

STATE OF WISCONSIN CIRCUIT COURT DANE COUNTY

STATE OF WISCONSIN
Plaintiff,

Ref. Agency: WI Dept. of Revenue
DA Case No.: 2018DA008881
Assigned DA/ADA:
Agency Case No.: WI DOR 0-582-039-040

vs.

BENJAMIN SCHNELLER
S7638 W Grandview Ave
Merrimac, WI 53561
DOB: 08/18/1977
Sex/Race: M/W
Eye Color: Brown
Hair Color: Brown
Height: 5 ft 10 in
Weight: 158 lbs
Alias:

Court Case No.: 18CF
ATN:

For Official Use

CRIMINAL COMPLAINT

Defendant,

The below-named complaining witness being first duly sworn states the following:

Count 1: FRAUD/RENDERING INCOME TAX RETURN OR OBTAIN REFUND WITH FRAUDULENT INTENT

The above-named defendant on or about Monday, January 29, 2018, in the City of Madison, Dane County, Wisconsin, did render a false or fraudulent income tax return with intent to defeat or evade any assessment required by this chapter, or to obtain a refund or credit with fraudulent intent, contrary to sec. 71.83(2)(b)1, 939.50(3)(h) Wis. Stats., a Class H Felony, and upon conviction may be fined not more than Ten Thousand Dollars (\$10,000), or imprisoned not more than six (6) years, or both.

Count 2: FRAUD/RENDERING INCOME TAX RETURN OR OBTAIN REFUND WITH FRAUDULENT INTENT

The above-named defendant on or about Monday, April 13, 2015, in the City of Madison, Dane County, Wisconsin, did render a false or fraudulent income tax return with intent to defeat or evade any assessment required by this chapter, or to obtain a refund or credit with fraudulent intent, contrary to sec. 71.83(2)(b)1, 939.50(3)(h) Wis. Stats., a Class H Felony, and upon conviction may be fined not more than Ten Thousand Dollars (\$10,000), or imprisoned not more than six (6) years, or both.

Count 3: FAIL/FILE INCOME TAX RETURN

The above-named defendant on or about Saturday, October 15, 2016, in the City of Madison, Dane County, Wisconsin, as a person required by law make, render, sign or verify any return, did willfully fail or refuse to make a return at the time required in s. 71.03, 71.24 or 71.44 or willfully failed or refused to make deposits or payments as required by s. 71.65 (3) or willfully rendered a false or fraudulent statement required by s. 71.65 (1) and (2) or deposit report or withholding report required by s. 71.65 (3), contrary to sec. 71.83(2)(a)1 Wis. Stats., a

Misdemeanor, and upon conviction may be fined not more than \$10,000 or imprisoned for not to exceed 9 months or both, together with the cost of prosecution.

Count 4: FAIL/FILE INCOME TAX RETURN

The above-named defendant on or about Sunday, October 15, 2017, in the City of Madison, Dane County, Wisconsin, as a person required by law make, render, sign or verify any return, did willfully fail or refuse to make a return at the time required in s. 71.03, 71.24 or 71.44 or willfully failed or refused to make deposits or payments as required by s. 71.65 (3) or willfully rendered a false or fraudulent statement required by s. 71.65 (1) and (2) or deposit report or withholding report required by s. 71.65 (3), contrary to sec. 71.83(2)(a)1 Wis. Stats., a Misdemeanor, and upon conviction may be fined not more than \$10,000 or imprisoned for not to exceed 9 months or both, together with the cost of prosecution.

FACTS:

Your complainant, Wisconsin Department of Revenue Agent Paul Libeck, reports that he is the Revenue agent assigned to investigate the failure of an individual identified through tax records as Benjamin Schneller to file tax returns for 2015 and 2016. Your complainant reports that Wisconsin income tax returns are required by statute. The Wisconsin Department of Revenue issued letters to Schneller requesting Schneller to file returns or provide an explanation why he feels that he does not need to file. Special Agent Libeck reports that Schneller called the department and explained that he had not worked prior to the summer of 2017 and that he was living off of savings from a prior job. Special Agent Libeck reports that he was able to determine that from July 2014 through December 2017, Schneller was the executive chef at Fish Tales Restaurant, located on Lake Wisconsin in Lodi, Wisconsin. Special Agent Libeck reports that he contacted Fish Tales Restaurant owner Daniel Cunningham who verified the information. According to Cunningham, Schneller made \$186,300 of cash wages during that period as the executive chef for Fish Tales. Special Agent Libeck reports that during the 2015 & 16 period, Schneller received those cash payments from Fish Tales of \$53,000 and \$67,800 respectively.

Special Agent Libeck reports that he also reviewed the 2017 Wisconsin income tax return for Schneller who reported wages from his W-2 and tax, but failed to properly report the cash wages received of \$50,700 also earned at Fish Tales. Special Agent Libeck reports that he was able to view detailed records of the cash paid to Schneller as compensation of his work. Numerous employees confirmed that Schneller was working full-time as the executive chef during those years.

Special Agent Libeck reports that according to Cunningham, Schneller went on the actual payroll of Fish Tales in July of 2017 in order to comply with a work release requirement stemming from a sentencing for an OWI conviction.

Special Agent Libeck reports that he interviewed an individual who identified himself as Benjamin Schneller who denied working for the restaurant prior to the summer of 2017. Special Agent Libeck reports that there was also fraud in 2014 and the return that was filed with the Department of Revenue on April 13, 2015. Special Agent Libeck reports that for the

2014 return that was filed in 2015, Schneller did not claim the full wages he received from Fish Tales. Cunningham reported that Schneller had earned \$14,800 in 2014. Special Agent Libeck reports that Schneller failed to file any tax returns in 2015 and 2016 despite earning \$53,000 in 2015 and \$67,800 in 2016, as corroborated by documentation provided by Daniel Cunningham. In 2017, the defendant underreported his income by \$50,700 that he made at Fish Tales. Special Agent Libeck reports that the Department of Revenue is located in the City of Madison, Dane County, Wisconsin, and that's where the returns were filed. In addition, on the 2014 income tax return, Schneller listed his occupation as "unemployed", and this was also fraudulent. Special Agent Libeck reports that the total tax loss for all 4 years for the State of Wisconsin and the Department of Revenue was \$10,095.

Further, your complainant believes the information furnished by Daniel Cunningham to be truthful and reliable inasmuch as he is a citizen informant(s) and witnessed the events described.

Subscribed and sworn to before me on
09/28/18

Electronically Signed By:
Paul W. Humphrey
Assistant District Attorney
State Bar #: 1011671

Electronically Signed By:
Special Agent Paul Libeck
Complainant