

MAR 30 2011

CLERK, US DISTRICT COURT
NORFOLK, VAIN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division

UNITED STATES OF AMERICA)	CRIMINAL NO. 2:11cr46
)	
v.)	Count 1: 18 U.S.C. § 1349
)	(Conspiracy to commit mail fraud)
EDWARD T. FODREY,)	
)	Count 2: 26 U.S.C. § 7203
Defendant.)	(Willful failure to file tax return)

CRIMINAL INFORMATION

THE UNITED STATES ATTORNEY CHARGES THAT:

COUNT ONE

(Conspiracy to Commit Mail Fraud)

I. INTRODUCTORY ALLEGATIONS

1. Defendant EDWARD T. FODREY resided in the Eastern District of Virginia throughout calendar year 2006, and lived in Norfolk, Virginia.
2. Medical Facilities of America, Inc., a Virginia corporation with its headquarters in Roanoke, owns and operates healthcare and nursing home facilities throughout Virginia. The company is affiliated with Medical Facilities of North Carolina, Inc., which owns and operates similar facilities in North Carolina, and Retirement Unlimited, Inc., which operates retirement communities in Virginia. These entities are referred to hereinafter collectively as "MFA."
3. From in or about May 2006 through at least December 2006, MFA required that capital expenditures such as equipment purchases, repairs and maintenance costing over \$500 be documented on Capital Expenditure Request forms (CERs). When MFA let contracts for maintenance, repairs, renovation projects, or the purchase of equipment, it was MFA policy to obtain competitive price quotations from at least three vendors prior to the award of such contracts. Bids received by MFA were documented on and included with the CERs submitted to

corporate officials for approval prior to the award of contracts. Other times, as when a matter was an emergency or time was of the essence, MFA policy permitted the award of contracts upon receipt of a single price quotation. MFA maintained corporate policies prohibiting its employees from engaging in activities in which their personal interests would interfere with company business, including prohibiting employees from soliciting, or attempting to solicit, anything of value from anyone doing or attempting to do business with MFA, and prohibiting them from accepting bribes, including kickbacks, in connection with any transaction.

4. From in or about May 2006 through December 22, 2006, co-conspirator 1 ("CC-1") was the Director of Corporate Maintenance and Renovations at Medical Facilities of America, Inc. CC-1's duties included overseeing maintenance, repairs and renovations of the various MFA locations throughout Virginia. CC-1 also was responsible for obtaining quotes from contractors and vendors for capital improvements and equipment purchases, and for initially reviewing CERs prior to their submission to his/her supervisors for review and approval.

5. During the period May 2006 through December 2006, FODREY performed work for MFA both as a prime contractor and as a subcontractor.

II. CONSPIRACY

6. From in or about May 2006 and continuing until at least December 2006, the exact dates being unknown, in the Eastern District of Virginia and elsewhere, FODREY did intentionally combine, conspire, confederate and agree together, with CC-1 and other co-conspirators, both known and unknown, to violate Title 18, United States Code, Section 1341, to wit, to devise with intent to defraud a scheme and artifice to defraud and to obtain money by means of materially false and fraudulent pretenses, representations, and promises, and for the purpose of executing or

attempting to execute the aforesaid scheme and artifice, operated in substance as follows:

**III. THE MANNER AND MEANS BY
WHICH THE CONSPIRACY WAS CARRIED OUT**

7. In or about May 2006, defendant FODREY joined an ongoing agreement to defraud MFA by, among other things, having CC-1 use his/her position at MFA to circumvent MFA's competitive procurement process and steer contracts to FODREY and other co-conspirators in return for monetary payments to CC-1 and other co-conspirators. FODREY, CC-1, and other co-conspirators, by their acts in furtherance of the conspiracy, enriched or attempted to enrich themselves and deprived MFA of competitive pricing for maintenance, repair and renovation work to the financial detriment of MFA.

8. In or about May 2006, an acquaintance of FODREY ("CC-2") told FODREY that CC-1 had used his/her position with MFA to have MFA contracts awarded to CC-2. CC-2 asked FODREY to perform work required by those MFA contracts. FODREY agreed.

9. In or about June 2006, CC-2 asked FODREY if he was interested in subcontracting work for a company ("Company-1") that had been awarded a large contract to renovate an MFA facility located in Chesapeake, Virginia. CC-2 originally told FODREY that, in order to get the subcontract, FODREY would have to give CC-2 \$50,000 as a "finder's fee." However, due to a falling out between CC-1 and CC-2, CC-1 instructed FODREY to pay the money to CC-1 instead. Thereafter, FODREY provided a cashier's check for \$25,000 to CC-1 with the understanding that FODREY would pay the remaining \$25,000 upon the completion of the subcontract.

10. Also in or about June 2006, CC-1 told FODREY he/she could arrange to have MFA contracts awarded directly to FODREY in return for kickbacks to CC-1. FODREY agreed.

11. From in or about May 2006 through December 2006, CC-1 used his/her position at MFA to steer contracts to FODREY and other co-conspirator vendors by, among other things:

(a) creating or causing others to create fictitious competitor quotes to MFA that were higher than the quotes submitted by FODREY or other co-conspirator vendors, to create the appearance of competition;

(b) increasing or causing others to increase quotes actually submitted to MFA by competing vendors, without their knowledge, so competing quotes would be higher than quotes submitted by FODREY or other co-conspirator vendors;

(c) specifying to FODREY and other co-conspirator vendors the amounts they should quote to MFA; and

(d) soliciting or directing subordinates to solicit quotes to MFA only from FODREY and/or co-conspirator vendors.

12. For each contract MFA awarded to FODREY, CC-1 told FODREY the amount FODREY would have to pay CC-1 as a kickback for obtaining the contract. FODREY understood the payments he made to CC-1 were kickbacks in return for MFA contracts.

13. Throughout the period of the conspiracy, CC-1 used his/her position and influence at MFA to steer the award of numerous contracts to FODREY, the last of which was awarded in or about December 2006. For some of those contracts, FODREY submitted a bid or proposal to MFA prior to the award of the contract. CC-1 told FODREY how much to bid in each instance. On other occasions, FODREY received MFA contracts without submitting a quote. In each instance, CC-1 told FODREY the amount to bill MFA. FODREY always quoted or billed MFA the amount CC-1 instructed him to quote or bill.

14. For each contract MFA awarded to FODREY, FODREY paid the agreed upon amount shortly after MFA paid FODREY. FODREY's payments to CC-1 took several forms, including payment by business account and personal checks, bank checks, money orders and cash. On several occasions, FODREY deposited payments directly into CC-1's bank account, using deposit slips CC-1 provided to FODREY for that purpose.

15. All contracts MFA awarded to FODREY as a result of the kickback scheme were for work done at MFA locations in the Eastern District of Virginia. Additionally, many of the deposits FODREY made into CC-1's bank account were made at locations in the Eastern District of Virginia.

IV. OVERT ACTS

In furtherance of the conspiracy and to effect the illegal objects thereof, the following overt acts, among others, were committed in the Eastern District of Virginia and elsewhere:

16. From in or about May 2006 through December 2006, FODREY paid CC-1 over \$200,000 in kickbacks in return for MFA contracts and subcontracts.

17. From in or about May 2006 through December 2006, in the Eastern District of Virginia, FODREY received gross revenues totaling more than \$750,000 in connection with MFA contracts that were subject to the kickback scheme, as either the prime contractor or subcontractor. For the purpose of executing or attempting to execute the above-described scheme and artifice to defraud and deprive, FODREY knowingly caused to be delivered by United States Postal Service to Norfolk, Virginia, according to the direction thereon, in the Eastern District of Virginia, several of the checks with which MFA paid FODREY in response to invoices FODREY submitted to MFA, including a check for \$35,000 mailed on or about October

31, 2006, in response to an invoice dated October 30, 2006, which FODREY submitted to MFA.

(All in violation of Title 18, United States Code, Section 1349.)

COUNT TWO

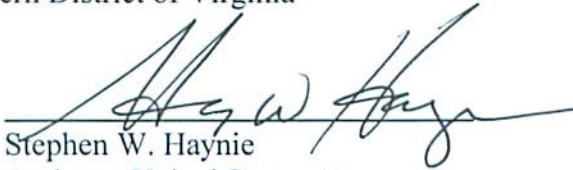
(Willful Failure to File Tax Return)

During calendar year 2006, FODREY, who was a resident of Norfolk, Virginia, had and received gross income in excess of \$8,450. By reason of such gross income he was required by law, following the close of such calendar year, and on or before April 17, 2007, to make an income tax return to the Internal Revenue Service at Atlanta, Georgia, or to another Internal Revenue Service office permitted by the Commissioner of Internal Revenue, stating specifically the items of his gross income and any deductions and credits to which he was entitled. Well-knowing and believing all of the foregoing, he did willfully fail, on or before April 17, 2007, in the Eastern District of Virginia and elsewhere, to make an income tax return for the calendar year 2006.

(All in violation of Title 26, United States Code, Section 7203.)

Date:

Neil H. MacBride
United States Attorney for the
Eastern District of Virginia

By:  Stephen W. Haynie
Assistant United States Attorney
VSB # 30721
United States Attorneys Office
101 W. Main Street, Suite 8000
Norfolk, VA 23510
Phone (757) 441-6331
Fax (757) 441-3205
steve.haynie@usdoj.gov

Robert E. Connolly
Chief, Philadelphia Office
Antitrust Division


Pedro de la Torre
Richard S. Rosenberg
Anne R. Spiegelman
Attorneys, Antitrust Division
U.S. Department of Justice
Philadelphia Office
The Curtis Center, Suite 650W
7th & Walnut Streets
Philadelphia, PA 19106
215-597-7401
pedro.delatorre@usdoj.gov