

## DISTRICT ATTORNEY - NEW YORK COUNTY

**News Release**  
**September 30, 2003**

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Manhattan District Attorney Robert M. Morgenthau announced today that PHILIP MINUCCI has pleaded guilty to Manslaughter in the Second Degree in connection with the deaths of five construction workers and the serious injuries of four others in a scaffold collapse that occurred on the afternoon of October 24, 2001 in the inner courtyard of a building located at 215 Park Avenue South.

Today's plea was the result of an extensive multi-agency investigation that commenced immediately after the collapse involving the District Attorney's Office, the New York City Department of Investigation (DOI), the New York City Department of Buildings (DOB), the United States Department of Labor and its Office of Occupational Safety and Health Administration (OSHA), and the United States Attorney's Office for the Southern District of New York (SDNY).

PHILIP V. MINUCCI and his company, TRI STATE SCAFFOLD & EQUIPMENT SUPPLIES INC. ("TRI STATE"), pleaded guilty today before New York State Supreme Court Judge Rena Uviller. The judge indicated that she would sentence the defendant to up to 4 - 12 years in prison. The defendant faced a maximum of 5-15 years. He is scheduled to be sentenced on January 14, 2004.

The defendant admitted responsibility today for the reckless deaths of 5 construction workers: Manuel Barariso, Ivan Pillacela, Efrain Gonzalez, Donato Conde and Fabian Cesar Tenesaca. He also admitted responsibility for the reckless assault of four other workers. Four of the deceased died from asphyxia due to compression of their chests due to the weight of the collapsed materials and one person was crushed to death. Some of the injured suffered broken bones, including hip, pelvis, clavicle, nose and cheekbones, as well as lacerations and bruises.

Mr. Morgenthau said, "I hope this plea will bring home to everyone in the construction industry the absolute necessity of complying with building and safety laws. As this case tragically illustrates, it is often a matter of life and death."

DOI Commissioner Rose Gill Hearn and Buildings Commissioner Patricia A. Lancaster, AIA, said together, "Today's plea should send a message that contractors are responsible and will be held accountable for the safety of the workers on their jobsites."

At the time of the collapse, approximately 16 workers of the masonry subcontractor were working on the scaffold. Some were using jackhammers to remove the brick façade, while on other levels,

workers were applying a parge coating (a layer of cement) to the walls that had already been stripped of the brickwork in anticipation of the laying of new brickwork. The vast majority of the 20 masonry workers on the job were undocumented aliens who were either paid in cash or were going to get paid in cash, at the rate of \$7.00 per hour. Some had been hired at a "shape-up" on Roosevelt Avenue in Queens, while others had worked for the masonry subcontractor before.

The defendant admitted today in court that he was aware that the scaffold was potentially dangerous and that he did not hire an engineer to design it. He also admitted that he did not know the load capacity of the scaffold and that he did no calculations to determine what load the scaffold would hold. MINUCCI, who is not a trained engineer, designed and constructed the 13-story scaffold without regard to the safety of the masonry workers and in violation of statutory requirements, industry standards and common sense. The scaffold, as erected, was not strong enough to support itself and collapsed with catastrophic results.

New York City's building code requires that a licensed engineer or architect design any scaffold that rises above 75 feet. As the scaffold at 215 Park Avenue South was to be taller than that (it was at least 130 feet tall when completed), MINUCCI was required by law to use a licensed professional. In addition, the investigation further revealed that although the contract between the general contractor and TRI STATE required that a professional engineer design the scaffold; no such review ever took place. Instead MINUCCI designed the scaffold himself, even though he had no engineering background and had no license. Erection of the scaffold began on October 5, 2001 and was completed on October 16th and the masonry work began that same day.

Assistant District Attorneys Joel Kosman and Daniel McGillicuddy of the Rackets Bureau were in charge of the prosecution, under the supervision of Bureau Chief Patrick J. Dugan. ADAs Kosman and McGillicuddy, Assistant United States Attorney Mark Mendelsohn and DOI Examining Attorney Derek Pieper presented the case to the Grand Jury.

Mr. Morgenthau thanked from the Department of Investigation: Commissioner Rose Gil Hearn, Examining Attorney Derek Pieper and Special Investigator Yves Desire; from the Department of Buildings: Commissioner Patricia J. Lancaster, Assistant Commissioner for DOB's Office of Investigations and Audits, Peter Amato; Director of Investigations of DOB's Office of Investigations and Discipline, Mark Sanabria, Chief Investigator of DOB's Office of Investigations James Giarraputo. Supervising Investigative Inspector; from the Department of Labor: James Vanderberg, Assistant Special Agent-in-Charge, Department of Labor/Office of Inspector General -- Office of Labor Racketeering & Fraud Investigations, Robert Stewart

and Marc Vargas, Compliance Officers from OSHA, and Richard Mendelsohn, OSHA Area Director and Patricia Clark, OSHA Regional Director; from the SDNY: United States Attorney James Comey, Co- Chief of Major Crimes Jonathan Halpern and AUSA Mark Mendelsohn.

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Defendant Information  
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