

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT OF LA

2008 MAY 15 PM 1:16

LORETTA G. WHYTE
CLERK

08-128

SECT. J MAG 3

UNITED STATES OF AMERICA)

v.)

DURWANDA ELIZABETH
MORGAN HEINRICH,
and
KERN CARVER BERNARD
WILSON,

Defendants

) Criminal No.:

) Violations: 18 U.S.C. § 371;

) 18 U.S.C. § 201 (b)(1)(B); and

) 18 U.S.C. § 201 (b)(2)(B)

) Returned:

INDICTMENT

THE GRAND JURY CHARGES:

1. Durwanda Elizabeth Morgan Heinrich (hereinafter "Defendant Heinrich") is hereby indicted and made a defendant on Counts One through Three of this Indictment. Kern Carver Bernard Wilson (hereinafter "Defendant Wilson") is hereby indicted and made a defendant on Count One and Count Four of this Indictment.

2. The United States Army Corps of Engineers (hereinafter "USACE") is an agency of the United States government.

3. Hurricane Katrina struck New Orleans in August 2005 causing extensive damage to the levee systems. In August 2006, the USACE solicited bids for the reconstruction and enlargement of the Lake Cataouatche Levee, south of New

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Orleans, Louisiana, a Hurricane Protection Project, solicitation No. W912P8-06-R0194 (hereinafter the "USACE Hurricane Protection Project"). The value of this contract was in excess of \$16 million.

4. At all times relevant to this Indictment, Defendant Heinrich represented herself as a dirt, sand, and gravel subcontractor operating individually, and through an unindicted corporation.

5. At all times relevant to this Indictment, Defendant Wilson was a public official, as defined in Title 18, United States Code, Section 201(a)(1), that is, he was a contractor consultant for the USACE, and as such an employee or person acting for or on behalf of the United States, or any department or agency or branch of Government thereof, in any official function, under or by the authority of any such department or agency or branch of Government.

6. At all times relevant to this Indictment, Raul Jorge Miranda (hereinafter "Miranda") was a public official, as defined in Title 18, United States Code, Section 201(a)(1), that is, he was a contractor consultant for the USACE, and as such an employee or person acting for or on behalf of the United States, or any department or agency or branch of Government thereof, in any official function, under or by the authority of any such department or agency or branch of Government.

COUNT ONE
Conspiracy
18 U.S.C. § 371

THE CONSPIRACY AND ITS OBJECTS

7. From on or about August 1, 2006, through on or about October 25, 2006, the exact dates being unknown to the grand jury, in the Eastern District of Louisiana and elsewhere, Defendants Heinrich and Wilson did knowingly and unlawfully combine, conspire, confederate, and agree to commit an offense against the United States, that is to directly and indirectly, corruptly offer and promise something of value to a public official, that is money, to influence the public official to commit or aid in committing, or collude in, or allow, any fraud, or make opportunity for the commission of any fraud, on the United States, that is to obtain and disclose confidential bid, proposal, and source selection information, before the award of the contract, in violation of 18 U.S.C. § 201(b)(1)(B).

8. It was the purpose of the conspiracy to unlawfully enrich Miranda and Defendant Wilson, both public officials, and Defendant Heinrich, through:

- a. the hindrance, obstruction, and impairment of the personnel of the USACE by the exertion upon them of dishonest, corrupt, unlawful, improper, and undue influence;
- b. the personal exploitation of confidential information about the USACE Hurricane Protection Project obtained through Miranda's position as a public official and a contractor consultant at the USACE;

- c. the unlawful solicitation of, demand for, agreements to accept, and agreements to pay money for confidential bid, proposal, and source selection information regarding the USACE Hurricane Protection Project;
- d. the provision of confidential bid, proposal, and source selection information to persons attempting to provide goods and services for the USACE Hurricane Protection Project, including prime contractors and subcontractors;
- e. the utilization of the confidential bid, proposal, and source selection information to attempt to obtain contracts to provide goods and services for this USACE Hurricane Protection Project, as well as future USACE Hurricane Protection Projects; and
- f. the concealment of all of the above from the USACE, and the citizens of New Orleans, Louisiana, and the United States.

MANNER AND MEANS OF EXECUTING THE CONSPIRACY

It was a part of the conspiracy that the co-conspirators and others would, among other things, do the following:

- 9. It was part of the conspiracy that Miranda and Defendants Heinrich and Wilson had meetings and engaged in discussions concerning the USACE Hurricane Protection Project.
- 10. It was further part of the conspiracy that Miranda and Defendant Wilson, in connection with their positions at the USACE, each signed a Procurement Integrity

Act Statement, in which they acknowledged, "a person acting for or on behalf of, or who is advising or has advised the United States with respect to a Federal agency procurement, must not, other than that is provided by law, knowingly disclose contractor bid or proposal information or source selection information before the award of a federal agency procurement contract to which it relates."

11. It was further part of the conspiracy that Defendants Heinrich and Wilson had telephone conversations, sent facsimiles, and sent e-mails to each other, and to other individuals, both known and unknown to the grand jury, regarding the USACE Hurricane Protection Project.

12. It was further part of the conspiracy that Defendant Heinrich agreed to pay and Miranda and Defendant Wilson each agreed to accept 25 cents per cubic yard of dirt, sand, and gravel called for in the USACE Hurricane Protection Project contract in exchange for confidential bid, proposal, and source selection information from Miranda, a public official, before the award of the USACE Hurricane Protection Project contract.

13. It was further part of the conspiracy that Defendants Wilson and Heinrich received confidential bid, proposal, and source selection information from Miranda, a public official, before the award of the USACE Hurricane Protection Project contract.

14. It was further part of the conspiracy that Defendant Wilson reviewed the confidential bid, proposal, and source selection information he received from Miranda.

15. It was further part of the conspiracy that Defendant Wilson disclosed the confidential bid, proposal, and source selection information he received from Miranda to Defendant Heinrich before the award of the USACE Hurricane Protection Project contract.

16. It was further part of the conspiracy that Defendant Heinrich faxed and e-mailed confidential bid, proposal, and source selection information to a USACE prime contractor before the award of the USACE Hurricane Protection Project contract.

17. It was further part of the conspiracy that Defendant Heinrich had telephone conversations and meetings with a USACE prime contractor and discussed the confidential bid, proposal, and source selection information before the award of the USACE Hurricane Protection Project contract.

OVERT ACTS

In furtherance of the conspiracy and in order to accomplish its objects, the following overt acts, among others, were committed by Defendants Heinrich and Wilson, and Miranda, in the Eastern District of Louisiana, and elsewhere:

18. On or about September 6, 2006, in connection with their positions at the USACE, Defendant Wilson and Miranda each signed a Procurement Integrity Act Statement.

19. On or about September 6, 2006, Defendant Wilson and Miranda discussed the Procurement Integrity Act Statements they had signed.

20. In or about September and October 2006, Miranda was a member of the source selection committee for the USACE Hurricane Protection Project where he had access to confidential bid, proposal, and source selection information.

21. In or about September 2006, Defendant Heinrich offered or promised money to Miranda in return for the disclosure of confidential bid, proposal, and source selection information.

22. In or about September 2006, Defendant Heinrich offered or promised money to Defendant Wilson in return for the disclosure of confidential bid, proposal, and source selection information.

23. In or about September 2006, Defendant Wilson sought, demanded, or agreed to accept money in return for disclosing confidential bid, proposal, and source selection information.

24. In or about September 2006, Miranda sought, demanded, or agreed to accept money in return for disclosing confidential bid, proposal, and source selection information.

25. In or about September 2006, Defendants Heinrich and Wilson and Miranda met and discussed the USACE Hurricane Protection Project.

26. On or about September 27, 2006, Defendant Heinrich called a prime contractor regarding the USACE Hurricane Protection Project.

27. On or about September 27, 2006, Defendant Heinrich called Defendant Wilson and Miranda regarding the USACE Hurricane Protection Project.

28. On or about September 28, 2006, Defendant Heinrich sent a facsimile to a prime contractor regarding the USACE Hurricane Protection Project.
29. On or about September 28, 2006, Defendant Wilson and Miranda prepared a spreadsheet titled "Timetable.xls" containing information regarding the USACE Hurricane Protection Project.
30. On or about September 29, 2006, Defendant Wilson saved the spreadsheet titled "Timetable.xls" on a computer.
31. On or about September 29, 2006, Defendant Heinrich sent an e-mail to a prime contractor with the spreadsheet titled "Timetable.xls" as an attachment.
32. On or about September 29, 2006, Defendant Heinrich sent a facsimile to a prime contractor regarding the USACE Hurricane Protection Project with a spreadsheet attachment labeled "Reach 1 Sta 250+00 300+17 (Complete By May 1, 2007)".
33. On or about September 29, 2006, Defendant Heinrich sent a facsimile to a prime contractor regarding the USACE Hurricane Protection Project with an attachment titled "Suggestions".
34. On or about October 1, 2006, Miranda downloaded onto a computer memory stick three documents that were part of his technical evaluation of a prime contractor's bid on the USACE Hurricane Protection Project: Book3.zip; IssuestoAddressorConsider.doc; and Schedule.pdf (hereinafter "the three documents").

35. On or about October 1, 2006, Miranda gave Defendant Wilson the computer memory stick containing the three documents.

36. On or about October 1, 2006, Defendant Wilson downloaded the three documents from the computer memory stick he was given by Miranda onto his laptop computer.

37. On or about October 2, 2006, Defendant Heinrich sent an e-mail to a prime contractor with "this will do it" in the subject line and with the document titled "Book3.zip" as an attachment.

38. On or about October 2, 2006, Defendant Heinrich sent an e-mail to a prime contractor with "new info" in the subject line and with the document titled "IssuestoAddressorConsider.doc" as an attachment.

39. On or about October 2, 2006, Defendant Heinrich sent an e-mail to a prime contractor with "schedule" in the subject line and with the document titled "Schedule.pdf" as an attachment.

40. On or about October 4, 2006, Defendant Heinrich made a telephone call to a prime contractor to set up a meeting regarding the USACE Hurricane Protection Project.

41. On or about October 5, 2006, Defendant Heinrich met with a prime contractor regarding the USACE Hurricane Protection Project.

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

COUNT TWO
Bribery
18 U.S.C. § 201(b)(1)(B)

42. Paragraphs One through Six of this Indictment are repeated and realleged as if fully set forth in this Count.

43. Beginning on or about August 1, 2006, and continuing thereafter through October 25, 2006, the exact dates being unknown to the Grand Jury, in the Eastern District of Louisiana, and elsewhere, in connection with the foregoing USACE Hurricane Protection Project, **Defendant Heinrich**, directly and indirectly, corruptly offered and promised something of value to Miranda, a public official, that is, money in the amount of approximately \$299,375, to influence Miranda to commit or aid in committing, or collude in, or allow, any fraud, or make opportunity for the commission of any fraud, on the United States, that is, to disclose confidential bid, proposal, and source selection information to Defendants Wilson and Heinrich before the award of the contract.

ALL IN VIOLATION OF TITLE 18, UNITED STATES CODE, SECTION 201(b)(1)(B).

COUNT THREE
Bribery
18 U.S.C. § 201(b)(1)(B)

44. Paragraphs One through Six of this Indictment are repeated and realleged as if fully set forth in this Count.

45. Beginning on or about August 1, 2006, and continuing thereafter through October 25, 2006, the exact dates being unknown to the Grand Jury, in the Eastern District of Louisiana, and elsewhere, in connection with the foregoing USACE Hurricane Protection Project, **Defendant Heinrich**, directly and indirectly, corruptly offered and promised something of value to Defendant Wilson, a public official, that is, money in the amount of approximately \$299,375, to influence Defendant Wilson to commit or aid in committing, or collude in, or allow, any fraud, or make opportunity for the commission of any fraud, on the United States, that is, to obtain and disclose confidential bid, proposal, and source selection information to Defendant Heinrich before the award of the contract.

ALL IN VIOLATION OF TITLE 18, UNITED STATES CODE, SECTION 201(b)(1)(B).

COUNT FOUR
Bribery
18 U.S.C. § 201(b)(2)(B)

46. Paragraphs One through Six of this Indictment are repeated and realleged as if fully set forth in this Count.

47. Beginning on or about August 1, 2006, and continuing thereafter through October 25, 2006, the exact dates being unknown to the Grand Jury, in the Eastern District of Louisiana, and elsewhere, in connection with the foregoing USACE Hurricane Protection Project, **Defendant Wilson**, a public official, directly and indirectly, did corruptly demand, seek, and agree to accept something of value, that is, money in the amount of approximately \$299,375, from Defendant Heinrich, in return for, and with the intent of being influenced to commit or aid in committing, or to collude in, or allow, any fraud, or make opportunity for the commission of any fraud, on the United States, that is, he obtained and disclosed confidential bid, proposal, and source selection information before the award of the contract.

ALL IN VIOLATION OF TITLE 18, UNITED STATES CODE, SECTION 201(b)(2)(B).

A TRUE BILL

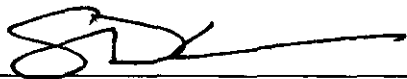
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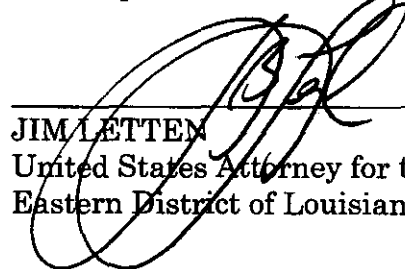
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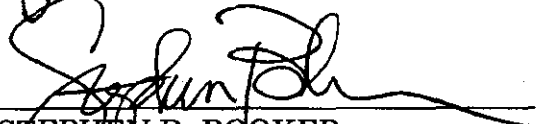
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