

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
WESTERN DIVISION

UNITED STATES OF AMERICA)
) No. _____
 vs.) Violations: Title 18, United States Code,
) Sections 1341 and 1027, and Title 26,
 THOMAS MANNING) United States Code, Sections 7202 and 7212

COUNT ONE

The JULY 2014 GRAND JURY charges:

1. At times materials to this indictment:

a. T. Manning Concrete, Inc. (“T. Manning Concrete”) was a corporation with its principal place of business at 11804 South Illinois Route 47, Huntley, Illinois 61042. T. Manning Concrete was engaged in the construction business.

b. Defendant THOMAS MANNING was the president of T. Manning Concrete. Defendant MANNING maintained and had authority over T. Manning Concrete’s bank accounts, including accounts at Harris, N.A., PNC Bank, N.A. (formerly National City Bank), and American Community Bank & Trust, as well as his personal bank accounts held in defendant MANNING’s name.

c. The Laborers’ International Union of North America, Construction and General Laborers’ District Council of Chicago and Vicinity (the “Chicago District Council”) was a labor organization based in Chicago, Illinois. Laborers’ Local 96, headquartered in Glen Ellyn, Illinois, Laborers’ Local 288, headquartered in Westmont, Illinois, Laborers’ Local 118, headquartered in Arlington, Heights, Illinois, Laborers’ Local 582, headquartered in Elgin, Illinois, and Laborers’ Local 1035, headquartered in Marengo, Illinois, were local labor unions

affiliated with the Chicago District Council. The Northern Illinois District Council of the Operative Plasterers and Cement Masons International Association (“Northern Illinois District Council”) was an organization based in Bellwood, Illinois. Cement Masons and Plasterers Local 502, headquartered in Bellwood, Illinois, was a local cement masons union affiliated with the Northern Illinois District Council. This local labor union and the local cement masons union (collectively “the Unions”) provided their members with certain employee benefits through (1) the Fox Valley Laborers Health and Welfare Fund (the “Health and Welfare Fund”), and (2) the Fox Valley Laborers Pension Fund (the “Pension Fund”)(collectively “the Funds”).

d. The Funds, located in Elgin, Illinois, were jointly administered by a Board of Trustees composed of representatives of employers and employees. The Funds received monthly contributions from employer-signatories to collective bargaining agreements (the “CBAs”) with those labor unions whose members participated in the Funds.

e. T. Manning Concrete was an employer-signatory to a CBA with the Unions. T. Manning Concrete and the Unions were bound by the CBAs which governed all aspects of the labor-management relationship between T. Manning Concrete and the Unions, including wages and benefits, dues, and employment procedures. Among other things, the CBAs required T. Manning Concrete to make monthly contributions to the Funds for each employee covered by the CBAs (collectively, “covered employees”). The CBAs also required T. Manning Concrete to provide the Funds with monthly remittance reports identifying the total contribution amount due for all covered employees.

f. T. Manning Concrete was required to submit monthly remittance reports to the Funds and identify: (i) the covered employees who had worked at T. Manning Concrete during

the previous month and the number of hours worked by each covered employee; and (ii) the monthly contribution amount owed by T. Manning Concrete to the Funds for each of the covered employees based on the number of hours worked. Each month, T. Manning Concrete was required to remit to the Funds all of the required contributions on behalf of these covered employees. T. Manning Concrete was required to provide to the Funds a monthly remittance form declaring the monthly contributions to the Funds for each covered employee. In each monthly remittance report an authorized officer or agent of T. Manning Concrete was required to warrant that the document accurately reported all hours worked by all covered employees in its employ.

g. T. Manning Concrete maintained weekly time sheets that listed the hours reported as being worked by each covered employee. Payroll checks were drawn upon T. Manning Concrete's bank account at Harris N.A. The payroll checks issued to T. Manning Concrete covered employees made deductions for all federal payroll taxes and Union dues. On a monthly basis, MANNING calculated or caused to be calculated the monthly hours worked by each of T. Manning Concrete's covered employees and prepared the monthly remittance reports. A check was then drawn on T. Manning Concrete's Harris N.A. bank account, which purported to represent T. Manning Concrete's contribution to the Funds.

2. Beginning in or about 2006, and continuing through on or about August 2011, in the Northern District of Illinois, Western Division, and elsewhere,

THOMAS MANNING,

defendant herein, devised and intended to devise a scheme to defraud the Funds, which scheme is further described below.

3. It was the object of the scheme to defraud the Funds by means of materially false and fraudulent pretenses, representations, and promises, and material omissions.

4. It was part of the scheme to defraud that defendant MANNING knowingly and intentionally caused T. Manning Concrete to provide the Funds with monthly remittance reports that fraudulently understated the number of hours worked by T. Manning Concrete's covered employees in order to deceive representatives of the Funds into believing that the amounts due from T. Manning Concrete to the Funds were less than they actually were, and to conceal from the Funds that T. Manning Concrete was substantially under-paying the monthly contributions that the CBAs required it to make on behalf of its covered employees.

5. It was further a part of the scheme to defraud that, in addition to the hours reported by T. Manning Concrete on monthly remittance reports submitted to the Funds, T. Manning Concrete's covered employees also worked a substantial number of hours, including regular and overtime hours, that defendant MANNING did not report to the Funds. In order to conceal from the Funds that T. Manning Concrete's covered employees were working these additional hours, and to defraud the Funds of the contributions due for those hours under the CBAs, MANNING caused T. Manning Concrete's covered employees to be paid for these additional hours "under the table," with checks from non-payroll T. Manning Concrete bank accounts under defendant MANNING's control.

6. It was further a part of the scheme to defraud that MANNING would enter or cause to be entered onto the monthly remittance reports submitted to the Funds only those hours for which T. Manning Concrete's covered employees were paid from T. Manning Concrete's payroll account at Harris, N.A., thereby causing the remittance reports to fraudulently understate the

number of hours worked and the total amount due from T. Manning Concrete to the Funds, and concealing from the Funds the hours for which T. Manning Concrete's covered employees were paid "under the table." After MANNING prepared or caused to be prepared the fraudulent monthly remittance reports, contribution checks were issued and sent along with the fraudulent monthly remittance reports to the Funds.

7. It was further part of the scheme that in the manner described above, defendant MANNING enabled T. Manning Concrete to defraud the Funds of substantial amounts of money by falsely representing to the Funds the number of hours worked by T. Manning Concrete employees.

8. It was further part of the scheme that defendant MANNING misrepresented, concealed, hid and caused to be misrepresented, concealed, and hidden, the purpose of and acts done in furtherance of this fraud scheme.

9. On or about May 11, 2009, in the Northern District of Illinois, Western Division,
THOMAS MANNING,
defendant herein, for the purpose of executing and concealing the above-described scheme, and attempting to do so, knowingly did cause to be delivered by mail, according to the direction thereon, an envelope containing the April 2009 monthly remittance report and contribution checks from T. Manning Concrete in Huntley, Illinois, which envelope was addressed to the Funds at their address in Chicago, Illinois;

In violation of Title 18, United States Code, Section 1341.

COUNT TWO

The JULY 2014 GRAND JURY further charges:

1. The Grand Jury realleges and incorporates by reference paragraphs 1 through 8 of Count One of this Indictment as though fully set forth herein.

2. On or about June 5, 2009, in the Northern District of Illinois, Western Division,
THOMAS MANNING,
defendant herein, for the purpose of executing and concealing the above-described scheme, and attempting to do so, knowingly did cause to be delivered by mail, according to the direction thereon, an envelope containing the May 2009 monthly remittance report and contribution checks from T. Manning Concrete in Huntley, Illinois, which envelope was addressed to the Funds at their address in Chicago, Illinois;

In violation of Title 18, United States Code, Section 1341.

COUNT THREE

The JULY 2014 GRAND JURY further charges:

1. The Grand Jury realleges and incorporates by reference paragraphs 1 through 8 of Count One of this Indictment as though fully set forth herein.

2. On or about July 7, 2009, in the Northern District of Illinois, Western Division,

THOMAS MANNING,

defendant herein, for the purpose of executing and concealing the above-described scheme, and attempting to do so, knowingly did cause to be delivered by mail, according to the direction thereon, an envelope containing the June 2009 monthly remittance report and contribution checks from T. Manning Concrete in Huntley, Illinois, which envelope was addressed to the Funds at their address in Chicago, Illinois;

In violation of Title 18, United States Code, Section 1341.

COUNT FOUR

The JULY 2014 GRAND JURY further charges:

1. The Grand Jury realleges and incorporates by reference paragraphs 1 through 8 of Count One of this Indictment as though fully set forth herein.

2. On or about August 10, 2009, in the Northern District of Illinois, Western Division,

THOMAS MANNING,

defendant herein, for the purpose of executing and concealing the above-described scheme, and attempting to do so, knowingly did cause to be delivered by mail, according to the direction thereon, an envelope containing the July 2009 monthly remittance report and contribution checks from T. Manning Concrete in Huntley, Illinois, which envelope was addressed to the Funds at their address in Chicago, Illinois;

In violation of Title 18, United States Code, Section 1341.

COUNT FIVE

The JULY 2014 GRAND JURY further charges:

1. The Grand Jury realleges and incorporates by reference paragraphs 1 through 8 of Count One of this Indictment as though fully set forth herein.
2. On or about September 9, 2009, in the Northern District of Illinois, Western Division,

THOMAS MANNING,

defendant herein, for the purpose of executing and concealing the above-described scheme, and attempting to do so, knowingly did cause to be delivered by mail, according to the direction thereon, an envelope containing the August 2009 monthly remittance report and contribution checks from T. Manning Concrete in Huntley, Illinois, which envelope was addressed to the Funds at their address in Chicago, Illinois;

In violation of Title 18, United States Code, Section 1341.

COUNT SIX

The JULY 2014 GRAND JURY further charges:

1. The Grand Jury realleges and incorporates by reference paragraph 1 of Count One of this Indictment as though fully set forth herein.

2. At times materials to this Indictment:

a. The Funds were “employee benefit plans” and subject to Title I of the Employee Retirement Income Security Act of 1974, as amended, (“ERISA”), Title 29, United States Code, Section 1001, *et seq.*

b. Pursuant to Title I of ERISA, the Funds were required to publish and file truthful annual reports, namely United States Department of Labor Form 5500s, also known as the Annual Return/Report of Employee Benefit Plan (“Form 5500”), with the United States Departments of Labor and Treasury. The report, among other things, detailed the total contributions received by such Funds.

c. Pursuant to Title I of ERISA, the Funds were required to keep copies of the monthly remittance reports submitted by T. Manning Concrete as part of their records.

3. On or about May 11, 2009, in the Northern District of Illinois, Western Division,
THOMAS MANNING,
defendant herein, in documents required by Title I of ERISA to be kept and maintained as part of records of the Funds, did make and cause to be made false statements and representations of fact, knowing them to be false, and did knowingly conceal, cover up, and not disclose, and cause to be concealed, to be covered up, and not disclosed, facts the disclosure of which was necessary to verify, explain, clarify, and check for accuracy and completeness of the Funds’ Form 5500 report

covering April 2009 by submitting and causing to be submitted to such Funds a monthly remittance report for the month of April 2009, which report defendant knew falsely reported the number of hours worked by employees of T. Manning Concrete, on whose behalf T. Manning Concrete was required to make contributions to the Funds, and which defendant knew falsely reported the amount of money owed to such Funds from T. Manning Concrete;

In violation of Title 18, United States Code, Section 1027.

COUNT SEVEN

The JULY 2014 GRAND JURY further charges:

1. The Grand Jury realleges and incorporates by reference paragraph 1 of Count One and paragraph 2 of Count Six of this Indictment as though fully set forth herein.

2. On or about June 5, 2009, in the Northern District of Illinois, Western Division,

THOMAS MANNING,

defendant herein, in documents required by Title I of ERISA to be kept and maintained as part of records of the Funds, did make and cause to be made false statements and representations of fact, knowing them to be false, and did knowingly conceal, cover up, and not disclose, and cause to be concealed, to be covered up, and not disclosed, facts the disclosure of which was necessary to verify, explain, clarify, and check for accuracy and completeness of the Funds' Form 5500 report covering May 2009 by submitting and causing to be submitted to such Funds a monthly remittance report for the month of May 2009, which report defendant knew falsely reports the number of hours worked by employees of T. Manning Concrete, on whose behalf T. Manning Concrete was required to make contributions to the Funds, and which defendant knew falsely reported the amount of money owed to such Funds from T. Manning Concrete;

In violation of Title 18, United States Code, Section 1027.

COUNT EIGHT

The JULY 2014 GRAND JURY further charges:

1. The Grand Jury realleges and incorporates by reference paragraph 1 of Count One and paragraph 2 of Count Six of this Indictment as though fully set forth herein.

2. On or about July 7, 2009, in the Northern District of Illinois, Western Division,

THOMAS MANNING,

defendant herein, in documents required by Title I of ERISA to be kept and maintained as part of records of the Funds, did make and cause to be made false statements and representations of fact, knowing them to be false, and did knowingly conceal, cover up, and not disclose, and cause to be concealed, to be covered up, and not disclosed, facts the disclosure of which was necessary to verify, explain, clarify, and check for accuracy and completeness of the Funds' Form 5500 report covering June 2009 by submitting and causing to be submitted to such Funds a monthly remittance report for the month of June 2009, which report defendant knew falsely reports the number of hours worked by employees of T. Manning Concrete, on whose behalf T. Manning Concrete was required to make contributions to the Funds, and which defendant knew falsely reported the amount of money owed to such Funds from T. Manning Concrete;

In violation of Title 18, United States Code, Section 1027.

COUNT NINE

The JULY 2014 GRAND JURY further charges:

1. The Grand Jury realleges and incorporates by reference paragraph 1 of Count One and paragraph 2 of Count Six of this Indictment as though fully set forth herein.

2. On or about August 10, 2009, in the Northern District of Illinois, Western Division,

THOMAS MANNING,

defendant herein, in documents required by Title I of ERISA to be kept and maintained as part of records of the Funds, did make and cause to be made false statements and representations of fact, knowing them to be false, and did knowingly conceal, cover up, and not disclose, and cause to be concealed, to be covered up, and not disclosed, facts the disclosure of which was necessary to verify, explain, clarify, and check for accuracy and completeness of the Funds' Form 5500 report covering July 2009 by submitting and causing to be submitted to such Funds a monthly remittance report for the month of July 2009, which report defendant knew falsely reports the number of hours worked by employees of T. Manning Concrete, on whose behalf T. Manning Concrete was required to make contributions to the Funds, and which defendant knew falsely reported the amount of money owed to such Funds from T. Manning Concrete;

In violation of Title 18, United States Code, Section 1027.

COUNT TEN

The JULY 2014 GRAND JURY further charges:

1. The Grand Jury realleges and incorporates by reference paragraph 1 of Count One and paragraph 2 of Count Six of this Indictment as though fully set forth herein.
2. On or about September 9, 2009, in the Northern District of Illinois, Western Division,

THOMAS MANNING,

defendant herein, in documents required by Title I of ERISA to be kept and maintained as part of records of the Funds, did make and cause to be made false statements and representations of fact, knowing them to be false, and did knowingly conceal, cover up, and not disclose, and cause to be concealed, to be covered up, and not disclosed, facts the disclosure of which was necessary to verify, explain, clarify, and check for accuracy and completeness of the Funds' Form 5500 report covering August 2009 by submitting and causing to be submitted to such Funds a monthly remittance report for the month of August 2009, which report defendant knew falsely reports the number of hours worked by employees of T. Manning Concrete, on whose behalf T. Manning Concrete was required to make contributions to the Funds, and which defendant knew falsely reported the amount of money owed to such Funds from T. Manning Concrete;

In violation of Title 18, United States Code, Section 1027.

COUNT ELEVEN

The JULY 2014 GRAND JURY further charges:

1. In 2007, defendant THOMAS MANNING, as President of T. Manning Concrete, had a duty to collect, truthfully account for, and pay over certain federal employment taxes on a quarterly basis, including both the employees' and employer's share of Federal Insurance Contribution Act ("FICA") taxes on wages of individual employees of T. Manning Concrete.

2. Between January 1, 2007 and April 16, 2007, at Huntley, in the Northern District of Illinois, Western Division, and elsewhere,

THOMAS MANNING,

defendant herein, who was required by law to collect, account for, and pay over FICA taxes from the wages of T. Manning Concrete employees, willfully failed to collect, truthfully account for, and pay over to the Internal Revenue Service approximately \$104,463.15 in FICA taxes that were due and owing to the United States for the first quarter of 2007;

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

COUNT TWELVE

The JULY 2014 GRAND JURY further charges:

1. In 2007, defendant THOMAS MANNING, as President of T. Manning Concrete, had a duty to collect, truthfully account for, and pay over certain federal employment taxes on a quarterly basis, including both the employees' and employer's share of Federal Insurance Contribution Act ("FICA") taxes on wages of individual employees of T. Manning Concrete.

2. Between April 1, 2007 and July 16, 2007, at Huntley, in the Northern District of Illinois, Western Division, and elsewhere,

THOMAS MANNING,

defendant herein, who was required by law to collect, account for, and pay over FICA taxes from the wages of T. Manning Concrete employees, willfully failed to collect, truthfully account for, and pay over to the Internal Revenue Service approximately \$48,375.39 in FICA taxes that were due and owing to the United States for the second quarter of 2007;

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

COUNT THIRTEEN

The JULY 2014 GRAND JURY further charges:

1. In 2007, defendant THOMAS MANNING, as President of T. Manning Concrete, had a duty to collect, truthfully account for, and pay over certain federal employment taxes on a quarterly basis, including both the employees' and employer's share of Federal Insurance Contribution Act ("FICA") taxes on wages of individual employees of T. Manning Concrete.

2. Between July 1, 2007 and October 15, 2007, at Huntley, in the Northern District of Illinois, Western Division, and elsewhere,

THOMAS MANNING,

defendant herein, who was required by law to collect, account for, and pay over FICA taxes from the wages of T. Manning Concrete employees, willfully failed to collect, truthfully account for, and pay over to the Internal Revenue Service approximately \$56,704.91 in FICA taxes that were due and owing to the United States for the third quarter of 2007;

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

COUNT FOURTEEN

The JULY 2014 GRAND JURY further charges:

1. In 2007, defendant THOMAS MANNING, as President of T. Manning Concrete, had a duty to collect, truthfully account for, and pay over certain federal employment taxes on a quarterly basis, including both the employees' and employer's share of Federal Insurance Contribution Act ("FICA") taxes on wages of individual employees of T. Manning Concrete.

2. Between October 1, 2007 and January 15, 2008, at Huntley, in the Northern District of Illinois, Western Division, and elsewhere,

THOMAS MANNING,

defendant herein, who was required by law to collect, account for, and pay over FICA taxes from the wages of T. Manning Concrete employees, willfully failed to collect, truthfully account for, and pay over to the Internal Revenue Service approximately \$94,363.52 in FICA taxes that were due and owing to the United States for the fourth quarter of 2007;

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

COUNT FIFTEEN

The JULY 2014 GRAND JURY further charges:

1. In 2008, defendant THOMAS MANNING, as President of T. Manning Concrete, had a duty to collect, truthfully account for, and pay over certain federal employment taxes on a quarterly basis, including both the employees' and employer's share of Federal Insurance Contribution Act ("FICA") taxes on wages of individual employees of T. Manning Concrete.

2. Between January 1, 2008 and April 15, 2008, at Huntley, in the Northern District of Illinois, Western Division, and elsewhere,

THOMAS MANNING,

defendant herein, who was required by law to collect, account for, and pay over FICA taxes from the wages of T. Manning Concrete employees, willfully failed to collect, truthfully account for, and pay over to the Internal Revenue Service approximately \$85,793.76 in FICA taxes that were due and owing to the United States for the first quarter of 2008;

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

COUNT SIXTEEN

The JULY 2014 GRAND JURY further charges:

1. In 2008, defendant THOMAS MANNING, as President of T. Manning Concrete, had a duty to collect, truthfully account for, and pay over certain federal employment taxes on a quarterly basis, including both the employees' and employer's share of Federal Insurance Contribution Act ("FICA") taxes on wages of individual employees of T. Manning Concrete.

2. Between April 1, 2008 and July 15, 2008, at Huntley, in the Northern District of Illinois, Western Division, and elsewhere,

THOMAS MANNING,

defendant herein, who was required by law to collect, account for, and pay over FICA taxes from the wages of T. Manning Concrete employees, willfully failed to collect, truthfully account for, and pay over to the Internal Revenue Service approximately \$28,509.79 in FICA taxes that were due and owing to the United States for the second quarter of 2008;

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

COUNT SEVENTEEN

The JULY 2014 GRAND JURY further charges:

1. In 2008, defendant THOMAS MANNING, as President of T. Manning Concrete, had a duty to collect, truthfully account for, and pay over certain federal employment taxes on a quarterly basis, including both the employees' and employer's share of Federal Insurance Contribution Act ("FICA") taxes on wages of individual employees of T. Manning Concrete.

2. Between July 1, 2008 and October 15, 2008, at Huntley, in the Northern District of Illinois, Western Division, and elsewhere,

THOMAS MANNING,

defendant herein, who was required by law to collect, account for, and pay over FICA taxes from the wages of T. Manning Concrete employees, willfully failed to collect, truthfully account for, and pay over to the Internal Revenue Service approximately \$1,016.41 in FICA taxes that were due and owing to the United States for the third quarter of 2008;

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

COUNT EIGHTEEN

The JULY 2014 GRAND JURY further charges:

1. In 2008, defendant THOMAS MANNING, as President of T. Manning Concrete, had a duty to collect, truthfully account for, and pay over certain federal employment taxes on a quarterly basis, including both the employees' and employer's share of Federal Insurance Contribution Act ("FICA") taxes on wages of individual employees of T. Manning Concrete.

2. Between October 1, 2008 and January 15, 2009, at Huntley, in the Northern District of Illinois, Western Division, and elsewhere,

THOMAS MANNING,

defendant herein, who was required by law to collect, account for, and pay over FICA taxes from the wages of T. Manning Concrete employees, willfully failed to collect, truthfully account for, and pay over to the Internal Revenue Service approximately \$596.55 in FICA taxes that were due and owing to the United States for the fourth quarter of 2008;

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

COUNT NINETEEN

The JULY 2014 GRAND JURY further charges:

1. In 2009, defendant THOMAS MANNING, as President of T. Manning Concrete, had a duty to collect, truthfully account for, and pay over certain federal employment taxes on a quarterly basis, including both the employees' and employer's share of Federal Insurance Contribution Act ("FICA") taxes on wages of individual employees of T. Manning Concrete.

2. Between January 1, 2009 and April 15, 2009, at Huntley, in the Northern District of Illinois, Western Division, and elsewhere,

THOMAS MANNING,

defendant herein, who was required by law to collect, account for, and pay over FICA taxes from the wages of T. Manning Concrete employees, willfully failed to collect, truthfully account for, and pay over to the Internal Revenue Service approximately \$41,562.68 in FICA taxes that were due and owing to the United States for the first quarter of 2009;

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

COUNT TWENTY

The JULY 2014 GRAND JURY further charges:

1. In 2009, defendant THOMAS MANNING, as President of T. Manning Concrete, had a duty to collect, truthfully account for, and pay over certain federal employment taxes on a quarterly basis, including both the employees' and employer's share of Federal Insurance Contribution Act ("FICA") taxes on wages of individual employees of T. Manning Concrete.

2. Between April 1, 2009 and July 15, 2009, at Huntley, in the Northern District of Illinois, Western Division, and elsewhere,

THOMAS MANNING,

defendant herein, who was required by law to collect, account for, and pay over FICA taxes from the wages of T. Manning Concrete employees, willfully failed to collect, truthfully account for, and pay over to the Internal Revenue Service approximately \$22,939.90 in FICA taxes that were due and owing to the United States for the second quarter of 2009;

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

COUNT TWENTY-ONE

The JULY 2014 GRAND JURY further charges:

1. In 2009, defendant THOMAS MANNING, as President of T. Manning Concrete, had a duty to collect, truthfully account for, and pay over certain federal employment taxes on a quarterly basis, including both the employees' and employer's share of Federal Insurance Contribution Act ("FICA") taxes on wages of individual employees of T. Manning Concrete.

2. Between July 1, 2009 and October 15, 2009, at Huntley, in the Northern District of Illinois, Western Division, and elsewhere,

THOMAS MANNING,

defendant herein, who was required by law to collect, account for, and pay over FICA taxes from the wages of T. Manning Concrete employees, willfully failed to collect, truthfully account for, and pay over to the Internal Revenue Service approximately \$6,737.51 in FICA taxes that were due and owing to the United States for the third quarter of 2009;

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

COUNT TWENTY-TWO

The JULY 2014 GRAND JURY further charges:

1. In 2009, defendant THOMAS MANNING, as President of T. Manning Concrete, had a duty to collect, truthfully account for, and pay over certain federal employment taxes on a quarterly basis, including both the employees' and employer's share of Federal Insurance Contribution Act ("FICA") taxes on wages of individual employees of T. Manning Concrete.

2. Between October 1, 2009 and January 15, 2010, at Huntley, in the Northern District of Illinois, Western Division, and elsewhere,

THOMAS MANNING,

defendant herein, who was required by law to collect, account for, and pay over FICA taxes from the wages of T. Manning Concrete employees, willfully failed to collect, truthfully account for, and pay over to the Internal Revenue Service approximately \$43,466.85 in FICA taxes that were due and owing to the United States for the fourth quarter of 2009;

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

COUNT TWENTY-THREE

The JULY 2014 GRAND JURY further charges:

1. In 2010, defendant THOMAS MANNING, as President of T. Manning Concrete, had a duty to collect, truthfully account for, and pay over certain federal employment taxes on a quarterly basis, including both the employees' and employer's share of Federal Insurance Contribution Act ("FICA") taxes on wages of individual employees of T. Manning Concrete.

2. Between January 1, 2010 and April 15, 2010, at Huntley, in the Northern District of Illinois, Western Division, and elsewhere,

THOMAS MANNING,

defendant herein, who was required by law to collect, account for, and pay over FICA taxes from the wages of T. Manning Concrete employees, willfully failed to collect, truthfully account for, and pay over to the Internal Revenue Service approximately \$28,270.04 in FICA taxes that were due and owing to the United States for the first quarter of 2010;

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

COUNT TWENTY-FOUR

The JULY 2014 GRAND JURY further charges:

1. In 2010, defendant THOMAS MANNING, as President of T. Manning Concrete, had a duty to collect, truthfully account for, and pay over certain federal employment taxes on a quarterly basis, including both the employees' and employer's share of Federal Insurance Contribution Act ("FICA") taxes on wages of individual employees of T. Manning Concrete.

2. Between April 1, 2010 and July 15, 2010, at Huntley, in the Northern District of Illinois, Western Division, and elsewhere,

THOMAS MANNING,

defendant herein, who was required by law to collect, account for, and pay over FICA taxes from the wages of T. Manning Concrete employees, willfully failed to collect, truthfully account for, and pay over to the Internal Revenue Service approximately \$18,256.95 in FICA taxes that were due and owing to the United States for the second quarter of 2010;

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

COUNT TWENTY-FIVE

The JULY 2014 GRAND JURY further charges:

1. In 2010, defendant THOMAS MANNING, as President of T. Manning Concrete, had a duty to collect, truthfully account for, and pay over certain federal employment taxes on a quarterly basis, including both the employees' and employer's share of Federal Insurance Contribution Act ("FICA") taxes on wages of individual employees of T. Manning Concrete.

2. Between July 1, 2010 and October 15, 2010, at Huntley, in the Northern District of Illinois, Western Division, and elsewhere,

THOMAS MANNING,

defendant herein, who was required by law to collect, account for, and pay over FICA taxes from the wages of T. Manning Concrete employees, willfully failed to collect, truthfully account for, and pay over to the Internal Revenue Service approximately \$16,285.40 in FICA taxes that were due and owing to the United States for the third quarter of 2010;

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

COUNT TWENTY-SIX

The JULY 2014 GRAND JURY further charges:

1. In 2010, defendant THOMAS MANNING, as President of T. Manning Concrete, had a duty to collect, truthfully account for, and pay over certain federal employment taxes on a quarterly basis, including both the employees' and employer's share of Federal Insurance Contribution Act ("FICA") taxes on wages of individual employees of T. Manning Concrete.

2. Between October 1, 2010 and January 17, 2011, at Huntley, in the Northern District of Illinois, Western Division, and elsewhere,

THOMAS MANNING,

defendant herein, who was required by law to collect, account for, and pay over FICA taxes from the wages of T. Manning Concrete employees, willfully failed to collect, truthfully account for, and pay over to the Internal Revenue Service approximately \$3,337.31 in FICA taxes that were due and owing to the United States for the fourth quarter of 2010;

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

TWENTY-SEVEN

The JULY 2014 GRAND JURY further charges:

Beginning on or about January 1, 2007 and continuing through December 31, 2010, at Huntley, in the Northern District of Illinois, Western Division, and elsewhere,

THOMAS MANNING,

defendant herein, did corruptly endeavor to obstruct and impede the due administration of the internal revenue laws by using secondary bank accounts from which defendant would pay T. Manning Concrete employees wages for work done for T. Manning Concrete without withholding any Federal Insurance Contributions Act taxes and federal income taxes and reporting the income to the Internal Revenue Service, thereby causing false Form W-2s and false Form 941s to be filed with the Internal Revenue Service;

In violation of Title 26, United States Code, Section 7212.

FORFEITURE ALLEGATION

1. The allegations contained in Counts One through Five of this Indictment are realleged and incorporated herein by reference for the purpose of alleging forfeiture pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c).

2. As a result of his violations of Title 18, United States Code, Section 1341, as alleged in Counts One through Five of the Indictment,

THOMAS MANNING,

Defendant herein, shall forfeit to the United States, pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c), any and all right, title, and interest in property, real and personal, which constitutes and is derived from proceeds traceable to the charged offenses.

3. The interest of the defendant subject to forfeiture pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c), which includes but is not limited to more than \$1,000,000.

4. To the extent that any of the property described above, 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;
- (e) has been commingled with other property that cannot be subdivided without

difficulty;

the United States of America shall be entitled to forfeiture of substitute property under the provisions of Title 21, United States Code, Section 853(p), as incorporated by Title 28, United States Code, Section 2461(c).

All pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c).

A TRUE BILL:

FOREPERSON

UNITED STATES ATTORNEY