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ATTORNEY FOR PLAINTIFF
UNITED STATES OF AMERICA

FILED
BILLINGS, MT

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PATRICK E. DUFFY, CLERK

BY *Patrick E. Duffy*
DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION

<p>UNITED STATES OF AMERICA, Plaintiff, vs. MICHAEL LA FORGE, Defendant.</p>	<p>CR - 03 - 95 BLG - REC</p> <p><u>INDICTMENT</u></p> <p>EMBEZZLEMENT/THEFT OF GOVERNMENT PROPERTY (Count I) Title 18 U.S.C. § 641 (Penalty: Ten years imprisonment, \$250,000 fine, and three years supervised release)</p> <p>FRAUD AND FALSE STATEMENTS (Count II) Title 18 U.S.C. § 1001(a)(2) (Penalty: Five years imprisonment, \$250,000 fine, and three years supervised release)</p>
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THE GRAND JURY CHARGES:

COUNT I

That from on or about August 11, 1998, and continuing thereafter until on or about June 7, 1999, at Hardin and Billings, in the State and District of Montana, and other places, the defendant, MICHAEL LA FORGE, did knowingly and willfully embezzle, steal, purloin or knowingly convert to his own use twenty-one (21) union dues rebate checks issued by the United States Treasury, property of the United States with an aggregate value exceeding \$1,000, that is, \$14,622, more or less, in violation of Title 18 U.S.C. § 641.

COUNT II

On or about April 19, 2000, at Hardin, in the State and District of Montana, and other places, the defendant, MICHAEL LA FORGE, in a matter within the jurisdiction of the Department of Labor, a department of the United States did knowingly and willfully make a false, fictitious, or fraudulent material statement or representation; that is, in Block 56 of the 1999 fiscal year Labor Organization Annual Report, Form LM-3, filed by the National Federation of Federal Employees, AFL-CIO, Local Union 224, the defendant, acting as the union's president, reported that "\$16,401 cash was stolen from L-224 President Mike La Forge's parked vehicle," when in truth and in fact, as MICHAEL LA FORGE then and there well knew, he had converted union dues rebate checks to cash and to his own use and benefit and that the money had not been stolen from his car as claimed, in violation of Title 18 U.S.C. § 1001(a)(2).

A TRUE BILL.

FOREPERSON

John D. Larson

by John E. Sugh
WILLIAM W. MERCER
United States Attorney

Carl E. Rostad
CARL E. ROSTAD
Criminal Chief Assistant U.S. Attorney

Crim. Summons

Warrant:

Bail:

Return date: -
Aug 18, 2003 @ 9:30am
before Mag. Anderson
in Billings

United States District Court

DISTRICT OF MONTANA, BILLINGS DIVISION

UNITED STATES OF AMERICA

vs.

MICHAEL LaFORGE

SUMMONS IN A CRIMINAL CASE

Case Number: CR 03-95-BLG-RFC

YOU ARE HEREBY SUMMONED to appear before the United States District Court at the place, date and time set forth below.

PLACE	U.S. DISTRICT COURT U.S. COURTHOUSE, COURTROOM III 316 NORTH 26TH STREET BILLINGS, MT 59101	DATE: August 18, 2003
BEFORE	HONORABLE RICHARD W. ANDERSON UNITED STATES MAGISTRATE JUDGE	TIME: 9:30 A.M.

To answer the indictment charging you with a violation of Title 18:641 and 1001(a)(2) United States Code.

Brief description of offense: Embezzlement/Theft of Government Property & Fraud & False Statements.

CERTIFIED COPY OF CHARGING DOCUMENT ATTACHED.

Assigned to: AUSA Klaus P. Richter


Signature of Issuing Officer



Date: July 17, 2003

RAYNA M. WEISS, DEPUTY CLERK
Name and Title of Issuing Officer

RETURN	
THIS SUMMONS WAS SERVED ON THE ABOVE-NAMED DEFENDANT AT	
DATE OF SERVICE	<i>Dwight MacKay</i> UNITED STATES MARSHAL
RETURNED ON	
BY	DEPUTY U.S. MARSHAL

FILED
BILLINGS DIV.

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Rayna M. Weiss
PATRICK E. DUFFY, CLERK

BY: _____
DEPUTY CLERK

RECEIVED
AUG 19 2003
U.S. ATTORNEY'S OFFICE
BILLINGS, MONTANA

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION

UNITED STATES OF AMERICA,
Plaintiff,

vs.

MICHAEL LA FORGE,
Defendant.

Cause No. CR 03-95-BLG-RFC

ORDER

Pursuant to arraignment proceedings held in open court on August 18, 2003, defendant's plea of not guilty to Counts I and II of the Indictment, and the Court's ruling from the bench,

IT IS ORDERED:

1. David Duke is appointed to represent defendant for all proceedings upon the condition that, upon application by the government, defendant reimburse the government for the costs of his defense.

2. Following processing by the United States Marshals Service, defendant is released on his own recognizance. Defendant's release shall be subject to the written conditions of pretrial release to be provided to him by the Pretrial Services Office. Immediately after his release, defendant shall meet with his Pretrial Services Officer, who shall explain the written conditions of pretrial release, which defendant shall read and acknowledge by his signature. Upon defendant's acknowledgment, the written conditions shall be deemed a part of this order and shall, by this reference, be incorporated herein. Failure to promptly appear at the Pretrial Services Office shall be grounds to revoke defendant's release.

3. In addition to the written conditions of pretrial release provided by Pretrial Services, defendant shall abide by the following conditions of release: He shall not violate any federal, state, or local law, and he shall timely make all future court

appearances.

4. Should defendant violate any condition of release, a warrant may issue and he may be incarcerated until his trial and may be prosecuted for contempt of court.

5. Defendant is advised that, under 18 U.S.C. § 3147, the commission of any offense while on pretrial release may result in an additional sentence upon conviction of such offense. Such sentence shall be consecutive to any other sentence and must be imposed in addition to the sentence received for the offense itself.

Defendant is further advised that it is a criminal offense under 18 U.S.C. § 3146 to knowingly fail to make any future court appearances or to surrender for the service of a sentence pursuant to a court order. A term of imprisonment imposed for failure to appear or surrender shall be consecutive to the sentence of imprisonment for any other offense.

Defendant is advised that 18 U.S.C. § 1503 makes it a criminal offense to intimidate or attempt to intimidate a witness, juror or officer of the court; 18 U.S.C. § 1510 makes it a criminal offense to obstruct a criminal investigation; 18 U.S.C. § 1512 makes it a criminal offense to tamper with a witness, victim, or informant; and 18 U.S.C. § 1513 makes it a criminal offense to retaliate against a witness, victim or informant, or threaten to attempt to do so.

Done and dated this 18th day of August, 2003.


RICHARD W. ANDERSON
UNITED STATES MAGISTRATE JUDGE

RECEIVED
AUG 20 2003
U.S. ATTORNEY'S OFFICE
BILLINGS, MONTANA

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA

FILED
BILLINGS DIV.

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BILLINGS DIVISION

PATRICK E. DUFFY, CLERK
BY **Cheri Anderson**

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.)
)
 MICHAEL LA FORGE,)
)
 Defendant.)

Cause No. CR-03-095-BLG-RPC
DEPUTY CLERK

SCHEDULING ORDER

It is the policy of this Court not to conduct criminal pretrial conferences in every criminal case. However, prior to trial, any party may request a pretrial conference with Judge Cebull to consider such matters that will promote a fair and expeditious trial. The motion requesting a conference should indicate when both counsel would be available. If the conference is to be conducted telephonically, the motion should also indicate who will initiate the call.

IT IS HEREBY ORDERED:

1. The following schedule will govern all pretrial procedures in this case:

Trial: **October 20, 2003 at 9:00 a.m.**
Counsel in chambers at 8:00 a.m.
James F. Battin Courthouse
Billings, Montana

Discovery: **September 2, 2003**

Pretrial Motions
excluding motions in limine: **September 22, 2003**

Responses: October 3, 2003
Motion for Change of Plea: October 10, 2003
Jury Instructions and Trial Briefs: October 14, 2003

ANY MOTIONS TO CONTINUE TRIAL (In Order to Allow the Jury Clerk Sufficient Time to Notify Prospective Jurors); failure to comply may subject counsel to sanctions.

October 15, 2003

Plea Agreement: 48 hours prior to Change of Plea hearing

This schedule must be strictly adhered to by the parties.

To efficiently prepare for trial within the times set above,

IT IS FURTHER ORDERED:

2. The parties shall review the revisions to the Federal Rules of Evidence, which became effective December 1, 2000. This case will be governed by the new rules.
3. On or before the discovery deadline set above, the government shall, upon request of the attorneys for the defendants, provide to the defendant all discoverable materials specified in Rule 16(a) of the Federal Rules of Criminal Procedure. The government shall make specific disclosure of its intent to use any statements or confessions made by the defendants. If the defendants question the admissibility of such statement or confession, the hearing required by Jackson v. Denno, 378 U.S. 368 (1964), shall be held at least ten (10) days prior to trial.
4. Upon compliance by the government with the defendants' discovery request, defendants shall supply reciprocal discovery pursuant to Fed. R. Crim. P. 16(b).
5. The parties are under a continuing duty of disclosure and discovery of materials set forth herein, pursuant to Fed. R. Crim. P. 16(c). If expert witnesses are engaged, the parties shall fully comply with the requirements of Rule 16(a)(1)(E) and Rule 16(b)(1)(C), respectively. Unless otherwise ordered by the Court, compliance with Rule 16 requires that the expert summary shall contain a complete statement signed by the expert of all opinions to be expressed and the

bases and reasons for the opinions; any data or information considered by the expert in forming the opinions; the qualifications of the expert, including a list of all publications by the expert within the past ten years; and a list of all cases for which the expert has testified as an expert in trial or by deposition in the past four years.

6. **Motions:** All pretrial motions, other than motions to enter a guilty plea, must be filed, along with a brief in support, on or before the motions deadline indicated above. Motions and briefs must be faxed to the U. S. Attorney by the motions deadline. A response brief is due ten (10) calendar days after the filing date of the motion. The U.S. Attorney must fax a copy of the response brief to defense counsel by the response deadline. An optional reply brief may be filed within five (5) calendar days of the filing date of the response brief. **These deadlines supplant the briefing schedule contained in Local Rule 320-1.**

- Suppression Motions:** To facilitate hearings on suppression motions, the parties are **required** to submit supporting factual documentation with motions to suppress - e.g., affidavits, tapes, Miranda waiver forms, etc. Response briefs (and reply briefs, if submitted) should state **with particularity** the factual issues remaining in dispute for resolution at a suppression hearing.

7. All requests for service of subpoenas by the United States Marshal must be on file in the Clerk of Court's office no later than ten (10) working days before trial. Except for good cause shown, service of subpoenas after said date is the responsibility of counsel. The provision of Rule 17 Fed.R.Crim.Pro. must be complied with before any subpoena is issued.

8. **Calling witnesses at trial:** When a witness is called to testify at trial, counsel shall provide to the clerk of court four (4) copies of a single page document providing the following information about the witness: 1) the full name and current address of the witness; 2) whether the witness has given a statement (taped), a written statement, an interview with government agents (other than an AUSA), or grand jury testimony; 3) a brief description of the nature and substance of the witness's testimony; 4) a listing of each exhibit to which the witness may refer during direct examination.

9. Any petition for a writ of habeas corpus ad testificandum or prosequendum, along with a proposed order, must be filed no later than thirty (30) days prior to the trial date for federal inmates, and no later than ten (10) days prior to the trial date for state prison or county jail inmates.

10. The United States may submit a trial brief at the same time jury instructions are submitted. The defendant may submit a trial brief. All trial briefs shall include

legal authority for the party's position on all legal and evidentiary issues. All trial briefs must be filed with the Clerk of Court and served on the other parties.

11. In the absence of a signed plea agreement by the date specified in paragraph 1, the Clerk of Court will order a jury. **Except for good cause shown, no plea agreement will be considered by the Court thereafter.** Late filing may result in assessment of costs or the loss of the offense level reduction available pursuant to U.S.S.G. §3E1.1. **Plea agreements shall state clearly whether they are made pursuant to Rule 11(e)(1)(A) or Rule 11(e)(1)(B), Fed.R.Crim.P. The Court will not accept plea agreements made pursuant to Rule 11(e)(1)(C) except in extraordinary circumstances.**
12. Originals of proposed voir dire questions shall be filed with the Clerk of Court at the same time as proposed jury instructions, in the Division in which the case is venued by the date specified above; one working copy shall be faxed directly to the Chambers of Judge Richard F. Cebull at 406-247-7023.
13. **JURY INSTRUCTIONS:**
 - (a) The parties shall jointly prepare a set of jury instructions upon which they agree (proposed joint instructions). These proposed jury instructions shall include all necessary stock criminal instructions. If necessary, each party may also prepare a set of proposed supplemental instructions if different from the agreed joint instructions. **No two instructions shall be submitted with the same number.**
 - (b) Generally, the Court offers the following stock instructions taken from the *Model 9th Circuit Criminal Jury Instructions* in every criminal trial, as applicable to each individual case: 1.1; 1.2; 1.3; 1.4; 1.5; 1.6; 1.7; 1.8; 1.9; 1.10; 1.11; 2.2; 1.12; 1.14; 2.10; 2.1; 3.1; 3.2; 3.3; 3.4; 3.5; 3.6; 3.7; 3.8; 3.9; 3.10; 4.3; 3.11; 7.1; 7.2; 7.3; 7.4; 7.6; 7.5. Therefore, it is not necessary for the parties to duplicate these instructions in their proposed instructions to the Court.
 - (c) By the date given in Paragraph 1 above, one working copy of the joint and supplemental instructions shall be filed with the Clerk of Court in the Division in which the case is venued. These are the originals and will be docketed by the Clerk of Court. For this purpose, facsimile (FAX) submissions are not acceptable and will be disregarded by the court.
 - (d) By the date given in Paragraph 1, one working copy and one clean copy of the joint and supplemental instructions shall be submitted to the Clerk of Court in the Division in which the case is venued, marked for the attention

of Judge Cebull. The clean copy should contain no citations and should not include a signature line for Judge Cebull. Both parties shall also submit a clean copy of the joint and supplemental instructions on a 3.5" disc in Wordperfect format. The disc shall also be submitted to the Clerk of Court in the Division in which the case is venued, marked for the attention of Judge Cebull.

14. FORMAT OF JURY INSTRUCTIONS

- (a) The **clean copy** shall contain
 - 1) a heading reading "Instruction No. ____";
 - 2) the text of the instruction;
 - 3) no citations or markings other than the text.
- (b) The **working copy** shall contain
 - 1) a heading reading "Instruction No. ____";
 - 2) the text of the instruction;
 - 3) the number of the proposed joint or supplemental instruction;
 - 4) the legal authority for the instruction;
 - 5) the title of the instruction; i.e., the issue of law addressed by the proposed instruction.
- (c) Jury instructions shall be prepared in **12 point typeface**.

- 15. The parties are advised that final instructions for submission to the jury will be settled in chambers, on the record, prior to closing argument, at which time counsel may present arguments and make objections.
- 16. All instructions shall be short, concise, understandable and shall represent neutral statements of the law. Argumentative instructions are improper, will not be given, and should not be submitted. The parties are strongly encouraged to submit proposed instructions taken from the Manual of Model Criminal Jury Instructions for the Ninth Circuit, 2000 edition.
- 17. The parties should also note that any modifications of instructions from statutory authority, Ninth Circuit pattern instructions, or DeVitt and Blackmar (or any other form instructions), must specifically state modification made to the original form instruction and the authority supporting the modification.
- 18. **Exhibits:** The United States shall use exhibit numbers 1-499 and defendants shall use 500 and up. In no event shall two or more parties use identical exhibit numbers.

19. Failure to comply with any of the above requirements may subject the non-complying party and/or its attorneys to sanctions.

20. **JUDGE'S TRIAL NOTEBOOK:**

Each party shall prepare a notebook for the judge containing the following items for each witness they intend to call at trial:

- (a) a short summary of the nature and substance of the testimony of the witness;
- (b) a list of all the exhibits to be used with that particular witness;
- (c) a list containing a description of each exhibit to be used with each witness;
- (d) a photocopy of each exhibit (when possible) to be used with each witness.

The Clerk of Court is directed to notify the parties of the making of this Order

DATED the 19th day of August, 2003.


Richard F. Cebull

UNITED STATES DISTRICT JUDGE