

CR 08 -348

**FACTUAL BASIS FOR THE PLEA
OF JAMES F. HIRNI**

This statement is submitted to provide a factual basis for my plea of guilty to the conspiracy charge filed against me.

All dates in this Factual Basis are "on or about" the specific date stated.

FILED

DEC 12 2008

NANCY MAYER WHITTINGTON, CLERK
U.S. DISTRICT COURT

Defendant's Work as a Lobbyist

1. In February 2003, defendant JAMES F. HIRNI began working as a lobbyist at a law and lobbying firm in Washington, D.C. In December 2003, defendant HIRNI left the law and lobbying firm to take a lobbying job at Firm B, another law and lobbying firm in Washington, D.C.
2. During 2003 and 2004, Staffer D worked for the House of Representatives Committee on Transportation and Infrastructure (the "Transportation Committee").
3. During 2003 and 2004, Trevor Blackann worked as a legislative assistant to a United States Senator who served on the Senate Committee on the Environment and Public Works (the "EPW Committee").
4. In August 2003, defendant HIRNI and his law and lobbying firm employer acquired as a lobbying client a construction equipment rental company ("Equipment Rental Company"). As Equipment Rental Company's lobbyist, defendant HIRNI was responsible for persuading public officials in the U.S. House of Representatives and the U.S. Senate to take official action favorable to Equipment Rental Company.
5. In 2003, Person #1 worked at Equipment Rental Company, and Person #1 was defendant HIRNI's main point of contact at Equipment Rental Company.

6. At about the same time that Equipment Rental Company hired defendant HIRNI, it also hired Lobbyist D and his employer, Firm B, to work with defendant HIRNI and defendant HIRNI's lobbying firm.
7. Among other things, defendant HIRNI, Lobbyist D, and Person #1 sought a legislative amendment that would encourage state public works agencies to rent rather than purchase construction equipment ("Equipment Rental Amendment"). Defendant HIRNI, Lobbyist D, and Person #1 also sought a legislative amendment that would encourage state public works agencies to contract only with those companies - such as Equipment Rental Company - which had large dollar amounts of liability insurance coverage ("Liability Insurance Amendment"). Defendant HIRNI, Lobbyist D, and Person #1 sought to have these amendments inserted into legislation re-authorizing a federal highway funding bill which was pending before both chambers of Congress (hereafter "Federal Highway Bill"). In the House of Representatives, the Transportation Committee, where Staffer D worked, had responsibility for the Federal Highway Bill. In the Senate, the EPW Committee had responsibility for the Federal Highway Bill.

Rules of the House of Representatives and the Senate

8. During 2003 and 2004, the U.S. Senate and the House of Representatives had in effect rules and codes of conduct that governed their Members and employees, including Staffer D and Blackann. Those rules included but were not limited to rules governing the solicitation and receipt of gifts; the solicitation, receipt, and public reporting of travel paid for by third parties; and the public reporting and filing of financial information. As

a former Congressional staffer, defendant HIRNI was generally familiar with and aware of these rules.

**Acts to Further a Scheme to Defraud the House of Representatives
and the Senate of the Honest Services of Staffer D and Blackann**

9. On October 16 or 17, 2003, Person #1 told defendant HIRNI that Lobbyist D had suggested inviting Staffer D and Blackann to attend Game One of the Baseball World Series in New York City, New York, and Person #1 asked defendant HIRNI to invite those staffers on an all-expenses-paid trip to the game.
10. On October 17, 2003, defendant HIRNI offered an all-expenses-paid trip to Game One of the Baseball World Series in New York City, New York, (“World Series Trip”) to Staffer D and Blackann, in part to influence Staffer D and Blackann to take official action favorable to the efforts of defendant HIRNI, Lobbyist D, and Person #1 to make amendments to the Federal Highway Bill.
11. From October 18 through October 19, 2003, defendant HIRNI and Person #1 provided Staffer D and Blackann the World Series Trip, which included the following things of value, among others:
 - a. On October 18, 2003, defendant HIRNI, Staffer D, and Blackann flew aboard commercial airline carriers from Reagan National Airport in Virginia to LaGuardia Airport in New York, with each ticket costing approximately \$228.50.
 - b. On October 18 and 19, 2003, at the request of Person #1, defendant HIRNI used a chauffeured, seven-passenger sport utility vehicle to transport Staffer D and Blackann to points throughout the city of New York, with total costs for the car service of approximately \$1100.

- c. On October 18, 2003, defendant HIRNI signed the registration cards at a New York City hotel for himself, Staffer D, Blackann, and Person #1, instructing the hotel that charges for all four rooms be paid with defendant HIRNI's business credit card, with total costs for the hotel of approximately \$1300.
 - d. On October 18, 2003, Person #1 paid for a dinner at an expensive steakhouse restaurant for Staffer D and Blackann, with costs for the dinner exceeding \$400.
 - e. On October 18, 2003, defendant HIRNI, Staffer D, Blackann, and Person #1 attended Game One of the Baseball World Series using tickets from Person #1 with an individual face value of \$110.
 - f. On October 18, 2003, as the group was leaving the baseball game, at the suggestion of Person #1, defendant HIRNI purchased souvenir baseball jerseys for Staffer D and Blackann, with each jersey costing approximately \$130.
 - g. On October 18 and 19, 2003, at Person #1's request, defendant HIRNI treated Staffer D and Blackann to entertainment, drinks, and t-shirts at a strip club in New York City, with total costs billed by defendant HIRNI through his employer to Equipment Rental Company exceeding \$600.
12. On October 18, during the World Series Trip, defendant HIRNI, Staffer D, Blackann, and Person #1 discussed the Federal Highway Bill and Equipment Rental Company.
13. On October 22, 2003, Lobbyist D emailed a draft of the two amendments to Blackann, Person #1, and defendant HIRNI, so that Blackann could use them as a place holder with the EPW Committee.

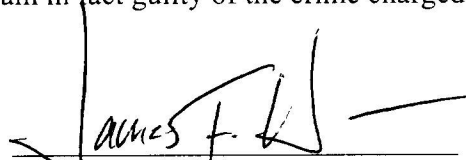
14. On October 22, 2003, defendant HIRNI emailed to Staffer D information about the two amendments Equipment Rental Company sought to insert in Federal Highway Bill, seeking Staffer D's assistance.
15. On October 27, 2003, Staffer D emailed defendant HIRNI that Equipment Rental Company's two amendments needed "more work for anyone to be able to help with progress."
16. On October 30, 2003, Lobbyist D emailed defendant HIRNI and Person #1 a copy of "the new amendment that was requested by the House authors" of the Federal Highway Bill, explaining that the amendment offered in the House "opens the entire highway and transit titles to construction equipment leasing."
17. In October 2003, Person #1 instructed defendant HIRNI to submit expenses from the World Series Trip to Equipment Rental Company.
18. From November 5 through November 11, 2003, defendant HIRNI, Lobbyist D, Blackann, and Person #1 sought to identify a Member of the EPW Committee who would be willing to offer Equipment Rental Amendment and Liability Insurance Amendment to the Federal Highway Bill being considered by the EPW Committee. Although Lobbyist D wanted Blackann to offer the amendments, Blackann declined because of a public agreement that had been made by the Senator for whom Blackann worked, pursuant to which the Senator had agreed not to offer amendments to the Federal Highway Bill. Nevertheless, defendant HIRNI and Blackann identified and convinced another staff member on the EPW Committee to offer Equipment Rental Amendment and Liability Insurance Amendment.

19. On November 11 and November 12, 2003, after Equipment Rental Amendment and Liability Insurance Amendment had been filed, defendant HIRNI, Lobbyist D, Blackann, and others sought to garner support for those amendments and prevent them from being removed from the Federal Highway Bill being considered by the Senate. Various staff and Senators opposed Equipment Rental Company's amendments because, among other reasons, they did not "like 'forcing' people to rent." Defendant HIRNI, Lobbyist D, Blackann, and others were successful in protecting these amendments from removal. On November 12, 2003, a version of the Federal Highway Bill containing the amendments sought by defendant HIRNI passed a vote in the EPW Committee.
20. In January 2004, defendant HIRNI, Lobbyist D, and Person #1 supported efforts by Blackann to protect the Equipment Rental Amendment, which was being challenged by small business owners and companies which sold and distributed - rather than rented - construction equipment ("Equipment Distributors"). The steps taken to protect Equipment Rental Amendment included the following, among others:
 - a. On January 13, 2004, Person #1 emailed others at Equipment Rental Company, forwarding an email that had been sent to Blackann by Equipment Distributor's representative, and alerting them to a lobbying effort by Equipment Distributors to remove the Equipment Rental Amendment from the Federal Highway Bill. Person #1 informed others at Equipment Rental Company that, "Our guys don't think it is going to be a problem. We have a much stronger relationship and we are already in the bill, and soon to be in the house bill too."


- b. On January 20, 2004, Blackann emailed Lobbyist D and defendant HIRNI about a meeting he had held with the Equipment Distributors' representative. Blackann explained that he hid from the Equipment Distributors' representative the reason Blackann had supported Equipment Rental Amendment, telling HIRNI and Lobbyist D: "HE HAS NO IDEA THAT WE DID THIS FOR YOU. I TOLD HIM [that the Senator for whom Blackann worked] CAME UP WITH IT HIMSELF. IN FACT, I MAY HAVE SPECIFICALLY SAID THAT I DID NOT DO IT FOR [Equipment Rental Company]".
 - c. On January 21, 2004, Blackann emailed a representative of the Equipment Distributors, criticizing the representative for continuing to publicly oppose Equipment Rental Amendment, and then Blackann forwarded his email message to defendant HIRNI and Lobbyist D, telling them to "see below, then please delete immediately."
21. On June 15, 2004, Staffer D filed his annual financial disclosure form for the 2003 calendar year in which Staffer D did not report as gifts the round-trip airfare, souvenir baseball jersey, hotel stay, chauffeured transportation, entertainment at the strip club, meals, drinks, and other incidental expenses paid for by Equipment Rental Company and its representatives, even though federal law required him to do so.

The preceding statement is a summary, made for the purpose of providing the Court with a factual basis for my guilty plea to the conspiracy charge against me. It does not include all of the facts known to me concerning criminal activity in which I and/or others engaged. I make this statement knowingly and voluntarily and because I am in fact guilty of the crime charged.

DATE: 11/14/08



JAMES F. HIRNI



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Counsel for Defendant