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Southern District of New York

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**U.S. ATTORNEY CHARGES CONTRACTOR WITH FRAUD ON
MULTI-MILLION DOLLAR CROSS-WESTCHESTER EXPRESSWAY
CONSTRUCTION PROJECT**

PREET BHARARA, the United States Attorney for the Southern District of New York, and DOUGLAS SHOEMAKER, Regional Special Agent-in-Charge of the U.S. Department of Transportation (USDOT) Office of Inspector General, today announced the indictment of YONA JIMENEZ, a/k/a "Yona J. Bocchino," the president and owner of Global Marine Construction Supply ("GMCS") of Roslyn, New York, for engaging in fraud in connection with a government program designed to increase the participation of disadvantaged business enterprises in federally funded public works contracts.

U.S. Attorney PREET BHARARA stated: "The Disadvantaged Business Enterprise Program serves the entire community, allowing competitive minority- and women-owned businesses to work on public construction projects from which they have historically been shut out. The conduct alleged in this case makes a travesty of the DBE Program. Contractors in Westchester County and throughout the Southern District of New York should hear the message that we will not tolerate corruption in our public works."

USDOT Special Agent-in-Charge SHOEMAKER stated: "DBE fraud harms the integrity of the DBE program and law-abiding contractors, including many small businesses, by defeating efforts to ensure a level playing field in which all firms can compete fairly for contracts. Our agents will continue to work with the Secretary of Transportation, the Administrator of Federal Highways, and our Federal, State, and local law enforcement and prosecutorial colleagues to expose and shut down DBE fraud schemes that violate the public trust throughout New York and elsewhere."

According to the Indictment, and a criminal Complaint previously filed in this matter:

In 1980, the USDOT issued regulations in connection with a program to increase the participation of minority and disadvantaged business enterprises (“DBEs”) in federally funded public construction contracts (the “DBE Program”). Pursuant to those regulations, recipients of United States Department of Transportation (“USDOT”) construction grants are required to establish a DBE program that, among other things, (1) establishes goals for the percentage of a construction project’s work that should be awarded to DBEs (“DBE goals”); and (2) requires general contractors on construction projects to make good faith efforts to meet the relevant DBE goals.

General contractors are permitted to count toward the attainment of their DBE percentage goals only funds paid to DBEs that performed a “commercially useful function” in the execution of a contract. Under the relevant rules and regulations, a DBE subcontractor performs a commercially useful function only where it: (a) is responsible for the execution of the work of the contract; (b) carries out its responsibilities by actually performing, managing, and supervising the work involved; and (c) furnishes the supervision, labor, and equipment necessary to perform its work. The rules also expressly provide that a DBE 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 DBE participation.”

JIMENEZ was the president and sole owner of GMCS, a disadvantaged business enterprise, which purported to provide millions of dollars’ worth of structural steel on construction projects up and down the East Coast.

In or about June 2006, a major construction project on the Cross-Westchester Expressway in Westchester County, New York (the "Cross-Westchester Expressway Construction Project") was awarded to a general contractor (the "General Contractor"). The DBE goal for the Cross-Westchester Expressway Construction Project was ten percent.

From in or about June 2006 through in or about October 2009, JIMENEZ, as president and owner of GMCS, falsely represented that GMCS supplied structural steel in the amount of \$6,034,750 for the Cross-Westchester Expressway Construction Project. The General Contractor claimed credit toward the DBE goal based on the steel purportedly supplied by GMCS. In fact, however, and as JIMENEZ knew, the steel purportedly supplied by GMCS was actually supplied by another company (the "Steel Supplier"), which was not a DBE.

As part of the scheme, JIMENEZ caused GMCS to receive approximately 1% of the billed amount of the steel GMCS purportedly supplied, not \$6,034,750 which JIMENEZ claimed was the value of the steel purportedly supplied by GMCS. The General Contractor regularly issued two checks to pay for installments of the steel that GMCS purported to supply but that the Steel Supplier actually supplied: a two-party check, payable to the Steel Supplier and GMCS, in the amount of approximately 99% of the billed cost of the steel; and a separate check payable to GMCS in the amount of approximately 1% of the billed cost of the steel.

JIMENEZ is charged with mail fraud, and faces a maximum of 20 years in prison.

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Mr. BHARARA praised the investigative work of the USDOT Office of Inspector General, the Port Authority Office of the Inspector General, the Metropolitan Transit Authority Office of Inspector General, the New York City Department of Investigation, and the New York State Department of Transportation.

The prosecution is being handled by the Office's White Plains Division. Assistant United States Attorney BENJAMIN ALLEE is in charge of the prosecution.

The charges contained in the Indictment and the Complaint are merely accusations, and the defendant is presumed innocent unless and until proven guilty.

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