

RTF:SC:MER  
F.#2005R01856

**NO9-0026**

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))

BRENDAN MAHER,

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 June 2008 and January 2009, within the Eastern District of New York and elsewhere, the defendant BRENDAN MAHER, 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:<sup>1</sup>

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 lines as part of construction projects that interfere with

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<sup>1</sup> 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.

existing lines. Con Ed received federal funding in excess of \$10,000 for each year from 2008 through 2009.

4. The defendant BRENDAN MAHER is employed as a Chief Construction Inspector ("CCI") for Con Ed, and his duties include overseeing substation and transmission construction projects in New York City and supervising Con Ed Construction Representatives. MAHER is also responsible for receiving invoices from various Con Ed contractors for construction work performed by those contractors, ensuring that the requested amounts are accurate and passing the invoices up Con Ed's chain of command for payment. It is expected that a CCI will challenge certain costs submitted by a 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.<sup>2</sup> Since 2004, CW-1 has been awarded numerous construction contracts by Con Ed.

## II. The Con Ed Contract

6. In June 2008, CW-1 was awarded a "spot buy" contract for the installation of oil static pipes and high-voltage electrical lines which were to run from Manhattan, through the Bronx, and up to Yonkers. A "spot buy" contract is

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<sup>2</sup> 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.

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.

### III. The Kickback Scheme

7. Shortly after CW-1's company began work on the above-described "spot buy" contract, defendant BRENDAN MAHER reached out to CW-1 through one of CW-1's job site supervisors (the "Supervisor"), indicating that MAHER was looking for money. CW-1 and MAHER met and reached an agreement whereby CW-1 would make cash payments to MAHER in exchange for which MAHER would ensure that CW-1's invoices would be reviewed favorably and that the total payment to CW-1 would not be cut. Specifically, after CW-1 submitted an invoice to Con Ed, MAHER would cut a few items, but would then add "extras" to the invoices, including such things as inflated costs associated with rock removal, which resulted in additional payments totaling \$10,000 to \$20,000 per invoice to CW-1. MAHER and CW-1 agreed that MAHER would be paid ten percent of the total amount by which MAHER increased the invoices. As a part of the kickback scheme, CW-1 made a \$5,000 cash payment to MAHER in approximately July 2008.

#### IV. Recorded Conversations<sup>3</sup>

8. On September 30, 2008, CW-1 and defendant MAHER spoke by telephone to arrange a meeting. On October 2, 2008, CW-1 met with defendant MAHER at a parking lot in Riverdale, New York, at which time CW-1 gave MAHER an envelope containing \$1,000 in cash. CW-1 explained to MAHER that CW-1 knew that he was supposed to come up with \$3,000 or \$5,000, but he only had \$1,000. CW-1 further stated, "I know you're helping with the rock, I appreciate it, I appreciate all you're doing for me. I have a big problem with cash." CW-1 then suggested that it would be easier for him to pay by check and asked MAHER if he had somebody he trusted. MAHER responded, "Alright. I have one person in mind I could possibly do that with," and stated that he had "done some other stuff with him." CW-1 promised "I'll catch up with you." MAHER responded, "No sweat, like you said, I talked to [CW-1's site supervisor], as long as you guys know what's what, I don't have a problem."

9. On November 6, 2008, CW-1 and defendant MAHER met at the World's Fair Marina in Queens, New York. CW-1 handed MAHER an envelope containing \$4,000 and the following conversation ensued:

CW-1:                   That's four thousand.

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

MAHER: Okay.

CW-1: With the one that I -

MAHER: Yep.

CW-1: - fucked up on the last time, I apologize.

MAHER: That's alright.

MAHER then explained that he would rather be paid in cash, and not by check, as they had discussed during their October 2, 2008 meeting, explaining that he did not want anyone to get in trouble. CW-1 and MAHER then reviewed the terms of their kickback agreement and agreed that CW-1 would pay MAHER ten percent of the amount by which MAHER inflated CW-1's invoices:

CW-1: Alright so, just so listen 'cause you know we never laid it out the way like what you wanted or, we kinda just been playing it by ear -

MAHER: Right.

CW-1: Conversations with [the Supervisor] are always vague -

MAHER: Yeah.

CW-1: I never have anything.

MAHER: I told [the Supervisor] what I like to do, you're not recording me, right?

CW-1: No. [laughs]

MAHER: Is a, you know I like to work like that where you give me what you got because you know I'm not there to fucking push the job and have your guys, you know, keep them honest, do the work, do the fucking write ups, kick it to me and I do the best I can.

CW-1: Okay.

MAHER: You know sometimes you can't. Sometimes you know, fucking, you get in a fucked up spot where -

CW-1: It is what it is.

MAHER: You know as long as you can get what it is -

CW-1: Right.

MAHER: You know, everybody's, everybody's good.

CW-1: Okay. Alright.

MAHER: And then I do the best I can do and I give it back.

CW-1: Alright.

MAHER: And then it's like ten points on the difference, on the delta -

CW-1: Oh, okay, so that's how you come to.

MAHER: Yeah, so you know, if you give me, you know a hundred grand I give you, I send it back it's 120, so I'm looking for two grand -

CW-1: Okay, gotcha.

At the conclusion of the conversation, MAHER and CW-1 figured out how much MAHER was owed for his help with inflating CW-1's invoices by a total of approximately \$200,000:

MAHER: So I think, um, you know as we stand now, what did we do, I worked up a little over, a little over two hundred -

CW-1: Okay.

MAHER: Okay?

CW-1: So you're looking for 20?

MAHER: Right.

CW-1: So you need like another 10, okay.

At the end of their meeting, CW-1 explained that he needed MAHER to be patient for the next payment:

CW-1: It's slow for me, just be patient.

MAHER: Yeah. Listen.

CW-1: I'm not gonna leave you hanging.

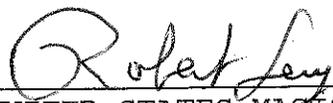
MAHER: I plan on being around doing the work at least as long as you're gonna be. Right?

WHEREFORE, your deponent respectfully requests that an arrest warrant be issued for the defendant BRENDAN MAHER 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