

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA : Honorable Michael Shipp
 : Crim. No. 18-
 v. : 18 U.S.C. § 371
 MARK BERGER :

INFORMATION

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

Introduction

1. At all times relevant to this Information:

a. Mark Berger was a resident of Roslyn, New York and San Antonio, Texas and was the Chief Information Officer of a financial services company located in Texas (the "Financial Company"). As the Chief Information Officer, defendant Mark Berger had the ability and authority to ensure that certain companies were hired to perform work for the Financial Company.

b. Co-conspirator 1 ("CC-1"), a co-conspirator not named herein, was a resident of New Jersey and was the sole de facto owner of two New Jersey-based companies ("IT Company-1" and "IT Company-2", collectively referred to as the "IT Companies"), which primarily provided information technology services and staffing placement services to other companies.

c. Co-conspirator 2 ("CC-2"), a co-conspirator not named herein, was a resident of New Jersey and was an employee of the IT Companies.

2. From in or about January 2011 through in or about March 2013, defendant

MARK BERGER

did knowingly and intentionally conspire and agree with CC-1, CC-2, and others to commit an offense against the United States, that is, to travel in interstate commerce and use and cause to be used the mail and any facility in interstate and foreign commerce with intent to promote, manage, establish, carry on, and facilitate the promotion, management, establishment, and carrying on of any unlawful activity, that is, commercial bribery, contrary to N.J.S.A. § 2C:21-10 and Title 18, United States Code, § 1952(a)(3) and, thereafter, to perform and attempt to perform acts to promote, manage, establish, carry on, and facilitate the promotion, management, establishment, and carrying on of such unlawful activity.

Object of the Conspiracy

3. The object of the conspiracy was to obtain millions of dollars of revenue for the IT Companies, by bribing defendant Mark Berger so that the Financial Company would award jobs to the IT Companies.

Manner and Means of the Conspiracy

4. It was a part of the conspiracy that CC-1, CC-2, and others caused bribes from the IT Companies to be paid to defendant Mark Berger to induce defendant Mark Berger to hire the IT Companies to perform work for the Financial Company.

5. It was further part of the conspiracy that CC-1, CC-2, and others caused approximately \$1 million in cash to be funneled from the IT Companies to defendant Mark Berger. This cash was delivered to defendant Mark Berger's home in New York by CC-1 and CC-2.

6. It was further part of the conspiracy that CC-1 caused checks to be drawn on bank accounts held or controlled by the IT Companies, and then CC-1 and CC-2 caused them to be cashed at a check-cashing business with several locations in New Jersey (collectively, the "Check Casher").

7. It was further part of the conspiracy that after cashing the checks, CC-1 and CC-2 used the cash to pay bribes to defendant Mark Berger and otherwise fund various aspects of the bribery scheme.

8. It was further part of the conspiracy that CC-1 and CC-2 personally provided cash payments to defendant Mark Berger in return for defendant Mark Berger hiring the IT Companies to perform work for the Financial Company.

9. It was further part of the conspiracy that CC-1 and CC-2 traveled from the State of New Jersey to defendant Mark Berger's home in the State of New York to deliver the aforementioned cash payments to defendant Mark Berger.

Overt Acts

10. In furtherance of the conspiracy and in order to effect the objects thereof, defendant Mark Berger and his co-conspirators committed and caused the commission of the following overt acts in the District of New Jersey and elsewhere:

11. In or about January 2011, defendant Mark Berger and his co-conspirators began using prepaid cellular telephones to communicate with each other about the kickback payments.

12. In or about early 2011, defendant Mark Berger informed CC-1 that the Financial Company was giving too much business to IT Company-1, and that the Financial Company wanted to also give business to a Texas-based company. In response, CC-1 created IT Company-2, which, although actually based in New Jersey, gave the impression of being located in Texas due to the fact that it had a Texas mailing address. Defendant Mark Berger then ensured that the Financial Company began providing business to IT Company-2.

All in violation of Title 18, United States Code, Section 371.

FORFEITURE ALLEGATION

1. The allegations contained in this Information are hereby realleged and incorporated by reference for the purpose of noticing forfeiture pursuant to 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c).

2. Upon conviction of the offense of conspiracy to violate 18 U.S.C. § 1952(a)(3), in violation of 18 U.S.C. § 371, the defendant, Mark Berger, shall forfeit to the United States, pursuant to 18 U.S.C. § 981(a)(1)(c) and 28 U.S.C. § 2461(c), all property, real or personal, that constitutes or is derived from proceeds traceable to the commission of the conspiracy to violate 18 U.S.C. § 1952(a)(3), an offense constituting specified unlawful activity, as defined in 18 U.S.C. § 1956(c)(7), which constitutes or is derived, directly or indirectly, from proceeds traceable to the conspiracy offense charged in this Information.

3. If by any act of omission of defendant, Mark Berger, any of the property subject to forfeiture 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 subdivided without difficulty, the United States shall
be entitled to forfeiture of substitute property pursuant to 21
U.S.C. § 853(p).


CRAIG CARPENITO
UNITED STATES ATTORNEY

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INFORMATION FOR

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