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**HURTGEN RE-INDICTED FOR ALLEGED ROLE IN AIDING PAY-TO-PLAY
FRAUD SCHEME INVOLVING WILL COUNT HOSPITAL PROJECT**

CHICAGO – A former executive in the Chicago office of Bear Stearns & Co., an investment firm that arranges financing for public works projects in Illinois, was indicted today on federal charges for allegedly assisting a fraud scheme in which a former member of the Illinois Health Facilities Planning Board and a construction firm owner engaged in insider-dealing, influence-peddling and extortion involving their private interests and public duties, federal officials announced today. The defendant, **P. Nicholas Hurtgen**, a lawyer and investment banker, allegedly participated in a fraud scheme to help lawyer, businessman and previous co-defendant Stuart Levine, formerly an influential member of the state board that controls medical facility construction projects, obtain millions of dollars for Levine and certain of his associates, including another previous co-defendant, Jacob Kiferbaum, an architect and construction firm owner, who schemed with Levine to obtain multi-million dollar contracts and to distribute construction kickbacks, announced Patrick J. Fitzgerald, United States Attorney for the Northern District of Illinois.

The new indictment is part of *Operation Board Games*, an ongoing federal public corruption investigation of insider-dealing, influence-peddling and kickbacks involving private interests and public duties related to various state boards and non-profit organizations.

Hurtgen, 44, of Glencoe, faced similar charges in a May 2005 indictment that charged him together with Levine and Kiferbaum. After Levine, 61, of Highland Park, and Kiferbaum, 55, also of Glencoe, pleaded guilty and entered into cooperation agreements with the government, the charges against Hurtgen, who had pleaded not guilty, were dismissed earlier this year in a pre-trial ruling by Senior U.S. District Judge John Grady. (A third previous co-defendant, John Glennon, 55, OF Lake Forest, recently pleaded guilty and is cooperating.)

Today's seven-count superseding indictment returned by a federal grand jury reinstates the same charges – six counts of aiding and abetting mail and wire fraud and one count of extortion, while adding more details about Hurtgen's alleged role in, as well as his knowledge of, the charged criminal activity. Hurtgen will be arraigned at a later date in U.S. District Court.

According to the indictment, Hurtgen was a senior managing director in the Chicago office of Bear Stearns, which had done and sought future business with Edward Hospital in Naperville, part of Edward Health Services Corp., including seeking to arrange the financing for its proposed expansion by building a \$90 million hospital and adjacent \$23 million medical office building in Plainfield. Multiple hospital operators were competing to obtain permission from the state Planning Board, on which Levine served, to build new medical facilities in the rapidly growing area.

With Hurtgen's knowledge and participation, Bear Stearns also did extensive business with the State of Illinois, including managing substantial funds belonging to the Teachers Retirement System, and participating in the refinancing of approximately \$10 billion in State of Illinois bonds.

In part through Bear Stearns' participation in these matters, Hurtgen was acquainted with Levine and high-ranking state officials. Bear Stearns compensated Hurtgen in part through payment of an annual bonus, whose size was influenced by the amount of business Hurtgen was responsible for generating in the year, the indictment states.

Between 2001 and June 2004, Levine and Kiferbaum engaged in a fraud scheme in which Levine misused his positions on the Planning Board and as a trustee of the former Chicago Medical School (now Rosalind Franklin University of Medicine and Science, referred to as "CMS") to provide millions of dollars in financial benefits to Kiferbaum, primarily by using his positions to direct business to Kiferbaum's company, Kiferbaum Construction Co., of Deerfield. In return, by December 2003, Kiferbaum had already provided more than \$1.6 million in concealed payments to Levine's nominees in connection with two construction projects at CMS. Kiferbaum also had agreed to pay Levine a substantial kickback in return for Levine's role in securing a Certificate of Need from the Planning Board to construct a new hospital in Crystal Lake, Ill., which Kiferbaum had been hired to build, as well as to pay Levine or his nominees a substantial kickback from fees Kiferbaum would earn if his company was hired to build the Edward Hospital facilities in Plainfield.

Beginning in December 2003 and continuing through at least June 2004, Hurtgen allegedly aided and abetted the Levine-Kiferbaum scheme by agreeing to and assisting them in misusing Levine's position with the Planning Board to obtain financial gain for himself, his employer Bear Stearns, and Kiferbaum Construction. The scheme allegedly deprived the Planning Board and the State of Illinois of Levine's honest services.

Hurtgen allegedly assisted the scheme by promising representatives of Edward Hospital that the Planning Board would approve the Plainfield hospital and medical office building if Edward

Hospital hired Kiferbaum Construction to build those facilities, and threatening those representatives that the Planning Board would deny Edward Hospital's Certificate of Need applications if it did not hire Kiferbaum, even though Edward Hospital had already negotiated with Construction Company A to build them. Levine's and Hurtgen's insistence on the use of Kiferbaum Construction, rather than Construction Company A, was unrelated to any objective criteria for Planning Board approval of the Certificates of Need for the Plainfield hospital and medical office building, the indictment alleges.

Knowing that Illinois law prohibited Levine from communicating directly with Edward Hospital officials regarding its applications before the Planning Board, and to reduce the risk that third parties would detect the unlawful pressure to force Edward Hospital to hire Kiferbaum Construction, Hurtgen allegedly agreed with Levine to communicate Levine's threats and promises to Edward Hospital officials and to relay their responses to Levine. To prove to Edward Hospital's chief executive officer that Hurtgen was communicating genuine threats and promises on behalf of Levine, Hurtgen agreed to and did stage a sham encounter in which Hurtgen and Levine purported to "accidentally" meet the hospital's chief executive and Kiferbaum at a restaurant, providing the hospital official with the opportunity to observe Hurtgen and Levine together, and Levine with the opportunity to praise Kiferbaum to the hospital executive.

The indictment alleges that Hurtgen sought to obtain financial gain for Bear Stearns and himself by assisting Levine in abusing his official position, believing from his communications with Levine that forcing Edward Hospital to hire Kiferbaum Construction would result in Planning Board approval for the Plainfield hospital and medical office building, whose construction Hurtgen expected Bear Stearns to finance.

Mr. Fitzgerald announced the charges with Robert D. Grant, Special Agent-in-Charge of the Chicago Office of the Federal Bureau of Investigation; Thomas P. Brady, Inspector-in-Charge of the U.S. Postal Inspection Service; James Vanderberg, Special Agent-in-Charge of the U.S. Department of Labor Office of Inspector General in Chicago; and Alvin Patton, Special Agent-in-Charge of the Internal Revenue Service Criminal Investigation Division in Chicago.

The government is being represented by Assistant U.S. Attorney Kaarina Salovaara.

If convicted, each count of aiding and abetting mail fraud and wire fraud and extortion carries a maximum penalty of 20 years in prison and a \$250,000 fine, or an alternative maximum fine of twice the gross profit to any defendant or twice the loss to any victim. The Court, however, would determine the appropriate sentence to be imposed under the advisory United States Sentencing Guidelines.

The public is reminded that an indictment contains only charges and is not evidence of guilt. The defendant is presumed innocent and is entitled to a fair trial at which the government has the burden of proving guilt beyond a reasonable doubt.

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