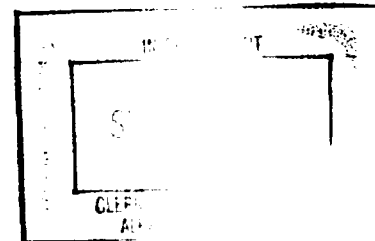


UNDER SEAL

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA

Alexandria Division



UNITED STATES OF AMERICA)	CRIMINAL NO. 1:14CR324
)	
)	<u>Count 1</u> : 18 U.S.C. § 371
v.)	(Conspiracy to Solicit Bribes by a Public
)	Official and to Defraud the United States)
)	
WESLEY ALLEN RUSSELL,)	<u>Count 2</u> : 18 U.S.C. § 666(a)(1)(B) and 18
)	U.S.C. § 2
)	(Solicitation of Bribe Concerning Program
)	Receiving Federal Funds)

INDICTMENT

September 2014 Term – At Alexandria

THE GRAND JURY CHARGES THAT:

GENERAL ALLEGATIONS

At all times relevant to this Indictment:

The National Guard Bureau

1. The Army National Guard (“ARNG”) was part of the National Guard of the United States and was divided into 54 units stationed across each of the 50 states and the U.S. territories. The National Guard Bureau (“NGB”) was a joint activity of the U.S. Department of Defense (“DOD”), the state ARNGs, and the Departments of the Army and Air Force. The NGB administered policies and oversaw federal funding for state ARNGs that affected the federal mission of National Guard, and acted as the official conduit between the states and the Departments of the Army and Air Force. The NGB offices were located in Arlington, Virginia, within the Eastern District of Virginia.

2. The DOD provided federal funds to the ARNG for, among other things, advertising, marketing, and sponsorships in order to recruit new members. In turn, the ARNG, acting through the NGB, provided a portion of these monies to private businesses to promote the ARNG through marketing programs. NGB could award these contracts directly, avoiding a competitive bid process, by awarding these contracts to Small Business Administration (“SBA”) 8(a) businesses (an “8(a) companies”), which are businesses that qualify as a minority owned business by the SBA.

3. The NGB also provided policies, requirements, and DOD funds directly to the 54 ARNG units also for, among other things, training, recruiting, marketing, and advertising. Specifically, the Indiana ARNG received more than \$10,000 in recruitment and retention funding from the NGB. That is, the Indiana ARNG received millions of dollars in or about fiscal years 2010, 2011, 2012, and 2013, respectively, in recruitment and retention funding from the NGB. Thus, at all times material to this Indictment, the Indiana ARNG was an agency of a state, local or tribal government that received federal assistance in excess of \$10,000 in each of the years 2010, 2011, 2012, and 2013, as defined in Title 18, United States Code, Section 666(b).

4. Within the ARNG, there were seven administrative committees called Recruiting and Retention Advisory Committees (“RRACs”). Although RRACs had no formal command authority and did not directly control DOD funding, RRACs functioned to share ideas on retention and recruiting among ARNG recruiting leadership within their respective geographic regions. Each RRAC committee was referred to by a Roman numeral from I to VII.

Relevant Individuals

5. The defendant, WESLEY ALLEN RUSSELL (“RUSSELL”), was a Lieutenant Colonel in the Indiana ARNG whose official duties included acting as Indiana’s Recruiting and

Retention Commander. In RUSSELL's position at the Indiana ARNG, RUSSELL had influence over the awarding of Indiana ARNG marketing contracts. Also, in his role as a RRAC chair, RUSSELL had influence over the awarding of other state ARNG's marketing contracts. RUSSELL was an agent of the Indiana ARNG as defined in Title 18, United States Code, Section 666(d)(1), whose duties included assisting in retention and recruitment contracting.

6. Individual A was the owner of Company A, a marketing and advertising firm located in Alexandria, Virginia, within the Eastern District of Virginia, that obtained millions of dollars in ARNG contracts between in or about the fall of 2009 through in or about the spring of 2013.

7. Coconspirator B was the President and Chief Executive Officer of Company B, a program management and consulting firm that received ARNG contracts. Coconspirator B formed Company B after he retired in from the Minnesota ARNG in 2011 with the rank of and after working for Company A.

8. Coconspirator C retired from the ARNG as Colonel. At the ARNG, Coconspirator C worked as the head of the Marketing and Advertising Division of the NGB, which administers ARNG marketing and recruitment contracts.

COUNT 1
**(Conspiracy to Solicit Bribe Concerning Programs Receiving
Federal Funds and to Defraud the United States)**

THE GRAND JURY FURTHER CHARGES THAT:

9. Paragraphs 1 through 8 of this Indictment are re-alleged as if fully set forth herein.

THE CONSPIRACY AND ITS OBJECTS

10. From in or about September 2012, and continuing through in or about March 2013, in the Eastern District of Virginia and elsewhere, RUSSELL, a Colonel in the Indiana ARNG, knowingly and intentionally combined, conspired, and agreed, with Individual A, Coconspirator B, Coconspirator C, and others to:

(a) commit an offense against the United States, that is, RUSSELL did, and did attempt to, corruptly solicit, demand, accept, and agree to accept a thing of value from a person, intending to be influenced and rewarded in connection with any transaction and series of transactions of the Indiana ARNG involving \$5,000 or more, contrary to Title 18, United States Code, Section 666(a)(1)(B); and

(b) defraud the United States by impairing, impeding, and defeating the lawful functions of the NGB.

NATURE AND PURPOSE OF THE CONSPIRACY

11. It was the nature and purpose of the conspiracy for RUSSELL to profit personally by corruptly seeking, soliciting, and directing that things of value be paid to the defendant and in return for the defendant's intention to be influenced and rewarded in connection with the business, transactions, and series of transactions of the Indiana ARNG involving the defendant's

performance of official acts to influence and steer contracts to Individual A and Company A that exceed \$5,000 in value.

MANNER AND MEANS OF THE CONSPIRACY

12. In furtherance of the conspiracy, and to accomplish its objects, the following methods and means were used, among others:

a. RUSSELL corruptly sought, solicited, demanded, accepted, and agreed to accept from Individual A things of value, namely dinner expenses, strip club expenses, and a percentage kickback on all profits that Company A received from the state ARNGs on contracts that RUSSELL had influenced.

b. Specifically, RUSSELL corruptly solicited, demanded, accepted and agreed to accept a kickback of 15% of all profits that Company A received from selling Company A's Tech Boxes to state ARNGs, including the Indiana ARNG. Company A's Tech Boxes were a mobile box that had a touch screen attached. The box would show potential recruits videos of the different types of jobs available within the ARNG. Company A's Tech Boxes were priced at more than \$5,000, at approximately \$30,000 to \$35,000 each.

c. RUSSELL, Individual A, Coconspirator B, and Coconspirator C agreed that for each Tech Box that Company A would sell to the Indiana ARNG and other state ARNGs, Company A would pay 30% of the profits to Company B. Company B would then keep half (15%) of those profits for Coconspirator B having arranged this agreement by introducing RUSSELL and Individual A. The remaining half (15%) would then be provided to RUSSELL as a kickback payment.

d. In order to receive his half (15%) kickback, RUSSELL agreed to and did use his influence, in his official capacity, to reach out to the Indiana ARNG as well as other state ARNGs to encourage them to purchase Company A's Tech Boxes.

OVERT ACTS

In furtherance of the conspiracy, and to affect the objects thereof, the following overt acts were committed within the Eastern District of Virginia and elsewhere:

13. On or about November 14, 2012 RUSSELL emailed state ARNG officials, promoting Company A's Tech Boxes and encouraging the state ARNG officials to buy at least one.

14. On or about December 5, 2012, RUSSELL accepted payments for dinner at the Palm Restaurant in McLean, Virginia, within the Eastern District of Virginia and a strip club trip in Washington, District of Columbia, from Individual A. Coconspirator B and Coconspirator C were also present and accepted these payments. During dinner and the drive to the strip club, RUSSELL, Individual A, and Coconspirator C discussed Company A's Tech Boxes. RUSSELL, Individual A, and Coconspirator C agreed that Individual A would pay a 30% kickback to Company B which would be split by Coconspirator C, Coconspirator B, and RUSSELL.

(All in violation of Title 18, United States Code, Section 371.)

COUNT 2

(Solicitation of Bribe Concerning Programs Receiving Federal Funds)

THE GRAND JURY FURTHER CHARGES THAT:

15. Paragraphs 1 through 7 and paragraphs 11 through 14 of this Indictment are re-alleged as if fully set forth herein.

16. From in or about September 2012, and continuing through to in or about March 2013, within the Eastern District of Virginia, and elsewhere, RUSSELL did, and did attempt to, corruptly solicit, demand, accept, and agree to accept a thing of value from a person, intending to be influenced and rewarded in connection with any transaction and series of transactions of the Indiana ARNG involving \$5,000 or more, namely:

a. On or about December 5, 2012, Individual A paid for dinner at the Palm Restaurant in McLean, Virginia, within the Eastern District of Virginia, and a strip club visit in Washington, District of Columbia, for RUSSELL, Coconspirator B, and Coconspirator C, and others. During dinner and the drive to the strip club, RUSSELL, Individual A and Coconspirator C discussed Company A's Tech Boxes. RUSSELL, Individual A, and Coconspirator C agreed that Individual A would pay a kickback to Company B, which would be split by RUSSELL and Coconspirator B.

(All in violation of Title 18, United States Code, Section 666(a)(1)(B) and Title 18, United States Code, Section 2.)

FORFEITURE NOTICE

Pursuant to Federal Rule of Criminal Procedure 32.2(a), the defendant is notified that upon conviction of the offenses alleged in Counts 1-2 of this Indictment, he shall forfeit any property, real or personal, which he obtained directly or indirectly and which constitutes or is derived from proceeds traceable to the offenses of conviction. If property subject to forfeiture is not available, the United States will seek an order forfeiting substitute assets in accordance with Title 21, United States Code, Section 853(p).

(In accordance with Title 18, United States Code, Section 981(a)(1)(D)(i); Title 28, United States Code, Section 2461(c); and Title 18, United States Code, Section 982(a)(3)(A).)

DATED this ____ day of September 2014
A TRUE BILL

Pursuant to the E-Government Act,
the original of this page has been filed
under seal in the Clerk's Office.

Foreperson of the Grand Jury


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