

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

UNITED STATES OF AMERICA

v.

WARREN HEBERT,
Defendant.

Cr. No. _____

In violation of
18 U.S.C. § 1343
26 U.S.C. § 7212(a)

FILED
JUN 18 2014
U.S. DISTRICT COURT
DISTRICT OF RHODE ISLAND

CR 14

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INDICTMENT

The Grand Jury charges that:

General Allegations

At all times relevant to this Indictment:

1. The Defendant, WARREN HEBERT ("HEBERT") was a resident of Barrington, Rhode Island.
2. HEBERT owned and operated a payroll service company called Checkmaster Payroll Services ("Checkmaster"). Checkmaster operated in interstate commerce from Rhode Island.
3. Checkmaster performed payroll services for businesses including processing payroll and accounting for and preparing and filing federal employment tax returns.
4. The Internal Revenue Service ("IRS") is a constituent agency of the United States Department of Treasury responsible for administering and enforcing the tax laws of the United States and ascertaining and collecting the taxes owed to the Treasury of the United States by its citizens.

5. The Internal Revenue Code and associated regulations require employers to file with the IRS an Employer's Quarterly Federal Tax Return, Form 941 ("quarterly employment tax return"), reporting all wages paid to employees during each calendar quarter and the federal withholding taxes, social security taxes and Medicare taxes due thereon ("federal employment taxes") within thirty (30) days after the end of each quarter (the three month periods ending March 31st, June 30th, September 20th and December 31st).
6. In filing their Form 941 with the IRS, employers must also report their total payments to employees and both the employees' share and the employers' share of federal employment taxes, and deliver to the IRS both the employees' share and the employers' share of federal employment taxes.
7. New England Household Moving and Storage ("NEHS") was a moving and storage company based in Holliston, Massachusetts and operating in interstate commerce. NEHS was a client of Checkmaster.
8. Cote D'Ambrosio ("Cote") was a marketing and communications firm operating in interstate commerce from offices in Rhode Island and other states. Cote was a client of Checkmaster.
9. Seekonk Water District ("Seekonk Water") was an independent governmental entity created by the Massachusetts legislature to operate as a municipality providing water services to constituents. Seekonk Water was a client of Checkmaster.
10. Contempo Packaging Specialists, Inc. ("Contempo") was a supplier of jewelry packaging and other products based in Providence, Rhode Island and operating in interstate commerce. Contempo was a client of Checkmaster.

11. Bernkopf Goodman, LLP, ("Bernkopf") was a law firm based in Boston, Massachusetts and operating in interstate commerce. Bernkopf was a client of Checkmaster.
12. 426 Fitness ("426 Fitness") was a health and fitness facility based in Warren, Rhode Island and operating in interstate commerce. 426 Fitness was a client of Checkmaster.
13. Metal Specialties Co., Inc. ("Metal Specialties") was a business operating in interstate commerce based in Wakefield, MA. Metal Specialties was a client of Checkmaster.
14. Red Brick Nursery School ("Red Brick") was a nursery school in Barrington, Rhode Island operating in interstate commerce. Red Brick was a client of Checkmaster.

COUNTS 1-8
18 U.S.C. § 1343 - WIRE FRAUD

15. The allegations set forth in paragraphs one (1) through (14) are realleged and incorporated by reference as if fully set forth herein.
16. Beginning by at least April 30, 2009, and continuing through at least October 2011, in the District of Rhode Island and elsewhere, the defendant, **WARREN HEBERT**, knowingly devised and intended to devise a scheme and artifice to defraud, and to obtain money and property by means of false and fraudulent pretenses, representations and promises.

THE SCHEME TO DEFRAUD

17. It was part of the scheme to defraud that HEBERT embezzled client funds by withdrawing funds from Checkmaster's client accounts, ostensibly for the purpose of paying client federal employment taxes, and then failed to pay over those funds to the IRS in payment of the client's tax liabilities, and instead converted those funds for his

own use and purposes.

18. It was further part of the scheme to defraud that HEBERT concealed his diversion of client funds from his clients by providing "client copy" tax returns. HEBERT represented to his clients that the "client copy" tax returns had been filed with the IRS and the taxes paid, when as HEBERT well knew, the tax returns were not filed and the taxes were not paid.
19. It was further part of the scheme to defraud that HEBERT falsely represented to his clients that tax delinquency notices which clients received from the IRS were the result of administrative errors by the IRS, when, as HEBERT well knew, the notices were a result of HEBERT's failure to file tax returns and pay tax liabilities for his clients.
20. It was further part of the scheme to defraud that HEBERT used funds from some clients to pay the tax liabilities accrued by other clients which were the result of HEBERT's failure to file tax returns and pay over taxes to the IRS.

MANNER AND MEANS OF THE FRAUD SCHEME

21. The manner and means by which the scheme to defraud was accomplished included, but was not limited to, the following:

New England Household Moving and Storage

22. It was part of the scheme to defraud that during 2010, HEBERT fraudulently caused funds to be deducted from his Checkmaster client New England Household Moving and Storage ("NEHS") under the pretense that he would pay over the funds to the IRS as payroll taxes for the 2nd, 3rd and 4th quarters of the year 2010.
23. It was further part of the scheme to defraud that HEBERT failed to pay over the funds

to the IRS on behalf of NEHS for the 2nd, 3rd and 4th quarters of the year 2010.

24. It was further part of the scheme to defraud that HEBERT failed to file Forms 941 with the IRS on behalf of NEHS for the 2nd, 3rd and 4th quarters of the year 2010.
25. It was further part of the scheme to defraud that HEBERT falsely represented to NEHS that he had, in fact, filed Forms 941 and paid over payroll taxes to the IRS.

Cote D'Ambrosio

26. It was part of the scheme to defraud that that during 2010, HEBERT fraudulently caused funds to be deducted from Checkmaster client Cote D'Ambrosio ("Cote") under the pretense that he would pay over the funds to the IRS as payroll taxes for the 2nd, 3rd and 4th quarters of the year 2010.
27. It was further part of the scheme to defraud that HEBERT failed to pay over the funds to the IRS on behalf of Cote for the 2nd, 3rd and 4th quarters of the year 2010.
28. It was further part of the scheme to defraud that HEBERT failed to file Forms 941 with the IRS on behalf of Cote for the 2nd, 3rd and 4th quarters of the year 2010.
29. It was further part of the scheme to defraud that HEBERT falsely represented to Cote that he had, in fact, filed Forms 941 and paid over payroll taxes to the IRS for the 2nd, 3rd and 4th quarters of the year 2010.

Seekonk Water District

30. It was further part of the scheme to defraud that during 2010, HEBERT fraudulently caused funds to be deducted from Checkmaster client Seekonk Water District ("Seekonk Water") under the pretense that he would pay over the funds to the IRS as payroll taxes for the 2nd, 3rd and 4th quarters of the year 2010.

31. It was further part of the scheme to defraud that HEBERT failed to pay over the funds to the IRS on behalf of Seekonk Water for the 2nd, 3rd and 4th quarters of the year 2010.
32. It was further part of the scheme to defraud that HEBERT failed to file Forms 941 with the IRS on behalf of Seekonk Water for the 2nd, 3rd and 4th quarters of the year 2010.
33. It was further part of the scheme to defraud that HEBERT falsely represented to Seekonk Water that he had, in fact, filed Forms 941 and paid over payroll taxes to the IRS for the 2nd, 3rd and 4th quarters of the year 2010.

Contempo

34. It was further part of the scheme to defraud that during 2010, HEBERT fraudulently caused funds to be deducted from Checkmaster client Contempo Packaging Specialists, Inc. ("Contempo") under the pretense that he would pay over the funds to the IRS as payroll taxes for the 3rd and 4th quarters of the year 2010.
35. It was further part of the scheme to defraud that Hebert caused to be filed with the IRS a Form 941 on behalf of Contempo which falsely claimed to be the "last return" for Contempo, when, as HEBERT well knew, Contempo continued as a going business.
36. It was further part of the scheme to defraud that HEBERT failed to pay over the funds to the IRS on behalf of Contempo for the 3rd and 4th quarters of the year 2010.
37. It was further part of the scheme to defraud that HEBERT failed to file Forms 941 with the IRS on behalf of Contempo for the 3rd and 4th quarters of the year 2010.
38. It was further part of the scheme to defraud that HEBERT falsely represented to Contempo that he had, in fact, filed Forms 941 and paid over payroll taxes to the IRS.

Bernkopf Goodman

39. It was further part of the scheme to defraud that during 2010, HEBERT fraudulently caused funds to be deducted from Checkmaster client Bernkopf Goodman, LLP (“Bernkopf”) under the pretense that he would pay over the funds to the IRS as payroll taxes.
40. It was further part of the scheme to defraud that HEBERT failed to pay over the funds to the IRS on behalf of Bernkopf for the 2nd, 3rd, and 4th quarters of the year 2010.
41. It was further part of the scheme to defraud that HEBERT failed to file Forms 941 with the IRS on behalf of Bernkopf for the 4th quarter of the year 2010.
42. It was further part of the scheme to defraud that HEBERT falsely represented to Bernkopf that he had, in fact, filed Forms 941 and paid over payroll taxes to the IRS.
43. It was further part of the scheme to defraud that throughout 2011, HEBERT made numerous misrepresentations to Bernkopf regarding their tax liabilities to the IRS and Hebert’s role regarding those liabilities, including providing fraudulently created bank records.

426 Fitness

44. It was further part of the scheme to defraud that during 2010, HEBERT fraudulently caused funds to be deducted from Checkmaster client 426 Fitness, Inc. (“426 Fitness”) under the pretense that he would pay over the funds to the IRS as payroll taxes for the 2nd, 3rd and 4th quarters of the year 2010.
45. It was further part of the scheme to defraud that HEBERT failed to pay over the funds

to the IRS on behalf of 426 Fitness for the 2nd, 3rd and 4th quarters of the year 2010.

46. It was further part of the scheme to defraud that HEBERT failed to file Forms 941 with the IRS on behalf of 426 Fitness for the 2nd, 3rd and 4th quarters of the year 2010.

47. It was further part of the scheme to defraud that HEBERT falsely represented to 426 Fitness that he had, in fact, filed Forms 941 and paid over payroll taxes to the IRS for the 2nd, 3rd and 4th quarters of the year 2010.

Metal Specialties Company, Inc.

48. It was further part of the scheme to defraud that during 2010, HEBERT fraudulently caused funds to be deducted from Checkmaster client Metal Specialties, Inc. ("Metal Specialties") under the pretense that he would pay over the funds to the IRS as payroll taxes for the 2nd, 3rd and 4th quarters of the year 2010.

49. It was further part of the scheme to defraud that HEBERT failed to pay over the funds to the IRS on behalf of Metal Specialties for the 2nd, 3rd and 4th quarters of the year 2010.

50. It was further part of the scheme to defraud that HEBERT failed to file Forms 941 with the IRS on behalf of Metal Specialties for the 2nd, 3rd and 4th quarters of the year 2010.

51. It was further part of the scheme to defraud that HEBERT falsely represented to Metal Specialties that he had, in fact, filed Forms 941 and paid over payroll taxes to the IRS for the 2nd, 3rd and 4th quarters of the year 2010.

Red Brick Nursery School

52. It was further part of the scheme to defraud that during 2010, HEBERT fraudulently caused funds to be deducted from Checkmaster client Redbrick Nursery School, ("Red Brick") under the pretense that he would pay over the funds to the IRS as payroll taxes.

53. It was further part of the scheme to defraud that HEBERT failed to pay over the funds to the IRS on behalf of Red Brick for the 2nd, 3rd and 4th quarters of the year 2010.
54. It was further part of the scheme to defraud that HEBERT failed to file Forms 941 with the IRS on behalf of Red Brick for the 2nd, 3rd and 4th quarters of the year 2010.
55. It was further part of the scheme to defraud that HEBERT falsely represented to Red Brick that he had, in fact, filed Forms 941 and paid over payroll taxes to the IRS.
56. As a result of HEBERT's fraudulent scheme, clients of Checkmaster were assessed penalties and interest by the IRS.
57. As a result of HEBERT's fraudulent scheme, clients of Checkmaster were collectively defrauded of in excess of one million dollars.

EXECUTION OF THE SCHEME

58. On or about the dates set forth below, in the District of Rhode Island, and elsewhere, for the purpose of executing the aforementioned scheme and artifice, and attempting to do so, the defendant, WARREN HEBERT, did knowingly transmit and cause to be transmitted in interstate commerce by means of wire, the material set forth below:

Count	Date	Client from whom funds withdrawn from via ACH	Recipient	Material
1	7/1/2010	NEHS	Checkmaster bank account ending 9162	ACH wire transfer in the amount of \$7,965.54
2	7/7/2010	Cote D'Ambrosio	Checkmaster bank account ending 9162	ACH wire transfer in the amount of \$1,829.22
3	7/1/2010	Seekonk Water	Checkmaster	ACH wire

			bank account ending 9162	transfer in the amount of \$1,632.63
4	7/7/2010	Contempo	Checkmaster bank account ending 9162	ACH wire transfer in the amount of \$13,519.84
5	7/7/2010	Bernkopf	Checkmaster bank account ending 9162	ACH wire transfer in the amount of \$15,220.13
6	7/1/2010	426 Fitness	Checkmaster bank account ending 9162	ACH wire transfer in the amount of \$833.82
7	7/1/2010	Metal Specialties	Checkmaster bank account ending 9162	ACH wire transfer in the amount of \$219.52
8	7/1/2010	Red Brick	Checkmaster bank account ending 9162	ACH wire transfer in the amount of \$2093.62

Each in violation of 18 U.S.C. § 1343.

COUNT 9
26 U.S.C. §7212(a) - IMPEDING THE ADMINISTRATION
OF THE INTERNAL REVENUE CODE

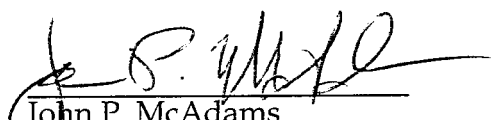
59. The allegations set forth in paragraphs one (1) through (58) are realleged and incorporated by reference as if fully set forth herein. Between in or about April 2009, and continuing thereafter up to and including October, 2011, in the District of Rhode Island, WARREN HEBERT did corruptly endeavor to obstruct and impede the due administration of the internal revenue laws by impeding and impairing the ability of the IRS to ascertain and collect the federal employment taxes of the eight Checkmaster clients identified in paragraphs 7 through 14 of this indictment; by failing to pay over to the IRS federal employment taxes which had been held in trust on behalf Checkmaster clients; and by falsely claiming to Checkmaster clients that IRS deficiency notices were the result of IRS error, thereby causing said clients to accrue penalties and interest upon which IRS resources were expended to correct.

In violation of Title 26, United States Code, Section 7212(a).

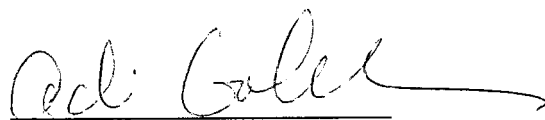
A TRUE BILL:

REDACTED

PETER F. NERONHA
United States Attorney



John P. McAdams
Assistant U.S. Attorney



ADI GOLDSTEIN
Assistant U.S. Attorney
Criminal Division Chief

Date: 6-18-2014