

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA)	No.
)	
vs.)	Violations: Title 18, United States Code,
)	Sections 371, 1341, Title 26,
JAMES H. LEVIN,)	United States Code, Section 7201
ARTHUR F. MILLER, and)	
JAMES W. PICARDI)	

COUNT ONE

The SPECIAL FEBRUARY 2005-1 GRAND JURY charges:

1. At times material to this indictment:

a. Tru-Link Fence and Products Company (“Tru-Link Fence”), 5440 West Touhy Avenue, Skokie, Illinois was an Illinois corporation in the business of installing residential and commercial fencing.

b. Tru-Link Commercial, Incorporated (“Tru-Link Commercial”), 218-20 North Laflin Street, Chicago, Illinois was an Illinois corporation in the business of installing commercial fencing. Tru-Link Commercial acquired the assets of Elite Fencing, Inc. (“Elite”), a company engaged in the business of installing commercial fencing, in or about 1999.

c. Defendant JAMES H. LEVIN was the president of Tru-Link Fence and Tru-Link Commercial.

d. Co-Schemer A was one of the owners and operators of Elite at the time Tru-Link Commercial acquired the assets of Elite. Co-Schemer A became the Vice-President of Tru-Link Commercial following the acquisition of Elite’s assets by Tru-Link Commercial.

e. The Chicago Public Schools was a municipal corporation operated by the Board of Education of the City of Chicago (“the Board”).

f. On or about January 30, 1991, the Board adopted the Revised Remedial Plan for Minority and Women Business Economic Participation for the purpose of promoting minority and women owned businesses. Under the plan, a certain percentage of the aggregate dollar value of each contract awarded by the Board was targeted to go to a minority owned business enterprise (“MBE”) and/or a woman owned business enterprise (“WBE”). A MBE or a WBE was a local business that was owned and controlled (minimum of 51% ownership) by a member of a minority group or by a woman and was certified as such by the City of Chicago.

g. Bidders on Board contracts were required to fill out MBE/WBE compliance forms in which they were to indicate which subcontractors they intended to use to fulfill the goals of the MBE/WBE program and what percentage of the work the subcontractors would be performing. If the bidders could not fulfill the program goals, they could indicate on the compliance demonstration forms that they were applying for a waiver of the program goals.

h. In connection with work performed under any contract with the Board, the primary contractor was required to submit forms, including a Monthly MBE/WBE Utilization Report by Contractor form and a Contractor’s Trade Breakdown Sheet, that identified the dollar amount and percentage of work performed by MBE and WBE subcontractors in connection with the particular projects completed by the primary contractor.

i. If contractors indicated that they would use MBE and WBE firms for subcontract work and then failed to make good faith efforts to use the minority and women businesses to the extent that the contractors had promised, the Board could sanction the contractors in several ways, including suspending or terminating their contracts, in whole or in part, and withholding payments on the contracts.

j. The Board paid contractors the full amount owed under Board contracts and contractors were in turn responsible for paying MBE or WBE subcontractors their share from the contract proceeds.

k. Prior to the Board paying the final bill for work done pursuant to a construction contract, the contractor and subcontractors were required to sign lien waivers that confirmed that payment of the amount billed would be considered full payment for the work performed.

2. On or about May 26, 1998, Tru-Link Fence submitted a bid to the Board for the construction and installation of fencing and gates in Regions 5 and 6 of the CPS. The bid represented that a MBE firm would perform a certain percentage of the work under the contract. The Board subsequently awarded Contract Number 999491 to Tru-Link Fence for the construction and installation of fencing and gates in Regions 5 and 6 of the CPS.

3. From in or about October 1998 to in or about May 2000, Tru-Link Fence submitted payment packets to the CPS in connection with approximately 106 projects completed under Contract Number 999491. The payment packets represented that certain percentages of the work performed on each project had been completed by MBE firms, including Company A and Company B. The Board paid approximately \$2,621,613 to Tru-Link Fence between in or about November 1998 and in or about September 2000 in connection with the approximately 106 projects completed under Contract Number 999491.

4. On or about June 21, 2000, Tru-Link Commercial submitted a bid to the Board for the construction and installation of fencing and gates in Regions 1 through 6 of the CPS. The bid represented that MBE and WBE firms, including Company A and Company C, would perform a

certain percentage of the work under the contract. The Board subsequently awarded Contract Number 21494 to Tru-Link Commercial for the construction and installation of fencing and gates in Regions 1 through 6 of the CPS.

5. From in or about October 2000 to in or about April 2001, Tru-Link Commercial submitted payment packets to the CPS in connection with approximately 20 projects completed under Contract Number 21494. The payment packets represented that certain percentages of the work performed on each project had been completed by MBE firms, including Company A and Company C. The Board paid approximately \$254,239 to Tru-Link Commercial between in or about January 2001 to in or about July 2001 in connection with the approximately 20 projects completed under Contract Number 21494

6. On or about December 11, 2000, the Chief Executive Officer of the CPS declared a “Snow Emergency” as the result of a winter storm that caused an accumulation of in excess of ten inches of snow in the City of Chicago. The CPS Department of Operations implemented its “Severe Weather Response Plan” as a result of the Chief Executive Officer’s declaration of a “Snow Emergency.” The plan required the Department of Operations to provide assistance to schools during the “Snow Emergency,” which included selecting and dispatching private companies to schools throughout the City of Chicago for the purpose of providing snow removal services.

7. The Department of Operations selected and dispatched approximately nine private companies, including Tru-Link Commercial, to schools throughout the City for purposes of providing snow removal services during the “Snow Emergency.”

8. Each of the private companies that provided snow removal services during the “Snow Emergency” of December 2000 was required to submit invoices to the property advisors responsible

for overseeing work performed at schools for the CPS. These invoices reflected the schools at which the private company had performed services, the number of employees and hours spent by each employee at the school, and the equipment utilized by the employees at each school. The Board compensated each of the private companies based upon the hours spent by employees performing snow removal work, as reflected in these invoices.

9. The Board caused the payment of approximately \$896,133 in funds to nine private contractors for emergency snow removal work in connection with the declaration of the “Snow Emergency” on or about December 11, 2000. The Department of Operations caused approximately \$369,460 of these funds to be paid to Tru-Link Fence for snow removal work it purportedly performed in connection with the “Snow Emergency.”

10. From in or about January 2001, and continuing to in or about August 2001, at Chicago, in the Northern District of Illinois, Eastern Division,

JAMES H. LEVIN,

defendant herein, knowingly devised, intended to devise, and participated in a scheme to defraud and obtain money and property from the Board by means of materially false and fraudulent pretenses, representations, promises, and omissions, which scheme is further described in the following paragraphs.

11. It was part of the scheme that, in or about January 2001, Co-schemer A informed defendant JAMES H. LEVIN that the bids and payment packets submitted to the Board on behalf of Tru-Link Fence and Tru-Link Commercial in connection with Contract Numbers 999491 and 21494 falsely represented that specific percentages of the work completed for each project would be or had been completed by certain MBE and WBE firms when, in fact, all of the work performed

for each of the projects under the contracts had been performed by Tru-Link Fence and Tru-Link Commercial, which were neither certified MBE nor WBE firms.

12. It was further part of the scheme that, in or about January 2001, Co-Schemer A told defendant JAMES H. LEVIN that Individual A wanted monetary compensation to prevent Individual A from informing investigators for the Board about the false representations made regarding the work performed by Individual A's company, Company A, as an MBE firm in the bid and payment packets submitted by Tru-Link Fence to the Board in connection with Contract Number 999491.

13. It was further part of the scheme that, in or about January 2001, defendant JAMES H. LEVIN agreed with Co-Schemer A to pay approximately \$3,500 to Individual A in order to prevent Individual A from informing investigators for the Board about the false representations made regarding the work performed by Individual A's company, Company A, in the bid and payment packets submitted by Tru-Link Fence to the Board in connection with Contract Number 999491.

14. It was further part of the scheme that, in or about January 2001, defendant JAMES H. LEVIN prepared a check in the amount of \$3,500 made payable to Individual A's company, Company A, and provided the check to Co-schemer A for the purpose of paying Individual A not to inform investigators from the Board about the false representations made in the bid and payment packets submitted by Tru-Link Fence to the Board in connection with Contract Number 999491.

15. It was further part of the scheme that, in or about January 2001, for the purpose of receiving payments from the Board to which Tru-Link Commercial was not entitled, defendant JAMES H. LEVIN caused the submission of false invoices to the property advisors for the CPS in

connection with the snow removal work performed by Tru-Link Commercial during December 2000 and January 2001. As defendant was well aware, these invoices falsely inflated the number of hours that had been spent by Tru-Link Commercial employees performing snow removal work for the CPS.

16. It was further part of the scheme that defendant JAMES H. LEVIN, as a result of the submission of these invoices that falsely inflated the number of hours worked by employees of Tru-Link Commercial, caused the Board to pay Tru-Link Commercial approximately \$207,712 in funds to which it was not entitled for performing snow removal work during the “Snow Emergency” of December 2000 and January 2001.

17. It was further part of the scheme that, in or around March 2001, defendant JAMES H. LEVIN and Co-schemer A agreed to pay \$100,000 to Individual B in return for the fraudulent use of the name of Individual B’s company, Company B, as one of the certified MBE firms performing work in connection with the projects being completed for the Board by Tru-Link Fence under Contract Number 99949. As defendant was well aware, Company B had not performed work on any of the projects.

18. It was further part of the scheme that, in or around March 2001, defendant JAMES H. LEVIN provided Individual B with four checks in amounts of approximately \$21,151 each in return for the fraudulent use of the name of Individual B’s company, Company B, in connection with the payment packets submitted by Tru-Link Fence under Contract Number 999491.

19. It was further part of the scheme that, in or about June 2001, defendant JAMES H. LEVIN agreed to pay Individual C approximately \$76,000 in return for the false representation made by Tru-Link Commercial regarding the work performed by Individual C’s company, Company

C, as one of the certified MBE and WBE firms performing work in the bid and payment packets submitted to the Board in connection with Contract Number 21494 and in return for Individual C's agreement to sign certain documentation, namely, Final Waiver of Lien Forms, that had to be submitted to the Board in connection with Tru-Link Commercial's requests for payment for the work performed under Contract Number 21494. These payment packets and Final Waiver of Lien forms falsely represented that Company C had performed work in connection with projects completed by Tru-Link Commercial for the Board in connection with Contract Number 21494 when, as defendant was well aware, Company C had performed no such work on any of the projects.

20. It was further part of the scheme that, in or about June 2001, defendant JAMES H. LEVIN provided Individual C with a check for approximately \$55,000 drawn on an account from LaSalle National Bank, which check represented partial payment for the fraudulent use of the name of Individual C's company, Company C, and Individual C's signature on the Final Waiver of Lien forms.

21. It was further part of the scheme that, on or about August 27, 2001, Individual C drafted and mailed a letter to defendant JAMES H. LEVIN that demanded payment of the \$76,000 promised by defendant JAMES H. LEVIN in return for Individual C's agreement to sign the Final Waiver of Lien Forms that were submitted to the Board in connection with Tru-Link Commercial's requests for payment for the work performed under Contract Number 21494.

22. It was further part of the scheme that to further the objects of the scheme and to continue the scheme without detection by the Board, law enforcement and others, defendant misrepresented, concealed, and hid, and caused to be misrepresented, concealed and hidden, the existence of the scheme, as well as the conduct and the true purposes of the acts committed during

and in furtherance of the scheme.

23. On or about August 27, 2001, at Chicago, in the Northern District of Illinois, Eastern Division,

JAMES H. LEVIN,

defendant herein, for the purpose of executing the aforesaid scheme, and attempting to do so, did knowingly cause an envelope addressed to JIM LEVIN, TRU-LINK FENCE, INC., 218 LAFLIN STREET, CHICAGO, IL 60606 to be delivered by United States Mail, according to the directions thereon, which envelope contained a letter addressed to defendant JAMES LEVIN from Individual C requesting the payment promised by defendant in return for the fraudulent use of Company C's name on the bid and payment packets submitted to the Board and in return for Individual C's execution of documentation that falsely represented Company C's participation in work performed for Tru-Link Commercial as part of Tru-Link Commercial's contract with the Board;

In violation of Title 18, United States Code, Section 1341.

COUNT TWO

The SPECIAL FEBRUARY 2005-1 GRAND JURY charges:

1. At times material to the indictment:

a. The Chicago Public Schools (“CPS”) was a municipal corporation governed by the Board of Education of the City of Chicago. The CPS operated in excess of 600 schools within boundaries conterminous with the City of Chicago and received in excess of \$10,000 in Federal funding in the twelve-month period between January 1, 2000 and December 31, 2001.

b. Defendant JAMES W. PICARDI was employed as the Assistant Manager of Operations and the Operations Manager for the Operations Department of the CPS. Defendant’s job responsibilities in connection with these positions involved determining the necessity for construction work, including the installation of fencing, at schools within the CPS.

c. Defendant ARTHUR F. MILLER owned and operated All Power Electric, which was a company that performed residential and commercial electric work. Defendant MILLER also conducted business under the names MPZ, M.P.Z. Enterprises, and MPZ Enterprises (collectively referred to as “MPZ”).

d. James H. Levin was the president of Tru-Link Fence and Products Company and Tru-Link Commercial, Incorporated (collectively referred to in this Count as “Tru-Link”), which was a company engaged in the business of installing residential and commercial fencing.

2. Beginning no later than in or about December 2000, and continuing until in or about September 2001, in the Northern District of Illinois, and elsewhere,

ARTHUR F. MILLER and
JAMES W. PICARDI,

defendants herein, did conspire and agree with each other and others known and unknown to the Grand Jury, including James H. Levin, to:

a. Corruptly solicit and demand, and accept and agree to accept, things of value of \$5,000 or more with the intent to influence and reward an agent of the CPS in connection with any business, transaction, or series of transactions of the CPS, in violation of Title 18, United States Code, Section 666(a)(1)(B); and

b. Corruptly give, offer, and agree to give things of value of \$5,000 or more with the intent to influence and reward an agent of the CPS, in connection with any business, transaction, or series of transactions of the CPS, in violation of Title 18, United States Code, Section 666(a)(2);

3. It was part of the conspiracy that defendant JAMES W. PICARDI and James H. Levin agreed that defendant JAMES W. PICARDI would assist James H. Levin in obtaining work for Tru-Link with the CPS in return for the payment of approximately \$1,000 per week from James H. Levin.

4. It was part of the conspiracy that defendant JAMES W. PICARDI received weekly payments totaling in excess of \$5,000 and other items of value from James H. Levin in return for assisting Tru-Link in obtaining fencing work with the CPS.

5. It was further part of the conspiracy that James H. Levin agreed to additionally pay defendant JAMES W. PICARDI ten percent of the amounts received for certain work performed by Tru-Link for the CPS.

6. It was further part of the conspiracy that defendant JAMES W. PICARDI directed James H. Levin to make payments intended for defendant JAMES W. PICARDI to defendant ARTHUR F. MILLER under the name of one of defendant ARTHUR F. MILLER's businesses, namely, MPZ.

7. It was further part of the conspiracy that James H. Levin prepared checks made payable to MPZ. These payments were intended for defendant JAMES W. PICARDI in return for defendant JAMES W. PICARDI's assistance in obtaining fencing and other work for Tru-Link with the CPS.

8. It was further part of the conspiracy that defendant ARTHUR F. MILLER, knowing that the proceeds of the checks represented payments intended for defendant JAMES W. PICARDI in connection with his employment by the CPS, agreed to accept and deposit checks and did accept and deposit checks from James H. Levin in accounts held by MPZ and to provide benefits, including a portion of the proceeds of those checks, to defendant JAMES W. PICARDI in an effort to disguise the relationship between defendant JAMES W. PICARDI and James H. Levin.

9. It was further part of the conspiracy that defendants JAMES W. PICARDI and ARTHUR F. MILLER committed one or more of the following acts, among others, in furtherance of and to effect the objects of the conspiracy:

a. On or about December 11, 2000, defendant JAMES W. PICARDI caused the CPS to contract snow removal work to Tru-Link in return for James H. Levin's agreement to pay defendant PICARDI ten percent of the amounts received by Tru-Link from the CPS for the snow removal work.

b. On or about April 20, 2001, James H. Levin prepared and executed a check

made payable to "MPZ Contractors" in the amount of \$37,000. The proceeds of the check were intended for defendant JAMES W. PICARDI and the check represented ten percent of the funds received by Tru-Link from the CPS for snow removal work performed by Tru-Link in or about December 2000.

b. On or about April 20, 2001, defendant ARTHUR F. MILLER deposited the \$37,000 check obtained from James H. Levin into an account controlled by defendant ARTHUR F. MILLER.

c. On or about July 17, 2001, James H. Levin prepared and executed a check made payable to "M.P.Z." in the amount of \$20,000. The proceeds of the check were intended for defendant JAMES W. PICARDI in return for defendant JAMES W. PICARDI's assistance in obtaining fencing work and prompt payment for Tru-Link from the CPS.

d. On or about July 17, 2001, defendant ARTHUR F. MILLER deposited the \$20,000 check obtained from James H. Levin in an account controlled by defendant ARTHUR F. MILLER.

10. It was further part of the conspiracy that to further the objects of the conspiracy and to continue the conspiracy without detection by the Board, law enforcement and others, defendants JAMES W. PICARDI and ARTHUR F. MILLER and James H. Levin misrepresented, concealed, and hid, and caused to be misrepresented, concealed and hidden, the existence of the scheme, as well as the conduct and the true purposes of the acts committed during and in furtherance of the conspiracy.

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

COUNT THREE

The SPECIAL FEBRUARY 2005-1 GRAND JURY further charges:

1. During the calendar year 2001, defendant JAMES W. PICARDI, a resident of Chicago, Illinois, had a taxable income of, at least, \$81,021.
2. Upon said taxable income, defendant JAMES W. PICARDI owed to the United States of America income tax of, at least, approximately \$19,364.
3. By reason of this income, defendant JAMES W. PICARDI was required by law, following the close of the calendar year 2001, and on or before April 15, 2002, to make an income tax return to the Internal Revenue Service and to pay the income tax due and owing thereon.
4. Throughout calendar year 2001, continuing to on or about April 15, 2002, in the Northern District of Illinois, Eastern Division,

JAMES W. PICARDI,

defendant herein, well knowing all of the foregoing facts, did willfully attempt to evade and defeat the income tax due and owing by him to the United States of America for the 2001 calendar year by:

- a. intentionally and willfully filing a federal income tax return for calendar year 2001 that failed to identify all sources of income received during that calendar year;
- b. failing to pay to the Internal Revenue Service the full income tax due and owing;
- c. concealing income received from contractors doing business with the Chicago Public Schools by receiving payments in cash;
- d. falsely representing to his tax preparer that defendant received no income other than income received in connection with his employment by the Chicago Public Schools; and

e. otherwise concealing from all proper officials of the United States of America and the Internal Revenue Service his true and correct income;

In violation of Title 26, United States Code, Section 7201.

FORFEITURE ALLEGATION ONE

The SPECIAL FEBRUARY 2005-1 GRAND JURY further charges:

1. The allegations of Count One of the foregoing indictment are realleged and fully incorporated herein for the purpose of alleging forfeiture to the United States pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c).

2. As a result of the violation of Title 18, United States Code, Section 1341, of Count One the foregoing indictment,

JAMES H. LEVIN,

defendant herein, shall forfeit to the United States, pursuant to Title 18, United States Code, Section 981(a)(1)(C), any and all right, title, and interest he may have in any property, real and personal, which constitutes and is derived from the proceeds traceable to the offense charged in Count One, including \$207,712.

3. If any of the forfeitable property described above, as a result of any act or omission by the defendant:

- 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,

the United States of America shall be entitled to forfeiture of substitute property under the provisions of Title 21, United States Code, Section 853(p), as incorporated by Title 28, United States

Code, Section 2461(c).

All pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c).

FORFEITURE ALLEGATION TWO

The SPECIAL FEBRUARY 2005-1 GRAND JURY further charges:

1. The allegations of Count Two of the foregoing indictment are realleged and fully incorporated herein for the purpose of alleging forfeiture to the United States pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c).

2. As a result of the conspiracy to violate of Title 18, United States Code, Section 666, as set forth in Count Two of the foregoing indictment,

JAMES W. PICARDI,

defendant herein, shall forfeit to the United States, pursuant to Title 18, United States Code, Section 981(a)(1)(C), any and all right, title, and interest he may have in any property, real and personal, which constitutes and is derived from the proceeds traceable to the offense charged in Count Two.

3. If any of the forfeitable property described above, as a result of any act or omission by 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,

the United States of America shall be entitled to forfeiture of substitute property under the provisions of Title 21, United States Code, Section 853(p), as incorporated by Title 28, United States Code, Section 2461(c).

All pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c).

A TRUE BILL:

FOREPERSON

UNITED STATES ATTORNEY