

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

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	Criminal No. 06-0006 (HL)
)	
v.)	Filed: 01/11/2006
)	
EUGENIO A. GUARDIOLA RAMIREZ,)	Violations:
)	18 U.S.C. § 371
Defendant.)	18 U.S.C. § 1512(b)(1)
)	18 U.S.C. § 1512(c)(2)

INDICTMENT

THE GRAND JURY CHARGES THAT:

1. EUGENIO A. GUARDIOLA RAMIREZ (hereinafter “Defendant”) is hereby made a defendant on the charges stated below.

I. RELEVANT PARTIES AND ENTITIES

During the period covered by this Indictment:

2. The defendant was an attorney licensed to practice law in Puerto Rico and, at all times relevant, lived in San Juan, Puerto Rico.

3. Albith Colón (“Colón”) was the president and owner of Gate Engineering Corporation (“Gate”), a corporation organized and existing under the laws of Puerto Rico with its principal place of business in Bayamon, Puerto Rico. Gate was in the business of providing electrical contracting services. The defendant represented Gate and Colón in connection with federal investigations by

the United States General Services Administration, Office of Inspector General (“GSA-OIG”) and a federal grand jury sitting in the District of Puerto Rico into possible violations of antitrust and other federal criminal laws.

4. Jorge Luis Matos Burgos (“Matos”) was 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. In his position at Tricon, Matos was responsible for soliciting bids from subcontractors for work to be performed in connection with Tricon’s construction and maintenance of restaurants. Matos has a son-in-law (hereinafter referred to as CW-1).

II. BACKGROUND

5. Beginning October 17, 2000, and continuing until at least February 2004, Matos received illegal kickbacks from Colón and Gate in return for Matos awarding electrical contracts to Gate on behalf of Tricon. These kickbacks, concealed in the form of checks made out to CW-1, were unknown to Tricon.

6. Since January 2004, the GSA-OIG has been investigating, among other things, possible violations of federal criminal statutes, including violations of the antitrust laws.

7. On or about January 28, 2004, federal investigators served a GSA-OIG administrative subpoena duces tecum on Gate for certain documents related to possible violations of the criminal antitrust laws.

8. Since April 2004 a federal grand jury sitting in the District of Puerto Rico has been investigating, among other things, possible violations of federal criminal statutes, including violations of the antitrust laws.

9. On or about April 22, 2004, the federal grand jury issued subpoenas duces tecum to Gate and Tricon, as well as subpoenas ad testificandum for the testimony of certain Gate employees. Federal investigators served Gate and Tricon with the grand jury subpoenas duces tecum, commanding Gate and Tricon to produce all responsive documents as defined in the respective subpoenas. The federal investigators also served certain Gate employees with subpoenas ad testificandum, commanding them to testify before the grand jury on May 20, 2004.

COUNT ONE
(18 U.S.C. § 371)

10. From at least as early as March 4, 2004 and continuing until at least May 19, 2004, the exact dates being unknown to the Grand Jury, the defendant,

EUGENIO A. GUARDIOLA RAMIREZ

knowingly and willfully conspired and agreed with Colón to knowingly and willfully commit offenses against the United States, that is: (a) attempting to corruptly persuade persons, whose identities are known to the Grand Jury, with intent to

influence their testimony in an official proceeding, that is the federal grand jury sitting in the District of Puerto Rico investigating, among other things, possible criminal violations of the antitrust laws; and (b) attempting to corruptly obstruct, influence, and impede an official proceeding before a Federal Government Agency, that is GSA-OIG, contrary to Title 18, United States Code, Sections 1512(b)(1) and 1512(c)(2), respectively.

III. MANNER AND MEANS OF THE CONSPIRACY

It was part of the conspiracy that:

11. Defendant and Colón interfered with and obstructed the federal investigations conducted by GSA-OIG and the federal grand jury sitting in the District of Puerto Rico.

12. Defendant and Colón prepared a phony services contract in the name of CW-1, which contained false material information, in an attempt to hide the true nature of the illegal kickbacks paid by Colón to Matos. The Defendant later instructed Colón to destroy the phony services contract after deciding against revealing the phony contract to the federal investigators and the grand jury.

13. Defendant instructed Colón to make a \$480 kickback payment to Matos in cash, as opposed to check, to thwart detection by federal investigators.

14. Defendant and Colón contacted Matos and CW-1, who had information relevant to the investigations, and attempted to persuade Matos and CW-1 to provide false information to federal investigators and the federal grand jury.

IV. OVERT ACTS

15. In furtherance of the conspiracy and to effect the objects of the conspiracy, the following overt acts, among others, were committed:

(a) On or about March 4, 2004, in response to the GSA-OIG subpoena duces tecum served on Gate on or about January 28, 2004, the defendant drafted and provided Colón with a phony services contract in the name of CW-1 in an attempt to hide the true nature of illegal kickbacks. The phony services contract indicated that CW-1 was providing cleaning and maintenance services for Gate company vehicles, when in fact CW-1 never performed such services.

(b) On or about March 30, 2004, the defendant instructed Colón to make a \$480 kickback payment to Matos in cash, as opposed to check, to thwart detection by the federal investigators.

(c) On or about April 28, 2004, in response to the federal grand jury subpoenas duces tecum and ad testificandum served on Gate on or about April 22, 2004, the defendant and Colón met with Matos to advise Matos that there was a grand jury investigation into the matter of the kickbacks.

(d) On or about May 18, 2004, the defendant and Colón again met with Matos in an attempt to influence Matos to provide false information to the federal investigators and the grand jury. The defendant and Colón concocted a story for CW-1 to tell federal investigators, that explained the

illegal kickbacks from Colón as money paid to CW-1 for cleaning vehicles at Gate, when in fact CW-1 never performed such services.

(e) On or about May 19, 2004, the defendant and Colón spoke by telephone with both Matos and CW-1 in an attempt to influence CW-1 to provide false information to federal investigators and the grand jury. During this conversation, the defendant and Colón asked CW-1 to explain that the illegal kickbacks were actually a gift to CW-1's family, when in fact they were not.

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

COUNT TWO
(18 U.S.C. § 1512(b)(1))

The Grand Jury further charges that:

16. Each and every allegation contained in Paragraphs 1 through 9 and Paragraphs 15(c) through 15(e) of Count One of this Indictment is here re-alleged with the same full force and effect as though said Paragraphs were set forth in full detail.

17. During the period from in or about April 2004 until at least May 2004, the exact dates being unknown to the Grand Jury, the defendant,

EUGENIO A. GUARDIOLA RAMIREZ

attempted to corruptly persuade persons, namely Matos and CW-1, with the intent

to influence their testimony in an official proceeding, that is, the federal grand jury sitting in the District of Puerto Rico investigating, among other things, possible federal criminal violations of the antitrust laws.

ALL IN VIOLATION OF TITLE 18, UNITED STATES CODE, SECTION 1512(b)(1).

COUNT THREE
(18 U.S.C. § 1512(c)(2))

The Grand Jury further charges that:

18. Each and every allegation contained in Paragraphs 1 through 9 and Paragraph 15(a) of Count One of this Indictment is here re-alleged with the same full force and effect as though said Paragraphs were set forth in full detail.

19. On or about March 4, 2004, the exact dates being unknown to the Grand Jury, the defendant,

EUGENIO A. GUARDIOLA RAMIREZ

attempted to corruptly obstruct, influence, and impede an official proceeding, that is, the investigation by the GSA-OIG, a Federal Government agency.

ALL IN VIOLATION OF TITLE 18, UNITED STATES CODE, SECTION 1512(c)(2).

V. JURISDICTION AND VENUE

20. The offenses charged in this Indictment occurred in the District of Puerto Rico and occurred within the five years preceding its return.

Dated this 11 day of January, 2006. (Initials)

A TRUE BILL: /S/ _____, Foreperson

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