

DISTRICT COURT OF NASSAU COUNTY  
FIRST DISTRICT ARRAIGNMENT PART

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THE PEOPLE OF THE STATE OF NEW YORK,

**FELONY COMPLAINT**  
DOCKET No.:

-against-

LUIS CRESPO,

NYS Attorney General's  
Office  
AAG Cheryl J. Lee  
Tel: (212) 416-8724

Defendant.

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CRIMINAL INVESTIGATIONS DIVISION FORENSIC TAX AUDITOR ALAN  
MAIER, of the New York State Department of Taxation and Finance, being duly sworn, deposes  
and says:

On or about and between December 1, 2009 through February 28, 2018 at Broadway  
Towing, Inc. and Broadway Auto and Towing, Inc., located at 25 Broadway, Freeport, Nassau  
County, New York, and elsewhere, in the State of New York,

**THE DEFENDANT COMMITTED THE OFFENSES OF:**

Penal Law § 155.40 (1)      Grand Larceny in the Second Degree  
    ("C" Felony)(2 Counts)

Tax Law § 1804      Criminal Tax Fraud in the Third Degree  
    ("D" Felony)(15 Counts)

Penal Law § 155.25      Petit Larceny  
    ("A" Misdemeanor) (1 count)

**IN THAT THE DEFENDANT:**

Stole property in excess of fifty thousand dollars; committed a tax fraud act, with intent to evade any tax due under Chapter Sixty of the Consolidated Laws concerning Article 37 of the Tax Law, or to defraud the state or any subdivision of the state, and paid the state and/or a political subdivision of the state (whether by means of underpayment or receipt of refund or both), in a period of not more than one year in excess of ten thousand dollars less than the tax liability that was due; and committed a tax fraud act; and, stole property.

**THE GROUNDS FOR DEPONENT'S BELIEF ARE AS FOLLOWS:**

1. Deponent states that he is employed as an Auditor 3 (Forensic Tax) by the New York State Department of Taxation and Finance ("DTF") and performs forensic audits and supervises Forensic Tax Auditors, including Joseph Karott, during the course of his employment. Deponent is trained in and is fully familiar with the New York State Tax Laws, including Articles 28 and 37 pertaining to, among other things, the (i) filing requirements for insurers of motor vehicles, (ii) imposition of sales tax payments on insurers who make payments to repair shops for motor vehicle repairs, and (iii) sales tax remission and return filing requirements for repair shops that received sales tax payments from insurers. Deponent further states that all registered vendors who conduct taxable sales must collect sales tax, file-sales tax returns, and remit sales tax to the DTF.

2. Deponent states that every insurer of motor vehicles that issues physical damage liability insurance for vehicles registered in New York State, which makes payments under a liability policy to service or repair of a motor vehicle on behalf of an insured person, is required to file an annual Information Return ("IR") with the DTF. When an insurer makes a payment to a repair shop for taxable motor vehicle damage repairs, it must include sales tax as a component of

the repair cost. The IR provided by an insurer to the DTF includes the total amount paid by the insurer to a repair shop for each taxable year.

3. As more fully set forth below, during the relevant time periods, defendant Luis Crespo (“Crespo”), owned and had a controlling beneficial interest in Broadway Towing, Inc. (“Broadway Towing”) and Broadway Auto and Towing, Inc. (“Broadway Auto”), which were both located at or about 25 Broadway, Freeport, Nassau Country, in the State of New York.

**A. Broadway Towing**

4. Deponent states that he supervises Forensic Tax Auditor Joseph Karott (“Karott”), who reviewed DTF business records concerning Broadway Towing for the time periods of December 1, 2009 to February 28, 2018. Karott’s review of these records included a review of Broadway Towing’s DTF-17, filed with DTF on March 26, 2007; DTF Certifications of Non-Filing of New York State Sales Tax Returns (“Certifications”) for the time periods December 1, 2008 through November 2016; New York State Third Party Database Records filed from January 2010 through October 2016; financial records including banking and check cashing records, to wit, Citibank account ending in 7141, Sabrina Check Cashing records pertaining to Broadway Towing and auto club company records including contracts for road side assistance services and payments made to Broadway Towing from Agero Administration Services Corp., Cross Country Motor Club, Pinnacle Partners Solutions, National Motor Club, LLC, and National Motor Club Partners Solutions.

5. Deponent states that he is informed by Karott that for the taxable period of December 1, 2009 to February 28, 2018, the referenced DTF-17s and/or Certifications filings list Broadway Towing’s physical address in Nassau County as 25 Broadway, Freeport, New York,

and defendant Crespo as the owner and responsible party of the corporation. Furthermore, according to DTF records, Crespo signed the Corporation Tax returns as its president.

6. Deponent is further informed by Karott that a review of certified Department of State (“DOS”) records indicate that Broadway Towing was incorporated in 2006 Crespo is listed on Broadway Towing’s Certificate of Incorporation as Incorporator.

7. Deponent is further informed by Karott that Broadway Towing, as a corporation registered to do business in the State of New York, is required to file sales tax returns and submit payments with said returns for all time periods during which they had taxable sales in New York State.

8. Deponent is further informed by Karott that a review of the DTF Certifications described above, for the taxable period of December 1, 2009 through February 28, 2018, reveals that no ST-100s were filed by Broadway Towing for the above-described period. However, the above-described financial records and third party data reveal that Broadway Towing had a total of \$5,414,789 in taxable sales for the aforementioned period. Therefore, defendant Crespo and Broadway Towing failed to report \$5,414,789 in taxable sales to the DTF during the audit period of December 1, 2009 through February 28, 2018.

9. Deponent is further informed by Karott that Karott reviewed the aforementioned financial records and found that defendant Crespo and Broadway Towing either failed to report, under reported, or failed to remit the amount of sales tax to DTF. For example, bank filings and tax filings, show: a) for December 1, 2009 to November 30, 2010, defendant failed to report and remit \$30,426 to DTF; b) for December 1, 2010 to November 30, 2011, defendant failed to report and remit \$21,348 to DTF; c) for December 1, 2011 to November 30, 2012, defendant failed to report and remit \$37,534 to DTF; d) for December 1, 2012 to November 30, 2013,

defendant failed to report and remit \$37,391 to DTF; e) for December 1, 2013 to November 30, 2014, defendant failed to report and remit \$64,355 to DTF; f) for December 1, 2014 to November 30, 2015, defendant failed to report and remit \$84,598 to DTF; g) for December 1, 2015 to November 30, 2016, defendant failed to report and remit \$73,130 to DTF; h) for December 1, 2016 to November 30, 2017, defendant failed to report and remit \$95,672 to DTF; and, i) for December 1, 2017 to February 28, 2018, defendant failed to report and remit \$22,567 to DTF.

10. Deponent is informed by Karott that, in total, for the sales tax periods covering January 1, 2010 through February 28, 2018, defendant Crespo and Broadway Towing failed to remit \$467,025 in sales tax to DTF.

11. Deponent states that defendant Crespo and Broadway Towing did not have permission or authority to: (i) not to file any ST-100's with DTF; and (ii) fail to remit the above-described \$467,025 in sales tax owed to DTF for the sales tax filing period covering December 2009 to February of 2018.

**B. Broadway Auto**

12. Deponent states that he is informed by Karott that Karott reviewed DTF business records concerning Broadway Auto and Towing, Inc. ("Broadway Auto") for the time periods of December 1, 2009 to November 30, 2016. Karott's review of these records included a review of Broadway Auto's Application to Register for a Sales Tax Certificate of Authority ("DTF-17"), filed with the DTF on September 15, 2014; New York State and Local Quarterly Sales and Use Tax Returns ("ST-100s"), filed with the DTF from on or about December 1, 2009 through November 30, 2016, New York State Third Party Database Records from January 2010 through October 2016; financial records including banking and check cashing records, to wit, Citibank

account ending in '7141, and auto club company records including contracts for road side assistance services and payments made to Broadway Auto from Signature Motor Club, Signature Nationwide Auto Club, Signature Agency and Brickell Financial Services Motor Club, Inc.

13. Deponent states that he is informed by Karott that for the taxable period of December 1, 2009 to February 28, 2018, the referenced DTF-17s and/or ST-100 and/or Certifications filings list Broadway Auto's physical address in Nassau County as 25 Broadway, Freeport, New York, and defendant Crespo as the owner and responsible party of the corporation. Furthermore, according to DTF records, Crespo signed NYS Sales and Corporation Tax returns as its president.

14. Deponent is further informed by Karott that a review of certified Department of State ("DOS") records indicate that Broadway Auto was incorporated in 2001.

15. Deponent is further informed by Karott that a review of certified Department of Motor Vehicle ("DMV") records indicates that Broadway Auto's Original Facility Application, filed with DMV on May 25, 2012, lists Crespo as President, 100% shareholder and sole officer of the corporation.

16. Deponent is further informed by Karott that Broadway Auto, as a corporation registered to do business in the State of New York, is required to file sales tax returns and submit payments with said returns for all time periods during which they had taxable sales.

17. Deponent states that he is informed by Karott that a review of the ST-100's described above, for the taxable period of December 1, 2009 through November 30, 2016, which were filed with the DTF in the name of Broadway Auto and with defendant Crespo's name in the taxpayer section with the title President, indicate that a total of \$561,400 was reported by defendant as taxable sales for the above-described period. However, the above-described

financial records and third party data reveal a total of \$3,712,330 in taxable sales for the aforementioned period. Therefore, the defendant Crespo and Broadway Auto failed to report \$3,150,930 in taxable sales to the DTF during the audit period of December 1, 2009 through November 30, 2016.

18. Deponent is further informed by Karott that Karott reviewed the aforementioned financial records and compared these records against the submitted tax forms (ST-100's), and found that defendant Crespo and Broadway Auto either failed to report, under reported, or failed to remit the amount of sales tax to DTF. For example, bank filings and tax filings, show: a) for December 1, 2009 to November 30, 2010, defendant failed to remit \$24,903 to DTF; b) for December 1, 2010 to November 30, 2011, defendant failed to remit \$49,047 DTF; c) for December 1, 2011 to November 30, 2012, defendant failed to remit \$28,664 to DTF; d) for December 1, 2012 to November 30, 2013, defendant failed to remit \$49,005 to DTF; e) for December 1, 2013 to November 30, 2014, defendant failed to remit \$50,881 to DTF; f) for December 1, 2014 to November 30, 2015, defendant failed to remit \$63,998 to DTF; g) for March 2016 to November 2016, defendant failed to remit \$5,266 to DTF.

19. Deponent is informed by Karott that, in total, for the sales tax periods covering December 1, 2009 through November 30, 2016, defendant Crespo and Broadway Auto failed to remit \$271,767 in sales tax to DTF.

20. Deponent states that the defendant Crespo and Broadway Auto did not have permission or authority to: (i) file 28 false ST-100's with the DTF by failing to accurately report taxable sales as described above; and (ii) fail to remit the above-described \$271,767 in sales tax owed to DTF for the sales tax filing period covering December 1, 2009 through November 30, 2016.

**FALSE STATEMENTS MADE HEREIN ARE  
PUNISHABLE AS A CLASS "A" MISDEMEANOR  
PURSUANT TO PENAL LAW § 210.45**

Alan Maier

ALAN MAIER  
Criminal Investigations Division  
New York State Department of Taxation and Finance

10/27/2020

Date