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WILLIAM T. WALSH, CLERK UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA : Criminal No. 13 - 139 (JHR)
v. :
LEONARD SANTOS : 18 U.S.C. §§ 371, 844(I) &
ALEX RABINOVICH : 1952(a)(2)(B) and 2

SUPERSEDING INDICTMENT

The Grand Jury in and for the District of New Jersey,
sitting at Newark, charges:

COUNT ONE

(Conspiracy to Obtain Kickbacks From Public Works Employees)

1. At various times relevant to this Indictment:

Background

a. Sands Mechanical, Inc., a business incorporated in Pennsylvania and headquartered in Bristol, Pennsylvania, was engaged in an industry affecting interstate commerce, namely, the construction industry. Defendant LEONARD SANTOS was the principal officer at Sands Mechanical.

b. Defendant ALEX RABINOVICH was employed by Sands Mechanical as its general manager. As such, among other things, he dealt with employees, did "walk throughs" of potential projects and assured that blue prints and plans for projects were

properly adhered to, and building materials were purchased and properly installed.

c. Company #1 was a building contractor, headquartered in Marriotsville, MD., that acted as the General Contractor for construction work at the "Joint Base-Maguire-Dix-Lakehurst" military base in Burlington County, New Jersey; including the restoration and rehabilitation of the Marine Corps Reserve Training Center at the base (hereinafter the Ft. Dix Project).

d. Beginning in and around October 2009, Sands Mechanical was hired as a subcontractor by Company #1 to perform sheet metal, electrical and plumbing work at the Ft. Dix Project. Because construction at the Ft. Dix Project was being supported by federal funds, Sands Mechanical's employees were considered "persons employed in the construction...and repair of any public building...financed in whole or in part by loans and grants from the United States", pursuant to Title 18 U.S.C. Section 874.

e. R.C. (a coconspirator, not charged herein) was an employee at Sands Mechanical and acted as a foreman on the above described Ft. Dix Project. As such, he assisted in overseeing the day to day operations of Sands Mechanical, while it acted as a subcontractor at the Ft. Dix Project.

f. M.F. (a coconspirator, not charged herein) was an employee of Sands Mechanical who also worked on the above described Ft. Dix Project. His duties and responsibilities

included acting on behalf of Sands Mechanical with vendors, suppliers, other contractors, as well as contending with company employees.

g. At the Ft. Dix Project, Sands Mechanical was subject to the Davis-Bacon and Related Acts (DBRA). The DBRA applied to United States Government construction contracts over \$2,000. A contractor subject to the DBRA was required to pay its employees the wages and fringe benefits paid to corresponding classes of workers employed on similar projects in the geographical area, as determined by the Secretary of Labor (hereinafter the "prevailing wage rate"). Sands Mechanical employed, among others, sheet metal workers, electricians and plumbers at the Ft. Dix Project.

h. A contractor subject to the DBRA was also required to submit certified weekly payroll information to the United States for each employee working under the contract. A contractor had the option of using the Form WH-347 "Optional Payroll Submission Form" (hereinafter "Form WH-347") to transmit this payroll information. On the Form WH-347, the contractor was required to truthfully report, among others, each employee's total daily hours worked during the week, the rate of pay, gross wages earned and net wages paid, among other information.

i. The Wage and Hour Division is a sub-agency of the United States Department of Labor (hereinafter "DOL-WHD") and is

responsible for enforcing the rules and regulations related to the payment of the prevailing wage rate, as determined by the Secretary of Labor. In or about late 2009, DOL-WHD began to review the method in which Sands Mechanical paid its employees, pursuant to the prevailing wage standard in the Burlington County, N.J. area. In or about February 2010, DOL-WHD obtained a civil judgment settling prevailing wage violations by Sands Mechanical, and requiring it to reimburse select employees a total of approximately \$80,000. Sands Mechanical finally issued reimbursement checks in or about June 2010.

j. Employees #1, #2 #3, #4, #5 and #6 all worked for Sands Mechanical on the Ft. Dix Project between November 2009 and August 2010. Each received a weekly paycheck, as well as one or more "reimbursement checks" pursuant to the Wage and Hour prevailing wage settlement, as discussed in paragraph (i) above.

k. Individual #1 was an employee of Company #1 and, between November 2009 and June 2010, was the site manager when Sands Mechanical was working as a subcontractor at the Ft. Dix Project.

l. K.W. was the nephew of R.C. and also recruited K.P. to travel with him from Pennsylvania to New Jersey, on or about May 17, 2010. On or about June 10, 2010. K.W. recruited G.W. and A.H. to travel with him from Pennsylvania to New Jersey.

2. From in or about November 2009 through in or about September, 2010, in Burlington County, in the District of New Jersey and elsewhere, defendants

LEONARD SANTOS and
ALEX RABINOVICH

knowingly and intentionally conspired with unindicted coconspirators R.C., M.F. and others, to commit an offense against the United States that is, by force, intimidation and threats of procuring dismissal from employment, to induce employees of Sands Mechanical, who were engaged in the construction and repair of the Ft. Dix Project to give up parts of the compensation to which they were entitled under their contract of employment, contrary to Title 18, United States Code, Section 874.

Object of the Conspiracy

3. It was the object of the conspiracy that, in order to ensure that the Ft. Dix Project would be a more profitable venture for Sands Mechanical and themselves personally, the defendants LEONARD SANTOS and ALEX RABINOVICH, coconspirators R.C. and M.F. and others, compelled various employees to kick back a portion of their weekly paychecks, as well as the proceeds of various prevailing wage settlement checks.

Manner and Means

4. It was a part of the conspiracy that LEONARD SANTOS, between November 2009 and September 2010, with assistance from coconspirators R.C., M.F. and others, collected kickbacks from various employees, based upon a percentage of their paychecks. Employees were advised the kickbacks were part of a "program" that they were obliged to accept, or risk termination of employment. Defendant ALEX RABINOVCH compelled select employees to adhere to the same kickback "program";

5. It was a further part of the conspiracy that select Sands Mechanical employees were also obligated to return to defendant LEONARD SANTOS and ALEX RABINOVICH funds reimbursed to them from a prevailing wage settlement negotiated by DOL-WHD, as described in paragraph 1(i) above.

6. It was a further part of the conspiracy that coconspirators R.C. and M.F. would threaten certain employees of Sands Mechanical with the possibility of bodily harm by the use of physical, even deadly, force if those employees resisted the kickback demands;

7. It was a further part of the conspiracy that coconspirator M.F. routinely acted as the "bag man" for defendant LEONARD SANTOS and coconspirator R.C. Coconspirator M.F. would routinely collect money from the kickback scheme and deliver it to coconspirator R.C. or deposit the proceeds into an account

maintained at Wachovia Bank for the benefit of defendant LEONARD SANTOS and coconspirator R.C.

8. It was a further part of the conspiracy to damage and destroy the property of Individual #1, namely a pick-up truck, as a warning by defendants LEONARD SANTOS, ALEX RABINOVICH and R.C. to Individual #1 to cease his scrutiny of Sands Mechanical and its questionable business practices, including withholding from Sands employees their DOL-WHD settlement checks, as referenced in paragraph 1(i) above.

9. It was a further part of the conspiracy that defendants LEONARD SANTOS and ALEX RABINOVICH, coconspirator R.C. and others, intended to further punish Individual #1 for his scrutiny of Sands Mechanical by having him assaulted, with the intent to seriously injure him.

Overt Acts

10. In furtherance of the conspiracy and to effect the objects thereof, defendants LEONARD SANTOS and ALEX RABINOVICH, and their co-conspirators, committed and caused to be committed the following overt acts, among others, in the District of New Jersey and elsewhere:

a. On or about November 21, 2009, coconspirator M.F. collected a kickback payment of approximately \$540 from Employee #1, on behalf of defendant LEONARD SANTOS;

b. On or about January 15, 2010, coconspirator M.F. collected a kickback payment of approximately \$540 from Employee #1, on behalf of defendant LEONARD SANTOS;

c. On or about April 2, 2010, coconspirator M.F. collected a kickback payment of approximately \$500 from Employee #2, on behalf of defendant LEONARD SANTOS;

d. On or about May 21, 2010, coconspirator M.F. collected a kickback payment of approximately \$822 from Employee #3, on behalf of defendant LEONARD SANTOS;

e. On or about May 30, 2010, coconspirator M.F. collected a kickback settlement check payment of approximately \$2,199 from Employee #3, on behalf of defendant LEONARD SANTOS;

f. On or about June 3, 2010, coconspirator M.F. collected a kickback payment of approximately \$1200 from Employee #2, on behalf of defendant LEONARD SANTOS;

g. On or about June 10, 2010, coconspirators R.C. and M.F. collected approximately \$9,578 in kickback settlement check payments from Employee #1, on behalf of defendant LEONARD SANTOS;

h. Between on or about June 2-10, 2010, coconspirators R.C. and M.F. collected approximately \$10,768 in kickback settlement check payments from Employee #2, on behalf of defendant LEONARD SANTOS;

i. On or about June 3, 2010, coconspirators R.C. and M.F. collected approximately \$307 in kickback settlement check payments from Employee #5, on behalf of defendant LEONARD SANTOS;

j. On or about June 7, 2010, coconspirators R.C. collected approximately \$2443 in kickback settlement check payments from Employee #6, on behalf of defendant LEONARD SANTOS and ALEX RABINOVICH;

k. On or about June 10, 2010, coconspirators R.C. collected approximately \$2443 in kickback settlement check payments from Employee #6, on behalf of defendant LEONARD SANTOS and ALEX RABINOVICH

l. On or about June 10, 2010, coconspirator R.C. directed other conspirators to "run down" Individual #1 with a vehicle, on behalf of defendant LEONARD SANTOS;

m. On or about June 18, 2010, coconspirator M.F. collected a kickback payment of approximately \$1000 from Employee #1, on behalf of defendant LEONARD SANTOS.

In violation of Title 18, United States Code, Section 371.

COUNT TWO

(Malicious Destruction of a Vehicle By Means of Fire)

1. The factual allegations contained in Paragraphs 1(a-e and g-i) of Count One are hereby realleged and incorporated as though fully set forth herein.

2. Between on or about May 15, 2010 through on or about May 30, 2010, in Gloucester County, in the District of New Jersey and elsewhere, defendant

LEONARD SANTOS

did knowingly cause co-actors K.W. and K.P. to maliciously damage and destroy, and attempt to maliciously damage and destroy, by means of fire a vehicle, namely a 2000 Ford Ranger pick up truck, that was used in interstate commerce and in an activity affecting interstate commerce.

Manner and Means

3. It was the object of the course of conduct, as intended by the defendant LEONARD SANTOS and R.C., for co-actors K.W. and K.P. to damage and destroy the property of Individual #1, namely a pick-up truck, to act as a warning to Individual #1 to cease his scrutiny of Sands Mechanical and it's questionable business practices at the Ft. Dix Project.

4. It was further part of the course of conduct that, just after midnight on May 17, 2010, co-actors K.W. and K.P. drove from Pennsylvania to New Jersey to the residence of

Individual #1 in Burlington County, New Jersey. They then doused Individual #1's pick-up truck with gasoline and set it on fire.

5. It was further part of the course of conduct that defendant LEONARD SANTOS paid co-actor K.W. approximately \$500 for committing the arson on Individual #1's truck.

In violation of Title 18, United States Code, Section 844 (i) and Title 18, United States Code, Section 2.

COUNT THREE

(Travel in Interstate Commerce to Commit a Crime of Violence)

1. The factual allegations contained in Paragraph 1(a-1) and Paragraphs 3-8 of Count One are hereby realleged and incorporated as though fully set forth herein.

2. Between on or about May 17, 2010 and in or about July 2010, in Gloucester County, in the District of New Jersey, and elsewhere, the defendant

LEONARD SANTOS

did knowingly cause co-actors K.W., G.W., and A.H. to travel from Pennsylvania to New Jersey with the intent to commit a crime of violence, namely aggravated assault, contrary to NJSA 2C:12-1(b), to further an unlawful activity, that is, the extortion of kickbacks from Sands Mechanical employees during the Ft. Dix Project, contrary to NJSA 2C: 20-5(g), and to thereafter perform and attempt to perform said crime of violence against Individual #1.

Manner and Means

3. From in or about November 2009 through in or about June 2010, Individual #1 repeatedly questioned the capability of Sands Mechanical to perform the complex sheetrock, electrical and plumbing work required at the Ft. Dix Project. He also threatened to have Company #1 withhold contract payments owed to Sands Mechanical, until the defendant LEONARD SANTOS provided his

employees with their DOL-WHD settlement checks. In retaliation, defendant LEONARD SANTOS and R.C. intended to punish Individual #1 for adversely affecting Sands Mechanical's financial status.

4. On or before June 10, 2010, Defendant LEONARD SANTOS and co-actor R.C. recruited co-actor K.W. to lay in wait outside Individual #1's residence and then physically assault him in such a way that he could not return to the Ft. Dix job site, before Sands Mechanical had completed its work. Defendant LEONARD SANTOS offered to pay K.W. \$5000 to commit the assault on Individual #1.

5. It was part of the crime of violence that on or about June 10, 2010, co-actors K.W., A.H. and G.W. used physical force against the person of Individual #1 by intentionally "running him down" with a vehicle; causing him to sustain serious bodily injuries. The aforesaid injuries precluded Individual #1 from returning to the Ft. Dix Project to effectively oversee the remaining job performance of Sands Mechanical and its employees.

6. It was part of the course of conduct to commit the crime of violence that defendant LEONARD SANTOS paid approximately \$4000 to repair co-actor K.W.'s vehicle, damaged during the assault on Individual #1.

In violation of Title 18, United States Code, Section 1952(a)(2)(B) and Title 18, United States Code, Section 2.

COUNT FOUR

(Conspiracy to Accept Kickbacks on Federal Projects)

1. The factual allegations contained in Paragraphs 1(a-b) and 1(e) of Count One, are hereby realleged and incorporated as though fully set forth herein.

2. Company #2 and Company #3, each located in the Philadelphia, Pennsylvania area, were engaged in an industry affecting interstate commerce, namely, the construction industry. Companies #2 and #3 were prime contractors as defined by Title 41, United States Code, Section 8702(5). Coconspirator N.M. was employed by Company #2 in 2009 as an owner's representative who was responsible for, among other things, the acceptance of bids for Company #2's subcontracts, as they are defined by Title 41, United States Code, Sections 8701(7). Company #2 changed its structure in 2010, permitting Company #3 to be formed. N.M. remained with Company #3, performing the same duties as an owner's representative, from 2010 through January 2013.

3. Between in or about October 2009 through in or about January 2013, construction projects bid on by Company #2 and Company #3 in Pennsylvania, New Jersey and elsewhere were, in whole or in part, subsidized by loans and grants from the United States Government. On ten or more occasions, with the assistance of coconspirator N.M., Sands Mechanical received subcontracts at federally subsidized construction projects.

4. From in or about October 2009 through on or about January 15, 2013, in Mercer County, in the District of New Jersey and elsewhere, defendants

LEONARD SANTOS and
ALEX RABINOVICH

knowingly and intentionally conspired with R.C. and N.M., and others, to willfully commit an offense against the United States that is, providing, attempting to provide and offering to provide kickbacks, as defined in 41 U.S.C. § 8701(2), to a prime contractor's employee in order to improperly obtain and reward favorable treatment in connection with a subcontract relating to a prime contract, contrary to Title 41, United States Code, Sections 8702 (1) and 8707.

Object of the Conspiracy

3. It was the object of the conspiracy for defendants LEONARD SANTOS and ALEX RABINOVICH, and others, to provide kickbacks to coconspirator N.M. when he acted as an owner's representative for a prime contractor, for the purpose of improperly obtaining subcontracts on federally funded construction projects.

Manner and Means

4. It was part of the conspiracy that, in or about October 2009, defendant LEONARD SANTOS approached coconspirator N.M. with a request that Sands Mechanical be added to the list of eligible companies which Company #2 used to select subcontractors

for its federally subsidized projects. In return, defendant LEONARD SANTOS agreed to kickback to the N.M. a percentage of any subcontract awarded to Sands Mechanical;

5. It was further part of the conspiracy that coconspirator N.M. agreed to furnish defendants LEONARD SANTOS and ALEX RABINOVICH the "last looks" on all construction projects; which granted Sands Mechanical the ability to review other competitive bids before submitting, what frequently became, the most successful bid;

6. It was further part of the conspiracy that, between October 2009 and January 2013, defendant LEONARD SANTOS amassed a total of approximately \$46,200 in kickbacks owed to N.M. for the ten subcontracts awarded to Sands Mechanical. As of August 2012, Defendant SANTOS had paid N.M. approximately \$32,000 in cash kickbacks. A total of approximately \$14,200 in kickbacks remained due and owing.

7. It was further part of the conspiracy that, between on or about November 7, 2012 and December 10, 2012, defendants LEONARD SANTOS and ALEX RABINOVICH made two additional payments of approximately \$4,156 in cash kickbacks to N.M.

Overt Acts

8. In furtherance of the above conspiracy and to effect its unlawful object, defendants LEONARD SANTOS and ALEX RABINOVICH, and others, committed and caused to be committed the

following overt acts, among others, in the District of New Jersey and elsewhere:

a. On or about September 13, 2012, defendant ALEX RABINOVICH conducted a "walk through" of a federally subsidized project at Academy Place, Trenton, New Jersey, on behalf of Sands Mechanical;

b. On or about November 7, 2012, defendant ALEX RABINOVICH and coconspirator R.C. delivered a \$2156 cash kickback to N.M. at the Sands Mechanical offices in Bristol, Pennsylvania;

c. On or about December 10, 2012, defendant ALEX RABINOVICH delivered a \$2000 cash kickback to N.M. at the Academy Place project site in Trenton, New Jersey.

In violation of Title 18, United States Code, Section 371.

Count Five

(Conspiracy to Submit False Payroll Records)

1. The factual allegations, contained in Paragraphs 1(a-j) of Count One, are hereby realleged and incorporated as though fully set forth herein.

2. The subcontract, under which Sands Mechanical performed sheet metal, electrical and plumbing work at the Ft. Dix Project, required Sands Mechanical to comply with certain federal laws, including the Davis-Bacon Act, Title 40, United States Code, Section 3142, et seq. and the regulations issued thereunder (hereinafter the "Act").

3. A contractor subject to the Act was required to submit certified weekly payroll information to the United States for each employee working under the contract. A contractor had the option of using the Form WH-347 "Optional Payroll Submission Form" (hereinafter "Form WH-347") to transmit this payroll information. On the Form WH-347, the contractor was required to truthfully report each employee's total daily hours worked during the week, the rate of pay, gross wages earned and net wages paid, among other information.

4. NAVFAC is the public works Command within the Department of the Navy, and provides funding for, and management of, the planning, design, construction and support of Naval shore facilities. NAVFAC was responsible for overseeing the

construction of the Marine Corps Reserve Center at Fort Dix (referred to as the Fort Dix Project), including the collection of certified payroll records.

5. Between on or about November, 2009 and September 2010, in Burlington County, in the District of New Jersey and elsewhere, defendants

LEONARD SANTOS and
ALEX RABINOVICH

did knowingly and intentionally, in a matter within the jurisdiction of the executive branch of the United States, namely, the Department of Labor and Department of the Navy, conspire to (a) make materially false, fictitious, and fraudulent statements and representations, (b) to make and use false writings and documents knowing them to contain materially false, fictitious, and fraudulent statements and entries, and (c) to falsify, conceal, and cover up by trick, scheme, and device, certain material facts, by submitting Forms WH-347 to NAVFAC that failed to reflect, among others, the true rate of pay and net wages paid to various Sands employees, contrary to Title 18, United States Code, Section 1001.

Object of the Conspiracy

6. It was the object of the conspiracy that LEONARD SANTOS and ALEX RABINOVICH enrich Sands Mechanical, and themselves personally, by circumventing the prevailing wage rates and demanding weekly kickbacks from the paychecks of select Sands

Mechanical employees at the Ft. Dix Project.

Manner and Means

7. It was a part of the conspiracy that defendants SANTOS and RABINOVICH, and other coconspirators, submitted to NAVFAC the Forms WH-347 that falsely reported and concealed the true "rate of pay", deductions and net weekly pay for Sands Mechanical employees at the Ft. Dix Project.

8. It was a further part of the conspiracy that each weekly Form WH-347 filed by defendants SANTOS and RABINOVICH failed to reflect that kickbacks were deducted from the "net wages" paid to select Sands Mechanical employees.

Overt Acts

9. In furtherance of the above conspiracy and to effect its unlawful object, defendants LEONARD SANTOS and ALEX RABINOVICH and other conspirators, committed and caused to be committed the following overt acts, among others, in the District of New Jersey and elsewhere:

Approximate Date that a certified Form WH-347 was due for Ft Dix Project	Sands Mechanical Employee whose wage information was falsified on Form WH-347	Approximate amount of kickback concealed from Form WH-347 for identified Sands' Employee
11\20\09	Employee #1	\$540
11\27\09	Employee #2	\$821
12\11\09	Employee #3	\$520
1\15\10	Employee #4	\$400
2\26\10	Employee #4	\$400

3\19\10	Employee #1	\$540
4\23\10	Employee #2	\$500
5\7\10	Employee #3	\$520
6\3\10	Employee #2	\$1200
6\12\10	Employee #1	\$1000

In violation of Title 18, United States Code, Section
371.

A True Bill



Paul J. Fishman
United States Attorney

CASE NUMBER: 13-139 (JAR.)

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

UNITED STATES OF AMERICA

v.

**LEONARD SANTOS
ALEX RABINOVICH**

**SUPERSEDING
INDICTMENT**

TITLE 18 U.S.C. SECTIONS 371, 844(I),
1001, 1952 (a) (2), SECTION 2 & 41 U.S.C. 8702

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