



NEWS RELEASE

From New York State Inspector General
Letizia Tagliafierro

FOR IMMEDIATE RELEASE: Feb. 19, 2019
Contact [John Milgrim](#): 518-474-1010

WNY CONSTRUCTION COMPANY PLEADS GUILTY TO SUBMITTING FALSE DOCUMENTS ABOUT THE USE OF A MINORITY-OWNED BUSINESS ON A STATE PROJECT

Contractor Falsely Claimed That Minority Subcontractor Performed Work on Project to Meet State Requirements

BUFFALO – New York State Inspector General Letizia Tagliafierro and Erie County District Attorney John J. Flynn today announced the guilty plea of a Western New York contracting company whose owner and office manager fraudulently certified they met State requirements of using minority-owned businesses on a public construction project.

Lancaster-based Nichter Construction, Inc., pleaded guilty in Erie County Court today to Offering a False Instrument for Filing in the First Degree, a felony. The corporate plea is in full satisfaction of charges filed last July against Christopher M. Nichter and Angela A. Quinn, the company's owner and officer manager. Separately, William McClendon of McClendon Asphalt Paving, a minority-owned sub-contractor, pleaded guilty to disorderly conduct, a violation, for his role circumventing State contracting requirements.

Nichter, Quinn and McClendon all filed false documents with the Dormitory Authority of the State of New York (DASNY) claiming that McClendon's company performed work on a \$350,000 construction project at the Buffalo Psychiatric Center in 2015. A continuing investigation by the Inspector General found virtually none of the work was performed by McClendon's company. Nichter instead agreed to pay McClendon a fee to improperly act as a "pass through" making it appear as if a minority-owned company was working on the project.

"These defendants manipulated a laudable business opportunity program to corruptly enrich themselves while depriving honest construction companies from a potentially lucrative contract," said **Inspector General Tagliafierro**. "I thank District Attorney Flynn for his commitment to this case and will continue working with all law enforcement partners to help ensure the laws and policies in place encouraging participation by minority- and woman-owned businesses are followed to help level the playing field for public contracts."

"This law was enacted to provide minority and women-owned businesses an opportunity to work on state-funded projects, and these defendants attempted to abuse a system that was intended to increase diversity," said **District Attorney Flynn**. "My office along with the State Inspector General will continue to investigate and prosecute any business owners who attempts to take advantage of taxpayer dollars for their own benefit. I hope the residents of New York State feel justice has been served by the defendants pleading guilty today."

A joint State Inspector General and Erie County District Attorney investigation found that Nichter Construction entered into a contract with DASNY on November 5, 2015 to perform building improvements at the Buffalo Psychiatric Center. As part of that contract, Nichter was required to have a minimum of 18% minority business participation in the project under a State program meant to promote the use of minority-owned businesses on

public projects. Nichter recruited McClendon Asphalt Paving to purportedly be the project's minority business participant. Nichter and Quinn submitted various documents to DASNY falsely claiming that McClendon Asphalt Paving was performing plumbing and electrical work on the project at a cost of \$43,807. McClendon also filed a document with DASNY falsely claiming that his company was performing this work on the project. Nichter instead contracted with other companies to perform both the plumbing and electric work and agreed to pay a fee to McClendon while his company provided none of the work on the project. This arrangement is generally referred to as a "pass through," and McClendon was never seen at the job site.

Nichter Construction, Inc., is due back in County Court on April 30, 2019 for sentencing.

Inspector General Tagliaferro thanked DASNY for their assistance with this investigation, the New York State Police for their assistance with the arrests and Erie County District Attorney John J. Flynn and his office for prosecuting this matter.

###