

W. A. HOLWELL

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY
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UNITED STATES OF AMERICA

: Criminal
: Filed:
: Violation: 18 U.S.C. § 371

v.

ROBERT D. ROSENBERG,

Defendant.

10 CRIM 1195

INFORMATION

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

1. ROBERT D. ROSENBERG ("ROSENBERG") is hereby made a defendant on the charge stated below.

COUNT ONE - CONSPIRACY
(18 U.S.C. § 371)

I. RELEVANT PARTIES AND ENTITIES

During the period covered by this Count:

- 2. Defendant ROSENBERG resided in Florham Park, New Jersey.
- 3. Defendant ROSENBERG was employed by an industrial pipe-supply company that was located in Lyndhurst, New Jersey ("Vendor-1"), under a five-year consultancy contract under which he was principally responsible for negotiating and

managing Vendor-1's industrial pipe supply contracts with some of its customers, including Vendor-1's customer, Consolidated Edison of New York ("Con Edison").

4. Con Edison is a regulated utility that provides electric and natural gas service to areas throughout New York City and Westchester County. It is a subsidiary of Consolidated Edison, Inc., which is the nation's largest investor-owned energy company. Con Edison provides electric service to approximately 3.2 million customers and gas service to approximately 1.1 million customers in New York City and Westchester County.

5. "CC-1" was a co-conspirator who was a Department Manager in the Purchasing Department in Con Edison's headquarters in Manhattan, New York. CC-1 was responsible for purchasing equipment and materials, and managing stock and non-stock inventory on behalf of Con Edison. On behalf of Con Edison, CC-1 was responsible for purchasing millions of dollars in goods and services annually from suppliers. During the relevant period, CC-1 had final approval authority for purchases up to \$2.5 million from one source.

6. "CC-2" was a co-conspirator who was the owner and an officer of Vendor-1.

7. 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.

8. 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

9. Con Edison is headquartered in Manhattan, with power plants and offices located throughout New York City and Westchester County. The Purchasing Department located in Con Edison's headquarters in Manhattan selected and contracted with third-party vendors of materials and services for Con Edison facilities and projects. Con Edison is an organization that received federal assistance in excess of \$10,000 during each one-year period between 2003 and 2008.

10. Con Edison had a competitive bidding policy that required its purchasing departments and their employees to obtain competitive bids from vendors before recommending the award of contracts. The purpose of the competitive bidding policy was to ensure that Con Edison obtained products and services at competitive, fair market prices.

11. CC-1 was responsible for purchasing materials and awarding contracts for millions of dollars in goods and services annually for Con Edison, all in accordance with Con Edison's policies and procedures, including Con Edison's competitive bidding policy.

12. Under its Code of Ethics, Con Edison has a strict policy against any employee receiving any gift or benefit offered on the basis of a current or potential

business relationship with Con Edison by any company supplying (or seeking to supply) goods or services to Con Edison.

III. DESCRIPTION OF THE OFFENSE

13. From approximately November 2003 to approximately August 2008, the exact dates being unknown to the United States, in the Southern District of New York and elsewhere, defendant ROSENBERG and his co-conspirators, and others known and unknown, did unlawfully, wilfully and knowingly combine, conspire, confederate, and agree, together and with each other, to commit offenses against the United States, to wit, to violate Title 18, United States Code, Sections 666(a)(2) and 1343, in violation of Title 18, United States Code, Section 371.

14. It was a part and an object of the conspiracy that defendant ROSENBERG and his co-conspirators, and others known and unknown, would and did unlawfully, willfully and knowingly combine, conspire, confederate, and agree, together and with each other, to corruptly give, offer, and agree to give anything of value to CC-1, with the intent to influence and reward CC-1, an agent of an organization, Con Edison, that received federal assistance in excess of \$10,000 in a one-year period, in connection with any business, transaction, and series of transactions of Con Edison involving anything of value of \$5,000 or more, in violation of Title 18, United States Code, Section 666(a)(2); and

15. It was a part and an object of the conspiracy that defendant ROSENBERG, and others known and unknown, unlawfully, willfully, and knowingly, having devised and intending to devise a scheme and artifice to defraud Con Edison, and for obtaining money

and property from Con Edison by means of false and fraudulent pretenses, representations, and promises, did transmit and cause to be transmitted by means of wire, radio, or television communication in interstate or foreign commerce, any writings, signs, signals, pictures, or sounds for the purpose of executing such scheme and artifice, in violation of Title 18, United States Code, Section 1343.

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:

16. During some or all of the period between approximately November 2003 and approximately August 2008, defendant ROSENBERG, CC-2 and others, known and unknown, provided approximately \$297,000 in cash bribes to CC-1 in exchange for which CC-1 steered Con Edison industrial pipe supply contracts to Vendor-1.

17. CC-1 steered a Con Edison industrial pipe supply contract to Vendor-1 by secretly showing defendant ROSENBERG confidential competitor bid information, allowing Vendor-1 to revise its bid prices to be the highest possible winning bid. Vendor-1 submitted its final bid based on its knowledge of the lowest bidder's prices, rather than based on its own independent competitive bid pricing. As a result, Con Edison did not receive competitive bid prices from Vendor-1.

18. In exchange for CC-1's efforts to steer this and other industrial pipe supply contracts to Vendor-1, ROSENBERG, CC-1 and CC-2 agreed to provide CC-1 with a

monthly cash bribe payment of 1% of the orders shipped to and paid for by Con Edison in that month. Defendant ROSENBERG provided the cash bribe payments to CC-1, on behalf of Vendor-1, at monthly dinner meetings with CC-1. Each month, CC-2 calculated the cash bribe due to CC-1 based on the agreed upon payout of 1% of Con Edison orders shipped in the previous month. After confirming with CC-2 that the cash was ready to deliver to CC-1, ROSENBERG would call CC-1 at CC-1's office in New York to schedule a dinner meeting with CC-1 at a restaurant in New Jersey. CC-2 provided the cash bribe payment in an envelope to ROSENBERG. During dinner, ROSENBERG provided, and CC-1 accepted, the envelope containing the cash bribe payment that was prepared by CC-2.

V. OVERT ACTS

19. In furtherance of the conspiracy and to effect the illegal objects thereof, the defendant and his co-conspirators, and others known and unknown, committed the following overt acts, among others, in the Southern District of New York and elsewhere:

- (a) On numerous occasions between approximately November 2003 and approximately August 2008, CC-1 caused Con Edison to issue purchase orders, and defendant ROSENBERG caused Vendor-1 to issue invoices, relating to the industrial pipe supply contracts with Con Edison. Many of these invoices and purchase orders were sent via facsimile or e-mail. Many of these invoices were sent to Con Edison's offices in Manhattan from Vendor-1's offices in New Jersey, and many of these purchase orders were

sent from Con Edison's offices in Manhattan to Vendor-1's offices in New Jersey;

(b) On numerous occasions between approximately November 2003 to approximately August 2008, defendant ROSENBERG met with CC-1 at restaurants in New Jersey and provided CC-1 with bribe payments prepared by CC-2 on behalf of Vendor-1;

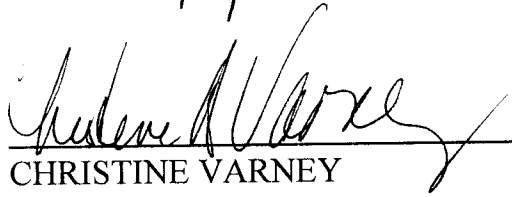
(c) On or about June 15, 2004, an employee of Vendor-1 sent an e-mail with Vendor-1's revised bid for the five-year industrial pipe supply contract to a Con Edison employee;

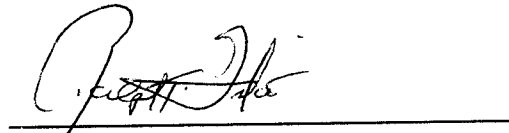
(d) On or about July 16, 2004, CC-1 signed a Request for Authorization to Purchase, dated July 9, 2004, recommending that Con Edison enter into a five-year industrial pipe supply contract with Vendor-1 valued at \$18,000,000;

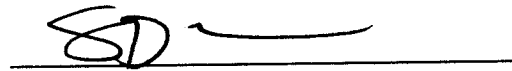
(e) On or about July 29, 2004, CC-1 caused the July 9, 2004 Request for Authorization to Purchase to be e-mailed to another Con Edison employee for approval.

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


Dated: 12/2/10

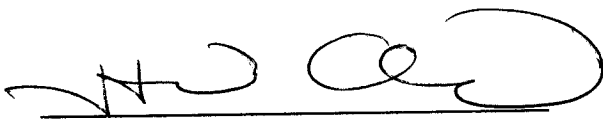

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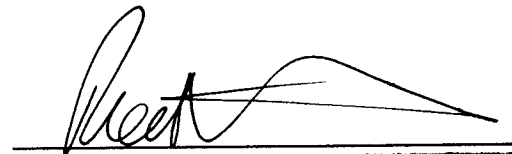

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