

RTF:SC:MER
F.#2005R01856

NO9-0025

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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TO BE FILED UNDER SEAL

UNITED STATES OF AMERICA

AFFIDAVIT IN SUPPORT OF
ARREST WARRANT

-against-

(18 U.S.C. § 666(a)(1)(B))

RICHARD ZEBLER,

Defendant.

- - - - -X

EASTERN DISTRICT OF NEW YORK, SS:

EVAN CAMPANELLA, being duly sworn, deposes and says that he is a Special Agent with the United States Immigration and Customs Enforcement ("ICE"), duly appointed according to law and acting as such.

Upon information and belief, there is probable cause to believe that from in or about and between December 2006 and January 2009, within the Eastern District of New York and elsewhere, the defendant RICHARD ZEBLER, being an agent of an organization that received in excess of \$10,000 in any one year period under a Federal program involving a grant, subsidy or other form of Federal assistance, did knowingly, intentionally and corruptly solicit, demand, accept and agree to accept something of value, to wit, United States currency, with the intent to be influenced and rewarded in connection with business and a series of transactions of such organization involving \$5,000 or more.

(Title 18, United States Code, Section 666(a)(1)(B))

The source of your deponent's information and the grounds for his belief are as follows:¹

1. I have been a Special Agent with ICE since May 2007. I am currently assigned to ICE's El Dorado Task Force, which investigates money laundering.

2. The facts set forth in this affidavit are based upon my own investigation of the facts, a review of documents, witness interviews, and upon what I have learned from other agencies, including the Internal Revenue Service ("IRS") and the Office of the Inspector General of The Port Authority of New York and New Jersey.

I. The Defendant, Con Ed and the Contractor

3. Consolidated Edison ("Con Ed") is a New York-based corporation that provides electrical, gas and steam utility services in New York City and Westchester County. As a provider of such utility services, Con Ed is responsible for the maintenance and repair of its electrical, gas and steam lines, as well as the installation of new lines as needed. Con Ed is further responsible for rebuilding and rerouting existing utility

¹ Because the purpose of this affidavit is only to state the probable cause to arrest, I have not described all the relevant facts, circumstances and conversations that I am aware of related to this investigation. All conversations and statements reported in this affidavit, unless directly quoted, are described in substance and in part.

lines as part of construction projects that interfere with existing lines. Con Ed received federal funding in excess of \$10,000 for each year from 2006 through 2009.

4. The defendant RICHARD ZEBLER is employed as a Chief Construction Inspector ("CCI") for Con Ed, and his duties include overseeing construction projects in Manhattan and supervising Con Ed Construction Representatives. ZEBLER is also responsible for receiving invoices from various Con Ed contractors for construction work performed by those contractors, ensuring that the requested amount is accurate and then passing those invoices up Con Ed's chain of command for payment. It is expected that a CCI will challenge certain costs submitted by the contractor and negotiate a more appropriate payment, thus protecting Con Ed's interests.

5. Cooperating Witness #1 ("CW-1") is the president and co-owner of a construction company that performs gas line and electrical work on construction projects.² Since 2004, CW-1 has been awarded numerous construction contracts by Con Ed.

II. The Con Ed Projects

6. In March 2005, CW-1 was awarded a two-year "area contract" with Con Ed to install and maintain various gas facilities throughout the Borough of Manhattan. In March 2007,

² On September 17, 2008, CW-1 was arrested and has since signed a cooperation agreement with the government and is expected to plead guilty in the near future.

and again in March 2008, CW-1's area contract was extended through December 2008 without Con Ed soliciting other contractors to bid on a new contract. During the summer of 2008, Con Ed did solicit new bids on the area contract, but CW-1 was again awarded the contract, which will begin in January 2009.

7. In December 2006, CW-1 was awarded a "spot buy" contract for the installation of 4,000 feet of gas pipe in lower Manhattan. A "spot buy" contract is one that has defined start and end dates, and for which payment is made, for the most part, in a lump sum based upon invoices submitted by the contractor. If the spot buy contract is particularly expensive or will last for an extended period of time, invoices can be submitted and payments made on a periodic basis.

8. In August 2007, CW-1 was awarded a "spot buy" contract to install a gas regulator station in Manhattan.

III. The Kickback Scheme

9. In approximately December 2005, defendant ZEBLER approached CW-1 at a holiday party and told CW-1 that they needed to talk about some "extras" for ZEBLER. CW-1 and ZEBLER reached an agreement whereby CW-1 would make cash payments to ZEBLER in exchange for which ZEBLER would ensure that CW-1's invoices would be reviewed favorably and that the payments to CW-1 would not be cut. ZEBLER would further advise CW-1 how best to present CW-1's costs to insure approval for payment by Con Ed. CW-1 paid ZEBLER

the first kickback in March 2006. Thereafter, CW-1 would typically meet up with ZEBLER every month, either at CW-1's office in the Bronx, New York, or in CW-1's car, and pay him approximately \$2,000, an amount that represented approximately \$500 per week.

10. In December 2006, defendant ZEBLER and CW-1 met for lunch and ZEBLER asked CW-1 for an additional \$20,000 to "look at the bills" relating to the spot buy contract for the installation of 4,000 feet of gas pipe in lower Manhattan that CW-1 had just been awarded. CW-1 paid ZEBLER the \$20,000 in approximately three separate payments. The \$20,000 payment was in addition to the regular \$500 per week ZEBLER was already receiving, and continued to receive, from CW-1.

11. As of September 2008, CW-1 had not made a payment to ZEBLER in a few months and intended to give him \$5,000 at their next meeting, as ZEBLER had indicated in the past that he would be asking for more than \$2,000 per month in the future.

IV. Recorded Conversations³

12. On October 14, 2008, CW-1 and defendant ZEBLER spoke by telephone to arrange a meeting. On October 16, 2008, CW-1 met with ZEBLER at a parking lot in Astoria, Queens. CW-1 explained to ZEBLER that CW-1 preferred to meet outside of the

³ CW-1 wore an electronic devices to record the conversations with the defendant that are quoted in this section of the affidavit.

office because, "I'd rather be more cautious." ZEBLER responded, "Yeah, hey listen, you've got a lot to lose. I've, we've all got a lot to lose We're making good money, you know what I mean?"

13. CW-1 handed defendant ZEBLER an invoice for the gas regulator spot buy project. CW-1 inquired how much of a kickback ZEBLER would be looking for in exchange for his assistance with the payment of the invoice:

CW-1: Alright, what are you looking for as far as that?

ZEBLER: Um, I'd say ten would be good.

CW-1: Ten?

ZEBLER: Yeah.

CW-1: I appreciate that -

ZEBLER: Alright.

CW-1: - because I think we discussed even more the last time.

ZEBLER: Yeah, yeah but you know, I know things are bad so -

CW-1: I appreciate it.

ZEBLER: What about the, a monthly thing?

CW-1: A yeah, we can definitely . . . gimme . . . (sigh) I, for me, I had to adjust my cash -

ZEBLER: Right.

CW-1: - so it's slow -

ZEBLER: Mm hmmm.

CW-1: - be patient with me.

ZEBLER: Yeah.

CW-1 told ZEBLER that CW-1 would need until "the beginning of November" to make the next payment and would "probably do [the \$10,000 payment] in little chunks[,] " to which ZEBLER responded:

Yeah, I know what you mean . . . you don't wanna move too much cash at one time or else they could fucking trace it and I don't want them tracing it to me, so that's fucking fine with me too. You understand what I'm talking about?

14. At that time, the conversation turned to how much of the invoice that CW-1 had submitted on the gas regulator project defendant ZEBLER could get approved for payment:

ZEBLER: Okay, now what are you looking for bottom line on this? [Indicating CW-1's invoice]

CW-1: Um, well I gave you everything -

ZEBLER: Alright.

CW-1: - okay?

ZEBLER: But what exactly are you really looking for here?

CW-1: Okay.

ZEBLER: Like I know you put in a bill for like seven ninety two or some shit like that -

CW-1: How's seven ninety two sound?

ZEBLER: (Laughs) Listen I have an accrual for seven twenty five.

CW-1: Okay.

ZEBLER: Alright?

CW-1: My, I know, listen all bullshit aside the amount of re-excavation, the amount of cathartic shit

that went wrong -

ZEBLER: Yeah.

CW-1: - the engineering, the re-engineering, the replacement of the gaskets, extra welds all that. I gave you all the backup -

ZEBLER: Yeah.

CW-1: - it's old, my cost was around six, it was like six, in the low teens.

ZEBLER: Alright.

CW-1: So -

ZEBLER: If I can get you seven twenty five?

CW-1: Fine, I'd be more than happy, you know, I just want to get out in one piece. You know that.

Later in the conversation, ZEBLER explained that he had to cut payment of CW-1's invoice somewhat to give the appearance of legitimacy:

ZEBLER: Well you know what it is? I got the original bill for like seven seventy or seven ninety or something like that.

CW-1: I think it's the same thing.

ZEBLER: Yeah, so I'm gonna cut it down to like seven twenty five, this way it looks like -

CW-1: Okay.

ZEBLER: - I'm fucking doing my job, you understand what I'm talking about?

15. During the conversation, defendant ZEBLER also stated that one of CW-1's supervisors, "has been taking care of me out of his pocket . . . on a weekly basis" and "giving me five

hundred a week." ZEBLER assured CW-1 that the supervisor has "been doing the right thing."

16. At the close of the conversation, CW-1 said, referring to setting up another payment, "I'll try to touch base with you next week" and defendant ZEBLER responded, referring to the gas area contract that had been awarded to CW-1 based on his rebid, "Yeah, touch base with me and we'll take care of business. Three more years, brother."

17. On October 24, 2008, CW-1 and defendant ZEBLER met in Queens, New York. CW-1 handed ZEBLER an envelope containing \$5,000. This transfer of cash was videotaped. The following conversation ensued:

CW-1: That's only five.

ZEBLER: Okay, alright.

CW-1: Next um, I should be able to get another five thousand, probably like, two weeks.

ZEBLER: Okay, cool.

At that point, ZEBLER raised the issue of CW-1 paying him on a monthly basis, as they had discussed during their October 16, 2008 meeting:

ZEBLER: Now, what about the monthly thing? What do you wanna do with that?

CW-1: Um, that's a good question. Um, what do you wanna do, how much?

ZEBLER: I figured, you know, I deserve a little raise.

CW-1: Okay.

ZEBLER: You know what I mean?

CW-1: Yeah, it's been awhile.

ZEBLER: Yeah, we've been doing two a month, I figured maybe three a month.

CW-1: Okay, three a month

A short while later, referring to their "three a month" arrangement, the following exchange ensued:

ZEBLER: Alright, how's that sound, good?

CW-1: Alright, so and then, then we'll straighten up the fucking spot buy and the regulator and then we'll go back to the three/four just regular day-to-day shit.

CW-1 then followed up on the assistance that ZEBLER had promised with respect to the approximately \$792,000 invoice CW-1 submitted for the work CW-1 performed on the gas regulator project:

CW-1: What did you come out with the dollar amount on the regulators?

ZEBLER: I'm gonna give you 720 on it, like 719.

CW-1: I thought we'd get more like 725, 730, no?

ZEBLER: Um, well you wanted what 793?

CW-1: Yes.

ZEBLER: Alright, alright so let me see if I can get it up to 730.

CW-1: See what you could do.

ZEBLER: Yeah.

CW-1: You know?

ZEBLER: I gotta make some cuts to make it look like I'm doing my job, you know.

At the end of their meeting, they discussed when they would next meet so that CW-1 could make the monthly payment:

CW-1: Yes, so give me a, two weeks and then, um, next month I'll start the monthly thing.

ZEBLER: November right, today's like October 24th already.

CW-1: Um, give me a couple weeks into November -

ZEBLER: Okay, no problem.

CW-1: A little bit of juggling I gotta do -

ZEBLER: Okay so, you see me in two weeks for the other five, and then at the end of the month you see me for the -

CW-1: Okay.

ZEBLER: That's a good deal. Alright [CW-1], take care buddy.

18. On October 29, 2008, CW-1 was advised by one of his site supervisors that defendant ZEBLER had requested that CW-1 provide him with four tickets to the New York Giants/Dallas Cowboys game on November 2, 2008. On October 29, 2008, CW-1 spoke to ZEBLER and advised him that CW-1 would get the tickets for ZEBLER. ZEBLER responded,

That will make my daughter very happy
she's a crazy fanatical Giants fan
Monday was just her birthday, so she says she
wants to go to a Giants game, and I said,
well let me make a call because getting
tickets over there, forget about it
it's the hottest game of the year right now.

On October 31, 2008, CW-1 instructed a supervisor who works for CW-1 to give the ZEBLER the tickets. That day, the supervisor met ZEBLER in Bethpage, New York, and give him the four tickets to the Giants game that CW-1 had purchased for approximately \$2,000 from an online ticket purchasing website. On October 31, 2008, CW-1 confirmed with ZEBLER by telephone that he had received the tickets. On November 2, 2008, I observed ZEBLER at Giants Stadium in New Jersey sitting in one of the four seats CW-1 had purchased a ticket for and had delivered to ZEBLER.

WHEREFORE, your deponent respectfully requests that an arrest warrant be issued for the defendant RICHARD ZEBLER so that he may be dealt with according to law.

Because of the nature of this application, it is further requested that this application and the related arrest warrant be filed under seal.



EVAN CAMPANELLA
Special Agent, ICE

Sworn to before me on
12 day of January 2009



UNITED STATES MAGISTRATE JUDGE
EASTERN DISTRICT OF NEW YORK