



U.S. Department of Justice

*United States Attorney
District of Idaho*

WENDY J. OLSON, United States Attorney
RAFAEL M. GONZALEZ, JR., First Assistant United States Attorney
AARON N. LUCOFF, Criminal Chief
SYRENA C. HARGROVE, Civil Chief

*Washington Group Plaza IV
800 E. Park Blvd., Ste. 600
Boise, ID 83712-9903
(208) 334-1211*

NEWS RELEASE

**FOR IMMEDIATE RELEASE
ON MAY 20, 2013**

**CONTACT: PAMELA BEARG
Public Information Officer
GEORGE W. BREITSAMETER
Assistant United States Attorney
(208) 334-1211**

Idaho Contractor Indicted on Federal Charges of Conspiracy, Money Laundering, Obstruction of Justice, Wire, and Tax Fraud

Government Seeking Forfeiture of Over \$9 Million from Treasure Valley Woman

BOISE – U.S. Attorney Wendy J. Olson and Assistant Attorney General for the Tax Division Kathryn Keneally announced today that a federal grand jury in Boise returned a 42-page Superseding Indictment this week that charges Elaine Martin, 66, of Meridian, Idaho, with making false statements, conspiracy, wire fraud, mail fraud, and obstruction of justice. It also seeks forfeiture of over \$9 million as the proceeds of the alleged crimes. Darrell Swigert, 67, of Boise, Idaho, is charged with obstructing and conspiring to obstruct a federal criminal proceeding.

Martin was the president and majority stockholder of Marcon, Inc., a Treasure Valley construction company. Swigert was a minority shareholder. An earlier indictment that charged only Martin, filed on March 13, 2013, was unsealed by the court today. A court date has not been set.

The Superseding Indictment charges Martin with four counts of making and subscribing a false tax return, two counts of conspiracy, five counts of wire fraud, one count of making a false statement, five counts of mail fraud, four counts of interstate transportation of property taken by fraud, one count of conspiracy to commit money laundering, one count of conspiracy to obstruct justice, and one count of obstructing justice.

The Superseding Indictment alleges that as early as 2000, and continuing through January 2012, Martin took steps to lower her personal net worth, such as acquiring, holding and transferring assets into the names of nominees. According to the Superseding Indictment, this and other alleged conduct enabled Martin to successfully apply for and be admitted into the U.S. Small Business Administration (SBA) 8(a) Program. The Superseding Indictment alleges that Martin's actions also allowed Marcon to fraudulently maintain its certification with the U.S. Department of Transportation's Disadvantaged Business Enterprise (DBE) Program, in the states of Idaho and Utah. The SBA 8(a) Program and DBE Program are designed to help economically and socially disadvantaged business compete in the marketplace. Both programs require applicants to show that their personal net worth is below a certain statutory threshold. The Superseding Indictment alleges that Martin remained in control of her assets while appearing to meet the personal net worth requirements of both programs.

According to the Superseding Indictment, Martin also caused false and fraudulent tax returns to be filed for herself and Marcon, Inc., which did not report all of the income received by Martin or the company. These false returns were allegedly submitted in support of Marcon's applications to the SBA 8(a) Program and DBE Programs for Idaho and Utah, along with allegedly false personal financial statements. According to the Superseding Indictment, Martin caused the financial books and records for Marcon to be false by purposefully omitting, deleting, altering or mis-categorizing entries. The Superseding Indictment further alleges that Martin concealed her role or relationship in other business entities that dealt with Marcon, Inc.

While a participant in the SBA 8(a) Program, the Superseding Indictment alleges that Martin sought to conceal withdrawals of capital that exceeded the SBA 8(a) Program limits by executing loans with her family members and with entities that she controlled.

The Superseding Indictment charges that Marcon received more than \$2.5 million in government contracts based on the company's fraudulently obtained SBA 8(a) status. The Superseding Indictment further alleges that Marcon received more than \$6 million in government contracts based on the company's fraudulently obtained DBE status in the states of Idaho and Utah.

Both Martin and Swigert are charged with conspiracy to obstruct justice by fabricating documents and making false statements that sought to conceal the true nature, source, and extent of property belonging to Martin. According to the Superseding Indictment, Martin and Swigert fabricated a loan document and document that purported to memorialize a gift in order to impede a civil audit by the IRS and criminal investigation by the IRS and U.S. Attorney's Office. Swigert is also charged with a second count of obstruction of justice based on allegedly false statements that he made to conceal the nature, source, and extent of property belonging to Martin.

The government seeks forfeiture of \$9,237,722.10, which represents the proceeds that Martin obtained as a result of the alleged offenses.

"Those who seek federal contracts and seek to benefit from federal funds have a solemn obligation to deal honestly and openly with the federal government," said Olson. "This office will continue to work side-by-side with its federal program partners to ensure that fraud is thoroughly investigated and, where appropriate, vigorously prosecuted."

“The 8(a) Business Development Program is designed to help small, disadvantaged businesses compete in the marketplace and offers significant benefits to eligible small businesses,” said Inspector General Peggy E. Gustafson of the Small Business Administration. “Preferences for federal contract awards must not be given to persons who lie in order to claim eligibility. I want to thank the U.S. Attorney's Office and our law enforcement partners for their commitment to seek justice on behalf of the American taxpayer.”

“Those who commit tax fraud and fraudulently benefit from government programs are cheating honest taxpayers. IRS-Criminal Investigations will work diligently with our law enforcement partners to ensure that those who engage in these illegal activities are vigorously investigated and brought to justice,” said Stephen Boyd, IRS Criminal Investigation Special Agent-in-Charge for the State of Idaho.

“The Disadvantaged Business Enterprise (DBE) Program is a business assistance program of the U.S. Department of Transportation (DOT) which helps economically and socially disadvantaged small businesses compete in the marketplace. DBE fraud harms the integrity of the program and adversely impacts law-abiding, small business contractors trying to compete on a level playing field,” said William Swallow, regional Special Agent-in-Charge of the DOT's Office of Inspector General. “Working with our Federal, State, and local law enforcement and prosecutorial colleagues, we will vigorously pursue those who violate the law, and expose and shut down fraud schemes that adversely affect public trust and DOT-assisted highway programs.”

Each charge of making and subscribing a false return, as charged in counts one through four, is punishable by up to three years in prison, a maximum fine of \$250,000, and up to three years of supervised release. The charge of conspiracy, as charged in counts five, twelve, and 23, is punishable by up to five years in prison, a maximum fine of \$250,000, and up to three years of supervised release. Each count of wire fraud, as charged in counts six through ten, is punishable by up to 20 years in prison, a maximum fine of \$250,000, and up to five years of supervised release. The charge of making a false statement, as charged in count 11, is punishable by up to two years in prison, a maximum fine of \$250,000, and up to one year of supervised release. Each charge of mail fraud, as charged in counts 13 through 16, is punishable by up to 20 years in prison, a maximum fine of \$250,000, and up to five years of supervised release. Each charge of interstate transportation of property taken by fraud, as charged in counts 18 through 21, is punishable by up to 10 years in prison, a maximum fine of \$250,000, and up to three years of supervised release. The charge of conspiracy to commit money laundering, as charged in count 22 is punishable by up to 20 years in prison, a maximum fine of \$250,000, and up to three years of supervised release. The charges of conspiracy to obstruct justice, count 23, and obstruction of justice, counts 24 and 25, are each punishable by up to five years in prison, a maximum fine of \$250,000, and up to three years of supervised release.

The case is being investigated by the Internal Revenue Service-Criminal Investigation, the Federal Bureau of Investigation, the Office of Inspector General for the U.S. Small Business Administration, and the Office of Inspector General for the U.S. Department of Transportation.

Today's announcement is part of an effort by President Obama's Financial Fraud Enforcement Task Force (FFETF), created in November 2009, to combat financial fraud crimes by waging aggressive, coordinated and proactive investigations and prosecutions. With more than 20 federal agencies, 94 U.S. attorneys' offices and state and local partners, the task force is

the broadest coalition of law enforcement, investigatory and regulatory agencies ever assembled to combat fraud. Since its formation, the task force has made great strides in facilitating increased investigation and prosecution of financial crimes; enhancing coordination and cooperation among federal, state and local authorities; addressing discrimination in the lending and financial markets; and conducting outreach to the public, victims, financial institutions and other organizations. Over the past three fiscal years, the Justice Department has filed more than 10,000 financial fraud cases against nearly 15,000 defendants including more than 2,700 mortgage fraud defendants. For more information on the task force, visit www.stopfraud.gov.

An indictment is a means of charging a person with criminal activity. It is not evidence. The person is presumed innocent until proven guilty beyond a reasonable doubt in a court of law.

#####