

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

	:	Criminal No. <i>09-480</i>
UNITED STATES OF AMERICA	:	Filed:
v.	:	Violation: 18 U.S.C. § 371
FREDERICK LANDGRABER,	:	
Defendant.	:	

INFORMATION

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

1. Frederick Landgraber ("Landgraber") is hereby made a defendant on the charge stated below:

KICKBACK and FRAUD CONSPIRACY
(18 U.S.C. § 371)

I. RELEVANT PARTIES AND ENTITIES

During the period covered by this Information:

2. Landgraber resided in Bridgewater, New Jersey.
3. Landgraber was the President and co-owner of a company located in Martinsville, New Jersey ("Company-1"). Company-1 provided landscaping services as a sub-contractor to a prime contractor ("P-C") on an environmental remediation project at

the Federal Creosote Superfund Site in Manville, New Jersey ("Federal Creosote").

Landgraber was responsible for all of the day-to-day operations of Company-1, including bidding on all sub-contracts between Company-1 and P-C at Federal Creosote.

4. "CC-1" was a co-conspirator who was an employee of P-C at Federal Creosote and was influential in the award of sub-contracts. CC-1 owned and operated a shell company ("Vendor-1") during his employment with P-C. Vendor-1 operated out of addresses associated with CC-1's wife's flower shop, CC-1's home and CC-1's parents' home.

5. 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.

6. 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

7. Federal Creosote was an environmental remediation project that was partly funded by the Environmental Protection Agency ("EPA"). Federal Creosote occupies 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. Since late 1999, the United States Army Corps of Engineers (“USACE”) has overseen 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 at the site.

8. 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. As the prime contractor, P-C was paid a fixed fee plus the cost of the remedial action by the EPA.

9. 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. 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.

10. CC-1 was responsible for soliciting bids from vendors for sub-contracts in excess of \$5,000 and otherwise ensuring that P-C's procurement process at Federal Creosote was in accordance with the FAR. In addition, CC-1 was responsible for acquiring supplies and services in connection with purchases less than \$5,000 at Federal Creosote, which were not subject to the FAR's competitive bidding policy.

11. 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

12. From approximately March 2002 until approximately June 2005, the exact dates being unknown to the United States, in the District of New Jersey and elsewhere, Landgraber and his co-conspirators, and others known and unknown, unlawfully, willfully and knowingly did combine, conspire, 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, Section 53(1), in violation of Title 18, United States Code, Section 371.

13. It was a part and an object of the conspiracy that Landgraber 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-1 at Federal Creosote, in violation of Title 41, United States Code, Section 53(1).

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:

14. During some or all of the period from approximately March 2002 until approximately June 2005, Landgraber provided kickbacks to CC-1 in order to influence the award of landscaping sub-contracts to Company-1 at Federal Creosote. The kickbacks that Landgraber provided to CC-1 included landscaping services to CC-1 and CC-1's family members and friends, and approximately \$30,020 in payments to Vendor-1, all of which were paid according to CC-1's directions to Landgraber.

15. As part of the fraudulent scheme and in return for Landgraber's payment of kickbacks to CC-1, CC-1 steered approximately \$1,500,000 in sub-contracts to Company-1 at Federal Creosote during the period charged. CC-1 was able to steer all of these landscaping sub-contracts to Company-1 by not soliciting bids from other landscaping companies and by instructing Landgraber to prepare and submit fraudulent

bids, in order to create the false impression that sub-contracts had been awarded based on competitive bids.

16. Landgraber prepared and submitted to P-C fraudulent bids with intentionally high prices (i.e. cover bids) from four fictitious companies, using the names of friends and acquaintances as the points of contact without their consent, on at least ten separate occasions, in addition to bids from Company-1. CC-1 then submitted these cover bids along with Company-1's bids to USACE as justification for awarding sub-contracts to Company-1. As a result of this scheme, the EPA paid more for these sub-contracts than it otherwise would have if the FAR regulations were followed.

V. OVERT ACTS

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

(a) On or about March 4, 2002, Landgraber submitted to P-C a cover bid for landscaping services using a fictitious entity in order to create the false impression that the landscaping sub-contract steered to Company-1 was competitively bid.

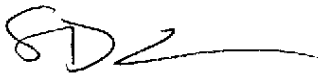
(b) On or about May 12, 2004, in an e-mail, CC-1 requested kickbacks from Landgraber in the form of landscaping services for CC-1's residence in New Jersey;

(c) On or about August 24, 2004, Landgraber caused Company-1 to issue a Company-1 check to Vendor-1 for \$13,000 in payment of a false and fraudulent Vendor-1 invoice;

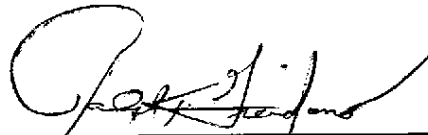
(d) On or about September 1, 2004, Landgraber caused Company-1 to issue a Company-1 check to Vendor-1 for \$13,000 in payment of a false and fraudulent Vendor-1 invoice.

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

Dated: June 25, 2009



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