

DEC 15 2011

ATTACHMENT A  
Statement of Facts: Richard Stewart BY

AT GREENBELT  
CLERK, U.S. DISTRICT COURT  
DISTRICT OF MARYLAND

The undersigned parties hereby stipulate and agree that if this matter had gone to trial, the government would have proven the following facts beyond a reasonable doubt. The undersigned parties also stipulate and agree that the following facts do not encompass all of the evidence which would have been presented had this matter gone to trial.

Richard Stewart was the sole owner and operator of Montgomery Mechanical Services, a company that installed plumbing, heating, and air conditioning in commercial buildings. Richard Stewart had offices in Baltimore and Capital Heights, Maryland.

Richard Stewart was solely responsible for collecting, accounting for, and paying over employment taxes to the United States.

Employment taxes are comprised of Federal Insurance Contributions Act ("FICA") tax and federal income tax withholding. An employer withholds 7.65% of an employee's gross wages for FICA. The employer is responsible for matching this percentage out of its own funds. Therefore, the FICA tax is equal to 15.3% of an employer's total payroll. The percentage of FICA withheld from an employee's paycheck, along with the amount an employee elects to have withheld as federal income tax withholding is collectively referred to as "trust fund taxes." The IRS refers to these as trust fund taxes, because they are not merely a corporate debt; rather, an employer withholds money from his employees' paychecks and holds them in trust for the United States. In other words, trust fund taxes were never Richard Stewart's money.

In addition to failing to pay over the trust fund portion of employment taxes from at least 2003 through at least 2008, Richard Stewart also failed to pay over his share of FICA taxes for that same time. Richard Stewart stipulates and agrees that his portion of FICA taxes is relevant conduct for both the computation of the Sentencing Guidelines offense level and for purposes of restitution.

For tax year 2003, Richard Stewart paid gross wages of \$2,282,631. In that year, Stewart withheld federal income taxes and FICA taxes in the amount of \$467,593. Stewart, as the employer, was required to pay the employer's portion of FICA taxes in the amount of \$174,530. In total for 2003, Richard Stewart failed to pay over \$642,123 in employment taxes.

For tax year 2004, Richard Stewart paid gross wages of \$2,891,930. In that year, Stewart withheld federal income taxes and FICA taxes in the amount of \$575,543. Stewart, as the employer, was required to pay the employer's portion of FICA taxes in the amount of \$222,117. In total for 2004, Richard Stewart failed to pay over \$797,660 in employment taxes.

For tax year 2005, Richard Stewart paid gross wages of \$4,631,969. In that year, Stewart withheld federal income taxes and FICA taxes in the amount of \$917,442. Stewart, as the employer, was required to pay the employer's portion of FICA taxes in the amount of \$349,537. In total for 2005, Richard Stewart failed to pay over \$1,266,979 in employment taxes.

For tax year 2006, Richard Stewart paid gross wages of \$4,108,307. In that year, Stewart withheld federal income taxes and FICA taxes in the amount of \$860,126. Stewart, as the employer, was required to pay the employer's portion of FICA taxes in the amount of \$321,232. In total for 2006, Richard Stewart failed to pay over \$1,181,358 in employment taxes.

For tax year 2007, Richard Stewart paid gross wages of \$3,522,853. In that year, Stewart withheld federal income taxes and FICA taxes in the amount of \$777,583. Stewart, as the employer, was required to pay the employer's portion of FICA taxes in the amount of \$264,897. In total for 2007, Richard Stewart failed to pay over \$1,042,480 in employment taxes.

For tax year 2008, Richard Stewart paid gross wages of \$1,620,125. In that year, Stewart withheld federal income taxes and FICA taxes in the amount of \$371,050. Stewart, as the employer, was required to pay the employer's portion of FICA taxes in the amount of \$112,997. In total for 2008, Richard Stewart failed to pay over \$484,047 in employment taxes.

From 2003 through 2008, Richard Stewart willfully failed to pay over \$5,414,647 in employment taxes to the United States.

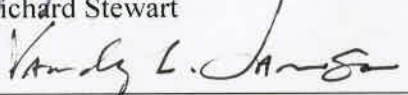
When interviewed, Richard Stewart acknowledged to special agents of the IRS that he knew of his legal duty to collect, account for, and pay over employment taxes, and with that knowledge, Richard Stewart chose not to pay over his employment taxes for 2003 through 2008.

I have read this statement of facts and carefully reviewed it with my attorney. I acknowledge that it is true and correct.

10/26/11  
Date

10/26/11  
Date

  
Richard Stewart

  
Vandy L. Jamison, Esq.