



Office of Inspector General for the U.S. Department of Labor

OIG Investigations Newsletter

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The Office of Inspector General (OIG) for the U.S. Department of Labor (DOL) is pleased to present the *OIG Investigations Newsletter*, presenting a bimonthly summary of selected investigative accomplishments.

The OIG conducts criminal, civil, and administrative investigations relating to violations of federal laws, rules, or regulations, including those performed by DOL contractors and grantees; as well as investigations of allegations of misconduct on the part of DOL employees. In addition, the OIG has an external program function to conduct criminal investigations to combat the influence of labor racketeering and organized crime in the nation's labor unions. We conduct labor racketeering investigations in three areas: employee benefit plans, labor-management relations, and internal union affairs.

Texas Medical Providers and Former Federal Employees Sentenced in \$9.5 Million Health Care Scheme

Four individuals were sentenced in August 2016 for their involvement in a scheme to defraud The Office of Workers' Compensation Programs (OWCP). Former OWCP claims examiner Perry Rowell was sentenced to 15 months in prison. Retired OWCP supervisor Ifeanyi "Tim" Egbuchunam was sentenced to 51 months in prison and ordered to pay more than \$2 million in restitution. Robert Mandell, MD, was sentenced to 36 months of probation and ordered to pay more than \$450,000 in restitution. Willie Atkins, a licensed professional counselor, was sentenced to 9 months of home confinement and 36 months of probation, and ordered to pay approximately \$300,000 in restitution.

Rowell, Egbuchunam, Mandell, and Atkins, each of whom pled guilty in January 2016, are among 30 defendants charged in November 2015 with various crimes related to their roles in a substantial health care fraud scheme that involved bribes, unnecessary medical treatment, fraudulent billing, and falsification of medical documents to fraudulently bill OWCP for more than \$9.5 million. Lead defendant Larry Washington, of Desoto, Texas, was sentenced in May 2016 to 78 months in prison and ordered to pay more than \$7.7 million in restitution to OWCP.

From January 2009 to September 2014, Washington ran Mind Spa, Inc., a Desoto, Texas-based clinic that purportedly provided OWCP claimants with counseling, pain management, chiropractic services, physical therapy, and massage services. Even though most of his OWCP patients had once suffered a work-related injury, Washington knew their injuries were not severe enough to warrant continued OWCP payments.

Therefore, he enlisted the assistance of others to carry out a scheme to fraudulently bill OWCP on a continuing basis.

Washington recruited Mandell, who submitted to OWCP medical reports that fabricated claimant medical conditions so as to establish eligibility for long-term treatment. Washington also recruited Atkins to provide counseling services to OWCP claimants. Washington,

Mandell, and Atkins all routinely billed OWCP for services not rendered to patients.

Washington also enlisted the help of Egbuchunam, paying him \$10,000 a month to use his position as an OWCP claimant representative to direct claimants to seek their treatment at Mind Spa. Egbuchunam paid cash to Rowell, who used his position as an OWCP claims examiner to perform unauthorized case queries of OWCP claimant data, falsify claimant records, and expedite payments. Rowell's employment was terminated following his conviction in January 2016. This is a joint investigation with the U.S. Postal Service –OIG and the U.S. Department of Veterans Affairs–OIG. *United States v. Larry Washington et al.* (N.D. Texas)

Ringleader Sentenced to 90 Months in Prison for \$1.4 Million Unemployment Insurance Scheme

On August 29, 2016, Diameter Akala was sentenced to 90 months in prison and ordered to pay restitution and forfeiture of more than \$1.4 million for his leading role in a fictitious employer scheme perpetrated against the Maryland and Pennsylvania Unemployment Insurance (UI) programs. Eight of Akala's co-conspirators were previously sentenced to prison for their roles in the scheme.



The defendant, Diameter Akala, conducting an ATM transaction using a fraudulently obtained Unemployment Insurance debit card

From 2012 to 2015, Akala created at least nine fictitious companies in Maryland and Pennsylvania, and filed wage reports falsely stating that the bogus entities employed and paid wages to hundreds of individuals. Akala used personally identifiable information of individuals who had given permission to have their information used, as well as many who had not. He filed benefit applications by posing as individuals who had been laid off by the fictitious businesses, causing hundreds of UI debit cards to be mailed to various commercial and residential addresses controlled by Akala or a co-conspirator, including locations in Maryland, Virginia, New York, Pennsylvania, and the District of Columbia. Akala took steps to ensure continued weekly funding of the debit cards, which he and his co-conspirators used to withdraw cash and make personal purchases. Akala also filed paperwork to begin the execution of similar schemes in Connecticut and Massachusetts.

This was a joint investigation with the U.S. Postal Inspection Service. *United States v. Diameter Akala et al.* (D. Maryland)

Kentucky Man Sentenced to Prison for Schemes to Defraud OWCP and Evade Taxes

On August 30, 2016, former federal employee John Maddux was sentenced to 10 years in prison, ordered to pay more than \$130,000 in restitution to DOL, and ordered to forfeit his interests in various properties worth at least \$45 million. The sentence was imposed for Maddux's criminal conduct relative to two separate but related schemes, the first involving false statements to DOL to obtain workers' compensation benefits, and the second involving a large-scale tax evasion scheme.

Maddux pled guilty in May 2016 to charges that he had made false statements to DOL as part of an ongoing effort to receive workers' compensation payments to which he was not entitled as a result of his involvement with numerous business enterprises. He also pled guilty to numerous criminal charges related to his leading role in a scheme to evade at least \$48 million in taxes through his operation of several mail-order and Internet businesses involved in illegal sales of cigarettes to customers in the United States and abroad.

This was a joint investigation with the Bureau of Alcohol, Tobacco, Firearms and Explosives; IRS Criminal Investigation; and the Food and Drug Administration. *United States v. Maddux et al.* (E.D. Kentucky)

Former New York Union Leader Sentenced to Prison for Racketeering and Hobbs Act Conspiracy

On August 31, 2016, Mark Kirsch, former president and business manager of International Union of Operating Engineers Local 17 (IUOE Local 17), was sentenced to 36 months in prison and ordered to pay more than \$198,000 in restitution for his role in leading a 10-year criminal enterprise, which had as its objective the extortion of property from various construction firms throughout western New York. In March 2014, after an eight-week trial, a federal jury convicted Kirsch of conspiracy to commit racketeering, conspiracy to commit extortion, and attempted extortion.



Homemade metal "stars" used by Local 17 members to flatten tires of vehicles belonging to nonunion workers

Under Kirsch's leadership, officials of IUOE Local 17 targeted nonunion contractors who refused to sign their collective bargaining agreements with IUOE Local 17 by damaging their construction equipment, threatening and intimidating their employees, and causing property damage on picket lines by flattening tires and breaking windshields on construction vehicles owned by the nonunion contractors.

Report allegations of fraud, waste, and abuse concerning DOL programs and operations to the OIG hotline via 202-693-6999 or www.oig.dol.gov.

As a result of his conviction, Kirsch is barred from acting in any official capacity or exercising discretionary control over the assets of any labor organization or employee benefit plan for 13 years.

This is a joint investigation with the FBI and New York State Police. *United States v. Larson et al.* (W.D. New York)

South Carolina Restaurant Owner Sentenced to Prison for Scheme to Deceive Wage and Hour Investigators

On August 26, 2016, Jose Jaime Villalpando, owner of Senor Tequila Mexican Restaurants in Charleston, South Carolina, was sentenced to five months in prison and ordered to pay more than \$75,000 in restitution for submitting false statements in response to a DOL- Wage and Hour Division (WHD) investigation into whether Senor Tequila was paying its employees proper minimum wage and overtime pay in compliance with the Fair Labor Standards Act.

In 2011, a WHD investigation found that Senor Tequila had failed to pay several employees more than \$105,000 in minimum wage and overtime pay over approximately two years. In response to WHD findings, Villalpando agreed to pay full back wages to the affected employees. However, instead of paying all the back wages, he devised and executed a scheme to deceive WHD investigators and avoid payment of more than \$75,000 of the back wages he had agreed to pay.

The DOL-OIG investigation revealed that Villalpando issued back-wages paychecks to employees and then took the employees to a bank, where he had them set up accounts and deposit the paychecks. Over the next several weeks, Villalpando instructed the employees to withdraw the amounts of their back-wages paychecks in increments and give the money back to him. Villalpando then mailed letters to WHD stating that he had paid the employees, and he attached copies of the canceled back-wages paychecks in an attempt to deceive WHD that he had in fact paid the employees. *United States v. Jose Jaime Villalpando* (D. South Carolina)

Colorado Woman Sentenced for Defrauding Health Care Clients

On August 29, 2016, Kimberly Cileno, former owner and operator of EZ Flex, Inc., was sentenced to 24 months in prison and ordered to pay more than \$230,000 in restitution for embezzling health care plan assets.

EZ Flex was a third-party administrator responsible for administering a flexible spending plan that offered benefits to approximately 36 participating employers and more than 500 participating employees. Participating employers forwarded designated payroll deductions to EZ Flex, and participants submitted claims for reimbursement of eligible expenses directly to EZ Flex. The investigation revealed that between January 12, 2011, and December 10, 2012, Cileno embezzled more than \$230,000 in EZ Flex client funds, which she used on personal purchases, including home renovations and a vacation.

This was a joint investigation with the Employee Benefits Security Administration. *United States v. Kimberly S. Cileno* (D. Colorado)

Ohio Labor Recruiters and Minnesota Farm Owner Convicted of Visa Fraud Conspiracy

Three individuals have been found guilty of conspiring to collect illegal fees and kickbacks from foreign workers on H-2A visas. On August 8, 2016, after a one-week jury trial, labor recruiter Sandra Lee Bart was found guilty of wire fraud, mail fraud, and conspiracy to commit visa fraud for her role in the scheme. Bart's business colleague, Wilian Socrate Cabrera, and farm owner John Svihel had previously pled guilty on July 14, 2016, and June 16, 2016, respectively, to conspiracy to commit fraud in foreign labor contracting.

From 2010 through 2015, Bart and Cabrera operated Labor Listo, an unregistered business, which they used to recruit employers like Svihel, who ran Svihel Vegetable Farm in Foley, Minnesota, to use their services to hire temporary foreign workers under DOL's H-2A visa program. DOL's H-2A visa program, which provides temporary visas to agriculture workers, requires that employers pay for workers' housing and travel expenses to and from their home country, and prohibits employers from collecting recruitment fees or wage kickbacks. Nevertheless, Bart, Cabrera, and Svihel devised and executed a scheme to collect cash kickbacks from Svihel's H-2A workers, including a wage kickback for every hour worked at Svihel Vegetable Farm and a kickback equal to the cost of the workers' flights to and from the United States. In total, workers were forced to pay illegal fees in excess of \$198,000. As part of his plea agreement, Svihel agreed to pay more than \$575,000 in civil monetary penalties for unpaid wages to H-2A workers affected by the scheme.

This is a joint investigation with WHD, the Bureau of Diplomatic Security, and HSI. *United States v. Cabrera* (D. Minnesota)

Southern California Man Found Guilty in \$5 Million Unemployment Insurance Fraud Scheme

On August 15, 2016, after a six-day trial, a federal jury in Sacramento, California, found Andre Walters guilty of four counts of mail fraud for his involvement in a scheme to defraud the California unemployment insurance program of at least \$5 million.

According to evidence presented at trial, Walters was a "manager" in the scheme, which Walters and others carried out from approximately 2008 to 2011. The scheme involved registering fictitious businesses with the State of California, listing "employees" as having earned wages at those fictitious businesses when in fact they never worked there, and then filing for unemployment benefits on behalf of those employees. Walters recruited people to pose as these "employees," managed their unemployment claims once filed, and split the resulting proceeds of the unemployment claims. Walters is the sixth individual to be convicted for participating in this fraud scheme. This is a joint investigation with the FBI and the California Employment Development Department. *United States v. Parks et al.* (E.D. California)

Illinois Businessman Pleads Guilty to \$1.9 Million Union Fraud Scheme

On August 11, 2016, former Chicago construction company president Yashvant Patel pled guilty to mail fraud and making false statements in connection with a scheme to defraud the benefit funds of the Construction and General Laborers' District Council of Chicago and Vicinity of approximately \$600,000.

From January 2009 through October 2010, while serving as president of My Baps Construction Corp., Patel underreported approximately 33,000 hours worked by employees of My Baps and a sister company, Vijay Construction Corp., resulting in lower employer contributions to the union's benefit funds. Patel also underpaid his workers by approximately \$1.3 million during the same time frame and paid off-the-books cash wages to many individuals who were not legally authorized to work in the United States.

This is a joint investigation with the FBI. *United States v. Yashvant C. Patel* (N.D. Illinois)