IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA	:	**CRIMINAL NO. 15-_____**
v.	:	**DATE FILED: _____**
JUDY NOLL, President, **Karen Construction Co., Inc.**	:	**VIOLATION:** **18 U.S.C. § 371 (conspiracy to commit wire fraud- 1 count)**

INFORMATION

COUNT ONE

THE UNITED STATES ATTORNEY CHARGES THAT:

At all times relevant to this information:

INTRODUCTION

1. Defendant JUDY NOLL was the President and 100% owner of Karen Construction Company, Inc. (Karen Construction), a Pennsylvania corporation located in Kutztown, Pennsylvania. Karen Construction was in the business of providing structural steel reinforcement and other construction services for bridges in highway construction projects in the Commonwealth of Pennsylvania.

2. Karen Construction was certified as a Disadvantaged Business Enterprise (DBE), under the United States Department of Transportation, DBE Program (the DBE Program), by the Pennsylvania Department of Transportation (PENNDOT), an agency of the Commonwealth of Pennsylvania and a recipient of federal grant funds for highway and bridge construction projects. This certification enabled Karen Construction, owned by defendant JUDY NOLL, a female

American, to qualify as economically and socially disadvantaged, and to receive lucrative subcontracts from general contractors that were required to subcontract a portion of the contract award to DBEs under the DBE Program.

3. From in or about January 2002 to in or about November 2011, defendant JUDY NOLL, though Karen Construction, obtained 133 bridge and highway subcontracts as a DBE and received the sum of approximately $11.9 million for construction work performed pursuant to those subcontracts under the DBE Program. These subcontracts related to providing and installing structural steel for bridge construction on federally funded Pennsylvania highway projects.

4. Carl M. Weber Steel Service, Inc. (Weber Steel), a Pennsylvania corporation located in Kutztown, Pennsylvania (charged elsewhere) was in the business of providing structural steel reinforcement and other construction services for bridges in highway construction projects in the Commonwealth of Pennsylvania. Weber Steel shared, among other things, the same office location and labor pool as Karen Construction. Weber Steel was owned by Dennis Weber, President, and Dale Weber, Vice-President and Chief Executive Officer (CEO) (both charged elsewhere). Weber Steel was not a DBE.

The DBE Program

5. The United States Department of Transportation (USDOT) awards billions of dollars annually, through direct contracts with private firms and grants to state and local agencies to finance transportation projects nationwide, including in the Commonwealth of Pennsylvania. Highway construction comprises the largest share of these funds and the Federal Highway Administration (FHWA), an agency within the USDOT, provides the financial assistance in the form of grants to state and city agencies for the construction and maintenance of highways.

Since 1983, statutes and regulations require USDOT and FHWA to ensure that at least 10% of the funds authorized for highway construction projects be expended with DBEs.

6. In order to be certified as a DBE, a person must own 51% or more of a small business and must establish that she is disadvantaged within the meaning of the program, including demonstrating control of the business and that the business is independent with sufficient resources and employees to fulfill its contracts.

7. Primary responsibility for the administration of the DBE program is delegated to state and city agencies that receive USDOT funds and which are to establish DBE programs in conformity with federal regulations.

8. PENNDOT, as a recipient of USDOT grant funds from FHWA for construction projects, is required to establish goals and objectives for administrating the DBE program. The DBE Program allows the work actually performed by a DBE subcontractor to count toward the general contractor's designated DBE goals. Only funds paid to a DBE that performs a "commercially useful function" in the execution of a contract qualifies toward meeting these DBE goals. A DBE does not perform a commercially useful function if its role is limited to that of an extra-participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of DBE participation. The DBE performs a "commercially useful function" when it is responsible for the following:

(a) executing the contract work and carrying out its responsibilities by actually performing, managing, and supervising the work involved; and

(b) negotiating price, determining the quality and quantity of materials and supplies used on the contract, as well as ordering the material and installing and paying for the material and supplies.

THE CONSPIRACY

9. From in or about January 2002 to in or about November 2011, in the Eastern District of Pennsylvania and elsewhere, defendant

JUDY NOLL, President of
Karen Construction Co., Inc.

conspired and agreed, together and with the principals and owners of Carl Weber Steel Service, Inc., namely Dennis Weber, President, and Dale Weber, Vice-President and CEO, and others known to the United States Attorney's Office, to knowingly and intentionally commit wire fraud, in violation of Title 18, United States Code, Section 1343, by posing as a DBE to secure contracts for federally funded highway projects from USDOT, when in reality, Karen Construction Co., Inc. was not a bona fide DBE and was controlled by the principals of Carl M. Weber Steel Service, Inc.

MANNER AND MEANS OF THE CONSPIRACY

It was part of the conspiracy that:

10. Karen Construction functioned as a sham DBE, enabling Karen Construction to seek and obtain lucrative federally funded highway projects that Weber Steel could not, because Weber Steel was not a DBE.

11. Karen Construction was *de facto* controlled by Dennis Weber and Dale Weber, the principals and owners of Weber Steel:

(a) Dennis Weber was primarily responsible for sales and marketing for Karen Construction. Dennis Weber selected the projects which Karen Construction bid on and performed the estimating on all the federal highway projects for which defendant JUDY NOLL submitted bids on behalf of Karen Construction.

(b) Dale Weber was a fulltime employee of Karen Construction and handled the purchasing of materials and supplies for the projects that Karen was awarded and was responsible for project supervision. Dale Weber assisted defendant JUDY NOLL in hiring employees, and this labor pool was shared by both Weber Steel and Karen Construction;

(c) Karen Construction rented office space and leased the equipment used for its projects from Weber Steel. Karen Construction shared a computer network, telephone system, fax machine and an office manager with Weber Steel at the Kutztown location.

12. Defendant JUDY NOLL submitted DBE recertification applications to PENNDOT for Karen Construction in February 2002, February 2005 and May 2009 that were signed by NOLL as President under penalties for false statements or omissions. In these applications, NOLL concealed the control exercised by Dennis and Dale Weber over the operations of Karen Construction and falsely represented that Karen Construction was an independent business which did not depend on its relationship with another firm; was responsible for the execution of the work on the contracts it handled and actually performed, managed and supervised; and with respect to materials and supplies, negotiated price, determined quality and quantity, ordered materials and paid for materials for projects.

13. Defendant JUDY NOLL, through Karen Construction, fraudulently obtained 133 federal highway and bridge construction contracts as a DBE from USDOT and received approximately $11.89 million in payments for the DBE work performed. Karen Construction performed the required DBE work using the labor pool it shared with Weber Steel and the equipment it rented from Weber Steel, among other things.

14. Defendant JUDY NOLL created and submitted false reports, certifications, invoices and correspondence which misrepresented to PENNDOT and the USDOT that Karen

Construction was in compliance with the DBE contract requirements in order to enrich NOLL, Karen Construction, Dennis and Dale Weber and Weber Steel through this scheme to secure lucrative federally funded highway and bridge construction projects as a DBE.

15. Defendant JUDY NOLL shared the profits from Karen Construction with Dennis and Dale Weber in year-end bonus payments that were disguised through phony invoicing to mask the transfer of funds from Karen Construction to Dennis and Dale Weber. NOLL did not receive any bonuses from Weber Steel or otherwise share in the profits of Weber Steel.

OVERT ACTS

In furtherance of the conspiracy, the following overt acts, among others, were committed in the Eastern District of Pennsylvania, and elsewhere:

16. On or about the following dates, each date constituting a separate act, defendant JUDY NOLL signed and submitted a DBE Certification Affidavit to PENNDOT seeking DBE recertification for Karen Construction, which document was false and fraudulent, in that it concealed that Weber Steel controlled Karen Construction, that Dennis Weber, President of Weber Steel, performed the project selection and estimating for Karen Construction, and Dale Weber, the Vice-President of Weber Steel, made all major purchasing decisions for Karen Construction, among other things:

a. February 26, 2002;

b. February 25, 2005; and

c. May 22, 2009.

PROJECT #1

17. On or about December 19, 2007, defendant JUDY NOLL signed an estimate, completed by Dennis Weber, for Karen Construction to perform DBE work on a PENNDOT

Project involving work on I-476, the Schuylkill River Bridge in Montgomery County, PA (Project #1) which defendant NOLL faxed from Weber Steel to various general contractors.

18. On or about June 24, 2008, defendant JUDY NOLL signed a subcontract with a general contractor to perform DBE work on Project #1.

19. On or about September 1, 2010, the general contractor applied for and received the sum of approximately $76,356.35 in credit from PENNDOT towards its DBE goal for DBE work performed by Karen Construction on the above project.

20. On or about September 3, 2010, the FHWA authorized payment for the work performed, which included the DBE work performed by Karen Construction, which sum was wire transferred from the Highway Trust Fund in Washington D.C. to the Commonwealth of PA.

21. On or about September 14, 2010, a check in the amount of $76,356.35 was deposited into Karen Construction's business bank account for DBE work performed by Karen Construction on Project #1, which account was controlled by defendant JUDY NOLL.

PROJECT #2

22. On or about November 5, 2008, defendant JUDY NOLL signed an estimate, completed by Dennis Weber, for Karen Construction to perform DBE work on a PENNDOT project involving a highway interchange in Cumberland County, PA (Project #2), which defendant NOLL faxed from Weber Steel to various general contractors.

23. On or about July 2, 2011, FHWA authorized payment for the work performed on the above project, which included the sum of approximately $39,246 for the DBE work performed by Karen, which was wire transferred from the Highway Trust Fund in Washington, DC to the Commonwealth of Pennsylvania.

24. On or about July 6, 2011, PENNDOT paid the general contractor for work performed on Project # 2, which included the sum of approximately $39,246.64 for DBE work performed by Karen Construction.

25. On or about July 15, 2011, a check in the amount of $39,246.64 for the DBE work performed on Project #2 was deposited into Karen Construction's business bank account, which account was controlled by defendant JUDY NOLL.

PROJECT #3

26. On or about October 24, 2007, defendant JUDY NOLL signed an estimate, completed by Dennis Weber, for Karen Construction to perform DBE work on a PENNDOT project that involved work on Route 202 in Bridgeport, Montgomery County, PA, (Project # 3), which estimate was faxed by defendant NOLL from Weber Steel to various general contractors.

27. On or about August 1, 2009, the general contractor awarded the contract received the credit of $22,537.50 towards its DBE goal for DBE work performed by Karen Construction on the above project.

28. On or about August 4, 2009, FHWA authorized payment for the work performed by the general contractor on Project #3, which included the sum of approximately $22,537.50 for the DBE work performed by Karen Construction, which was wire transferred from the Highway Trust Fund in Washington D.C. to the Commonwealth of PA.

29. On or about August 7, 2009, a check in the amount of $22,537.50 for DBE work performed on the above project was deposited into Karen Construction's business bank account, which account was controlled by defendant JUDY NOLL.

PROFIT-SHARING

30. On or about November 12, 2010, Dennis and Dale Weber prepared a phony invoice to Karen Construction in the amount of $41,822.09 purportedly for the supply of metal materials, which, in reality, disguised the transfer of profits from Karen Construction to Weber Steel to the benefit of Dennis and Dale Weber.

31. On or about December 20, 2010, Karen Construction paid Weber Steel by check in the amount of $41,822.09 for the above phony invoice, which payment was falsely recorded on the books of Weber Steel as "KC Inventory."

32. On or about December 3, 2010, Dennis and Dale Weber prepared a phony invoice to Karen Construction in the amount of $25,179.59 purportedly for the supply of metal materials, which, in reality, disguised the transfer of profits from Karen Construction to Weber Steel to the benefit of Dennis and Dale Weber.

33. On or about December 23, 2010, Karen Construction paid Weber Steel by check in the amount of $25,179.59 for the above phony invoice, which payment was falsely recorded on the books of Weber Steel as "KC Inventory."

All in violation of Title 18, United States Code, Section 371.

ZANE DAVID MEMEGER
United States Attorney