



NEWS RELEASE

From New York State Inspector General
Catherine Leahy Scott

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CAPITAL REGION CONSTRUCTION EXECUTIVES INDICTED IN SCHEME TO OBTAIN MILLIONS OF DOLLARS IN PUBLIC CONTRACTS THROUGH THE FRAUDULENT USE OF MINORITY- OWNED BUSINESSES

Michael Martin and D. Scott Henzel Charged in Albany County with Fraudulently Obtaining Public Construction Contracts Worth Millions of Dollars Through Identity Theft of Minority-Business Enterprises; Martin Separately Charged in Schenectady County with Stealing Over \$350,000 from a Minority-Owned Business and an Insurance Company

Both Defendants Also Charged with Failing to Pay Workers More Than \$400,000 in Prevailing Wages

Martin Allegedly Used His Ill-Gotten Gain to Fund a Lavish Lifestyle Including Expensive Vacations and the Purchase of High-End Motorcycles and Sports Equipment

ALBANY – New York State Inspector General Catherine Leahy Scott, Attorney General Barbara D. Underwood and Department of Labor Commissioner Roberta Reardon today announced an indictment in Albany County charging Michael Martin, 47, of Latham, and D. Scott Henzel, 52, of Albany, the top executives of a now defunct Albany-based general contracting company, with fraudulently obtaining public construction contracts worth millions of dollars by stealing the identities of two minority-owned businesses, and willfully failing to pay more than \$400,000 in wages to more than 50 employees. Martin is separately charged in a second indictment unsealed in Schenectady County with stealing more than \$150,000 from a minority-owned business pursuant to a fake lease agreement, and with stealing more than \$200,000 from the Allegheny Casualty insurance company by filing a false insurance claim on behalf of that minority-owned business.

The indictments are the result of a joint investigation conducted by Inspector General Leahy Scott, the Attorney General's Criminal Enforcement and Financial Crimes Bureau, and the State Department of Labor. If convicted of all counts, each defendant faces up to 10 to 20 years in state prison.

Martin is the former President and owner of Eastern Building & Restoration, Inc. ("Eastern"), a general contractor headquartered in Albany, from 2004 to February 2014. Henzel is the former Controller for Eastern.

"These two construction executives abused minority-owned businesses and took shameful advantage of a laudable program meant to level the playing field for many small and disadvantaged companies hoping to compete," said **Inspector General Leahy Scott**. "The integrity of the programs encouraging the use of women and minority owned businesses in New York is critical to the government contracting process, and I will use all

the resources at my disposal and work closely with my law enforcement partners to pursue anyone who tries to defraud it.”

“As we allege, the defendants crafted a shameful and elaborate scheme to line their pockets at the expense of minority-owned businesses, New York taxpayers, and their own employees,” said **Attorney General Underwood**. “We will continue to aggressively root out fraud and protect New Yorkers from those who seek to game the system.”

“Under Governor Cuomo, New York State will not tolerate any abuse of workers, especially stealing their hard-earned wages,” said **Department of Labor Commissioner Reardon**. “The actions of Martin and Henzel are particularly egregious — the purchase of lavish vacations, motorcycles, jet skis and RVs with funds stolen from the pensions of hard-working New Yorkers is an example of the type of fraudulent and criminal behavior that we absolutely will not stand for.”

The defendants’ alleged scheme was devised to enrich themselves at the expense of laborers, minority-owned businesses, and numerous state, county, and local agencies. The scheme included the identity theft of two minority-owned businesses, Lorice Enterprises, Inc. and Precision Environmental Solutions, Inc., as well as the theft of prevailing wage benefits from more than 50 employees of Eastern.

The investigation by Inspector General Leahy Scott and the Office of the Attorney General alleged that the defendants’ identity theft scheme operated as follows. Between April 2012 and September 2015, Martin and Henzel allegedly offered two minority business enterprises, Lorice Enterprises, Inc. (“Lorice”) and Precision Environmental Solutions, Inc. (“Precision”), the opportunity to partner with Eastern for purpose of teaching the businesses how to successfully operate and bid on public construction projects. In reality, Martin and Henzel allegedly took over the two businesses and managed all day-to-day business activities, including staffing of laborers, bidding decisions, as well as all banking activity and financial decisions. The defendants then used the minority-owned businesses to fraudulently obtain millions of dollars in public works projects awarded to Eastern, which required a portion of funds awarded to be paid to minority contractors pursuant to Article 15-A of the Executive Law. The purpose of Article 15-A of the Executive Law is to promote employment and business opportunities on public contracts for minorities and women, so that when public dollars are spent on construction projects, a portion of those funds are used to promote the growth of minority or women owned businesses.

In reality, according to court records, once Martin and Henzel brought Lorice and Precision into Eastern, those firms allegedly ceased to be minority-owned business enterprises other than on paper and were instead controlled exclusively by -- and for the benefit of -- Martin and Henzel. Martin and Henzel allegedly intermingled the finances of Lorice and Precision with those of Eastern and Moisture Barriers, a roofing company also owned by Martin. They also allegedly failed to pay New York State withholding and unemployment insurance taxes on behalf of the minority businesses, resulting in thousands of dollars of penalties and interest being assessed against those businesses and their owners.

Additionally, Martin allegedly systematically failed to pay over 50 laborers \$6 per hour in pension funds, which Eastern was obligated to pay as part of their prevailing wage requirement. Between March 1, 2012 and February 6, 2014, Martin and Henzel underpaid Eastern’s laborers more than \$400,000 in pension benefits, including more than \$100,000 on a single contract with the New York State Dormitory Authority. To conceal their crime, Henzel and Martin allegedly falsely certified on all of their public works projects that they had paid these pension payments to every employee.

Eastern went out of business in February 2014 after declaring itself financially unable to perform its numerous contracts. Thereafter, Martin moved Precision from Eastern’s former headquarters in Albany to a new location

in Scotia, New York, where Precision paid the landlord \$1,800 per month in rent. Martin then allegedly created a fake rental agreement between Precision and a fictitious company Martin controlled called Delta Land Holdings, LLC, whereby Precision paid Delta more than \$9,000 per month in “rent” for the same premises in Scotia. Martin then allegedly systematically withdrew the fake rent payments each month, for a total of over \$150,000.

Martin is charged in Schenectady County with stealing more than \$150,000 from Precision through the fake rental scam, as well as stealing more than \$200,000 from Allegheny Casualty by falsely claiming on behalf of Precision that it was a subcontractor of Eastern and was never paid for work by Eastern on a construction project Eastern had secured through the New York State Office of General Services. In fact, as alleged in the indictment, Precision was not a subcontractor on that project, but was instead operated by Eastern.

The investigation found that Martin spent more than \$1 million dollars allegedly obtained through the defendants’ scheme to fund a lavish lifestyle, including the use of corporate credit cards to purchase high-end Harley Davidsons motorcycles, snowmobiles, trailers, jet skis, and off-road vehicles, payments toward a \$170,000 R.V., and more than \$150,000 in other personal expenditures. Martin paid for similar purchases for his girlfriend and used corporate funds to take lavish trips to the Dominican Republic, Paradise Island in the Bahamas, the Chatham Bars Inn, and the Whiteface Lodge.

The Albany indictment charges Martin and Henzel jointly with one count of Failure to Pay Prevailing Rate of Wage or Supplements (a class D felony), three counts of Identity Theft in the First Degree (a class D felony), three counts of Offering a False Instrument for Filing in the First Degree (a class E felony), and one count of Scheme to Defraud in the First Degree (a class E felony). The Schenectady indictment charges Martin with two counts of Grand Larceny in the Second Degree (a class C felony) and one count of Insurance Fraud in the Second Degree (a class C felony).

Martin was arraigned on the Schenectady County indictment before Hon. Matthew J. Sypniewski and remanded to jail in lieu of \$100,000 cash or \$200,000 bond bail. He was also arraigned on the Albany County indictment today before Hon. Peter A. Lynch and remained remanded with an additional \$200,000 bond bail pending a reappearance in Albany County Court this afternoon. Henzel was arraigned on the Albany County indictment before Hon. Peter A. Lynch and released after posting bail pending his reappearance in court July 26.

The charges are merely accusations and the defendants are presumed innocent unless and until proven guilty in a court of law.

Inspector General Leahy Scott thanked Attorney General Underwood and her office for their work prosecuting and investigating this case, Department of Labor Commissioner Reardon and her office for their investigative work, and the following agencies for their assistance in this investigation: The New York State Office of the Comptroller, the New York State Office of General Services, the Dormitory Authority of the State of New York, the New York State Division of Minority and Women’s Business Development, the New York State Tax Department’s Criminal Investigations Division, the New York State Police, the United States Bankruptcy Trustee for the Northern District of New York, and Schenectady County District Attorney Robert M. Carney and his office.

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