

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF WEST VIRGINIA

UNITED STATES OF AMERICA,  
Plaintiff,

v.

Criminal No. 5.03-CA-5  
Violations: 18 USC §664  
29 USC §501(c)

STEVEN L. NAMACK  
Defendant.

INFORMATION

The United States Attorney charges that:

1. At all times material to this information:

A. Roofers Local 188, of the United Union Of Roofers, Waterproofers And Allied Workers, American Federation of Labor/Congress of Industrial Organization (AFL-CIO) (hereinafter referred to as Roofers Local 188) was a labor organization engaged in an industry affecting interstate commerce, as defined by Title 29, United States Code, Sections 402(i) and 402(j).

B. Roofers Local 188 was governed by the constitution of the United Union Of Roofers, Waterproofers And Allied Workers, AFL-CIO, and the constitution and bylaws of Roofers Local 188.

C. The officers of Roofers Local 188 consisted of a Business Agent, Financial-Secretary Treasurer, President, Vice-President, Warden and the Executive Board. The Executive Board is composed of the President, Business Agent, Financial-Secretary Treasurer and three Executive Board Members.

D. Three roofing contractors, Mansuetto & Sons, Inc., Romig Roofing and Kalkruth Roofing, (hereinafter referred to as participating roofing employers) recognized Roofers Local 188 as the exclusive employee bargaining representative, as set forth in successive collective bargaining agreements covering the periods July 1, 1993 through July 30, 1997 and July 1, 1997 through June 30, 2001.

E. By collective bargaining agreement provision Roofers Local 188 and participating roofing employers are parties to the National Roofing Industry Pension Plan (NRIPP). Under the agreement Roofer employers contributed \$2.25 to \$2.80 per hour, for each hour worked by all employees covered by the collective bargaining agreement, to the National Roofing Industry Pension Plan. NRIPP is an employee benefit plan covered under Title I of the Employee Retirement Income Security Act of 1974.

F. The defendant, STEVEN L. NAMACK, was an officer of Roofers Local Union 188, located at 2003 Warwood Avenue, Wheeling, WV 26003. NAMACK served as full-time Business Agent, during the period January 1, 1997 through December 31, 2000; part-time Financial Secretary and Secretary-Treasurer from July 1, 1998 until these offices were combined in April 2000; and part-time Financial-Secretary Treasurer from April 2000 through December 31, 2000.

G. During the period 1997 through 2000, the Business Agent salary was based on the wage of a Journeyman Roofer. NAMACK's fringe benefits were paid by Local 188, which included monthly premium contributions to the National Roofing Industry Pension Plan.

H. NAMACK's Business Agent duties included driving to job sites to ensure contract compliance by the employers. NAMACK submitted a monthly expense voucher to Roofers Local 188 for reimbursement of his mileage and related travel expenses.

I. NAMACK's duties as Financial-Secretary Treasurer included receiving all monies, maintaining accurate financial records, preparing the checks and cosigning the checks along with the President. He prepared financial reports, which he read and presented for approval at monthly Executive Board and General Membership meetings.

J. Local 188 maintained a General Fund checking account, No. 591-2201, in the union's name at Belmont National Bank, St. Clairsville, Ohio. Deposits consisting of monthly dues from the Local 188 members primarily funded this checking account. The dues had been deducted from members' wages by the participating employers and submitted directly to the Local 188 Financial-Secretary.

K. During the period July 1998 through December 2000, NAMACK, as Local 188's Financial-Secretary Treasurer prepared and co-signed checks, along with the union's President, for disbursements from Local 188's general fund checking account, No. 591-2201.

## COUNT ONE

(Theft or Embezzlement from Employee Benefit Plan)

By collective bargaining agreement provision Roofers Local 188 is a party to a joint apprenticeship committee with participating roofing employers to oversee apprentice training through the Roofers Local 188 Joint Apprenticeship & Training Committee (JATC). Pursuant to collective bargaining agreement provisions, the employers contributed two cents (\$.02) to five cents (\$.05) per hour worked by all covered employees, which totaled approximately \$1,000 a month. Employer contributions were deposited to the JATC's Roofers Training Fund. The JATC is an employee benefit plan covered under Title I of the Employee Retirement Income Security Act of 1974.

In approximately 1994, NAMACK was appointed by the JATC union and participating employer representatives as a Training Coordinator/Instructor for the Roofers Local 188 JATC apprenticeship program, a position he held through approximately December 31, 2000. NAMACK'S duties as JATC Coordinator/Instructor included recruiting first-year apprentices for training classes, which were held annually during January through no later than March. NAMACK instructed first-year apprentice classes in a full-time capacity during January of each year. NAMACK also obtained classroom-training fund grants from the State of West Virginia's apprenticeship program known as the Construction Trades Training & Advancement Program (CTTAP). During the period 1997 to 2000, the CTTAP classroom-training fund grants obtained by NAMACK totaled \$190,192.29. CTTAP grants were deposited to the JATC Roofers Training Fund.

During the period 1997 through 2000, the Roofers JATC maintained a checking account in the name of the "Roofers Training Fund," account number 59706207, at One Valley Bank (formerly



BB&T Bank), Moundsville, WV. The account co-signatories were NAMACK and the JATC part-time Bookkeeper, a person known to the United States Attorney. The person known to the United States Attorney prepared all JATC disbursements. NAMACK provided the person known to the United States Attorney with wage and expense vouchers, supply receipts and NRIPP contribution forms. The person known to the United States Attorney prepared checks from the JATC Training Fund for wages, expenses, supplies and other voucher payments for NAMACK's benefit.

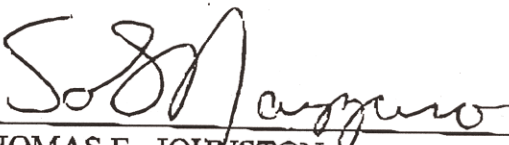
*AM* From on or about March 2, 1998, to on or about November 21, 2000, in the Northern District of West Virginia, the defendant, STEVEN L. NAMACK, while an employee, that is Apprenticeship Coordinator and Instructor to Roofers Local Union 188's Joint Apprenticeship Training Committee (JATC) apprenticeship program, an employee benefit plan covered under Title I of the Employee Retirement Income Security Act of 1974, did embezzle, steal and unlawfully and willfully abstract and convert to his personal use the monies, funds, securities, property and other assets of said apprenticeship program, totaling approximately \$108,036.18, in that the defendant, STEVEN L. NAMACK, submitted false and fictitious disbursement voucher claims for wages, mileage, meals and other expenses to the JATC Bookkeeper (a majority of which were claims already paid from Local Union 188's general fund) thereby causing \$108,036.18 to be distributed to STEVEN L. NAMACK as compensation for duplicate and or fraudulent wages and expenses to which he was not entitled, and other such payments for his benefit to which he was not entitled; ALL IN VIOLATION OF TITLE 18, UNITED STATES CODE, SECTION 664.

COUNT TWO

(Embezzlement of Assets from Labor Organization)

From on or about June 1, 1998 to on or about December 27, 2000, in the Northern District of West Virginia, the defendant, STEVEN L. NAMACK, while an officer; that is Financial Secretary Treasurer of Roofers Local Union 188 of the United Union Of Roofers, Waterproofers And Allied Workers, AFL-CIO, a labor organization engaged in an industry affecting interstate commerce, did embezzle and steal and unlawfully and willfully abstract and convert to his personal use the monies, funds, securities, property and other assets of said labor organization, totaling approximately \$24,219.06 , in that the defendant, STEVEN L. NAMACK, submitted duplicate and fraudulent expense voucher claims and prepared unauthorized checks and thereby converted \$20,258.70 from the ROOFERS LOCAL 188 general fund checking account, No. 591-2201, through 22 checks, representing full and partial embezzled amounts, payable to STEVEN L. NAMACK or others, and he converted \$3,960.36 in 21 unauthorized union credit card charges and cash advances, to his benefit or the benefit of others; ALL IN VIOLATION OF TITLE 29, UNITED STATES CODE, SECTION 501 (c).

A true bill,

  
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THOMAS E. JOHNSTON  
United States Attorney

# United States District Court

NORTHERN DISTRICT OF WEST VIRGINIA

RECEIVED  
MAY 10 11 46 AM '03  
U.S. DISTRICT COURT  
WHEELING, WV

UNITED STATES OF AMERICA

WAIVER OF INDICTMENT

V.

CASE NUMBER: 5:03-CR-5

STEVEN L. NAMACK,

U.S. DISTRICT COURT  
FILED AT WHEELING, WV

(Name and address of Defendant)

MAY - 7 2003

NORTHERN DISTRICT OF WV  
OFFICE OF THE CLERK

I, STEVEN L. NAMACK, the above named defendant, who is accused of

Theft or Embezzlement from Employee Benefit Plan, in violation of Title 18, United States Code, Section 664 - 1 count  
and Embezzlement of Assets from Labor Organization, in violation of Title 29, United States Code, Section 501(c) -  
1 count

being advised of the nature of the charge(s), the proposed information, and of my rights, hereby waive in open court  
on May 7, 2003 prosecution by indictment and consent that the proceeding may be by information  
(Date)

rather than by indictment.

Steven L. Namack  
Defendant

[Signature]  
Counsel for Defendant

Before: [Signature]  
Judicial Officer

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA



UNITED STATES OF AMERICA,

Plaintiff,

v.

Criminal Action No. 5:03CR5  
(STAMP)

STEVEN L. NAMACK,

Defendant.

O R D E R

On May 7, 2003, came the United States of America, by Assistant United States Attorney Sam G. Nazzaro, and also came the defendant, Steven L. Namack, in person and by his attorney, John J. Pizzuti.

Counsel for the United States advised the Court that it had entered into a plea agreement with the defendant, which the Government then summarized for the Court. The defendant stated in open court that he fully understands and agrees with the terms of the plea agreement, and that no other agreements had been made between him and the Government. The Court noted that since the plea agreement contains certain nonbinding recommendations pursuant to Fed. R. Crim. P. 11(e)(1), the Court cannot accept or reject the plea agreement and recommendations contained therein until the Court has had an opportunity to receive and review a presentence report. The Court advised the parties that it is not bound by the stipulation contained in the plea agreement and will defer action upon the stipulation until receiving and reviewing the presentence report.

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The Court ORDERED the plea agreement filed.

The Court confirmed that the defendant had received and reviewed the Information in this matter with his attorney. The defendant waived the reading of the information. The Court advised the defendant of the elements of the offense charged in Counts One and Two to which the defendant proposed to enter a plea of guilty. Then the Court advised the defendant of the minimum and maximum sentence for Counts One and Two. The Court also advised the defendant that as part of the fine, he could be required to pay the costs of imprisonment, community confinement, or supervision. The Court also informed the defendant of the mandatory special assessment applicable to this case.

The Court informed the defendant that under the Sentencing Reform Act of 1984 certain Sentencing Guidelines are applicable to this case. The defendant stated that he had reviewed the various factors taken into consideration by the Sentencing Guidelines with his attorney, and that he understood that no Guideline sentence could be determined until after the United States Probation Office had prepared a presentence report. The Court noted that it has, in some circumstances, the authority to depart from the Guidelines in imposing sentence. The Court also noted that it was not bound by the recommendations in the plea agreement and that if the sentence ultimately imposed was more severe than that expected, defendant would not have the right to withdraw his plea of guilty.

The Court advised the defendant of his right to have this matter presented to a Grand Jury and explained the Grand Jury process. The defendant stated in open court that he saw no benefit of having the case presented to the Grand Jury and no prejudice in proceeding by Information. The Court read the Waiver of Indictment form to the defendant, who then signed the form in open court.

The Court advised the defendant of his right to plead not guilty and maintain that plea during a trial before a jury of his peers. The Court also informed the defendant of the right to be represented by counsel during trial, the right not to testify, and the right to have the Government prove its case beyond a reasonable doubt. The Court also noted that the jury's verdict must be unanimous. The defendant stated in open court that he understood all of these rights and understood that he would be giving up all of these rights by entering a plea of guilty. The defendant and his counsel stated that the defendant understood all of the consequences of pleading guilty.

The Government called United States Department of Labor Investigator Sharon K. Snyder to present a factual basis for the plea. Counsel for the defendant did not cross-examine Investigator Snyder. Neither the defendant nor defendant's counsel had corrections or additions to make to Investigator Snyder's presentation.

The Court reviewed with the defendant all of the rights that are forfeited by tender of a plea of guilty and the factual basis for the proposed plea of guilty.

The defendant stated that the plea was not a result of any threat, coercion or harassment and that the plea was not the result of any promises except those promises contained in the plea agreement.

The defendant further stated that his attorney had adequately represented him in this matter and that neither he nor his attorney had found any defense to the charges contained in Counts One and Two of the Information.

The defendant stated that he was in fact guilty of the crime charged in Counts One and Two of the Information.

Based upon the defendant's statements and the testimony of Investigator Snyder, the Court finds that the defendant is competent to enter a plea, that the plea is freely and voluntarily given, that the defendant is aware of the nature of the charges against him and the consequences of his plea, and that a factual basis exists for the tendered plea. Accordingly, the Court hereby ACCEPTS the plea of GUILTY to Counts One and Two of the Information.

The Court will defer adjudging the defendant GUILTY of the crime charged in Counts One and Two of the Information until the time of sentencing. Pursuant to Fed. R. Crim. P. 11(e)(2) and U.S.S.G. § 6B1.1(c), acceptance of the proposed plea agreement and

nonbinding recommendations are deferred until the Court has received and reviewed the presentence report prepared in this matter.

Pursuant to U.S.S.G. § 6A1 et seq., it is hereby ORDERED that:

1. The Probation Office undertake a presentence investigation of Steven L. Namack and prepare a presentence report for the Court;
2. Pursuant to the amended version of Fed. R. Crim. P. 32(b)(6)(A), effective December 1, 1994, the United States Probation officer is directed not to disclose to the defendant, the defendant's counsel, or the attorney for the Government the Probation Officer's recommendation, if any, on the sentence;
3. The presentence report be disclosed to the defendant, defense counsel, and the Government at least thirty-five (35) days before sentencing;
4. Within fourteen (14) days after receiving the presentence report, counsel file and serve written sentencing statements and objections to the presentence report, if any;
5. The defendant, Steven L. Namack, appear before the Court as later directed by the Court for sentencing or such other disposition as may be pronounced against him;
6. The defendant was remanded to the custody of the United States Marshal Service.

The Clerk is directed to transmit copies of this Order to counsel of record herein, the defendant, and all appropriate agencies.

DATED: May 7, 2003

  
FREDERICK P. STAMP, JR.  
UNITED STATES DISTRICT JUDGE