

Department of Justice
U.S. Attorney's Office
District of Massachusetts

FOR IMMEDIATE RELEASE

Thursday, October 13, 2022

Beverly Farms Man Indicted for Multi-Million-Dollar Payroll Scheme

BOSTON – A Beverly Farms man was charged today in a 13-count indictment in connection with a payroll scheme involving underreporting of overtime hours for his union employees and failing to collect and pay payroll taxes.

Frank Loconte, 61, was indicted on four counts of mail fraud, one count of theft or embezzlement from an employee benefit plan, four counts of making false statements pertaining to the Employee Retirement Income Security Act (ERISA) and four counts of willful failure to collect and pay taxes. Loconte will appear in federal court in Boston today at 3:30 p.m.

According to the indictment, from 2009 to 2022, Loconte was the president of NER Construction Management Corporation, a Wilmington-based construction company that employed union workers. Loconte was also the president of the company's employment management company, NER Management LLC. Loconte was responsible for collective bargaining with multiple unions, including the Bricklayers and Allied Craftsmen Local Union No. 3 and various local unions affiliated with the Massachusetts and Northern New England Laborers' District Council of the Laborers International Union of North America. On behalf of NER, Loconte was bound by collective bargaining agreements with the unions which governed the transfer of worker benefit contributions to employee welfare and pension benefit plans, each of which was subject to ERISA provisions. As a result, NER was required to make periodic contributions to the benefit funds each hour worked by covered employees at rates prescribed and to deduct dues from the pay of each union worker which was also to be forwarded to the benefit funds.

It is alleged that from approximately January 2014 and May 2022, Loconte engaged in a scheme to defraud the union benefit funds and the IRS by paying certain of its union workers for overtime hours worked without reporting these hours to the union benefit funds and without making the required payroll tax withholdings and payments. At times, it is alleged that some NER employees were paid entirely in cash for overtime hours worked and, at other times, the employees were paid by check without the required withholdings. Loconte also allegedly caused NER to file false and fraudulent remittance reports with the benefit funds and the unions which underreported the overtime hours worked by these employees thereby depriving the benefit funds and unions of contributions owed to their members. It is further alleged that Loconte caused NER to file false and fraudulent IRS payroll taxes that underreported the amount of wages paid. Instead of paying employment taxes, Loconte used NER business accounts to pay for personal expenses, including vehicles, personal property taxes, household improvements, and golf memberships, and failed to report these benefits to the IRS, as required by the IRS. As a result, Loconte allegedly defrauded union workers of more than \$1 million dollars for overtime work covered by the collective bargaining agreements and defrauded the IRS of more than \$3 million by not making the required payroll tax and union dues withholdings and payments.

The charges of mail fraud provide for a sentence of up to 20 years in prison, three years of supervised release and a fine of up to \$250,000. The charges of embezzlement from an employee benefit plan, making false statements and willful failure to collect and pay over taxes each provide for a sentence of up to five years in prison, two years of supervised release and a fine of up to \$250,000. Sentences

are imposed by a federal district court judge based upon the U.S. Sentencing Guidelines and statutes which govern the determination of a sentence in a criminal case.

United States Attorney Rachael S. Rollins; Carol S. Hamilton, Regional Director, U.S. Department of Labor, Employee Benefits Security Administration, Boston Regional Office; Jonathan Russo, District Director, U.S. Department of Labor, Office of Labor-Management Standards; Joleen D. Simpson, Special Agent in Charge of the Internal Revenue Service's Criminal Investigations in Boston; Jonathan Mellone, Special Agent in Charge of Department of Labor, Office of Inspector General, Labor Racketeering and Fraud Investigations; and Joseph R. Bonavolonta, Special Agent in Charge of the Federal Bureau of Investigation, Boston Division made the announcement today. Assistant U.S. Attorney Laura J. Kaplan of Rollins' Criminal Division is prosecuting the case.

The details contained in the indictment are allegations. The defendant is presumed innocent unless and until proven guilty beyond a reasonable doubt in a court of law.

Topic(s):

Tax

Financial Fraud

Component(s):

[USAO - Massachusetts](#)

Updated October 13, 2022