

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

:
: Criminal No. 08-521
UNITED STATES OF AMERICA :
:
: Filed:
v. :
: Violations: 15 U.S.C. § 1
: 18 U.S.C. § 371
NORMAN STOERR, : 26 U.S.C. § 7206(2)
:
Defendant. :

INFORMATION

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

1. Norman Stoerr ("Stoerr") is hereby made a defendant on the charges stated below.

COUNT ONE - SHERMAN ACT CONSPIRACY
(15 U.S.C. §1)

I. RELEVANT PARTIES AND ENTITIES

During the period covered by this Count:

2. Stoerr resided in East Amherst, NY.
3. Stoerr was employed by a prime contractor ("P-C") with its headquarters in Niagara Falls, NY, at various environmental remediation sites from approximately 1980 until approximately October 2003. Stoerr was an Assistant Project Manager/Contracts

Administrator (“Contracts Administrator”) from approximately January 2002 to approximately October 2003 on an environmental remediation project at the Federal Creosote Superfund Site in Manville, New Jersey (“Federal Creosote”).

4. “CC-1” was a co-conspirator who was a former superior of Stoerr’s at Federal Creosote.

5. “CC-2” was a co-conspirator who owned a wastewater treatment and chemical supply company that submitted bids for sub-contracts to provide supplies and services to P-C at Federal Creosote.

6. “CC-3” was a co-conspirator who owned a heating and air conditioning services company that submitted bids for sub-contracts to provide supplies and services to P-C at Federal Creosote.

7. “CC-4” was a co-conspirator who owned a wastewater treatment and supplies manufacturing company that submitted bids for sub-contracts to provide supplies and services to P-C at Federal Creosote.

8. Whenever in this Count reference is made to any act, deed, or transaction of any corporation, such allegation shall be deemed to mean that the corporation engaged in such act, deed, or transaction by or through its officers, directors, agents, employees, or representatives while they were actively engaged in the management, direction, control, or transaction of its business or affairs.

9. Various other persons, not made defendants herein, participated as co-conspirators in the offense charged herein and performed acts and made statements in furtherance thereof.

II. BACKGROUND

10. Federal Creosote is an environmental remediation site in Manville, NJ that is partly funded by the Environmental Protection Agency ("EPA"). Since late 1999, the Army Corps of Engineers ("ACOE") has overseen the procurement process for the remediation of the site. Pursuant to an interagency agreement between the EPA and ACOE, prime contractors were used to perform different functions at the site.

11. P-C was the prime contractor responsible for managing the remedial action at Federal Creosote. The remedial action was divided into separate phases by geographic boundaries. P-C awarded separate sub-contracts under each phase to various vendors. As a prime contractor, P-C was paid a fixed fee plus the cost of the remedial action by the EPA.

12. P-C was required to award sub-contracts at Federal Creosote subject to a competitive bidding policy under the Federal Acquisition Regulation system ("FAR"). The FAR's bidding policy sought to ensure that P-C obtained supplies and services at competitive, fair market prices. P-C was required to solicit at least three competitive bids before entering into any sub-contract for supplies or services in excess of \$5,000, and

award those sub-contracts to the bidder offering the best value, based on cost, quality and timeliness.

13. As a Contracts Administrator at Federal Creosote, Stoerr was responsible for soliciting bids from vendors for sub-contracts in excess of \$5,000 and otherwise ensuring that P-C's procurement process was in accordance with the FAR. In addition, Stoerr was responsible for acquiring supplies and services in connection with purchases less than \$5,000, which were not subject to the FAR's competitive bidding policy.

14. The FAR also prohibited employees of P-C, including Stoerr, from soliciting or attempting to solicit or accepting any kickback, including any money, fee, commission, credit, gratuity, gift, thing of value or compensation of any kind for the purpose of improperly obtaining or rewarding favorable treatment in connection with a sub-contract relating to a prime contract.

III. TRADE AND COMMERCE

15. From approximately October 2002 to approximately October 2003, pursuant to sub-contracts that are the subject of this Count, P-C awarded approximately \$208,000 in sub-contracts for wastewater treatment supplies and services to CC-2's company.

16. During the period covered by this Count, CC-2's company provided wastewater treatment supplies and services to P-C, including granulated activated carbon obtained from distributors located outside the State of New Jersey pursuant to the sub-contracts that are the subject of this Count, which were shipped across state lines, in a continuous

and uninterrupted flow of interstate commerce. Granulated activated carbon is used in wastewater treatment plants to filter hazardous chemicals.

17. The activities of the defendant and co-conspirators with respect to the sale of wastewater treatment supplies and services to P-C, including the sale of granulated activated carbon pursuant to sub-contracts that are the subject of this Count, were within the flow of, and substantially affected, interstate trade and commerce.

IV. DESCRIPTION OF THE OFFENSE

18. From approximately October 2002 to approximately October 2003, the exact dates being unknown to the United States, the defendant and co-conspirators engaged in a combination and conspiracy in unreasonable restraint of trade and commerce in violation of Section 1 of the Sherman Act (Title 15, United States Code, Section 1).

19. The aforesaid combination and conspiracy consisted of a continuing agreement, understanding, and concert of action among the defendant and co-conspirators, the substantial terms of which were to rig bids and allocate sub-contracts for wastewater treatment supplies and services to P-C at Federal Creosote.

20. For the purpose of forming and effectuating the aforesaid combination and conspiracy, the defendant and co-conspirators did those things which they combined and conspired to do, including, among other things:

(a) Stoerr and CC-1 designated in advance whether CC-2's company would be the low bidder on sub-contracts for wastewater treatment supplies and services to P-C;

(b) Stoerr, CC-1 and CC-2 discussed and agreed on the prices that would be bid on sub-contracts for wastewater treatment supplies and services to P-C;

(c) Stoerr and CC-1 received substantial kickbacks from CC-2 for their role in allocating sub-contracts to CC-2's company, and Stoerr, CC-1 and CC-2 agreed to include the kickback amounts in the sub-contract prices;

(d) Stoerr and CC-1 requested that CC-2 obtain two other, intentionally high, noncompetitive bids to submit on sub-contracts for wastewater treatment supplies and services to P-C; and

(e) CC-3 and CC-4 agreed with CC-2 to submit intentionally high, non-competitive bids in order to make it appear that there had been competition for the sub-contracts.

21. As a result of the aforementioned conspiracy, the EPA paid more for the wastewater treatment supplies and services it purchased pursuant to the sub-contracts that are the subject of this Count than it would have had the sub-contracts been awarded pursuant to truly competitive bidding, or otherwise competitive pricing.

V. JURISDICTION AND VENUE

22. The aforesaid combination and conspiracy was formed and carried out, in part, within the District of New Jersey within the five years preceding the filing of this Information.

IN VIOLATION OF TITLE 15, UNITED STATES CODE, SECTION 1.

COUNT TWO – KICKBACK and FRAUD CONSPIRACY
(18 U.S.C. § 371)

VI. THE RELEVANT PARTIES AND ENTITIES

The United States of America further charges:

23. Paragraphs 1 through 5 and 8 through 14 of Count One of this Information are repeated, realleged and incorporated in Count Two as if fully set forth in this Count.

24. Stoerr was the Superintendent of P-C from April 2000 to January 2002 on an environmental remediation project at the Diamond Alkali Superfund Site in Newark, NJ (“Diamond Alkali”). In approximately February 2003, Stoerr formed a shell company, Environmental Consulting Services, Inc. (“ECS”), with an address at Stoerr’s residence in East Amherst, NY. ECS was used to conceal the receipt of kickback payments.

25. CC-1 was also a superior of Stoerr’s at Diamond Alkali. During the period covered by this Count, CC-1 owned a shell company (“Vendor 1”), which he used to conceal the receipt of kickback payments. Vendor 1 operated out of addresses associated with CC-1’s wife’s flower shop, CC-1’s home and CC-1’s parents’ home.

26. CC-2 owned a wastewater treatment and chemical supply company that provided supplies and services as a sub-contractor to P-C at Federal Creosote and Diamond Alkali.

27. "CC-5" was a co-conspirator who owned a pipe and valve supply company that provided supplies and services as a sub-contractor to P-C at Federal Creosote and Diamond Alkali.

28. "CC-6" was a co-conspirator who was the Vice President of Sales at a contaminated-soil treatment and disposal company that provided services as a sub-contractor to P-C at Federal Creosote.

29. "CC-7" was a co-conspirator who had an ownership interest in a wholesale sand and gravel company that provided supplies and services as a sub-contractor to P-C at Federal Creosote.

VII. BACKGROUND

30. Diamond Alkali is an EPA-designated Superfund site in Newark, NJ. The site was divided into three geographic regions one of which was the 80 and 120 Lister Avenue properties. The EPA initiated emergency remedial action in 1983 with respect to the Lister Avenue properties. An interim remediation plan was later implemented under a Consent Decree between Tierra Solutions, Inc. ("Tierra Solutions"), the EPA and the New Jersey Department of Environmental Protection for the Lister Avenue properties whereby, under ACOE oversight, Tierra Solutions would be financially responsible for the remedial action and maintenance of the site. Remedial action began in approximately April 2000 when P-C was selected by Tierra Solutions as the general contractor for the Lister Avenue properties.

31. As a Superintendent, Stoerr was responsible for acquiring supplies and services in connection with purchases less than \$5,000. Purchases above \$5,000 were usually awarded by CC-1 and/or officials in the Niagara Falls, NY office of P-C.

VIII. DESCRIPTION OF THE OFFENSE

32. From approximately the Fall of 2000 until approximately the Spring of 2004, the exact dates being unknown to the United States, in the District of New Jersey and elsewhere, Stoerr, CC-1, CC-2, CC-5, CC-6, and CC-7 unlawfully, willfully and knowingly did combine, conspire, confederate, and agree together and with each other to defraud the United States or an agency thereof, namely the EPA, and to commit offenses against the United States, to wit, to violate Title 41, United States Code, Section 53(2) and (3) and Title 18, United States Code, Section 1341 in violation of Title 18, United States Code, Section 371.

33. It was a part and an object of the conspiracy that Stoerr, CC-1, CC-2, CC-5, CC-6, and CC-7, and others known and unknown, unlawfully, willfully, and knowingly would and did conspire, combine, confederate, and agree to defraud the United States of America and the EPA and to commit offenses against the United States by soliciting and attempting to solicit kickbacks and accepting and attempting to accept kickbacks from certain sub-contractors of P-C at Federal Creosote and causing certain sub-contractors to include the amount of the kickbacks in the sub-contract prices charged by

the prime contractor to the United States, in violation of Title 41, United States Code, Sections 53(2) and (3).

34. It was further a part and an object of the conspiracy that Stoerr, CC-1, CC-2, CC-5, CC-6, and CC-7, and others known and unknown, unlawfully, willfully, and knowingly, having devised and intending to devise a scheme and artifice to defraud the EPA at Federal Creosote and Tierra Solutions at Diamond Alkali, including a scheme to obtain money and property from the EPA and Tierra Solutions by means of false and fraudulent pretenses, representations, and promises, for the purpose of executing such scheme and artifice to defraud, and attempting to do so, would and did place in post offices and authorized depositories for mail matter, and would and did deposit, and cause to be deposited, matters and things to be sent and delivered by the Postal Service and by private and commercial interstate carriers, and would and did take and receive such matters and things therefrom, and would and did cause such matters and things to be delivered by mail and by such carriers according to the directions thereon, and at the places at which they were directed to be delivered by the persons to whom they were addressed, in violation of Title 18, United States Code, Section 1341.

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

The manner and means by which the conspiracy was sought to be accomplished included, among others, the following:

35. Stoerr and CC-1 selected vendors based on a vendor's willingness to provide kickbacks to Stoerr, CC-1 and other co-conspirators known and unknown at Federal Creosote and/or Diamond Alkali.

36. Stoerr and CC-1 solicited and accepted kickbacks from CC-2, CC-5, CC-6, and CC-7, and other co-conspirators known and unknown at Federal Creosote and/or Diamond Alkali.

37. In approximately the Fall of 2000 and continuing until approximately the Spring of 2004, Stoerr, CC-1 and other co-conspirators known and unknown solicited and accepted kickbacks from CC-5 for the purpose of improperly obtaining and rewarding favorable treatment in connection with sub-contracts awarded by P-C to CC-5's company at Federal Creosote and at Diamond Alkali. CC-5 provided to Stoerr kickbacks in the form of cash payments, a cruise, an air compressor and payments to ECS. At times, Stoerr and CC-1 caused CC-5 to pay kickbacks by issuing CC-5 company's checks to Stoerr, ECS and Vendor 1 pursuant to false invoices issued by Stoerr, ECS and Vendor 1 to CC-5's company. The kickbacks to Stoerr were valued at approximately \$20,000. Stoerr, at times, assisted CC-1 in providing favorable treatment to CC-5's company in awarding sub-contracts at Federal Creosote and at Diamond Alkali without CC-5's

company having to submit competitive price quotes. Stoerr and CC-1 knowingly permitted CC-5's company to fraudulently inflate the prices of the sub-contracts at Federal Creosote and at Diamond Alkali to include the costs of the kickbacks, which, in turn, caused P-C to include the costs of the kickbacks in the prices it charged to the EPA at Federal Creosote and to Tierra Solutions at Diamond Alkali.

38. Beginning in approximately January 2002 and continuing until approximately the Spring of 2004, Stoerr and CC-1 received payments from CC-2 for the purpose of improperly obtaining and rewarding favorable treatment for the award of sub-contracts at Federal Creosote and at Diamond Alkali through a scheme to submit inflated and fictitious invoices to P-C. Pursuant to this scheme, Stoerr solicited and accepted at least \$26,000 in kickbacks from CC-2. At times, Stoerr accepted the kickbacks in the form of cash from CC-2 at locations near Diamond Alkali and Federal Creosote and then gave the cash to CC-1 who would return half of the amount of cash to Stoerr. At other times, Stoerr and CC-1 caused CC-2 to pay kickbacks by issuing CC-2's company's checks to ECS and Vendor 1 pursuant to false invoices issued by ECS and Vendor 1 to CC-2's company. Stoerr and CC-1 knowingly permitted CC-2's company to fraudulently inflate the prices of the sub-contracts to include the cost of the kickbacks, which, in turn, caused P-C to include the costs of the kickbacks in the prices it charged to the EPA at Federal Creosote and to Tierra Solutions at Diamond Alkali.

39. Beginning in approximately October 2002 and continuing until approximately October 2003, Stoerr, CC-1 and other co-conspirators known and unknown solicited and accepted kickbacks from CC-6 for the purpose of improperly obtaining and rewarding favorable treatment in connection with the award of sub-contracts for the removal and treatment of contaminated soil to CC-6's company by P-C at Federal Creosote. Stoerr solicited and accepted kickbacks from CC-6 some of which were in the form of air fare and a cruise. These kickbacks to Stoerr were valued at approximately \$5,000. Stoerr and CC-1 knowingly permitted CC-6's company to fraudulently inflate the prices of the sub-contracts to include the costs of the kickbacks, which, in turn, caused P-C to include the costs of the kickbacks in the prices it charged to the EPA at Federal Creosote.

40. Beginning in approximately the Spring of 2002 and continuing until approximately the Spring of 2004, Stoerr, CC-1 and other co-conspirators known and unknown solicited and accepted kickbacks from CC-7 for the purpose of improperly obtaining and rewarding favorable treatment in connection with sub-contracts to deliver backfill soil awarded by P-C to CC-7's company at Federal Creosote. Typically, the kickbacks were in the form of cash to Stoerr and CC-1 and calculated as \$0.50 per ton of backfill soil delivered to Federal Creosote. Stoerr solicited and accepted the kickbacks in the form of cash from CC-7 during off-site meetings at a local coffee shop and then delivered the cash to CC-1 who returned half of the amount in cash back to Stoerr. These kickbacks to Stoerr totaled approximately \$21,000. Stoerr and CC-1 knowingly permitted

CC-7's company to fraudulently inflate the prices of the sub-contracts to include the costs of the kickbacks, which, in turn, caused P-C to include the costs of the kickbacks in the prices it charged to the EPA at Federal Creosote.

41. The kickback payments by CC-5 and CC-7 to Stoerr ceased approximately six months after Stoerr was dismissed from his employment by P-C in October 2003.

X. OVERT ACTS

42. In furtherance of the conspiracy and to effect the illegal objects thereof, the defendant and others known and unknown, committed the following overt acts, among others, in the District of New Jersey and elsewhere:

(a) On or about January 22, 2002, Stoerr and CC-1 caused P-C to send through the mails a purchase order to CC-2's company for the supply and installation for flow meters in the treatment facility at Diamond Alkali pursuant to a CC-2 company invoice that was inflated to cover a portion of the kickbacks from CC-2 to Stoerr and CC-1;

(b) On or about January 6, 2003, Stoerr and CC-1 caused CC-2 to create a false and fraudulent invoice for \$9,187.24 that was billed to P-C for chemical supplies to be delivered to P-C at Federal Creosote that, in fact, were never delivered to P-C;

(c) On or about February 18, 2003, Stoerr caused CC-6 to purchase two tickets for a cruise through the Carribean for Stoerr and a guest valued at approximately \$3,225; and

(d) On or about September 17, 2003, Stoerr caused CC-5 to send through the mails an air compressor that CC-5 purchased for \$2,685 to Stoerr's home address in New York.

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

COUNT THREE - AIDING AND ASSISTING IN THE PREPARATION OF A
FALSE RETURN
(26 U.S.C. § 7206(2))

The United States of America further charges:

43. Paragraphs 1 through 3, 5, 8, and 10 through 14 of Count One and Paragraphs 24, 26, 31 and 38 of Count Two of this Information are repeated, realleged, and incorporated in Count Three as if fully set forth in this Count.

44. On or about February 2003, Stoerr and CC-2 agreed to incorporate ECS for the purpose of disguising the kickback payments to Stoerr as CC-2's legitimate business expenses on CC-2's company's tax forms. Thereafter, Stoerr created and submitted four false invoices totaling approximately \$21,132 to CC-2's company for the purpose of concealing the nature of the kickbacks from CC-2 to Stoerr and causing CC-2 to falsely and fraudulently deduct the payments of those invoices as legitimate business expenses for the calendar year of 2003.

45. On or about April 15, 2004 near Laurel Springs in the District of New Jersey and elsewhere, Stoerr did knowingly and willfully aid and assist in, and procure, counsel, and advise the preparation and presentation to the Internal Revenue Service of a

Form 1120S, U.S. Corporate Income Tax Return, for CC-2's company for the calendar year 2003, which was false and fraudulent as to a material matter, in that the return falsely claimed kickback payments made to Stoerr by CC-2 as business expenses, whereas, as Stoerr then well knew and believed, the kickback payments were not CC-2's company's legitimate business expenses.

IN VIOLATION OF TITLE 26, UNITED STATES CODE, SECTION 7206(2)

Dated: 7/23/08



THOMAS O. BARNETT
Assistant Attorney General



RALPH T. GIORDANO
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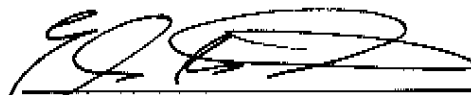
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