



U.S. Department of Justice

Robert L. Capers
United States Attorney
Eastern District of New York

271 Cadman Plaza East
Brooklyn, New York 11201

FOR IMMEDIATE RELEASE

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Contact:

Nellin McIntosh
United States Attorney's Office
(718) 254-6323

PRESS RELEASE

TISHMAN CONSTRUCTION CHARGED WITH FRAUD; TO PAY MORE THAN \$20 MILLION IN RESTITUTION AND PENALTIES FOR DEFRAUDING CLIENTS IN A TEN-YEAR OVERBILLING SCHEME

**Projects Included the World Trade Center Towers, the Plaza Hotel Renovation,
the Javits Convention Center Expansion and Renovation Project, and the Aqueduct Casino**

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 Tishman Construction Corporation ("Tishman Construction"), one of the largest construction companies in New York City. Tishman Construction is charged with mail and wire fraud conspiracy for improperly billing its clients more than \$5 million over a ten-year period for hours not worked and at rates that were in excess of the agreed upon contract rate. Also, Tishman Construction entered into a deferred prosecution agreement with the Office in which Tishman Construction admitted to fraudulently overbilling clients and agreed to pay more than \$20 million in restitution to victims 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 third 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. More recently, 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.

The charge 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; Diego G. Rodriguez, Assistant Director-in-Charge, Federal Bureau of Investigation, New York Field Office; Carol Fortine Ochoa, Inspector General, General Services Administration, Office of the Inspector General; Cheryl Garcia,

Special Agent-in-Charge, Department of Labor, Office of Inspector General; and Mark G. Peters, Commissioner, New York City Department of Investigation.

“Through a systemic practice, Tishman Construction bilked its clients by charging them for unworked time and at rates higher than those bargained for by their clients. By doing so, Tishman Construction defrauded its clients and abused the trust placed in it to provide construction services on some of New York’s most storied buildings. Today’s criminal action and resolution is another example of 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.

“Tishman’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 Inspector General Nestor. Mr. Nestor thanked his law enforcement partners for their dedication and professionalism in investigating these practices.

“Over ten years, Tishman Construction improperly billed millions from its clients representing both public and private projects across the New York City area. Today’s restitution settlement of more than \$20 million should help make right on a practice so wrong. The FBI is committed to working with our law enforcement partners to investigate and bring justice to those who seek to profit from fraudulent schemes, especially those in the city’s construction industry,” stated Assistant Director-in-Charge Rodriguez.

“Tishman Construction is being held responsible for defrauding the United States and others,” said Inspector General Ochoa. “I appreciate the hard work of our GSA OIG agents and law enforcement partners on this important construction fraud case that uncovered deceitful billing practices.”

“Fraudulent billing practices threaten to stymie the growth and development of New York City’s construction industry. Integrity in public and private contracting ensures a level playing field for employment opportunities. We will continue to work with our investigative partners to identify corrupt practices affecting the American workforce,” stated Special Agent-in-Charge Garcia of the New York Regional Office, U.S. Department of Labor, Office of Inspector General, Office of Labor Racketeering and Fraud Investigations.

“This overbilling scheme padded daily work logs and falsified overtime - all at a cost to taxpayers and the public. This type of fraud needlessly drives up construction costs and undermines integrity at these sites. DOI thanks the hard work of our law enforcement partners on this investigation, and we will continue to work together to root out and stop this type of corruption,” stated Commissioner Peters.

The Overbilling Scheme

As alleged in the felony information filed today, Tishman Construction, a New York based construction firm, engaged in a fraudulent overbilling scheme that impacted its projects for at least a ten-year period. These projects included the World Trade Center Towers One (the “Freedom Tower”), Three, Four and Seven; the World Trade Center PATH Transportation Hub; the Plaza Hotel renovation; the Javits Convention Center Expansion and Renovation Project; the Aqueduct Casino in Queens, and scores of other projects.

Tishman Construction’s role on construction projects was typically that of a construction manager, which often required it to supervise the work done by subcontractors or trade contractors. From at least 1999 through approximately October 2009, Tishman Construction billed clients, including government contracting and funding agencies, for hours that were not worked by labor foremen from Local 79 Mason Tenderers’ District Council of Greater New York. Tishman Construction carried out this fraudulent overbilling by: (a) adding one to two hours of unworked or unnecessary “guaranteed” overtime per day to the time sheets for the labor foremen; (b) providing five hours of guaranteed overtime per day, whether worked or not, for a particular senior labor foreman; and (c) allowing labor foremen to be absent from work for sick days, major holidays, and one or two weeks of vacation per year. In furtherance of this overbilling scheme, Tishman Construction completed and submitted time sheets to its clients as though the labor foremen had worked those days. Additionally, from approximately 2005 through 2009, without seeking advance approval from its clients, Tishman Construction paid a particularly senior labor foreman, and billed its clients, at wage rates that exceeded those specified in Tishman Construction’s contracts with its clients.

The Deferred Prosecution Agreement

Pursuant to the deferred prosecution agreement filed today, Tishman Construction accepted responsibility for its fraudulent billing practices and agreed to offer restitution to its clients in the amount of \$5,650,917.97 and pay a penalty of \$14,580,000.00 to the government over a two-year period. In consideration of Tishman Construction’s remedial actions to date and its commitment to, among others: (a) accept and acknowledge responsibility for its conduct; (b) continue its cooperation; (c) make restitution available to victims; and (d) make the payment of 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 Tishman Construction to demonstrate good conduct and compliance with the terms of this agreement.¹ Tishman’s remedial measures include the creation of the position of Compliance Director at the company, the adoption of a new Code of Conduct, and the revision of time sheet recording and client billing policies.

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The government’s case is being prosecuted by the Office’s Business and Securities Fraud Section. Assistant United States Attorney Whitman Knapp and Special Assistant United States Attorney Jonathan P. Lax are in charge of the prosecution.

¹ The request for the exclusion of time is pending before the Honorable Carol B. Amon.

The Defendant:

TISHMAN CONSTRUCTION CORPORATION
New York, New York

EDNY Docket No.: 15-CR-617 (CBA)

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