

IN THE UNITED STATES DISTRICT COURT FOR THE  
DISTRICT OF PUERTO RICO

UNITED STATES OF AMERICA, ) Criminal No. 3:05-cr-00178-PG  
 )  
 v. )  
 ) Filed: 5/19/2005  
 GATE ENGINEERING CORPORATION )  
 and ALBITH COLÓN, )  
 ) Violation:  
 Defendants. ) 18 U.S.C. § 371  
 )

INFORMATION

The United States of America, acting through its attorneys, charges:

CONSPIRACY  
(18 U.S.C. § 371)

1. GATE ENGINEERING CORPORATION and ALBITH COLÓN are hereby made defendants on the charge stated below.

I. DEFENDANTS AND CO-CONSPIRATORS

During the period covered by this Information:

2. Gate Engineering Corporation (“Gate”) was a corporation organized and existing under the laws of Puerto Rico with its principal place of business in Bayamon, Puerto Rico. Gate was an electrical contracting business and, as such, employed numerous individuals.

3. Albith Colón resided in Bayamon, Puerto Rico. Colón was President of Gate and was engaged in the electrical contracting business in Puerto Rico and elsewhere.

4. Co-Conspirator Number One (hereinafter "CC-1") was employed as a technical services supervisor for Tricon Restaurants International ("Tricon"), a corporation organized and existing under the laws of Puerto Rico with its principal place of business in Guaynabo, Puerto Rico. Tricon was the owner and operator of fast food restaurants. In his position at Tricon, CC-1 was responsible for soliciting bids from subcontractors for work to be performed in connection with Tricon's construction and maintenance of restaurants. In his capacity, CC-1 also was responsible for selecting the subcontractor who would be awarded the contract.

## II. DESCRIPTION OF THE OFFENSE

5. Beginning at least as early as October 17, 2000, and continuing thereafter until at least March 2004, the exact dates being unknown to the United States, in the District of Puerto Rico and elsewhere, the defendants, CC-1, and another co-conspirator did unlawfully, willfully, and knowingly conspire, combine, confederate, and agree in violation of Title 18, United States Code, Section 371, to commit offenses against the United States, to wit, to violate Title 18, United States Code, Sections 1341 and 1346.

6. It was a part and object of said conspiracy that the defendants, CC-1, and another co-conspirator, having devised and intending to devise a scheme and artifice to defraud Tricon and deprive Tricon of its right to the honest services of CC-1, executed the scheme and artifice by and through the use of the United States mail.

III. THE MANNER AND MEANS BY WHICH THE  
CONSPIRACY WAS CARRIED OUT

7. Tricon relied on CC-1 to conduct his work on the company's behalf in an honest fashion so as to benefit his employer, including his work in soliciting bids and awarding electrical contracts for his company. However, as a result of the scheme and artifice to defraud, the defendants made kickback payments to CC-1 in return for the defendants receiving electrical contracts from CC-1 on behalf of Tricon. These kickbacks were concealed from Tricon.

8. For the purpose of forming and effectuating the aforesaid combination and conspiracy, the defendants, CC-1, and another co-conspirator did those things that they combined and conspired to do, including:

(a) the defendants and CC-1 agreeing that the defendants would make kickback payments, totaling \$31,480.00, to CC-1;

(b) CC-1, on behalf of Tricon, awarding over \$1 million worth of electrical contracts to the defendants in return for the kickbacks;

(c) the defendants and CC-1 failing to disclose to Tricon the fact that CC-1 was taking kickbacks from the defendants.

#### IV. OVERT ACTS

9. Beginning October 17, 2000, and continuing until at least March 2004, the defendants, CC-1, and another co-conspirator for the purposes of executing the scheme and artifice to defraud, did knowingly cause checks made payable to Gate, drawn against the Banco Popular de Puerto Rico, on the account of Tricon, to be delivered within the District of Puerto Rico, according to the direction thereon by the United States Postal Service, all in violation of Title 18, United States Code, Sections 1341 and 1346. In total, the scheme and artifice to defraud resulted in defendants receiving payments of over \$1 million from Tricon.

#### V. JURISDICTION AND VENUE

10. The conspiracy charged in this Information was formed and carried out in the District of Puerto Rico within the five years preceding the filing of this Information.

ALL IN VIOLATION OF TITLE 18, UNITED STATES CODE, SECTION  
371.

Dated this 9<sup>th</sup> day of May, 2005.

/S/  
R. HEWITT PATE  
Assistant Attorney General

/S/  
NEZIDA S. DAVIS  
Chief, Atlanta Field Office  
Georgia Bar No. 642083

/S/  
SCOTT D. HAMMOND  
Deputy Assistant Attorney General

/S/  
JAMES J. KUROSAD  
Trial Attorney  
Federal Bar No. G00110  
Antitrust Division  
U.S. Department of Justice  
75 Spring St., S.W., Suite 1176  
Atlanta, GA 30303  
Tel: (404) 331-7100  
Tel: (404) 331-7110

/S/  
MARC SIEGEL  
Director of Criminal Enforcement

/S/  
HUMBERTO S. GARCIA  
United States Attorney  
District of Puerto Rico  
BY: SONIA TORRES  
Assistant U.S. Attorney  
District of Puerto Rico

/S/  
MARCOS LOPEZ  
Assistant U.S. Attorney  
District of Puerto Rico