

DISTRICT ATTORNEY - NEW YORK COUNTY

News Release
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Manhattan District Attorney Robert M. Morgenthau announced today the racketeering indictment of six people and one corporation for stealing millions of dollars from the Metropolitan Transportation Authority ("MTA") and other related crimes. Two of those charged are former MTA officials and a third is a current MTA employee.

Charged with Enterprise Corruption under New York's Organized Crime Control Act (OCCA) are the MTA's former Director of Facility Operations, HOWARD WEISSMAN, its former Facilities Manager, RONALD ALLAN, and current MTA building manager, GARY WEISSBARD. They are charged with participating in the corrupt activities of contractors doing business with the MTA, including plumbing contractor FIGLIOLIA PLUMBING CO., INC. d/b/a ALEX FIGLIOLIA CONTRACTING CORP. ("FIGLIOLIA PLUMBING"), and its principals, ALEX FIGLIOLIA, SR., his wife JANET FIGLIOLIA, and his son, ALEX FIGLIOLIA, JR.

The 116 count indictment charges that the defendants were engaged in a criminal enterprise, denominated the "FIGLIOLIA GROUP," for the purpose of stealing millions of dollars from the MTA through a variety of schemes, including inflating invoices for materials, violating prevailing wage requirements, money laundering, falsifying and forging business records filed with the MTA and evading taxes.

Specifically, the indictment charges that the following thefts took place:

- **Prevailing Wage Scheme: \$1,156,679.41**
- **Inflated Materials Charges: \$ 806,000.00**

The indictment also charges money laundering for the following expenditures:

- **Corporate Checks: \$5,400,000.00**
- **Cash Generation: \$4,364,575.00**

"Corrupt MTA officials were bribed to allow inflated invoices to be paid by the MTA resulting in a massive theft of taxpayer and fare-payer money," said Mr. Morgenthau. "The officials whose duty it was to protect the public purse violated that duty by pocketing hundreds of thousands of dollars to allow corrupt contractors to steal millions. While we may never know exactly how much money was stolen from the MTA, the investigation revealed that one plumbing contractor alone, generated approximately \$9.3 million in fraudulent labor charges, inflated invoices for materials, and cash generating schemes

to renovate his house, purchase jewelry, furniture and stock and evade taxes. At a time of fiscal crisis, such flagrant violation of the law cannot and will not be tolerated."

Mr. Morgenthau said that the case was referred to the District Attorney's Office by MTA Executive Director Katherine N. Lapp and Inspector General Matthew D. Sansverie.

MTA Executive Director Katherine N. Lapp, said "I thank District Attorney Morgenthau and his staff for their efforts in this investigation. I am very proud of the hard work put in throughout the MTA by our employees who brought this case to the DA and cooperated with this investigation over the past eighteen months."

MTA Inspector General Mathew D. Sansverie said, "I would like to thank D.A. Morgenthau for his staff's usual excellence in marshalling the raw evidence we presented to them. The result is the largest blow against corruption in the twenty-year history of the MTA Inspector General's Office. I also want to thank the MTA, especially Executive Director, Katherine Lapp, for insuring the MTA's full and complete cooperation."

FIGLIOLIA PLUMBING AND THE MTA

The MTA contracts with private contractors to provide services for their facilities. From 1994 through 2002, FIGLIOLIA PLUMBING obtained a series of nine consecutive contracts to provide as-needed maintenance and repair services for plumbing operations at a number of locations, including MTA headquarters, located at 341, 345, and 347 Madison Avenue, the MTA Data Center, located at 460 West 34th Street, and MTA East Side Access, located at 469 7th Avenue.

All of the contracts were what the MTA calls "requirements contracts." Each contract covered a set period, usually a year or two. The contract amount was not guaranteed; rather, the MTA assigned jobs as required, and FIGLIOLIA PLUMBING billed the MTA for the actual labor and materials claimed to be used on the job. FIGLIOLIA PLUMBING bid for these contracts by submitting "price schedules" which specified the hourly rates it would charge for labor, and the mark-up it would charge for materials. FIGLIOLIA PLUMBING obtained the contracts by promising lower labor rates and lower mark-ups for materials than its competitors. FIGLIOLIA PLUMBING was then bound by those price schedules for the length of the contracts.

In addition to the requirements contracts, FIGLIOLIA PLUMBING also provided plumbing services as a subcontractor during renovation work at the MTA leased facility located at 2 Broadway and at another MTA owned building, the Edison Parking Garage located at 99 Greenwich Street. FIGLIOLIA PLUMBING also provided plumbing

services for the MTA at 111 W. 40th Street during the renovation and expansion of the MTA Office of the Inspector General.

ALEX FIGLIOLIA, SR., was the President and chief operating officer of FIGLIOLIA PLUMBING. His wife, JANET FIGLIOLIA, was the Vice President, Secretary-Treasurer, and office manager of FIGLIOLIA PLUMBING. ALEX FIGLIOLIA, JR., (the son of Alex, Sr., and the stepson of Janet) was a Vice President of FIGLIOLIA PLUMBING and was responsible for overseeing the work done by the company.

The total payments made by the MTA to FIGLIOLIA PLUMBING under the requirements contracts and as a subcontractor from January 1, 1999 to November 5, 2002 was \$18,698,195.82.

To apply for payment under its requirement contracts, FIGLIOLIA PLUMBING submitted invoices to the MTA which listed charges for labor and material based on the terms in the price schedule. With the invoices, FIGLIOLIA PLUMBING included supporting documents, such as price quotes purporting to be from the wholesale plumbing company where it purchased materials used for MTA jobs. Since the MTA is a public benefit corporation, FIGLIOLIA PLUMBING was required to pay "prevailing wages" as set by the New York State Department of Labor. The requirement to pay prevailing wage was a standard condition in all of the plumbing contracts, and the schedules were included with FIGLIOLIA PLUMBING's bid documents.

PREVAILING WAGE SCHEME

The indictment charges that FIGLIOLIA PLUMBING stole \$1,156,679.41 by falsely claiming to pay prevailing wages when, in fact, it paid far less and pocketed the difference. For example, an examination of the books and records maintained by FIGLIOLIA PLUMBING, seized during the execution of a search warrant at the business on April 15, 2003, showed that FIGLIOLIA paid most of its workers less than \$20.00 per hour, and in some cases as little as \$8.00 per hour, but he billed the MTA for the prevailing wage of more than \$65.00 per hour.

A sample audit of ten of the labor invoices submitted to the MTA by FIGLIOLIA PLUMBING between 1999 and 2002 determined that for those ten invoices FIGLIOLIA PLUMBING billed the MTA a total of \$1,407,834.00 for labor, but paid its workers just \$251,154.59, a mark-up of 461%. The indictment charges that FIGLIOLIA PLUMBING stole the difference of \$1,156,679.41.

The full extent of the prevailing wage theft may never be known because certain of the invoices did not list itemized labor charges. However, extrapolating the mark-ups from the sample of ten invoices

to the total labor billed in the 238 invoices filed by FIGLIOLIA PLUMBING between 1998 and 2002, suggests that the prevailing wage theft against the MTA and the riding public is in excess of \$6.8 million.

INFLATED MATERIALS CHARGES SCHEME

In addition to the prevailing wage thefts, FIGLIOLIA PLUMBING also stole money from the MTA by fraudulently inflating the costs of materials billed on MTA jobs.

In order to obtain the MTA contracts, FIGLIOLIA PLUMBING's bids promised that there would be no mark-up on materials used on MTA jobs. Despite this contractual obligation to have a 0% mark-up, the investigation revealed that, in fact, FIGLIOLIA PLUMBING marked-up the price of materials billed to the MTA by as much as 5000% from 1997 to 2002.

An examination of MTA records indicates that FIGLIOLIA PLUMBING was paid approximately \$1.4 million for materials during that period. A comparison of the MTA's records of payment with the records seized from FIGLIOLIA PLUMBING revealed that FIGLIOLIA PLUMBING actually paid its supplier only \$594,000. The indictment charges that the FIGLIOLIAs stole the difference of \$806,000. For example:

- a "2½ x 4½ brass nipple" was purchased by FIGLIOLIA PLUMBING for \$23.65 each, but was billed to the MTA for \$337.86;
- a "3 x clo brass nipple" was purchased by FIGLIOLIA PLUMBING for \$22.77 each, but was billed to the MTA for \$325.24;
- a "2½ SHO brass nipple" was purchased by FIGLIOLIA PLUMBING for \$17.50 each, but was billed to the MTA for \$250.04;
- a "¼ brass tee" was purchased by FIGLIOLIA PLUMBING for \$3.55 each, but was billed to the MTA for \$135.04;
- a "2 thread-o-let" was purchased by FIGLIOLIA PLUMBING for \$4.70 each, but was billed to the MTA for \$123.00;
- a "½ xh blk mal ell" was purchased by FIGLIOLIA PLUMBING for \$3.30 each, but was billed to the MTA for \$134.40; and,
- a "¼ x black nipple" was purchased by FIGLIOLIA PLUMBING for 49 cents each, but was billed to the MTA for \$25.98.

MONEY LAUNDERING AND CASH GENERATING SCHEMES

From 1999 through 2002, FIGLIOLIA PLUMBING issued over \$5.4 million in corporate checks classified as business expenses to various contractors and retailers. These checks included:

- more than \$1 million in corporate checks issued to jewelry retailers

and an antique furniture retailer;

- over \$3.6 million in corporate checks issued to more than 57 contractors who performed work on the FIGLIOLIA home located at 105 Middletown Road in Holmdel, New Jersey;
- \$248,750.00 in corporate checks issued to a kitchen designer and manufacturer for the installation of a kitchen at the same home; and,
- \$615,000 in corporate checks to purchase stock for FIGLIOLIA, SR.

In addition, from 1999 through 2002, FIGLIOLIA PLUMBING issued \$4,364,575.00 in corporate checks to ALEX FIGLIOLIA, SR. which were classified as business expenses in the company's records. Of these, checks totaling \$442,000.00 were deposited into the personal accounts of ALEX FIGLIOLIA, SR., JANET FIGLIOLIA and, ALEX FIGLIOLIA, JR. The remainder of these checks, totaling \$3,922,575 were simply cashed. Moreover, all but two of these checks were made out for less than \$10,000 - the vast majority for \$9,000 or \$9,500 - even though there were frequently two or more cashed on the same day. This is a classic telltale sign of money laundering known as "structuring" in order to avoid generating Currency Transaction Reports ("CTRs"), which must be filed with the Internal Revenue Service for any transaction of \$10,000 or more in cash.

TAX EVASION AND FALSE FILINGS

The indictment charges each of the defendants (except WEISSBARD) with Offering a False Instrument for Filing in the First Degree for their failure to report or pay tax on their illicit income for the years 1999 through 2002. In the FIGLIOLIA's case, they failed to report or pay tax on any of the money generated through their multiple schemes; in the MTA officials' cases, they failed to report or pay tax on the bribes they received.

BRIBERY OF MTA OFFICIALS

The investigation revealed that the crimes committed by the FIGLIOLIAS and their company were made possible because the MTA officials charged with overseeing and policing of the contracts were bribed and rewarded to permit the fraudulent labor charges, inflated materials invoices, false filings and the other cash generating schemes.

HOWARD WEISSMAN, the MTA's Director of Facility Operation and Support was the principal official involved. The investigation revealed that he was bribed with cash payments, jewelry and free trips totaling approximately \$550,000. RONALD ALLAN, the MTA's Facilities Manager and WEISSMAN's chief advisor, received bribes totaling approximately \$65,000. MTA building manager GARY WEISSBARD received benefits and rewards totaling approximately

\$10,000.

CHARGES

Specifically, the defendants are charged with one count each of Enterprise Corruption, a class B felony punishable by up to 25 years in state prison. All of the defendants, except WEISSBARD, are also charged with Grand Larceny in the First Degree for stealing over \$1 million from the MTA, also a class B felony. WEISSMAN and ALLEN are also charged with Grand Larceny in the Second Degree, a class C felony punishable by up to 15 years in prison. The FIGLIOLIAs and their company are charged with two counts of Bribery in the Second Degree, also class C felonies. WEISSMAN, ALLEN, FIGLIOLIA, JR., and FIGLIOLIA PLUMBING are charged with Bribe Receiving in the Second Degree, also a class C felony, while WEISSBARD is charged with Bribe Receiving in the Third Degree, a class D felony punishable by up to seven years in prison.

The defendants are also charged with a variety of related crimes including, Attempted Bribe Receiving in the Third Degree, and multiple counts of: Rewarding Official Misconduct in the Second Degree; Receiving Reward for Official Misconduct in the Second Degree; Offering a False Instrument for Filing in the First Degree; Falsifying Business Records in the First Degree; Forgery in the Second Degree; Criminal Possession of a Forged Instrument in the Second Degree; and Hindering Prosecution in the Second Degree.

The defendants will be arraigned this afternoon in Part 75 before Acting State Supreme Court Justice Bernard Fried. Bail applications will be made at that time.

ASSET FORFEITURE

In conjunction with the filing of today's indictment, Mr. Morgenthau announced that a civil asset forfeiture action has also been filed against all of the defendants seeking the return of their criminal proceeds in the amount of \$18,698,195.82. In addition, Acting Supreme Court Justice Martin Shulman signed a Temporary Restraining Order ("TRO") freezing all of the assets of the defendants to prevent their dissipation and to ensure their availability in the asset forfeiture action.

SEARCH WARRANT RESULTS

In addition to the court authorized search warrants conducted at FIGLIOLIA PLUMBING on April 15, 2003, searches pursuant to additional warrants were also conducted yesterday at the FIGLIOLIA

home. Evidence was seized, including approximately \$750,000 worth of jewelry, \$45,000 in cash, three handguns and the keys to two safe deposit boxes. The safe deposit boxes will be searched this morning pursuant to additional search warrants.

For their assistance in the investigation, Mr. Morgenthau thanked: MTA Executive Director Katherine N. Lapp, Gary Dellaverson and Maureen Boll; MTA Inspector General Matt Sansverie, MTA Deputy Inspector General for Audit Michael Jaeger, Financial Investigations Supervisor George Cullen, Financial Investigators Malvina Etis and DonnaLynn Gazza, and Associate Financial Investigator Ilene Gates; MTA Police Detective Joseph Trimarchi; MTA Joint Infrastructure Task Force Chief William Morange and Deputy Raymond McDermott; New York State Department of Taxation and Finance Commissioner Andrew Eristoff, Deputy Commissioner Peter P. Farrell, Associate Attorney Christine Becker, Supervising Investigator John Toucher, and Auditor Stephen Kane; Barbara Ditata, Acting Inspector General for School Construction Authority and Senior Investigator Herman Klug;

Mr. Morgenthau also thanked the New Jersey Division of Criminal Justice for their assistance in conducting the searches at the Figliolia residence and in particular: Deputy Attorney General Mark Eliades; Supervising State Investigator Vickey Vreeland; State Investigator Brian Bruton; State Investigator Chris Donahue; State Investigator Jennifer Mazone; State Investigator Paul Kay; State Investigator P.J. Sole; and State Investigator Mario Estrada.

The case was presented to the Grand Jury and will be prosecuted by Rackets Bureau Chief Patrick J. Dugan, and Assistant District Attorneys Evan Williams and Mark Krupnick. They were assisted by Rackets Chief Financial Investigator John Tampa, The District Attorney's Investigation Bureau under the supervision of Chief Joseph Pennisi, Deputy Chief Terrence Mulderrig, Senior Supervising Investigator Tommy Pon; the District Attorney's MIS Computer Forensics Unit, including Joseph Enright, Ramiro Mendez, Avram Lansky, Bryant Almeida, Matthew Ong; DA Photo Unit chief Laura Badger and Margarita McDowell, and Video Unit chief Mike Mannion.

The asset forfeiture action will be handled by Chief of the Asset Forfeiture Unit Raymond Marinaccio, and Assistant District Attorney Tara Miner, assisted by Melanie Guinyard.

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