



## Department of Investigation *Press Release*

### **30 INDIVIDUALS & 10 CORPORATIONS IN RESIDENTIAL REAL ESTATE INDUSTRY CHARGED WITH STEALING \$4 MILLION THROUGH KICKBACK & BID RIGGING SCHEME**

Thursday, June 22, 1999 – Manhattan District Attorney Robert M. Morgenthau, New York Police Commissioner Howard Safir and New York City Department of Investigation Commissioner Edward J. Kuriansky announced today the unsealing of 10 indictments charging 30 individuals and 10 corporations in the continuing investigation into corruption in the residential real estate industry. Those arrested today for defrauding cooperative shareholders and residents through kickback and bid rigging schemes include managing agents, board members, building superintendents, and vendors and contractors who worked in the buildings. In two of today's indictments two management companies have been indicted for Enterprise Corruption under New York's racketeering law; each is charged with defrauding buildings they managed out of more than \$1 million.

Mr. Morgenthau said, "Today's indictments charge that the defendants cheated the residents of 74 cooperative and condominium apartment buildings in the City, some of them Mitchell-Lama and Title 8 subsidized housing. Corrupt building managers and board members took kickbacks from vendors – usually amounting to 10% of the contracted price. In addition, some vendors willingly joined the scheme, since the kickback arrangement protected them from competition, allowing them to rig bids and charge whatever prices they pleased. Nor were the schemes confined to the most luxurious of buildings; the defendants victimized residents of middle-class buildings and government-subsidized buildings as well."

Police Commissioner Safir said, "Economic crime is just as important as street crime. Today's 30 arrests in a kick-back scheme defrauding co-op residents show that this type of corruption and theft still plague the industry, costing innocent New Yorkers millions of dollars in inflated costs for repair, maintenance, and building supplies. This case stands as an example of our determination to bring all types of criminals to justice. Those indicted today are no different from criminals who steal cars, and we will go after them with the same vigor as other criminals."

Department of Investigation Commissioner Kuriansky said, "Bid-rigging and kickbacks have obviously been a way of life for many years in the residential real estate industry. But, by violating their positions as managing agents, building superintendents, and co-op board members to divert tenant funds into their own pockets, the defendants siphoned off the scarce resources that co-ops and residents need to make critical repairs to their buildings and to pay off their mortgages. Nor has government been immune to their abuse. For the first time, in these charges, we have seen this corruption spread to government subsidized, Mitchell-Lama housing projects throughout the City. Today's coordinated response by local law enforcement will go a long way toward ending this cycle of greed."

Mr. Morgenthau said that the investigation that led to today's indictments began when the Department of Investigation uncovered evidence that kickbacks were being paid by contractors working at buildings managed

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by agents of MARVIN GOLD MANAGEMENT. Aware of the continuing investigation being conducted by the D.A.'s office into kickbacks in the property management industry, D.O.I. referred the matter to the D.A.'s office and participated in the continuing investigation. The joint investigation was conducted by New York City detectives assigned to the District Attorney's Office, D.O.I., and the Rackets Bureau of the D.A.'s Office.

The two management companies indicted today for Enterprise Corruption are MARVIN GOLD MANAGEMENT CO. and ELM MANAGEMENT ASSOCIATES, INC.

### **MARVIN GOLD MANAGEMENT**

The first Enterprise Corruption indictment charges MARVIN GOLD MANAGEMENT CO., INC., (now known as JANSL, Inc.), its President, MARVIN GOLD, its Vice President, JEFFREY C. GOLD, building managers ANGELO SCUDIERO, DENNIS CHALEFF, FRANK GALIZIA, HUMBERTO SANTOS, JOHN ABRAHAM, BERNARD EHRLICH, THOMAS HAGAN and STEVEN WEINGARTERN, and co-op board member SHELDON LIEBERMAN. The indictment charges that these defendants, acting as a criminal enterprise ("THE GOLD GROUP"), defrauded the residents and shareholders of 26 cooperatives they managed of more than \$1.7 million.

The investigation disclosed that MARVIN GOLD led the corrupt enterprise and received kickbacks directly from contractors doing work at buildings managed by his firm and shared kickbacks paid to his employees. JEFFREY GOLD (no relation to MARVIN GOLD) acted as the coordinator of the criminal enterprise in splitting kickbacks between on-site managers and himself and MARVIN GOLD; the traditional split of the 10% received from a contractor was supposed to be 5% for the on-site manager and 5% for "the office," i.e. the firm's hierarchy.

For example, at Taino Towers, a HUD Section 8 subsidized low-income residence located in East Harlem, Manhattan, MARVIN GOLD and JEFF GOLD received kickbacks totaling almost \$200,000. At Dayton Towers, a large apartment complex in the Rockaways, Queens, which was developed under the Mitchell-Lama program with a low interest HUD mortgage, the kickbacks paid to defendant ANGELO SCUDIERO, and shared with others in the GOLD criminal enterprise, amounted to over \$1 million.

Ironically, in response to charges brought against corrupt managing agents in 1994 in an earlier phase of this investigation, JEFFREY C. GOLD, Vice President of GOLD MANAGEMENT, chaired a committee that drafted anti-kickback ethics guidelines adopted by the Real Estate Board of New York, a trade association for real estate brokers and managing agents.

SHELDON LIEBERMAN, a member of the Board at Linden Hill 1 Co-op. Corp., located in Flushing, Queens, has been charged with taking more than \$35,000 in kickbacks related to contracts at his building.

Managing agent MARK GROSSMAN, who was employed by MARVIN GOLD MANAGEMENT, was also separately indicted for receiving more than \$1,000 in kickbacks with respect to Manhattan Valley Townhouses, which is located on Manhattan Avenue, Manhattan.

### **ELM MANAGEMENT**

The second enterprise corruption indictment names ELM MANAGEMENT ASSOCIATES, INC., its

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President, ARNOLD ZABINSKY, former directors of management VINCENZO OCCHIPINTI, and JOSEPH GAGEN, property managers CHARLES ZSEBEDICS and WAITE BUCKLEY, co-op board member MOHAMED EL-GOARANY, and vendors PHIL CAGGIANO and his company HORIZON ELEVATOR CO., INC., MICHAEL BENDJOUYA and his company CC CONTROLLED COMBUSTION CO., INC., HOWARD MOLEN and his company H.F.M., INC., and RICHARD CUCCIA and his company R.M.C. INDUSTRIAL SUPPLIES, INC. The indictment charges that these defendants, acting as a criminal enterprise ("THE ELM GROUP"), defrauded the residents and shareholders of 29 cooperatives of more than \$1.3 million.

ZABINSKY was the leader of the ELM Group and received 75% of kickbacks paid by contractors doing business in buildings managed by his company. First OCCHIPINTI and later GAGEN were ZABINSKY'S bag-men, picking up the kickbacks and receiving between 20% and 25% for their trouble. The bag-men also distributed shares of the kickbacks to individual agents taken from ZABINSKY'S split.

The ELM criminal enterprise continued to function through changes in key personnel. In 1994, when director of management VINCENZO OCCHIPINTI took a new position, he told the new director of management how the kickbacks were calculated and how much was to be shared with ELM President, ARNOLD ZABINSKY, and he identified the vendors who were members of the scheme. When ELM's director of management changed again in 1998, the same type of "handoff" conversation was repeated with new director of management, JOSEPH GAGEN, and ZABINSKY.

In one instance, involving Park City 3 & 4 Apartments, Inc., located in Rego Park, Queens, the split of the kickbacks included a Board member, MOHAMED EL-GOARANY, who received \$36,000 as part of the kickback paid on a waterproofing contract that exceeded \$1 million.

In another, MARVIN GOLD MANAGEMENT, which was managing Village East Towers, Inc., located on East 11th Street, Manhattan, was replaced by ELM MANAGEMENT because the co-op was dissatisfied with GOLD. Kickbacks owed for work contracted while GOLD was the manager were actually paid to ELM after the change in managing agents.

The close, corrupt ties between the ELM criminal enterprise and its vendors is shown by an incident involving ELM and HORIZON ELEVATOR. In 1993, HORIZON did an elevator modernization project at Dayton Beach Park, located in Rockaway Beach, Queens. The job was so poorly performed that the co-op had to hire another elevator company to repair work already done and to complete the job. Despite this and numerous similar incidents, HORIZON continued to be the elevator company of choice by ELM because of the kickbacks it paid, including obtaining the contract for elevator work done at Inwood Tower, Inc., located in Inwood, Manhattan.

MICHAEL BENDJOUYA and his company CC CONTROLLED COMBUSTION CO., INC., a boiler repair, replacement and maintenance contractor, are charged as part of the criminal enterprise with paying 10% kickbacks on their work at ELM-managed buildings. HOWARD MOLEN and his company H.F.M. INC., an interior construction company, and RICHARD CUCCIA and his company R.M.C. INDUSTRIAL SUPPLIES, INC., a hardware supplier, have also been named as part of the enterprise for paying kickbacks of 10% on their jobs. For example, each has been charged with paying kickbacks for providing, respectively, construction services and hardware at Village View Housing Corp., located at East 4th Street, Manhattan. H.F.M. was also permitted by ELM to continue work at Hilltop Village Co-op Number 1, Inc., located in Hollis, Queens, despite residents' complaints over its costs; however, its later work was done using a different trade name in order to conceal its continued presence at the co-op.

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Five defendants who participated in the ELM GROUP's crimes were separately indicted: ED SISCA and his company FPC CONSTRUCTION CORP. ; ASBED ABOUSHAM and his company J. P. CLARK RESTORATION, INC.; ROBERT FISCHMAN, RAY MULLER and their company M. S. BERKOFF CO., INC.; and JOSEPH MARRONE, superintendent of an Elm-managed building, Harway Terrace, Inc., West 16th Street, Brooklyn.

At ELM-managed Park City 3 and 4 Co-op, located in Rego Park, Queens, the kickbacks paid to and shared by the ELM defendants for a waterproofing job done by F.P.C. CONSTRUCTION CORP. and ED SISCA amounted to \$240,900. This kickback was the amount by which F.P.C. overcharged the co-op's residents and shareholders. ASBED ABOUSHAM and his company J.P. CLARK RESTORATION, INC. have been charged with receiving kickbacks on waterproofing jobs at Pratt Towers, Inc., Fort Greene, Brooklyn, and 29 Colony Realty Corp., Astoria, Queens. ROBERT FISCHMAN, RAY MULLER and their company M.S. BERKOFF CO., INC., another hardware supplier, was also charged for paying kickbacks at Village View Housing.

### **CANTOR REALTY , et. al.**

Also separately indicted were managing agent MICHAEL CANTOR and his company CANTOR REAL ESTATE CORP., for taking more than \$60,000 in kickbacks in connection with 14 buildings that he managed; managing agent STEVEN BERDY for taking more than \$62,000 in kickbacks in connection with 5 buildings that he managed; and architect STEVEN COHAN.

Today's indictments are the result of a long-term and continuing investigation. On June 11, 1999 the District Attorney announced the indictment of 7 managing agents and one building superintendent; on June 14, 1999 building superintendent John Gega surrendered on an indictment charging grand larceny by extortion in the fourth degree and commercial bribe receiving in the first degree; and an earlier phase of the investigation resulted in guilty pleas from 72 managing agents who engaged in similar kickback schemes.

The District Attorney thanked Police Commissioner Safir, Chief of Detectives William Allee and detectives assigned to the Manhattan District Attorney's Office Squad who conducted the investigation, under the command of Captain James Holohan and Sergeant James Coleman.

The District Attorney thanked Commissioner Kuriansky and the New York City Department of Investigation, including Building Department Inspector General Dennis Curran, Housing Preservation and Development (HPD) Inspector General Brian D. Foley, former HPD Inspector General Thomas McCormack, First Deputy HPD Inspector General Francis A. Sinatra, Chief Investigative Auditor Marvin Putterman, First Deputy Investigative Auditor Yuval Hibshoosh, Senior Investigative Auditor Floralba Paulino, Examining Attorney John Kantor, Special Investigator Anthony M. Capek, and Confidential Investigator Louis J. Balfan.

The District Attorney thanked members of the office of the United States Attorney for the Eastern District of New York and of the United States Internal Revenue Service who provided substantial assistance in the investigation that led to today's indictments.

Mr. Morgenthau also thanked the Financial Crimes Unit of the District Attorney's Office, particularly Rene Culver, Deputy Chief Robert Demarest and Chief Mark Chersevani.

The evidence was presented to the grand jury by Assistant District Attorneys Rubie Mages and Robert Roach, under the supervision of Daniel Castleman, Chief of the District Attorney's Investigation Division, Owen Heimer, Counsel to the Investigation Division, and Patrick Dugan, Chief of the Rackets Bureau.

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Grand Larceny in the First Degree and Enterprise Corruption are Class B felonies punishable by up to 25 years in prison. Grand Larceny in the Second Degree is a Class C felony punishable by up to 15 years in prison. Grand Larceny in the Third Degree and Criminal Possession of Stolen Property in the Third Degree are Class D felonies punishable by up to 7 years in prison. Grand Larceny in the Fourth Degree, Commercial Bribe Receiving in the First Degree, Falsifying Business Records in the First Degree, Criminal Possession of Stolen Property in the Fourth Degree, Offering a False Instrument for Filing in the First Degree, Scheme to Defraud in the First Degree and Combination in Restraint of Trade and Competition, a violation of the General Business law, are Class E felonies punishable by up to four years in prison.