U.S. Department of Justice

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PRESS RELEASE

FORMER EXECUTIVES OF SCHOOL BUS COMPANY INDICTED FOR BANK FRAUD, CONSPIRACY TO COMMIT BANK FRAUD, AND PAYROLL TAX FRAUD CONSPIRACY

Executives Charged with Conspiring to Defraud the United States of More Than $10 Million

Yesterday, a grand jury returned a five-count indictment in federal court in Brooklyn charging Laraine Castellano and her sons, Thomas Scialpi and Dennis Scialpi, with fraud committed in connection with school bus companies they owned and operated that provided transportation to children attending New York City Public Schools. All three defendants are charged with bank fraud and conspiring to commit bank fraud in connection with over $14 million in bank loans made to the bus companies they controlled. In addition, Castellano and Thomas Scialpi are charged with conspiring to defraud the United States of over $10 million in payroll taxes for employees of the bus companies. Thomas Scialpi is also charged with bank fraud and conspiring to commit bank fraud in connection with a $700,000 loan he used to purchase a yacht. The defendants surrendered this morning and were arraigned today at the U.S. Courthouse, 225 Cadman Plaza East, Brooklyn, New York.

The indictment was announced by Kelly T. Currie, Acting United States Attorney for the Eastern District of New York; Thomas E. Bishop, Acting Special Agent in Charge, Internal Revenue Service-Criminal Investigation (IRS-CI); Cheryl Garcia, Special Agent in Charge, United States Department of Labor, Office of Inspector General, Office of Labor Racketeering and Fraud Investigations in New York; and Jonathan Kay, Regional Director, New York Regional Office, Employee Benefits Security Administration, United States Department of Labor.

As alleged in the indictment, Castellano, Thomas Scialpi, and Dennis Scialpi owned various school bus companies (referred to in the indictment as the United Entities) that provided transportation to children attending New York City Public Schools between 2004 and 2011. During that period, the New York City Department of Education paid the United Entities approximately $310 million for their transportation services.

The 2004 and 2007 Bank Frauds

As alleged, in 2004 at the direction of the defendants, the United Entities applied to Comerica Bank for a $10 million loan (the 2004 Loan). In support of its loan application, the United Entities submitted to Comerica false and fraudulent financial statements and corporate income tax returns. The primary purpose of the 2004 Loan was to establish an employee stock ownership plan (ESOP) for the benefit of non-union employees of the United Entities. On or about October 30, 2007, the United Entities executed another fraudulent loan agreement with Comerica for an additional $4.5 million (the 2007 Loan), related to the ESOP. However, although the United Entities formally established the ESOP by filing required forms with the United States Department of Labor, it never made any of the required disclosures to their employees and never funded the ESOP as promised. As a result, nearly all of the United Entities employees who were the intended beneficiaries of the ESOP were unaware that it existed, and those employees never received the benefits to which they were entitled under the ESOP.

In addition, between June 2004 and July 2011, at the direction of the defendants, the United Entities submitted materially false and fraudulent quarterly financial statements to Comerica that misrepresented its financial condition in order to conceal that the United Entities were violating the terms of the agreements for the 2004 Loan and the 2007 Loan. The United Entities ultimately defaulted on their repayment obligations for both loans.

The 2007 Yacht Loan

In 2007, Thomas Scialpi applied for a $700,615 loan from Soverign Bank for the purpose of purchasing a yacht. In support of the loan, Scialpi allegedly directed another individual to create false corporate tax returns for one of the United Entities and fictitious W-2 forms. Scialpi submitted these fabricated documents to Soverign, and Soverign approved the loan and disbursed $700,615 to Scialpi. Scialpi ultimately defaulted on the loan.

The Payroll Tax Fraud Conspiracy

As alleged, Laraine Castellano and Thomas Scialpi also created purported professional employer organizations, or PEOs, as part of a conspiracy to defraud the United States of more than $10 million in payroll taxes they owed for wages paid to the United Entities employees. A PEO is an entity created to perform some or all of a company's federal payroll tax withholding, reporting, and payment functions. In 2008 and 2009, Castellano created and controlled entities that purported to be PEOs to handle payroll taxes for United Entities' employees. In 2010, the two defendants created and controlled additional entities that purported to be PEOs for United Entities' employees. Castellano and Scialpi were required to collect, account for, and pay to the IRS payroll taxes that were due and owing on wages of United Entities employees. However, they ensured that the funds transferred from the United Entities to the purported PEOs would be insufficient to satisfy the United Entities' payroll tax obligations. When the shortfall in payroll taxes was discovered by the IRS, Castellano and Thomas Scialpi created yet another purported PEO to continue the scheme. Through these purported PEOs, the two defendants conspired to defraud the United States of more than $10 million in payroll taxes.

"Companies owned and operated by Laraine Castellano, Thomas Scialpi, and Dennis Scialpi received more than $300 million from city contracts to transport children to New York City public schools. But that was not enough for these defendants. As alleged, they used their companies to defraud the federal government and financial institutions of tens of millions of dollars, all to enrich themselves. We will continue to work closely with our law enforcement partners to protect taxpayers and to vigorously prosecute such criminal activity," stated Acting United States Attorney Currie.

"The willful failure of a business owner to collect, account for, and pay over payroll taxes is a serious crime investigated by IRS-Criminal Investigation," said Acting Special Agent in Charge Bishop. "As alleged, when the defendants created the purported PEOs to circumvent their payroll tax obligations, they potentially deprived their workers of future benefits, the U.S. Government of much needed tax revenue, and effectively left it to the taxpaying public to make up the difference."

"Employee Stock Ownership Plans are intended to provide retirement income for employees. We will not countenance individuals using the guise of an ESOP to enrich themselves and deprive employees of retirement benefits while allegedly committing bank fraud and other crimes," said Regional Director Kay.

If convicted of all counts, Castellano faces a maximum sentence of 65 years imprisonment, Thomas Scialpi faces a maximum sentence of 125 years imprisonment, and Dennis Scialpi faces a maximum sentence of 60 years imprisonment.

The government's case is being handled by the Office's Public Integrity Section. Assistant United States Attorneys Marisa Seifan, Kevin Trowel, and Lan Nguyen are in charge of the prosecution.

The Defendants:

LARAINE CASTELLANO
Age: 72
Staten Island, New York

THOMAS SCIALPI
Age: 51
Saddle River, New Jersey

DENNIS SCIALPI
Age: 44
Staten Island, New York

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