



August 27, 2019

**Operation Skyfall: AG James Announces Convictions In \$3 Million Dollar
Loan Fraud And Money Laundering Scheme**

Kenneth Martinez and Metropolitan Enterprises Convicted for Stealing Over \$455,000 in Taxes

*Three Defendants and Three Companies Plead Guilty to Felony Charges and
Must Pay a Total of \$1.5 Million in Restitution and Judgements*

Kenneth Martinez, Owner of Metropolitan Enterprises, Sentenced to Three to Nine Years in Prison

NEW YORK – Attorney General Letitia James today announced the felony convictions of three individuals and three companies, as a result of a three-year investigation into fraudulent practices in the scaffolding industry conducted by the Attorney General’s Office, in conjunction with the Port Authority of New York and New Jersey, the New York State Department of Taxation and Finance (DTF), and the New York City School Construction Authority. The joint investigation — dubbed “Operation Skyfall” — revealed that the six co-defendants engaged in a two-year scheme to defraud financial institutions out of millions of dollars, and then laundered the proceeds through multiple businesses.

“We are all committed to uncovering and prosecuting businesses that have defrauded the state and numerous financial institutions out of millions,” said New York Attorney General Letitia James. “These fraudsters must now must pay back stolen funds and cease their illegal operations. Let this be a lesson to every individual and company that we will never stop fighting against those who aim to defraud New Yorkers.”

In Suffolk County Court, Kenneth G. Martinez (51, of Lawrence), Shai Sellam a/k/a Sean Green (45, of Woodmere), and Hayim Jacob Barkol f/k/a Kadir Barkol (39, of Brooklyn), along with their respective companies, Metropolitan Enterprises, Inc., New Route Consulting Inc., and Lifting Up Management LLC were convicted of felonies for engaging in a three-million dollar loan fraud and money laundering scheme between October 2013 and April 2015.

As part of their guilty pleas, the defendants and their corporations were ordered to pay a total of \$1.5 million in restitution and judgments to financial institutions and to New York State. Defendant Martinez was sentenced to three to nine years in State Prison on the Albany tax case; he is scheduled to be sentenced to a concurrent term of three to nine years in state prison on the Suffolk loan fraud case on October 17, 2019.

“The outcome in this case — in which a business and its owner failed to pay \$455,000 in sales tax collected from customers — should serve as a warning to all those who blatantly disregard our tax laws,” said New York State Commissioner of Taxation and Finance Michael Schmidt. “We will continue to work with Attorney General James and all levels of law enforcement to crack down on this type of fraud, which deprives New Yorkers of revenue needed for vital services and programs in their communities.”

“I would like to thank the New York State Attorney General for accepting our referral of this matter and their joint effort in investigating and prosecuting the three individuals and related three businesses,” said Port Authority Inspector General (IG) Michael Nestor. “The Port Authority IG commenced this investigation based upon allegations that Metropolitan Enterprises, Inc., a scaffolding and hoisting company and its President, Kenneth Martinez may not be a valid Minority Business Enterprise company conducting work at the World Trade Center site. Our joint investigation with the Attorney General’s Office, uncovered evidence of criminal activity with two other individuals and companies. This investigation uncovered a money laundering scheme and other related crimes. The Port Authority IG remains committed in preventing similar conduct.”

“This sentencing demonstrates the importance of law enforcement partnerships in rooting out corruption by contractors in this city,” said New York City Department of Investigation (DOI) Commissioner Margaret Garnett. “This type of tax fraud, where the defendants pocketed hundreds of thousands of dollars in sales and use taxes that should have been remitted to New York State, diminishes revenues to the government and erodes the ability of government to fully serve the people. DOI was pleased to join with the State Attorney General's Office and our law enforcement partners on this investigation, which exposed and stopped these criminal schemes.”

Metropolitan was considered one of the largest scaffolding and hoisting contractors in New York State between October 2013 and September 2015. Public records show that in 2015, Metropolitan was a subcontractor for various work done on the George Washington Bridge and on the Oculus Project at the World Trade Center Transportation Hub. During this time, the defendants used unpaid tax monies and the proceeds of fraudulently paid loans to keep the business afloat. By the time of the New York Attorney General’s first indictment in 2016, Metropolitan Enterprises, Inc. went out of business.

According to the felony complaint and other documents, the defendants perpetrated their loan fraud scheme by submitting fake invoices and a phantom deposit check purporting to sell scaffolding and hoisting equipment from one of Barkol’s entities to Metropolitan. In reality, the purported equipment either simply did not exist or existed but was already owned by Metropolitan or already encumbered by another financial institution.

To promote and conceal their loan fraud scheme, the defendants laundered the stolen funds through multiple corporate accounts. Barkol would cut checks from his corporate account back to Metropolitan within a matter of days of receiving the fraudulently obtained funds, totaling almost the full amount of the money received from the financial institution. Monies were then moved between Metropolitan’s accounts and used to pay debts owed to other financial

institutions, to cover negative balances, and to pay current and outstanding payroll and union dues.

In July 2019, the six defendants were arraigned in the First District Court of Suffolk County on a felony complaint charging Money Laundering in the Second Degree, a class C felony; Grand Larceny in the Second Degree, a class C felony; and Scheme to Defraud in the First Degree, a class E felony. On August 7, 2019, the defendants entered the following guilty pleas in Suffolk County Court:

Kenneth Martinez pleaded guilty to Money Laundering in the Second Degree, a class C felony;

Shai Sellam pleaded guilty to Money Laundering in the Third Degree, a class D felony;

Hayim Jacob Barkol pleaded guilty to Scheme to Defraud in the First Degree, a class E felony;

Metropolitan Enterprises, Inc. pleaded guilty to Grand Larceny in the Second Degree, a class C felony;

New Route Consulting Inc. pleaded guilty to Money Laundering in the Third Degree, a class D felony; and

Lifting Up Management LLC pleaded guilty to Money Laundering in the Second Degree, a class C felony.

Martinez is expected to be sentenced to a concurrent term of incarceration of three to nine years in State Prison on October 17, 2019. Sellam faces up to two to six years in State Prison when sentenced on August 12, 2020. Barkol is expected to be sentenced to a term of five years of probation for his role in the scheme when sentenced on October 17, 2019. Each of the entities is expected to be sentenced to a three-year conditional discharge when sentenced on October 17, 2019. As part of their sentences, the defendants must pay restitution and execute confessions of judgments on behalf of the financial institutions, totaling \$1.5 million.

In addition to the loan fraud scheme, in June 2017, defendants Martinez and Metropolitan entered guilty pleas to Grand Larceny in the Second Degree in Albany County Court, related to their theft of sales and use taxes. Yesterday, Martinez was sentenced to three to nine years in State Prison. Additionally, both defendants executed confessions of judgments for the benefit of the NYS Department of Taxation and Finance, in excess of \$455,000.

These cases are being prosecuted as part of New York Attorney General's Combatting Upstate Financial Frauds and Schemes (CUFFS) Initiative, led by Director Philip V. Apruzzese — an Assistant Attorney General in the Criminal Enforcement and Financial Crimes Bureau. The CUFFS Initiative was implemented by Attorney General James in an effort to assist local law enforcement and District Attorney's Offices in the investigation and prosecution of complex financial crimes and money laundering cases.

Assistant Attorney General Apruzzese is prosecuting these cases, with the assistance of Legal Support Analysts Kira M. Russom and Supervising Analyst Paul Strocko. The Criminal Enforcement and Financial Crimes Bureau is led by Bureau Chief Stephanie Swenton and

Deputy Bureau Chief Joseph D'Arrigo, and is part of the Criminal Division, led by Chief Deputy Attorney General José Maldonado.

The Attorney General's investigation was conducted by Investigator Mark J. Terra, under the supervision of Supervising Investigator Mark Spencer and Deputy Bureau Chief Antoine Karam. The Investigations Bureau is led by Chief Oliver Pu-Folkes. Forensic accounting was done by Chief Auditor Edward J. Keegan and Principal Auditor Investigator Jason Blair of the Forensic Audit Section.

The Attorney General's Office thanks DTF's Criminal Investigations Division, DOI's Office of the Inspector General for the NYC School Construction Authority, and, specifically, Investigator Charles Shevlin and Assistant Inspector General Nicholas Scicutella, as well as the Port Authority of NY/NJ – Office of the Inspector General, and, specifically, Investigator Louis Matirko, for their invaluable assistance on this investigation.