UNITED STATES DISTRICT COURT

for the

District of New Jersey

United States of America v. Lydell B. Sherrer	))))))	Case No. 10-2531 (DEA)

Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of April 2010 thru October 2010 in the county of Mercer in the _____ District of New Jersey, the defendant(s) violated:

Code Section	*Offense Description*
18 USC 666(a)(1)(B)	bribery in connection with programs receiving federal funds

See Attachment A

This criminal complaint is based on these facts:

See Attachment B

☐ Continued on the attached sheet.

Complainant's signature

SPECIAL AGENT ARTHUR E. DURRANT, III, FBI

Printed name and title

Sworn to before me and signed in my presence.

Date: 10/12/2010

Judge's signature

City and state: Trenton, New Jersey

HON. DOUGLAS ARPERT, USMJ

Printed name and title

CONTENTS APPROVED

UNITED STATES ATTORNEY

By: _____

KEVIN T. SMITH, AUSA

Date: October 12, 2010

ATTACHMENT A

COUNT 1

Between in or about April 2010, through on or about October 12, 2010, in Mercer County, in the District of New Jersey, and elsewhere, defendant

LYDELL B. SHERRER

did knowingly and corruptly solicit and demand for the benefit of himself, and accept and agree to accept, a thing of value from CS#1 – namely, money, intending to be influenced and rewarded in connection with a business, transaction, or series of transactions of the State of New Jersey government, that is, the New Jersey Department of Corrections ("NJDOC"), involving a thing of value of $5,000 and more, where the NJDOC received in excess of $10,000 in Federal assistance during the relevant one-year period.

In violation of Title 18, United States Code, Section 666(a)(1)(B).

COUNT 2

Between in or about May 2010, through on or about October 12, 2010, in Mercer County, in the District of New Jersey, and elsewhere, defendant

LYDELL B. SHERRER

di[illegible]owingly and corruptly solicit and demand for the benefit of himself, and accept and agree to accept, a thin[illegible] f value from CS#2 – namely, money, intending to be influenced and rewarded in co[illegible]h a t[illegible] of transactions of the State of New Jersey government, that is, the N[illegible]OC, involving a thing of value of $5,000 and more, where the NJDOC received [illegible] $10,000 in Federal assistance during the relevant one-year period.

[illegible] Code, Section 666(a)(1)(B).

ATTACHMENT B

AFFIDAVIT

1. I, Arthur E. Durrant, III, a Special Agent with the Federal Bureau of Investigation ("FBI"), following an investigation and discussions with other law enforcement officers, am aware of the following facts. Because this Attachment B is submitted for the limited purpose of establishing probable cause, I have not included herein the details of every aspect of this investigation. All conversations referred to in this attachment were recorded, unless otherwise indicated, and are related in substance and in part.

2. At all times relevant to this Complaint, defendant Lydell B. Sherrer was employed by the New Jersey Department of Corrections ("NJDOC") and has been so employed for approximately 30 years. His office is located on Whittlesey Road in Trenton, New Jersey. At all times relevant to this Complaint, he was the Assistant Commissioner for the Division of Programs and Community Services. In 2009, Sherrer held the position of Deputy Commissioner, reporting directly to the Commissioner of the NJDOC. According to his 2010 New Jersey Financial Disclosure Statement for Public Employees, Sherrer last completed ethics training on or about March 31, 2010.

3. At all times relevant to this Complaint:

   a. The mission of the NJDOC was to ensure that all persons committed to the state correctional institutions were confined with the level of custody necessary to protect the public and that they were provided with the care, discipline, training, and treatment needed to prepare them for reintegration into the community. NJDOC's Division of Administration was responsible for managing a $1.2 billion budget and employing approximately 9,000 persons, including 6,500 in custody

positions to supervise approximately 26,000 inmates. The NJDOC's Division of Operations was responsible for 13 major institutions -- 11 adult male correctional facilities, one women's correctional institution and a central reception/intake unit.

b. NJDOC's Division of Programs and Community Services offered an array of institutional and community-based program opportunities for offenders, including community labor assistance, academic and vocational educational programs, recreational programs, library (lending and law) services, and substance abuse treatment. Additionally, the Division of Programs and Community Services contracted with private and nonprofit providers throughout the state to provide community-based residential treatment programs for offenders under community supervision.

c. The State of New Jersey and the NJDOC received benefits in excess of $10,000 under a Federal Program involving a grant, contract, subsidy, loan, guarantee, insurance or other form of federal assistance during relevant times detailed in the Complaint.

4. In or about May 2010, the FBI was contacted by a Confidential Source of information (hereinafter, "CS#1"). CS#1 was an employee of the NJDOC. CS#1 advised federal agents that he/she received a letter from the NJDOC informing CS#1 that, due to a planned reduction of the labor force, CS#1's position would be eliminated as of June 30, 2010. CS#1 further advised agents that defendant Lydell B. Sherrer, the Assistant Commissioner and former Deputy Commissioner of the NJDOC, had approached CS#1 after CS#1 had received the termination letter, and told CS#1, in substance and in part, that for a payment of $10,000, defendant Sherrer would ensure that CS#1 would remain

employed with the NJDOC, or would be hired by an NJDOC contractor.

5. From in or about May 2010 to in or about October 2010, under the direction and supervision of the FBI, CS#1 consensually recorded a series of telephone conversations with defendant Sherrer. In short, these conversations corroborated the information that CS#1 previously provided to the FBI regarding defendant Sherrer's solicitation of a bribe from CS#1. Defendant Sherrer then arranged a meeting with CS#1.

6. On or about May 17, 2010, CS#1 met with defendant Sherrer at a diner in Lawrenceville, New Jersey. The meeting was both audio and video recorded, as well as surveiled by federal law enforcement. In substance and in part, defendant Sherrer said that in return for a $10,000 payment to defendant Sherrer, he would secure employment for CS#1 with the NJDOC, or with an entity that contracted with NJDOC, beyond the June 30, 2010 date detailed in CS#1's termination letter. Near the conclusion of the meeting, defendant Sherrer accepted an up-front $5,000 cash payment from CS#1 which had been provided to CS#1 by the FBI. Defendant Sherrer told CS#1, referring to securing continued employment for CS#1, that Sherrer would "make it work."

7. On June 4, 2010, CS#1 had another consensually recorded telephone conversation with defendant Sherrer. During that conversation, defendant Sherrer reiterated that he was working to secure CS#1 a position within the NJDOC but, if no position was available, then he would secure a position for CS#1 with a private entity that contracted with the NJDOC.

8. On June 30, 2010, CS#1 had another consensually recorded telephone conversation with defendant Sherrer. Defendant Sherrer indicated to CS#1 that the salary in connection with the prospective employment could be "between eighty [$80,000] and six figures."

During that conversation, defendant Sherrer asked CS#1 if CS#1 had any "green" for him, meaning additional money available for defendant Sherrer as payment toward the full $10,000. CS#1 indicated that he/she did have the money available, but that CS#1 would not make another payment to defendant Sherrer until CS#1 had the promised job. Defendant Sherrer responded, "You know something, that sounds more than fair and (pause) nooo, that's more than fair, that's what we agreed to."

9. On or about July 19, 2010, CS#1 had another consensually recorded telephone conversation with defendant Sherrer. During that conversation, defendant Sherrer advised CS#1 that he was telling NJDOC contractors about CS#1 and circulating CS#1's [illegible] ograms within the NJDOC, in an effort to secure employment for CS#1.

10. [illegible] out the first week of August 2010, Special Agents with the FBI met with a second Confidential Source of information (hereinafter, "CS#2") who also was an employee of [illegible] NJDOC. CS#2 advised that, in or about May 2010, CS#2 was relieved of his/her se[illegible] n with the NJDOC and was told by NJDOC administrators of a position to which [illegible] be transferred. CS#2 told the federal agents that it was his/her belief t[illegible] he transfer w[illegible] emotion in responsibility and rank, that CS#2 believed he/she was being discriminated against, and that CS#2 so advised NJDOC administrators. CS#2 claimed that within a few days of being notified of the demotion, defendant Sherrer contacted CS#2 and, in sum and substance, told CS#2 that, for a payment to defendant Sherrer of $6,500, defendant Sherrer would provide CS#2 with internal NJDOC documents that would support CS#2's claim of discrimination and might result in CS#2 being awarded a sizable amount of money from the NJDOC in settlement of that claim. CS#2 provided the federal agents with a copy of a recorded telephone conversation

between defendant Sherrer and CS#2 which was alleged to have occurred on or about June 4, 2010, after the initial contact between defendant Sherrer and CS#2 outlined above. During the recorded conversation, defendant Sherrer and CS#2 discussed the possibility of CS#2 filing a claim against the NJDOC and the purported value of the documents that defendant Sherrer could provide to CS#2 in support of that claim. CS#2 stated that this recorded conversation was a call received by CS#2 from defendant Sherrer's NJDOC issued cellular telephone. According to CS#2, the caller ID feature of CS#2's cellular telephone captured the telephone number of defendant Sherrer's NJDOC cellular telephone, a telephone number that CS#2 claimed to recognize based upon CS#2 and defendant Sherrer's common employer, the NJDOC.

11. At a later date, defendant Sherrer and CS#2 arranged to meet on August 23, 2010 at a diner in East Windsor, New Jersey. That August 23rd meeting was both audio and video recorded with the consent of CS#2, as well as surveiled by federal law enforcement. In substance and in part, defendant Sherrer confirmed the arrangement previously discussed with CS#2 – in return for payment of $6,500 to defendant Sherrer from CS#2, defendant Sherrer would provide internal NJDOC documents that would support CS#2's claim regarding his/her demotion. During this meeting, defendant Sherrer and CS#2 discussed an amount of $750,000 as a reasonable settlement of CS#2's claim. Defendant Sherrer gave CS#2 an envelope containing documents which defendant Sherrer claimed would assist CS#2 in any lawsuit that CS#2 might file against NJDOC. In return, defendant Sherrer accepted an up-front $700 cash payment from CS#2 which had been provided to CS#2 by the FBI.

12. A review of the documents provided to CS#2 by defendant Sherrer revealed that the

documents mostly consisted of news articles compiled by NJDOC personnel which related to prison or corrections matters. One document was an internal NJDOC document titled "End of the Day Report" which detailed events at various NJDOC institutions.

13. Defendant Sherrer and CS#2 met again on August 31, 2010 at a diner in East Windsor, New Jersey. The meeting was both audio and video recorded with the consent of CS#2, as well as surveiled by federal law enforcement. In substance and in part, defendant Sherrer confirmed that defendant Sherrer would be "at the table" when any matter relating to CS#2's law suit was discussed internally within NJDOC, or negotiated with CS#2 regarding possible settlement. Defendant Sherrer told CS#2 that he would advise the NJDOC to begin settlement negotiations with CS#2 by offering $750,000 to settle any claim brought by CS#2. Defendant Sherrer again gave CS#2 an envelope containing documents which defendant Sherrer claimed would assist CS#2 in any lawsuit CS#2 might file against NJDOC. In return, defendant Sherrer accepted an up-front $1,300 cash payment – another installment of the agreed-upon $6,500 – from CS#2 which had been provided to CS#2 by the FBI.

14. A review of the documents provided to CS#2 by defendant Sherrer revealed that these materials mostly consisted of news articles compiled by NJDOC personnel relating to prison or corrections matters. Several documents were internal NJDOC documents titled "End of the Day Report" which detailed events at various NJDOC institutions, as well as an internal NJDOC memorandum titled "Monthly Report - July 2010," which detailed NJDOC matters pertaining to litigation with inmates and employees. Additionally, defendant Sherrer included in the envelope given to CS #2 an NJDOC Internal

Management Procedure document relating to information technology.

15. On September 8, 2010, CS#1 had another consensually recorded telephone conversation with defendant Sherrer. During that conversation, CS#1 told defendant Sherrer that he/she had not gotten the job yet that had been the object of the corrupt arrangement. Defendant Sherrer indicated surprise because he had arranged contact between a contractor and CS#1. CS#1 reminded defendant Sherrer that defendant Sherrer had accepted from CS#1 half of what defendant Sherrer asked for, referring to the $5,000 payment made by CS#1 to defendant Sherrer on May 17, 2010. CS#1 continued and stated, "We discussed me getting a position based on quid pro quo, right?" Defendant Sherrer responded, "Yes."

16. Defendant Sherrer and CS#2 met again on October 1, 2010 at a diner in East Windsor, New Jersey. The meeting, which took place in defendant Sherrer's state-issued vehicle in the diner's parking lot, was both audio and video recorded with the consent of CS#2, as well as surveiled by federal law enforcement. Defendant Sherrer provided CS#2 with an envelope containing documents which defendant Sherrer claimed would assist CS#2 in any lawsuit that CS#2 might file against NJDOC. A subsequent review of the documents revealed that one of the documents provided by defendant Sherrer to CS#2 appeared to be an internal NJDOC memorandum directed to the New Jersey Governor's office which purported to alert the Governor's office about various issues related to the NJDOC, including the demotion of CS#2 and NJDOC's allegations against CS#2.

17. Defendant Sherrer and CS#2 met again on October 12, 2010 at a hotel restaurant in Princeton, New Jersey. The meeting was both audio and video recorded with the consent of CS#2, as well as surveiled by federal law enforcement. The purpose of the meeting

was for CS#2 to make an up-front $2,000 cash payment – another installment of the agreed-upon $6,500 – to Sherrer which had been provided to CS#2 by the FBI. Surveilling agents saw Sherrer accept the cash payment from CS#2. Thereafter, FBI agents placed Sherrer under arrest and recovered the $2,000 in cash.

CONCLUSION

18. Based on the above information, there is probable cause to believe that defendant Lydell B. Sherrer is engaged in and has been engaged in bribery in connection with programs receiving federal funds, in violation of Title 18, United States Code, Section 666(a)(1)(B).