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NORTH SIDE BUSINESSMAN AND HIS TWO SONS ARRESTED FOR ALLEGEDLY SKIMMING CASH AND UNDERPAYING \$2.5 MILLION IN EMPLOYMENT TAXES

CHICAGO – A north side businessman and his two sons -- one of them a lawyer -- were arrested today on federal charges for allegedly engaging in a long-running conspiracy to defraud the Internal Revenue Service of more than \$2.5 million in employment taxes. The defendants allegedly fraudulently under reported by more than \$6.5 million the total wages paid to employees of various businesses, including an auto service station and repair shops and a restaurant, in which they had ownership interests.

The defendants, **Frank R. Milito**, 64, of 1647 North Hudson, Chicago, and his sons, **Antonio Milito**, 40, of 1716 North Hudson, and lawyer **Joseph F. Milito**, 38, of 1649 North Hudson, were charged in a 16-count indictment that was returned by a federal grand jury late yesterday and unsealed today, announced Patrick J. Fitzgerald, United States Attorney for the Northern District of Illinois and James W. Martin, Special Agent-in-Charge of the Criminal Investigation Division of the Internal Revenue Service in Chicago.

Each was charged with one count of conspiracy to defraud the IRS by filing false quarterly federal employment tax returns over a 16-year period from late 1983 until at least the end of 1999. In addition, Frank Milito was charged with 4 counts, and Antonio Milito was charged with 11 counts, respectively, of filing false federal employment tax returns. All three were expected to appear at 3 p.m. today before Magistrate Judge Geraldine Soat Brown in U.S. District Court.

According to the indictment, from 1983 until 1999, the defendants were involved in the operation of several north side businesses involving auto service and repair, restaurant and travel services. These included Milito's Service, Inc., and subsequently Fullerton-Seminary, Inc., which operated a leased auto service station at 1106 West Fullerton; Southport and Diversey Service, Inc., which operated auto repair shops at 2440 North Sheffield and 3030 North Clark; and Milito's Ltd., which operates Orso's, a restaurant and cocktail lounge at 1401 North Wells.

The indictment alleges that as part of the conspiracy, the defendants operated a split payroll system by which as many as 47 employees of Milito businesses were paid partially or entirely with cash from which no deductions were taken or paid to the IRS for Social Security, Medicare, and withholding taxes. For more than 16 years, only wages paid by check were reported to the IRS and only deductions from those check wages were paid by the Milito businesses to the IRS. The indictment charges that more than \$6.5 million in cash wages were unreported and more than \$2.5 million in deductions and in employer contributions to Social Security were neither declared nor paid to the IRS.

The indictment also alleges that to generate the money to pay the cash wages, at least \$8,000 on average each week was skimmed from the daily receipts of the Milito businesses for more than 16 years.

The case was assigned to U.S. District Court Judge Wayne R. Andersen. The government is being represented by Assistant U.S. Attorneys John F. Podliska and John Scully.

If convicted, the conspiracy count carries a maximum penalty of 5 years in prison and a \$250,000 fine. Each count of filing a false employment tax return carries a maximum of 3 years in prison and a \$250,000 fine, together with mandatory costs of prosecution. In addition, defendants convicted of tax offenses remain liable for any taxes, penalties and interest owed. The penalty for

failing to remit employment taxes is 100 percent of the amount owed. The Court, however, would determine the appropriate sentence to be imposed under the United States Sentencing Guidelines.

The public is reminded that an indictment contains only charges and is not evidence of guilt. The defendants are presumed innocent and are entitled to a fair trial at which the United States has the burden of proving guilt beyond a reasonable doubt.

Note – Representatives of the U.S. Attorney’s Office and the Internal Revenue Service Criminal Investigation Division will be available to reporters following today’s court appearance in the lobby of the Dirksen Federal Courthouse, 219 South Dearborn.

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