



# The United States Attorney's Office

## District of Massachusetts

June 18, 2013

### **Leominster Man, Fitchburg Construction Company Charged with Defrauding Union Benefit Funds**

Boston - A Leominster man was charged yesterday with operating a construction business under two different names in order to avoid paying union benefits for his employees, a practice commonly known as "double-breasting."

Juan J. Alonso, 59, and Aguila Construction Company, Inc. of Fitchburg were charged with theft or embezzlement from benefit plans subject to the provisions of Title I of the Employee Retirement Income Security Act of 1974 (ERISA), making false statements in documents submitted to benefit plans subject to ERISA, and making false statements to the United States Department of Transportation (DOT).

The Information alleges that Alonso operated Alonso Construction, Inc. and Aguila Construction Company from the same yard and office in Fitchburg. Alonso Construction and Aguila Construction performed the same type of work, used the same equipment, and used the same laborers and office staff. This "double-breasted" arrangement is often used in the construction industry to avoid paying union members the union wages and benefits they are entitled to.

In 2000, Alonso, on behalf of Aguila Construction had agreed to be bound by certain collective bargaining agreements with, among other unions, Laborers International Union of North America Local 39 (Local 39). The collective bargaining agreements governed the remittance of fringe benefit contributions to employee benefit plans. The agreements require signatories to accurately report to the plans the number of hours worked by members of Local 39 and to make contributions to the funds accordingly.

Between 2008 and 2011, Alonso and Aguila Construction defrauded the benefit funds by running part of the Aguila Construction payroll through Alonso's "non-union" company, Alonso Construction, thereby underreporting the hours actually worked by Local 39 members. Alonso also defrauded the funds by paying Aguila Construction laborers in cash, in order to avoid making hourly payments to the benefit funds. Over the four-year period, the defendants failed to pay approximately \$805,338 owed to the funds.

The Information further charges that between 2008 and 2011, Aguila Construction secured several publicly-funded projects, including 12 projects funded by the DOT pursuant to the American Recovery and Reinvestment Act of 2009 (ARRA). As part of the scheme, a portion of this contract work was conducted by Alonso Construction rather than Aguila Construction, the signator to the contracts.

In particular, between June 15, 2009 and May 23, 2010, Aguila Construction was subcontracted to perform construction work on an ARRA-funded construction project on Route 2 in Harvard and Littleton. In connection with this project, Aguila Construction completed and sent to the Massachusetts Department of Transportation certified payroll records falsely stating the identity of employees, the number of hours worked and the wages paid.

If Alonso is convicted, each of the statutes provides for a maximum sentence of five years in prison to be followed by three years of supervised release and a fine. Conviction of Aguila Construction could result in a fine and a term of probation between one and five years.

U.S. Attorney Carmen M. Ortiz; Theodore L. Doherty, III, Special Agent in Charge of the U.S. Department of Transportation, Office of Inspector General, Office of Investigations; Robert Panella, Special Agent in Charge of the U.S. Department of Labor, Office of Inspector General, Labor Racketeering & Fraud Investigations; and Susan Hensley, Director, Boston Regional Office of the Employee Benefits Security Administration made the announcement today. The case is being prosecuted by Assistant U.S. Attorney Kristina E. Barclay of Ortiz's Public Corruption and Special Prosecutions Unit.

The details contained in the Information are allegations. The defendants are presumed to be innocent unless and until proven guilty beyond a reasonable doubt in a court of law.

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