, and others known and unknown, willfully and knowingly combined, conspired, confederated, and agreed together and with each other to defraud the United States and an agency thereof, to wit, the IRS.

11. It was a part and an object of the conspiracy that AI ZHEN XU, the defendant, together with others known and unknown, willfully and knowingly would and did defraud the United States and the IRS for the purpose of impeding, impairing, obstructing, and defeating the lawful governmental functions of the IRS in the ascertainment, computation, assessment, and collection of revenue, to wit, XU and others participated in a scheme to evade federal income and payroll taxes due to the IRS by XU's employer, Winner Fashions.

Overt Acts

12. In furtherance of the conspiracy and to effect the illegal objects thereof, AI ZHEN XU, the defendant, and others known and unknown, committed the following overt acts, among others, in the Southern District of New York and elsewhere:

a. On or about December 14, 2015, XU and a co-conspirator opened an account at Check Cashing Business-1.

b. In or about October 2019, XU made cash payments to Winner Fashions' employees as wages.

(Title 18, United States Code, Section 371.)

COUNTS TWO THROUGH TWENTY-FOUR
(Failure to Collect, Account For, and Pay Over Payroll Taxes)

The Grand Jury further charges:

13. Paragraphs 1 through 9 are repeated and realleged as if set forth fully herein.

14. From on or about January 1, 2016, through on or about December 31, 2021, in the Southern District of New York and elsewhere, AI ZHEN XU, the defendant, being a responsible person with respect to the payroll taxes of Winner Fashions, and thereby being required to collect, account for, and pay over to the IRS payroll taxes of the employees of Winner Fashions, willfully and knowingly failed to collect, truthfully account for, and pay over to the IRS payroll taxes for Winner Fashions for each of the following calendar quarters, in the approximate amounts set forth below, and aided and abetted such conduct:

Count	Tax Period	Unpaid Income and FICA Taxes (Employees Share)
2	First Quarter 2016	$29,434.08
3	Second Quarter 2016	$26,284.20
4	Third Quarter 2016	$9,513.00
5	Fourth Quarter 2016	$17,539.42
6	First Quarter 2017	$24,479.11
7	Second Quarter 2017	$9,790.50
8	Third Quarter 2017	$9,762.36
9	Fourth Quarter 2017	$11,988.97
10	First Quarter 2018	$13,834.15
11	Second Quarter 2018	$10,364.53
12	Third Quarter 2018	$16,462.99
13	Fourth Quarter 2018	$14,239.47
14	First Quarter 2019	$8,203.72
15	Second Quarter 2019	$4,852.46
16	Third Quarter 2019	$11,818.68
17	Fourth Quarter 2019	$13,485.84
18	First Quarter 2020	$8,044.23
19	Third Quarter 2020	$10,368.49
20	Fourth Quarter 2020	$5,180.77
21	First Quarter 2021	$8,729.80
22	Second Quarter 2021	$4,547.54

23	Third Quarter 2021	$8,748.62
24	Fourth Quarter 2021	$13,464.31

(Title 26, United States Code, Section 7202; Title 18, United States Code, Section 2.)

COUNTS TWENTY-FIVE THROUGH THIRTY
(Aiding and Assisting the Preparation and Presentation of False U.S. Corporation Income Tax Returns)

The Grand Jury further charges:

15. Paragraphs 1 through 9 are repeated and realleged as if set forth fully herein.

16. On or about the dates set forth below, in the Southern District of New York and elsewhere, AI ZHEN XU, the defendant, did knowingly and willfully aid and assist in, and procure, counsel, and advise the preparation and presentation to the IRS of returns, affidavits, claims, and other documents, to wit, Forms 1120, and accompanying forms and schedules for Winner Fashions, for the tax years listed below, which returns were fraudulent and false as to material matters, in that, among other things, the returns falsely omitted substantial amounts of gross receipts earned by Winner Fashions, as set forth below, whereas, as the defendant then and there knew, for the tax years listed below, the correct and actual gross receipts earned by Winner Fashions was higher than the gross receipts reported in Winner Fashions' returns, as set forth below:

Count	Tax Year	Approximate Filing Date	Gross Receipts Reported	Actual Gross Receipts
25	Fiscal Year Ending 5/31/2016	August 12, 2016	$492,642.00	$1,673,375.50
26	Fiscal Year Ending 5/31/2017	September 14, 2017	$498,788.00	$1,332,421.00
27	Fiscal Year Ending 5/31/2018	September 11, 2018	$581,213.00	$1,228,288.00
28	Fiscal Year Ending 5/31/2019	September 13, 2019	$568,809.00	$1,131,885.25

29	Fiscal Year Ending 5/31/2020	September 14, 2020	$327,620.00	$814,168.00
30	Fiscal Year Ending 5/31/2021	September 7, 2021	$301,205.00	$682,600.00

(Title 26, United States Code, Section 7206(2); Title 18, United States Code, Section 2.)

[redacted]

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