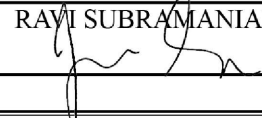


Presented to the Court by the foreman of the
Grand Jury in open Court, in the presence
of the Grand Jury and FILED in the U.S.
DISTRICT COURT at Seattle, Washington

February 9, 2022

RAVI SUBRAMANIAN, Clerk

By  Deputy

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

UNITED STATES OF AMERICA,

Plaintiff,

v.

DONNA POWELL,

Defendant.

NO. CR22- 5034 BHS

INDICTMENT

The Grand Jury charges that:

COUNTS 1-9

(Failure to Pay Over Employment Tax)

A. Background

At all times relevant to this Indictment:

1. Donna Powell was an owner of Pinnacle Steel Fabricators, Inc., ("Pinnacle"), a corporation doing business primarily in Puyallup, Washington. Pinnacle, which was engaged in the business of fabricating steel parts, employed an average of between 15 and 20 individuals. Defendant Donna Powell was Pinnacle's Secretary, Treasurer and Accounting Manager, and was responsible for all of Pinnacle's bookkeeping, payroll, and accounts payable.

2. Pinnacle withheld taxes from its employees' paychecks. The withheld taxes included federal income taxes, Medicare and social security taxes (often referred to

1 as Federal Insurance Contribution Act or “FICA” taxes). These taxes will be referred to
2 in this Indictment collectively as “payroll taxes.”

3 3. Pinnacle was required to pay over the withheld taxes to the Internal
4 Revenue Service on a regular basis. In addition, Pinnacle was required to file, following
5 the end of each calendar quarter, an Employer’s Quarterly Federal Income Tax Return
6 (Form 941), setting forth the total amount of wages and other compensation subject to
7 withholding, the total amount of income tax withheld, the total amount of social security
8 and Medicare taxes due, and the total tax deposits.

9 4. As Secretary, Treasurer, and Accounting Manager of Pinnacle, and the
10 individual responsible for all of Pinnacle’s bookkeeping, payroll, and accounts payable,
11 Powell was a “responsible person,” that is, she had the corporate responsibility to collect,
12 truthfully account for, and pay over, Pinnacle’s payroll taxes.

13 **B. The Offense Conduct**

14 5. Between 2010 and the first quarter of 2018, Powell caused Pinnacle to
15 withhold approximately \$1,167,891 in payroll taxes from employees’ paychecks. As
16 Powell knew, she was required by law to pay these funds over to the IRS. However,
17 Powell knowingly and willfully failed to pay over any employee payroll taxes to the IRS
18 during this period. Instead, Powell commingled these funds with Pinnacle’s corporate
19 funds and used them for corporate purposes.

20 6. Powell knew that, if she had filed Forms 941 with the IRS disclosing the
21 fact that Pinnacle had withheld payroll taxes, the IRS would have been alerted to
22 Pinnacle’s obligation to pay over these taxes, and its failure to do so. Accordingly,
23 Powell failed to file any Forms 941 for the period 2010 through the first quarter of 2018.

24 7. Over the period that Powell was failing to pay over the taxes she had
25 withheld from employees, Pinnacle typically had sufficient funds on hand to make the
26 required tax payments. Further, during this period, Powell and her husband made
27 thousands of dollars of expenditures for their personal benefit. For example, DONNA
28 POWELL and her husband spent funds for the following items and amounts:

- Vacations to Europe, Jamaica, and Mexico City totaling approximately \$32,006;
- Gambling at casinos in Washington and Reno, totaling approximately \$41,000;
- Online gaming, totaling approximately \$33,000; and
- Spa/pool-related purchases totaling approximately \$7,400.

C. The Charges

8. On or about the dates set forth below, in Pierce County, within the Western District of Washington, and elsewhere, Donna Powell willfully failed to truthfully account for and pay over to the Internal Revenue Service the federal income taxes and Social Security and Medicare taxes withheld from the wages of employees of Pinnacle Steel Fabricators, Inc., that were due and owing to the United States of America, for each of the following quarters, with each quarter constituting a separate count of this Indictment:

Count	Quarter	Due Date for Form 941
1	First Quarter, 2016	May 2, 2016
2	Second Quarter, 2016	August 1, 2016
3	Third Quarter, 2016	October 31, 2016
4	Fourth Quarter, 2016	January 31, 2017
5	First Quarter, 2017	May 1, 2017
6	Second Quarter, 2017	July 31, 2017
7	Third Quarter, 2017	October 31, 2017
8	Fourth Quarter, 2017	January 31, 2018
9	First Quarter, 2018	April 30, 2018

All in violation of Title 26, United States Code, Section 7202 and Title 18, Section

2.

FORFEITURE ALLEGATION

The allegations contained in Counts 1 - 9 of this Indictment are hereby realleged and incorporated by reference for the purpose of alleging forfeiture. Upon conviction of

1 any of the offenses alleged in Counts 1 – 9, the defendant DONNA POWELL shall
2 forfeit to the United States, any relevant property that is subject to forfeiture pursuant to
3 Title 26, United States Code, Section 7301(a) – (e).

4 **Substitute Assets.** If any of the above-described forfeitable property, as a result of
5 any act or omission of the defendant,

- 6 a. cannot be located upon the exercise of due diligence;
- 7 b. has been transferred or sold to, or deposited with, a third party;
- 8 c. has been placed beyond the jurisdiction of the Court;
- 9 d. has been substantially diminished in value; or,
- 10 e. has been commingled with other property which cannot be divided
11 without difficulty,

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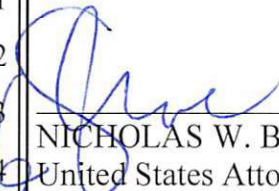
1 it is the intent of the United States to seek the forfeiture of any other property of the
2 defendant, up to the value of the above-described forfeitable property, pursuant to
3 Title 21, United States Code, Section 853(p).

4
5 A TRUE BILL:

6 DATED: 09 February 2022

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8 *[Signature of Foreperson redacted pursuant*
9 *to the policy of the Judicial Conference of*
10 *the United States]*

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FOREPERSON


NICHOLAS W. BROWN
United States Attorney


ANDREW C. FRIEDMAN
Assistant United States Attorney


SETH WILKINSON
Assistant United States Attorney