

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
WESTERN DIVISION

UNITED STATES OF AMERICA)
) No. _____
) Violations: Title 18, United States
) Code, Sections 1001(a)(2), 1341,
v.) 1346, and 1951
MARK E. BIXBY)

COUNT ONE

The DECEMBER 2011 GRAND JURY charges:

1. At times material to this indictment:

(a) Defendant MARK E. BIXBY was employed as the Energy Director for the City of Rockford, Illinois.

(b) As the Energy Director, defendant MARK E. BIXBY managed and supervised the City of Rockford’s Energy Division.

(c) The City of Rockford’s Energy Division served as the Local Administrative Agency for the Illinois Home Weatherization Assistance Program (“IHWAP”) in Winnebago and Boone Counties.

(d) The purpose of the IHWAP was to help low-income residents save energy and money.

(e) Services provided through the IHWAP program included repairing and replacing heating systems, and repairing and replacing windows and doors.

(f) Only two contractors were approved by the Rockford Energy Division to repair and install heating systems under the IHWAP program in Winnebago and Boone

Counties. One of these contractors was a business (“Business A”) owned and operated by “Individual A.”

(g) Only two contractors were approved by the Rockford’s Energy Division to do architectural work, including repairing and replacing windows and doors, under the IHWAP program in Winnebago and Boone Counties. One of these contractors was a business owned and operated by “Individual B.”

(h) As the Energy Director, defendant had to approve purchase orders for all work performed by contractors under the IHWAP program.

2. From at least as early as December 2006, and continuing to at least March 2010, at Rockford, in the Northern District of Illinois, Western Division, and elsewhere,

MARK E. BIXBY,

defendant herein, knowingly devised, intended to devise, and participated in a scheme to defraud and to obtain money and property belonging to Individual A, Business A, and Individual B, by means of materially false and fraudulent pretenses, representations, and promises, which scheme is further described below.

3. It was part of the scheme that defendant MARK E. BIXBY fraudulently obtained at least \$51,101.33 in funds and benefits from Individual A and Business A and at least \$2,000 in funds from Individual B by making false representations, including that he would make lease payments on a car, that he would give funds to charities, that he would sell title to cemetery plots, and that he would pay back a loan.

Funds and Benefits Obtained from Individual A and Business A

Pontiac Solstice

4. It was a part of the scheme that in approximately December of 2006, defendant MARK E. BIXBY informed Individual A that he wanted Individual A and Business A to “lease” a vehicle to defendant, for which defendant promised he would make lease payments, well knowing that he would not make any lease payments to Individual A or Business A.

5. It was further a part of the scheme that defendant MARK E. BIXBY informed Individual A that the specific vehicle he wanted Business A to lease to him was a new Pontiac Solstice.

6. It was further a part of the scheme that, pursuant to defendant MARK E. BIXBY’s directive, on approximately December 23, 2006, Individual A purchased, through Business A, a 2007, red, two-door, convertible Pontiac Solstice for approximately \$29,000.

7. It was further a part of the scheme that, shortly after Individual A purchased the vehicle, defendant MARK E. BIXBY picked up the Pontiac Solstice from Individual A.

8. It was further a part of the scheme that defendant MARK E. BIXBY never paid Individual A or Business A any “lease” payments for the Pontiac Solstice.

9. It was further a part of the scheme that defendant did not pay any of the expenses or fees associated with the Pontiac Solstice, such as the insurance expenses or license renewal fees, but instead required Individual A to pay those expenses and fees.

10. It was further a part of the scheme that defendant MARK E. BIXBY kept the Pontiac Solstice and used it until approximately March of 2010, when the ownership of the

vehicle by Business A was discovered during certain civil litigation in which defendant was involved.

Charitable Donations

11. It was further a part of the scheme that from approximately October through December of 2007, defendant MARK E. BIXBY solicited Individual A for charitable donations by falsely telling Individual A that the donations would be used to pay for massages and a Christmas dinner for disabled children.

12. It was further a part of the scheme that defendant MARK E. BIXBY caused Business A to write three checks, totaling \$5,775, payable to a business owned by defendant's wife, for alleged donations for massages and Christmas dinner for disabled children, knowing that the funds would not be used for the benefit of disabled children.

13. It was further a part of the scheme that from approximately January through March of 2008, defendant MARK E. BIXBY solicited Individual A for charitable donations by falsely telling Individual A that the donations would be used for a fund that would benefit the family of a recently deceased Rockford civic leader.

14. It was further a part of the scheme that, based on these false statements, defendant MARK E. BIXBY caused Business A to write six checks, totaling \$12,665, payable to Amcore Bank.

15. It was further a part of the scheme that defendant MARK E. BIXBY deposited the six checks totaling \$12,665 into his personal checking account at Amcore Bank and used those funds for his own personal expenses.

Cemetery Plots

16. It was further a part of the scheme that in approximately November of 2008, defendant MARK E. BIXBY solicited Individual A to purchase certain cemetery plots from him for \$2,980, well knowing that he had no intention of giving Individual A title to the plots.

17. It was further a part of the scheme that after he received the \$2,980 from Individual A, defendant MARK E. BIXBY never delivered the titles or deeds to these cemetery plots to Individual A.

Funds Obtained from Individual B

18. It was further a part of the scheme that in July of 2009, defendant MARK E. BIXBY solicited Individual B for a \$2,000 “loan” for the benefit of defendant’s mother, well knowing that he had no intention of using the money for his mother’s benefit or paying back the money.

19. It was further a part of the scheme that after Individual B gave defendant MARK E. BIXBY the \$2,000, defendant never repaid the money.

Concealment of the Fraud Scheme

20. It was further a part of the scheme that defendant MARK E. BIXBY misrepresented, concealed, and hid, and caused to be misrepresented, concealed, and hidden,

the true purposes of the acts done in furtherance of his fraud scheme, including by lying, and encouraging Individual A to lie, at a Citation to Discover Assets proceeding, which related to certain civil litigation in which defendant was involved.

21. On or about November 8, 2008, at Machesney Park, in the Northern District of Illinois, Western Division, and elsewhere,

MARK E. BIXBY,

defendant herein, for the purpose of executing the aforesaid scheme, and attempting to do so, knowingly did cause to be placed in an authorized depository for mail matter, to be sent and delivered by the United States Postal Service, an envelope containing a check in the amount of \$666, drawn on the account of Business A at Alpine Bank, payable to “Standard Mutual Insurance,” that envelope being addressed to:

Standard Mutual Insurance
1028 South Grand Avenue West
P.O. Box 19267
Springfield, IL 62794-9267

In violation of Title 18, United States Code, Sections 1341.

COUNT TWO

The DECEMBER 2011 GRAND JURY further charges:

1. Paragraphs 1 through 20 of Count One of this indictment are realleged here.
2. On or about April 15, 2009, at Machesney Park, in the Northern District of Illinois, Western Division, and elsewhere,

MARK E. BIXBY,

defendant herein, for the purpose of executing the aforesaid scheme, and attempting to do so, knowingly did cause to be placed in an authorized depository for mail matter, to be sent and delivered by the United States Postal Service, an envelope containing a check in the amount of \$652, drawn on the account of Business A at Alpine Bank, payable to “Standard Mutual Insurance,” that envelope being addressed to:

Standard Mutual Insurance
1028 South Grand Avenue West
P.O. Box 19267
Springfield, IL 62794-9267

In violation of Title 18, United States Code, Section 1341.

COUNT THREE

The DECEMBER 2011 GRAND JURY further charges:

1. Paragraph 1 of Count One is realleged here.

2. From at least as early as December 2006, and continuing to at least March 2010, at Rockford, in the Northern District of Illinois, Western Division, and elsewhere,

MARK E. BIXBY,

defendant herein, knowingly devised, intended to devise, and participated in a scheme to defraud the City of Rockford, Illinois, and its citizens of the intangible right to the defendant's honest services through bribery, which scheme is further described below.

3. It was a part of the scheme that defendant MARK E. BIXBY used his official position as the Energy Director for the City of Rockford to solicit and receive things of value from other persons in exchange for his performance of his duties as the Energy Director. Defendant concealed from the City of Rockford the material fact that he solicited and received things of value in exchange for the performance of his official duties.

4. It was further a part of the scheme that defendant MARK E. BIXBY solicited Individual A to obtain a new Pontiac Solstice for BIXBY's use. When Individual A initially resisted defendant's request to purchase a new Pontiac Solstice for him, defendant implied that defendant should be compensated by Individual A for defendant's approval of IHWAP purchase orders for Business A.

5. It was further a part of the scheme that by refusing to pay anything to Individual A or Business A for the Pontiac Solstice, defendant MARK E. BIXBY required

Business A to pay the expenses and fees associated with the Pontiac Solstice, including the insurance payments and license renewal fees.

6. It was further a part of the scheme that defendant MARK E. BIXBY solicited Individual A to purchase cemetery plots from defendant. When Individual A initially resisted defendant's solicitation to purchase the cemetery plots, defendant repeatedly pressured Individual A until he finally gave in and paid defendant \$2,980.

7. It was further a part of the scheme that defendant MARK E. BIXBY never gave Individual A title to the cemetery plots.

8. On or about November 24, 2008, at Machesney Park, in the Northern District of Illinois, Western Division, and elsewhere,

MARK E. BIXBY,

defendant herein, for the purpose of executing the aforesaid scheme, and attempting to do so, knowingly did cause to be placed in an authorized depository for mail matter, to be sent and delivered by the United States Postal Service, an envelope containing a check in the amount of \$78, drawn on the account of Individual A's business at Alpine Bank, payable to "Secretary of State – License Renewal," that envelope being addressed to:

Secretary of State – License Renewal
3701 Winchester Road
Springfield, IL 62707-9700

In violation of Title 18, United States Code, Sections 1341 and 1346.

COUNT FOUR

The DECEMBER 2011 GRAND JURY further charges:

1. Paragraphs 1 through 7 of Count Three of this indictment are realleged here.
2. On or about November 13, 2009, at Machesney Park, in the Northern District of Illinois, Western Division, and elsewhere,

MARK E. BIXBY,

defendant herein, for the purpose of executing the aforesaid scheme, and attempting to do so, knowingly did cause to be placed in an authorized depository for mail matter, to be sent and delivered by the United States Postal Service, an envelope containing a check in the amount of \$79, drawn on the account of Individual A's business at Alpine Bank, payable to "Secretary of State – License Renewal," that envelope being addressed to:

Secretary of State – License Renewal
3701 Winchester Road
Springfield, IL 62707-9700

In violation of Title 18, United States Code, Sections 1341 and 1346.

COUNT FIVE

The DECEMBER 2011 GRAND JURY further charges:

1. Paragraph 1 of Count One of this indictment is realleged here.
2. On or about November 12, 2008, at Rockford, in the Northern District of Illinois, Western Division, and elsewhere,

MARK E. BIXBY,

defendant herein, did knowingly obstruct, delay and affect commerce, as that term is used in Title 18, United States Code, Section 1951(b)(3), by extortion, namely, by obtaining a \$2,000 check from Business A, with Individual A's consent induced under color of official right, and by the wrongful use of fear of economic harm;

In violation of Title 18, United States Code, Section 1951.

COUNT SIX

The DECEMBER 2011 GRAND JURY further charges:

1. Paragraph 1 of Count One of this indictment is realleged here.
2. On or about November 29, 2008, at Rockford, in the Northern District of Illinois, Western Division, and elsewhere,

MARK E. BIXBY,

defendant herein, did knowingly obstruct, delay and affect commerce, as that term is used in Title 18, United States Code, Section 1951(b)(3), by extortion, namely, by obtaining a \$980 check from Business A, with Individual A's consent induced under color of official right, and by the wrongful use of fear of economic harm;

In violation of Title 18, United States Code, Section 1951.

COUNT SEVEN

The DECEMBER 2011 GRAND JURY further charges:

On or about April 22, 2010, at Rockford, in the Northern District of Illinois, Western Division,

MARK E. BIXBY,

defendant herein, did knowingly and willfully make, and cause to be made, materially false, fictitious, and fraudulent statements and representations in a matter within the jurisdiction of the Federal Bureau of Investigation (“FBI”), an agency within the executive branch of the Government of the United States, namely the following statements:

- (a) that Individual A asked him to store the Pontiac Solstice, which he believed belonged to Individual A’s son, in defendant’s garage; and
- (b) that he did not personally receive any money from contractors;

In violation of Title 18, United States Code, Section 1001(a)(2).

A TRUE BILL:

FOREPERSON

ACTING UNITED STATES ATTORNEY