

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA

: Criminal No. 09-506

: Filed:

v.

: Violations: 18 U.S.C. § 371
18 U.S.C. § 1956(h)
18 U.S.C. § 1512(c)(2)

ROBERT P. GRIFFITHS,

Defendant.

INFORMATION

The United States of America, acting through its attorneys, charges:

1. Robert P. Griffiths ("Griffiths") is hereby made a defendant on the charges
stated below.

COUNT 1- KICKBACK and MAJOR FRAUD CONSPIRACY
(18 U.S.C. § 371)

I. RELEVANT PARTIES AND ENTITIES

During all or part of the period covered by this Information:

2. Griffiths was a citizen and resident of Toronto, Ontario, Canada.
3. Griffiths was employed by Bennett Environmental, Inc. ("BEI") which was a corporation existing under the laws of Canada with its main office located in Oakville,

Ontario, Canada. BEI transported, treated and disposed of contaminated soils as a sub-contractor for a prime contractor ("P-C") on an environmental remediation project at the Federal Creosote Superfund Site in Manville, New Jersey ("Federal Creosote"). Griffiths held a number of sales and marketing positions in which he was responsible for potential projects within the United States. Additionally, Griffiths owned Discount Canadian Pharmaceuticals, d/b/a DCP Technical Services, Inc. ("DCP") that was used to provide kickbacks in the form of pharmaceuticals from Canada to CC-3.

4. "CC-1" was a co-conspirator who was an officer and board member of BEI and was the person to whom Griffiths reported at BEI.

5. "CC-2" was a co-conspirator who was an executive at BEI and reported to CC-1. CC-2 managed the operations and sales of BEI.

6. Zul Tejpar ("Tejpar") was a co-conspirator who was the Vice President of Business Development of BEI and also reported to CC-1.

7. "CC-3" was a co-conspirator who was an employee of P-C at Federal Creosote. CC-3 owned a shell company ("Company-1") that he used to conceal the receipt of kickbacks. Company-1 used various addresses located in New Jersey.

8. Whenever in this Information reference is made to any act, deed, or transaction of any corporation, such allegation shall be deemed to mean that the corporation engaged in such act, deed, or transaction by or through its officers, directors, agents, employees, or

representatives while they were actively engaged in the management, direction, control, or transaction of its business or affairs.

9. Various other persons, not made defendants herein, participated as co-conspirators in the offense charged herein and performed acts and made statements in furtherance thereof.

II. BACKGROUND

10. Federal Creosote was an environmental remediation project that was partly funded by the Environmental Protection Agency ("EPA"). Federal Creosote occupied approximately 53 acres in a highly developed residential/commercial area in the Borough of Manville in Somerset County, New Jersey. The area was contaminated through the operation of a wood processing facility that treated railroad ties with coal tar creosote, from approximately 1910 to the mid-1950s. Coal tar creosote is a wood preservative that may cause skin irritation and respiratory problems. The United States Army Corps of Engineers ("USACE") oversaw the procurement process for the remediation of the site. Pursuant to an interagency agreement between the EPA and USACE, prime contractors were used to perform different functions, such as remediation, at the site.

11. P-C was awarded the following two U.S. Government contracts as a prime contractor:

(a) On or about December 15, 2000, USACE, a federal executive branch agency within the United States Department of Defense, awarded a Pre-Placement

Remedial Contract ("PRAC"), #DACW41-01-D-0001 ("Contract One"), to P-C for the environmental remediation of federally-funded sites, including Federal Creosote. The EPA paid P-C a fixed percentage fee plus the cost of the remedial action performed by sub-contractors at the site. The total value of Contract One was in excess of \$100 million.

(b) On or about July 28, 2004, USACE awarded PRAC #W912DQ-04-D-0023 ("Contract Two") to P-C to continue its remediation of Federal Creosote. The EPA paid P-C a fixed percentage fee plus the cost of the remedial action performed by sub-contractors at the site. The total value of Contract Two was in excess of \$80 million.

12. P-C was the prime contractor responsible for managing the remedial action at Federal Creosote. The remedial action was divided into separate phases by geographic boundaries. P-C awarded separate sub-contracts under each phase to various vendors.

13. P-C was required to award sub-contracts at Federal Creosote subject to a competitive bidding policy under the Federal Acquisition Regulation system ("FAR"). The FAR's bidding policy sought to ensure that P-C obtained supplies and services at competitive, fair-market prices. On numerous occasions, P-C was required to solicit at least three competitive bids before entering into any sub-contract for supplies or services in excess of \$5,000, and award those sub-contracts to the bidder offering the best value, based on cost, quality and timeliness. On certain occasions, P-C was required to solicit multiple, sealed bids and award the sub-contract to the lowest bidder.

14. CC-3 was responsible for soliciting bids from vendors for sub-contracts in excess of \$5,000 and otherwise ensuring that P-C's procurement process was in accordance with the FAR.

15. The FAR also prohibited any person from providing, attempting to provide, soliciting, or attempting to solicit any kickback, including any money, fee, commission, credit, gratuity, gift, thing of value or compensation of any kind for the purpose of improperly obtaining or rewarding favorable treatment in connection with a sub-contract relating to a prime contract.

III. DESCRIPTION OF THE OFFENSE

16. From approximately December 2001 until approximately August 2004, the exact dates being unknown to the United States, in the District of New Jersey and elsewhere, Griffiths and his co-conspirators, and others known and unknown, unlawfully, willfully and knowingly did conspire, combine, confederate, and agree together and with each other to defraud the United States or an agency thereof, namely the EPA, and to commit offenses against the United States, to wit, to violate Title 41, United States Code, Sections 53(1) and (3) and Title 18, United States Code, Section 1031, in violation of Title 18, United States Code, Section 371.

17. It was a part and an object of the conspiracy that Griffiths and his co-conspirators, and others known and unknown, unlawfully, willfully, and knowingly would and did conspire, combine, confederate, and agree to defraud the United States and the

EPA and to commit offenses against the United States by providing and attempting to provide kickbacks to CC-3 and certain other employees of P-C, who were co-conspirators, at Federal Creosote and include the amount of certain kickbacks in the sub-contract price that BEI charged to P-C on at least one sub-contract, thereby causing P-C to include the fraudulently inflated amount as part of the costs it charged to the EPA, in violation of Title 41, United States Code, Sections 53(1) and (3).

18. It was a part and an object of the conspiracy that Griffiths and his co-conspirators, and others known and unknown, unlawfully, willfully, and knowingly would and did conspire, combine, confederate, and agree to execute a scheme or artifice with the intent to defraud the United States, and with the intent to obtain money or property by means of materially false and fraudulent pretenses, representations and promises in the procurement of property and services as a sub-contractor in connection with Contract One and Contract Two, where the value of each those contracts was \$1 million or more, in violation of Title 18, United States Code, Section 1031(a)(1) and (a)(2).

IV. THE MANNER AND MEANS BY WHICH THE CONSPIRACY WAS CARRIED OUT

The manner and means by which the conspiracy was sought to be accomplished included, among others, the following:

Kickbacks to a Prime Contractor and Fraudulently Inflated Bid Prices

19. During some or all of the period from approximately December 2001 until approximately the August 2004, it was a further part of the conspiracy that Griffiths, CC-1,

CC-2 and Tejpar provided kickbacks to Company-1, CC-3 and certain other employees of P-C, who were co-conspirators. Griffiths, CC-1, CC-2 and Tejpar provided kickbacks in order to influence the award of sub-contracts by P-C for the treatment, removal and disposal of contaminated soil to BEI at Federal Creosote.

20. On one occasion, Griffiths, CC-1, CC-2 and Tejpar fraudulently inflated the amount of BEI's bid price for a sub-contract by at least \$13.50 per ton, from \$485 per ton for disposal at a secured facility and \$405 per ton for disposal at an unsecured facility to \$498.50 per ton and \$418.50 per ton, respectively, at the direction of CC-3. This fraudulently inflated amount included kickbacks made to Company-1, CC-3 and certain other employees of P-C, who were co-conspirators, plus an amount that BEI kept for itself.

P-C included the fraudulently inflated amount as part of the costs it charged to the EPA under Contract One and Contract Two for work performed by BEI.

21. Griffiths, CC-1, and Tejpar provided kickbacks to Company-1 via wire transfers from BEI's bank account in Canada to Company-1's bank account in New Jersey, at the direction of CC-3. Company-1 issued false invoices to BEI as a means of concealing the true nature of the kickbacks. The kickbacks to Company-1 totaled approximately \$1,100,000.

22. Griffiths, CC-1 and Tejpar also provided kickbacks to CC-3 and certain other employees of P-C, who were co-conspirators, that included Mediterranean cruises and corresponding flights, a Caribbean cruise and corresponding flights, pharmaceuticals

through DCP, wine and a wine shelving unit, entertainment tickets, flat screen televisions and laptops. The kickbacks to CC-3 and other executives and employees of P-C, who were co-conspirators, totaled approximately \$205,000. The portion of the fraudulently inflated amount that BEI kept for itself totaled at least \$205,000.

Fraudulent Disclosure of Competitors' Bid Prices

23. It was a further part of the conspiracy that CC-3 fraudulently disclosed the bid prices of other vendors to Griffiths before the sub-contracts were awarded by P-C without USACE's knowledge, consent, or authorization. Griffiths then used his knowledge of the other vendors' bid prices to submit the highest possible BEI prices to P-C and still be awarded the sub-contracts. As a result, BEI was awarded the sub-contracts at prices higher than it would have otherwise bid, causing the EPA to pay more for these sub-contracts than it otherwise would have if the FAR requirements were followed under Contract One and Contract Two. The ultimate dollar amount of the sub-contracts fraudulently awarded to BEI by P-C totaled approximately \$43,000,000.

Fraudulent Concealment of False Invoices

24. It was a further part of the conspiracy that Griffiths, CC-1 and CC-3 concealed material facts from USACE by not disclosing that BEI had submitted invoices for at least 20,000 tons of treated soil that was purportedly disposed of at a secure facility for \$498.50 per ton when, in fact, BEI disposed the soil at unsecured facilities in Canada

without USACE's knowledge, consent, or authorization. As a result, the BEI invoices that P-C submitted to the EPA under Contract One were materially false.

V. OVERT ACTS

25. In furtherance of the conspiracy and to effect the illegal object thereof, Griffiths and others known and unknown, committed the following overt acts, among others, in the District of New Jersey and elsewhere:

(a) On or about December 14, 2001, with the approval of CC-1 and CC-2, and pursuant to the kickback arrangement, Griffiths purchased executive party suite hockey tickets costing approximately \$17,500 for executives and employees of P-C, who were co-conspirators;

(b) On or about August 26, 2002, Griffiths pursuant to the kickback arrangement purchased a 10 day cruise through the Mediterranean costing approximately \$75,000, for himself, his guest, CC-3, CC-3's wife, three other executives of P-C, who were co-conspirators, and their guests;

(c) On or about January 28, 2003, Griffiths and CC-3 caused P-C to submit to USACE a fraudulent voucher for reimbursement of costs under Contract One that included a BEI invoice for approximately 646.7 tons of soil at \$498.50 per ton of soil purportedly disposed of at a secured facility when, in fact, the soil was disposed of at non-secured facilities;

(d) On or about June 11, 2003, pursuant to the kickback arrangement Griffiths caused a \$177,000 wire transfer to be sent from BEI's bank account in Canada to Company-1's bank account in New Jersey pursuant to the kickback arrangement;

(e) On or about August 26, 2003, pursuant to the kickback arrangement, Griffiths caused a \$249,910 wire transfer to be sent from BEI's bank account in Canada to Company-1's bank account in New Jersey;

(f) On or about December 8, 2003, CC-3 fraudulently disclosed the bid prices of at least one of BEI's competitors to Griffiths and CC-1 prior to a public bid opening for a sub-contract, causing P-C to award the sub-contract to BEI at a price higher than BEI would have otherwise bid; and

(g) On or about April 16, 2004, pursuant to the kickback arrangement, Griffiths caused a \$77,570 wire transfer to be sent from BEI's bank account in Canada to Company-1's bank account in New Jersey.

IN VIOLATION OF TITLE 18, UNITED STATES CODE, SECTION 371.

COUNT TWO - MONEY LAUNDERING CONSPIRACY
(18 U.S.C. § 1956(h))

VI. THE RELEVANT PARTIES AND ENTITIES

The United States of America further charges:

26. Paragraphs 1 through 3, 7 through 15, and 19 through 25 of Count One of this Information are hereby repeated, realleged and incorporated in Count Two as if fully set forth in this Count.

VII. DESCRIPTION OF THE OFFENSE

27. From approximately February 2003 through approximately September 2004, in the District of New Jersey and elsewhere, Griffiths, CC-3, and other co-conspirators, known and unknown, knowingly and willfully conspired and agreed with each other and others to transport, transmit, and transfer funds, that is approximately \$207,000 from a place in the United States to and through a place outside the United States with the intent to promote the carrying on of specified unlawful activity, namely wire fraud in violation of Title 18, United States Code, Section 1343, in violation of Title 18 United States Code, Section 1956(a)(2)(A).

VIII. THE MANNER AND MEANS BY WHICH THE
CONSPIRACY WAS CARRIED OUT

28. It was part of the conspiracy that in approximately February 2003, Griffiths agreed with CC-4 that Griffiths would receive a portion of CC-3's kickbacks being sent by

wire transfer from BEI to Company-1, as described in paragraph 21 of Count 1, in order for Griffiths to profit personally from the fraud and kickback scheme described in Count 1.

29. It was part of the conspiracy that Griffiths, at the direction of CC-3, submitted false and fraudulent invoices from DCP to Company-1 for wetlands analyses that were never performed. Thereafter, CC-3 paid DCP by a Company-1 check or wire transfer from Company-1's First Union National Bank account # xxxxxxxxxx9793 located in New Jersey to one of DCP's accounts # xxxxxxxxxx3612 and # xxxxxxxxxx6260 at Royal Bank of Canada located in Oakville, Ontario, Canada.

30. These transactions occurred on or about the following dates:

(a) On or about February 5, 2003, a \$28,500 wire transfer was sent by CC-3 from Company-1's account to a DCP account;

(b) On or about March 17, 2003, a \$42,705 wire transfer was sent by CC-3 from Company-1's account to a DCP account;

(c) On or about August 21, 2003, a \$28,880 wire transfer was sent by CC-3 from Company-1's account to a DCP account;

(d) On or about September 19, 2003, a \$27,645 Company-1 check signed by CC-3 was deposited by Griffiths in a DCP account;

(e) On or about December 23, 2003, a \$38,900 Company-1 check signed by CC-3 was deposited by Griffiths in a DCP account;

(f) On or about March 5, 2004, a \$38,225 Company-1 check signed by

CC-3 was deposited by Griffiths in a DCP account; and

(g) On or about September 8, 2004, a \$3,391 Company-1 check signed by CC-3 was deposited by Griffiths in a DCP account.

IX. JURISDICTION AND VENUE

31. The conspiracy charged in this count was devised and carried out, in part, in the District of New Jersey, within five years preceding the filing of this Information.

IN VIOLATION OF TITLE 18, UNITED STATES CODE, SECTION 1956(h).

COUNT THREE - OBSTRUCTING AN OFFICIAL PROCEEDING (18 U.S.C. § 1512(c)(2))

The United States of America further charges:

X. THE RELEVANT PARTIES AND ENTITIES

32. Paragraphs 1 through 3, 7, 10 through 15, and 19 through 25 of Count One of this Information are hereby repeated, realleged and incorporated in Count Three as if fully set forth in this Count.

33. The United States Securities and Exchange Commission ("SEC") is a federal government agency authorized by law to investigate securities violations.

XI. DESCRIPTION OF THE OFFENSE

34. Beginning in or about 2004, the United States Securities and Exchange Commission (“SEC”) initiated a proceeding to investigate securities violations by BEI and its employees relating to the award of a sub-contract to BEI by P-C at Federal Creosote. It was material to the SEC’s investigation to determine whether Griffiths and others had obtained information not available to the public and whether they relied upon that information to conduct certain securities transactions improperly. As such, Griffiths and others were subjects of the investigation and were interviewed by the SEC.

35. On or about November 2 and 3, 2005, Griffiths voluntarily agreed to an interview with the SEC and the Ontario Securities Commission (“OSC”) that was held in Canada. During the interview, Griffiths made false statements in response to questions asked by an attorney for the SEC. Griffiths made these false statements for the purpose of deceiving the SEC and concealing Griffiths’ and CC-3’s unlawful conduct as described in Count 1.

36. On or about November 3, 2005, Griffiths unlawfully, willfully, and knowingly, corruptly obstructed, influenced, and impeded an official proceeding of the Government of the United States, namely the SEC investigation described above in paragraph 34, when Griffiths during a voluntary interview conducted by the SEC and OSC, made the following false statements that were material to the SEC’s investigation:

[False statements are underscored.]

Q: Did [CC-3] at any time tell you prior to the submitting – prior to the submission of Bennett's [BEI's] bid what [a competitor's] bid price was?

A: No.

Q: Did he ever discuss it with you?

A: No.

Q: Did [CC-3] ever give you information that he shouldn't have or that was not available to the other potential bidders?

A: No.

* * *

Q: Is anything that [CC-3] did during this bidding process for the Phase – what we call the Phase Three Contract – did he ever do anything that you thought was unethical or not right or inconsistent with what he should have done?

A: No.

37. At the time these statements were made, Griffiths knew that they were false in that, as part of the kickback and major fraud conspiracy as described in paragraphs 21 through 23 of Count 1, CC-3 disclosed the bid prices of BEI's competitor to Griffiths improperly and discussed them with Griffiths before the award of the sub-contract at issue in order for Griffiths to submit the highest possible BEI bid prices to P-C and still be awarded the sub-contract.

XII. JURISDICTION AND VENUE

38. The United States and Griffiths have consented to venue in the District of New Jersey for the conduct charged in this count that was devised and carried out within five years preceding the filing of this Information.

IN VIOLATION OF TITLE 18, UNITED STATES CODE, SECTION 1512(c)(2).

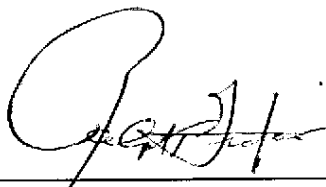
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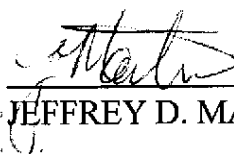
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