

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA, :

SEALED
SUPERSEDING INDICTMENT

-v.-

S1 21 Cr. 573 (MKV)

JOSEPH EUGENE LEMAY, :
a/k/a "Gene Lemay," and :
JOEL LINGAT, :

Defendants. :

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COUNT ONE
(Conspiracy to Defraud the IRS)

The Grand Jury charges:

1. From in or about 2010 through in or about December 2016, in the Southern District of New York and elsewhere, JOSEPH EUGENE LEMAY, a/k/a "Gene Lemay," and JOEL LINGAT, the defendants, and others known and unknown, willfully and knowingly did combine, conspire, confederate, and agree together and with each other to defraud the United States and an agency thereof, to wit, the Internal Revenue Service ("IRS").

2. It was a part and an object of the conspiracy that JOSEPH EUGENE LEMAY, a/k/a "Gene Lemay," and JOEL LINGAT, the defendants, 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, LEMAY and LINGAT and others participated in a scheme to evade federal income and payroll taxes that ought to have been paid to the IRS by their employer, a company that provides moving and storage services ("Company-1"), and/or by affiliated companies (the "Payroll Tax Evasion Scheme"), including through the use of sham companies (the "Sham Labor Companies") that purportedly employed laborers working at the direction and under the control of Company-1; as a result of the Payroll Tax Evasion Scheme, Company-1 and related companies evaded in excess of approximately \$7.8 million in payroll taxes, including FICA and Medicare contributions.

OVERT ACTS

3. In furtherance of the conspiracy and to effect the illegal objects thereof, JOSEPH EUGENE LEMAY, a/k/a "Gene Lemay," and JOEL LINGAT, the defendants, 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 May 29, 2012, nominee owners related to LEMAY opened bank accounts for two of the Sham Labor Companies at a bank branch located in New York, New York.

b. In or around April 2014, a storage company affiliated with Company-1 ("Company-2"), employed laborers working at the direction of Company-1 to carry out renovation work at a warehouse owned by Company-2 located at a particular address in

the Bronx, New York. The laborers were paid through a Sham Labor Company nominally owned by a relative of LEMAY.

c. On or around April 2, 2014, LINGAT sent an email to LEMAY with the subject "OWNERS OF LABOR CO." The email listed the names of five Sham Labor Companies and, alongside each, its nominal owner. All five nominal owners were relatives of LEMAY, including LEMAY's sister, brothers-in-law, sister-in-law, and father-in-law.

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

COUNT TWO
(Tax Evasion - 2014 Tax Year)

The Grand Jury further charges:

4. From on or about January 1, 2014 through on or about October 1, 2015, in the Eastern District of New York and elsewhere, JOSEPH EUGENE LEMAY, a/k/a "Gene Lemay," the defendant, willfully and knowingly did attempt to evade and defeat a substantial part of the income tax due and owing by LEMAY to the United States of America for the calendar year 2014, by various means, including, among others, receiving substantial personal income through the entity "GM3 Enterprises Inc" ("GM3"); fraudulently deducting substantial personal expenses paid through GM3 as business expenses on GM3's 2014 U.S. Income Tax Return for an S Corporation, Form 1120S; and preparing and causing to be prepared, signing and causing to be signed, and filing and causing to be filed with the

IRS, a false and fraudulent 2014 U.S. Individual Income Tax Return, Form 1040, which substantially understated LEMAY's personal taxable income, upon which taxable income, as LEMAY knew, there was a substantial amount of tax due and owing to the United States of America.

(Title 26, United States Code, Section 7201.)

COUNT THREE
(Tax Evasion - 2015 Tax Year)

The Grand Jury further charges:

5. From on or about January 1, 2015 through on or about September 28, 2016, in the Eastern District of New York and elsewhere, JOSEPH EUGENE LEMAY, a/k/a "Gene Lemay," the defendant, willfully and knowingly did attempt to evade and defeat a substantial part of the income tax due and owing by LEMAY to the United States of America for the calendar year 2015, by various means, including, among others, receiving substantial personal income through the GM3; fraudulently deducting substantial personal expenses paid through GM3 as business expenses on GM3's 2015 U.S. Income Tax Return for an S Corporation, Form 1120S; and preparing and causing to be prepared, signing and causing to be signed, and filing and causing to be filed with the IRS, a false and fraudulent 2015 U.S. Individual Income Tax Return, Form 1040, which substantially understated LEMAY's personal taxable income,

upon which taxable income, as LEMAY knew, there was a substantial amount of tax due and owing to the United States of America.

(Title 26, United States Code, Section 7201.)


FOREPERSON

Damian Williams by

DAMIAN WILLIAMS
United States Attorney

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(18 U.S.C. § 371; 26 U.S.C. § 7201)

DAMIAN WILLIAMS

United States Attorney


Foreperson
