

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS  
(KANSAS CITY DOCKET)

UNITED STATES OF AMERICA, )  
)  
Plaintiff, )  
)  
vs. )  
)  
WARREN K. PARKER, )  
)  
MARY K. PARKER, )  
)  
MICHAEL J. PARKER, )  
)  
THOMAS J. WHITEHEAD, and )  
)  
SILVER STAR CONSTRUCTION, LLC, )  
)  
Defendants. )  
\_\_\_\_\_ )

Case No. 11- 20042-01,02,03,04,05-CM-DJW

UNDER SEAL

**INDICTMENT**

The Grand Jury charges:

**BACKGROUND**

At all times relevant to this Indictment:

1. SILVER STAR CONSTRUCTION, LLC fraudulently claimed Service-Disabled Veteran-Owned Small Business (hereinafter referred to a SDVOSB) status to obtain federal Government contracts to which SILVER STAR CONSTRUCTION, LLC would not otherwise be entitled.

2. PHOENIX BUILDING GROUP, INC. was incorporated in the State of Kansas.

3. SILVER STAR CONSTRUCTION, LLC was incorporated in the State of Missouri.

4. SILVER STAR CONSTRUCTION, LLC maintained an office in Blue Springs, Missouri and in Stilwell, Kansas.

5. PHOENIX BUILDING GROUP, INC maintained an office in Stilwell, Kansas.

6. SILVER STAR CONSTRUCTION, LLC was a pass through/front company for the Phoenix Building Group, Inc. (herein after referred to as PBG).

7. Network Solutions, LLC, hosted electronic mail accounts that contained the domain name "silverstarconst.net" and "parkerconstruction.com." The server that contained the virtual hosting for these domain names was located in Herndon, Virginia, so any electronic mail accounts using those domain names sent and received their electronic mailings through Herndon, Virginia.

8. None of the contracts SILVER STAR CONSTRUCTION, LLC was awarded were joint ventures.

9. The U.S. Department of Veterans Affairs (hereinafter referred to as VA) was the federal government agency charged with serving America's veterans and their families in ensuring that they receive medical care, benefits, social support, and lasting

memorials promoting the health, welfare, and dignity of all veterans in recognition of their service to this Nation.

10. The U.S. Department of Defense (hereinafter referred to as DoD) was the federal government agency charged with providing the military forces needed to deter war and to protect the security of the United States.

11. The U.S. Small Business Administration (hereinafter referred to as SBA) was an independent agency of the federal government, charged with the responsibility to aid, counsel, assist, and protect the interests of small business concerns, to preserve free competitive enterprise and to maintain and strengthen the overall economy of the United States, and to help Americans start, build, and grow businesses.

12. The U.S. General Services Administration (hereinafter referred to as GSA) was a congressionally appropriated federal agency that oversaw the business of the federal government and was one of the largest contracting agencies in the government whose acquisition solutions supply federal purchasers with products and services from commercial vendors.

13. WARREN PARKER has never been classified as a service-disabled veteran by the VA or the DoD.

14. VA's Records Management Center and the Missouri National Guard's archives reflected:

(a). that WARREN K. PARKER served in the Missouri National Guard from 1963 through 1968, during which he spent six months on active duty to attend basic training and his military occupational specialty school;

(b). that in 1968 WARREN K. PARKER was honorably discharged as a Senior Engineer Equipment Mechanic with the rank of Specialist E-5;

(c). that WARREN K. PARKER's only decoration was an expert rifle badge;

(d). that WARREN K. PARKER never left the State of Missouri while on active duty or while assigned to the Missouri National Guard.

#### **FINANCIAL INSTITUTIONS**

15. The following are financial institutions, the deposits of which were insured by the Federal Deposit Insurance Corporation:

(a). Bank 21, Blue Springs, Missouri (chartered in the State of Missouri);

(b). U.S. Bank, Blue Springs, Missouri (chartered in the State of

Minnesota);

(c). Capital City Bank, Overland Park, Kansas (chartered in the State of Kansas).

16. On or about July 14, 2008, MARY K. PARKER and MICHAEL J. PARKER opened checking account XXX-419-0 at Bank 21 located in Blue Springs, Missouri. The account was held by SILVER STAR CONSTRUCTION, LLC. The authorized persons on the account were MARY K. PARKER and MICHAEL J. PARKER.

17. On or about August 24, 2010, SILVER STAR CONSTRUCTION, LLC opened checking account XXX-510-2 at Bank 21 located in Blue Springs, Missouri. The authorized persons on the account were MARY K. PARKER, MICHAEL J. PARKER, and THOMAS J. WHITEHEAD.

18. On or about October 5, 2009, MARY K. PARKER and MICHAEL J. PARKER opened checking account XXXXXXXX6851 at U.S. Bank located in Blue Springs, Missouri. The account was held by SILVER STAR CONSTRUCTION, LLC. The authorized persons on the account were MARY K. PARKER and MICHAEL J. PARKER.

19. On or about November 2, 2000, DJW and DJC opened PHOENIX

BUILDING GROUP, INC. Repurchase Account XXX133 at Capital City Bank, Overland Park, Kansas.

20. On or about February 24, 2009, THOMAS J. WHITEHEAD, PK, and JB opened PHOENIX BUILDING GROUP, INC. commercial checking account XXXX341, at Capital City Bank, located in Overland Park, Kansas. The authorized persons on the account were THOMAS J. WHITEHEAD, PK, and JB.

### **SDVOSB PROGRAM**

21. The Veterans Entrepreneurship and Small Business Development Act of 1999 established an annual Government-wide goal of not less than three percent of the total value of all prime contract and subcontract awards for participation by small business concerns owned and controlled by service-disabled veterans. In turn, the Veterans Benefits Act of 2003 added a contracting mechanism to enable agencies to reach the three percent prime contracting goal established in 1999.

### **SDVOSB PROGRAM ELIGIBILITY REQUIREMENTS**

22. To be eligible for the SDVOSB program, the Service Disabled Veteran must meet the following criteria: a) have a service-connected disability that has been determined by the VA or DoD; b) unconditionally own 51% of the SDVOSB and

ownership must be direct; c) be the highest paid person, and receive 51% of profits and/or the annual distribution profits paid on the stock; d) control both the day-to-day management/daily operations and long term decision making of the SDVOSB; and e) hold the highest officer position in the SDVOSB, and control the board of directors, if applicable.

(a). Pass-through Companies

Pass-through companies are illegal under the SDVOSB program. They operate in the following manner. The SDVOSB is established by a non-SDVOSB in an effort to qualify for SDVOSB set-aside or sole source contracts and then "passes" the work to the non-SDVOSB. The SDVOSB and the non-SDVOSB typically have some of the same executives and employees (with the exception of the Service Disabled Veteran), and may also share office space. This type of scheme will always involve at least two purportedly different companies.

(b). Joint Venture

A SDVOSB firm may enter into a joint venture agreement with one or more other Small Business Concerns (hereinafter referred to as SBC) for the purpose of performing an SDVOSB contract and must meet the following requirements, set forth in

relevant part:

(i). the SDVOSB must notify the Government in its initial offer of the joint venture;

(ii). each SBC is small under the contract's North American Industry Classification System code; and

(iii). the SDVOSB must manage the joint venture.

### **CONTRACT AWARD PROCESS**

23. SDVOSB contracts are awarded in the following manner:

(a). Pre-solicitation: Initially, a government agency posts a pre-solicitation notice on GSA's Federal Business Opportunities website notifying contractors of an upcoming contract. This notification lists the specifications, terms, and conditions of the contract to include the set-aside program under which it will be awarded, stating for example, "This acquisition is 100% set aside for SDVOSB." The pre-solicitation also gives the prospective contractors a date when the actual solicitation will be available.

(b). Solicitation: The government agency will post the solicitation notice on GSA's Federal Business Opportunities website notifying contractors of the available

contract listing the specifications, terms, and conditions of the contract to include the set-aside program.

(c). CCR and ORCA databases utilization: The Central Contractor Database (hereinafter referred to as CCR) and Online Representations and Certifications Application (hereinafter referred to as ORCA) are separate systems operated and managed by GSA and must be used for a contractor to bid on Government contracts. The CCR and ORCA are completely separate, with separate Internet servers, separate help desks, and separate services, but they do share the same data concerning contractors. The CCR server is located in Battlecreek, Michigan and the ORCA server is located in Sterling, Virginia. The registration process operates in the following manner:

- (i). a contractor is required to have and be current in their CCR and ORCA accounts to bid on a contract;
- (ii). the contractor first creates an account with a username and password in CCR and then enters information into the system concerning the business;
- (iii). the contractor can login, change, and update the CCR account at anytime using the username and password;

(iv). the contractor then creates an account with a username and password in ORCA, which contractors cannot do until they have an active CCR account;

(v). the ORCA system then automatically populates data from the contractors' CCR account (in which the contractor previously and/or continuously enters information) into their ORCA account;

(vi). the contractor is then required to review and certify the ORCA file is correct. The contractor does not actually enter information into ORCA, but only certifies the information that was automatically populated from CCR, where they did personally enter information;

(vii). contractors are then required to make yearly certifications in ORCA; and

(viii). the government agency Contracting Officers (hereinafter referred to as CO's) rely on the certifications in the CCR and ORCA databases to determine a firm's eligibility to obtain SDVOSB set-aside and/or sole source contracts. CCR and ORCA databases maintain any and all saves, updates and/or changes that are made to a contractor's account in these databases as well as the Internet Protocol address of

the location from where the saves, updates and/or changes were made.

(d). Evaluation: Once bids are received by the deadline identified in the solicitation, the CO will usually convene a technical evaluation team to perform a technical capability, past performance, and price proposal analysis on all bids received under the solicitation. Proposals found to be technically capable are numerically ranked by price and from this group the contractor with the best price proposal (herein after referred to as the Apparently Successful Firm-"ASF") is usually awarded the contract.

(e). CVE Certification of Apparently Successful Firms: Effective October 1, 2010, in an attempt to protect the SDVOSB program from firms illicitly claiming SDVOSB status and being awarded set-aside or sole source SDVOSB or Veteran Owned Small Business (hereinafter referred to as VOSB) contracts, the VA implemented the following certification program:

(l). The ASF unless currently listed as verified in the Vendor Information Pages (hereinafter referred to as VIP) at [www.vetbiz.gov](http://www.vetbiz.gov) database, must submit to the VA's Center for Veteran's Enterprises (hereinafter referred to as CVE), within five business days of receipt of written notice of its status as the ASF, a verification application and submit documentary material to establish the owner or

owners of 51 % or more of the firm are service-disabled veteran(s) or an eligible surviving spouse thereof, if applicable, for the contract. The ASF then must submit a VA Form 0877 (Vetbiz Vendor Information Pages Verification Program) to CVE via the [www.vetbiz.gov](http://www.vetbiz.gov), Internet site.

(ii). Adequate documentation includes copies of official stock certificates, articles of incorporation, partnership agreement(s), operating agreement(s), or other similar documentation that reasonably demonstrates the percentage of ownership by eligible parties; and control includes both the strategic policy setting exercised, for example, by boards of directors, and the day-to-day management and administration of business operations.

(iii). CVE examines the business documents to determine if they establish appropriate ownership and control of the business. Within 21 business days, CVE must determine whether the firm can or cannot be verified as a SDVOSB or VOSB and issue its decision thereon to the ASF and to the CO. The CO will use CVE's determination in making the final contracting selection.

(f). Award/Notification: Prior to awarding the contract, the CO verifies in the CCR, ORCA, and VetBiz databases that the top-ranked firm has registered and

self-certified their company as an SDVOSB. If this has occurred, the top-ranked firm is awarded the contract. If the top-ranked firm failed to register and self-certify their firm in the databases, their bid is rejected and the CO proceeds to award the contract to the next otherwise ASF registered firm. Once the CO verifies that a firm is registered, the firm is notified their bid was successful and are awarded the contract. In turn, the government enters into a contract with the successful firm when both parties sign the Standard Form (SF) 1442, titled: Solicitation, Offer, and Award.

#### **INVOICE AND PAYMENT PROCESS**

24. After being awarded a government contract and prior to submitting invoices for payment, the contractor must complete a SF-3881 titled, ACH Vendor/Miscellaneous Payment Enrollment form, to establish their corporate banking and tax identification number with the VA's Financial Service Center (hereinafter referred to as FSC), which is located in Austin, Texas. This form is submitted to the VA either by mailing or faxing the form to Austin, Texas.

25. The VA inputs the contractor's corporate banking and tax information into the VA's on-line invoicing vendor file, which maintains a record of all vendor information required to make payments to the vendors. Once this is completed, the contractor may

submit invoices to FSC for payment, as work is completed, in accordance with the terms of the contract.

26. When the FSC receives an invoice from a contractor, the invoice is uploaded into the on-line vendor file causing the on-line system to trigger the following actions:

(a). Electronic notification of the invoice is sent to the Contracting Officer's Technical Representative (hereinafter referred to as COTR) prompting them to either approve or disprove the invoice. If approved, the system sends the invoice to the CO for review and if it is disproved the invoice is rejected and the contractor is notified.

(b). Electronic notification of the CO's approval is sent to FSC flagging the invoice for payment.

(c). A representative with FSC verifies all required approvals are completed and makes electronic payment on the invoice electronically via the U.S. Department of the Treasury into the contractor's designated bank account.

#### **PURPOSE OF SCHEME**

27. During the period from in or about December 2008 to the present, in the District of Kansas and elsewhere, WARREN K. PARKER, MARY K. PARKER,

MICHAEL J. PARKER, THOMAS J. WHITEHEAD, and SILVER STAR

CONSTRUCTION, LLC together with each other, and others, both known and unknown to the Grand Jury, knowingly devised a scheme to defraud and to obtain money and property by means of material false and fraudulent pretenses, representations, and promises by unlawfully obtaining the following nine VA contracts:

|   | <b>Contract No.</b> | <b>Award</b>          | <b>Award Date</b>  |
|---|---------------------|-----------------------|--------------------|
| 1 | VA789-P-0011        | \$1,069,474.32        | September 15, 2009 |
| 2 | VA255-C-1480        | \$1,306,726.00        | November 16, 2009  |
| 3 | VA255-C-1500        | \$1,229,739.00        | November 23,2009   |
| 4 | VA255-C-1535        | \$1,229,018.56        | December 23, 2009  |
| 5 | VA255-C-1513        | \$295,384.00          | January 07, 2010   |
| 6 | VA255-C-1227        | \$288,518.00          | June 01, 2010      |
| 7 | VA255-C-1405        | \$926,621.98          | July 23, 2010      |
| 8 | VA786A-C-0353       | \$52,993.00           | August 17, 2010    |
| 9 | VA789-P-0032        | \$345,318.00          | September 29, 2010 |
|   | <b>Total:</b>       | <b>\$6,743,792.86</b> |                    |

and, the DoD by unlawfully obtaining the following two contracts:

|    | <b>Contract No.</b> | <b>Award</b> | <b>Award Date</b> |
|----|---------------------|--------------|-------------------|
| 10 | W91Q-F4-09-P-0022   | \$7,450.00   | December 22, 2008 |
| 11 | FA4659-10-C-C018    | \$740,875.00 | August 09, 2010   |

|  |               |                     |  |
|--|---------------|---------------------|--|
|  | <b>Total:</b> | <b>\$748,325.00</b> |  |
|--|---------------|---------------------|--|

under the SDVOSB program.

### **THE SCHEME**

28. It was part of the scheme to defraud and to obtain SDVOSB program contracts and property by means of material false and fraudulent pretenses, representations, and promises, and in furtherance of it, that the defendants knowingly and intentionally engaged in and caused the following activities:

#### **COUNT1**

29. Paragraphs 1 through 28 are incorporated as though fully set out herein.

30. From in or about December 2008, the exact date being unknown to the Grand Jury, and continuing to the present, both dates being approximate and inclusive, within the District of Kansas and elsewhere, the defendants,

WARREN K. PARKER,  
MARY K. PARKER,  
MICHAEL J. PARKER,  
THOMAS J. WHITEHEAD,  
and  
SILVER STAR CONSTRUCTION, LLC,

knowingly and intentionally conspired and agreed together and with each other, and

with other persons known and unknown to the Grand Jury, to commit the following offenses against the United States:

(a). To defraud the United States by deceitful and dishonest means by impeding, impairing, obstructing, and defeating the lawful government functions of the VA and the DoD, both agencies of the United States, by fraudulently and unlawfully claiming SILVER STAR CONSTRUCTION, LLC was a SDVOSB majority-owned business and applying for and being awarded eleven Government contracts under the SDVOSB program, which contracts SILVER STAR CONSTRUCTION, LLC was not legally qualified or entitled to receive, in violation of Title 18, United States Code, Section 371;

(b). To commit major program fraud against the United States, in violation of Title 18, United States Code, Sections 2 and 1031; and

(c). To commit wire fraud, in violation of Title 18, United States Code, Sections 2,1343 and 1349.

**OBJECTS OF THE CONSPIRACY**

31. The defendants through SILVER STAR CONSTRUCTION, LLC sought to fraudulently obtain SDVOSB program contracts:

Major Program Fraud against the United States

32. It was further a part and object of the conspiracy that WARREN K. PARKER, MARY K. PARKER, MICHAEL J. PARKER, THOMAS J. WHITEHEAD, and SILVER STAR CONSTRUCTION, LLC, unlawfully and knowingly, executed and attempted to execute a scheme with the intent to defraud the United States and to obtain money and property by means of false and fraudulent pretense, representations, and promises in a procurement of property and services as a prime contractor with the United States, where the value of such contract was \$1,000,000.00 or more, to wit: the defendants falsely represented to the VA that SILVER STAR CONSTRUCTION, LLC was eligible for contracts designated for an SDVOSB to obtain four contracts:

| <b>Contract No.</b> | <b>Location</b>     | <b>Award</b>   | <b>Award Date</b>  |
|---------------------|---------------------|----------------|--------------------|
| VA789-P-0011        | Denver, Colorado    | \$1,069,474.32 | September 15, 2009 |
| VA255-C-1480        | Leavenworth, Kansas | \$1,306,726.00 | November 16, 2009  |
| VA255-C-1500        | Leavenworth, Kansas | \$1,229,739.00 | November 23, 2009  |
| VA255-C-1535        | Leavenworth, Kansas | \$1,229,018.56 | December 23, 2009  |

to perform construction and services for the VA, in violation of Title 18, United States

Code, Sections 2 and 1031.

Wire fraud

33. It was further a part and object of the conspiracy that WARREN K. PARKER, MARY K. PARKER, MICHAEL J. PARKER, THOMAS J. WHITEHEAD, and SILVER STAR CONSTRUCTION, LLC willfully and knowingly devised a scheme to defraud the VA and the DoD and to obtain money and property by means of false and fraudulent pretenses, representations, and promises, and, for the purpose of executing the scheme to defraud, knowingly and intentionally caused to be transmitted by means of wire communications in interstate and foreign commerce, writings, signs, signals, and sounds for the purpose of executing such scheme to obtain money and property by means of false and fraudulent pretenses, representations, and promises defraud the VA and DoD, in violation of Title 18, United States Code, Sections 2,1343 and 1349.

**MANNER AND MEANS**

34. Among the means and methods by which defendants and their co-conspirators carried out their scheme to defraud was to falsely, fraudulently, and in a misleading manner make representations to the VA, GSA, and DoD, that SILVER STAR CONSTRUCTION, LLC qualified for SDVOSB status when the defendants knew it did

not, in order to be awarded eleven set-aside or sole source SDVOSB contracts.

**OVERT ACTS**

35. In furtherance of this conspiracy and to effect and accomplish the objects of it, one or more of the defendants and conspirators, both indicted and unindicted, committed overt acts in the District of Kansas and elsewhere, including the following:

(a). On or about December 2, 2008, in support of SILVER STAR CONSTRUCTION, LLC's applications for SDVOSB contracts, MICHAEL J. PARKER falsely represented that SILVER STAR CONSTRUCTION, LLC was an SDVOSB in the CCR database.

(b). On or about December 3, 2008, in support of SILVER STAR CONSTRUCTION, LLC's applications for SDVOSB contracts, MICHAEL J. PARKER falsely represented that SILVER STAR CONSTRUCTION, LLC was an SDVOSB in the CCR database.

(c). On or about January 15, 2009, in support of SILVER STAR CONSTRUCTION, LLC's applications for SDVOSB contracts, MICHAEL J. PARKER falsely certified that SILVER STAR CONSTRUCTION, LLC was an SDVOSB in the ORCA database.

(d). On or about January 3, 2010, in support of SILVER STAR CONSTRUCTION, LLC's applications for SDVOSB contracts, MICHAEL J. PARKER falsely certified that SILVER STAR CONSTRUCTION, LLC was an SDVOSB in the ORCA database.

(e). On or about January 6, 2011, in support of SILVER STAR CONSTRUCTION, LLC's applications for SDVOSB contracts, MICHAEL J. PARKER falsely certified that SILVER STAR CONSTRUCTION, LLC was an SDVOSB in the ORCA database.

(f). On or about May 12, 2009, in support of SILVER STAR CONSTRUCTION, LLC's applications for SDVOSB contracts, MICHAEL J. PARKER falsely represented that SILVER STAR CONSTRUCTION, LLC was an SDVOSB in the CCR database.

(g). On or about November 8, 2010, in support of SILVER STAR CONSTRUCTION, LLC's applications for SDVOSB contracts, MICHAEL J. PARKER falsely represented that SILVER STAR CONSTRUCTION, LLC was an SDVOSB in the CCR database.

(h). On or about February 20, 2009, in support of SILVER STAR

CONSTRUCTION, LLC's application for SDVOSB Certification, MICHAEL J. PARKER submitted via facsimile, VA-Form 08-77 to the VA-CVE, listing Ronald C. Thiewes as having a 51% member interest, WARREN K. PARKER as having 24.5% member interest and MICHAEL J. PARKER having the remaining 24.5% member interest in SILVER STAR CONSTRUCTION, LLC;

(l). On or about February 24, 2011, in support of SILVER STAR CONSTRUCTION, LLC's application for SDVOSB Certification, MICHAEL J. PARKER electronically submitted documentation to the VA-CVE, listing Larry Bair as having a 51% member interest, WARREN K. PARKER as having 39% member interest and MICHAEL J. PARKER having the remaining 10% member interest in SILVER STAR CONSTRUCTION, LLC;

(j). On or about March 16, 2011, in support of SILVER STAR CONSTRUCTION, LLC's application for SDVOSB Certification, MICHAEL J. PARKER mailed the VA-CVE SILVER STAR CONSTRUCTION, LLC's 2009 U.S. Internal Revenue Service Form 1065, titled: U.S. Return of Partnership Income for tax year beginning July 1, 2009 through December 31, 2009 listing WARREN K. PARKER as the Domestic/General partner or LLC member-manager having 51% of SILVER STAR

CONSTRUCTION, LLC's profit, loss, and capital;

(k). On or about March 23, 2011, WARREN K. PARKER, MICHAEL PARKER, and THOMAS J. WHITEHEAD hand delivered two binders of SILVER STAR CONSTRUCTION, LLC's Technical Proposal(s) to a VA CO in Leavenworth, Kansas, containing:

(i). SILVER STAR CONSTRUCTION, LLC's State of Missouri, Certificate of Organization, dated July 9, 2008, and SILVER STAR CONSTRUCTION, LLC's Operation Agreement, dated March 20, 2008, that identified WARREN K. PARKER as having 51% member interest and MICHAEL J. PARKER having the remaining 49% member interest in SILVER STAR CONSTRUCTION, LLC;

(ii). CCR Search Results for SILVER STAR CONSTRUCTION, LLC, dated March 21, 2011, in which SILVER STAR CONSTRUCTION, LLC is listed as an SDVOSB;

(iii). WARREN K. PARKER's biography/resume, in which he is listed as the owner of SILVER STAR CONSTRUCTION, LLC and wherein WARREN K.

PARKER claimed the following fictitious military service:

|                |  |
|----------------|--|
| <u>Rank:</u>   | Major  |
| <u>Branch:</u> | U.S. Army MAC V SOG, Air America, and CIA-three tours in |

Vietnam (Cambodia, Laos and North Vietnam)  
Commendations: Three Silver Stars  
Legion of Merit  
Four Bronze Stars with Valor  
Eleven Air Medals with Valor (300 hours of combat air time)  
Three Purple Heart Medals  
Presidential Citation  
U.S. Army Citation  
Combat Infantryman's Badge  
Vietnam Service Medal with (79) Battle Stars  
Awarded over (32) Citations for Heroism;"

(l). On or about March 23, 2011, during a meeting in Leavenworth, Kansas with a VA CO, WARREN K. PARKER represented that he held a 51% SDVOSB member interest in SILVER STAR CONSTRUCTION, LLC;

(m). From in or about 2009 through in or about 2010, WARREN K. PARKER, MICHAEL J. PARKER, and THOMAS J. WHITEHEAD, directed two individuals to falsely represent themselves as SILVER STAR CONSTRUCTION, LLC employees to the Government and/or subcontractors when working on SDVOSB contracts, even though the defendants knew the two individuals were employed and paid by PBG and their direct supervisor was THOMAS J. WHITEHEAD;

(n). From in or about 2009 through in or about 2010, WARREN K. PARKER, MICHAEL J. PARKER, and THOMAS J. WHITEHEAD, created SILVER STAR

CONSTRUCTION, LLC e-mail accounts, business cards, and letter head for the two PBG employees and directed the PBG employees and their subordinates to utilize SILVER STAR CONSTRUCTION, LLC e-mail accounts, business cards, and letter head in all correspondence and contacts with the Government and subcontractors when working on SDVOSB contracts.

As additional overt acts, the Grand Jury incorporates by this reference the allegations set forth in Counts 2 through 13 of the Indictment as though fully set forth at this point.

36. This was all in violation of Title 18, United States Code, Sections 371 and 1349.

**COUNTS 2-5**

37. The allegations of paragraphs 1 through 36 above are repeated and realleged as though fully set forth therein.

38. On or about the dates identified below, in the District of Kansas and elsewhere, the defendants,

WARREN K. PARKER,  
MARY K. PARKER,  
MICHAEL J. PARKER,  
THOMAS J. WHITEHEAD,

and  
SILVER STAR CONSTRUCTION, LLC,

unlawfully, willfully, and knowingly, executed and attempted to execute a scheme to defraud the United States and to obtain money and property by means of false and fraudulent pretense, representations, and promises in a procurement of property and services as a prime contractor with the United States, where the value of such contract was \$1,000,000.00 or more, to wit: the defendants falsely represented to the United States Department of Veterans Affairs that SILVER STAR CONSTRUCTION, LLC was eligible for a contract designated for a SDVOSB to obtain contracts at the following locations in these amounts:

| <b>Count</b> | <b>Contract #</b> | <b>Location</b>        | <b>Award</b>   | <b>Date</b>   |
|--------------|-------------------|------------------------|----------------|---|
| <b>2</b>     | VA789-P-0011      | Denver,<br>Colorado    | \$1,069,474.32 | From on or about<br>September 2009<br>through the present                 |
| <b>3</b>     | VA255-C-<br>1480  | Leavenworth,<br>Kansas | \$1,306,726.00 | From on or about<br>November 2009<br>through in or about<br>November 2010 |
| <b>4</b>     | VA255-C-<br>1500  | Leavenworth,<br>Kansas | \$1,229,739.00 | From on or about<br>November 2009<br>through in or about<br>December 2010 |
| <b>5</b>     | VA255-C-          | Leavenworth,           | \$1,229,018.56 | From on or about  |

|  |      |        |  |                                      |
|--|------|--------|--|--------------------------------------|
|  | 1535 | Kansas |  | December 2009<br>through the present |
|--|------|--------|--|--------------------------------------|

to perform construction and services for the VA, in violation of Title 18, United States Code, Sections 2 and 1031.

**COUNTS 6-13**

39. Paragraphs 1 through 38 are incorporated as though fully set out herein.

40. From in or about December 2008, the exact date being unknown to the Grand Jury, and continuing to the present, both dates being approximate and inclusive, within the District of Kansas and elsewhere, the defendants,

WARREN K. PARKER,  
MARY K. PARKER,  
MICHAEL J. PARKER,  
THOMAS J. WHITEHEAD,  
and  
SILVER STAR CONSTRUCTION, LLC,

having devised the above-described scheme to defraud and obtain money and property by means of false and fraudulent pretenses, for the purpose of executing and in order to effect the scheme and artifice to defraud and obtain money and property, knowingly transmitted and caused to be transmitted in interstate and foreign commerce, by means of a wire communication, certain signs, signals, and sounds, with each wire

transmission being a separate count of this Indictment as listed below:

| <b>Count</b> | <b>Date of Offense</b> | <b>Items/Method Transmitted</b>   | <b>Point of Origin/ Point of Reception</b>    |
|--------------|------------------------|---|---|
| <b>6</b>     | November 27, 2009      | CO's electronic verification of SILVER STAR CONSTRUCTION , LLC's ORCA Certification dated January 15, 2009, in furtherance of the application for SDVOSB status for Contract # VA255-C-1535 | Leavenworth, Kansas/<br>Sterling, Virginia    |
| <b>7</b>     | November 27, 2009      | CO's electronic verification of SILVER STAR CONSTRUCTION , LLC's CCR Registration, in furtherance of the application for SDVOSB status for Contract # VA255-C-1535                          | Leavenworth, Kansas/<br>Battlecreek, Michigan |
| <b>8</b>     | April 14, 2010         | SILVER STAR CONSTRUCTION, LLC's Invoice for \$412,892.95 payment, dated April 15, 2010 on SDVOSB contract # VA-255-C-1500, submitted via facsimile  | Stilwell, Kansas/Austin, Texas                |

|    |                |   |   |
|----|----------------|---|---|
| 9  | April 15, 2010 | SILVER STAR CONSTRUCTION, LLC's Invoice for \$67,787.28 payment, dated April 15, 2010 on SDVOSB contract #VA-255-C-1513, submitted via facsimile  | Stilwell, Kansas/Austin Texas                 |
| 10 | April 19, 2010 | SILVER STAR CONSTRUCTION, LLC's Invoice for \$310,120.85 payment, dated April 15, 2010 on SDVOSB contract # 255-C-1480, submitted via facsimile   | Stilwell, Kansas/Austin, Texas                |
| 11 | April 22, 2010 | CO's electronic verification of Silver Star Construction, LLC's CCR Registration, in furtherance of the application for SDVOSB status for Contract # VA255-C-1227                         | Leavenworth, Kansas/<br>Battlecreek, Michigan |
| 12 | July 9, 2010   | CO's electronic verification of Silver Star Construction, LLC's ORCA Certification dated January 3, 2010, in furtherance of the application for SDVOSB status for Contract # VA255-C-1405 | Leavenworth, Kansas/<br>Sterling, Virginia    |

|    |               |   |                                   |
|----|---------------|---|-----------------------------------|
| 13 | July 16, 2010 | SILVER STAR<br>CONSTRUCTION, LLC's<br>Invoice for \$257,429.78<br>payment, dated July 15, 2010<br>on SDVOSB contract #<br>VA-255-C-1535, submitted<br>via facsimile | Stilwell, Kansas/Austin,<br>Texas |
|----|---------------|---|-----------------------------------|

41. This was all in violation of Title 18, United States Code, Sections 2 and 1343.

**COUNT 14**

42. Paragraphs 1 through 36 and 39 through 41 are incorporated as though fully set out herein.

43. From in or about December 2008, the exact date being unknown to the Grand Jury, and continuing to the present, both dates being approximate and inclusive, within the District of Kansas and elsewhere, the defendants,

WARREN K. PARKER,  
MARY K. PARKER,  
MICHAEL J. PARKER,  
THOMAS J. WHITEHEAD,  
and  
SILVER STAR CONSTRUCTION, LLC,

together and with others known and unknown to the Grand Jury, knowingly conspired

and agreed to commit the following offense against the United States: engaged and attempted to engage in monetary transactions by, through, and to financial institutions, affecting interstate and foreign commerce, in criminally derived property of a value greater than \$10,000.00, that is, deposits, withdrawals, transfers, and exchanges of United States currency, funds, and monetary instruments, such property having been derived from a specified unlawful activity, that is, wire fraud in violation of Title 18, United States Code, Sections 2 and 1343; and conspiracy to commit wire fraud in violation of Title 18, United States Code, Section 371, and in furtherance of said conspiracy, committed the following overt acts:

**Overt Acts**

| <b><u>Overt Act</u></b> | <b><u>Date</u></b> | <b><u>Monetary Transaction/ Financial Institution</u></b>   | <b><u>Amount</u></b> |
|-------------------------|--------------------|---|----------------------|
| (a).                    | September 17, 2010 | Electronic transfer from Bank 21, Blue Springs, Missouri account # XXX-419-0 to account # XXX-510-2, both accounts held by Silver Star Construction; Debit memo states "Per Mary @ 9:30." | \$260,933.83         |

|      |                   |  |              |
|------|-------------------|--|--------------|
| (b). | November 18, 2010 | Electronic transfer from Bank 21, Blue Springs, Missouri account # XXX-419-0 to account # XXX-510-2, both accounts held by Silver Star Construction; Debit memo states "Per Mary @ 10:00." | \$183,847.00 |
| (c). | December 30, 2010 | Electronic transfer from Bank 21, Blue Springs, Missouri account # XXX-419-0 to account # XXX-510-2, both accounts held by Silver Star Construction; Debit memo states "Per Mary @ 4:30."  | \$202,648.29 |
| (d). | January 20, 2011  | Electronic transfer from Bank 21, Blue Springs, Missouri account # XXX-419-0 to account # XXX-510-2, both accounts held by Silver Star Construction; Debit memo states "Per Mary @ 9:15."  | \$209,183.44 |
| (e). | February 25, 2011 | Electronic transfer from Bank 21, Blue Springs, Missouri account # XXX-419-0 to account # XXX-510-2, both accounts held by Silver Star Construction; Debit memo states "Per Mary @ 8:15."  | \$214,972.00 |
| (f). | March 14, 2011    | Electronic transfer from Bank 21, Blue Springs, Missouri account # XXX-419-0 to account# XXX-510-2, both accounts held by Silver Star Construction; Debit memo states "Per Mary @ 10:00."  | \$193,448.00 |

in violation of Title 18, United States Code, Sections 2 and 1957.

44. This was all in violation of Title 18, United States Code, Section 1956(h).

**COUNT 15**

45. On or about March 23, 2011, in the District of Kansas, the defendants,

MICHAEL J. PARKER,  
WARREN K. PARKER, and  
SILVER STAR CONSTRUCTION, LLC,

aiding and abetting each other, in a matter within the jurisdiction of the executive branch of the Government of the United States, unlawfully, willfully, and knowingly falsified, concealed, and covered up by trick, scheme, and device material facts, and made materially false, fictitious, and fraudulent statements and representations, to wit: during a meeting in connection with SILVER STAR CONSTRUCTION, LLC's submission regarding its qualifications to serve as the prime contractor on the KCVA MC JOC contract, WARREN K. PARKER represented to a VA Contracting Officer that he held a 51% SDVOSB member interest in SILVER STAR CONSTRUCTION, LLC, when MICHAEL J. PARKER was present.

46. This was all in violation of Title 18, United States Code, Sections 2 and 1001(a).

**COUNT 16**

47. On or about March 23, 2011, in the District of Kansas, the defendants,

MICHAEL J. PARKER,  
WARREN K. PARKER, and  
SILVER STAR CONSTRUCTION, LLC,

aiding and abetting each other, in a matter within the jurisdiction of the executive branch of the Government of the United States, unlawfully, willfully, and knowingly falsified, concealed, and covered up by trick, scheme, and device material facts, and made materially false, fictitious, and fraudulent statements and representations in connection with SILVER STAR CONSTRUCTION, LLC's submission regarding its qualifications to serve as the prime contractor on the KCVA MC JOC contract, to wit: submitted WARREN K. PARKER's fraudulent resume to a VA Contracting Officer, which claimed the following false military service, set forth therein as follows:

Rank: Major  
Branch: U.S. Army MAC V SOG, Air America, and CIA-three tours in Vietnam (Cambodia, Laos and North Vietnam)  
Commendations: Three Silver Stars  
Legion of Merit  
Four Bronze Stars with Valor  
Eleven Air Medals with Valor (300 hours of combat air time)  
Three Purple Heart Medals  
Presidential Citation  
U.S. Army Citation

Combat Infantryman's Badge  
Vietnam Service Medal with (79) Battle Stars  
Awarded over (32) Citations for Heroism.”

48. This was all in violation of Title 18, United States Code, Sections 2 and 1001(a).

**FORFEITURE ALLEGATION I**

49. Upon conviction of one or more of the offenses alleged in Count 1 and Counts 6 through 13, the defendants,

WARREN K. PARKER,  
MARY K. PARKER,  
MICHAEL J. PARKER,  
THOMAS J. WHITEHEAD,  
and  
SILVER STAR CONSTRUCTION, LLC,

shall forfeit to the United States, pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c), any property constituting or derived from proceeds obtained directly or indirectly as a result of the said violations, including but not limited to the following:

**MONEY JUDGMENT**

50. A sum of money equal to \$6,836,277.94 in United States currency, representing the amount of proceeds obtained as a result of the offenses set out in

Count 1 and Counts 6 through 13, for which the defendants are jointly and severally liable.

CONVEYANCES AND EQUIPMENT

51. 2004 Ford Pickup Truck, VIN: 5GRGN23U54H114592, Missouri License: 5DA012, registered to WARREN K. PARKER, with all attachments thereon.

BANK ACCOUNTS

52. All United States currency, funds, and other monetary instruments credited to the following account numbers:

| <u>Bank</u>                                 | <u>Account Number</u> | <u>Account Title</u>             |
|---|-----------------------|----------------------------------|
| Bank 21,<br>Blue Springs, Missouri          | XXX-419-0             | SILVER STAR<br>CONSTRUCTION, LLC |
| Bank 21, Blue Springs,<br>Missouri          | XXX-510-2             | SILVER STAR<br>CONSTRUCTION, LLC |
| Capital City Bank,<br>Overland Park, Kansas | XXXX341               | PHOENIX BUILDING GROUP,<br>INC.  |
| Capital City Bank,<br>Overland Park, Kansas | XXX133                | PHOENIX BUILDING GROUP,<br>INC.  |

FORFEITURE ALLEGATION II

53. Upon conviction of one or more of the offenses alleged in Count 14, the defendants,

WARREN K. PARKER,  
 MARY K. PARKER,  
 MICHAEL J. PARKER,  
 THOMAS J. WHITEHEAD,  
 and  
 SILVER STAR CONSTRUCTION, LLC,

shall forfeit to the United States, pursuant to Title 18, United States Code, Section 982(a)(1), any property, real or personal, involved in such offense, and any property traceable to such property. The property to be forfeited including but not limited to the following:

MONEY JUDGMENT

54. A sum of money equal to \$1,265,032.56 in United States currency, representing the amount of proceeds obtained as a result of the offenses set out in Count 14 for which the defendants are jointly and severally liable.

BANK ACCOUNTS

55. All United States currency, funds, and other monetary instruments credited to the following account numbers:

| <u>Bank</u>                        | <u>Account Number</u> | <u>Account Title</u>             |
|------------------------------------|-----------------------|----------------------------------|
| Bank 21,<br>Blue Springs, Missouri | XXX-419-0             | SILVER STAR<br>CONSTRUCTION, LLC |

|   |           |                                  |
|---|-----------|----------------------------------|
| Bank 21, Blue Springs,<br>Missouri          | XXX-510-2 | SILVER STAR<br>CONSTRUCTION, LLC |
| Capital City Bank,<br>Overland Park, Kansas | XXXX341   | PHOENIX BUILDING GROUP,<br>INC.  |
| Capital City Bank,<br>Overland Park, Kansas | XXX133    | PHOENIX BUILDING GROUP,<br>INC.  |

### SUBSTITUTE ASSETS

56. If any of the above-described forfeitable property, as a result of any act or omission of the defendants:

- (a). cannot be located upon the exercise of due diligence;
- (b). has been transferred, sold to, or deposited with a third party;
- (c). has been placed beyond the jurisdiction of the court;
- (d). has been substantially diminished in value; or
- (e). has been commingled with other property which cannot be divided

without difficulty; it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p) as incorporated by Title 21, United States Code, Section 982(b), to seek forfeiture of any other property of said defendants up to the value of the forfeitable property described above, including but not limited to the following:

#### REAL PROPERTY

57. All that lot or parcel of land, together with its building, appurtenances, improvements, fixtures, attachments and easements, described as:

3913 W. 124th Street, Leawood, Kansas 66209  
Berkshire LT 4, LWC 4694  
Property Number: HP05000000 0004, Owner of record: THOMAS J. WHITEHEAD.

#### CONVEYANCES AND EQUIPMENT

58. (a). 2004 Ford Pickup Truck, VIN: 5GRGN23U54H114592, Missouri License: 5DA012, registered to WARREN K. PARKER, with all attachments thereon;
- (b). 2009 Ford F-150 Four Door Extended Cab Pickup, VIN: 1FTRX12859FA13123, registered to THOMAS J. WHITEHEAD, with all attachments thereon;
- (c). 2005 Ford Escape XLT, Four Door Station Wagon, VIN: 1FMYU031X5KD65725, registered to THOMAS J. WHITEHEAD, with all attachments thereon;
- (d). 2004 H-2 Hummer Two Door SUV  
VIN: 5GRGN23U54H114592, registered to WARREN K. PARKER, with all attachments thereon;
- (e). 1999 Mercedes Benz S320 Four Door Sedan, VIN: WDBGA32G9XA406787, registered to WARREN K. PARKER and MARY K. PARKER, with all attachments thereon.

#### BANK ACCOUNTS

59. All United States currency, funds, and other monetary instruments

credited to the following account numbers:

| <u>Bank</u>                                 | <u>Account Number</u> | <u>Account Title</u>             |
|---|-----------------------|----------------------------------|
| Bank 21,<br>Blue Springs, Missouri          | XXX-419-0             | SILVER STAR<br>CONSTRUCTION, LLC |
| Bank 21, Blue Springs,<br>Missouri          | XXX-510-2             | SILVER STAR<br>CONSTRUCTION, LLC |
| Capital City Bank,<br>Overland Park, Kansas | XXXX341               | PHOENIX BUILDING GROUP,<br>INC.  |
| Capital City Bank,<br>Overland Park, Kansas | XXX133                | PHOENIX BUILDING GROUP,<br>INC.  |

60. This is all in accordance with Title 18, United States Code, Sections 981

(a)(1)(c), 982(a)(1), Title 28 United States Code, Section 2461 (c), and Rule 32.2(a),

Federal Rules of Criminal Procedure.

A TRUE BILL.

Dated: June 15, 2011

s/ Foreperson  
FOREPERSON

s/ Tristram W. Hunt, AUSA, 18196, for:

BARRY R. GRISSOM  
United States Attorney  
500 State Avenue, Suite 360  
Kansas City, Kansas 66101  
Tel. 913-551-6730  
Fax. 913-551-6541  
barry.grissom@usdoj.gov  
Ks. S. Ct. No. 10866

(It is requested that trial of the above captioned case be held in Kansas City, Kansas.)

**Penalties:**

- Ct. 1: 18 U.S.C. § 371 and 1349  
NMT 30 years imprisonment; NMT \$ 250,000 fine; NMT 3 years supervised release; \$ 100 special assessment; Forfeiture Allegation
- Cts. 2-5: 18 U.S.C. § 2 and 1031  
NMT 10 years imprisonment; a fine up to twice the gross loss or gross gain involved in the offense; NMT 3 years supervised release; \$ 100 special assessment
- Cts. 6-13: 18 U.S.C. § 2 and 1343  
NMT 20 years imprisonment; NMT \$ 250,000 fine; NMT 3 years supervised release; \$ 100 special assessment; Forfeiture Allegation
- Ct. 14: 18 U.S.C. § 2, 1956(h) and 1957  
NMT 10 years imprisonment; NMT \$ 250,000 fine; NMT 3 years supervised release; \$ 100 special assessment; Forfeiture Allegation
- Cts 15-16: 18 U.S.C. § 2 and 1001  
NMT 5 years imprisonment; NMT \$ 250,000 fine; NMT 3 years supervised release; \$ 100 special assessment.