

FILED

MAR 26 2013

State Grand Jury Judge

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION - CRIMINAL

State Grand Jury

Number SGJ632-13-26-S

Superior Court

Docket Number 13-03-00055-

STATE OF NEW JERSEY)

v.)

THOMAS ROSPOS,)

HOWARD BIRDSALL,)

WILLIAM BIRDSALL,)

ALAN HILLA,)

SCOTT MACFADDEN,)

JAMES JOHNSTON,)

ROBERT GERARD, and)

BIRDSALL SERVICES)

GROUP.)

SUPERSEDING
INDICTMENT

The Grand Jurors of and for the State of New Jersey, upon their oaths, present that:

COUNT ONE

(Conspiracy - First Degree)

THOMAS ROSPOS

HOWARD BIRDSALL

WILLIAM BIRDSALL

ALAN HILLA

SCOTT MACFADDEN

JAMES JOHNSTON

ROBERT GERARD

and

BIRDSALL SERVICES GROUP

and other persons whose identities are known and unknown to the Grand Jurors, who are coconspirators but who are not named as defendants herein, between on or about January 1, 2006 and on or about May 31, 2012, at diverse locations, in the Counties of Ocean, Monmouth, Mercer, Middlesex and Bergen, elsewhere, and within the jurisdiction of this Court, with the purpose of promoting or facilitating the commission of the crimes of False Representation for a Government Contract, Misconduct by a Corporate Official, Financial Facilitation of Criminal Activity, Tampering With Public Records or Information, Falsifying or Tampering with Records, Corporation, Labor Organization Contributions through Employees, Prohibited, or Concealment or Misrepresentation of Contributions or Expenditures, did agree that:

A. One or more of them knowingly would engage in conduct which would constitute the aforesaid crime(s), or

B. One or more of them knowingly would aid in the planning, solicitation or commission of said crime(s), that is:

1. False Representation for a Government Contract, in that one or more of them would knowingly make a material

representation that was false in connection with the negotiation, award or performance of one or more government contracts valued in excess of \$25,000; that is, that one or more of them would knowingly submit false information to one or more public entities, to wit: false information concerning political contributions previously made, in connection with the negotiation, award or performance of one or more contracts for engineering services, contrary to the provisions of N.J.S.A. 2C:21-34(b);

2. Misconduct By Corporate Official, in that one or more of them would purposely or knowingly use, control or operate a corporation for the furtherance or promotion of a criminal object, thereby deriving a benefit for himself or another in whom he was interested in excess of \$75,000, that is, use, control or operate the said BIRDSALL SERVICES GROUP, a corporation of the State of New Jersey, for the furtherance or promotion of the criminal objects of: (1) False Representation for a Government Contract, in violation of N.J.S.A. 2C:21-34(b); (2) Financial Facilitation of Criminal Activity, in violation of N.J.S.A. 2C:21-25(b); (3) Tampering With Public Records, in violation of N.J.S.A. 2C:28-7(a)(2); (4) Falsifying or Tampering with Records, in violation of N.J.S.A. 2C:21-4(a), (5) Corporation, Labor Organization Contributions through Employees, Prohibited, in violation of N.J.S.A. 19:44A-20.1; or (6) Concealment or Misrepresentation of Contributions or Expenditures, in violation of N.J.S.A. 19:44A-20 and 19:44A-21(a)

and (d), contrary to the provisions of N.J.S.A. 2C:21-9(c);

3. Financial Facilitation of Criminal Activity, in that one or more of them would engage in one or more transactions involving property, to wit: funds of \$500,000 or more, which he/she/it/they knew or which a reasonable person would believe to be derived from criminal activity, to wit: (1) False Representation for a Government Contract, (2) Misconduct by a Corporate Official, (3) Tampering With Public Records or Information, (4) Falsifying or Tampering with Records, (5) Corporation, Labor Organization Contributions through Employees, or (6) Concealment or Misrepresentation of Contributions or Expenditures, with the intent to facilitate or promote the criminal activity, that is, that one or more of them would utilize funds to illegally reimburse himself/herself or another for political contributions, would obtain government contracts illegally by making one or more material representations that were false in connection with the negotiation, award or performance of said contracts and would then utilize funds obtained from the aforesaid illegally obtained government contracts to continue to illegally reimburse himself/herself or others for subsequent political contributions, the value of all the aforesaid illegal reimbursements for campaign contributions being over \$500,000, contrary to the provisions of N.J.S.A. 2C:21-25(b) and N.J.S.A. 2C:21-27;

4. Financial Facilitation of Criminal Activity, in

that one or more of them would engage in one or more transactions involving property, to wit: funds of \$500,000 or more, which he/she/it/they knew or which a reasonable person would believe to be derived from criminal activity, to wit: (1) Misconduct by a Corporate Official, (2) Corporation, Labor Organization Contributions through Employees, Prohibited or (3) Concealment or Misrepresentation of Contributions or Expenditures, with the intent to facilitate or promote the criminal activity or knowing that the transactions were designed in whole or in part to conceal or disguise the nature, location, source, ownership or control of the property derived from criminal activity, that is, that one or more of them would pay or cause others to pay income taxes on illegal reimbursement payments for campaign contributions in order to make these payments appear to be legitimate and bona fide bonuses, the value of all the aforesaid illegal reimbursements for campaign contributions being over \$500,000, contrary to the provisions of N.J.S.A. 2C:21-25(b) and N.J.S.A. 2C:21-27;

5. Tampering With Public Records or Information, in that one or more of them would, with purpose to defraud or injure, make, present, offer for filing or use any record, document or thing knowing it to be false, and with the purpose that it be taken as a genuine part of information or records belonging to, received or kept by, the government for information or record, or required by law to be kept by others for information of the government, that is,

one or more of them, knowing the same to be false, would make, present, offer for filing or use, one or more false Forms BE, Certifications of Compliance regarding political contributions or other documents reporting political contributions previously made, contrary to the provisions of N.J.S.A. 2C:28-7(a)(2);

6. Falsifying Records, in that one or more of them would, with purpose to deceive or injure another or to conceal a wrongdoing, knowing it to contain a false statement or information, falsify or utter a writing or record, that is, one or more false Forms BE, Certifications of Compliance regarding political contributions or other documents reporting political contributions previously made, contrary to the provisions of N.J.S.A. 2C:21-4(a);

7. Corporation, Labor Organization Contributions Through Employees, Prohibited, in that one or more of them, being an officer, director, attorney, agent or other employee of a corporation, would provide to another employee of that corporation or would use any part of an additional increment of salary, bonus or monetary remuneration of any kind which, in whole or in part, is intended by that corporation to be used for the express and intentional purpose of paying or making a contribution, either directly or indirectly, of money or other thing of value to a candidate, candidate committee, joint candidates committee, political party committee, legislative leadership committee, political committee or continuing political committee, contrary to

the provisions of N.J.S.A. 19:44A-20.1; or

8. Concealment or Misrepresentation of Contributions or Expenditures, in that one or more of them would purposely and with the intent to conceal or misrepresent contributions given to aid or promote the nomination, election or defeat of any candidate for public office or party position, or to aid or promote the passage or defeat of a public question in any election, or to aid the dissemination of political information in connection with any election would make one or more contributions of money or other things of value in his/her own name for another to support or defeat a candidate in an election or to aid the passage or defeat of any public question or to provide political information on any candidate or public question, or would loan or advance to another or receive a loan or advance from another of money or other thing of value expressly for the purpose of making a contribution to a candidate or the candidate committee or joint candidates committee of a candidate or did contribute or purport to contribute funds or property which had been given or furnished to him/her by any other person or group for the purpose of making a contribution to a candidate, candidate committee, joint candidates committee, political committee, continuing political committee, political party committee or legislative leadership committee, contrary to the provisions of N.J.S.A. 19:44A-20 and N.J.S.A. 19:44A-21(a) and (d).

All in violation of N.J.S.A. 2C:5-2, and against the peace of

this State, the government and dignity of same.

COUNT TWO

(False Representation for a Government Contract - Second Degree)

THOMAS ROSPOS

HOWARD BIRDSALL

WILLIAM BIRDSALL

ALAN HILLA

SCOTT MACFADDEN

JAMES JOHNSTON

ROBERT GERARD

and

BIRDSALL SERVICES GROUP

between on or about January 1, 2006 and on or about May 31, 2012, at diverse locations, in the Counties of Ocean, Monmouth, Mercer, Middlesex and Bergen, elsewhere, and within the jurisdiction of this Court, knowingly did make a material representation that was false in connection with the negotiation, award or performance of one or more government contracts valued in excess of \$25,000; that is, the said THOMAS ROSPOS, HOWARD BIRDSALL, WILLIAM BIRDSALL, ALAN HILLA, SCOTT MACFADDEN, JAMES JOHNSTON, ROBERT GERARD, BIRDSALL SERVICES GROUP or other persons whose identities are known and unknown to the Grand Jurors, who are accomplices or coconspirators but who are not named as defendants herein, knowingly submitted false information to one or more public entities, to wit: false information concerning political contributions previously made, in connection with the

negotiation, award or performance of one or more contracts for engineering services, contrary to the provisions of N.J.S.A. 2C:21-34(b) and N.J.S.A. 2C:2-6, and against the peace of this State, the government and dignity of the same.

COUNT THREE

(Misconduct By Corporate Official - Second Degree)

THOMAS ROSPOS

HOWARD BIRDSALL

WILLIAM BIRDSALL

ALAN HILLA

SCOTT MACFADDEN

JAMES JOHNSTON

ROBERT GERARD

and

BIRDSALL SERVICES GROUP

between on or about January 1, 2006 and on or about May 31, 2012, at diverse locations, in the Counties of Ocean, Monmouth, Mercer, Middlesex and Bergen, elsewhere, and within the jurisdiction of this Court, purposely or knowingly did use, control or operate a corporation for the furtherance or promotion of a criminal object, thereby deriving a benefit for himself or another in whom he was interested in excess of \$75,000, that is, the said THOMAS ROSPOS, HOWARD BIRDSALL, WILLIAM BIRDSALL, ALAN HILLA, SCOTT MACFADDEN, JAMES JOHNSTON, or ROBERT GERARD, each being an officer, a high managerial employee, an employee or a shareholder, did use, control or operate BIRDSALL SERVICES GROUP, a corporation of the State of New Jersey, for the furtherance or promotion of the criminal objects of: (1) False Representation for a Government Contract, in violation

of N.J.S.A. 2C:21-34(b); (2) Financial Facilitation of Criminal Activity, in violation of N.J.S.A. 2C:21-25(b); (3) Tampering With Public Records, in violation of N.J.S.A. 2C:28-7(a)(2); (4) Falsifying or Tampering with Records, in violation of N.J.S.A. 2C:21-4(a), (5) Corporation, Labor Organization Contributions through Employees, Prohibited, in violation of N.J.S.A. 19:44A-20.1; or (6) Concealment or Misrepresentation of Contributions or Expenditures, in violation of N.J.S.A. 19:44A-20 and 19:44A-21(a) and (d), contrary to the provisions of N.J.S.A. 2C:21-9(c) and N.J.S.A. 2C:2-6, and against the peace of this State, the government and dignity of same.

COUNT FOUR

(Financial Facilitation of Criminal Activity - First Degree)

THOMAS ROSPOS

HOWARD BIRDSALL

WILLIAM BIRDSALL

ALAN HILLA

SCOTT MACFADDEN

JAMES JOHNSTON

ROBERT GERARD

and

BIRDSALL SERVICES GROUP

between on or about January 1, 2006 and on or about May 31, 2012, at diverse locations, in the Counties of Ocean, Monmouth, Mercer, Middlesex and Bergen, elsewhere, and within the jurisdiction of this Court, engaged in one or more transactions involving property, to wit: funds of \$500,000 or more, which the said THOMAS ROSPOS, HOWARD BIRDSALL, WILLIAM BIRDSALL, ALAN HILLA, SCOTT MACFADDEN, JAMES JOHNSTON, ROBERT GERARD, or BIRDSALL SERVICES GROUP knew or which a reasonable person would believe to be derived from criminal activity, to wit: (1) False Representation for a Government Contract, (2) Misconduct by a Corporate Official, (3) Tampering With Public Records or Information, (4) Falsifying or Tampering with Records, (5) Corporation, Labor Organization Contributions through Employees, Prohibited or (6) Concealment or Misrepresentation of

Contributions or Expenditures, with the intent to facilitate or promote the criminal activity, that is, the said THOMAS ROSPOS, HOWARD BIRDSALL, WILLIAM BIRDSALL, ALAN HILLA, SCOTT MACFADDEN, JAMES JOHNSTON, ROBERT GERARD, or BIRDSALL SERVICES GROUP did utilize funds to illegally reimburse himself or another for political contributions, did obtain government contracts illegally by making one or more material representations that were false in connection with the negotiation, award or performance of said contracts and did then utilize funds obtained from the aforesaid illegally obtained government contracts to continue to illegally reimburse himself or others for subsequent political contributions, the value of all the aforesaid illegal reimbursements for campaign contributions being \$500,000 or more, contrary to the provisions of N.J.S.A. 2C:21-25(b), N.J.S.A. 2C:21-27 and N.J.S.A. 2C:2-6, and against the peace of this State, the government and dignity of same.

COUNT FIVE

(Financial Facilitation of Criminal Activity - First Degree)

THOMAS ROSPOS

HOWARD BIRDSALL

WILLIAM BIRDSALL

ALAN HILLA

SCOTT MACFADDEN

JAMES JOHNSTON

ROBERT GERARD

and

BIRDSALL SERVICES GROUP

between on or about January 1, 2006 and on or about May 31, 2012, at diverse locations, in the Counties of Ocean, Monmouth, Mercer, Middlesex and Bergen, elsewhere, and within the jurisdiction of this Court, engaged in one or more transactions involving property, to wit: funds of \$500,000 or more, which the said THOMAS ROSPOS, HOWARD BIRDSALL, WILLIAM BIRDSALL, ALAN HILLA, SCOTT MACFADDEN, JAMES JOHNSTON, ROBERT GERARD, or BIRDSALL SERVICES GROUP knew or which a reasonable person would believe to be derived from criminal activity, to wit: (1) Misconduct by a Corporate Official, (2) Corporation, Labor Organization Contributions through Employees, Prohibited or (3) Concealment or Misrepresentation of Contributions or Expenditures, with the intent to facilitate or promote the criminal activity or knowing that the transactions were designed in

whole or in part to conceal or disguise the nature, location, source, ownership or control of the property derived from criminal activity, that is, the said THOMAS ROSPOS, HOWARD BIRDSALL, WILLIAM BIRDSALL, ALAN HILLA, SCOTT MACFADDEN, JAMES JOHNSTON, ROBERT GERARD, or BIRDSALL SERVICES GROUP did himself/itself/themselves pay or cause others to pay income taxes on illegal reimbursement payments for campaign contributions in order to make these payments appear to be legitimate and bona fide employee bonuses, the value of all the aforesaid illegal reimbursements for campaign contributions being \$500,000 or more, contrary to the provisions of N.J.S.A. 2C:21-25(b), N.J.S.A. 2C:21-27 and N.J.S.A. 2C:2-6, and against the peace of this State, the government and dignity of same.

COUNT SIX

(Tampering With Public Records or Information - Third Degree)

THOMAS ROSPOS

HOWARD BIRDSALL

WILLIAM BIRDSALL

ALAN HILLA

SCOTT MACFADDEN

JAMES JOHNSTON

ROBERT GERARD

and

BIRDSALL SERVICES GROUP

between on or about January 1, 2006 and on or about May 31, 2012, at diverse locations, in the Counties of Ocean, Monmouth, Mercer, Middlesex and Bergen, elsewhere, and within the jurisdiction of this Court, with purpose to defraud or injure, did make, present, offer for filing or use any record, document or thing knowing it to be false, and with the purpose that it be taken as a genuine part of information or records belonging to, received or kept by, the government for information or record, or required by law to be kept by others for information of the government; that is, the said THOMAS ROSPOS, HOWARD BIRDSALL, WILLIAM BIRDSALL, ALAN HILLA, SCOTT MACFADDEN, JAMES JOHNSTON, ROBERT GERARD, BIRDSALL SERVICES GROUP or other persons whose identities are known and unknown to the Grand Jurors, who are accomplices or coconspirators but who are not named

as defendants herein, knowing the same to be false, did make, present, offer for filing or use, one or more false Forms BE, Certifications of Compliance regarding political contributions or other documents reporting political contributions made, contrary to the provisions of N.J.S.A. 2C:28-7(a)(2) and N.J.S.A. 2C:2-6, and against the peace of this State, the government and dignity of same.

COUNT SEVEN

(Falsifying Records - Fourth Degree)

THOMAS ROSPOS

HOWARD BIRDSALL

WILLIAM BIRDSALL

ALAN HILLA

SCOTT MACFADDEN

JAMES JOHNSTON

ROBERT GERARD

and

BIRDSALL SERVICES GROUP

between on or about January 1, 2006 and on or about May 31, 2012, at diverse locations, in the Counties of Ocean, Monmouth, Mercer, Middlesex and Bergen, elsewhere, and within the jurisdiction of this Court, with purpose to deceive or injure another or to conceal a wrongdoing, knowing it to contain a false statement or information, did falsify or utter a writing or record, that is, one or more false Forms BE, Certifications of Compliance regarding political contributions or other documents reporting political contributions previously made, contrary to the provisions of N.J.S.A. 2C:21-4(a) and N.J.S.A. 2C:2-6, and against the peace of this State, the government and dignity of same.

COUNT EIGHT

(Corporation, Labor Organization Contributions Through Employees,
Prohibited - Fourth Degree)

THOMAS ROSPOS

HOWARD BIRDSALL

WILLIAM BIRDSALL

ALAN HILLA

SCOTT MACFADDEN

JAMES JOHNSTON

ROBERT GERARD

and

BIRDSALL SERVICES GROUP

between on or about January 1, 2006 and on or about May 31, 2012, at diverse locations, in the Counties of Ocean, Monmouth, Mercer, Middlesex and Bergen, elsewhere, and within the jurisdiction of this Court, being an officer, director, attorney, agent or other employee of a corporation, that is, the said THOMAS ROSPOS, HOWARD BIRDSALL, WILLIAM BIRDSALL, ALAN HILLA, SCOTT MACFADDEN, JAMES JOHNSTON, or ROBERT GERARD, being an officer, a high managerial employee, an employee or a shareholder of the said BIRDSALL'SERVICES GROUP, did provide to another employee of that corporation or did use any part of an additional increment of salary, bonus or monetary remuneration of any kind which, in whole or in part, was intended by that corporation to be used for the express and intentional purpose of

paying or making a contribution, either directly or indirectly, of money or other thing of value to a candidate, candidate committee, joint candidates committee, political party committee, legislative leadership committee, political committee or continuing political committee, contrary to the provisions of N.J.S.A. 19:44A-20.1 and N.J.S.A. 2C:2-6, and against the peace of this State, the government and dignity of same.

COUNT NINE

(Concealment or Misrepresentation of Contributions or Expenditures -
Fourth Degree)

THOMAS ROSPOS

HOWARD BIRDSALL

WILLIAM BIRDSALL

ALAN HILLA

SCOTT MACFADDEN

JAMES JOHNSTON

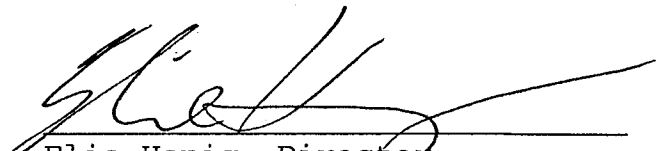
ROBERT GERARD

and

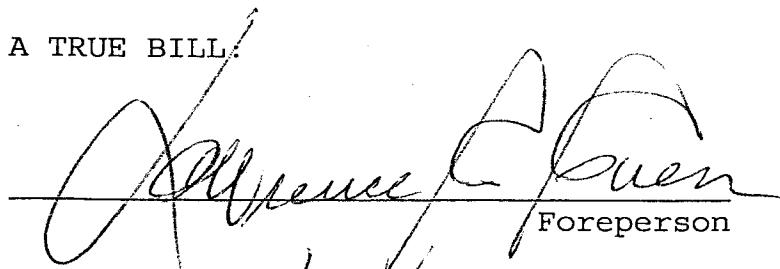
BIRDSALL SERVICES GROUP

between on or about January 1, 2006 and on or about May 31, 2012, at diverse locations, in the Counties of Ocean, Monmouth, Mercer, Middlesex and Bergen, elsewhere, and within the jurisdiction of this Court, purposely and with the intent to conceal or misrepresent contributions given to aid or promote the nomination, election or defeat of any candidate for public office or party position, or to aid or promote the passage or defeat of a public question in any election, or to aid the dissemination of political information in connection with any election did make one or more contributions of money or other things of value in his own name for another to support or defeat a candidate in an election or to aid the passage or defeat of any public question or to provide political information

on any candidate or public question, or did loan or advance to another or receive a loan or advance from another of money or other thing of value expressly for the purpose of making a contribution to a candidate or the candidate committee or joint candidates committee of a candidate or did contribute or purport to contribute funds or property which had been given or furnished to him by any other person or group for the purpose of making a contribution to a candidate, candidate committee, joint candidates committee, political committee, continuing political committee, political party committee or legislative leadership committee, contrary to the provisions of N.J.S.A. 19:44A-20, N.J.S.A. 19:44A-21(a) and (d) and N.J.S.A. 2C:2-6, and against the peace of this State, the government and dignity of same.


Elie Honig, Director
Division of Criminal Justice

A TRUE BILL:


Foreperson

Dated: 3/26/2013

FILED

MAR 26 2013

State Grand Jury Judge

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION - CRIMINAL

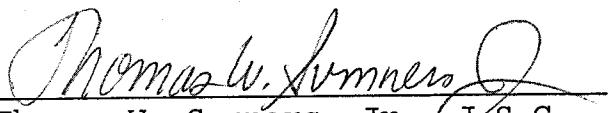
State Grand Jury
Number SGJ632-13-26-S
Superior Court
Docket Number 13-03-00055-S

STATE OF NEW JERSEY)
v.) ORDER OF VENUE
THOMAS ROSPOS)
HOWARD BIRDSALL)
WILLIAM BIRDSALL)
ALAN HILLA)
SCOTT MACFADDEN)
JAMES JOHNSTON)
ROBERT GERARD)
and)
BIRDSALL SERVICES, GROUP)

An Indictment having been returned to this Court by the State Grand Jury in the above captioned matter,

IT IS ORDERED on this *26th* day of *March*, 2013, pursuant to paragraph 8 of the State Grand Jury Act, that the County of Ocean be and hereby is designated as the County of venue for the purpose of trial.

IT IS FURTHER ORDERED that the Clerk of the Superior Court shall transmit forthwith the Indictment in this matter and a certified copy of this Order to the Criminal Division Manager of the County of Ocean for filing.


Thomas W. Sumners, Jr., J.S.C.