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TWO DUFF FAMILY MEMBERS AMONG SEVEN INDICTED IN ALLEGED CITY CONTRACT AND WORKERS' COMPENSATION INSURANCE FRAUD SCHEMES

Family Enterprise allegedly cheated to win \$100 million in minority set-aside contracts

CHICAGO – Two members of the Duff family, whose day labor, janitorial, trucking and other businesses had extensive government and private contracts in Chicago, and five business associates were charged today in a federal grand jury indictment alleging fraud, money laundering and racketeering conspiracy, announced Patrick J. Fitzgerald, United States Attorney for the Northern District of Illinois. The 30-count indictment involves two alleged fraud schemes – one relating to more than \$100 million in government and private contracts allegedly obtained by sham women- and minority-owned businesses, and the other relating to more than \$3 million in unpaid workers' compensation insurance premiums. The defendants include **James M. Duff**, who the indictment describes as the principal leader, organizer and manager of the Duff family business enterprise, and his mother, **Patricia Green Duff**, who was allegedly the sham owner of a purportedly woman-owned business that, in fact, was controlled by male members of her family.

The indictment alleges that the Duff family business enterprise consisted of the following entities that were owned, operated and controlled, in whole or in part, directly and indirectly by male members of the Duff family and in particular James Duff:

- Windy City Labor Service, Inc., 174-178 North Halsted St., Chicago, which supplied unskilled temporary day laborers to wholesale liquor warehouses and refuse transfer and sorting facilities;
- Remedial Environmental Manpower, Inc. (REM), 182 North Halsted, which supplied manual laborers to sorting centers operated by Waste Management of Illinois, Inc., for the City of Chicago's blue bag recycling program. In 2000, Windy City Labor merged with REM and formed a new division of REM designated as Remedial Day Labor;
- Windy City Maintenance, Inc., which in 1997 moved from North Halsted to 1024 West Kinzie, and which supplied janitorial services on a direct contract or sub-contract basis to such city facilities as the Harold Washington Library, the International Terminal at O'Hare International Airport, the Chicago Police Department's Area 2 locations, the Office of Emergency Communications sites, and the Taste of Chicago and other city-sponsored festivals and special events;
- Curtis Storage & Trucking Co., of various locations including 3201 South Wolcott, which supplied hauling services to the city and private companies, including Waste Management; and
- American Management and Consulting Services, Inc., which between its incorporation in 1996 and the end of 2001 received payments totaling \$9.2 million from the other Duff-controlled companies and then paid those funds out as salary and wages to Duff family members, including James Duff, Patricia Green Duff and Family Member B.

Two defendants, **James Duff** and **William E. Stratton**, were charged with racketeering conspiracy for allegedly engaging in multiple acts of mail fraud, wire fraud and money laundering in conducting the affairs of the Duff family business enterprise between 1990 and 2002. The purpose of the enterprise was to enrich the defendants and other members of the Duff family by fraudulently obtaining contracts in excess of \$100 million from government and corporations, as well as funds paid pursuant to those contracts, and to preserve and protect the wealth of the

defendants and other Duff family members by concealing and furthering various fraud schemes, according to the indictment. The indictment seeks forfeiture from James Duff and Stratton of at least \$10 million, as well as the business premises at 174-182 North Halsted and 1024 West Kinzie, and their residences.

The indictment charges the following defendants with the crimes listed below:

James M. Duff, 45, of 135 Post Rd., Burr Ridge; racketeering conspiracy, money laundering conspiracy, 3 counts of wire fraud, 19 counts of mail fraud and 6 counts of money laundering involving both the contract fraud and insurance fraud schemes;

William E. Stratton, 62, of 1050 Pine Ave., Olympia Fields; whom the indictment describes as a long-time Duff family friend and confidant and an employee for more than 18 years of Local 3 of the Liquor & Allied Workers Union, a union run by members of the Duff family; racketeering conspiracy, money laundering conspiracy, wire fraud, 4 counts of mail fraud and 5 counts of money laundering involving the contract fraud and insurance fraud schemes;

Patricia Green Duff, 75, of 3240 N. Lake Shore Dr., Chicago; 11 counts of mail fraud involving the contract fraud scheme;

John J. Leahy, 48, of 11308 W. Monticello Pl., Westchester; president of Leahy & Associates, an insurance brokerage in Westchester; 5 counts of mail fraud and 3 counts of wire fraud involving the insurance fraud scheme;

Edward Wisniewski, 55, of 7118 N. Main St., Niles; an insurance agent and later vice president of commercial insurance sales of Leahy & Associates; 5 counts of mail fraud and 3 counts of wire fraud involving the insurance fraud scheme;

Starling Alexander, 46, of 20 Carol Ct., Crete; operations manager for REM; 1 count of wire fraud involving the insurance fraud scheme; and

Terrence Dolan, 52, of 325 N. County Line Rd., Hinsdale; an officer and director of Windy City Maintenance; 11 counts of mail fraud involving the contract fraud scheme.

All seven defendants will be arraigned at a later date in U.S. District Court.

“When programs are created to promote minority- and women-owned businesses, contracts set aside for their benefit must not be manipulated by using minorities and women as fronts for sham

certifications, as this case alleges,” Mr. Fitzgerald said. “Such fraud violates the integrity of government contracts and deprives legitimate women and minority-owned businesses of vital economic opportunities and gives unfair advantage over companies operated by honest businessmen and women.”

The Women and Minority Contract Fraud Scheme

Under a 1990 city ordinance, Chicago established a program to promote minority- and women-owned businesses by setting a goal of awarding at least 25 percent and 5 percent of the total value of all city contracts to minority- and women-owned businesses, respectively. According to the indictment, in October 1991, Windy City Maintenance was certified by the city as a woman-owned business enterprise (WBE) on the basis of a sworn statement by Patricia Green Duff falsely representing that she was the real owner and controlled the management and daily operations of the company. As a city-certified WBE, Windy City Maintenance obtained direct city contracts to provide janitorial services for the Office of Emergency Communications sites and Area 2 police locations and obtained sub-contracts from Tishman Midwest Management Services to provide janitorial services for the Harold Washington Library, and from Airport Property Management Group to provide janitorial services at O’Hare’s International Terminal.

In September 1994, the indictment alleges, REM was certified by the city as a minority-owned business enterprise (MBE) on the basis of a sworn statement by Stratton, an African-American, falsely representing that he was the real owner and controlled the management of the company, even though he knew that James Duff was actually in charge. As a city-certified MBE, REM was able to obtain a sub-contract from Waste Management to provide recycling laborers at the city’s blue bag sorting centers.

The indictment alleges that between 1991 and June 2002, James Duff, Patricia Green Duff, Stratton and Dolan engaged in a scheme to use Windy City Maintenance and REM's fraudulently obtained WBE and MBE certifications to obtain contracts and sub-contracts with a value in excess of \$100 million, either directly from the city or indirectly from companies holding city contracts.

James Duff allegedly directed the false WBE and MBE applications that were submitted to the city for Windy City Maintenance and REM, which concealed his control and ownership interest in each company. As part of the scheme, James Duff, Patricia Green Duff, Dolan and others made false statements in the original 1991 certification application and subsequent annual re-certification applications for Windy City Maintenance. The applications falsely represented Patricia Green Duff was and continued to be the real owner and controlled the management and daily operations of the company, when the defendants knew that James Duff operated and controlled Windy City Maintenance and made the significant financial decisions for the company. Similarly, James Duff, Stratton and others made false statements in the initial certification application and subsequent re-certification applications for REM. The applications falsely represented that Stratton was the real owner of REM and he controlled the management of the company, when James Duff and Stratton knew that James Duff operated and controlled REM.

During site visit interviews by Chicago compliance officers investigating the eligibility of Windy City Maintenance and REM for WBE and MBE certification, the indictment alleges that Patricia Green Duff and Stratton made false statements concerning their respective ownership and managerial control over the companies. Specifically, in August 1999, in response to the city's investigation, James Duff allegedly directed one of his employees to attend and participate in the city's interview of his mother and to help answer any questions that she was unable to answer on

her own. Before the interview, James Duff directed employees to remove anything from the offices that was not related to Windy City Maintenance, including REM's mailboxes, files and telephones, and to change all of the labels on the office phones marked "Jim's line" to read "Mrs. Duff," the indictment charges. Further, James Duff allegedly assisted his mother making false statements during a telephone interview with a city Purchasing Department compliance officer in August 1999, and Dolan allegedly lied to city officials about the extent of Patricia Green Duff's involvement in Windy City Maintenance to conceal James Duff's control.

The Workers' Compensation Insurance Fraud Scheme

Under state law, companies required to carry workers' compensation insurance must do so either through the "voluntary market" from various insurance carriers or the "assigned risk" market through the Illinois Department of Insurance Residual Market/Assigned Risk Workers' Compensation Plan. The assigned risk pool, funded by all insurance companies doing business in the state, assures insurance coverage to employers who are not able to obtain workers' compensation coverage in the voluntary market. To participate in the assigned risk plan, employers must certify that at least two separate companies rejected applications for workers' compensation coverage in the voluntary market. They also must provide the National Council on Compensation Insurance (NCCI), which administers the assigned risk plan in Illinois and other states, with estimates of anticipated payroll and the job classifications of employees.

The indictment alleges that between 1989 and December 2001, James Duff, Stratton, Wisniewski, Leahy and Alexander engaged in a fraud scheme to deprive the Illinois assigned risk plan and various workers' compensation insurance carriers of more than \$3 million in unpaid premiums. James Duff, Leahy and Wisniewski made false statements on NCCI assigned risk

applications, reporting the job risk classification and the payroll for the vast majority of Windy City Labor employees as “Clerical” or “Labor Union,” when they knew that virtually all the of employees were temporary day laborers engaged solely in unskilled, manual labor as warehouse workers’ and driver’s helpers for wholesale liquor warehouses and clean up workers’ at refuse transfer and sorting centers, which carried a higher job risk classification and an insurance premium rate approximately 20 times higher than the “Clerical” and “Labor Union” classifications they reported, according to the indictment.

As a result of the false applications, the indictment alleges, NCCI assigned various insurance companies to provide assigned risk workers’ compensation insurance coverage to Windy City Labor for at least 10 years, from 1989 to 1999, for premiums well below what the company would have been required to pay if the defendants had provided truthful information. James Duff and others at his direction allegedly failed to provide auditors for insurance companies with accurate information about Windy City Labor’s financial and payroll records, clients lists and contact information to prevent them from discovering that Windy City labor had fraudulently obtained artificially low workers’ compensation premiums.

The indictment further alleges that Windy City Labor had annual work forces roughly between 650 and 2,100 employees, approximately 90 percent of whom were fraudulently reported to the insurance carriers’ auditors during each policy year as engaged in “Clerical” or “Labor Union” work. James Duff allegedly significantly reduced Windy City Labor’s workers’ compensation premiums by misrepresenting a high percentage of its employee’s job risk classifications as clerical or labor union -- which typically carried premium rates of approximately \$0.35 per \$100 of payroll,

as opposed to warehousing or driver's helpers, which typically carried premium rates of approximately \$8 per \$100 of payroll or higher.

Between 1995 and 1998, the indictment alleges specific examples of ways in which James Duff, Leahy and Wisniewski allegedly continued to defraud NCCI into providing Windy City Labor with assigned risk coverage at artificially low rates. In 1998 and 1999, facing the threat of cancellation of coverage for failing to cooperate with insurance company audits, the defendants continued to provide false information to Windy City Labor's existing carriers and to other companies in an attempt to secure voluntary market coverage, which it obtained at higher premiums in 1999. A year later, in July 2000, after the voluntary carrier declined to renew coverage, James Duff, Stratton, and Alexander merged Windy City Labor into REM, with REM assuming all of its employees and clients. Afterward, the defendants fraudulently sought to conceal the merger so REM's existing workers' compensation carrier would cover the former Windy City Labor operations, and they once again fraudulently obtained assigned risk coverage during 2000 and 2001 for artificially lower premiums, according to the indictment.

The money laundering charges against James Duff and Stratton allege that proceeds of the money fraudulently obtained from city contracts and sub-contracts were provided to James Duff through numerous checks written on Windy City Maintenance and REM bank accounts and made payable to American Management. Between 1996 and 2001, check totaling more than \$5.1 million were issued from those two companies to American Management, according to the indictment. During those same years, it alleges, James Duff received more than \$5.5 million in payments from American Management. At the same time, REM issued numerous checks totaling more than \$2.6 million to Stratton, who, in turn, allegedly cashed the checks at various currency exchanges and a

bank and transferred the cash proceeds to James Duff to conceal his interest in REM and its contract revenue.

Mr. Fitzgerald announced the charges with Thomas J. Kneir, Special Agent-in-Charge of the Chicago Office of the Federal Bureau of Investigation; James W. Martin, Special Agent-in-Charge of the Chicago Office of the Internal Revenue Service Criminal Investigation Division; J.D. Nichols, Special Agent-in-Charge in Chicago of the U.S. Department of Labor's Office of Inspector General, Office of Labor Racketeering and Fraud Investigations; and John Peterson, the Labor Department's District Director of the Office of Labor Management Standards. The investigation is continuing, they said.

The government is being represented by Assistant U.S. Attorneys David Buvinger and Charles Ex.

If convicted, the crimes alleged in the indictment carry the following maximum penalties on each count: racketeering conspiracy, money laundering conspiracy and money laundering – 20 years in prison, and mail and wire fraud – 5 years, and each count carries a maximum fine of \$250,000, except the money laundering offenses, which carry a maximum fine of \$500,000. As an alternative, the Court may impose a fine of twice the gross loss to any victim or twice the gain to the defendant, whichever is greater. The Court also must order restitution, and it would determine the appropriate sentence to be imposed under the United States Sentencing Guidelines.

The public is reminded that an indictment contains only charges and is not evidence of guilt. The defendants are presumed innocent and are entitled to a fair trial at which the government has the burden of proving guilt beyond a reasonable doubt.

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