

JMM:BTR
F.#2010R002238

★ OCT 11 2012 ★

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

LONG ISLAND OFFICE

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UNITED STATES OF AMERICA

INDICTMENT
CR 12 649

- against -

Cr. No. _____
(T. 18, U.S.C., §§ 981(a)(1),
982(a)(1), 982(b)(1),
1349, 1956(h) and 3551
et seq.; T. 21, U.S.C.,
§ 853(p); and T. 28,
U.S.C., § 2461(c))

MARK HOTTON,
DAVID BLASS,
 also known as "Martin
 Geller,"
SHERRI HOTTON,
 also known as "Sherri
 Johnson,"
DENISE LABRIOLA,
MARIANN MEXTORF and
MICHAEL SCIBELLI,

SEYBERT, J

Defendants.

-----X

THE GRAND JURY CHARGES:

LINDSAY, M

INTRODUCTION

At all times relevant to this Indictment, unless
otherwise indicated:

The Defendants

1. The defendants MARK HOTTON and SHERRI HOTTON, also known as "Sherri Johnson," resided in West Islip, New York.
2. In or about 2008, the defendants MARK HOTTON and SHERRI HOTTON, also known as "Sherri Johnson," became the owners and operators of Lan Utilities Electric, Inc. ("LAN"), an electrical contracting company providing construction services in the New York metropolitan area.

3. In or about 2009, the defendants MARK HOTTON and SHERRI HOTTON, also known as "Sherri Johnson," incorporated and established control of Federal Electrical Utilities Inc. ("Federal"), a non-union electrical contracting company and Cablelot System, Inc. ("Cablelot"), a cable installation contracting company. All three companies (hereinafter, the "Hotton Contracting Companies") operated out of the same offices in Farmingdale, New York, and shared employees.

4. The defendant DAVID BLASS, also known as "Martin Geller," was an employee and Assistant Director of Facilities Engineering at Maimonides Medical Center ("Maimonides") in Brooklyn, New York.

5. The defendants DENISE LABRIOLA, MARIANN MEXTORF and MICHAEL SCIBELLI were, at various times, employees of LAN, Federal and Cablelot.

The Factoring Companies

6. Accounts receivable represented money owed to a business based on the sale of products or performance of services in advance of payment. An account receivable was typically documented by generating an invoice to the customer, who, in turn, was required to pay within a certain period of time.

7. Factoring was a financial transaction by which a business obtained short-term financing by selling its accounts receivable to a third party called a factor. The factor bought

the account receivable at a price less than the face value of the invoice and advanced that sum of money to the business that had sold its account receivable to the factor. The factor then collected the full amount of the invoice from the party to whom the invoice had been issued and thereby made a profit on the transaction.

8. Sterling Commercial Credit LLC ("Sterling") was a factor located in Brighton, Michigan that purchased accounts receivable from companies at approximately 80% of the face value of invoices. Sterling advanced money to any company whose accounts receivable it had purchased by transmitting that money via interstate wire transfers to the company's bank.

9. The Receivables Exchange ("TRE") was an electronic exchange, located in New Orleans, Louisiana, in which companies auctioned accounts receivables to buyers. The exchange acted as an intermediary between the seller of accounts receivable and the purchasing factors. Transactions on the exchange were conducted through interstate computer wire communications. TRE collected payments from the factor for any accounts receivable sold, and transmitted payments to the seller by interstate wire transfer. TRE then acted as a collector for the amounts due on the sold invoices, which, when paid in full, were sent to the factor after TRE deducted its fee.

10. Prior to purchasing or offering for sale invoices from a company, Sterling and TRE (the "Factoring Companies"), required companies seeking advances through factoring to confirm that any accounts receivable being used as the basis for an advance reflected money actually owed by the customer listed on an invoice.

The False Invoice Factoring Scheme

11. In or about and between January 2008 and December 2010, the defendants MARK HOTTON, DAVID BLASS, also known as "Martin Geller," SHERRI HOTTON, also known as "Sherri Johnson," DENISE LABRIOLA, MARIANN MEXTORF and MICHAEL SCIBELLI devised, implemented, supervised and executed a scheme to fraudulently induce the Factoring Companies to advance money to the Hotton Contracting Companies by submitting to the Factoring Companies false and fraudulent checks, invoices and other documentation purporting to reflect accounts receivable owed to the Hotton Contracting Companies when, in truth and in fact, as the defendants then and there well knew and believed, no such accounts receivable were due and owing to the Hotton Contracting Companies.

12. It was a part of the scheme that between July 2009 and June 2010, the defendants MARK HOTTON, SHERRI HOTTON, also known as "Sherri Johnson," DENISE LABRIOLA, MARIANN MEXTORF and MICHAEL SCIBELLI, together with others, sold false Hotton

Contracting Companies invoices with a face value of approximately \$7,212,557 through TRE, from which sales the defendants fraudulently obtained \$2,656,000 in advances from TRE.

13. It was a further part of the scheme that between June 2010 and August 2010, the defendants MARK HOTTON, SHERRI HOTTON, also known as "Sherri Johnson," MARIANN MEXTORF, DENISE LABRIOLA and MICHAEL SCIBELLI, together with others, sold false Hotton Contracting Companies invoices to Sterling with a face value of approximately \$2,657,000, from which sales the defendants fraudulently obtained \$1,100,000 in advances from Sterling.

14. It was a further part of the scheme that between January 2008 and August 2010, the defendant DAVID BLASS, also known as "Martin Geller," falsely notified TRE and Sterling that invoices issued by the Hotton Contracting Companies, with a face value of over \$700,000, were received by Maimonides and were being processed for payment, when in truth and in fact, no such invoices were received by Maimonides, nor did the hospital owe the Hotton Contracting Companies monies for services rendered. In return, as a further part of the scheme, the defendants MARK HOTTON, SHERRI HOTTON, also known as "Sherri Johnson," MARIANN MEXTORF, DENISE LABRIOLA and MICHAEL SCIBELLI, together with others, arranged for monthly cash payments of approximately \$6,000 to be made to the defendant DAVID BLASS.

COUNT ONE
(Conspiracy to Commit Wire Fraud)

15. The allegations contained in paragraphs one through fourteen are realleged and incorporated as if fully set forth in this paragraph.

16. In or about and between January 2008 and December 2010, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendants MARK HOTTON, DAVID BLASS, also known as "Martin Geller," SHERRI HOTTON, also known as "Sherri Johnson," DENISE LABRIOLA, MARIANN MEXTORF and MICHAEL SCIBELLI, together with others, did knowingly and intentionally conspire to devise a scheme and artifice to defraud the Factoring Companies, and to obtain money and property from them by means of materially false and fraudulent pretenses, representations and promises, and for the purpose of executing such scheme and artifice, to transmit and cause to be transmitted, by means of wire communication in interstate commerce, writings, signs, signals and sounds, contrary to Title 18, United States Code, Section 1343.

(Title 18, United States Code, Sections 1349 and 3551
et seq.)

COUNT TWO
(Money Laundering Conspiracy)

17. The allegations contained in paragraphs one through fourteen are realleged and incorporated as if set forth fully in this paragraph.

18. In or about and between September 2008 and December 2010, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendants MARK HOTTON, DAVID BLASS, also known as "Martin Geller," SHERRI HOTTON, also known as "Sherri Johnson," DENISE LABRIOLA, MARIANN MEXTORF and MICHAEL SCIBELLI, together with others, did knowingly and intentionally conspire to conduct financial transactions affecting interstate commerce, which in fact involved the proceeds of specified unlawful activity, to wit: wire fraud, in violation of Title 18, United States Code, Section 1343, knowing that the property involved in the financial transactions represented the proceeds of some form of unlawful activity (a) with the intent to promote the carrying on of the specified unlawful activity, contrary to Title 18, United States Code, Section 1956(a)(1)(A)(i), and (b) knowing that the transactions were designed in whole and in part to conceal and disguise the nature, the location, the source, the ownership and the control of the proceeds of the specified unlawful activity, contrary to Title 18, United States Code, Section 1956(a)(1)(B)(i).

(Title 18, United States Code, Sections 1956(h) and 3551 et seq.)

CRIMINAL FORFEITURE ALLEGATION FOR COUNT ONE

19. The United States hereby gives notice to the defendants charged in Count One, that, upon conviction of such offense, the government will seek forfeiture in accordance with Title 18, United States Code, Section 981(a)(1)(c) and Title 28, United States Code, Section 2461(c), which require any person convicted of such offense to forfeit any property constituting or derived from proceeds obtained directly or indirectly as a result of such offense, including but not limited to:

all property traceable to such property, including but not limited to, the following:

Money Judgment

a. A sum of money equal to and including the proceeds of the offenses.

Specific Property

b. All right, title and interest in the real property and premises located at 501 Corbin Place, West Islip, New York;

c. All right, title and interest in the real property and premises located at 27 West Chestnut Street, Farmingdale, New York;

d. All right, title and interest in the real property and premises located at 143 Babylon Avenue, West Islip, New York; and

e. All right, title and interest in the real property and premises located at 28 Woodbine Road, West Babylon, New York.

20. If any of the above-described forfeitable property, as a result of any act or omission of the defendants:

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 divided without difficulty;

it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 28, United States Code, Section 2461(c), to seek forfeiture of any other property of such defendants up to the value of the forfeitable property described in this forfeiture allegation.

(Title 18, United States Code, Section 981(a)(1); Title 21, United States Code, Section 853(p); Title 28, United States Code, Section 2461(c))

CRIMINAL FORFEITURE ALLEGATION FOR COUNT TWO

21. The United States hereby gives notice to the defendants that, upon conviction of the offense charged in Count Two, the government will seek forfeiture in accordance with Title 18, United States Code, Section 982(a)(1), of all property involved in the conspiracy to violate Title 18, United States Code, Section 1956 and all property traceable to such property as a result of the conviction of such offense, including but not limited to:

Money Judgment

a. A sum of money equal to and including the proceeds of the offenses.

Specific Property

b. All right, title and interest in the real property and premises located at 501 Corbin Place, West Islip, New York;

c. All right, title and interest in the real property and premises located at 27 West Chestnut Street, Farmingdale, New York;

d. All right, title and interest in the real property and premises located at 143 Babylon Avenue, West Islip, New York; and

e. All right, title and interest in the real property and premises located at 28 Woodbine Road, West Babylon, New York.

SIR: Criminal Action No.

PLEASE TAKE NOTICE that the within will be presented for settlement and signature to the Clerk of the United States District Court in his office at the U.S. Courthouse, 610 Federal Plaza, Central Islip, New York, on the ___ day of ___, 20___, at 10:30 o'clock in the forenoon.

Dated: Central Islip, New York, 20___

United States Attorney,
Attorney for _____

To: _____

Attorney for _____

SIR:

PLEASE TAKE NOTICE that the within is a true copy of _____ duly entered herein on the ___ day of _____, in the office of the Clerk of the Eastern District of New York,

Dated: Central Islip, New York, 20___

United States Attorney,
Attorney for _____

To: _____

Attorney for _____

**UNITED STATES DISTRICT COURT
Eastern District of New York**

UNITED STATES OF AMERICA

- against -

MARK HOTTON,
DAVID BLASS, also known as "Martin Geller",
SHERRI HOTTON, also known as "Sherri Johnson",
DENISE LABRIOLA
MARIANN MEXTORF
MICHAEL SCIBELLI

Defendants.

INDICTMENT

(T. 18, U.S.C., §§ 928 (a)(1), 981 (b)(1), 1349, 1956 (h) and 3551 et seq.; T. 21, U.S.C., § 853 (p); and T. 28, U.S.C., § 2461)

a true bill.

Justina Verbeurly
Foreman

Filed in open court this ___ day of

A.D. _____

Clerk

Bail, \$ _____

Burton T. Ryan
Assistant U.S. Attorney 631-715-7853