

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

UNITED STATES OF AMERICA

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CRIMINAL NO: 14-79

v.

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SECTION: "C"

JERRY ATHEY

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FACTUAL BASIS

The United States, represented by the United States Attorney's Office for the Eastern District of Louisiana, and the defendant, **JERRY ATHEY**, hereby agree that this Factual Basis is a true and accurate statement of the Defendant's criminal conduct, that it provides a sufficient basis for the Defendant's plea of guilty to the charges contained in the Indictment in the above-captioned matter and as set forth in the plea agreement signed this same day, and had this matter proceeded to trial, the following facts would be established beyond a reasonable doubt through competent evidence and testimony:

At trial, an agent with the Department of Labor Office of Inspector General would testify that 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 Louisiana, the UI program is administered by the Louisiana Workforce Commission (LWC). To receive UI benefits, an unemployed worker must file a claim, either telephonically or on the Internet with LWC (www.laworks.net). The claim will include information on the claimant's last employer and the reason for the separation. Based in part on the separation information and wage credits earned by the claimant, LWC will determine if the claimant is qualified to receive benefits.

Subsequently, the claimant must continue to contact LWC on a weekly basis and certify his/her eligibility for benefits. To receive weekly benefits, claimants must certify that they are able, available, and actively seeking full-time employment. If the claimant is qualified and eligible, LWC will pay benefits through a debit card or through a direct deposit into the claimant's personal bank account.

In Louisiana, the amount of weekly UI benefits paid to a claimant is based on the claimant's earnings reported by the claimant's employer(s) for the base period. The base period is the first four of the last five completed calendar quarters worked from the date of the initial claim. Consequently, the employer(s) who reported earnings in the base period are referred to as the base period employer(s).

In order to determine qualification of claimants, LWC notifies all base period and subsequent employers of the claim for benefits through a 'Notice to Base Period Employer' or 'Notice of Claim Filed.' These documents notify the claimant's employer(s) of their opportunity to provide information on the reason for separation from employment.

Chamico, Inc. (Chamico), located in Bogalusa, Louisiana, in the Eastern District of Louisiana, is a construction company that concentrates on public, municipal, and industrial contracts. Chamico qualifies as an employer subject to the provisions of the Louisiana Employment Security Law, the Social Security Act of 1935 and the Federal Unemployment Tax Act. CHARLES "Chuck" E. MIZELL, JR. was the President of Chamico.

At trial, testimony and documents would be presented to show that on May 16, 2013, **ATHEY** applied for unemployment benefits claiming that he was laid off from Chamico and had no wages, and thus was eligible to receive UI benefits. **ATHEY** reported that his last day

worked was May 10, 2013. Testimony and documents would be presented to show that on or about May 20, 2013, the LWC mailed a Notice of Claim Filed form to Chamico.

The Notice of Claim Filed form was returned to LWC on behalf of Chamico, after being signed by TERRY CASTILOW, Chamico's office manager. The form fraudulently represented that **ATHEY** was unemployed due to lack of work and that his last day worked was May 10, 2013. From May 25, 2013 until September 21, 2013, **ATHEY** made weekly representations to LWC that he was unemployed and not paid by Chamico. Chamico timesheets and payroll records would be produced to show that **ATHEY** continued to work for Chamico during the time periods he certified to LWC that he was not employed. Records from Chamico would also show that **ATHEY** was paid in cash during the time periods he certified to LWC that he was not receiving any income. Bank records from Chamico and witness testimony would reveal that the cash **ATHEY** received came from checks that CHARLES "Chuck" E. MIZELL, JR. endorsed each week.

Records from the LWC would show that **ATHEY** received \$3,940.00 in unemployment insurance benefits on a debit card provided by the LWC for the weeks that he made the certifications that he was not employed and receiving no income. **ATHEY** admits that he knew the illegality of this conduct, but committed the crime at the request of CHARLES "Chuck" E. MIZELL, JR., who asked **ATHEY** to apply for unemployment so that CHARLES "Chuck" E.

MIZELL, JR. would not have to pay **ATHEY's** full salary during tough economic times for his company.

READ AND APPROVED:

JERRY ATHEY
Defendant

Date

GARY SCHWABE
Attorney for Defendant

Date

EMILY K. GREENFIELD 28587
Assistant United States Attorney

Date