

Approved: Carrie H. Cohen 14 MAG 1687  
Carrie H. Cohen  
Assistant United States Attorney

Before: HONORABLE DEBRA FREEMAN  
United States Magistrate Judge  
Southern District of New York

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: UNITED STATES OF AMERICA : COMPLAINT  
: v. : Violations of  
: LARRY DAVIS, : 18 U.S.C. §§ 1343 and 1349  
: Defendant. : COUNTY OF OFFENSE: NEW YORK  
: :  
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SOUTHERN DISTRICT OF NEW YORK, ss.:

ROBERT D. BERANGER, being duly sworn, deposes and says that he is a Special Agent of the Internal Revenue Service ("IRS") and charges as follows:

COUNT ONE

1. From in or about 2008, up to and including in or about September 2012, in the Southern District of New York and elsewhere, LARRY DAVIS, the defendant, willfully and knowingly, having devised and intending to devise a scheme and artifice to defraud, and for obtaining money and property by means of false and fraudulent pretenses, representations, and promises, did transmit and cause to be transmitted by means of wire, radio, and television communication in interstate and foreign commerce, writings, signs, signals, pictures, and sounds for the purpose of executing such scheme and artifice, to wit, DAVIS engaged in a scheme to commit minority and women-owned business enterprise ("M/WBE") fraud in connection with two Port Authority of New York and New Jersey ("Port Authority") public construction projects, namely One World Trade Center ("One WTC") and the World Trade Center Port Authority Trans-Hudson (PATH) Transportation Hub Project (the "WTC Hub") (collectively, the "World Trade Center Project"), and in furtherance of such scheme facsimiles and wire transfers were caused to be sent, including, but not limited

to, fraudulent invoices, e-mails related to fraudulent invoices, and payments of money.

(Title 18, United States Code, Section 1343.)

COUNT TWO

2. From in or about 2008 through in or about September 2012, LARRY DAVIS, the defendant, and others known and unknown, willfully and knowingly, did combine, conspire, confederate, and agree together and with each other to commit wire fraud, in violation of Title 18, United States Code, Section 1343.

3. It was a part and object of the conspiracy that LARRY DAVIS, the defendant, and others known and unknown, willfully and knowingly, having devised and intending to devise a scheme and artifice to defraud and for obtaining money and property by means of false and fraudulent pretenses, representations, and promises, would and did transmit and cause to be transmitted by means of wire, radio, and television communication in interstate and foreign commerce, writings, signs, signals, pictures, and sounds for the purpose of executing such scheme and artifice, in violation of Title 18, United States Code, Section 1343.

Overt Acts

4. In furtherance of the conspiracy and to effect its illegal object, LARRY DAVIS, the defendant, and others known and unknown, committed the following overt acts, among others, in the Southern District of New York and elsewhere:

a. From in or about 2009 through in or about 2012, DAVIS caused materially false payroll records that were prepared and/or sent via email and facsimile to be submitted to the Port Authority.

b. On or about March 20, 2012, DAVIS caused the Port Authority to wire approximately \$403,756.77 from a Port Authority bank account to another bank account using interstate and foreign wires and electronic communication, including wire transfers and electronic communications that traveled through the States of New Jersey, Delaware, and New York and the United Kingdom.

(Title 18, United States Code, Section 1349.)

The bases for my knowledge and for the foregoing charges are, in part, as follows:

5. I have been employed as an IRS Special Agent for almost twenty-three years, and I am currently assigned to the IRS Criminal Investigation Division, New York Field Office. While so employed, I have directed, conducted, and participated in many investigations of criminal violations of the federal tax laws. During the course of these investigations, I have executed search and arrest warrants, utilized informants, interviewed witnesses, and conducted surveillance. Throughout my training, education, and experience, I have become familiar with the manner in which various frauds are committed. From my participation in this investigation, my conversations with law enforcement officers and others, and my review of documents, I am familiar with the facts and circumstances of this investigation. Because this affidavit is being submitted for a limited purpose, I have not included in it everything I know about this investigation. Where the contents of documents and the actions, conversations, and statements of others are related herein, they are related in substance and in part.

The World Trade Center Project and DCM

6. I have spoken with law enforcement officers with the Port Authority, Office of Inspector General ("Port Authority OIG") and the United States Department of Transportation ("DOT"), Office of Inspector General ("DOT-OIG") and reviewed Port Authority records and learned the following:

a. The World Trade Center Site is comprised of sixteen acres in lower Manhattan bordered by West Street on the west, Church Street on the east, Vesey Street on the north, and Liberty Street on the south. The World Trade Center Site, currently under construction, consists of four skyscrapers, including One WTC (previously called "The Freedom Tower"), the WTC Hub, and the 9/11 Memorial Plaza and Museum.

b. In or about 2006, the Port Authority began construction on One WTC. One WTC will be a 104-story skyscraper with 69 floors designated as office space, a three-floor observation deck, and below-ground retail space. One WTC is an approximately \$3.8 billion project financed primarily by the Port Authority.

c. In or about 2005, the Port Authority began construction on the WTC Hub. The 800,000 square-foot WTC Hub,

currently under construction, will include a multi-story central transit hall, enhanced PATH facilities and services, retail facilities, and an integrated network of underground pedestrian connections to New York City Transit subway stations and the Fulton Street Transit Center. The DOT has committed approximately \$2.2 billion toward the more than \$3.2 billion project, with the Port Authority funding the remainder.

#### DAVIS and the World Trade Center Project

7. I have records obtained from the Port Authority and DCM Erectors, Inc. ("DCM"), which is company owned, operated, and controlled by LARRY DAVIS, the defendant, and learned the following:

a. DCM is a trade contractor that specializes in steel erection for large construction projects. Since at least in or about March 1999, DAVIS has owned DCM through Canadian holding companies that he and his wife own and served as its President and Chief Executive Officer.

b. In or about 2007, DCM was awarded an approximately \$256 million trade contract for work to be performed on One WTC. In or about 2009, DCM was awarded an approximately \$330 million trade contract for work to be performed on the WTC Hub. The work to be performed by DCM on the World Trade Center Project pursuant to DCM's contracts with the Port Authority included, but was not limited to, drafting and engineering, surveying, structural steel supply and erection, and supply and installation of metal decking.

#### The Port Authority's M/WBE Program

8. I have spoken to law enforcement officers at the Port Authority OIG and DOT-OIG and learned the following:

a. In or about 1988, the Port Authority Board of Commissioners issued regulations in connection with a program to increase the participation of M/WBES on Port Authority projects (the "M/WBE Program"). Pursuant to those regulations, recipients of Port Authority construction contracts are required to make good faith efforts to achieve the goal of 12 percent MBEs and five percent WBES participation in Port Authority construction contracts.

b. To become a Port Authority certified M/WBE, a company must, among other things, be owned and controlled by a minority or a woman who owns at least 51 percent of the company.

Additionally, the company must be an independent business, meaning a company whose viability does not depend on its relationship with another firm or firms. Accordingly, the company must employ its own work force, own equipment necessary to perform its work, and be able to meet its financial obligations.

c. Pursuant to the M/WBE Program, construction managers and trade contractors are permitted to count toward the attainment of their M/WBE percentage goals only funds paid to M/WBEs that perform a "commercially useful function" in the execution of a contract. Under the relevant rules and regulations of the M/WBE Program, a M/WBE subcontractor performs a commercially useful function only where it: (i) is responsible for the execution of the work of the contract; (ii) carries out its responsibilities by actually performing, managing, and supervising the work involved; and (iii) furnishes the supervision, labor, and equipment necessary to perform its work. The M/WBE Program rules also expressly provide that a M/WBE does not perform a commercially useful function "if its role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of M/WBE participation."

#### The M/WBE Fraud Scheme

##### *The MBE Fraud*

9. I have spoken to Johnny Garcia ("Garcia") who previously has pled guilty to engaging in MBE fraud in connection with the World Trade Center Project pursuant to a cooperation agreement with the Government<sup>1</sup> and reviewed Port Authority records and documents and learned the following:

a. Garcia is the sole owner of Solera Construction, Inc. ("Solera"), which is a wholly owned minority company that specializes in metal decking on large construction projects. In or about September 1999, Solera was certified by the Port Authority as a MBE.

b. In or about January 2001, LARRY DAVIS, the defendant, created a joint venture between Solera and DCM, which was named Solera/DCM Joint Venture LLC ("Solera/DCM"). Solera/DCM is

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<sup>1</sup>Garcia has pled guilty to Information, S1 13 Cr. 923 (RPP), pursuant to a cooperation agreement with the Government. The information Garcia has provided to the law enforcement has been corroborated by other evidence, including interviews of other witnesses and documents.

owned sixty percent by Solera and forty percent by DCM.

c. Garcia has informed me, among other things, as follows:

i. DCM is owned, controlled, and operated by DAVIS.

ii. DAVIS set up Solera/DCM with the express purpose of permitting DCM to obtain MBE credit on public construction projects.

10. I have reviewed records obtained from the Port Authority, DCM, Solera, and Solera/DCM and spoken to representatives from DCM, Garcia, and a subcontractor for Solera/DCM on the World Trade Center Project ("Subcontractor-1") and learned the following:

a. In or about July 2010, Solera/DCM was approved by the Port Authority as eligible for MBE credit for One WTC and the WTC Hub both prospectively and retroactively.

b. From in or about 2009 through in or about August 2012, DAVIS caused DCM to fraudulently claim MBE credit for approximately \$70 million based on the value of work Solera/DCM purportedly performed for the World Trade Center Project as set forth below:

i. DAVIS caused DCM to represent to the Port Authority that Solera/DCM performed metal decking work that, in truth and in fact, was performed by Subcontractor-1. To facilitate this fraudulent misrepresentation, at the direction of DAVIS, workers supervised by Subcontractor-1 were placed on Solera/DCM's payroll to make it appear as if Solera/DCM was performing the metal decking work when it was not doing so.

ii. DAVIS caused DCM to represent to the Port Authority that Solera/DCM performed steel procurement work when, in truth and in fact, DCM procured the steel. To facilitate this fraudulent misrepresentation, at the direction of DAVIS, Garcia signed purchase orders that stated that Solera/DCM had procured the steel when it had not done so.

c. In exchange for allowing DCM to use Solera/DCM to obtain MBE credit, DAVIS agreed to pay Garcia \$150,000 as annual salary and a monthly lump sum payment of \$12,500 for One WTC and a

total of \$9,500 for the WTC Hub. Garcia's \$150,000 annual salary was paid through Solera/DCM's payroll service via wire transfer and the monthly lump sum payments were paid by check drawn on a Solera/DCM bank account to Solera. Since in or about 2008, the total amount of Garcia's \$150,000 annual salary and the lump sum payments is at least two million dollars.

*The WBE Fraud*

11. I have spoken to Gale D'Aloia ("D'Aloia") who previously has pled guilty to engaging in WBE fraud in connection with the World Trade Center Project pursuant to a cooperation agreement with the Government<sup>2</sup> and reviewed Port Authority records and documents and learned the following:

a. In or about February 2001, D'Aloia incorporated GLS Enterprises, Inc. ("GLS") and it is wholly owned by D'Aloia who serves as its Chairwoman and Chief Executive Officer. Prior to and after incorporating GLS, D'Aloia worked for DCM and managed its payroll.

b. In or about November 2005, GLS was certified by the Port Authority as a WBE.

c. D'Aloia has informed me, among other things, as follows:

i. DCM is owned, controlled, and operated by DAVIS.

ii. At all times relevant to this Complaint, GLS's only client was DCM and its related companies. Accordingly, GLS's viability depended on DCM and D'Aloia reported directly to DAVIS who approved all of GLS's major expenses. Through GLS, D'Aloia performed the same payroll management work that she had performed when she was DCM's fulltime employee.

12. I have reviewed records obtained from the Port Authority, DCM, and GLS and spoken to representatives from DCM and D'Aloia and learned the following:

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<sup>2</sup>D'Aloia has pled guilty to Information, 13 Cr. 923 (RPP), pursuant to a cooperation agreement with the Government. The information D'Aloia has provided to the law enforcement has been corroborated by other evidence, including interviews of other witnesses and documents.

a. Beginning in or about 2009 through in or about September 2012, LARRY DAVIS, the defendant, caused DCM to fraudulently claim WBE credit for \$6.3 million of surveying and payroll management work GLS purportedly was performing as a subcontractor to DCM on the World Trade Center Project as set forth below:

i. DAVIS caused DCM to represent to the Port Authority that GLS performed surveying work that, in truth and in fact, was performed by DCM. To facilitate this fraudulent misrepresentation, among other things and at the direction of DAVIS, DCM surveyors were placed on GLS's payroll and GLS invoiced DCM for such payroll expenses.

b. For participating in the fraudulent payroll scheme for the surveyors, at DAVIS's direction, DCM paid GLS a fee equal to ten percent of the weekly invoiced payroll for the DCM surveyors. The ten percent payments were made by check and discussed via e-mail communication sent between DAVIS and D'Aloia. From in or about 2009 to in or about September 2012, the weekly ten percent payments totaled approximately \$575,000.

WHEREFORE, deponent respectfully requests that a warrant be issued for the arrest of LARRY DAVIS, the defendant, and that DAVIS be imprisoned or bailed as the case may be.

  
Robert D. Beranger  
Special Agent  
Internal Revenue Service  
Criminal Investigation Division

Sworn to before me this  
31st day of July, 2014.

  
THE HONORABLE DEBRA FREEMAN  
UNITED STATES MAGISTRATE JUDGE