

Eastern District of New York



[[Back to Press Releases - Main Page](#)]

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Eastern District of New York

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PRESS RELEASE

TRUCKING COMPANY OWNERS INDICTED ON EMBEZZLEMENT, TAX EVASION AND MILLION DOLLAR FRAUD CHARGES

Fraud Scheme Related to the World Trade Center Site Clean-Up

A thirty-one count indictment was unsealed in federal court in Brooklyn this morning charging trucking company owners Gerardo P. Fusella and Vincent J. Fusella, Jr., with crimes including embezzlement, mail fraud and tax charges.¹ The defendants will make their initial appearance later today before United States Magistrate Judge Robert M. Levy at the U.S. Courthouse, 225 Cadman Plaza East, Brooklyn, New York.

The case was announced by Loretta E. Lynch, United States Attorney for the Eastern District of New York; Robert Panella, Special Agent-in-Charge, U.S. Department of Labor, Office of Inspector General, Office of Labor Racketeering and Fraud Investigations, New York Region; Douglas Shoemaker, Special Agent-in-Charge, U.S. Department of Transportation, Office of Inspector General-Investigations, New York; Robert E. Van Etten, Inspector General, Port Authority of New York and New Jersey; and Charles R. Pine, Special Agent-in-Charge, Internal Revenue Service, Criminal Investigation, New York.

As alleged in the indictment, between 2007 and 2009, the defendants used their trucking companies, Fusella Group L.L.C. ("Fusella Group") and Alpine Investment Group, Inc. ("Alpine Investment") to truck construction and demolition debris between construction sites and landfills in Long Island, New York City, New Jersey and elsewhere.

During 2007 and 2008, the Fusella Group entered into a collective bargaining agreement with the International Brotherhood of Teamsters, Local 282 (“Local 282”), in order to be eligible to enter certain valuable contracts. This agreement obligated the defendants to pay specific hourly wages to their drivers and to make payments to Local 282’s welfare, pension, annuity, job training, and vacation and sick leave trust funds. In violation of the agreement, and at times with the assistance of a union shop steward working at the Fusella Group to whom the defendants allegedly paid bribes, the defendants hid their drivers’ true work hours to avoid paying the required hourly wages and benefit fund contributions. In addition, as detailed in the indictment, beginning in 2008, the defendants began to conduct a substantial portion of their trucking business through Alpine Investment in order to embezzle funds from Local 282’s benefit funds, and succeeded in embezzling more than \$1,000,000 in union benefit fund payments by 2009.

The indictment also alleges that, in 2007, the Fusella Group received a contract to remove dirt and debris from the World Trade Center reconstruction site in lower Manhattan. This contract required that the defendants pay the hourly wage and benefit fund contributions specified in the agreement with Local 282. The Fusella Group failed to make these payments but submitted false certifications verifying that it had done so.

In addition, the indictment charges that the defendants avoided paying social security and federal and state income tax contributions for employees by, among other things, falsely classifying truck driver-employees as independent contractors and by failing to report salary payments made to their office workers and mechanics. Instead, they claimed that the payments were deductible business expenses. As a result, the defendants are charged with failing to make more than \$150,000 in employee social security contributions between 2007 and 2009.

“It is imperative that employers provide the wages and benefits to which their employees are legally entitled,” stated United States Attorney Lynch. “America’s workers rely on their benefit funds to set aside hard earned dollars for an uncertain future. They rely on their employers to properly move monies into those accounts on their behalf, as required by law. As alleged, these defendants not only failed to pay their workers full pay and benefits, they failed to make the legally required security benefit contributions designed to provide security in retirement, and they also embezzled more than \$1,000,000 from the Local’s benefit fund account. Thanks to the combined efforts of this investigative team, they will now be held to account for their charged crimes.”

“Today’s indictment should serve as a deterrent to those who would defraud unions and their employee benefit funds and submit false wage and tax documents in order to conceal their crimes. These alleged actions were done for personal enrichment. The OIG will continue to work with our law enforcement partners to vigorously investigate and prosecute these crimes within the construction industry,” stated Special Agent-in-Charge Panella, the New York Regional Office for the U.S. Department of Labor’s Office of Inspector General, Office of Labor Racketeering and Fraud Investigations.

Special Agent-in-Charge Shoemaker, U.S. Department of Transportation, stated, “This investigation demonstrates that ensuring employment integrity in the transportation industry is a top priority for both the Office of Inspector General and the Department of Transportation. Working with our law enforcement and prosecutorial colleagues, we will continue our efforts to promote the

prevention, detection and prosecution of embezzlement and workforce fraud.”

Port Authority Inspector General Van Etten stated, “I want to commend United States Attorney Loretta Lynch and her staff for bringing this prosecution and the superb investigative work performed by the investigative agencies. Firms doing business with the Port Authority are legally bound to pay their employees the fair and prevailing wage, as well as union benefits and taxes. Here, however, the defendants allegedly chose to line their pockets and enrich themselves at the expense of their workers. These charges serve notice to all would-be contractors that the Port Authority and law enforcement authorities simply will not tolerate wage fraud or any other cheating on public projects.”

Internal Revenue Service Special Agent-in-Charge Pine stated, “IRS-Criminal Investigation understands the very real consequences of an employer who illegally fails to withhold employment taxes and report wages to the IRS – employment tax schemes result in the loss of tax revenue to the United States government and can reduce future Social Security or Medicare benefits for employees. The investigation of such schemes remains a priority for IRS-Criminal Investigation, and we are pleased to work with our law enforcement partners in this case.”

If convicted, the defendants face maximum sentences ranging from 5 to 20 years of imprisonment on each count.

The government’s case is being prosecuted by Assistant United States Attorney Whitman Knapp.

The Defendants:

GERARDO P. FUSELLA

Age: 36

Residence: East Hanover, New Jersey

VINCENT J. FUSELLA, JR.

Age: 30

Residence: East Hanover, New Jersey

¹ The charges contained in the indictment are merely accusations, and the defendants are presumed innocent unless and until proven guilty.
