

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

UNITED STATES OF AMERICA,)	INDICTMENT	CR 09-98 PJS/RLE
)		
Plaintiff,)	(18 U.S.C. § 371)	
)	(26 U.S.C. § 7206(1))	
v.)	(26 U.S.C. § 7206(2))	
)		
1. JOSEPH EDWARD RILEY and)		
2. JOHN THOMAS RILEY,)		
)		
Defendants.)		

THE UNITED STATES GRAND JURY CHARGES THAT:

COUNT 1
(Conspiracy)

1. Beginning on or before July 5, 1996, and continuing through at least August 2003, in the State and District of Minnesota and elsewhere, the defendants,

**JOSEPH EDWARD RILEY and
JOHN THOMAS RILEY,**

knowingly and willfully conspired and agreed with one another and with other persons known and unknown to the grand jury:

a. To defraud the United States by impeding, impairing, obstructing, and defeating the lawful functions of the Internal Revenue Service of the United States Department of the Treasury in the ascertainment, computation, assessment, and collection of revenue, particularly by impairing and obstructing the collection of income taxes; and

b. To commit offenses against the United States, specifically to willfully make and file false tax returns in violation of Title 26, United States Code, Section 7206(1).

SCANNED
APR 15 2009
U.S. DISTRICT COURT MPLS

APR 15 2009
FILED
RICHARD D. SLETTER, CLERK
JUDGMENT ENTERED _____
DEPUTY CLERK'S INITIALS _____

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I. PARTIES AND ENTITIES

2. At all times relevant to this indictment, defendants JOSEPH RILEY and JOHN RILEY were residents of the State of Minnesota and were the leaders of the conspiracy and scheme to defraud.

3. At all times relevant to this indictment, Riley Bros. Companies, Inc., was a Minnesota corporation operating in the State of Minnesota and elsewhere. Riley Bros. Companies, Inc., was a holding company which owned 100 percent of Riley Bros. Construction, Inc., as well as all or part of certain other companies. Riley Bros. Construction, Inc., was a heavy equipment construction business primarily engaged in the business of road construction for the State of Minnesota and other government entities. Riley Bros. Construction, Inc., also performed work for individuals and businesses, including the paving and repairing of driveways and parking lots, rental of heavy equipment, demolition and removal of buildings, ditching work, tree removal, and the sale of rock, gravel, and asphalt. Defendants JOSEPH RILEY and JOHN RILEY each owned 50 percent of Riley Bros. Companies, Inc. Riley Bros. Companies, Inc., and its subsidiaries are referred to herein as "Riley Brothers." Riley Brothers operated on a fiscal year which began February 1 and ended January 31 of the following year.

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II. PURPOSES OF THE CONSPIRACY

4. One purpose of the conspiracy was to conceal from the Internal Revenue Service and the Minnesota Department of Revenue income earned by JOSEPH RILEY, JOHN RILEY, Riley Brothers, and employees of Riley Brothers and thereby evade the payment of income taxes, including social security taxes, medicare taxes, and unemployment taxes. A second purpose of the conspiracy was to defraud the State of Minnesota in the payment of unemployment benefits.

III. MANNER AND MEANS OF THE CONSPIRACY AND SCHEME TO DEFRAUD

5. **Skimmed Receipts.** As part of the conspiracy and scheme to defraud, defendants JOSEPH RILEY and JOHN RILEY converted checks and other payments for work and materials provided by Riley Brothers to their own benefit, or to the benefit of their employees, without reporting the payments to the Internal Revenue Service or the Minnesota Department of Revenue. In particular, defendants JOSEPH RILEY and JOHN RILEY cashed checks made payable to Riley Brothers or to themselves for work and materials provided by the companies and either cashed or converted to cashier's checks payments to Riley Brothers from insurance companies for dividends or for claims made on behalf of the companies. The checks which were cashed or converted to cashier's checks were not reported on the books and records of Riley Brothers as income or as

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reimbursements through insurance. Defendants JOSEPH RILEY and JOHN RILEY used the cash, cashier's checks, and other forms of payment primarily for their own benefit. A part of the cash was used to pay employees bonuses. The cash and cashier's check payments on behalf of JOSEPH RILEY, JOHN RILEY, and the Riley Brothers employees were not reported to the Internal Revenue Service or the Minnesota Department of Revenue by Riley Brothers, JOSEPH RILEY, or JOHN RILEY.

6. **Payment of Personal Expenses.** As part of the conspiracy and scheme to defraud, defendants JOSEPH RILEY and JOHN RILEY arranged for Riley Brothers to pay some of their personal expenses and to treat such payments on the Riley Brothers books and records, and on the Riley Brothers tax returns, as if the payments were for legitimate business expenses. Defendants JOSEPH RILEY and JOHN RILEY further arranged for Riley Brothers not to report these payments to the Internal Revenue Service or the Minnesota Department of Revenue as payments to themselves. Defendants JOSEPH RILEY and JOHN RILEY also failed to report these payments to the Internal Revenue Service or the Minnesota Department of Revenue on their individual income tax returns.

7. **Disguised Earnings.** As part of the conspiracy and scheme to defraud, defendants JOSEPH RILEY and JOHN RILEY arranged for Riley Brothers to pay employees for work performed while the

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employees were collecting unemployment payments from the State of Minnesota and to disguise the payments in order to facilitate the fraudulent unemployment claims and to evade taxes. Defendants JOSEPH RILEY and JOHN RILEY arranged for Riley Brothers to pay employees by issuing checks either directly to the employee or to another person or entity for the employee's benefit. They then caused Riley Brothers to record these payments falsely as non-labor business expenses rather than as wages to the employees. They further caused Riley Brothers not to report the payments to the Internal Revenue Service or the Minnesota Department of Revenue as income of Riley Brothers employees.

IV. THE LOSS

8. As a result of the defendants' conspiracy, over \$500,000 was paid by Riley Brothers to JOSEPH RILEY, JOHN RILEY, and Riley Brothers employees which was not properly reported by Riley Brothers, JOSEPH RILEY, or JOHN RILEY to the Internal Revenue Service or the Minnesota Department of Revenue and state and federal income taxes were evaded, or attempted to be evaded, on that income.

V. OVERT ACTS

9. In furtherance of the conspiracy, and for the purpose of bringing about its unlawful objectives, the defendants and other

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co-conspirators committed and caused to be committed the following overt acts in the District of Minnesota and elsewhere:

a. During the years 1996 through June 2003, JOSEPH RILEY directed Riley Brothers bookkeepers not to record in the Riley Brothers bookkeeping system over 240 different jobs and sales totaling over \$300,000.

b. During the years 1996 through June 2003, JOSEPH RILEY and JOHN RILEY cashed over 240 business income checks totaling over \$300,000 with each of them cashing roughly half of the checks. These included the following checks:

Check Date	Check Amount	Invoice#	Date Cashed	Endorser
4/27/03	\$630.00	16985	5/16/03	JOSEPH RILEY
5/22/03	\$840.00	16987	6/4/03	JOSEPH RILEY
6/9/03	\$1,300.00	17093	6/9/03	JOSEPH RILEY
6/10/03	\$660.00	17027	6/13/03	JOSEPH RILEY
6/24/03	\$1,443.00	16972	6/27/03	JOSEPH RILEY

c. During the years 2000 to 2002, JOSEPH RILEY and JOHN RILEY cashed over 20 business insurance loss claim and dividend checks totaling over \$70,000.

d. During the years 2000 and 2001, JOSEPH RILEY cashed seven business insurance loss claim checks and used the monies to make \$19,000 in financial gifts to two of his daughters.

e. During the years 1999 to 2001, JOSEPH RILEY purchased a time share condominium in Cancun, Mexico, and also

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purchased four motorcycles, using a total of over \$70,000 of currency.

f. During the years 1999 to 2002, JOSEPH RILEY and JOHN RILEY used currency to pay company employees over \$95,000 of bonuses that were not recorded in the Riley Brothers payroll system.

g. During the years 1996 to 2003, JOSEPH RILEY and JOHN RILEY directed Riley Brothers bookkeepers to falsely record and disguise the payment of over \$79,000 of their personal expenses as if they were Riley Brothers business expenses.

h. During the years 1998 to 2002, JOSEPH RILEY and JOHN RILEY directed Riley Brothers bookkeepers to falsely record and disguise the payment of over \$31,000 of earnings by Riley Brothers employees who were then receiving state unemployment benefits.

i. For the tax years 2000 to 2002, JOSEPH RILEY signed corporate income tax returns falsely under-stating Riley Brothers gross receipts by over \$60,000 for the year 2000, by over \$100,000 for the year 2001, and by over \$100,000 for the year 2002. In particular, on or about April 15, 2003, JOSEPH RILEY and JOHN RILEY caused to be submitted to the Internal Revenue Service a false and fraudulent tax return for Riley

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Bros. Companies, Inc., and its subsidiaries as further described in Counts 2 and 3 of this indictment.

j. For the tax years 2000 to 2002, JOSEPH RILEY and JOHN RILEY each signed individual income tax returns which failed to report a combined total of over \$300,000 of income from skimmed business receipts, diverted insurance payments, and personal expenses paid by Riley Brothers. In particular, on or about April 15, 2003, JOSEPH RILEY and JOHN RILEY caused to be submitted to the Internal Revenue Service false and fraudulent individual income tax returns as further described in Counts 4 and 5 of this indictment.

k. On or about July 1, 2003, JOSEPH RILEY was interviewed by Special Agents of the Internal Revenue Service from Minneapolis, Minnesota. JOSEPH RILEY falsely stated that all Riley Brothers business checks were deposited in the business bank account, falsely denied cashing business checks on a regular basis, and falsely denied cashing checks of more than \$500.00.

l. On or about July 1, 2003, JOHN RILEY was interviewed by Special Agents of the Internal Revenue Service from Minneapolis, Minnesota. JOHN RILEY falsely stated that Riley Brothers employees who worked during the winter were paid regular payroll checks, just like in the summer and falsely

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stated he did not know how Riley Brothers customers paid for the work done or what was done with the payments which were made.

m. On or about August 13, 2003, JOSEPH RILEY and JOHN RILEY opened a safe deposit box account through a third party. They further arranged to have signature authority to enter the safe deposit box but not to have their names show up on the bank's computer system as being associated with the safe deposit box.

All in violation of Title 18, United States Code, Section 371.

COUNT 2

(False Corporate Tax Return)

10. On or about April 15, 2003, in the State and District of Minnesota, the defendant,

JOSEPH EDWARD RILEY,

did willfully make and file with the Internal Revenue Service a false U.S. Corporation Income Tax Return, Form 1120, on behalf of Riley Bros. Companies, Inc., and Subsidiaries for the tax year beginning February 1, 2002, and ending January 31, 2003, which he signed and subscribed on or about April 15, 2003, and which was verified by a written declaration that it was made under the penalties of perjury, and which said Income Tax Return he did not believe to be true and correct as to every material matter in that Line 1 reported the gross receipts or sales for Riley Bros.

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Companies, Inc., and its subsidiaries to be \$30,216,806 and Line 3 of Schedule A reported their cost of labor to be \$6,235,590, whereas, as he then and there well knew and believed, the gross receipts or sales for Riley Bros. Companies, Inc., and its subsidiaries was substantially more than \$30,216,806 and their cost of labor was substantially more than \$6,235,590, all in violation of Title 26, United States Code, Section 7206(1).

COUNT 3

(Procuring a False Corporate Tax Return)

11. On or about April 15, 2003, in the State and District of Minnesota, the defendant,

JOHN THOMAS RILEY,

did willfully aid and assist in, and procure, counsel, and advise the preparation and presentation to the Internal Revenue Service of a U.S. Corporation Income Tax Return, Form 1120, on behalf of Riley Bros. Companies, Inc., and Subsidiaries for the tax year beginning February 1, 2002, and ending January 31, 2003, which return was false and fraudulent as to a material matter in that Line 1 reported the gross receipts or sales for Riley Bros. Companies, Inc., and its subsidiaries to be \$30,216,806 and Line 3 of Schedule A reported their cost of labor to be \$6,235,590, whereas, as he then and there well knew and believed, the gross receipts or sales for Riley Bros. Companies, Inc., and its subsidiaries was substantially more than \$30,216,806 and their cost of labor was

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substantially more than \$6,235,590, all in violation of Title 26, United States Code, Section 7206(2).

COUNT 4

(False Individual Tax Return)

12. On or about April 15, 2003, in the State and District of Minnesota, the defendant,

JOSEPH EDWARD RILEY,

did willfully make and file with the Internal Revenue Service a false U.S. Individual Income Tax Return, Form 1040, jointly with his wife for calendar year 2002, which he signed and subscribed on or about April 9, 2003, and which was verified by a written declaration that it was made under the penalties of perjury, and which said Income Tax Return he did not believe to be true and correct as to every material matter in that Line 22 reported their total income to be \$680,132, Line 41 reported their taxable income to be \$640,966, and Line 61 reported their total tax was \$185,107, whereas, as he then and there well knew and believed, their total income was substantially more than \$680,132, their taxable income was substantially more than \$640,966, and their total tax was substantially more than \$185,107, all in violation of Title 26, United States Code, Section 7206(1).

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COUNT 5

(False Individual Tax Return)

13. On or about April 15, 2003, in the State and District of Minnesota, the defendant,

JOHN THOMAS RILEY,

did willfully make and file with the Internal Revenue Service a false U.S. Individual Income Tax Return, Form 1040, for calendar year 2002, which he signed and subscribed on or about April 14, 2003, and which was verified by a written declaration that it was made under the penalties of perjury, and which said Income Tax Return he did not believe to be true and correct as to every material matter in that Line 22 reported his total income to be \$711,500, Line 41 reported his taxable income to be \$670,692, and Line 61 reported his total tax was \$199,347, whereas, as he then and there well knew and believed, his total income was substantially more than \$711,500, his taxable income was substantially more than \$670,692, and his total tax was substantially more than \$199,347, all in violation of Title 26, United States Code, Section 7206(1).

A TRUE BILL

UNITED STATES ATTORNEY

FOREPERSON