



UNITED STATES ATTORNEY'S OFFICE
Southern District of New York

U.S. ATTORNEY PREET BHARARA

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CONTACT: U.S. ATTORNEY'S OFFICE
James Margolin, Jennifer Queliz,
Betsy Feuerstein, Dawn Dearden
(212) 637-2600

HUD-OIG
Christina Scaringi
(212) 542-7277

**CONTRACTORS AND DEVELOPER CHARGED IN WHITE PLAINS
FEDERAL COURT WITH CONSPIRACY, FRAUD, AND KICKBACK
SCHEME**

Preet Bharara, the United States Attorney for the Southern District of New York, and Christina Scaringi, Special Agent in Charge, Department of Housing and Urban Development, Office of the Inspector General ("HUD-OIG"), Northeast Region, announced today the return of a Superseding Indictment charging MICHAEL BARNETT, ROBERT LEES, and KEVIN DICELLO with conspiracy, fraud, and false statement charges in connection with the development of Vineyard Commons, a luxury residential complex in Ulster County, New York. This case is assigned to Judge Kenneth M. Karas.

Manhattan U.S. Attorney Preet Bharara said: "Michael Barnett allegedly abused his position as the developer of Vineyard Commons to enrich himself and defraud his construction lender and, ultimately, the U.S. Department of Housing and Urban Development, which guaranteed the construction loan. As charged, Robert Lees and Kevin DiCello were all too willing to go along with Barnett's demand for an \$865,000 kickback so that they could get more business from Barnett in the future."

HUD-OIG Special Agent in Charge Christina Scaringi said: "These defendants were entrusted to use federally-insured funds to provide decent affordable housing for our senior citizens. Instead, as alleged, they lied to the lender and siphoned project funds to satisfy their greed. The HUD OIG will not tolerate this behavior and is committed to rooting out those who choose to engage in these outrageous acts."

According to the allegations made in the Superseding Indictment¹:

BARNETT, who was the developer of Vineyard Commons, sought kickbacks and investments from subcontractors and vendors on the project and made false statements to the project's lender so that he could draw down on the project's line of credit. LEES and DICELLO

¹ As the introductory phrase signifies, the entirety of the text of the Superseding Indictment and the description of the Superseding Indictment set forth below constitute only allegations, and every fact described should be treated as an allegation.

were a division president and vice president of operations, respectively, for a subcontractor and vendor that provided rough carpentry and lumber supplies on the project (the "Lumber Company"). The indictment charges that LEES and DICELLO agreed to have their employer pay BARNETT a kickback of approximately \$865,000 in exchange for the Vineyard Commons contract, as well as future business on other developments BARNETT was planning.

BARNETT, LEES, and DICELLO entered into an agreement by which the Lumber Company inflated its bid for labor and materials by approximately \$865,000, which would be paid to BARNETT as a kickback from the Lumber Company.

The defendants intended that the kickback would be funded unwittingly by the construction lender, and ultimately by HUD through its guaranty of the construction loan, through the submission of false and inflated requests to draw down the construction loan.

In January 2010, the Lumber Company made a partial kickback payment of \$200,000 to BARNETT, and the defendants disguised the transaction on the Lumber Company's books by making it appear to be a customer rebate payable to a company controlled by BARNETT that was not involved in the development of Vineyard Commons. BARNETT then used the \$200,000 as a partial payment of an obligation he had to the general contractor on Vineyard Commons.

BARNETT solicited subcontractors and vendors on the Vineyard Commons project, including the Lumber Company, to provide labor and materials to build a pool house at his home. Some of these subcontractors and vendors, including the Lumber Company, agreed to do so.

BARNETT submitted false invoices to the construction lender in order to enrich himself fraudulently by drawing down the loan.

The defendants and the counts with which they are charged in the Superseding Indictment are set forth in the attached list.

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Mr. Bharara thanked the HUD-OIG for its outstanding work on the investigation. This case is being handled by the Office's White Plains Division. Assistant United States Attorneys Michael Maimin and James McMahon are in charge of the prosecution.

The charges contained in the Superseding Indictment are merely accusations, and the defendants are presumed innocent unless and until proven guilty.

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U.S. v. Michael Barnett et al.

Defendant	Age	Residence	Charges and Maximum Penalties
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Michael Barnett	46	Hopewell Junction, New York	<p>Conspiracy, in violation of Title 18, United States Code, Section 371 (one count): 5 years in prison</p> <p>Wire fraud, in violation of Title 18, United States Code, Sections 1343 and 2 (twelve counts): 30 years in prison per count</p> <p>Mail fraud, in violation of Title 18, United States Code, Sections 1341 and 2 (one count): 30 years in prison</p> <p>False statements in loan and credit applications, in violation of Title 18, United States Code, Sections 1014 and 2 (23 counts): 30 years in prison per count</p> <p>Engaging in monetary transactions in property derived from specified unlawful activity, in violation of Title 18, United States Code, Sections 1957 and 2 (one count): 10 years in prison</p> <p>False statements, in violation of Title 18, United States Code, Sections 1001(a) and 2 (three counts): five years in prison per count</p>
Robert Lees	61	Lititz, PA	<p>Conspiracy, in violation of Title 18, United States Code, Section 371 (one count): 5 years in prison</p> <p>Mail fraud, in violation of Title 18, United States Code, Sections 1341 and 2 (one count): 30 years in prison</p> <p>False statements in loan and credit applications, in violation of Title 18, United States Code, Sections 1014 and 2 (one count): 30 years in prison</p>
Kevin DiCello	43	Pottsville, PA	<p>Conspiracy, in violation of Title 18, United States Code, Section 371 (one count): 5 years in prison</p> <p>Mail fraud, in violation of Title 18, United States Code, Sections 1341 and 2 (one count): 30 years in prison</p> <p>False statements in loan and credit applications, in violation of Title 18, United States Code, Sections 1014 and 2 (one count): 30 years in prison</p>