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IN THE SUPERIOR COURT OF THE STATE OF ARIZONA  
IN AND FOR THE COUNTY OF MARICOPA

THE STATE OF ARIZONA,

Plaintiff,

vs.

PINATA NUEVA LLC, an Arizona  
Limited Liability Company (001),

PINATA NUEVA II LLC, an Arizona  
Limited Liability Company (002),

MARTIN DAVID GONZALES (003),

LEONARD R. GALLARDO, JR. (004),

and

FRANCES LUCY GALLARDO (005),

Defendants.

Case No: CR 2008-007434

63 SGJ 80

INDICTMENT

CHARGING VIOLATIONS OF:

**COUNT 1: FRAUDULENT SCHEMES  
AND ARTIFICES**, a Class 2 Felony, in  
violation of A.R.S. § 13-2310  
(Defendants 001, 002 and 003 only)

**COUNT 2: CONSPIRACY**, a Class 2  
Felony, in violation of A.R.S. § 13-1003  
(All Defendants)

**COUNT 3: FRAUDULENT SCHEMES  
AND ARTIFICES**, a Class 2 Felony, in  
violation of A.R.S. § 13-2310  
(All Defendants)

**COUNT 4: THEFT**, a Class 2 Felony, in  
violation of A.R.S. § 13-1802 (A) (3)  
(All Defendants)

...

**COUNT 5: CONSPIRACY**, a Class 2  
Felony, in violation of A.R.S. § 13-1003  
(All Defendants)

The 63<sup>rd</sup> Arizona State Grand Jury accuses **PINATA NUEVA LLC, PINATA NUEVA II LLC, MARTIN DAVID GONZALES, LEONARD R. GALLARDO, JR., and FRANCES LUCY GALLARDO**, charging on this 13<sup>th</sup> day of August, 2008 that in or from Maricopa County, Arizona:

**COUNT 1**

**(FRAUDULENT SCHEMES AND ARTIFICES)**

During the time period beginning on or about July 31, 2006 and ending on or about September 8, 2006, the defendants, **PINATA NUEVA LLC, PINATA NUEVA II LLC, and MARTIN DAVID GONZALES** knowingly obtained a benefit by means of false or fraudulent pretenses, representation, promises or material omissions, in violation of A.R.S. §§13-2310, 13-2301, 13-301, 13-302, 13-303, 13-304, 13-305, 13-306, 13-610, 13-701, 13-702, 13-702.01, 13-801 and 13-803.

This occurred when the defendants **PINATA NUEVA LLC and PINATA NUEVA II LLC**, and **MARTIN DAVID GONZALES**, both individually and acting in an official capacity on behalf of **PINATA NUEVA LLC and PINATA NUEVA II LLC**, presented to the U.S. the Department of Labor copies of checks and receipt of payment forms as certification and proof of payment of back wages owed to employees, when the employees never received the funds.

**COUNT 2**  
**(CONSPIRACY)**

During a period of time beginning on or about October 7, 2006, and ending on or about October 13, 2006, defendants **PINATA NUEVA LLC, PINATA NUEVA II LLC, MARTIN DAVID GONZALES, LEONARD R. GALLARDO, JR., and FRANCES LUCY GALLARDO** with the intent to promote or aid the commission of an offense, each person agreed with one or more persons that at least one of them or another person would engage in conduct constituting the offense and one of the parties committed an overt act in furtherance of the offense, in violation of A.R. S. §§13-1003, 13-2310, 13-2301, 13-301, 13-302, 13-303, 13-304, 13-305, 13-306, 13-610, 13-701, 13-702, 13-702.01, 13-801 and 13-803.

Said conduct occurred when the defendants **PINATA NUEVA LLC, PINATA NUEVA II LLC, MARTIN DAVID GONZALES**, both acting individually and in an official capacity on behalf of **PINATA NUEVA LLC** and **PINATA NUEVA II LLC, LEONARD R. GALLARDO, JR.**, both acting individually and in an official capacity on behalf of **PINATA NUEVA LLC** and **PINATA NUEVA II LLC** and **FRANCES LUCY GALLARDO** both acting individually and in an official capacity on behalf of **PINATA NUEVA II LLC**, with the intent to promote or aid in the commission of an offense, did agree with one or more persons that at least one of them or another person would engage in conduct constituting the offense, namely **FRAUDULENT SCHEMES AND ARTIFICES**, by conspiring to create a series of bank transaction records and paperwork which made it appear that employees had been paid back wages, when in fact those funds were never paid to the employees.

**COUNT 3**

**(FRAUDULENT SCHEMES AND ARTIFICES)**

During a period of time beginning on or about October 7, 2006, and ending on or about October 13, 2006, defendants **PINATA NUEVA LLC, PINATA NUEVA II LLC, MARTIN DAVID GONZALES, LEONARD R. GALLARDO, JR., and FRANCES LUCY GALLARDO** knowingly obtained a benefit by means of false or fraudulent pretenses, representation, promises or material omissions, in violation of A.R.S. §§13-2310, 13-2301, 13-301, 13-302, 13-303, 13-304, 13-305, 13-306, 13-610, 13-701, 13-702, 13-702.01, 13-801 and 13-803.

This occurred when the defendants **PINATA NUEVA LLC, PINATA NUEVA II LLC, MARTIN DAVID GONZALES**, both acting individually and in an official capacity on behalf of **PINATA NUEVA LLC** and **PINATA NUEVA II LLC, LEONARD R. GALLARDO, JR.**, both acting individually and in an official capacity on behalf of **PINATA NUEVA LLC** and **PINATA NUEVA II LLC** and **FRANCES LUCY GALLARDO** both acting individually and in an official capacity on behalf of **PINATA NUEVA II LLC**, created a series of bank transaction records and paperwork which made it appear that employees had been paid back wages, when in fact those funds were never paid to the employees.

**COUNT 4**

**(THEFT)**

During a period of time beginning on or about October 7, 2006, and ending on or about October 13, 2006, defendants **PINATA NUEVA LLC, PINATA NUEVA II LLC, MARTIN DAVID GONZALES, LEONARD R. GALLARDO, JR., and FRANCES LUCY GALLARDO** without lawful authority, knowingly obtained the property of another by means

of any material misrepresentation with intent to deprive the other person or such property or services, in violation of A.R.S. §§13-1802 (A) (3), 13-1801, 13-301, 13-302, 13-303, 13-304, 13-305, 13-306, 13-610, 13-701, 13-702, 13-702.01, 13-801 and 13-803.

Said conduct occurred when the defendants **PINATA NUEVA LLC, PINATA NUEVA II LLC, MARTIN DAVID GONZALES**, both acting individually and in an official capacity on behalf of **PINATA NUEVA LLC** and **PINATA NUEVA II LLC**, **LEONARD R. GALLARDO, JR.**, both acting individually and in an official capacity on behalf of **PINATA NUEVA LLC** and **PINATA NUEVA II LLC** and **FRANCES LUCY GALLARDO** both acting individually and in an official capacity on behalf of **PINATA NUEVA II LLC**, told employees that back wages belonged to the businesses and then required the employees to deposit the proceeds of the back wage checks into company bank accounts, said back wages having a value of more than \$25,000.00.

#### COUNT 5

#### (CONSPIRACY)

During a period of time beginning on or about July 31, 2006, and ending on or about January 16, 2008, defendants **PINATA NUEVA LLC, PINATA NUEVA II LLC, MARTIN DAVID GONZALES, LEONARD R. GALLARDO, JR.**, and **FRANCES LUCY GALLARDO** with the intent to promote or aid the commission of an offense, each person agreed with one or more persons that at least one of them or another person would engage in conduct constituting the offense and one of the parties committed an overt act in furtherance of the offense, in violation of A.R.S. §§13-1003, 13-1802 A (3), 13-301, 13-302, 13-303, 13-304, 13-305, 13-306, 13-610, 13-701, 13-702, 13-702.01, 13-801 and 13-803.

Said conduct occurred when the defendants **PINATA NUEVA LLC, PINATA NUEVA II LLC, MARTIN DAVID GONZALES**, both acting individually and in an official capacity on behalf of **PINATA NUEVA LLC** and **PINATA NUEVA II LLC, LEONARD R. GALLARDO, JR.**, both acting individually and in an official capacity on behalf of **PINATA NUEVA LLC** and **PINATA NUEVA II LLC** and **FRANCES LUCY GALLARDO** both acting individually and in an official capacity on behalf of **PINATA NUEVA II LLC**, with the intent to promote or aid in the commission of an offense, did agree with one or more persons that at least one of them or another person would engage in conduct constituting the offense, namely **THEFT**, by conspiring to deprive the employees of their back pay of more than \$25,000.00 due under a settlement signed with the US Department of Labor.

The 63<sup>rd</sup> Arizona State Grand Jury makes the following findings:

- A. That at all times relevant to this indictment, Defendant **PINATA NUEVA LLC** was a limited liability company duly organized under the laws of the State of Arizona and doing business in Arizona under the name "Pinata Nueva."
- B. That at all times relevant to this Indictment, Defendants **MARTIN DAVID GONZALES** and **LEONARD R. GALLARDO, JR.** were employed by **PINATA NUEVA LLC** and acted within the scope of their employment on behalf of that Defendant.
- C. That at all times relevant to this Indictment, Defendant **PINATA NUEVA II LLC** was a limited liability company duly organized under the laws of the State of Arizona and doing business in Arizona under the name "Pinata Nueva."

- D. That at all times relevant to this Indictment, Defendants **MARTIN DAVID GONZALES, LEONARD R. GALLARDO, JR.** and **FRANCES LUCY GALLARDO** were employed by **PINATA NUEVA II LLC** and acted within the scope of their employment on behalf of that Defendant.
- E. That, pursuant to A.R.S. § 21-425, the offenses described above were committed in Maricopa County, Arizona.

*A True Bill*  
\_\_\_\_\_  
(A "True Bill")

TERRY GODDARD  
ATTORNEY GENERAL  
STATE OF ARIZONA



\_\_\_\_\_  
TODD C. LAWSON  
Assistant Attorney General

Dated: 8/13/2008



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Foreperson of the State Grand Jury

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