

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 13-60068-CR-Cohn/Ketzer

18 U.S.C. § 666
18 U.S.C. § 2

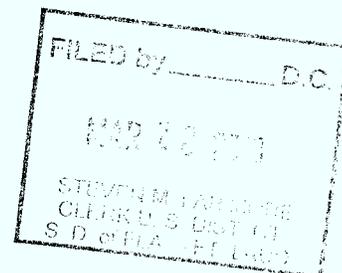
UNITED STATES OF AMERICA

vs.

DAVID MCLEAN,

Defendant.

_____ /



INDICTMENT

The Grand Jury charges that:

INTRODUCTION

At all times material to this indictment:

1. The city of Margate (“Margate”), which was created as a municipal corporation in 1955, incorporated as a city in 1961 and was a unit of, and subject to the laws of, Florida, was headed by a City Commission. The City Commission was comprised of five City Commissioners who were elected "at large" by the voters of Margate. One of these City Commissioners was selected by the City Commission to serve as the mayor of the city. These five City Commissioners also served as the Margate Community Redevelopment Agency (“MCRA”) Board which was created pursuant to Florida Statutes, Chapter 163, Part 3 and established via Margate Ordinance 96-15 by the Margate City Commission.

2. The largest funding source for the MCRA was Margate, which based its contributions to the MCRA on the taxes it received from a designated “community redevelopment area” which

included the Atlantic Boulevard and Highway 441 corridors within Margate. The decisions as to the amount of funding provided to the MCRA were made by the Margate City Commission. The MCRA Board approved the projects funded by and the entire budget of the MCRA.

3. In each of the fiscal years 2011, 2012 and 2013, Margate received direct benefits well in excess of \$10,000 under federal programs involving grants, subsidies, loans, guarantees, insurance and/or other federal assistance.

4. Defendant DAVID MCLEAN was a City Commissioner of Margate, and, as such, was a board member on the MCRA. On or about March 9, 2004, defendant MCLEAN was elected as a Margate City Commissioner, was re-elected to the Margate City Commission in 2008 and, on or about November 6, 2012, re-elected again as a Margate City Commissioner. Defendant MCLEAN also was elected as Vice Mayor of Margate from March 16, 2011 and served until November 21, 2012.

5. Cooperating Witness #1 ("CW-1") was a commercial property owner of a strip shopping center in Margate and operator of an auto aftermarket improvement business within the center.

6. Cooperating Witness #2 ("CW-2") was a general construction contractor.

THE OCCUPATIONAL LICENSE

7. In or about the middle of 2011, defendant DAVID MCLEAN negotiated with CW-1, who had experienced a number of adverse contacts with members of the Margate city government, to rent property within CW-1's shopping center in order to open a bar.

8. On or about August 1, 2011, defendant DAVID MCLEAN rented property within the shopping center owned by CW-1 and opened a business establishment named Dave's Tiki Bar.

9. On or about January 9, 2012, defendant DAVID MCLEAN agreed to help CW-1, in exchange for payment, with acquisition of an occupational license for CW-1's business and the

release of a \$2,400 lien which Margate had against CW-1.

10. On or about February 23, 2012, defendant DAVID MCLEAN escorted CW-1 to city hall to meet with Margate officials to discuss obtaining an occupational license for CW-1's business.

11. On or about February 23, 2012, defendant DAVID MCLEAN assured CW-1 they would have the votes on the Margate City Commission to approve CW-1's occupational license, even though MCLEAN may have to abstain from that vote, as long as the Margate city planner was in agreement.

12. On or about March 21, 2012, defendant DAVID MCLEAN told CW-1 that he would call the Margate facilities department to expedite CW-1's occupational license.

13. On or about March 22, 2012, defendant DAVID MCLEAN told CW-1 that, when the Margate city attorney told MCLEAN that he could only "knock off" \$500 from CW-1's lien, "I'll get more than that off."

14. On or about April 10, 2012, defendant DAVID MCLEAN, in an argument with CW-1, told CW-1 that "everything is on hold, it's off until I get what I want."

15. On or about May 7, 2012, defendant DAVID MCLEAN escorted CW-1 to Margate city hall to meet with Margate officials to discuss obtaining an occupational license for CW-1's business.

16. On or about May 16, 2012, the occupational license for CW-1's business was approved by the Margate City Commission.

17. On or about May 25, 2012, defendant DAVID MCLEAN, for aiding the approval by the city of CW-1's occupational license, accepted from CW-1 \$1,000 in United States currency and a release for Dave's Tiki Bar back rent, in the form of an \$8,000 receipt for rent past due and owing, that MCLEAN had not actually paid but owed to CW-1.

THE MCRA PROJECT

18. In late 2011, defendant DAVID MCLEAN discussed with CW-1 making improvements to CW-1's shopping center property, telling CW-1 that he (MCLEAN) was the head of the MCRA Board and could control which projects got funded.

19. In late 2011, defendant DAVID MCLEAN explained to CW-1 that the MCRA had a grant program wherein it provided matching funds for property improvement projects and that, if he and CW-1 found a contractor who would provide an inflated estimate, they could use the 50% award provided by the MCRA to pay for the entire project at CW-1's shopping center so that there would be no real cost to CW-1 and MCLEAN.

20. On or about January 9, 2012, defendant DAVID MCLEAN discussed with CW-1 filing an application for the MCRA 50% matching grant and then phoned a Margate city employee to have a grant application form put in MCLEAN's mail box at city hall.

21. On or about August 8, 2012, defendant DAVID MCLEAN met with CW-2, a contractor who later produced a \$17,000 construction cost estimate to complete the MCRA project at CW-1's shopping center.

22. On or about October 4, 2012, defendant DAVID MCLEAN discussed with CW-1 falsely increasing CW-2's true cost estimate of \$17,000 to \$40,000 and, if the MCRA's 50% matching check was greater than the actual cost of the work, splitting the overage between CW-1 and MCLEAN.

23. On or about October 10, 2012, defendant DAVID MCLEAN filled out the MCRA project application for CW-1's shopping center by hand, falsely increasing the amount of the estimate to approximately \$47,705 and the grant request to \$25,000, and then instructed CW-1 to

redo the application in CW-1's own handwriting so that Margate city officials would not recognize the handwriting.

24. On or about October 30, 2012, defendant DAVID MCLEAN and CW-1 discussed increasing the dollar amount of the estimate on the final application to \$50,000, for a grant of \$25,000, which CW-1 did.

25. On or about November 1, 2012, defendant DAVID MCLEAN explained to CW-1 how, while abstaining from the actual vote, he (MCLEAN) orchestrated the MCRA Board vote in favor of the \$25,000 grant proposal applied for by CW-1.

26. On or about November 2, 2012, defendant DAVID MCLEAN warned CW-1 that, when CW-1 got the MCRA grant funds from the city, CW-1 should keep it in his safe and "don't let them track it so quick."

27. On or about November 2, 2012, defendant DAVID MCLEAN accepted \$3,000 in United States currency from CW-1, which represented a portion of MCLEAN's share of the difference between the grant money approved (\$25,000) and the actual cost, to CW-1, of the MCRA approved project.

28. On or about January 30, 2013, defendant DAVID MCLEAN accepted \$2,000 in United States currency from CW-1, which represented the remainder of MCLEAN's share of the difference between the grant money approved and the actual cost, to CW-1, of the MCRA approved project.

COUNT ONE

(Bribery in Programs Receiving Federal Funds, 18 U.S.C. § 666)

1. The allegations of this Indictment set forth in paragraphs 1 through 17 above, are re-alleged and expressly incorporated herein as if set forth in full.

2. On or about May 25, 2012, at Margate, Broward County, in the Southern District of Florida and elsewhere, the defendant,

DAVID MCLEAN,

being an agent of Margate, to wit, a City Commissioner of Margate, Florida, did knowingly and corruptly solicit, demand, accept and agree to accept anything of value from a person, that is, approximately \$1,000 in United States currency and a release, in the form of an \$8,000 receipt for rent past due and owing, for Dave's Tiki Bar, that MCLEAN had not actually paid but owed to CW-1, intending to be influenced and rewarded in connection with a transaction and series of transactions of Margate involving \$5,000 or more, that is, the awarding of a Margate occupational license.

All in violation of Title 18, United States Code, Sections 666(a)(1)(B) and 2.

COUNT TWO

(Bribery in Programs Receiving Federal Funds, 18 U.S.C. § 666)

1. The allegations of this Indictment set forth in paragraphs 1 through 27 above, are re-alleged and expressly incorporated herein as if set forth in full.

2. On or about November 2, 2012, at Margate, Broward County, in the Southern District of Florida and elsewhere, the defendant,

DAVID MCLEAN,

being an agent of Margate, to wit, a City Commissioner of Margate, Florida, did knowingly and corruptly solicit, demand, accept and agree to accept anything of value from a person, that is, approximately \$3,000 in United States currency, intending to be influenced and rewarded in connection with a transaction and series of transactions of Margate involving \$5,000 or more, that is, a \$25,000 MCRA construction grant.

All in violation of Title 18, United States Code, Sections 666(a)(1)(B) and 2.

COUNT THREE

(Bribery in Programs Receiving Federal Funds, 18 U.S.C. § 666)

1. The allegations of this Indictment set forth in paragraphs 1 through 28 above, are re-alleged and expressly incorporated herein as if set forth in full.

2. On or about January 30, 2013, at Margate, Broward County, in the Southern District of Florida and elsewhere, the defendant,

DAVID MCLEAN,

being an agent of Margate, to wit, a City Commissioner of Margate, Florida, did knowingly and corruptly solicit, demand, accept and agree to accept anything of value from a person, that is, approximately \$2,000 in United States currency, intending to be influenced and rewarded in connection with a transaction and series of transactions of Margate involving \$5,000 or more, that is, a \$25,000 MCRA construction grant.

All in violation of Title 18, United States Code, Sections 666(a)(1)(B) and 2.

A TRUE BILL


WIFREDO A. FERRER
UNITED STATES ATTORNEY


NEIL KARADBIL
ASSISTANT UNITED STATES ATTORNEY