

DEC 12 2011

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF VIRGINIA  
ROANOKE DIVISION

JULIA C. DUDLEY, CLERK  
BY: *R. Collins*  
DEPUTY CLERK

UNITED STATES OF AMERICA	)	Criminal Number	<u>7:11 CR 00086</u>
	)		
v.	)	In violation of:	
	)	18 U.S.C. § 1349	
GARY L. JOHNS	)	26 U.S.C. § 7206(1)	

**INFORMATION**

THE UNITED STATES ATTORNEY CHARGES THAT:

**INTRODUCTION**

At all times material to this Information:

1. Defendant **GARY L. JOHNS** was a resident of Salem, Virginia. **JOHNS** was a proprietor of Salem Commercial Design, an unincorporated business located in Salem, Virginia.
2. Medical Facilities of America, Inc., a Virginia corporation with its headquarters in Roanoke, Virginia, owned and operated healthcare and nursing home facilities throughout Virginia. The company is affiliated with Medical Facilities of North Carolina, Inc., which owned and operated similar facilities in North Carolina, and Retirement Unlimited, Inc., which operated retirement communities in Virginia. These entities are referred to hereinafter collectively as "MFA."
3. From at least July 2005 to at least December 2006, MFA required that capital expenditures such as equipment purchases, repairs and maintenance costing over \$500 be documented on Capital Expenditure Request forms (CERs). When MFA let contracts for maintenance, repairs, renovation projects, or the purchase of equipment, it was MFA policy to obtain competitive price quotations from at least three vendors prior to the award of such

contracts. Bids received by MFA were documented on and included with the CERs submitted to corporate officials for approval prior to the award of contracts. Other times, as when a matter was an emergency or time was of the essence, MFA policy permitted the award of contracts upon receipt of a single price quotation. MFA maintained corporate policies prohibiting its employees from engaging in activities in which their personal interests would interfere with company business, including prohibiting employees from soliciting, or attempting to solicit, anything of value from anyone doing or attempting to do business with MFA, and prohibiting them from accepting bribes, including kickbacks, in connection with any transaction.

4. From at least July 2005 through December 22, 2006, co-conspirator 1 (“CC-1”) was the Director of Corporate Maintenance and Renovations at Medical Facilities of America, Inc. CC-1's duties included overseeing maintenance, repairs and renovations of the various MFA locations throughout Virginia. CC-1 also was responsible for obtaining quotes from contractors and vendors for capital improvements and equipment purchases, and for initially reviewing CERs prior to their submission to his/her supervisors for review and approval.

5. During the period July 2005 to at least November 2006, MFA awarded contracts to Salem Commercial Design pursuant both to its competitive quote process and its emergency award process, to perform work at MFA facilities throughout Virginia.

**COUNT ONE**  
**(Conspiracy – 18 U.S.C § 1349)**

The United States Attorney charges:

6. Paragraphs 1 through 5 of the Introduction are incorporated by reference into this Count of the Information as if fully set forth herein.

**CONSPIRACY**

7. From in or about March 2006 and continuing until at least December 2006, the exact dates being unknown, in the Western District of Virginia and elsewhere, defendant **GARY L. JOHNS** willfully and knowingly combined, conspired, confederated and agreed with CC-1 and other co-conspirators, both known and unknown, to the United States, to violate Title 18, United States Code, Section 1341, to wit, to devise with intent to defraud a scheme and artifice to defraud and to obtain money by means of materially false and fraudulent pretenses, representations, and promises, and for the purpose of executing or attempting to execute the aforesaid scheme and artifice, operated in substance as follows:

**THE MANNER AND MEANS BY WHICH  
THE CONSPIRACY WAS CARRIED OUT**

The conspiracy was carried out in the following manner and means, among others:

8. In or about March 2006, **JOHNS** agreed with CC-1 to defraud MFA by, among other things, having CC-1 use his/her position at MFA to circumvent MFA's competitive procurement process and steer contracts to Salem Commercial Design in return for monetary payments to CC-1. **JOHNS**, CC-1, and other co-conspirators, by their acts in furtherance of the conspiracy, enriched or attempted to enrich themselves and deprived MFA of competitive pricing for maintenance, repair and renovation work to the financial detriment of MFA.

9. From in or about March 2006 through at least November 2006, CC-1 would use his/her position at MFA to steer contracts to Salem Commercial Design by, among other things:

(a) creating or causing others to create fictitious competitor quotes to MFA that were higher than the quotes submitted by Salem Commercial Design, to create the false appearance of competition, and

(b) soliciting or directing subordinates to solicit quotes for MFA only from Salem Commercial Design.

**OVERT ACTS**

In furtherance of the conspiracy and to effect the illegal objects thereof, the following overt acts, among others, were committed in the Western District of Virginia and elsewhere:

10. From in or about March 2006 through at least November 2006, Salem Commercial Design paid CC-1 over \$124,000 in kickbacks in return for MFA contracts.
11. At various times from in or about March 2006 through November 2006, MFA made payments to Salem Commercial Design totaling more than \$1,000,000 in connection with MFA contracts that were subject to the kickback scheme.
12. For the purpose of executing or attempting to execute the above-described scheme and artifice to defraud, **JOHNS** knowingly caused to be delivered by United States Postal Service to Salem, Virginia, according to the direction thereon, in the Western District of Virginia, several of the checks with which MFA paid Salem Commercial Design in response to invoices Salem Commercial Design submitted to MFA, including a check for \$75,000 mailed on or about November 21, 2006, in response to an invoice dated November 20, 2006, which Salem Commercial Design submitted to MFA.
13. All in violation of Title 18, United States Code, Section 1349.

**COUNT TWO**

**(Making and Subscribing False Tax Return – 26 U.S.C § 7206(1))**

The United States Attorney charges:


14. Paragraph 1 of the Introduction and paragraph 10 of Count One are incorporated by reference into this Count of the Information as if fully set forth herein.

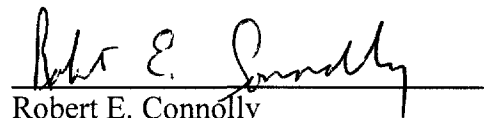
15. That on or about the 16<sup>th</sup> day of April 2007, in the Western District of Virginia, **GARY L. JOHNS**, a resident of Salem, Virginia, did willfully make and subscribe a joint U.S. Individual Income Tax Return, for the calendar year 2006, which was verified by a written declaration that it was made under the penalties of perjury and which he did not believe to be true and correct as to every material matter. That income tax return, which was filed with the Internal Revenue Service, reported business income on line 12 in the amount of \$283,397, whereas, as he then and there well knew and believed, his true business income was substantially greater in amount.

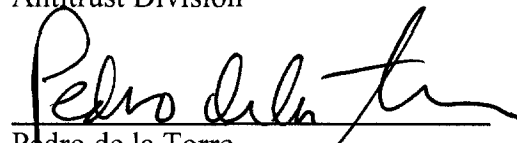
16. All in violation of Title 26, United States Code, Section 7206(1).

12/12/11  
Date

11/1/11  
Date

  
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