IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA	:	**CRIMINAL NO._____**
v.	:	**DATE FILED:_____**
JAMES J. McCULLAGH	:	**VIOLATIONS:**
	:	**18 U.S.C. § 1001 (false statements - 4 counts)**
	:	**18 U.S.C. § 1505 (obstruction of justice - 1 count)**
	:	**29 U.S.C. § 666(e) (willful violation of OSHA regulation causing death to employee - 1 count)**

INDICTMENT

COUNT ONE

(False Statements)

THE GRAND JURY CHARGES THAT:

At all times material to this indictment:

1. The United States Department of Labor ("DOL") was a department and agency of the executive branch of the United States, and was responsible for the enforcement of the laws of the United States in the area of labor and employment conditions.

2. The Occupational Safety and Health Administration ("OSHA") was an agency of the DOL and was responsible for the promulgation and enforcement of safety and health regulations covering workers throughout the United States.

3. Defendant JAMES J. McCULLAGH was the founder and owner of James J. McCullagh Roofing, Inc. ("McCullagh Roofing"), which was a small roofing company with a place of business located at 1671-73 Foulkrod Street in Philadelphia, Pennsylvania.

4. Defendant JAMES J. McCULLAGH, through McCullagh Roofing, was an employer under the Occupational Safety and Health Act, 29 U.S.C. § 651 *et seq.*, and was obligated to comply with all relevant safety and health regulations promulgated by OSHA.

5. OSHA promulgated regulations that addressed, among other things, the need to provide workers with fall protection. Specifically, OSHA promulgated a regulation found in 29 C.F.R. § 1926.451 that required each employee on a scaffold more than 10 feet above a lower level to be provided fall protection.

6. In or about May 2013, defendant JAMES J. McCULLAGH contracted with a church located in Philadelphia, Pennsylvania (the "Church"), the name and location of which is known to the Grand Jury, to perform roofing repair work at the Church.

7. Defendant McCULLAGH commenced the roofing repair work at the Church on or about June 20, 2013.

8. Employee A, whose identity is known to the Grand Jury, was an employee of defendant JAMES J. McCULLAGH, through McCullagh Roofing, and was a member of the crew performing roofing work at the Church.

9. Employee B, whose identity is known to the Grand Jury, was an employee of defendant JAMES J. McCULLAGH, through McCullagh Roofing, and was a member of the crew performing roofing work at the Church.

10. Employee C, whose identity is known to the Grand Jury, was an employee of defendant JAMES J. McCULLAGH, through McCullagh Roofing, and was a member of the crew performing roofing work at the Church.

11. Defendant JAMES J. McCULLAGH did not provide to his employees any form of fall protection in connection with the roof repair work at the Church.

12. On or about June 21, 2013, Employee C was killed as a result of falling approximately 45 feet from a roof bracket scaffold while performing roofing work at the Church.

13. On or about June 21, 2013, in Philadelphia, in the Eastern District of Pennsylvania, defendant

JAMES J. McCULLAGH

in a matter within the jurisdiction of the United States Occupational Safety and Health Administration, an agency of the executive branch of the United States, knowingly and willfully made materially false, fictitious, and fraudulent statements and representations in that defendant JAMES J. McCULLAGH told an Occupational Safety and Health Administration Compliance Safety and Health Officer investigating Employee C's fall that he had provided fall protection to his employees and that his employees had been wearing safety harnesses tied off to an anchor point when he saw them earlier in the day prior to the fall, when, as the defendant then knew, he had not provided fall protection to his employees and none of his employees had safety harnesses or any other form of fall protection.

In violation of Title 18, United States Code, Section 1001.

COUNT TWO

(False Statements)

THE GRAND JURY FURTHER CHARGES THAT:

1. Paragraphs 1 through 12 of Count One are incorporated here.

2. On or about June 27, 2013, in Philadelphia, in the Eastern District of Pennsylvania, defendant

JAMES J. McCULLAGH

in a matter within the jurisdiction of the United States Occupational Safety and Health Administration, an agency of the executive branch of the United States, knowingly and willfully made materially false, fictitious, and fraudulent statements and representations in that defendant JAMES J. McCULLAGH told an Occupational Safety and Health Administration Compliance Safety and Health Officer investigating Employee C's fall that he had provided fall protection to his employees and that his employees had been wearing safety harnesses with lanyards tied off to an anchor point when he saw them at the work site on the day of the fall, when, as the defendant then knew, he had not provided fall protection to his employees and none of his employees had safety harnesses or any other form of fall protection.

In violation of Title 18, United States Code, Section 1001.

COUNT THREE

(False Statements)

THE GRAND JURY FURTHER CHARGES THAT:

1. Paragraphs 1 through 12 of Count One are incorporated here.

2. On or about August 14, 2013, in Meadowbrook, in the Eastern District of Pennsylvania, defendant

JAMES J. McCULLAGH

in a matter within the jurisdiction of the United States Occupational Safety and Health Administration, an agency of the executive branch of the United States, knowingly and willfully made materially false, fictitious, and fraudulent statements and representations in that defendant JAMES J. McCULLAGH represented to an Occupational Safety and Health Administration Compliance Safety and Health Officer investigating Employee C's fall that he had provided fall protection to his employees on the day of the fall, including safety harnesses, when, as the defendant then knew, he had not provided fall protection to his employees and none of his employees had safety harnesses or any other form of fall protection.

In violation of Title 18, United States Code, Section 1001.

COUNT FOUR

(False Statements)

THE GRAND JURY FURTHER CHARGES THAT:

1. Paragraphs 1 through 12 of Count One are incorporated here.

2. On or about October 9, 2013, in Meadowbrook, in the Eastern District of Pennsylvania, defendant

JAMES J. McCULLAGH

in a matter within the jurisdiction of the United States Occupational Safety and Health Administration, an agency of the executive branch of the United States, knowingly and willfully made materially false, fictitious, and fraudulent statements and representations in that defendant JAMES J. McCULLAGH represented to an Occupational Safety and Health Administration Compliance Safety and Health Officer investigating Employee C's fall that he had provided fall protection to his employees on the day of the fall, including safety harnesses with lanyards, when, as the defendant then knew, he had not provided fall protection to his employees and none of his employees had safety harnesses or any other form of fall protection.

In violation of Title 18, United States Code, Section 1001.

COUNT FIVE

(Obstruction of Justice)

THE GRAND JURY FURTHER CHARGES THAT:

1. Paragraphs 1 through 12 of Count One are incorporated here.

2. From in or about June 21, 2013 to in or about October 9, 2013, in Philadelphia and Meadowbrook, in the Eastern District of Pennsylvania, defendant

JAMES J. McCULLAGH

intentionally and corruptly influenced, obstructed, and impeded, and endeavored to influence, obstruct, and impede the due and proper administration of law under which a pending proceeding was being had before the Occupational Safety and Health Administration, an agency of the United States, by falsely representing to an Occupational Safety and Health Administration Compliance Safety and Health Officer investigating Employee C's fall that he had provided fall protection to his employees and by directing Employee A and Employee B to falsely state that they had fall protection, including safety harnesses, on the day of the fall.

In violation of Title 18, United States Code, Section 1505.

COUNT SIX

(Willful Violation of OSHA Regulation)

THE GRAND JURY FURTHER CHARGES THAT:

1. Paragraphs 1 through 12 of Count One are incorporated here.

2. With respect to roof bracket scaffolds more than 10 feet above a lower level, OSHA required that each employee be protected from falling by the use of personal fall arrest systems or guardrail systems. 29 C.F.R. § 1926.451(g)(1)(vii).

3. On or about June 21, 2013, in Philadelphia, in the Eastern District of Pennsylvania, defendant

JAMES J. McCULLAGH

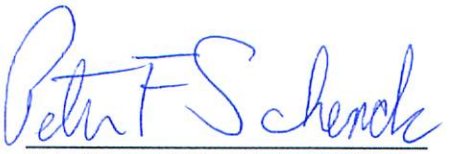
knowingly and willfully violated a regulation promulgated pursuant to the Occupational Safety and Health Act, namely, 29 C.F.R. § 1926.451(g)(1)(vii), and that violation caused the death of Employee C by injuries sustained in a fall from a roof bracket scaffold that was more than10 feet above a lower level and approximately 45 feet above ground.

In violation of Title 29, United States Code, Section 666(e).

A TRUE BILL:

_____

GRAND JURY FOREPERSON



ZANE DAVID MEMEGER
United States Attorney