

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

UNITED STATES OF AMERICA : Hon.
 :
 v. : Crim. No.
 :
 JORGE FERNANDES : 26 U.S.C. § 7202 and
 : 18 U.S.C. § 2

I N F O R M A T I O N

The defendant having waived in open court prosecution by Indictment, the United States Attorney for the District of New Jersey charges:

COUNT ONE

(Failure to Collect and Pay Payroll Taxes – Restaurant-1)

1. At all times relevant to this Information:

a. Defendant Jorge Fernandes (“Fernandes”) was a fifty-percent owner of two restaurants, Restaurant-1 and Restaurant-2 (collectively “the Restaurants”), which were located in the Ironbound section of Newark, New Jersey.

b. As the owner-operator of the Restaurants, Fernandes employed dozens of employees, including servers, cooks, and others responsible for the Restaurants’ day-to-day operations. Many of these employees were not legally present in the United States, and Fernandes did not report their employment to the Internal Revenue Service (“IRS”), as he paid them in cash, or “under the table.” A number of other employees were, in fact, reported as employees to the IRS, but were compensated for a significant percentage of their work “under the table.”

2. Fernandes was in charge of the Restaurants' payroll, which included being responsible for collecting, accounting for, and paying over to the IRS withholdings from the Restaurants' employees for social security, Medicare, and income taxes (collectively referred to as the "Trust Fund Taxes"). Fernandes was also responsible for calculating and paying over the employer's portion of social security and Medicare taxes (collectively referred to as the "Payroll Taxes") to the IRS based on the total wages paid to the employees at the Restaurants.

3. In addition, Fernandes was responsible for making and filing with the IRS quarterly employment tax returns on Forms 941, reflecting the Trust Fund Taxes and Payroll Taxes that the Restaurants had withheld and paid during the previous quarter.

4. During tax years 2016 and 2017, Fernandes knowingly and intentionally failed to report dozens of the Restaurants' collective employees to the IRS. Instead, he paid those employees by cash, totaling approximately \$2,829,169 (approximately \$1,646,864 for Restaurant-1 and approximately \$1,182,305 for Restaurant-2). By paying these "off the book" wages, Defendant Fernandes avoided paying to the IRS approximately \$715,780.21 (\$416,656.86 for Restaurant-1 and \$299,123.35 for Restaurant-2) in Trust Fund and Payroll Taxes.

5. In or around 2016 through in or around 2017, in Essex County, in the District of New Jersey, and elsewhere, the defendant,

JORGE FERNANDES,

being a person required to collect, truthfully account for, and pay over Trust Fund and Payroll Taxes to the Internal Revenue Service for tax years 2016 through 2017 for Restaurant-1, did knowingly and willfully fail to truthfully account for and pay over the taxes due and owing in the amount of \$416,656.86.

In violation of Title 26, United States Code, Section 7202 and Title 18, United States Code, Section 2.

COUNT TWO

(Failure to Collect and Pay Payroll Taxes – Restaurant-2)

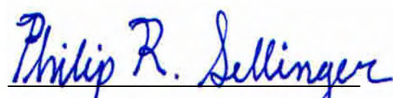
1. The allegations contained in paragraphs 1 through 4 of Count One of this Information are re-alleged herein.

2. In or around 2016 through in or around 2017, in Essex County, in the District of New Jersey, and elsewhere, the defendant,

JORGE FERNANDES,

being a person required to collect, truthfully account for, and pay over Trust Fund and Payroll Taxes to the Internal Revenue Service for tax years 2016 through 2017 for Restaurant-2, did knowingly and willfully fail to truthfully account for and pay over the taxes due and owing in the amount of \$299,123.35.

In violation of Title 26, United States Code, Section 7202 and Title 18, United States Code, Section 2.


PHILIP R. SELLINGER
United States Attorney