

UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF WEST VIRGINIA  
CHARLESTON

COPY - The original was filed in  
the Clerk's Office at Charleston on

MAY 30 2014

TERESA L. DEPPNER, CLERK  
U.S. District Court  
Southern District of West Virginia

UNITED STATES OF AMERICA

v.

CRIMINAL NO. 2:14-00117

18 U.S.C. § 1951

26 U.S.C. § 7201

DAVID E. RUNYON

I N F O R M A T I O N

The United States Attorney Charges:

COUNT ONE

(Extortion By Wrongful Use of Fear of Economic Loss)

1. At all relevant times, defendant DAVID E. RUNYON was the general manager of the Mountain Laurel Mining Complex ("Mountain Laurel"), which is owned by Mingo Logan Coal Company, a wholly owned subsidiary of Arch Coal, Inc. ("Arch"). Mountain Laurel was located in Sharples, Logan County, West Virginia.

**Mountain Laurel Kickback Scheme**

2. As general manager, defendant DAVID E. RUNYON oversaw all aspects of the operation of Mountain Laurel, including the purchasing and the selection of vendors at Mountain Laurel.

3. From in or about 2006 through 2013, defendant DAVID E. RUNYON participated in, and benefited from, an assortment of extortion schemes where he and other Arch employees, including persons known and unknown to the United States Attorney,

including a specific Arch employee identified as "Known Person Four," were paid cash kickbacks by vendors in return for their continued business with Mountain Laurel. The primary scheme encompassed four component schemes: a general Rebuild Kickback Scheme, the Miner/Bolter Rebuild Kickback Scheme, the Construction Work Kickback Scheme, and the Contract Labor Kickback Scheme.

#### **Rebuild Kickback Scheme**

4. From approximately 2006 through March 2011, Stephen B. Herndon ("S. Herndon") was the warehouse manager at Mountain Laurel. Among other duties, as warehouse manager, S. Herndon was responsible for soliciting bids for equipment rebuild jobs, which generally included the disassembly, cleaning and inspection of machines used in coal mining, with the rebuilding or replacement of parts that were worn, broken, or scheduled to be replaced.

5. At all relevant times, for any rebuild job over \$25,000, Arch required that Mountain Laurel obtain three competitive bids from qualified vendors.

6. In approximately 2006, Known Person Four set up a scheme at Mountain Laurel with Tri-State Mine Repair to manipulate Arch's bidding process. In exchange for guaranteeing that Tri-State received a certain amount of rebuild work, other vendors were asked to submit bids which Known Person Four knew would not

receive the work because they would normally be original equipment manufacturers ("OEM") prices. To guarantee it would be the successful bidder and received work, Tri-State made a cash kickback to Known Person Four, which kickback was shared with defendant DAVID E. RUNYON.

7. S. Herndon, while warehouse manager at Mountain Laurel, sometimes facilitated the kickback payments by serving as a conduit for the transfer of cash between the vendor to defendant DAVID E. RUNYON and others known and unknown to the United States Attorney.

8. The vendors participating in the Rebuild Kickback Scheme included Tri-State Mine Service, Inc. ("Tri-State"), which was initially owned by Scott E. Ellis, who was later joined by S. Herndon in April 2011; and Carter Sales and Service ("CSS"), later replaced by Apex Mining Construction and Repair, Inc. ("Apex"), both owned by Donald R. Carter II.

9. Between sometime in 2009 through and until at least September 2013, Tri-State, by and through Scott E. Ellis and later Stephen B. Herndon, would and did pay approximately \$425,000 in cash kickbacks to defendant DAVID E. RUNYON, Known Person Four, and others known and unknown to the United States Attorney, in exchange for Tri-State receiving certain rebuild jobs.

10. From approximately 2007 through 2012, Carter, through CSS and then Apex would and did pay approximately \$380,000 in cash kickbacks to defendant Known Person Four, others known and unknown to the United States Attorney and defendant DAVID E. RUNYON in exchange for CSS, and later Apex, receiving certain rebuild jobs at Mountain Laurel.

11. Carter, Ellis and later S. Herndon all understood from their dealings with defendant DAVID E. RUNYON and others known and unknown to the United States Attorney that they would cease being vendors on the Mountain Laurel property if they stopped paying kickbacks.

12. If the vendors lost the Mountain Laurel business, defendant DAVID E. RUNYON understood each of them would suffer a loss of business and economic harm.

#### **Miner/Bolter Rebuild Kickback Scheme**

13. Ronald Barnette owned and operated Mining Repair Specialist, Inc. ("MRS"), a corporation that performed equipment rebuild and repair work for various mining companies and mining related businesses in southern West Virginia, including rebuilding miners and roof bolters.

14. From approximately 2009 through and until at least sometime in 2012, Barnette would and did pay defendant DAVID E. RUNYON and others known and unknown to the United States

Attorney approximately \$300,000 in cash kickbacks in exchange for received rebuild work related to miners and roof bolters.

15. Barnette understood from his dealings with defendant DAVID E. RUNYON that he would cease being a vendor on the Mountain Laurel property if he stopped paying kickbacks.

16. If the MRS lost the Mountain Laurel business, defendant DAVID E. RUNYON understood it would suffer a loss of business and economic harm.

#### **Construction Work Kickback Scheme**

17. From late 2005 through and until at least early 2014, Alvis R. Porter operated Quality Oil, Inc. ("Quality Oil"), doing business as Southern Construction of Logan, on the site of Mountain Laurel. Quality Oil provided a variety of construction services to Mountain Laurel, including the rental and operation of heavy equipment.

18. From approximately 2009 through 2012, Porter would and did pay defendant DAVID E. RUNYON approximately \$400,000 in cash in exchange for guaranteeing Quality Oil continued to receive construction work from Mountain Laurel.

19. Porter understood from his dealings with defendant DAVID E. RUNYON that he would cease being a vendor on the Mountain Laurel property if he stopped paying kickbacks.

20. If the Quality Oil lost the Mountain Laurel business, defendant DAVID E. RUNYON understood it would suffer a loss of business and economic harm.

#### **Contract Labor Kickback Scheme**

21. From late 2005 through and until at least early 2014, David Herndon ("D. Herndon") owned and operated MAC Mine Service, Inc., which provided contract labor at Mountain Laurel. The coal miners were employees of MAC Mine Service, Inc. and MAC Mine Service, Inc. charged a fee to the Mountain Laurel Mining Complex for providing such labor.

22. From sometime in early 2009 through and until sometime in early 2013, D. Herndon would and did pay defendant DAVID E. RUNYON approximately \$340,000 in cash in exchange for guaranteeing MAC Mine Service continue to receive the exclusive right to provide contract labor to Mountain Laurel.

23. D. Herndon understood from his dealings with defendant RUNYON that he would cease being a vendor on the Mountain Laurel property if he stopped paying kickbacks.

24. If MAC Mine Service lost the Mountain Laurel business, defendant DAVID E. RUNYON understood it would suffer an economic harm.

#### **EXTORTION BY WRONGFUL USE OF FEAR OF ECONOMIC LOSS**

25. From in or about 2006 through 2013, in Sharples, Logan County, West Virginia, in the Southern District of West Virginia

and elsewhere, defendant DAVID E. RUNYON did knowingly attempt to obstruct, delay, and affect commerce and the movement of articles and commodities in commerce by extortion and attempt to do so in that, defendant DAVID E. RUNYON obtained and attempted to obtain the property of vendors performing services at the Mountain Laurel Mining Complex, with the consent of the vendors induced by the wrongful use of force and fear, including fear of economic loss.

In violation of Title 18, United States Code, Section 1951.

COUNT TWO

(Tax Evasion)

1. The United States Attorney re-alleges paragraphs 1-25 of Count One as if fully set forth herein.

2. On or about April 15, 2013, at or near Logan, Logan County, West Virginia, within the Southern District of West Virginia, defendant DAVID E. RUNYON did willfully attempt to evade and defeat a large part of the income tax due and owing by him and his spouse to the United States for the calendar year 2012, by preparing and causing to be prepared, and by signing and by causing to be signed, a false and fraudulent joint U.S. Individual Income Tax Return, Form 1040, on behalf of himself and his spouse, which was filed with the Internal Revenue Service. In fact, as he then and there knew, their taxable income for that calendar year was substantially in excess of the amount stated on the return based on the receipt of illegal cash kickbacks paid by various vendors at the Mountain Laurel Mining Complex, and, upon the additional taxable income, a substantial additional tax was due and owing to the United States of America.

In violation of Title 26, United States Code, Section 7201.

UNITED STATES OF AMERICA  
R. BOOTH GOODWIN II  
United States Attorney

By:   
MEREDITH GEORGE THOMAS  
Assistant United States Attorney

By:   
THOMAS C. RYAN  
Assistant United States Attorney

UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF WEST VIRGINIA  
CHARLESTON

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TERESA L. DEPPNER, CLERK  
U.S. District Court  
Southern District of West Virginia

UNITED STATES OF AMERICA

v.

CRIMINAL NO. 2:14-00118  
18 U.S.C. § 1001(a) (2)

GARY K. GRIFFITH

I N F O R M A T I O N

The United States Attorney Charges:

1. Defendant GARY K. GRIFFITH was the maintenance manager at the Mountain Laurel Mining Complex situated in or near Sharples, Logan County, an underground mine operated by the Mingo Logan Coal Company, which is a wholly-owned subsidiary of Arch Coal, Inc. ("Arch").

2. David E. Runyon, named herein as an unindicted co-conspirator, was the general manager of the Mountain Laurel Mining Complex.

3. North American Rebuild Company, Inc. ("NARCO"), was a West Virginia corporation headquartered in or near Smithers, Fayette County, manufactured, refurbished and repaired shuttle cars, which are critical pieces of equipment used in the operation of an underground coal mine.

4. NARCO was owned, in at least part, by a person known to the United States Attorney ("Known Person Five"), who served as the company contact when defendant GARY K. GRIFFITH needed to order a new or refurbished shuttle car.

5. Since at least sometime in 2006, defendant GARY K. GRIFFITH, for himself and on behalf of David E. Runyon, received illegal cash kickbacks from Known Person Five amounting to \$6,000 to \$10,000 for each new or refurbished shuttle car that was ordered for the Mountain Laurel Mining Complex (the "Shuttle Car Kickback Scheme").

6. Defendant GARY K. GRIFFITH has accepted at least \$250,000 in cash kickbacks from Known Person Five.

#### False Statement

7. On or about March 31, 2014, at or near Beaver, Raleigh County, West Virginia, within the Southern District of West Virginia and elsewhere, Defendant GARY K. GRIFFITH did knowingly and willfully make a materially false, fictitious, and fraudulent statement and representation in a matter within the jurisdiction of a department or agency of the United States, that is, the Internal Revenue Service, in that Defendant GARY K. GRIFFITH denied ever receiving kickbacks either personally or on behalf of David E. Runyon, when in truth and in fact as he then

well knew, that GARY K. GRIFFITH had received kickbacks on numerous occasions.

In violation of Title 18, United States Code, Section 1001(a)(2).

UNITED STATES OF AMERICA

R. BOOTH GOODWIN II  
United States Attorney

By:   
MEREDITH GEORGE THOMAS  
Assistant United States Attorney

By:   
THOMAS C. RYAN  
Assistant United States Attorney

UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF WEST VIRGINIA  
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Southern District of West Virginia

UNITED STATES OF AMERICA

v.

CRIMINAL NO. 2:14-00110

31 U.S.C. § 5324(a) (3)

18 U.S.C. § 2

STEPHEN B. HERNDON

I N F O R M A T I O N

The United States Attorney Charges:

On or about September 21, 2012, in Logan, Logan County, West Virginia, within the Southern District of West Virginia and elsewhere, defendant STEPHEN B. HERNDON, aided and abetted by Scott E. Ellis, did knowingly and for the purpose of evading the reporting requirements of section 5313(a) of Title 31, United States Code, and the regulations promulgated thereunder, structure, assist in structuring, and attempt to structure and assist in structuring, a transaction with Logan Bank and Trust ("LB&T"), a domestic financial institution, by writing a check in the amount of \$9,800 that Scott E. Ellis cashed at LB&T from an account held in the name of American Electric, LLC at J.P. Morgan Chase bank.

In violation of Title 31, United States Code, Section 5324(a)(3); Title 31, Code of Federal Regulations, Sections 1010.100(t), 1010.311, and 1010.313; and Title 18, United States Code, Section 2.

**FORFEITURE**

In accordance with 31 U.S.C. § 5317(c)(1) and Rule 32.2(a) of the Federal Rules of Criminal Procedure, and premised upon the conviction of the defendant STEPHEN B. HERNDON for a violation of 31 U.S.C. § 5324(a)(3) and 18 U.S.C. § 2, as set forth in Count One of the Information, the defendant shall forfeit to the United States any property, real or personal, involved in the offense and any property traceable thereto, including but not limited to the sum of \$132,000, more or less, in United States currency involved in, or traceable to, the illegal structuring activity set forth more fully in Count One, for which sum the United States intends to seek the entry of a judgment.

NOTICE OF INTENT TO FORFEIT SUBSTITUTE ASSETS

If any of the property described above as being subject to forfeiture, as a result of any act or omission of the defendant:

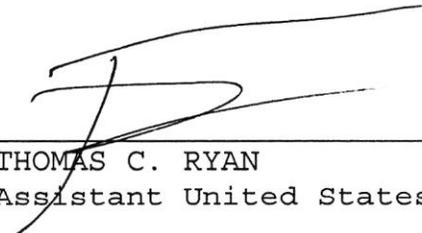
- a. cannot be located upon the exercise of due diligence;
- b. has been transferred to, sold to, or deposited with a third person;
- c. has been placed beyond the jurisdiction of the Court;
- d. has been substantially diminished in value; or
- e. has been commingled with other property that cannot be subdivided without difficulty;

it is the intent of the United States, pursuant to 28 U.S.C. § 2461(c) and 21 U.S.C. § 853(p), to seek forfeiture of any other property of the defendant up to the value of said property listed above as being subject to forfeiture.

UNITED STATES OF AMERICA

R. BOOTH GOODWIN II  
United States Attorney

By:   
MEREDITH GEORGE THOMAS  
Assistant United States Attorney

By:   
THOMAS C. RYAN  
Assistant United States Attorney

UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF WEST VIRGINIA  
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TERESA L. DEPPNER, CLERK  
U.S. District Court  
Southern District of West Virginia

UNITED STATES OF AMERICA

v.

CRIMINAL NO. 2:14-00111  
31 U.S.C. § 5324(a)(3)  
18 U.S.C. § 2

SCOTT E. ELLIS

I N F O R M A T I O N

The United States Attorney Charges:

Background

On or about September 21, 2012, in Logan, Logan County, West Virginia, in the Southern District of West Virginia and elsewhere, defendant SCOTT E. ELLIS, aided and abetted by Stephen B. Herndon, did knowingly and for the purpose of evading the reporting requirements of Section 5313(a) of Title 31, United States Code, and the regulations promulgated thereunder, structure, assist in structuring, and attempt to structure and assist in structuring, a transaction with Logan Bank and Trust bank, a domestic financial institution, by cashing a check written to defendant SCOTT E. ELLIS from an American Electric account at J.P. Morgan Chase bank account, signed by Stephen B. Herndon, in an amount of \$9,800.00.

In violation of Title 31, United States Code, Section 5324(a)(3); Title 31, Code of Federal Regulations, Sections 1010.100(t), 1010.311, and 1010.313; and Title 18, United States Code, Section 2.

### FORFEITURE

In accordance with 31 U.S.C. § 5317(c)(1) and Rule 32.2(a) of the Federal Rules of Criminal Procedure, and premised upon the conviction of the defendant SCOTT E. ELLIS for a violation of 31 U.S.C. § 5324(a)(3) and 18 U.S.C. § 2, as set forth in Count One of the Information, the defendant shall forfeit to the United States any property, real or personal, involved in the offense and any property traceable thereto, including but not limited to the sum of \$215,355.85, more or less, in United States currency involved in, or traceable to, the illegal structuring activity set forth more fully in Count One, for which sum the United States intends to seek the entry of a judgment.

NOTICE OF INTENT TO FORFEIT SUBSTITUTE ASSETS

If any of the property described above as being subject to forfeiture, as a result of any act or omission of the defendant:

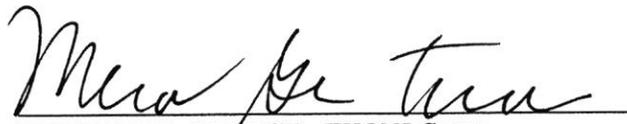
- a. cannot be located upon the exercise of due diligence;
- b. has been transferred to, sold to, or deposited with a third person;
- c. has been placed beyond the jurisdiction of the Court;
- d. has been substantially diminished in value; or
- e. has been commingled with other property that cannot be subdivided without difficulty;

it is the intent of the United States, pursuant to 28 U.S.C. § 2461(c) and 21 U.S.C. § 853(p), to seek forfeiture of any other property of the defendant up to the value of said property listed above as being subject to forfeiture.

UNITED STATES OF AMERICA

R. BOOTH GOODWIN II  
United States Attorney

By:

  
MEREDITH GEORGE THOMAS  
Assistant United States Attorney

By:

  
THOMAS C. RYAN  
Assistant United States Attorney

UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF WEST VIRGINIA  
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U.S. District Court  
Southern District of West Virginia

UNITED STATES OF AMERICA

v.

CRIMINAL NO. 2:14-00112  
26 U.S.C. § 7202

ALVIS R. PORTER

I N F O R M A T I O N

The United States Attorney Charges:

1. At all relevant times, Defendant ALVIS R. PORTER owned and operated Quality Oil, Inc. ("Quality Oil"), doing business as Southern Construction of Logan ("Southern Construction"), a West Virginia corporation that provided construction services to a subsidiary of Arch Coal, Inc., who owned and operated the Mountain Laurel Mining Complex at or near Sharples, Logan County, West Virginia.

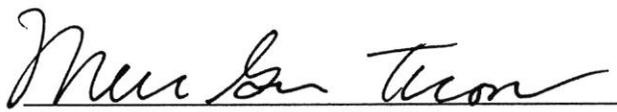
2. During the second half of the calendar year 2012 and the full calendar year of 2013, Defendant ALVIS R. PORTER employed a person known to the United States Attorney ("Known Person Two") at the Mountain Laurel Mining Complex who worked as a foreman supervising a slate dump and excavation projects.

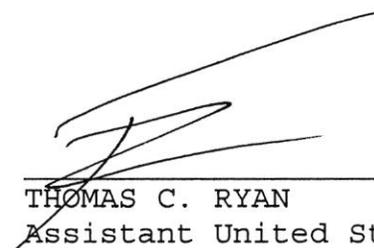
3. From on or about January 2013, through and until March 2013, within the Southern District of West Virginia, defendant ALVIS R. PORTER willfully failed to collect, truthfully account for, and pay over to the Internal Revenue Service trust fund taxes totaling approximately \$3,464.12, from the total taxable wages of Known Person Two, for the first quarter of 2013, ending March 31, 2013.

In violation of Title 26, United States Code, Section 7202.

UNITED STATES OF AMERICA

R. BOOTH GOODWIN II  
United States Attorney

By:   
MEREDITH GEORGE THOMAS  
Assistant United States Attorney

By:   
THOMAS C. RYAN  
Assistant United States Attorney

UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF WEST VIRGINIA  
CHARLESTON

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U.S. District Court  
Southern District of West Virginia

UNITED STATES OF AMERICA

v.

CRIMINAL NO.

2:14-00115  
18 U.S.C. § 1957

DAVID N. HERNDON

I N F O R M A T I O N

The United States Attorney Charges:

At all relevant times:

1. Defendant DAVID N. HERNDON owned and operated MAC Mine Service, Inc., a West Virginia corporation headquartered in or near Wilkinson, Logan County, West Virginia.

2. MAC Mine Service, Inc. was principally in business to provide contract labor underground coal miners to various coal companies in and around southern West Virginia.

3. Since approximately early 2006, Mingo Logan Coal Company, a wholly-owned subsidiary of Arch Coal, Inc. ("Arch"), owned and operated an underground mine in or near Sharples, Logan County, West Virginia, known as the Mountain Laurel Mining Complex.

4. A person known to the United States Attorney ("Known Person Three") served as the general manager for the Mountain Laurel Mining Complex.

5. From at least early 2006 through and until the present, MAC Mine Service was the exclusive contract labor provider for Arch at the Mountain Laurel Mining Complex. Under its terms, the contract at the end of each contract year could be extended an additional year under the same general terms and conditions.

#### The Contract Labor Kickback Scheme

6. To maintain the exclusive right to provide contract labor at the Mountain Laurel Mining Complex as part of a scheme to defraud Arch and other contract labor companies as described below, defendant DAVID N. HERNDON paid illegal cash kickbacks to Known Person Three from sometime in early 2009 through sometime in early 2013, in violation of 18 U.S.C. §§ 1341, 1343, and 1346 (the "Contract Labor Kickback Scheme").

7. By participating in the Contract Labor Kickback Scheme, defendant DAVID N. HERNDON expected that Known Person Three would not seek to terminate the contract, and would instead extend the contract each year -- and therefore knew that he was effectively depriving other contract labor companies from

the ability to obtain work at the Mountain Laurel Mining Complex.

8. The Contract Labor Kickback Scheme generated proceeds, that is, the monies paid by Arch to MAC Mine Service under the agreement to provide contract labor.

9. Those payments were made by monthly interstate wire transfers into a business account held at Logan Bank & Trust ("LB&T") held by MAC Mine Service ("MAC Mine Service Business Account"), a financial institution as defined in 18 U.S.C. § 1956(C)(6).

10. Thereafter, defendant DAVID N. HERNDON engaged in numerous monetary transactions involving the proceeds, that is, he withdrew cash in amounts greater than \$10,000 from the MAC Mine Service Business Account.

11. Some of the monetary transactions were used to generate cash so defendant DAVID N. HERNDON could continue to pay the illegal kickbacks to Known Person Three as part of the fraudulent scheme.

12. From sometime in 2009 when he agreed to join the Contract Labor Kickback Scheme through and until sometime in in early 2013, defendant DAVID N. HERNDON would and did pay Known Person Three approximately \$340,000 in cash kickbacks.

Unlawful Monetary Transaction

13. On or about January 30, 2013, in Logan, Logan County, West Virginia, within the Southern District of West Virginia, defendant DAVID N. HERNDON did knowingly engage and attempt to engage in a monetary transaction by, through, or to a financial institution, affecting interstate commerce, in criminally derived property of a value greater than \$10,000, that is, the withdrawal of \$20,000 cash from the MAC Mine Service Business Account at LB&T to pay Known Person Three as part of the Contract Labor Kickback Scheme, such property having been derived from a specified unlawful activity, that is, a scheme to defraud Arch Coal, Inc. and other contract labor companies operating in and around Logan County, West Virginia.

In violation of Title 18, United States Code, Section 1957.

FORFEITURE FOR UNLAWFUL MONETARY TRANSACTIONS

In accordance with 18 U.S.C. § 982(a)(1) and Rule 32.2(a) of the Federal Rules of Criminal Procedure, and premised upon the conviction of Defendant DAVID N. HERNDON for a violation of 18 U.S.C. § 1957 (unlawful monetary transaction), as set forth in Count One of the Information, Defendant DAVID N. HERNDON shall forfeit to the United States any property, real or personal, which facilitated, was involved in, or is traceable to property involved in such offense including, but not limited to, the \$549,550, more or less, constituting a portion of the criminally derived property that was involved in unlawful monetary transactions conducted by Defendant DAVID N. HERNDON, and for which sums the United States intends to seek the entry of a judgment.

NOTICE OF INTENT TO FORFEIT SUBSTITUTE ASSETS

If any of the property described above as being subject to forfeiture, as a result of any act or omission of the defendant:

- a. cannot be located upon the exercise of due diligence;
- b. has been transferred to, sold to, or deposited with a third person;
- c. has been placed beyond the jurisdiction of the Court;
- d. has been substantially diminished in value; or
- e. has been commingled with other property that cannot be subdivided without difficulty;

it is the intent of the United States, pursuant to 28 U.S.C. § 2461(c) and 21 U.S.C. § 853(p), to seek forfeiture of any other property of the defendant up to the value of said property listed above as being subject to forfeiture.

UNITED STATES OF AMERICA

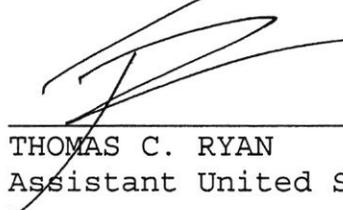
R. BOOTH GOODWIN II  
United States Attorney

By:



MEREDITH GEORGE THOMAS  
Assistant United States Attorney

By:

  
THOMAS C. RYAN  
Assistant United States Attorney

UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF WEST VIRGINIA  
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Southern District of West Virginia

UNITED STATES OF AMERICA

v.

CRIMINAL NO. 2:14-00114  
18 U.S.C. § 1001(a)(2)

RONALD BARNETTE

I N F O R M A T I O N

The United States Attorney Charges:

At all relevant times:

1. Defendant RONALD BARNETTE owned and operated Mining Repair Specialist, Inc. ("MRS"), a West Virginia corporation headquartered in or near Holden, Logan County, West Virginia.

2. MRS performed equipment rebuild and repair work for various mining companies and mining related businesses in southern West Virginia, including rebuilding miners and bolters.

3. Since approximately early 2006, Mingo Logan Coal Company, a wholly-owned subsidiary of Arch Coal, Inc. ("Arch"), owned and operated an underground mine in or near Sharples, Logan County, West Virginia, known as the Mountain Laurel Mining Complex.

4. A person known to the United States Attorney ("Known Person Three") served as the general manager for the Mountain Laurel Mining Complex.

5. Since approximately 2009, Known Person Three required defendant RONALD BARNETTE to pay illegal cash kickbacks on work MRS received from the Mountain Laurel Mining Complex to rebuild miners and bolters (the "Miner/Bolter Rebuild Kickback Scheme").

6. From approximately 2009 through and until at least sometime in 2010, Defendant RONALD BARNETTE would and did pay Known Person Three approximately \$300,000 in cash kickbacks.

**False Statement**

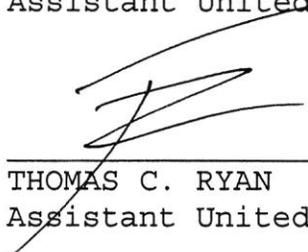
7. On or about March 22, 2014, at or near Holden, Logan County, West Virginia, within the Southern District of West Virginia, Defendant RONALD BARNETTE, did willfully and knowingly make a materially false, fictitious, and fraudulent statement and representation in a matter within the jurisdiction of a department or agency of the United States, that is, the Internal Revenue Service assisted by the West Virginia State Police, in that Defendant RONALD BARNETTE denied paying kickbacks to Known Person Three, when in truth and in fact as he then well knew, that statement was materially false.

In violation of Title 18, United States Code, Section  
1001(a)(2).

UNITED STATES OF AMERICA

R. BOOTH GOODWIN II  
United States Attorney

By:   
MEREDITH GEORGE THOMAS  
Assistant United States Attorney

By:   
THOMAS C. RYAN  
Assistant United States Attorney

UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF WEST VIRGINIA  
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Southern District of West Virginia

UNITED STATES OF AMERICA

v.

CRIMINAL NO.

2:14-cr-109  
26 U.S.C. § 7206(1)

GARY L. ROEHER

I N F O R M A T I O N

The United States Attorney Charges:

COUNT ONE  
(Filing A False Tax Return)

On or about October 13, 2013, within the Southern District of West Virginia, defendant GARY L. ROEHER, a resident of Logan County, West Virginia, did willfully make and subscribe an Internal Revenue Service Form 1040, a personal income tax return, which was verified by a written declaration that it was made under the penalties of perjury and which defendant GARY L. ROEHER did not believe to be true and correct as to every material matter. That personal income tax return, which included a Schedule C for a mining part supply business owned and operated by defendant GARY L. ROEHER called CM Supply Co., was prepared and signed in the Southern District of West Virginia,

and was filed with the Internal Revenue Service. Defendant GARY L. ROEHER, fraudulently deducted approximately \$43,000, more or less, as a business expense for CM Supply, when, in truth and in fact as he then well knew, said funds were paid to install an in-ground swimming pool at his residence.

In violation of Title 26, United States Code, Section 7206(1).

UNITED STATES OF AMERICA

R. BOOTH GOODWIN II  
United States Attorney

By:   
MEREDITH GEORGE THOMAS  
Assistant United States Attorney

By:   
THOMAS C. RYAN  
Assistant United States Attorney

UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF WEST VIRGINIA  
CHARLESTON

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TERESA L. DEPPNER, CLERK  
U.S. District Court  
Southern District of West Virginia

UNITED STATES OF AMERICA

v.

CRIMINAL NO.

2:14-00116

18 U.S.C. § 1341

18 U.S.C. § 1346

18 U.S.C. § 2

CHADWICK J. LUSK

I N F O R M A T I O N

The United States Attorney Charges:

COUNT ONE

(Honest Services Mail Fraud)

At all relative times:

1. Defendant CHADWICK J. LUSK was the purchasing agent at the Mountain Laurel Mining Complex, which is owned by Mingo Logan Coal Company, a wholly owned subsidiary of Arch Coal, Inc. ("Arch Coal").

2. CM Supply, Co. ("CM Supply"), owned and operated by Gary Roeher, named herein as an unindicted co-schemer, served as a broker for coal companies and coal mining related businesses by obtaining a variety of electrical and other related parts used in the mining industry from various manufacturers. Among other products, CM Supply sold crib blocks to the Mountain Laurel Mining Complex. Crib blocks provide roof support in an underground mine.

### The Scheme

3. From in or about September 2009 through and until at least March 2014, in or near Sharples, Logan County, West Virginia, within the Southern District of West Virginia and elsewhere, defendant CHADWICK J. LUSK together with Gary L. Roeher, named herein as an unindicted aider and abettor, and with others known and unknown to the United States Attorney, devised and intended to devise a scheme and artifice to defraud and deprive Arch Coal of its right to the honest and faithful services of defendant CHADWICK J. LUSK and to obtain money and property by means of intentional false and fraudulent pretenses, representations and promises through the receipt of illegal cash kickbacks and the concealment of material information.

### Purpose of the Scheme

4. The purpose of the scheme was for defendant CHADWICK J. LUSK to enrich himself by soliciting and receiving a portion of the profit for all crib blocks sold by CM Supply, in exchange for defendant CHADWICK J. LUSK using his official position to direct crib block sales to CM Supply (the "Crib Block Kickback Scheme").

### Manner and Means of the Scheme

5. The Crib Block Kickback Scheme was carried out in the following manner and means, among others:

- a. Defendant CHADWICK J. LUSK would and did receive kickback payments from Gary L. Roeher representing a portion of the profit earned by CM Supply on crib blocks sold to the Mountain Laurel Mining Complex.
- b. Gary L. Roeher would and did agree to pay defendant CHADWICK J. LUSK the kickback.
- c. Defendant CHADWICK J. LUSK would and did use his official position as a purchasing agent for Arch Coal at the Mountain Laurel Mining Complex to order crib blocks from CM Supply.
- d. Gary L. Roeher would and did deliver crib blocks to the Mountain Laurel Mining Complex.
- e. Defendant CHADWICK J. LUSK would and did accept cash kickbacks from Gary L. Roeher, which further concealed the scheme.
- f. Gary L. Roeher would and did pay defendant CHADWICK J. LUSK cash at locations typically off of the Mountain Laurel Mining Complex to avoid detection.
- g. Defendant CHADWICK J. LUSK would and did conceal and cover up his participation in the Crib Block Kickback Scheme from Arch Coal and its representatives.

Mailing in Furtherance of the Scheme

6. On or about November 15, 2011, in or near Holden, Logan County, West Virginia, within the Southern District of West Virginia and elsewhere, defendant CHADWICK J. LUSK, together with Gary Roeher and others known and unknown to the United States Attorney, aided and abetted by each other and others, for the purpose of executing the scheme, and attempting to do so, did knowingly cause to be delivered by mail, according to the direction thereon, an invoice for crib blocks from CM Supply addressed to the Arch Coal Mountain Laurel Complex in Sharples, Logan County, West Virginia, which contained an invoice that requested reimbursement for 1,800 crib blocks at a cost of \$6,030.00.

In violation of Title 18, United States Code, Sections 1341, 1346, and 2.

UNITED STATES OF AMERICA

R. BOOTH GOODWIN II  
United States Attorney

By:

  
\_\_\_\_\_  
MEREDITH GEORGE THOMAS  
Assistant United States Attorney

By:

  
\_\_\_\_\_  
THOMAS C. RYAN  
Assistant United States Attorney

UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF WEST VIRGINIA  
CHARLESTON

COPY - The original was filed in  
the Clerk's Office at Charleston on

MAY 30 2014

TERESA L. DEPPNER, CLERK  
U.S. District Court  
Southern District of West Virginia

UNITED STATES OF AMERICA

v.

CRIMINAL NO.

2:14-00113  
18 U.S.C. § 371

JAMES H. EVANS III

I N F O R M A T I O N

The United States Attorney Charges:

COUNT ONE  
(Conspiracy)

Background

At all relevant times:

1. Defendant JAMES H. EVANS III owned and operated Baisden Recycling, Inc., a West Virginia corporation operating in Logan, Logan County, West Virginia, that primarily dealt in the scrap salvage business.

2. Stephen B. Herndon, named herein as an unindicted co-conspirator, was an employee of Arch Coal, Inc. ("Arch"), and worked as the warehouse manager for Arch at the Mountain Laurel Mining Complex, an underground mine operated by an Arch

subsidiary, situated in or near Sharples, Logan County, West Virginia.

3. A person known to the United States Attorney ("Known Person Three") was employed as Arch as the general manager of the Mountain Laurel Mining Complex, and, as general manager, had a fiduciary duty to Arch.

4. Defendant JAMES H. EVANS III had an agreement with Arch to salvage scrap metal placed by Arch employees in bins located on the Mountain Laurel property, in exchange for providing Arch with a percentage of the sale of the scrap metal. The scrap metal contract did not include certain scrap cable located at Mountain Laurel that was not placed in the bins.

5. Once a scrap metal bin became full, Defendant JAMES H. EVANS III had the scrap metal bin transported to a business known to the United States Attorney ("Nitro Scrap Dealer"). The Nitro Scrap Dealer then would mail Arch a check for a percentage of the sale of the scrap metal in the bins and mailed the remaining funds to Mr. Evans.

#### The Conspiracy

6. From sometime in 2009 through and until at least late 2010, in or near Sharples and Logan, Logan County, West Virginia, within the Southern District and elsewhere, defendant

JAMES H. EVANS III, Stephen B. Herndon and Known Person Three, and others known and unknown to the United States Attorney, did knowingly conspire to commit offenses against the United States, that is, among others, to devise and intend to devise a scheme and artifice to defraud Arch of the intangible right of honest services of Known Person Three and to obtain money and property by false pretenses through mail fraud, in violations of 18 U.S.S. §§ 1341 and 1346, that is, by depriving Arch of the intangible right of honest services of Known Person Three and to obtain money and property by false pretenses through the payment of illegal cash kickbacks and concealment of material information.

Objects of the Conspiracy

7. It was an object of the conspiracy for defendant JAMES H. EVANS III to share a portion of the profits received selling scrap cable obtained from the Mountain Laurel Mining Complex with Known Person Three (the "Scrap Cable Kickback Scheme"). It was further an object of the conspiracy for Known Person Three to use his official position to enrich himself by soliciting and accepting payments from defendant JAMES EVANS III in exchange for favorable official action, and for defendant JAMES EVANS III

to enrich himself by secretly obtaining favorable official action for himself and his company through corrupt means.

Manner and Means of the Conspiracy

8. In furtherance of the scheme, defendant JAMES H. EVANS III would and did use the manner and means as set forth below.

a. Stephen B. Herndon, on behalf of Known Person Three, approached defendant JAMES H. EVANS III about recycling a significant amount of scrap cable situated at the Mountain Laurel Mining Complex.

b. Stephen B. Herndon offered defendant JAMES H. EVANS III the opportunity to recycle the scrap cable if defendant JAMES H. EVANS III would agree to pay a significant cash kickback to Known Person Three.

c. JAMES H. EVANS III agreed to pay an illegal cash kickback to Known Person Three.

d. JAMES H. EVANS III would and did remove the scrap cable and sell for scrap value at the Nitro Scrap Dealer.

e. The Nitro Scrap Dealer paid defendant JAMES H. EVANS III by check delivered through the mail.

f. Defendant JAMES H. EVANS III gave Stephen B. Herndon approximately \$30,000 in cash to be delivered to Known Person Three, in exchange for favorable official action by Known Person

Three, which was the continued selection of EVANS' company as a vendor for the scrap metal bins at Mountain Laurel by Known Person Three.

g. Defendant JAMES H. EVANS III took steps to hide, conceal and cover up his activity and the nature and scope of his dealings with Known Person Three by not following the usual course of dealings with Arch and the Nitro Scrap Dealer, and by taking scrap cable and instructing the Nitro Scrap Dealer to not mail Arch a check.

Overt Acts In Furtherance Of The Conspiracy

9. On or about the following dates, defendant JAMES H. EVANS III and his co-conspirators committed the following overt acts in furtherance of the conspiracy:

a. On or about October 19, 2010, defendant JAMES H. EVANS III sold a load of scrap material to the Nitro Scrap Dealer, which included the scrap cable obtained from the Mountain Laurel Mining Complex, for approximately \$79,501.

b. On or about October 19, 2010, the Nitro Scrap Dealer paid defendant JAMES H. EVANS III by mail the approximate \$79,501.41, which constituted the amount owed on the load less fees, and which included the scrap cable from the Mountain Laurel Mining Complex.

In violation of Title 18, United States Code, Sections 371.

UNITED STATES OF AMERICA

R. BOOTH GOODWIN II  
United States Attorney

By:



MEREDITH GEORGE THOMAS  
Assistant United States Attorney

By:



THOMAS C. RYAN  
Assistant United States Attorney