



Department of Justice

**Acting United States Attorney Joshua S. Levy
District of Massachusetts**

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CONTACT: CHRISTINA DiIORIO-STERLING
Phone (617) 748-
3356

www.justice.gov/usao/ma/news.html

usama.media@usdoj.gov

 twitter.com/dmanews1

BEVERLY FARMS MAN PLEADS GUILTY TO MULTI-MILLION DOLLAR PAYROLL SCHEME

BOSTON – A Beverly Farms man pleaded guilty today 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, 62, pleaded guilty to one count of mail fraud and one count of failing to pay taxes. U.S. District Court Judge Denise J. Casper scheduled sentencing for Nov. 29, 2023. Loconte was indicted by a federal grand jury in October 2022.

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.

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, 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 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. Loconte also 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 a result, Loconte 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 charge of mail fraud provides for a sentence of up to 20 years in prison, three years of supervised release and a fine of up to \$250,000. The charge of willful failure to collect and pay over taxes 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.

Acting United States Attorney Joshua S. Levy; 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; Harry Chavis, Jr., 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 Jodi Cohen, Special Agent in Charge of the Federal Bureau of Investigation, Boston Division made the announcement today. Assistant U.S. Attorney Laura J. Kaplan of the Criminal Division is prosecuting the case.

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