

January 13, 2017

Press Release - For Immediate Release

Defendant's Name: Gary Kintigh
Age: 37
City and State of residence: Elk Point, SD
Criminal File Number: 16-089
Date of Offense: April 21, 2014 through June 19, 2015;
Date of Indictment: March 2, 2016
Arraignment: May 21, 2016
Offense(s) Charged: Ct. 1-2: Failure to File a Contractor's Excise Tax Return (F6);
Ct. 3-4: Failure to Pay Excise Tax (F6);
Ct. 5-15: Failure to File Contractors' Excise Tax (M1);
Ct. 16-26: Failure to Pay Excise Tax (M1);
Change of Plea Date: August 15, 2016
Convicted of: Ct. 25: Failure to Pay Excise Tax (M1)
Ct. 26: Failure to Pay Excise Tax (M1)
Date of Sentencing: August 15, 2016
Officer: SD Revenue Agent – Laura Cunningham
Defense Attorney: Katie Johnson
Prosecutor: Alexis Tracy

Case Synopsis:

A report was received by the SD revenue office indicating that Gary Kintigh has been operating a home repair / construction business in South Dakota for years and doing so without a sales tax license, and without paying excise tax. KINTIGH was engaged to repair a residence in Elk Point, and was given an account of more than \$60,000 to make repairs and modifications. When KINTIGH failed to make the repairs and modifications, the owner of the residence reviewed the account and the expenditures. From those records and receipts left behind by KINTIGH, the SD Department of Revenue was able to identify that KINTIGH was using the money from one client to pay for other jobs. Further records seemed to suggest that KINTIGH pocketed the payments for the other jobs leaving the homeowner with no funds and little to no improvement on the intended property. The SD Dept. of Revenue took the receipts as proof that KINTIGH was illegally operating a construction business without paying his taxes and without being licensed.

Original Sentencing Synopsis:

On August 15, 2016, the Court sentenced KINTIGH on count 25, the class 1 misdemeanor charge of failure to pay contractors' excise tax. The Court considered the arguments of the State and the Defense, the Court ORDERED that KINTIGH shall be sentenced to 30 days in the Union County Jail with 30 days suspended on the following terms and conditions. KINTIGH is to have no like offenses within the next year. KINTIGH shall pay

the following monetary obligations: \$84 in Court Costs; \$1,982.08 to the SD Department of Revenue in unpaid taxes; and \$300 as a fine.

As to count 26, KINTIGH on count 26, the class 1 misdemeanor charge of failure to pay contractors' excise tax. The Court considered the arguments of the State and the Defense, the Court ORDERED that KINTIGH shall be sentenced to 30 days in the Union County Jail with 30 days suspended on the following terms and conditions. KINTIGH is to have no like offenses within the next year. KINTIGH shall pay the following monetary obligations: \$84 in Court Costs; \$1,982.08 to the SD Department of Revenue in unpaid taxes; and \$300 as a fine.

The Court further ordered that KINTIGH re-pay Union County the Court-Appointed Attorney Fees of \$340.40. The Court ordered that the sentence in count 25 shall run consecutive to the sentence in count 26.

Criminal History:

This 26 count indictment that included four felony offenses was resolved in a plea agreement in which KINTIGH plead guilty to two class 1 misdemeanors. KINTIGH's previous criminal history includes two OWI convictions; Driving while revoked; and Driving while barred conviction.