

DISTRICT ATTORNEY – NEW YORK COUNTY

News Release
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Contact Barbara Thompson
212-335-9400

Manhattan District Attorney Robert M. Morgenthau announced today the indictment of 17 men and three companies on racketeering charges for defrauding the Port Authority of New York and New Jersey, the New York City Economic Development Corporation and the State University Construction Fund on asbestos abatement work.

The indictment denominates the racketeering enterprise “The Asbestos Group,” and charges its members with Enterprise Corruption, Money Laundering, Grand Larceny, Offering False Instruments for Filing and related charges.

The investigation began in March 2000 when the Inspector General for the Port Authority (“I.G.”) began looking into the billing practices of Comprehensive Environmental of New York, Inc. (“CENY), the asbestos abatement company under contract to respond to any asbestos condition discovered during construction at Port Authority facilities at J.F.K. International Airport. During that inquiry, the Inspector General discovered that a principal of CENY had previously been convicted of a felony. That discovery led the I.G. to open a broader inquiry into CENY, which revealed that CENY was overbilling the Port Authority for time and materials on its asbestos abatement jobs. The over-billing investigation was stalled by the destruction of the World Trade Center on September 11, 2001, because the documentary evidence in the case was assembled at the I.G.’s offices on the 77th floor of One World Trade Center. The amount of the over-billing could not be determined due to the destruction of the records.

After the events of September 11th, the investigation revealed that the members of The Asbestos Group took advantage of the destruction of the evidence by devising a scheme to substitute another company in the place of CENY. The company created to substitute for CENY was SPECIALTY SERVICE CONTRACTING, INC. (“SSC”). As part of the scheme, members of The Asbestos Group made it appear that the owners of CENY were not involved in running SSC, when in fact, they were. As a result, through a series of bribe payments to Port Authority Engineering Department personnel, the systematic over-billing once done by CENY continued at SSC. Both CENY and SSC have been named in today’s indictment.

After CENY was deemed ineligible to bid on future Port Authority contracts because of the undisclosed felony record of one of its principals, another contractor, Safeway Environmental, Inc (“Safeway”), was able to obtain the asbestos abatement

contract at JFK Airport. Through an agreement between SSC and the owner of Safeway at that time, SSC was to perform all of the work.

Defendants, JOHN SKINNER, MICHAEL ADAMS, and EDWARD LOONEY were part-owners of SSC and directed the overbilling schemes. An SSC Project Manager, JAMES E. "JEB" BRETHER, supervised the systematic inflation of materials and equipment invoices by having his field supervisors, JOSEPH VARSALONA, ROCCO MONGELLI, CARLOS OSEGUERA and others, prepare two sets of invoices. One set showed the actual materials and equipment used, while the second set contained inflated charges for materials and equipment. The second, inflated invoices were submitted for payment to the Port Authority and the difference between the inflated and accurate invoices was split between SSC and the then owner of Safeway (who is now deceased).

Another part of the criminal enterprises' schemes involved a contract awarded to SSC by the Port Authority covering the maintenance and cleaning of World Trade Center artifacts after the attacks. These artifacts, which consisted of, among other things, pieces of structural steel, crushed police and fire vehicles, and the antenna from One World Trade Center, were stored at JFK's Hangar 17. Today's indictment charges that SSC stole money from the Port Authority on that contract through the inclusion of ghost employees on the payrolls. Normally, there were two to three ghost employees a day for the duration of the job, which lasted from February 2002 until February 2004. In one instance, an SSC daily labor report contained the name of a person who had been arrested for a string of burglaries bank night deposit boxes and was in custody on the day his name appeared at Hangar 17. The amount stolen through the ghost employee scheme was \$104,091.

SSC was able to get away with including ghost employees and inflating invoices because they bribed those who were charged with overseeing the work for the Port Authority. Port Authority Engineering Department employees, MARK JAKUBEK, manager of environmental field operations, and ANTHONY FONTANETTA, senior construction engineer, are accused of accepting bribes from members of The Asbestos Group. The bribes were in the form of cash, tickets to sporting events and concerts and the use of a vacation home. ANTONIO BUETI, an environmental inspector working for a company acting as a tenant liaison with the Engineering Office, also received bribes in the form of union benefits funds to help SSC get non-Port Authority work. ROBERT LEARY, another contract employee employed at Hangar 17 and responsible for signing off on SSC's labor invoices was bribed money. Typically, LEARY received a bribe of \$50 per ghost employee per day to allow the over-billing of labor charges.

ROBERT PHILLIPS, the comptroller for SSC is charged with falsifying the company's business records to disguise the bribe payments as legitimate business expenses. The indictment also charges GERALD T. CAMPBELL, SR., a jobsite supervisor at the British Airways building at JFK Airport, with approving SSC's daily labor records for an asbestos abatement project which contained the names of several

ghost employees. This ghosting scheme lasted from March 2002 through December 2002. CAMPBELL was provided with several dumpsters by SSC which he used while renovating his house.

In a related case, LEARY was arrested and indicted in May, 2004 after the investigation revealed that he had removed bulk samples of known asbestos contaminated materials from a different SSC jobsite at the Delta Airlines terminal at JFK Airport, and substituted those samples for negative samples he had taken from the World Trade Center artifacts at Hangar 17, so that SSC's environmental contract, and his ability to receive further bribe payments from them, would be extended. Those charges, including Tampering With Public Records in the First Degree and Falsifying Business Records in the First Degree are still pending (next on in Part 85 on January 12, 2005). JAKUBEK was arrested on March 12, 2003, on federal bribe receiving charges in connection with expediting payments of work done for the Port Authority before the WTC attacks. The paperwork required to make payments for this work was destroyed in the attack and had to be recreated; JAKUBEK received bribes to expedite this process. He pleaded guilty to those charges and was sentenced to one year in prison, which he began serving on May 14, 2004.

In another scheme the Asbestos Group engaged in, the indictment charges SSC with defrauding the New York State University Construction Fund at its SUNY-New Paltz campus, through the use of a "pass through" Minority-owned/Women-owned Business Enterprise. On many City and State contracts, New York State's Executive Law requires a certain percentage of work be contracted to such MBE/WBE firms. To circumvent these requirements, SSC used a certified MBE/WBE firm from Bronx County to represent that it would be a subcontractor for SSC on the SUNY-New Paltz job, when in reality, the firm was not going to do any of the work.

JOSEPH DEPIETTO, a Certified Public Accountant, served as accountant to SSC and most of the individual defendants, and assisted them in disguising fraudulent transactions, including the fraudulent use of MBE/WBE entities on the SUNY-New Paltz job.

SSC also performed abatement services for, among others, buildings located at 90 West Street and at 450 West 33rd Street. In each of those contracts, SSC's jobsites were the subject of surprise inspections conducted by the New York City Department of Environmental Protection, where violations of the environmental regulations were uncovered. Using a technique known as a "rip-and-skip", SSC's ARTHUR MALLETT submitted notifications to the DEP which falsely identified a scheduled start date for the work. Days prior to that scheduled date, SSC's crews would begin the work, hoping to complete the project before the DEP inspectors could arrive at the site to inspect the work. Through electronic eavesdropping, the investigation was able to identify those projects where "rip-and-skip" tactics were taking place, and arranged for those surprise inspections.

Defendants PETER ELLAMS, MICHAEL MCMAHON and INDEPENDENT MONITORING AND ANALYSIS, INC. (IMA) are third-party monitors of asbestos abatement work, responsible to project owners for the monitoring of, and compliance with the environmental regulations, by asbestos abatement contractors. ELLAMS, MCMAHON and IMA are charged with providing false information to the New York City Department of Environmental Protection on projects they monitored with other members of the Asbestos Group, and with rigging a bid for work to be performed at a New York City hospital.

Mr. Morgenthau also announced the related indictments of JOSEPH CASTELLO a/k/a "Joe Checks", JOHN TANCRIDI, JOSEPH TREMARCO and ELWOOD TILLMAN on charges of Money Laundering. CASTELLO served as a check casher for SSC, providing cash for its bribery activities and assisting the owners in siphoning funds from the company. TANCRIDI, who is a former New York City Department of Environmental Protection inspector, was in charge of SSC's mold remediation projects, and is accused of paying SSC's workers in cash and failing to withhold payroll taxes. TREMARCO and TILLMAN facilitated SSC's ability to meet its large cash payroll.

For their assistance in the investigation, Mr. Morgenthau extended his thanks to Robert E. Van Etten, Inspector General for the Port Authority of New York and New Jersey and members of his staff, including Deputy Inspectors General Michael Nestor and Steven Pasichow and Senior Investigators Jeffrey Schaffler and Edward Kennedy; Commissioner Rose Gill Hearn of the New York City Department of Investigation and members of her staff, including Ron Calvosa, the Inspector General for the Department of Transportation, Design and Construction, and Business Services; District Attorneys Richard A. Brown of Queens; and Robert Johnson of The Bronx.

Mr. Morgenthau also thanked the New York State Attorney General's Office and its Organized Crime Task Force and Deputy Attorney General in Charge Christopher Prather; and The New York State University Construction Fund and its General Manager, Philip Wood.

Mr. Morgenthau also thanked his Investigation Bureau, and Chief Investigator Joseph Pennisi, Deputy Chief Terry Mulderrig and Senior Investigator Sal Novellino.

Enterprise Corruption is a class B felony punishable up to 8 1/3 to 25 years. Money Laundering in the Second Degree and Grand Larceny in the Second Degree are class C felonies punishable by up to 15 years in prison.

Assistant District Attorneys Daniel K. Healy and Joel R. Meyers, of the District Attorney's Labor Racketeering Unit-Construction Industry Strike Force, conducted the investigation leading to today's actions, under the supervision of Unit Chief Michael Scotto.

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