



*United States Attorney
District of New Jersey*

FOR IMMEDIATE RELEASE
August 6, 2010

CONTACT: Rebekah Carmichael
Office of Public Affairs

www.justice.gov/usao/nj

(973) 645-2888

**ADMINISTRATOR/TRUSTEE OF RETIREMENT TRUST IS ARRESTED FOR
EMBEZZLING APPROXIMATELY \$260,000 FROM THE TRUST**

NEWARK, N.J. – Steven M. Zavidow was arrested this morning by federal agents on a Criminal Complaint that alleged that he embezzled approximately \$260,000 from a retirement plan that he established for the benefit of his employees, United States Attorney Paul J. Fishman announced.

Zavidow, 51, Hillsdale, New Jersey, was charged with six counts of embezzling money from an employee benefit plan. Zavidow is expected to appear before United States Magistrate Judge Madeline Cox Arleo in Newark federal court later today.

According to the Criminal Complaint filed in Newark federal court:

Zavidow owned and operated eleven Burger King restaurants located in New York, and each restaurant was separately incorporated. In early 1984, Zavidow and his father, who is not named as a defendant in the Criminal Complaint, established the Zavco Industries Retirement Trust (hereinafter the "Trust") for the purpose of providing retirement benefits to the employees of Zavidow's Burger King restaurants. The Trust was established as a defined benefit plan, a type of pension plan whereby Zavidow's companies made monetary contributions, on an annual basis, into the Trust on behalf of each employee-participant based on the employee's earnings history, tenure of service, and age, among other factors. Eligible participants are eligible to collect benefits from Trust upon reaching the age of 65. The Trust is governed by the Employee Retirement and Security Act of 1974, a federal law that regulates these types of retirement plans.

Zavidow is the Trust's administrator and a trustee and, as such, is a fiduciary to the Trust. As a fiduciary, he is required to act solely in the interest of the Trust's participants and beneficiaries and is prohibited from dealing with the Trust's assets for his own personal purposes. The Trust maintains a bank account, and Zavidow is a signatory on the account.

Beginning in or about March 2006, contrary to his fiduciary duties, Zavidow embezzled \$263,000 from the Retirement Trust by issuing approximately five checks, drawn on the Trust's bank account, to himself. Zavidow then deposited these checks in his wife's bank account or cashed the checks at a check cashing store in Paterson, New Jersey. On one occasion, Zavidow issued a check, drawn on the Trust's bank account to SLZ Processing Corp., a company with a business bank account in Zavidow's mother's name. Neither Zavidow's wife nor his mother is named as a defendant in the Criminal Complaint.

The alleged embezzled checks are as follows:

Approximate Date of Check	Payor	Payee	Amount	Status of Check
March 2, 2006	Zavco Industries Retirement Trust	Steven Zavidow	\$130,000	deposited into Zavidow's wife's Bank Account
April 6, 2006	Zavco Industries Retirement Trust	Steven Zavidow	\$50,000	deposited into Zavidow's wife's Bank Account
May 2, 2006	Zavco Industries Retirement Trust	Steven Zavidow	\$40,000	deposited into Zavidow's wife's Bank Account
June 13, 2006	Zavco Industries Retirement Trust	SLZ Processing Corp.	\$25,000	deposited into Zavidow's mother's Bank Account
August 11, 2006	Zavco Industries Retirement Trust	Steven Zavidow	\$11,000	cashed at check cashing store by Zavidow
August 30, 2006	Zavco Industries Retirement Trust	Steven Zavidow	\$7,000	cashed at check cashing store by Zavidow

On or about March 3, 2006, a day after the first check (\$130,000) was deposited into Zavidow's wife's bank account, a check drawn on Zavidow's wife's bank account, in the amount of \$95,777, was issued to pay for the costs associated with remodeling a residential home, located in Demarest, New Jersey, held solely in her name.

The Trust currently has a zero balance.

If convicted, Zavidow faces a maximum term of imprisonment of up to five years and a \$250,000 fine per count. In determining an actual sentence, the judge to whom the case is assigned would, upon a conviction, consult the advisory U.S. Sentencing Guidelines, which

provide appropriate sentencing ranges that take into account the severity and characteristics of the offense, the defendants' criminal history, if any, and other factors. The judge, however, is not bound by those guidelines in determining a sentence. Parole has been abolished in the federal system. Defendants who are given custodial terms must serve nearly all that time.

U.S. Attorney Fishman credited Investigators from the United States Department of Labor–Employee Benefits Security Administration, under the direction of Regional Director Jonathan Kay; Special Agents from the U.S. Department of Labor-Office of Labor Racketeering and Fraud Investigations, under the direction of Special Agent in Charge Marjorie Franzman; and Special Agents from the Internal Revenue Service–Criminal Investigation, under the direction of Special Agent in Charge William P. Offord, with the investigation leading to the Criminal Complaint.

The Government is represented by Assistant United States Attorney Anthony Moscato of the U.S. Attorney's Office Organized Crime/Gangs Unit in Newark.

The charges and allegations contained in the Complaint are merely accusations, and each defendant is presumed innocent unless and until proven guilty.