

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA : Criminal No. 02 Cr. 1254 (NRB)
v. : Filed: 9/25/02
HOWARD MARLIN, : Violations: 18 U.S.C. § 371
Defendant. :

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INFORMATION

COUNT ONE -- CONSPIRACY TO COMMIT MAIL FRAUD
(18 U.S.C. § 371)

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

1. Howard Marlin ("Marlin") is hereby made a defendant on the charge stated below.

I. THE RELEVANT PARTIES AND ENTITIES

During the period covered by this Count:

2. Marlin was a resident of New York, New York. Marlin owned and was the chief executive of Caysun Graphics Ltd. ("Caysun"), a broker of printing and related services, including printed advertising materials, located on Varick Street in Manhattan. One of Caysun's customers was Impact Communication, Inc. ("Impact").

3. Impact, located in Manhattan, was an advertising agency that specialized in servicing customers in the pharmaceutical industry. Its main customers included Pfizer, Inc. and Merck & Co., Inc.

4. Advertising agencies, including Impact, frequently solicit multiple competitive bids before awarding sizable contracts to suppliers of printed advertising materials, and then award those contracts to the lowest responsible bidder. Such a practice allows the agencies to demonstrate to their clients that they have attempted to obtain products and services at a fair market price.

5. "CC-1" was a co-conspirator who was a purchasing official at Impact. CC-1 had primary responsibility for selecting suppliers of printed advertising materials to Impact. CC-1 attempted to create the appearance that he was following a competitive bidding policy for contracts for printed advertising materials that were valued at more than \$2500, including the contracts awarded to Caysun.

6. Ivan Glick ("Glick") was a co-conspirator who was an independent sales representative working primarily for a printing company located on 45th Street in Manhattan. Glick created and controlled an entity named "New Horizons Litho," to which his commissions were paid.

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

II. DEFINITION

8. The term "printed advertising materials" includes custom-designed mailings, inserts, brochures, workbooks, and similar items.

III. DESCRIPTION OF THE OFFENSE

9. From at least as early as mid- to late 1997 until approximately June 2000, in the Southern District of New York and elsewhere, Marlin and others known and unknown, unlawfully, willfully, and knowingly did combine, conspire, confederate, and agree together and with each other to commit offenses against the United States of America, to wit, to violate Title 18, United States Code, Sections 1341 and 1346.

10. It was a part and an object of the conspiracy that Marlin and others known and unknown, having devised and intending to devise a scheme and artifice to defraud Impact, including a scheme to deprive Impact of the intangible right of the honest services of CC-1, and for obtaining money and property from Impact by means of false and fraudulent pretenses, representations, and promises, unlawfully, willfully, and knowingly, for the purpose of executing such scheme and artifice, would and did place in post offices and authorized depositories for mail matter, matters and things to be sent and delivered by the Postal Service, and deposit and cause to be deposited matters and things to be sent and delivered by private and commercial interstate carriers, and take and receive therefrom, such matters and things, and knowingly cause to be delivered by mail and such carriers according to the directions thereon, and at the place at which they were directed to be delivered by the persons to whom they were addressed such matters and things, in violation of Title 18, United States Code, Sections 1341 and 1346.

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:

11. Marlin agreed to pay and, in fact, paid substantial kickbacks to CC-1 in order to ensure that CC-1 would allocate to Caysun a portion of the total value of contracts for printed advertising materials awarded by Impact. Marlin never gave any money directly to CC-1 but, rather, arranged for the money to be given to CC-1 by Glick in the manner described below.

12. Marlin further agreed that the money he would pay CC-1 would be generated by fraudulently inflating the prices at which Impact awarded contracts to Caysun. Those contracts were fraudulently inflated in the following manner, with Glick acting as a middleman: Marlin first provided a cost estimate to Glick, who then orally quoted CC-1 a price that included a fee or commission, usually at least 15%, for himself; CC-1 then told Glick the actual price at which the contract would be awarded -- a price that was substantially in excess of both Marlin's original estimate and the price orally quoted by Glick -- with the expectation that, after Caysun had completed the contract and been paid by Impact, CC-1 would receive in cash all or most of the difference between the price orally quoted by Glick and the price CC-1 had specified. CC-1's superiors at Impact were not aware of and did not approve of the method by which the prices of the contracts awarded to Caysun were determined.

13. In order to make it appear that contracts awarded to Caysun had been

awarded in compliance with a competitive bidding policy, CC-1 and Glick made arrangements for Impact to receive inflated written price quotations or bids from multiple sources in addition to Caysun. CC-1 often specified which companies he wanted to submit the losing written bids or price quotations on a particular contract and the prices each should quote. Glick then communicated with those companies in order to obtain the price quotations or bids CC-1 had requested.

14. Marlin gave Caysun's blank business stationery to Glick with the understanding that Glick would use the stationery to prepare what purported to be independent, competitive bids or price quotations from Caysun to Impact. Glick used Caysun's business stationery, to which he signed Marlin's name, not only to prepare bids and price quotations in connection with contracts that Caysun had been designated to receive from Impact, but also in connection with contracts that companies other than Caysun had been designated to receive from Impact.

15. For each of the contracts awarded to Caysun that had been fraudulently inflated, Glick caused shell companies named "AAMM," which was controlled by a co-conspirator named Martin Schwartz, or New Horizons Litho to issue Caysun an invoice in the amount of the difference between the true cost of the job, i.e., the price originally estimated by Marlin, and the price at which the job had been awarded. The invoices from AAMM and New Horizons Litho were false and fraudulent because they purported to bill for goods and services that had not been provided and were not intended to be provided to Caysun. Marlin caused Caysun to issue checks totaling approximately \$182,000 to AAMM and approximately \$35,600

to New Horizons Litho as payment for the false and fraudulent invoices. Martin Schwartz, the owner of AAMM, gave Glick approximately 93% of the face value of the checks Caysun had issued to AAMM in cash. Glick received a substantial part of the face value of the checks Caysun had issued to New Horizons Litho in cash from another co-conspirator.

16. Glick gave most of the cash he obtained from Schwartz in the manner described in ¶ 15 to CC-1 and retained the balance as his fee or commission.

V. OVERT ACTS

In furtherance of the conspiracy and to effect the objects thereof, the following overt acts were committed in the Southern District of New York and elsewhere:

17. On numerous occasions between 1997 and 2000, Marlin caused Caysun to send numerous invoices to Impact seeking payment for contracts for printed advertising materials at prices that had been fraudulently inflated. Marlin caused these invoices to be sent by and through the United States mails.

18. On numerous occasions between 1997 and 2000, Marlin caused Caysun to pay numerous false and fraudulent invoices from AAMM or New Horizons Litho that he had arranged with Glick for Caysun to receive.

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

COUNT TWO -- CONSPIRACY TO DEFRAUD THE UNITED STATES
AND TO COMMIT TAX FRAUD

(18 U.S.C. § 371)

The United States of America further charges:

19. Paragraphs 1 through 3 and Paragraphs 5 through 7 of Count One of this Information are repeated, realleged, and incorporated in Count Two as if fully set forth in this Count.

VI. DESCRIPTION OF THE OFFENSE

20. From approximately 1995 until approximately 2001, the exact dates being unknown to the United States, the defendant and co-conspirators did unlawfully, willfully, and knowingly conspire, combine, confederate, and agree to defraud the United States of America and the Internal Revenue Service ("IRS") by impeding, impairing, defeating, and obstructing the lawful governmental functions of the IRS in the ascertainment, evaluation, assessment, and collection of income taxes, and to commit offenses against the United States of America, to wit, to violate Title 26, United States Code, Sections 7201 and 7206.

VII. 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:

21. Marlin and Glick caused AAMM, a shell company owned and controlled by Martin Schwartz, and New Horizons Litho, an entity controlled by Glick, to issue numerous false and fraudulent invoices to Caysun totaling approximately \$217,000. These invoices were false and fraudulent because they purported to represent the sale of goods and/or services that had never been provided and were not intended to be provided to Caysun. Marlin separately caused

a shell company named “K&S,” also owned and controlled by Martin Schwartz, to issue at least two false and fraudulent invoice to Caysun totaling approximately \$8000. These invoices were similarly false and fraudulent because they purported to represent the sale of goods and/or services that had never been provided and were not intended to be provided to Caysun.

22. Marlin caused Caysun to issue checks in payment of the AAMM invoices, which he gave to Glick, who, in turn, gave them to Schwartz. Schwartz cashed the checks and returned a substantial percentage, approximately 93%, of the value of the checks in cash to Glick. Marlin similarly caused Caysun to issue checks in payment of the New Horizons Litho invoices, which Glick converted a substantial portion of into cash through another co-conspirator. Marlin also caused Caysun to issue checks in payment of the K&S invoices, in exchange for which he received approximtely 93% of their face value in cash.

23. Most of the transactions between Caysun and AAMM were initiated by Glick and related to the scheme to defraud Impact identified in Count One of this Information. As a result, Glick gave most of the cash he received from Schwartz that derived from the transactions between Caysun and AAMM to CC-1 as CC-1's share, in part, of the scheme to defraud Impact. However, Marlin himself initiated some of the transactions with AAMM and, as a result of those transactions, Glick gave Marlin approximately \$61,000 of the cash received from Schwartz. Marlin paid approximately \$40,000 of the cash he received from Glick to purchasing agents at two of Caysun’s customers, and kept the balance, approximately \$20,000 for

himself. Marlin himself initiated the transactions between Caysun and K&S and gave the approximately \$7500 in cash he received as a result of those transactions to a purchasing official at another of Caysun's customers.

24. Marlin caused Caysun to treat the full value of the checks issued to AAMM, K&S, and New Horizons Litho as business expenses in its books and records for calendar years 1997 through 2000, despite the fact that there were no actual business expenses and despite the fact that either he or Glick received a substantial portion of the value of the checks back in cash. Marlin further caused Caysun fraudulently to deduct the value of the checks to AAMM, K&S, and New Horizons Litho on its U.S. Income Tax Returns for an S Corporation, Forms 1120S, for tax years 1997 through 2000 as a business expense.

25. Marlin also caused Caysun to issue checks payable to a member of his immediate family and to report the value of those checks as salary paid to that relative on Forms W-2 issued by Caysun for tax years 1995 through 2000, despite the fact that Marlin cashed and kept the proceeds of those checks for himself.

VIII. OVERT ACTS

In furtherance of the conspiracy, and to effect the objects thereof, the following overt acts were committed in the Southern District of New York, and elsewhere:

26. Between mid- to late 1997 and 2000, Marlin caused Caysun to issue numerous checks to AAMM, K&S, and New Horizons Litho with a face value totaling approximately \$225,000. Marlin gave the checks issued to AAMM and New

Horizons Litho to Glick, and received approximately \$61,000 in cash from Glick.

27. On or about March 15, 1999 and March 15, 2000, Marlin caused Caysun to file U.S. Income Tax Returns for an S Corporation, Forms 1120S, with the IRS that falsely represented checks issued to AAMM or New Horizons Litho as deductible business expenses, despite the fact that Marlin or Glick received a substantial percentage of the value of the checks back in cash.

28. On or about April 15, 1998, April 15, 1999, and April 15, 2000, Marlin and his spouse filed U.S. Individual Income Tax Returns, Forms 1040, with the IRS that falsely represented their true total income by failing to report as income some of the cash that Marlin had received from Glick and money that Marlin caused Caysun to appear to pay to a relative, both of which sums he had in fact kept for his and his spouse's personal benefit.

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

Dated:

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/s/ _____
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