

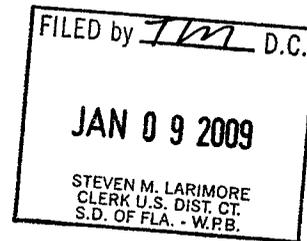
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No: 09-80003-02-Ruskamp/Hopkins
18 U.S.C. § 4

UNITED STATES OF AMERICA,
Plaintiff,

vs.

LAWRENCE KEVIN McCARTY,
Defendant.



INFORMATION

The United States Attorney charges that:

GENERAL ALLEGATIONS

At all times relevant to this Information:

Palm Beach County Government, local ordinances, and State statutes.

1. The Palm Beach County Board of County Commissioners ("BCC") was the legislative and policy-setting body of county government in Palm Beach County, in the Southern District of Florida. Seven commissioners were elected from single-member districts to staggered four-year terms to represent the entire county.

2. A Request for Proposal ("RFP") was a mechanism through which a governmental entity solicited persons or entities seeking to do business with it for a particular matter or type of matter. An RFP set forth specifically delineated and objective criteria for the selection of an applicant based on merit, whose ultimate selection was transparent to the citizenry.

3. In or around 2003, Palm Beach County passed an ordinance which prohibited verbal contact between a county commissioner, its staff, and those companies bidding under an RFP to do business with Palm Beach County. This ordinance, labeled “the cone of silence,” prohibited such verbal contact regarding the matter under bid for the time period during which the proposals submitted were under consideration.

4. The State of Florida enacted laws under Chapter 112 regarding, among other matters, statutes addressing voting conflicts and gift disclosures. Those statutes set forth the reporting and filing requirements regarding those voting conflicts and gift disclosures for elected officials.

The Agricultural Reserve.

5. In or around 1998, the BCC and the citizens of Palm Beach County voted on the issuance of a \$150 million General Obligation bond whose purpose was to buy environmentally sensitive lands for preservation and also purchase large tracts of land within a defined geographical location in Palm Beach County, designated as the Agricultural Reserve, wherein large scale farming activities would be preserved and not be subject to further development. Palm Beach County staff and the BCC divided the bond allocation into two \$75 million bonds, one issued in 1999 and the second in 2001.

6. In order to effectuate this policy of the BCC, those designated lands in the Agricultural Reserve were bought with the monies generated by the \$150 million bond initiative.

7. The McMurrain family owned a 627 acre tract of land in the geographically-designated Agricultural Reserve. T.M., a person known to the United States Attorney, was a member of the McMurrain family who shared in the revenue generated by the sale of the McMurrain tract to Palm Beach County.

8. In or around June 2000, the BCC voted to partner with the South Florida Water Management District (“SFWMD”) in the purchase of the McMurrain tract and in or around July 2000 gave the McMurrain family, including T.M., over \$23 million in taxpayer money for their land in the Agricultural Reserve.

Ocean Properties, Ltd.

9. Ocean Properties, Ltd. (“Ocean Properties”) is a corporation with offices in New Hampshire and Delray Beach, Florida which owned and managed over 100 hotels throughout the United States. Ocean Properties is owned by a family known to the United States Attorney, which included M.W, a person known to the United States Attorney. T.M. was an executive vice president with Ocean Properties, responsible for many of the operations of the various hotels and the development of Sunset Key, including Sunset Key Guest Cottages, a luxury property owned by Ocean Properties located near Key West, Florida.

10. Ocean Properties also constructed hotels, and developed a resort island located off of Key West, named Sunset Key, as well as port facilities, retail stores, and garages on Key West. Sunset Key was developed by Ocean Properties as both single family residences and luxurious oceanfront cottages available for rental to the general public. Ocean Properties also owned a hotel in Key West held at various times under the Hilton and Westin flagship names.

11. Ocean Properties also owned a Holiday Inn Resort and Marina in Key Largo, Florida; a Marriot Hotel in Hollywood Beach, Florida; and a Marriott Hotel, in Delray Beach, Florida, to name but a few of their owned and managed hotel properties.

The County Commissioner.

12. In or around November 1990, November 1994, November 1998, November 2002, and November 2006, Mary B. McCarty was elected to separate four-year terms as a Palm Beach County Commissioner for District 4.

13. On each occasion, including on or about November 9, 1998, November 6, 2002, and November 7, 2006, Mary B. McCarty took and executed an oath of office swearing to uphold the Constitutions and Governments of the United States of America and State of Florida.

14. As a sworn public official, Mary B. McCarty had a legal and ethical responsibility to perform her duties free from fraud, self-enrichment and self-dealing.

The Defendant.

15. Defendant LAWRENCE KEVIN McCARTY (“Kevin McCarty”), the husband of Mary B. McCarty, was, at various times, employed as a bond underwriter for Raymond James and Bear Stearns.

16. From a time unknown to the United States Attorney, but at least as early as in or around December 2000, and continuing through in or around March 2003, defendant LAWRENCE KEVIN McCARTY was an appointed Board Member of the Delray Beach Community Redevelopment Agency.

17. In or around March 2003, after applying for the position, defendant LAWRENCE KEVIN McCARTY was appointed by the governor to the SFWMD Governing Board for a four year term of office. In or around March 2005, defendant Kevin McCarty was nominated and designated to serve as the SFWMD Governing Board Chairman until in or around June 2007.

The Convention Center Hotel.

18. Palm Beach County built, developed and maintained a convention center located within the City of West Palm Beach. The BCC, as a policy matter, envisioned that a hotel was to be built adjacent to the Palm Beach County convention center to service and nationally advertise the convention center as an attractive location to hold business conventions.

19. After years of failure to get the convention center hotel built, the BCC decided in late 2003 to issue an RFP, to be administered by county staff, to seek bidders to construct a convention center hotel, condominiums, and a parking garage, all of which were designed to service the convention center. The RFP provided for the donation of the land, worth over \$10 million, as well as significant public financing to assist in this endeavor.

20. The responses to the RFP were due on or about January 26, 2004. Ocean Properties was one of five initial respondents and bidders, one of which was disqualified by county staff. The other competitors were New York-based The Related Companies, L.P., the parent company of CityPlace Partners; Florida Realty; and Texas-based Faulkner USA. The BCC selected Ocean Properties as the winning bidder on or about June 1, 2004.

21. Subsequent to the selection of Ocean Properties numerous legal and design issues, as well as the contractual obligations regarding this project, brought the matter back before the BCC on numerous occasions for their consideration and vote. During this time, staff regularly consulted with the elected officials as to the progress, or lack thereof, in this endeavor. Further, City of West Palm Beach elected officials and staff were regularly involved in the convention center building process as the hotel site was within their geographical jurisdiction for permitting issues. Also, the

property taxes generated from the anticipated condominium sales were anticipated revenue for the citizens of West Palm Beach.

22. In or around July 2000, Warren H. Newell, a duly elected Palm Beach County Commissioner from District 3, accepted significant and material undisclosed gifts and gratuities from T.M., M.W., and Ocean Properties, which included free lodging at Sunset Key Guest Cottages, in Key West, Florida.

23. From on or about December 28, 2000, and continuing through on or about January 1, 2001, Mary B. McCarty along with defendant LAWRENCE KEVIN McCARTY accepted significant and material undisclosed gifts and gratuities from T.M., M.W., and Ocean Properties, which included free lodging at Sunset Key Guest Cottages, in Key West, Florida.

24. On or about April 17, 2001, Mary B. McCarty at a BCC meeting, which included Warren H. Newell, discussed selling a portion of the McMurrain tract to another individual, known to the United States Attorney, without disclosing their receipt of significant and material gifts and gratuities from T.M., M.W., and Ocean Properties.

25. From on or about November 21, 2001, and continuing through on or about November 24, 2001, Mary B. McCarty and defendant LAWRENCE KEVIN McCARTY accepted significant and material undisclosed gifts and gratuities from T.M., M.W., and Ocean Properties, which included arranged free lodging at Sunset Key Guest Cottages, in Key West, Florida.

26. On or about December 2, 2003, Mary B. McCarty at a BCC meeting, which included Warren H. Newell, voted to authorize Palm Beach County staff to issue an RFP for the building of the convention center hotel.

27. On or about January 3, 2004, Mary B. McCarty, and the BCC, caused Palm Beach County staff to issue RFP number 2004-01-RCH seeking bidders for the building of a convention center hotel, with responses due on January 26, 2004.

28. On or about January 26, 2004, T.M., M.W., and Ocean Properties submitted a proposal in response to RFP number 2004-01-RFP to build the convention center hotel. There were a total of five proposals received, and one was eliminated by Palm Beach County staff as unresponsive.

29. Prior to February 6, 2004, Mary B. McCarty made arrangements with T.M. and Ocean Properties to stay at the Sunset Key Guest Cottages for a party to be held at the Hilton Hotel in Key West, Florida.

30. From on or about February 6, 2004, and continuing through on or about February 8, 2004, during a time period covered by the "cone of silence," Mary B. McCarty and defendant LAWRENCE KEVIN McCARTY accepted significant and material undisclosed gifts and gratuities from T.M., M.W., and Ocean Properties, which included grossly discounted room rates not available to the general public, for their stay at Sunset Key Guest Cottages, in Key West, Florida.

31. On or about February 28, 2004, Mary B. McCarty, and the BCC, caused City Place Partners to send an interstate facsimile communication to Palm Beach County staff regarding the convention center hotel project.

32. On or about March 9, 2004, Mary B. McCarty, and the BCC, caused The Related Companies, L.P. to send an interstate facsimile communication to Palm Beach County staff regarding the convention center hotel project.

33. On or about March 20, 2004, Mary B. McCarty, and the BCC, caused Ocean Properties to send an interstate facsimile communication to Palm Beach County staff regarding the convention center hotel project.

34. On or about April 6, 2004, Mary B. McCarty, and the BCC, caused Faulkner USA to send an interstate facsimile communication to the BCC, including Mary B. McCarty, requesting a workshop on the convention center hotel project.

35. On or about April 13, 2004, Mary B. McCarty, and the BCC, including Warren H. Newell, discussed and voted on the cancellation of the original proposals and authorized a new RFP without disclosing their prior receipt of significant and material gifts and gratuities from T.M., M.W., and Ocean Properties.

36. On or about April 27, 2004, Mary B. McCarty and Warren H. Newell, at a joint BCC meeting with City of West Palm Beach public officials, discussed property tax issues related to the building of the convention center hotel and condominiums, which discussion was undertaken without disclosing their prior receipt of significant and material gifts and gratuities from T.M., M.W., and Ocean Properties.

37. On or about April 27, 2004, Mary B. McCarty and Warren H. Newell, at a BCC workshop meeting, voted to reinstate the original proposals and sought the "best and final offers" from the four remaining competitors, one of which included Ocean Properties. This action was taken without disclosing their prior receipt of significant and material gifts and gratuities from T.M., M.W., and Ocean Properties.

38. On or about May 28, 2004, Mary B. McCarty, and the BCC, caused a Chicago-based consulting firm to send an interstate e-mail communication to Palm Beach County staff regarding the convention center hotel project.

39. On or about June 1, 2004, Mary B. McCarty and Warren H. Newell, and the BCC, voted to award the building of the convention center hotel to Ocean Properties without disclosing their prior receipt of significant and material gifts and gratuities from T.M., M.W., and Ocean Properties.

40. On or about August 17, 2004, Mary B. McCarty, and the BCC, requested a report from Palm Beach County staff on the progress of their negotiations to obtain a contract with Ocean Properties to build the convention center hotel without disclosing her prior receipt of significant and material gifts and gratuities from T.M., M.W., and Ocean Properties.

41. From on or about September 7, 2004, and continuing through on or about September 11, 2004, Mary B. McCarty accepted significant and material undisclosed gifts and gratuities from T.M., M.W., and Ocean Properties, which included free lodging and amenities, including food, for multiple rooms at the Delray Beach Marriott, in Delray Beach, Florida.

42. On or about March 1, 2005, Mary B. McCarty and Warren H. Newell, at a BCC meeting, voted to agree to discuss with the county attorney settlement strategies involving a lawsuit between City Place Partners and Palm Beach County. City Place Partners was a losing bidder to build the convention center hotel and had alleged in their lawsuit, among other things, that the selection of Ocean Properties was irregular and not in accordance with the RFP. This action was taken by defendant Mary B. McCarty without disclosing her prior receipt of significant and material gifts and gratuities from T.M., M.W., and Ocean Properties.

43. On or about March 15, 2005, Mary B. McCarty and Warren H. Newell, at a BCC meeting, voted to approve a lawsuit settlement agreement with City Place Partners, without disclosing their prior receipt of significant and material gifts and gratuities from T.M., M.W., and Ocean Properties.

44. From on or about March 20, 2005, and continuing through on or about March 21, 2005, Warren H. Newell accepted significant and material undisclosed gifts and gratuities from T.M., M.W., and Ocean Properties, which included free lodging under T.M.'s name, and free amenities, including food, at the Sunset Key Guest Cottages, in Key West, Florida.

45. On or about April 5, 2005, Mary B. McCarty and Warren H. Newell, at a BCC meeting, voted to approve the selling of public bonds with regard to finance the cost of the property on which Ocean Properties was to build the convention center hotel without disclosing their prior receipt of significant and material gifts and gratuities from T.M., M.W., and Ocean Properties.

46. From on or about June 24, 2005, and continuing through on or about June 26, 2005, Warren H. Newell accepted significant and material undisclosed gifts and gratuities from T.M., M.W., and Ocean Properties, which included free lodging under T.M.'s name, at the Hilton Hotel, in Key West, Florida.

47. On or about August 16, 2005, Mary B. McCarty and Warren H. Newell, at a BCC meeting, voted on the progress of contract negotiations between Palm Beach County and Ocean Properties to construct the convention center hotel without disclosing their prior receipt of significant and material gifts and gratuities from T.M., M.W., and Ocean Properties.

48. On or about September 19, 2005, Warren H. Newell accepted significant and material undisclosed gifts and gratuities from T.M., M.W., and Ocean Properties, which included free lodging at the Hollywood Beach Marriott Hotel, in Hollywood Beach, Florida.

49. From on or November 1, 2005, and continuing through on or about November 4, 2005, Mary B. McCarty and her relative, known to the United States Attorney, accepted significant and material undisclosed gifts and gratuities from T.M., M.W., and Ocean Properties, which included grossly discounted room rates not available to the general public for their stay at the Delray Beach Marriott, in Delray Beach, Florida.

50. From on or about March 21, 2006, and continuing through on or about March 24, 2006, Warren H. Newell accepted significant and material undisclosed gifts and gratuities from T.M., M.W., and Ocean Properties, which included grossly discounted room rates not available to the general public for his stay at the Holiday Inn Resort and Marina, in Key Largo, Florida.

51. On or about April 18, 2006, Mary B. McCarty and Warren H. Newell, at a BCC meeting, voted to agree to the relocation of the parking garage with regard to the building of the convention center hotel by Ocean Properties and also voted to impose an additional bed tax to fund the building of the hotel and parking garage. These actions were taken without disclosing their prior receipt of significant and material gifts and gratuities from T.M., M.W., and Ocean Properties.

52. On or about November 18, 2006, Mary B. McCarty, and the BCC, caused an attorney representing Ocean Properties to send an interstate e-mail communication to Palm Beach County staff which communication contained a draft Developmental Agreement between Ocean Properties and Palm Beach County.

53. On or about December 5, 2006, Mary B. McCarty, and the BCC, caused a Palm Beach County staff member to send an interstate communication to T.M., as a representative of Ocean Properties, which communication contained an update of the convention center hotel project.

54. From on or about December 31, 2006, and continuing through on or about January 1, 2007, defendant LAWRENCE KEVIN McCARTY assisted an employee of Palm Beach County who worked with Mary B. McCarty, known to the United States Attorney, to receive significant and material undisclosed gifts and gratuities from T.M., M.W., and Ocean Properties, which included free lodging at the Delray Beach Marriott, in Delray Beach, Florida.

55. On or about April 6, 2007, Mary B. McCarty, and the BCC, caused an attorney representing Ocean Properties to send an interstate e-mail communication to Palm Beach County staff, which communication contained the final Residential Lease Memo, Hotel Lease Memo, County Deed, and Completion Guarantee Agreement between Ocean Properties and Palm Beach County.

56. On or about April 6, 2007, Mary B. McCarty, and the BCC, caused an attorney representing Ocean Properties to send an interstate e-mail communication to Palm Beach County staff, which communication contained the final Development Agreement between Ocean Properties and Palm Beach County.

57. On or about April 10, 2007, Mary B. McCarty and Warren H. Newell, at a BCC meeting, voted to approve a written development agreement, hotel lease, residential land lease, and hotel room block agreement between Palm Beach County and Ocean Properties without disclosing their prior receipt of significant and material gifts and gratuities from T.M., M.W., and Ocean Properties.

58. On or about October 7, 2008, the BCC voted to terminate their contract with Ocean Properties for lack of performance.

59. In order to conceal her multiple tainted and illegal votes, Mary B. McCarty failed to file required proper gift disclosure forms with the State of Florida, and failed to disclose the true nature of the material financial gratuities bestowed on her by T.M., M.W., and Ocean Properties.

Count One
(Misprision of a Felony, (18 U.S.C. § 4))

60. The United States Attorney re-alleges and incorporates herein by reference the General Allegations Section of this Information.

61. Beginning at an exact time unknown to the United States Attorney, but at least as early as in or around December 2000, and continuing through in or around October 2008, at West Palm Beach, Palm Beach County, in the Southern District of Florida, the defendant,

LAWRENCE KEVIN McCARTY,

having knowledge of the actual commission of a felony cognizable by a court of the United States, that is, honest services wire fraud committed by Palm Beach County Commissioner Mary B. McCarty, through Mary B. McCarty's intentional and knowing concealment of the receipt of material benefits and gratuities from T.M., M.W., and Ocean Properties, while publicly advocating and voting for Ocean Properties to receive the contract for the building of the convention center hotel, and without disclosing Mary B. McCarty's personal financial interest therein, in violation of Title 18, United States Code, Sections 1343, and 1346, did not as soon as possible make known the same to any judge or other person in civil authority under the United States, and did conceal the same by,

among other things, not informing the Federal Bureau of Investigation, the Internal Revenue Service, and the State of Florida, of the following true facts:

62. T.M., M.W., Ocean Properties, and others bestowed significant and material financial gratuities on multiple occasions to Mary B. McCarty and her co-conspirators, including Warren H. Newell, and others. These gratuities were never reported by any public official, including by Mary B. McCarty, to the State of Florida.

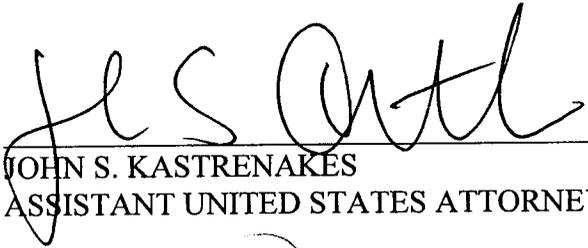
63. Mary B. McCarty, Warren H. Newell, and others, used their elected positions of public trust to vote on multiple occasions to benefit T.M., M.W., and Ocean Properties without disclosing the material financial benefits bestowed by T.M., M.W., and Ocean Properties.

64. In order to conceal the multiple tainted and illegal votes by Mary B. McCarty, defendant LAWRENCE KEVIN McCARTY failed to file his required proper gift disclosure forms with the State of Florida.

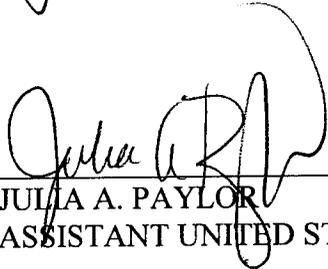
All in violation of Title 18, United States Code, Section 4.



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UNITED STATES ATTORNEY



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