


UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH DAKOTA  
SOUTHERN DIVISION

**FILED**  
APR 04 2012  
  
CLERK

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UNITED STATES OF AMERICA,

CR 12-40040

Plaintiff,

INDICTMENT

vs.

Willful Failure to Collect or Pay Over  
Tax; Tax Evasion; Willful Failure to  
File Tax Return

JEROME "JERRY" ADRIAN; JARED  
ADRIAN,

26 U.S.C. §§ 7202, 7201, and 7203

Defendants.

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The Grand Jury charges:

COUNTS ONE THROUGH FOUR

(Jerome Adrian: Willful Failure to Collect or Pay Over Tax - 26 U.S.C. § 7202)

On or about April 15, 2006, in the District of South Dakota, Defendant Jerome "Jerry" Adrian, a resident of South Dakota, was a person required under federal law to collect, account for, and pay over taxes. For each quarter listed in the table below, he willfully failed to truthfully account for and pay over such taxes:

COUNT	DATE RANGE OF QUARTER
ONE	January 1, 2005 through March 31, 2005
TWO	April 1, 2005 through June 30, 2005
THREE	July 1, 2005 through September 30, 2005
FOUR	October 1, 2005 through December 31, 2005

all in violation of 26 U.S.C. § 7202.

**COUNTS FIVE THROUGH EIGHT**

(Jerome Adrian: Willful Failure to Collect or Pay Over Tax - 26 U.S.C. § 7202)

On or about April 15, 2007, in the District of South Dakota, Defendant Jerome "Jerry" Adrian, a resident of South Dakota, was a person required under federal law to collect, account for, and pay over taxes. For each quarter listed in the table below, he willfully failed to truthfully account for and pay over such taxes:

<b>COUNT</b>	<b>DATE RANGE OF QUARTER</b>
FIVE	January 1, 2006 through March 31, 2006
SIX	April 1, 2006 through June 30, 2006
SEVEN	July 1, 2006 through September 30, 2006
EIGHT	October 1, 2006 through December 31, 2006

all in violation of 26 U.S.C. § 7202.

**COUNTS NINE THROUGH ELEVEN**

(Jared Adrian: Willful Failure to Collect or Pay Over Tax - 26 U.S.C. § 7202)

On or about April 15, 2006, in the District of South Dakota, Defendant Jared Adrian, a resident of South Dakota, was a person required under federal law to collect, account for, and pay over taxes. For each quarter listed in the table below, he willfully failed to truthfully account for and pay over such taxes:

<b>COUNT</b>	<b>DATE RANGE OF QUARTER</b>
NINE	April 1, 2005 through June 30, 2005
TEN	July 1, 2005 through September 30, 2005
ELEVEN	October 1, 2005 through December 31, 2005

all in violation of 26 U.S.C. § 7202.

#### COUNTS TWELVE THROUGH FOURTEEN

(Jared Adrian: Willful Failure to Collect or Pay Over Tax - 26 U.S.C. § 7202)

On or about April 15, 2007, in the District of South Dakota, Defendant Jared Adrian, a resident of South Dakota, was a person required under federal law to collect, account for, and pay over taxes. For each quarter listed in the table below, he willfully failed to truthfully account for and pay over such taxes:

<b>COUNT</b>	<b>DATE RANGE OF QUARTER</b>
TWELVE	April 1, 2006 through June 30, 2006
THIRTEEN	July 1, 2006 through September 30, 2006
FOURTEEN	October 1, 2006 through December 31, 2006

all in violation of 26 U.S.C. § 7202.

#### COUNT FIFTEEN

(Jerome Adrian: Tax Evasion – 26 U.S.C. § 7201)

During the calendar year 2004, the Defendant, Jerome “Jerry” Adrian, a resident of South Dakota, had and received taxable income in the sum of approximately \$285,902.20; that upon said taxable income there was due to the United States of America an income tax of approximately \$93,798, and that

well knowing and believing the foregoing facts, Jerome "Jerry" Adrian, on or between approximately January 1, 2002, through and including June 22, 2010, in the District of South Dakota and elsewhere, did willfully attempt to evade and defeat the said income tax due and owing by him to the United States of America for said calendar year by failing to make an income tax return on or before April 15, 2005, as required law, to any proper officer of the Internal Revenue Service, by failing to pay to the Internal Revenue Service said income tax, and by the following affirmative acts of evasion:

1. During 2002, Jerome "Jerry" Adrian created numerous sham trusts that he used then and in later years to conceal his assets in names other than his own. He created the following five trusts: Adrian Sod Trust, 5-Alive Trust, Mag Trust, Art & John Trust, and the Stoddard Trust. These trusts were never registered with the IRS, and they have never been assigned valid Employer Identification Numbers (EINs) or Taxpayer Identification Numbers (TINs), as required by law. Instead, Jerome "Jerry" Adrian created fictitious EINs and TINs for each of the trusts. He was the manager and had complete control over all of these supposed trusts.
2. On approximately January 7, 2003, Jerome "Jerry" Adrian changed the name and classification of his personal bank account at First National Bank in Sioux Falls, South Dakota, from a personal account to a trust account. He changed the account holder to be "Jerry L. and Sonja Adrian Trust Account." From 2003 through 2008, he listed 5-Alive Trust as the name for the account on checks and deposit slips used with the account. He did so to conceal his personal assets and income from the IRS.
3. On approximately June 6, 2005, Jerome "Jerry" Adrian again changed the name of his personal bank account at First National Bank in Sioux Falls, South Dakota. This time he changed the account holder to 5-Alive Trust. He also changed the Tax ID number on the account from his social security number to a

fictitious EIN. To do so, he also provided a copy of a "Pure Trust Contract" for 5-Alive Trust that also lists the same fictitious number as the "Fed. I.D. #" for the supposed trust. He did so to conceal his personal assets and income from the IRS.

4. On approximately January 7, 2003, Jerome "Jerry" Adrian changed the name and classification of the Adrian Sod Service, Inc., business bank account at First National Bank in Sioux Falls, South Dakota, from a business checking account to a trust account. He changed the account holder name to Adrian Sod Trust. He did so to conceal his personal assets and income from the IRS.
5. On or about September 23, 2008, Jerome "Jerry" Adrian opened a "Trust" checking account in the name of 5-Alive Trust at the Security National Bank of South Dakota in Sioux Falls, South Dakota. He again listed a fictitious TIN and provided the bank with documents supposedly proving the validity of the sham trust. He did so to conceal his personal assets and income from the IRS.
6. On or about September 23, 2008, Jerome "Jerry" Adrian opened a "Trust" checking account in the name of Adrian Sod Trust at the Security National Bank of South Dakota in Sioux Falls, South Dakota. He again listed a fictitious TIN and provided the bank with documents supposedly proving the validity of the sham trust. He did so to conceal his personal assets and income from the IRS.
7. From approximately January 7, 2003, through approximately December 31, 2009, Jerome "Jerry" Adrian conducted multiple transactions using bank accounts at First National Bank and Security National Bank of South Dakota in the nominee names of the various sham trusts he created. He did so to conceal his personal assets and income from the IRS.
8. On approximately June 22, 2010, Jerome "Jerry" Adrian was interviewed by IRS Criminal Investigation Special Agent Corey Vickery. Among other questions, Agent Vickery asked him whether he had any income from 2001 to the present. Jerome "Jerry" Adrian stated that he had no income because it was all trust income.

All in violation of 26 U.S.C. § 7201.

COUNT SIXTEEN  
(Jerome Adrian: Tax Evasion – 26 U.S.C. § 7201)

During the calendar year 2005, the Defendant, Jerome “Jerry” Adrian, a resident of South Dakota, had and received taxable income in the sum of approximately \$371,011.22; that upon said taxable income there was due to the United States of America an income tax of approximately \$73,761, and that well knowing and believing the foregoing facts, Jerome “Jerry” Adrian, on or between approximately January 1, 2002, through and including June 22, 2010, in the District of South Dakota and elsewhere, did willfully attempt to evade and defeat the said income tax due and owing by him to the United States of America for said calendar year by failing to make an income tax return on or before April 17, 2006, as required law, to any proper officer of the Internal Revenue Service, by failing to pay to the Internal Revenue Service said income tax, and by the following affirmative acts of evasion:

1. The affirmative acts of evasion set forth in Count Fifteen above are hereby incorporated as if set forth in their entirety.
2. In approximately 1998, Jerome “Jerry” Adrian entered into a joint venture to purchase Country Apple Orchard in Harrisburg, South Dakota (the “Orchard”). Jerome “Jerry” Adrian’s investment was \$50,000. Some of the land was registered in Jerome “Jerry” Adrian’s name, and some of the land was registered in a partner’s name. In June 2005, the Orchard was sold for \$1,185,089.99. Under the terms of his original investment, Jerome “Jerry” Adrian was owed \$364,500 in proceeds from the sale of the operation. He received those proceeds, but he engaged in a variety of acts to conceal that he was receiving those funds. Those acts include:



- A. Just prior to the land sale, Jerome "Jerry" Adrian deeded all of the Orchard land in his name to his partner for \$1.00. He did this in an effort to conceal the sales proceeds from the IRS.
  - B. The entire \$1,185,089.99 check was issued to Jerome "Jerry" Adrian's partners in the Orchard. This was done at Jerome "Jerry" Adrian's direction in a further effort to conceal the sale proceeds from the IRS.
  - C. Jerome "Jerry" Adrian then directed his partners in the Orchard to make various payments to him in names other than his own. Thus, on June 7, 2005, he was paid \$10,000 in a check made payable to Sonja Adrian. On June 10, 2005, he was paid \$52,250 in a check made payable to Adrian Sod Trust. On June 10, 2005, he was paid \$52,250 in a check made payable to 5-Alive Trust. On August 8, 2005, he was paid \$250,000 in a wire transfer to 5-Alive Trust.
- 3. During calendar year 2005, Jerome "Jerry" Adrian received agricultural subsidy payments from the United States Department of Agriculture in both Lincoln and Turner counties in South Dakota. Prior to 2005, he received such subsidy payments payable to him directly. But in 2005, he transferred the respective agricultural land out of his name and into the name of one of his supposed trusts, 5-Alive Trust. He then filled out all the agricultural subsidy paperwork at the Farm Services Agency ("FSA") office in the name of the supposed trust. He did so to conceal these payments from the IRS.
  - 4. The FSA requires trust entities that receive agricultural subsidy payments to have valid EINs. Instead of providing a valid EIN for the 5-Alive Trust (which has no valid EIN or TIN), Jerome "Jerry" Adrian instead provided a fictitious EIN to the Turner County FSA office to placate their request before processing his agriculture subsidy payment requests.

All in violation of 26 U.S.C. § 7201.

COUNT SEVENTEEN

(Jerome "Jerry" Adrian: Willful Failure to File Tax Return – 26 U.S.C. § 7203)

During the calendar year 2005, Jerome "Jerry" Adrian, a resident of South Dakota, had and received gross income exceeding \$3,200, and by reason of such gross income he was required by law, on or before April 17, 2006, to make an income tax return to any proper officer of the Internal Revenue Service, stating specifically the items of his gross income and any deductions and credits to which he was entitled; that well knowing and believing all of the foregoing, he did willfully fail to make an income tax return to any proper officer of the Internal Revenue Service, all in violation of 26 U.S.C. § 7203.

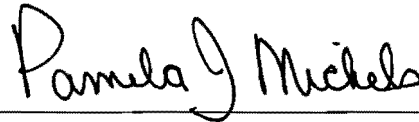
COUNT EIGHTEEN.

(Jared Adrian: Willful Failure to File Tax Return – 26 U.S.C. § 7203)

During the calendar year 2005, Jared Adrian, a resident of South Dakota, had and received gross income exceeding \$3,200, and by reason of such gross income he was required by law, on or before April 17, 2006, to make an income tax return to any proper officer of the Internal Revenue Service, stating specifically the items of his gross income and any deductions and credits to which he was entitled; that well knowing and believing all of the foregoing, he did willfully fail to make an income tax return to any proper officer of the Internal Revenue Service, all in violation of 26 U.S.C. § 7203.



A TRUE BILL:



Foreperson

BRENDAN V. JOHNSON  
UNITED STATES ATTORNEY

By: 