

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA : Criminal No. 13-
: :
v. : 18 U.S.C. §§ 981(a)(1)(c),
: 982, 1343, 1346, 1957 and
JAROD MACHINGA : § 2; 28 U.S.C. § 2461(c)
: :
: I N F O R M A T I O N
:

The defendant having waived in open court prosecution by indictment, the United States Attorney for the District of New Jersey charges:

COUNT 1

1. At all times relevant to Count 1 of this Information:
 - a. Defendant JAROD MACHINGA was a Supervisory General Engineer at the Department of Veterans Affairs Medical Center, located in East Orange, New Jersey ("VAMC"). The VAMC often required maintenance, as well as new construction. Defendant MACHINGA worked in the VAMC's Facility Management Service ("FMS"), which was responsible for identifying areas needing maintenance or new construction and then determining the best way to proceed. Defendant MACHINGA'S duties included, but were not limited to: (1) negotiating construction packages for the VAMC; (2) ensuring construction was in accordance with contract specifications; (3) project design; and (4) staff management. Thus, defendant MACHINGA had the authority and influence to direct certain VAMC contracts to particular contractors.

b. In addition to his work at VAMC, defendant MACHINGA owned various businesses and real estate entities (collectively, the "Machinga Companies"). One of these companies was JAMAC LLC. These companies incurred certain expenses and had a substantial amount of debt, including mortgages and credit card bills.

c. In their official capacity as VAMC employees, defendant MACHINGA and employees who worked under him were issued Government Purchase Cards. These cards were credit cards issued to VAMC employees that were to be used only to purchase goods and services for official VAMC business. Prior to in or about October 2011, VAMC regulations provided that employees could charge their Government Purchase Cards for purchases that cost the VAMC \$25,000 or less. Items or services in an amount greater than \$25,000 required additional approval from higher-level VAMC officials and therefore could not be purchased via Government Purchase Cards. After in or about October 2011, VAMC regulations provided that employees could charge their Government Purchase Cards for purchases that cost the VAMC \$2,500 or less. Items or services in an amount greater than \$2,500 required additional approval from higher-level VAMC officials and therefore could not be purchased via Government Purchase Cards.

d. There was an individual who was a resident of New Jersey who had a personal and professional relationship with defendant MACHINGA ("Individual 1"). Individual 1 formed and was

the sole owner of three companies (collectively, "Individual 1's Companies"). Individual 1's Companies were retained by the VAMC to perform various construction-related projects and were collectively paid over \$6 million for such projects. Individual 1's Companies were paid by the VAMC through Government Purchase Card charges and direct electronic transfers. Specifically, one of Individual 1's Companies was paid through direct electronic transfers in connection with a service-disabled veteran-owned contract that it received from the VAMC. All of the other payments to Individual 1's Companies were made via Government Purchase Card charges.

Duty of Honest Services

2. At all times relevant to Count 1 of this Information, the citizens of the United States had an intangible right to the honest services of employees of the United States. As an employee of the VAMC, defendant MACHINGA owed a duty to render honest services to the United States and its citizens in VAMC matters, including a duty to refrain from accepting kickbacks from contractors in matters involving his employment.

3. From as early as in or about 2007 to in or about July 2012, in the District of New Jersey and elsewhere, defendant

JAROD MACHINGA

did knowingly and intentionally devise and intend to devise a scheme and artifice to defraud the citizens of the United States of the right to defendant MACHINGA's honest services in VAMC

matters.

4. The object of this scheme and artifice to defraud was for defendant MACHINGA to use and misuse his position as a VAMC employee to award lucrative VAMC projects and contracts to Individual 1's Companies and to take other official action in favor of Individual 1's Companies in exchange for kickback payments from Individual 1's Companies.

5. It was a part of the scheme and artifice to defraud that:

(a) defendant MACHINGA used his position as a VAMC employee to award certain VAMC projects to Individual 1's Companies. Defendant MACHINGA approved the use of VAMC Government Purchase Cards to pay these companies for these projects. In total, Individual 1's Companies were paid approximately \$3.4 million via VAMC Government Purchase Card transactions.

(b) defendant MACHINGA structured the invoices for some of the work that he directed to Individual 1's Companies so that the companies could be paid via Government Purchase Cards. Thus, to avoid the additional approvals and bidding regulations associated with a VAMC project that was valued higher than the amount permitted to be paid by Government Purchase Cards (\$25,000 prior to in or about October 2011 and \$2,500 after in or about October 2011), defendant MACHINGA regularly split the single project into multiple separate work orders, each in an amount

under the maximum amount permitted to be charged on Government Purchase Cards without heightened scrutiny by VAMC officials. Defendant MACHINGA then directed all of these work orders to one or more of Individual 1's Companies and authorized Government Purchase Card transactions to pay Individual 1's Companies for each of the work orders.

(c) in exchange for his official action in directing VAMC projects and contracts to Individual 1's Companies, defendant MACHINGA accepted kickbacks by instructing Individual 1 to transfer a certain amount of the proceeds that Individual 1's Companies earned from the VAMC to the Machinga Companies. In total, approximately \$1,277,305 in kickbacks was transferred to the Machinga Companies from Individual 1's Companies. Defendant MACHINGA used these proceeds to pay expenses associated with the Machinga Companies, including mortgages and credit card bills.

6. On or about the date set forth below, in Essex County, in the District of New Jersey, and elsewhere, for the purpose of executing and attempting to execute this scheme and artifice to defraud, defendant

JAROD MACHINGA

knowingly and intentionally did transmit and cause to be transmitted by means of wire communications in interstate commerce certain writings, signs, signals, pictures and sounds, as described below:

APPROXIMATE DATE	INTERSTATE WIRE TRANSMISSION DESCRIPTION	APPROXIMATE AMOUNT
12/14/10	Government Purchase Card (credit card) transaction involving a transfer of funds from U.S. Bank, located in North Dakota, to a Hopewell Valley Community Bank account held in the name of one of Individual 1's companies located in New Jersey.	\$13,063.16

In violation of Title 18, United States Code, Sections 1343, 1346 and 2.

COUNT 2

1. Paragraphs 1 and 5 of this Information are realleged and incorporated as if fully set forth herein.

2. One of Individual 1's companies ("Company 1") entered into a service-disabled veteran-owned small business ("SDVOSB") contract with the VAMC. In this regard, Congress had established a program whereby federal contracting officers were authorized to restrict the award of certain contracts to small businesses owned by service-disabled veterans. Once a contract was designated as an SDVOSB contract, in order for a business to be eligible to obtain such a contract, it had to meet several requirements, including that a service-disabled veteran owned at least 51% of the business and controlled the management and daily operations of the business. Individual #1 was not a service-disabled veteran.

3. From as early as in or about 2007 to in or about July 2012, in the District of New Jersey and elsewhere, defendant

JAROD MACHINGA

did knowingly and intentionally devise and intend to devise a scheme and artifice to defraud the VAMC and to obtain money and property from the VAMC by means of materially false and fraudulent pretenses, representations and promises.

4. The object of this scheme and artifice to defraud was for defendant MACHINGA to obtain money from the VAMC by: (a) awarding VAMC projects to Individual 1's Companies and improperly

paying these companies via Government Purchase Cards without these companies having to bid on the projects, perform work for the VAMC, or, in certain cases, pay subcontractors from the money received; and (b) falsely representing to the VAMC that Company 1 was an SDVOSB so that Company 1 could obtain from the VAMC a contract that was set aside for SDVOSBs and for which Company 1 was ineligible.

5. It was a part of the scheme and artifice to defraud that:

(a) defendant MACHINGA identified a service-disabled veteran (hereinafter the "SDV") who could qualify for a lucrative VAMC SDVOSB contract if the SDV owned and controlled a small business.

(b) although Company 1 was solely owned by Individual 1, defendant MACHINGA made false representations to the VAMC that Company 1 was owned by the SDV.

(c) defendant MACHINGA entered SDV's name into certain VA databases, falsely indicating that the SDV owned Company 1. Once these databases reflected that Company 1 was owned by the SDV, Company 1 became eligible to receive a VAMC SDVOSB contract.

(d) in or about 2009, defendant MACHINGA used his official position and influence as a VAMC employee to award a SDVOSB contract to Company 1, which also was an Indefinite Delivery/Indefinite Quantity ("IDIQ") contract for construction. The contract qualified Company 1 to obtain task orders from the VAMC without having to bid against other contractors for a

particular task order. Each task order could be worth up to \$495,000. The payment to Company 1 for a particular task order was determined through direct negotiations between the VAMC and Company 1.

(e) defendant MACHINGA used his official position and influence at the VAMC to award task orders to Company 1 under Company 1's SDVOSB IDIQ contract with the VAMC.

(f) while purporting to represent the VAMC in negotiations with Company 1 over the price for a particular task order, prior to the negotiations, defendant MACHINGA advised Individual 1 as to the specific numbers Individual 1 should offer and accept for the task order. In total, Company 1 was paid approximately \$3,367,193 by the VAMC in connection with its SDVOSB IDIQ contract. Defendant MACHINGA accepted kickbacks from Individual 1's Companies in exchange for using his official assistance in fraudulently awarding the SDVOSB IDIQ contract and associated task orders to Company 1.

6. On or about the date set forth below, in Essex County, in the District of New Jersey, and elsewhere, for the purpose of executing and attempting to execute this scheme and artifice to defraud, defendant

JAROD MACHINGA

knowingly and intentionally did transmit and cause to be transmitted by means of wire communications in interstate commerce certain writings, signs, signals, pictures and sounds,

as described below:

APPROXIMATE DATE	INTERSTATE WIRE TRANSMISSION DESCRIPTION	APPROXIMATE AMOUNT
8/21/09	ACH electronic transfer from the United States Treasury, located in Missouri, to an account in the name of Company 1 at Hopewell Valley Community Bank, located in New Jersey.	\$135,000

In violation of Title 18, United States Code, Sections 1343 and 2.

COUNT 3

1. Paragraphs 1 to 5 of Count 1 of this Information and paragraphs 1 to 5 of Count 2 of this Information are realleged and incorporated as though fully set forth herein.

2. On or about the date set forth below, in the District of New Jersey and elsewhere, defendant

JAROD MACHINGA

knowingly engaged and attempted to engage in a monetary transaction in criminally derived property of a value greater than \$10,000 that was derived from a specified unlawful activity, namely defendant MACHINGA's use of wire communications in interstate commerce to execute and attempt to execute a scheme to defraud by soliciting and accepting kickbacks in return for being influenced in the performance of official acts, contrary to Title 18, United States Code, Sections 1343 and 1346:

APPROXIMATE DATE	FINANCIAL INSTITUTIONS INVOLVED	APPROXIMATE VALUE OF MONETARY TRANSACTION EXCEEDING \$10,000
12/30/10	Check drawn on JAMAC LLC's bank account in order to make mortgage payment for the benefit of defendant JAROD MACHINGA to another bank.	15,270.86

In violation of Title 18, United States Code, Section 1957 and 2.

FORFEITURE ALLEGATION

1. The allegations contained in all paragraphs of Counts 1 through 3 of this Information are hereby realleged and incorporated by reference for the purpose of noticing forfeitures pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c), and Title 18, United States Code, Section 982.

2. The United States hereby gives notice to defendant JAROD MACHINGA charged in Counts 1 through 3 of this Information that, upon conviction of the offenses charged in those counts, the government will seek forfeiture, in accordance with Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c), and Title 18, United States Code, Section 982 of any and all property, real or personal, (a) that constitutes and is derived from proceeds traceable to the violations of Title 18, United States Code, Section 1343 and (b) that was involved in the violation of Title 18, United States Code, Section 1957 or any property traceable to such property, alleged in Counts 1 through 3 of this Information, including but not limited to the following:

- a. A sum of money equal to at least \$1,277,305 in United States currency; and
- b. All right, title, and interest, including all appurtenances and improvements thereon, in the following real properties:

- 1) 384 Rt. 31 North, West Amwell, New Jersey 08530, Block 23, Lot 10, located in West Amwell Township, Hunterdon County, New Jersey;
- 2) 382 Rt. 31 North, West Amwell, New Jersey 08530, Block 23, Lot 10.02, located in West Amwell Township, Hunterdon County, New Jersey;
- 3) 253 Rt. 31 North, Hopewell, New Jersey 08525, Block 22, Lot 15, located in Hopewell Township, Mercer County, New Jersey;
- 4) 88 Columbia Avenue, Hopewell Borough, New Jersey 08525, Block 31, Lot 10, located in the Borough of Hopewell, Mercer County, New Jersey;
- 5) 83 Zion Road, Skillman, New Jersey 08558, Block 11002, Lot 10, located in Montgomery Township, Somerset County, New Jersey;
- 6) 43 Van Dyke Road, Hopewell, New Jersey 08525, Block 7, Lot 7, located in Hopewell Township, Mercer County, New Jersey;
- 7) 45 Van Dyke Road, Hopewell, New Jersey 08525, Block 7, Lot 15, located in Hopewell Township, Mercer County, New Jersey;
- 8) 13 Seminary Avenue, Hopewell Borough, New Jersey 08525, Block 28, Lot 7, located in the Borough of Hopewell, Mercer County, New Jersey;
- 9) 9 East Broad Street, Hopewell Borough, New Jersey 08525, Block 28, Lot 2, located in the Borough of Hopewell, Mercer County, New Jersey;
- 10) 64 East Broad Street, Hopewell Borough, New Jersey 08525, Block 23, Lot 14 located in the Borough of Hopewell, Mercer County, New Jersey;
- 11) 117 Zion Wertzville Road, Skillman, New Jersey 08558, Block 11002, Lot 5, located in Montgomery Township, Somerset County, New Jersey;
- 12) 324 Carroll Lane, Breckenridge, Colorado, 80424, Block 1, Lot 9, located in the Town of Breckenridge, Summit County, Colorado.

3. If by any act or omission of the defendant, any of the

property subject to forfeiture described in paragraph 2 herein:

- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third party,
- c. has been placed beyond the jurisdiction of the court;
- d. has been substantially diminished in value; or
- e. has been commingled with other property which cannot be divided without difficulty,

the United States of America will be entitled to forfeiture of substitute property up to the value of the property described above in paragraph 2, pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 28, United States Code, Section 2461(c) and Title 18, United States Code, Section 982(b).

Paul J. Fishman/rah

PAUL J. FISHMAN
United States Attorney

CASE NUMBER: 13-

**United States District Court
District of New Jersey**

UNITED STATES OF AMERICA

v.

JAROD MACHINGA

INFORMATION FOR

**18 U.S.C. §§ 981(a)(1)(C), 982, 1343, 1346, 1957 and § 2
28 U.S.C. § 2461(c)**

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