

Department of Justice
U.S. Attorney's Office
Eastern District of New York

FOR IMMEDIATE RELEASE
Thursday, October 13, 2016

Plaza Construction Charged With Fraud

Will Pay More Than \$9 Million In Restitution And Penalties For Defrauding Clients In A Thirteen-Year Overbilling Scheme

Projects Included the Empire State Building, Brooklyn Navy Yard, Bronx Terminal Market, Federal Reserve Bank of New York, and New York University

Earlier today, the U.S. Attorney's Office for the Eastern District of New York (the Office) filed fraud charges in Brooklyn federal court against Plaza Construction LLC, successor to Plaza Construction Corp. (Plaza Construction), one of the largest construction firms in New York City. Plaza Construction is charged with mail and wire fraud conspiracy for improperly billing its clients more than \$2.2 million over a thirteen-year period for hours not worked and for inserting a hidden surcharge into its bills for the purpose of obtaining payments to offset administrative costs. As a result, Plaza Construction has entered into a deferred prosecution agreement with the Office in which it admitted to fraudulently overbilling clients and agreed to pay more than \$9 million in restitution to victims, and forfeiture and penalties to the federal government. The company has additionally instituted far-reaching corporate reforms designed to eliminate future problems and enforce best industry practices.

Today's deferred prosecution agreement marks the fourth resolution by the Office aimed at rooting out fraud in the construction industry. In April 2012, Lend Lease (US) Construction LMB Inc. (formerly Bovis Lend Lease LMB Inc.) was charged with defrauding its clients, entered into a deferred prosecution agreement, and paid \$56 million in restitution and penalties for engaging in a ten-year overbilling scheme. In May 2015, Hunter Roberts Construction Group, LLC entered into a non-prosecution agreement and agreed to pay more than \$7 million in restitution and penalties for engaging in an eight-year fraudulent overbilling scheme. In December 2015, Tishman Construction Corporation was charged with defrauding its clients, entered into a deferred prosecution agreement, and paid more than \$20 million in restitution and penalties for engaging in a ten-year overbilling scheme.

The charges and disposition were announced by Robert L. Capers, United States Attorney for the Eastern District of New York; Michael Nestor, Inspector General, Port Authority of New York and New Jersey (PANYNJ); William F. Sweeney, Jr., Assistant Director-in-Charge, Federal Bureau of Investigation, New York Field Office (FBI); Carol Fortine Ochoa, Inspector General, General Services Administration (GSA), Office of Inspector General; Scott S. Dahl, Inspector General, U.S. Department of Labor (DOL), Office of Inspector General; and Mark G. Peters, Commissioner, New York City Department of Investigation (DOI).

"For more than a decade, Plaza Construction overbilled its clients by charging them for unworked time and by fraudulently inserting a hidden surcharge to help offset its administrative costs. By doing so, the company defrauded its clients and abused the trust placed in it to provide construction services at some of New York's most storied sites. Today's criminal charges and resolution, the fourth resolution in this area, demonstrate our steadfast efforts in combating and eliminating fraud in New York City's construction industry," stated U.S. Attorney Capers. Mr. Capers thanked the investigative agencies for their outstanding commitment and dedication over the course of this multi-year industry investigation.

“Plaza’s conduct that perpetuated an industry-wide fraud for more than a decade has come to an end. Government contracting agencies, and private clients alike, deserve to be billed strictly for what they bargained for, not duped into overpaying for gratuitous or phantom services. Responsible for overseeing one of the largest government contracting agencies in the region, the Port Authority Office of Inspector General will continue to uproot fraud and corruption within the area’s construction industry,” stated PANYNJ Inspector General Nestor. Mr. Nestor thanked his law enforcement partners for their dedication and professionalism in investigating these practices.

“Fraudulent business practices put consumers, employees, and other industry competitors at a significant disadvantage. Trust, once broken, is difficult to restore. Companies, no matter how large or small, are reminded to exercise due diligence in alerting authorities about crimes of this nature. We, along with our partners, take crimes of fraud seriously, and we will continue to seek justice to the full extent of the law,” stated FBI Assistant Director-in-Charge Sweeney.

“Plaza Construction used deceitful practices to bilk the American taxpayers. The GSA OIG is committed to working with our law enforcement partners to hold accountable contractors who defraud the United States,” said GSA Inspector General Ochoa.

“Plaza Construction defrauded their clients by charging them for work that was not performed and by charging them prohibited fees. Today’s resolution holds Plaza accountable for their actions and deters those who would contemplate similar misconduct in the future. We will continue to work with our law enforcement partners to vigorously pursue fraud in the construction industry that has a negative impact on the American workforce,” stated DOL Inspector General Dahl.

DOI Commissioner Peters said, “These fraudulent overbilling schemes involved some of the highest profile construction projects in New York City, driving up costs, exploiting overtime, and siphoning millions of dollars in unearned, ill-gotten gains. DOI will continue to work with its law enforcement partners to expose and stop this type of corruption, and ensure construction sites and companies are following the rules and operating lawfully.”

The Overbilling Scheme

As alleged in the felony information, Plaza Construction engaged in a fraudulent overbilling scheme that impacted a number of its projects for at least a thirteen-year period. These projects included the Brooklyn Navy Yard, Bronx Terminal Market, Federal Reserve Bank of New York, New York University, and Empire State Building.

Plaza Construction’s role on construction projects was typically that of a construction manager, which often required it to supply workers from certain trade unions and to supervise the work done by subcontractors or trade contractors. From at least 1999 through approximately February 2012, Plaza Construction submitted bills to clients, including government contracting and funding agencies, that contained numerous false statements and material misrepresentations and omissions. From August 2004 through February 2012, Plaza Construction systemically inserted a hidden surcharge in its bills to clients that was specifically prohibited and secretly generated additional revenue to offset certain administrative costs.

Additionally, from at least 1999 until 2009, Plaza Construction also billed its clients for hours not worked by labor foremen from Local 79 Mason Tenders’ District Council of Greater New York and carried out this fraudulent overbilling by: (a) allowing labor foremen to be absent from work for major holidays and certain vacation days; (b) providing between five and seven hours of guaranteed overtime per day, whether worked or not, for a particular senior labor foreman; and (c) adding one to two hours of unworked or unnecessary “guaranteed” overtime per day to the time sheets for certain labor foremen. In furtherance of this overbilling scheme, Plaza Construction completed and submitted time sheets to its clients as though the labor foremen had actually worked.

The Deferred Prosecution Agreement

Pursuant to the deferred prosecution agreement filed today, Plaza Construction accepted responsibility for its fraudulent billing practices and agreed to offer restitution to its clients in the amount of \$2,226,270.19 and pay a penalty of \$5,619,269.92 and forfeit \$1,350,317.43 to the government over a two-year period. In consideration of Plaza Construction's remedial actions to date and its commitment to, among other actions: (a) accept and acknowledge responsibility for its conduct; (b) continue its cooperation; (c) make restitution available to victims; and (d) make the payment of forfeiture and a financial penalty to the government; the government agreed to defer the prosecution for a period of 24 months and to obtain an exclusion of time to allow Plaza Construction to demonstrate good conduct and compliance with the terms of this agreement.^[1] Plaza Construction's remedial measures include the creation of the positions of General Counsel, Associate General Counsel and Compliance Director at the company; establishing a Compliance Committee; instituting annual training for all officers and non-union employees regarding its Code of Business Ethics; establishing an ethics hotline for employees to report ethics violations or concerns; and the revision of time sheet recording and client billing policies.

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The government's case is being handled by the Office's Business and Securities Fraud Section. Assistant United States Attorneys Whitman Knapp and Jonathan P. Lax are in charge of the prosecution, with assistance from Assistant United States Attorney Brian Morris of the Office's Civil Division, which is responsible for the forfeiture of assets.

The Defendant:

PLAZA CONSTRUCTION LLC
New York, New York

EDNY Docket No.: 16-CR-532 (NGG)