

MJF:DDB
F.#2005R01856

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))

JOSEPH LIOI,

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 December 2007, within the Eastern District of New York and elsewhere, the defendant JOSEPH LIOI, 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

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.

well as the installation of new lines as needed. Con Ed is further responsible for rebuilding and rerouting existing utility 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 2001 through 2008.

4. The defendant JOSEPH LIOI was employed as a Chief Construction Inspector ("CCI") for Con Ed from at least 2000 until December 2007, and his duties included overseeing construction projects in Westchester County and supervising Con Ed Construction Representatives. As a CCI, LIOI was also responsible for receiving invoices from various Con Ed contractors for construction work performed by those contractors, ensuring that the requested amount was accurate and passing those invoices up Con Ed's chain of command for payment. CCI's were expected to challenge certain costs submitted by contractors and negotiate a more appropriate payment, thus protecting Con Ed's interests.

5. Between 2003 and January 2009, Cooperating Witness #1 ("CW-1") was the president and co-owner of a construction company that performed gas line and electrical work on construction projects.² Since 2004, CW-1 has been awarded numerous construction contracts by Con Ed.

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.

II. The Con Ed Contract

6. In March 2007, CW-1 was awarded a two-year "area contract" with Con Ed to install and maintain various electric and "dead gas" (empty pipes with no live gas) facilities throughout Southern Westchester County, with an option for a third year. CW-1's company commenced work under this contract at various sites in Westchester County in the Spring of 2006. CW-1's company was paid based on invoices submitted to Con Ed that listed various "pay items" as applied to the work performed at each site. Once submitted, Con Ed inspectors and their supervisors, including CCI's, had to approve the invoices before payment was made to CW-1's company.

III. The Kickback Scheme

7. In approximately December 2006, defendant JOSEPH LIOI arranged to meet with CW-1 and discussed CW-1's then current contract with Con Ed in Westchester County. During the meeting, CW-1 agreed to make regular cash kickback payments to LIOI in exchange for LIOI's assistance with payments to CW-1 under the contract. Specifically, LIOI promised that CW-1's invoices would be reviewed favorably by Con Ed. LIOI and CW-1 agreed that CW-1 would pay LIOI \$500 per week for this help. Accordingly, between December 2006 and approximately April Spring 2007, CW-1 gave LIOI \$2000 cash on five to six occasions.

8. In approximately April 2007, CW-1 made a telephone

call to a Con Ed Senior Specialist ("SS-1") concerning a number of invoices that CW-1 had submitted to Con Ed under the area contract, which CW-1 believed SS-1 had significantly reduced. In his position at Con Ed, SS-1's duties included the oversight of the construction projects in Westchester County, as well as the supervision of the CCI's, including defendant JOSEPH LIOI. Shortly after this call, SS-1 and CW-1 reached an agreement whereby CW-1 would pay SS-1 \$500 per week for SS-1, in addition to the \$500 per week for LIOI. Soon after, CW-1 met with LIOI at a job site and confirmed the new arrangement. Between April 2007 until the Fall of 2007, when LIOI retired from Con Ed, CW-1 paid SS-1 approximately \$4,000 on four to five occasions, half of which SS-1 was expected to give to LIOI.

IV. Recorded Conversations³

9. On January 14, 2009, CW-1 called defendant JOSEPH LIOI from a location in Queens, New York and arranged to meet at a shopping center parking lot in Westchester County, New York. During a meeting in CW-1's car, CW-1 told LIOI that government agents had come by CW-1's company and served a subpoena for records related to the Con Ed Westchester projects. Among other things, LIOI asked if the agents had mentioned LIOI's name.

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

CW-1: I got, a subpoena yesterday from, ah, people, from the government. Alright, um, they requested all my records for Westchester County - all my Con Ed records - everything. They mentioned your name. I wasn't there, but I have to, have to make an appointment with them, you know, I'm fuckin' freaking out.

LIOI: Okay. Mentioned my name - who?

CW-1: There were a couple of names.

10. CW-1 and defendant JOSEPH LIOI then discussed what LIOI did with the kickback money that CW-1 previously paid him.

CW-1: Is there anything that, I mean, is there anything that you did that was traceable?

LIOI: Not that I know of.

CW-1: Well, I don't know. I'm like fuckin' - cash deposits? Like you know, the money that you got, did you, is there anything that they can look back at?

LIOI: It's all fuckin', its not even in a bank.

11. CW-1 and LIOI then discussed the inflated invoices that CW-1's company submitted to Con Ed that had been approved regarding the jobs in Westchester County, and whether anyone reviewing these invoices would be able to detect that they had been inflated.

CW-1: I gotta give them all my folders for the jobs.

LIOI: This is like a Con Ed thing?

CW-1: Yeah. I think so. They asked for my

purchase orders... Okay. Alright. You think there's anything like, could they tell that, like, you, like you inflated the bills or anything? Can they do anything like that?

LIOI: They probably could.

CW-1: Yeah?

LIOI: You know, but I, you know, Not that, you know, I can't think of anything else, you know, like I said, that. Whatever monies I got, I just. I put in a safe deposit box. As far as inflating the bills, the bills were already inflated. All I did was press a button.

WHEREFORE, your deponent respectfully requests that an arrest warrant be issued for the defendant JOSEPH LIOI 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
____ day of April 2009

UNITED STATES MAGISTRATE JUDGE
EASTERN DISTRICT OF NEW YORK