


U.S. DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA
FILED 2-20-2019
WILLIAM W. BLEVINS
CLERK 

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

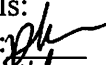


UNITED STATES OF AMERICA * CRIMINAL NO. 18-126
VERSUS * SECTION: "I"
JESSE MARCUS ESTES *
* * *

FACTUAL BASIS

If this matter were to proceed to trial, the United States would introduce the following facts with relevant and admissible testimony and exhibits to support Count 1 of the superseding indictment, a violation of Title 18, United States Code, Section 1349 (conspiracy to commit wire fraud in violation of 18 U.S.C. §1343).

Joseph "Jay" D'Amico would testify that he is the sole owner and operator of Louisiana Steam, a company based in New Orleans, Louisiana. He would describe Texas Steam and Utility Optimization Group Texas (UOGT) as Texas companies he also owned and operated that were in the business of providing steam, air, water and both oil and gas specialty equipment for general industries. Mr. D'Amico would testify that, after working as a General Manager for Texas Steam, in 2009 **JESSE MARCUS ESTES ("ESTES")** was promoted to Vice President and was responsible for business development of Louisiana Steam, Texas Steam and UOGT in return for an annual salary of approximately \$125,000.

Mr. D'Amico and Daryl Anderson, the Chief Financial Officer over the Louisiana Steam companies, would testify that the accounting, banking, and job reconciliations for all of the businesses was handled in New Orleans. Mr. D'Amico would testify that around the time

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ESTES left Texas Steam, employees began informing D'Amico about schemes that they believed **ESTES** had been involved in which **ESTES** created handwritten invoices or purchase orders that were attached to existing Texas Steam or UOGT jobs and avoided the normal computer-driven record keeping system that recorded costs incurred on jobs.

Maribel Hernandez would testify that she was a Service Manager for Texas Steam in charge of job costing, estimating, purchasing, and accounts payable and receivable for UOGT. Ms. Hernandez would testify that **ESTES** told her where to assign man hours and invoices because he was in charge and represented that he was an owner. She would testify that in 2012 or 2013, Dow Chemical and another industrial customer began questioning the man hours Texas Steam was charging on jobs. Hernandez would testify that she knew the hours were excess as they were recorded on various job locations because she knew the work had been done for **ESTES'** personal projects. She told Larry Jennings, an Operations Manager at Texas Steam who was responsible for large projects where there were detailed specifications and documentation necessary for Texas Steam to accurately bill customers, about her suspicions of **ESTES** shifting personal costs onto large Texas Steam jobs. Jennings, Hernandez and Matt Jenney would all testify that **ESTES** was not to be questioned on how he assigned costs to jobs or determined profit margins. When Jennings occasionally questioned **ESTES** about job costs, **ESTES** told him that is how it was going to be and Jennings quit questioning **ESTES**. Others would testify when they tried to bring their suspicions to Mr. D'Amico's attention, Mr. D'Amico made it clear that **ESTES'** word was final. D'Amico would testify that it was not until **ESTES** left that he learned that the suspicions of his employees were credible.

Mr. Jenney would testify that he was a commissioned salesman working under **ESTES**.

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Defense Counsel: DK
Defendant: AME

Mr. Jenney and Ms. Hernandez would testify about an incident when Jenney asked Hernandez for a printout of the expenses on a certain job Jenney believed was suspicious. Jenney would testify that he could immediately tell that there were unauthorized expenses on the job. Hernandez would testify that after that incident, **ESTES** instructed her not to give Jenney any more reports and Jenney would testify that the sales report which included line item costs charged to any job was no longer available to access. Jenney and Hernandez would also testify about the handwritten purchases orders created by **ESTES** and that only **ESTES** was permitted to operate in that manner.

Luis and Juan Adame would testify that they are co-owners of **TEXONE**, a Texas business that manufactures and installs industrial insulation jackets and other projects. Juan Adame would testify about the transactions set forth in ¶¶24-28 of the superseding indictment. Juan Adame would testify that he issued two checks to **ESTES** payable to Industrial Sales & Supply (Industrial). Bank records would indicate that Industrial was a sole proprietorship operated by **ESTES**, who opened a Capital One Bank account in its name. Juan and Luis Adame would testify that **ESTES** instructed the Adames to deposit the checks into his Industrial Capital One account. The Adames would testify that they had a contract in the amount of \$111,375 with Texas Steam for an order of sewn removable blankets for manifolds on a specific purchase order and that **TEXONE** expected to make \$35,000 on the job. Instead, **ESTES** fraudulently added the costs of the kickbacks to the job which he instructed **TEXONE** to bill to Texas Steam.

Luis and Juan Adame would testify generally about the remaining transactions between Industrial and **TEXONE** in the superseding indictment. Luis Adame would introduce a spreadsheet that identified each check **TEXONE** paid to Industrial along with the related falsified

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Defense Counsel: RL
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TEXONE invoice and corresponding Texas Steam or UOGT purchase order. The spreadsheet traced the documentation and funds related to the transactions in ¶¶24-66 of the superseding indictment. **ESTES** would call Luis Adame and tell him the amount of the false invoice he was to submit to Texas Steam or UOGT and what job to charge or reference on the invoice. Luis Adame would testify that **ESTES** often used the same Texas Steam or UOGT jobs to pad with unauthorized expenses. The Adames would testify that TEXONE did not receive any invoices from Industrial or **ESTES**. The Adames would also testify that **ESTES** routinely had one of the Adames deposit the kickback into his Industrial bank account. The Adames would testify that in around June 2012, the Adames told **ESTES** that they would no longer participate in the kickback scheme with **ESTES**.

Financial Analyst Josephine Beninati would testify that, using the spreadsheet created by the Adames, and the documentation provided by Louisiana Steam, Texas Steam and UOGT, she was able to diagram and document each transaction listed in ¶¶ 24-66 and trace the funds into first, the Industrial account created by **ESTES**, and thereafter, into **ESTES**' personal account where all of the money was spent on personal items for the **ESTES** family. Ms. Beninati would identify the existing UOGT or Texas Steam job that **ESTES** exploited to disguise the kickback payment.

Mellanie Askew would testify that she met **ESTES** when they were both working for Thermon Heat Tracing Services (Thermon), a company with which Texas Steam and UOGT often had very large contracts. When she left Thermon she eventually began a company that manufactured and installed industrial insulation blankets along with Norberto Garza. Ms. Askew would testify that around the time the Adames withdrew from the kickback scheme with **ESTES**,

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ESTES arrived at the TEXTWO office and offered Ms. Askew 25% of the value of any purchase order and corresponding TEXTWO invoice they created if Askew would help in a kickback scheme. **ESTES** explained to Askew that he would retain 75% of the value of any fictitious invoice. Ms. Askew would testify that because **ESTES** had helped Ms. Askew in the past she agreed to participate in the scheme.

Ms. Askew would testify that **ESTES** would call her to tell her he was sending a purchase order. These purchase orders would be introduced into evidence and would be handwritten as explained by Maribel Hernandez and others at Texas Steam or UOGT. **ESTES** emailed or faxed a handwritten purchase order to Askew who used it to create a false TEXTWO invoice that was mailed back to **ESTES**. **ESTES** then routinely submitted the invoices for payment to Louisiana Steam who then caused that a check be mailed to TEXTWO for the fraudulent invoice.

Ms. Askew would testify that **ESTES** submitted a false Industrial invoice to TEXTWO which passed through TEXTWO's accounting system, ending with a check being paid to Industrial for 75% of the original false invoice. The invoices often indicated that Engineering Services were provided by Industrial. Ms. Askew would testify that she never determined the amount or type of false invoice or the amount of the purchase order. Ms. Askew estimated that approximately 10 false purchases orders and false invoices were created throughout the scheme.

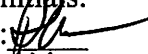


Ms. Askew would identify each of the documents in ¶¶69-125 of the superseding indictment. Ms. Askew would testify that neither she nor TEXTWO ever sold any goods or services to Texas Steam or UOGT as a result of the false invoices, that neither **ESTES** nor Industrial ever provided any services of any kind to TEXTWO in return for payments by

TEXTWO to Industrial.

Mrs. Beninati would testify about her analysis of documentation provided by Louisiana Steam, Texas Steam, UOGT, and TEXTWO and that she was able to diagram and document each transaction listed in ¶¶ 69-125 and trace the funds into first, the Industrial account created by ESTES, and thereafter, into ESTES' personal account where all of the money was spent on personal items for the ESTES family. Ms. Beninati would identify the existing UOGT or Texas Steam job that ESTES exploited to disguise the kickback payment he received from TEXTWO.

Accounting documentation provided by Daryl Anderson and Diane Brinck, both from Louisiana Steam, would demonstrate how ESTES used the contracts that Texas Steam and UOGT had with different industrial companies.

Cameron Gambrell (Mr. Gambrell) would testify that, as an Information Technology Specialist with Louisiana Steam, he is familiar with the email systems utilized by Louisiana Steam, Texas Steam, and UOGT, and how emails are transmitted between Louisiana Steam, Texas Steam, UOGT, and third parties. Mr. Gambrell would testify that Louisiana Steam physically maintained a non-cloud based email server until July 2016 located in New Orleans, Louisiana. He would testify that Texas Steam and UOGT were located in La Porte, Texas, and that any emails sent or received from Texas Steam and/or UOGT in La Porte, Texas, to or from Louisiana Steam in New Orleans, Louisiana, passed through the Louisiana Steam email server. Mr. Gambrell would also testify that any emails sent from one Texas Steam employee located in La Porte, Texas, to another Texas Steam employee located in La Porte, Texas, would pass through Louisiana Steam's email server and that any emails sent and received from a Texas Steam employee in La Porte, Texas, to and from intended recipients located in the State of Texas

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passed through Louisiana Steam's email server.

Mr. Gambrell would testify that he analyzed an email dated July 12, 2013, represented in ¶20 of the superseding indictment, from **ESTES**, to Texas Steam employees Larry Jennings and Diane Brinck. In the email, **ESTES** falsely represented that he needed \$5,400 to pay an Industrial bill to purchase 1200 feet of insulated tubing. Mr. Gambrell determined that the email originated at Texas Steam in La Porte, Texas, and passed through the email server at Louisiana Steam located in New Orleans, Louisiana, before being delivered to Texas Steam employees, Larry Jennings and Diane Brinck. Evidence would establish that neither **ESTES** nor Industrial provided any insulated tubing to Texas Steam or UOGT.

Mr. Gambrell would testify that he analyzed an email, with attachments, dated September 12, 2013, represented in ¶111 of the superseding indictment, from Maribel Hernandez to Norberto Garza at ngarza@[TEXTWO].net. Mr. Gambrell determined that the email originated at Texas Steam in La Porte, Texas, and passed through the email server at Louisiana Steam located in New Orleans, Louisiana, before being delivered to ngarza@[TEXTWO].net.

Mr. Gambrell would testify that he analyzed an email, with attachments, dated November 18, 2013, represented in ¶118 of the superseding indictment, from mhernandez@steamsolutions.com, Texas Steam employee Maribel Hernandez, to maskew@[TEXTWO].net, and determined that the email originated at Texas Steam in La Porte, Texas, and passed through the email server at Louisiana Steam located in New Orleans, Louisiana, before being delivered to maskew@[TEXTWO].net. The email transmitted to Ms. Askew caused her to submit this false invoice to UOGT for payment for non-existent insulation blankets, along with another false purchase order, for which **ESTES** received a kickback in the

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amount of \$11,550. Larry Jennings would testify that the false purchase orders were in **ESTES'** handwriting and added an additional 27 blankets to an order even though 39 blankets had already been ordered on the job.

The documentation supporting the allegations in ¶¶126 and 127 of the superseding indictment would be introduced into evidence. Banking evidence would demonstrate that **ESTES** opened a Capital One account on January 11, 2013, with a check in the amount of \$57,302 payable to Tru-Line. The check was the result of an email from **ESTES** to Jay D'Amico falsely requesting a check in that amount that purported to represent a contractor's job in a building expansion. Instead, a true contractor, Rene DeHoyos, had contracted for the job and **ESTES** falsely created a substitute contract that removed portions of the original construction contract that he now attributed to Tru-Line. **ESTES** deposited the check into the Tru-Line account he maintained and used all of the funds for his personal use. Another email dated April 5, 2013, from **ESTES** to Louisiana Steam would be introduced into evidence. On this occasion, **ESTES** falsely represented that Tru-Line Builders was going to strengthen an existing warehouse on orders of "the city" and immediately needed a check in the amount of \$18,000. Texas Steam issued the \$18,000 check to Tru-Line which **ESTES** deposited and used for his personal expenses.

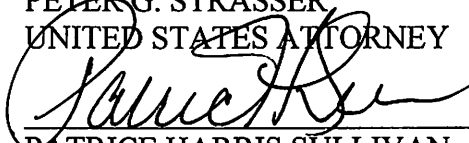
Mrs. Beninati would testify that the fraud that caused the falsely issued Industrial checks represented in ¶¶18, 19 and 20 totaled \$32,100; the funds received by **ESTES** as a result of the kickback scheme with TEXONE totaled \$133,700; the funds received by **ESTES** as a result

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of the kickback scheme with TEXTWO totaled \$133,524; and the fraud caused by ESTES and Tru-Line totaled \$75,302, all of which totaled \$374,626.

New Orleans, Louisiana, this 20th day of February, 2019.

PETER G. STRASSER
UNITED STATES ATTORNEY

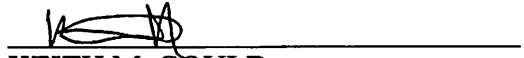


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JESSE MARCUS ESTES
Defendant

Date: 20 FEB 2019



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Counsel for Defendant

Date: 20 Feb 2019



JOHN S. FLINT
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Date: 20 Feb 2019

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Defendant: [Signature]