



# NEWS RELEASE

From New York State Inspector General  
**Letizia Tagliaferro**

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## CONSTRUCTION COMPANY SENTENCED FOR DEFRAUDING STATE ON A PUBLIC PROJECT

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

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

Lancaster-based Nichter Construction, Inc., was sentenced in Erie County Court today to a fine of \$10,000 for the crime of Offering a False Instrument for Filing in the First Degree, a felony. The corporate plea was in full satisfaction of charges filed last July against Christopher M. Nichter and Angela A. Quinn, the company's owner and office manager. Separately, William McClendon of McClendon Asphalt Paving, a minority-owned subcontractor, previously pleaded guilty to disorderly conduct, a violation, for his related role in 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. An 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.

"Nichter Construction defrauded an essential State business opportunity program to gain an unfair and illegal advantage over honest contractors throughout the region," said **Inspector General Tagliaferro**. "I thank District Attorney Flynn and his office for their commitment to this case and we will continue working with our law enforcement partners to protect the laws and policies meant to encourage participation by minority- and women-owned businesses in the public contracting process."

"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 investigation by the Offices of the New York State Inspector General and Erie County District Attorney 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.

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.

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