

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA v. BENNETT ENVIRONMENTAL, INC., Defendant.	: : : : : : : : :	Criminal No. <i>08-534</i> Filed: Violation: 18 U.S.C. § 371
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INFORMATION

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

1. Bennett Environmental, Inc. ("BEI") is hereby made a defendant on the charge stated below.

COUNT ONE - FRAUD CONSPIRACY
(18 U.S.C. § 371)

I. RELEVANT PARTIES AND ENTITIES

During the period covered by this Count:

2. BEI was a corporation existing under the laws of Canada with its main office located in Oakville, Ontario, Canada. BEI was a company that treated and disposed of contaminated soils for a prime contractor ("P-C") on an environmental remediation project at the Federal Creosote Superfund Site in Manville, New Jersey ("Federal Creosote").

3. "CC-1" was a co-conspirator who was an employee for P-C at Federal Creosote and influential in the award of sub-contracts. CC-1 owned a shell company ("Vendor-1") that he used to conceal the receipt of kickback payments. Vendor 1 used addresses associated with CC-1's wife's flower shop, CC-1's home and CC-1's parents' home as its business address.

4. 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.

5. 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

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

7. P-C was the prime contractor that was 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. The EPA paid a fixed fee plus the cost of the remedial action performed by the sub-contractors to P-C.

8. 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.

9. CC-1 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.

10. The FAR also prohibited any person from providing, attempting to provide, soliciting, or attempting to solicit 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. DESCRIPTION OF THE OFFENSE

11. From approximately May 2002 until approximately the Spring of 2004, the exact dates being unknown to the United States, in the District of New Jersey and elsewhere, BEI and its co-conspirators, 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 18, United States Code, Section 1343, in violation of Title 18, United States Code, Section 371.

12. It was a part and an object of the conspiracy that BEI and its co-conspirators, having devised and intending to devise a scheme and artifice to defraud the EPA at Federal Creosote and to obtain money and property from the EPA by means of false and fraudulent pretenses, representations, and promises, did unlawfully, willfully, and knowingly, for the purpose of executing such scheme and artifice, transmit and cause to be transmitted in interstate commerce or foreign commerce by means of wire communications certain writings, signs, signals and sounds, to wit, to violate Title 18, United States Code, Section 1343.

IV. 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:

13. During some or all of the period from approximately May 2002 until approximately the Spring of 2004, BEI and CC-1 fraudulently inflated the price of certain sub-contracts by at least \$13.50 per ton of contaminated soil removed and treated, for a total of at least \$1,510,000 in inflated amounts at Federal Creosote. These inflated amounts included the cost of kickbacks made to CC-1 and other co-conspirators plus amounts BEI kept for itself. BEI provided the kickbacks to CC-1 and other employees of P-C who were co-conspirators in order to influence and reward them for the award of sub-contracts to BEI at Federal Creosote.

14. As part of the fraudulent scheme, CC-1 gave confidential bid information to BEI before the award of the sub-contracts to ensure that it would be awarded the sub-contracts.

15. During some or all of the period between approximately May 2002 and approximately the Spring of 2004, P-C awarded at least \$27,000,000 in sub-contracts to BEI. P-C included the inflated sub-contract prices as part of the costs it charged to the EPA for work performed by BEI. As a result, the EPA paid more for those sub-contracts than it otherwise would have if the FAR requirements were followed.

16. At the request of CC-1, BEI agreed to give some of the kickbacks in the form of payments to CC-1 via wire transfers from BEI's bank account in Canada to Vendor-1's bank account in New Jersey. CC-1 issued false Vendor-1 invoices to BEI as

a means of concealing the true nature of the kickback payments. The kickback payments to CC-1 generated by the inflated prices totaled at least \$1,100,000.

17. At other times, BEI agreed to give kickbacks in various forms to CC-1 and other co-conspirators that included, but were not limited to, Mediterranean cruises and corresponding flights, Carribean cruises and corresponding flights, pharmaceuticals, wine and a wine shelving unit, entertainment tickets, flat screen televisions and laptops. These additional kickbacks generated from the inflated prices totaled approximately \$205,000.

18. The amount of the inflated prices that BEI kept for itself totaled at least \$205,000.

V. OVERT ACTS

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

(a) On or about August 26, 2002, BEI used a credit card to purchase eight cabin tickets on a 10 day cruise through the Mediterranean totaling approximately \$75,000 for CC-1, CC-1's wife, and three other senior P-C officials and their guests;

(b) On or about June 11, 2003, BEI sent \$177,000 via wire transfer from its bank account in Canada to Vendor-1's bank account in New Jersey;

(c) On or about August 26, 2003, BEI sent \$249,910 via wire transfer from its bank account in Canada to Vendor-1's bank account in New Jersey; and

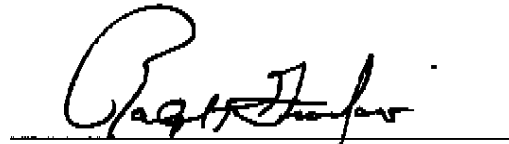
(d) On or about September 23, 2003, BEI used a credit card to purchase a \$4,967.50 wine shelving unit for CC-1 and his wife that was delivered to CC-1's home in New Jersey.

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

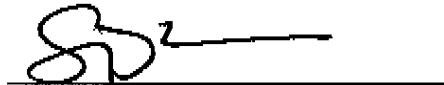
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