

UNITED STATES DISTRICT COURT  
DISTRICT OF CONNECTICUT  
N-15-3

UNITED STATES OF AMERICA

**FILED UNDER SEAL**

v.

Criminal No. 3:16 CR11 (AWT)

YUVAL MARSHAK

- VIOLATIONS:
- : 18 U.S.C. § 1341 (Mail Fraud)
  - : 18 U.S.C. § 1343 (Wire Fraud)
  - : 18 U.S.C. § 1031 (Major Fraud)
  - : 18 U.S.C. § 1956(a) (Money Laundering)
  - : 18 U.S.C. § 2 (Aiding and Abetting)
  - : 18 U.S.C. § 981(a)(1) (Forfeiture)
  - : 18 U.S.C. § 982(a)(1) (Forfeiture)
  - : 28 U.S.C. § 2461(c) (Forfeiture)

INDICTMENT

The Grand Jury charges:

GENERAL ALLEGATIONS

During all or part of the time relevant to this Indictment:

The Defendant

1. YUVAL MARSHAK ("MARSHAK"), the defendant, was and is a citizen and resident of Israel. From at least in or about 2004 until in or about 2010, MARSHAK was employed by Employer 1, an Israeli company located in Nazareth Elite, Israel, as its vice president of sales and marketing. Thereafter, MARSHAK was a partial owner of and was employed as an executive by Employer 2, an Israeli company located in Hasolelim, Israel.

FILED  
 2016 JAN 21 PM 4 27  
 DISTRICT COURT

Relevant Entities

2. Employer 1 was engaged in the design and manufacture of military and specialized civilian vehicles.

3. Employer 2 purported to be in the same business as Employer 1.

4. Pumps Vendor was and is an American company with offices in Conshohocken, Pennsylvania and Ocala, Florida, engaged in the manufacture and sale of pumps and other hydraulic equipment. Pumps Vendor was owned by a company (“Parent Company”) headquartered in Illinois. Certain pumps manufactured by Pumps Vendor were marketed outside the United States, including in Israel, by a British subsidiary of Parent Company (“British Pumps Vendor”).

5. Kits Vendor was and is an American company located in Teaneck, New Jersey, engaged in the engineering, manufacture, and assembly of spare parts for military vehicles.

6. Trailer Vendor was and is an American company located in Oklahoma, engaged in the manufacture and sale of heavy equipment trailers.

7. Relative 1, a resident of Hamden, Connecticut, was and is a close relative of MARSHAK. Relative 1 was and is the owner of an American entity (“E Company”) located at Relative 1’s home address in Hamden, Connecticut and registered in the State of Connecticut. At various times, E Company purported to be in the business of providing engineering and sales related services. Relative 1 controlled multiple bank accounts in the name of E Company at Citizens Bank in Connecticut.

8. Whenever in this Indictment reference is made to any act, deed, or transaction of any corporation, the allegation means that the corporation engaged in the act, deed, or transaction by or through its officers, directors, employees, agents, or other representatives while they were actively engaged in the management, direction, control, or transaction of its business or affairs.

The FMF Program

9. The Foreign Military Financing Direct Commercial Contract program (“FMF”) is a government program through which the United States government provides assistance in the form of funding to foreign governments for the purchase of military equipment and services from United States companies, also known as vendors. The FMF program is funded by the United States Department of State, and administered by the United States Department of Defense (“DOD”). Various agencies within the DOD are responsible for aspects of the FMF program, including, among others, the Defense Security Cooperation Agency (“DSCA”), which approves all FMF funding for direct commercial contracts and establishes guidelines for the program, and the Defense Contract Audit Agency (“DCAA”), which audits FMF-funded contracts.

10. Some foreign governments that have been allocated FMF funds spend that money, in part, by entering into direct commercial contracts to purchase defense articles and services from commercial vendors in the United States. Those contracts are subject to the August 2009 DSCA’s Guidelines for Foreign Military Financing of Direct Commercial Contracts (the “FMF Guidelines”), which require a vendor receiving an FMF-funded contract to enter into a “Contractor’s Certification and Agreement” (“Certification”) with the DOD before any such contract is issued. The Certification tracks many of the provisions of the FMF Guidelines and begins with an instruction to the vendor to read the FMF Guidelines. It ends with an acknowledgement that it is being signed under penalty of perjury. Additional relevant provisions of the FMF Guidelines and the Certification are identified below.

11. The FMF Guidelines specify that, subject to certain exceptions, FMF funds may be spent only on defense articles that are manufactured and assembled by United States vendors in the United States and services performed by United States vendors. FMF funds may not be spent on

goods or services purchased in the foreign country that is spending the FMF funds, also known as the host nation. Vendors that supply defense articles or services under FMF direct commercial contracts are required to disclose in the Certification whether all material, components, goods, and services are of United States manufacture and origin; the dollar value of any foreign content; and the dollar value of any host nation content. They are further required to certify that none of the FMF funds received will be used to purchase services from non-United States contractors or individuals that are not United States citizens or resident aliens of the United States, unless the financing of such services has been disclosed to and approved by the DOD.

12. Under the FMF Guidelines, FMF vendors are required to disclose in the Certification whether any FMF funds are spent on commissions, contingent fees, or similar compensation.

13. The FMF Guidelines highly recommend that foreign governments conduct a competitive bidding process before awarding FMF-funded direct commercial contracts. If a foreign government conducts a competitive bidding process, the FMF Guidelines require the foreign government to notify the DOD of the names of the bidders that were solicited and the prices they submitted. If a foreign government proposes to award an FMF-funded direct commercial contract without conducting a competitive bidding process (commonly referred to as a “sole-sourced” contract), the foreign government must provide justification to the DOD. From August 2009 until January 2011, the DOD was required to conduct a pricing review of any proposed sole-sourced FMF contract that exceeded \$750,000.

14. The Certification further requires that a vendor receiving an FMF-funded contract comply in all respects with the FMF Guidelines. The DOD retains the right to audit any vendor that receives payment for an FMF direct commercial contract for up to three years after the receipt of FMF funds to ensure compliance with the FMF Guidelines.

FMF Funding to the Government of Israel

15. From 2009 through 2012, the government of Israel was allocated approximately between \$2.5 billion and \$3 billion a year from the FMF program. Israel exercised day-to-day responsibility for identifying suitable vendors and entering into FMF-funded contracts through the Government of Israel Ministry of Defense Mission to the USA (“IMOD”) in New York, New York.

16. The IMOD is authorized to spend FMF funds directly on behalf of the government of Israel and on behalf of Israeli companies that have been authorized by the government of Israel to spend FMF funds in the United States. In order to spend FMF funds on behalf of Israel or an Israeli company, the IMOD typically identifies appropriate United States vendors, provides them with information about the potential contract, conducts competitive bidding, reviews the bids submitted, and issues a purchase order, which is then countersigned by the winning vendor. The IMOD then sends the purchase order, together with the Certification and other documentation, to the DOD for funding approval.

17. The IMOD typically conducts a competitive bidding process for the award of all FMF-funded direct commercial contracts. On occasion, the IMOD allows Israeli companies that have been authorized by the government of Israel to spend FMF funds to recommend that the IMOD issue a purchase order to a specific vendor but requires that the Israeli company choose a vendor only after conducting a competitive bidding procedure. In other words, the Israeli company must identify appropriate United States vendors, provide them with information about the potential contract, conduct competitive bidding, and review the bids submitted to determine the winner. The IMOD requires that the Israeli company provide it with documentation that shows that it conducted a competitive bidding procedure. The IMOD then submits that documentation to the DOD to justify the award. In approximately 2009, Employer 1 was permitted by the government of Israel and the

IMOD to cause FMF funds to be spent in this manner, in connection with a contract between the government of Israel and Employer 1 to supply aircraft refueling tankers.

The Aircraft Refueling Tankers Contract

18. Prior to July 2009, Employer 1 was awarded a contract with the Israeli military to supply aircraft refueling tankers. To carry out this contract, Employer 1 was allocated approximately \$7 million in FMF funds by the government of Israel to spend in the United States on parts and materiel for those tankers. In and around late 2009 and early 2010, Employer 1 recommended to the IMOD that specific United States vendors receive purchase orders from the IMOD for such parts and materiel and thereafter caused the IMOD to enter into FMF-funded direct commercial contracts with those vendors. MARSHAK, who was familiar with the FMF program, supervised and managed this process at Employer 1.

COUNT ONE  
(Mail Fraud)

Background

19. In or about December 2009, MARSHAK caused Employer 1 to recommend that the IMOD enter into an FMF-funded direct commercial contract with Pumps Vendor to supply pumps (the "Pumps FMF Contract") in connection with Employer 1's aircraft refueling tankers contract. Prior to the award of the Pumps FMF Contract, Employer 1 provided the IMOD with documentation that purportedly showed that it had conducted a competitive bidding process and that Pumps Vendor was the low bidder. As part of the documentation associated with the award of the contract, Pumps Vendor submitted a Certification to the IMOD stating that it was not paying any commissions, contingent fees, or similar compensation with FMF funds in connection with the Pumps FMF Contract. Based, in part, on these representations, the IMOD accepted Employer 1's

recommendation and issued a \$285,700.17 purchase order to Pumps Vendor. The DOD subsequently approved the Pumps FMF Contract for funding.

The Scheme

20. Beginning in or about July 2009 and continuing through as late as February 2011, the precise dates being unknown to the Grand Jury, in the District of Connecticut and elsewhere, MARSHAK, the defendant, together with others known and unknown to the Grand Jury, willfully and knowingly and with intent to defraud devised and intended to devise a scheme and artifice to defraud and to obtain money and property by means of materially false and fraudulent pretenses, representations, and promises and, further, to deprive the DOD of the property right to control its assets by causing it to make economic decisions based on false and misleading information, which scheme is described below in paragraphs 21 through 33 of this Count, and for the purpose of executing and attempting to execute the scheme and artifice, did knowingly deposit and cause to be deposited, items to be sent and delivered by United States Mail and by private and commercial interstate carrier.

21. It was a part of the scheme and artifice to defraud that MARSHAK discussed with sales representatives of Pumps Vendor and of British Pumps Vendor, with which he had previously done business, whether Pumps Vendor could provide pumps for the Pumps FMF Contract and asked to receive a commission in connection with that contract. The sales representatives of Pumps Vendor and of British Pumps Vendor agreed that MARSHAK would receive the commission he sought. As part of his initial discussions with Pumps Vendor, on or about July 23, 2009, MARSHAK sent an email to a sales representative of Pumps Vendor offering to meet in New York and stating “I will take care of this order for 50 units. The order is in my hand and I have to close it with you [sic].”

22. It was further part of the scheme and artifice to defraud that MARSHAK negotiated with Pumps Vendor a unit price that Pumps Vendor would charge in the Pumps FMF Contract, which price included the agreed-upon commission for MARSHAK. As part of those negotiations, on or about September 9, 2009, MARSHAK met in London with a sales representative of British Pumps Vendor and they discussed and agreed that Pumps Vendor's unit price would include a \$300 per unit commission for MARSHAK.

23. It was further part of the scheme and artifice to defraud that MARSHAK and representatives of Pumps Vendor and British Pumps Vendor discussed and agreed to call his commission an "after sales service" fee. As part of those discussions, on or about December 3, 2009, MARSHAK sent an email to a sales representative of British Pumps Vendor regarding his commission, stating that "this company [a reference to E Company] giving you after sell services[.] it is not any commission[.] it is for the operation of take care of spar parts[.] this payment is a cording require regulation [sic][.]"

24. It was further part of the scheme and artifice to defraud that, on or about December 16, 2009, MARSHAK caused Employer 1 to submit documentation to the IMOD that purportedly showed that Employer 1 had conducted a competitive bidding process in support of its recommendation to award the Pumps FMF Contract to Pumps Vendor. The documentation included a bid from Pumps Vendor at a unit price that included an undisclosed commission for MARSHAK and a higher bid from a second company. As part of the preparation of this documentation, working with employees at Employer 1, MARSHAK caused Employer 1 to manipulate Pumps Vendor's price to ensure that Pumps Vendor bid the lower price.

25. It was further part of the scheme and artifice to defraud that MARSHAK caused a false, signed Certification by Pumps Vendor to be submitted to the IMOD and the DOD. This



Certification stated that “the Purchase Agreement price does not include commissions, contingent fees, or similar compensation paid or promised to any person for the purpose of soliciting or securing the Purchase Agreement, unless such payments have been identified to and approved in writing by the Purchaser prior to contract award for payment with repayable FMF credit or with the Purchaser’s national funds.” It also stated that the aggregate amount of commissions, contingent fees, or similar compensation “paid or to be paid” was “\$0.00” and that the “aggregate amount included in purchase agreement” was “\$0.00.” This Certification was sent to the IMOD by Pumps Vendor via email on or about December 7, 2009. MARSHAK received a copy of this Certification via email later that day from Pumps Vendor.

26. It was further part of the scheme and artifice to defraud that MARSHAK caused the IMOD to award the Pumps FMF Contract to Pumps Vendor at a price that, unknown to the IMOD and the DOD, included the amount that MARSHAK would be paid as a commission. As part of that award process, on or about March 22, 2010, MARSHAK caused the IMOD to issue a \$285,700.17 purchase order to Pumps Vendor that included a provision that “Seller [Pumps Vendor] represents and warrants that no element of the Order includes any commission or other contingent fees.” Further, on or about March 23, 2010, MARSHAK caused Pumps Vendor to countersign this purchase order, thereby accepting the representations relating to commissions, among others, and send it back to the IMOD. On the same day, via email, MARSHAK received a signed copy of the purchase order from Pumps Vendor. Based on these representations, among other things, DOD subsequently approved the Pumps FMF Contract for funding on or about August 3, 2010.

27. It was further part of the scheme and artifice to defraud that MARSHAK also concealed Pumps Vendor’s payment and MARSHAK’s receipt of a commission by directing and instructing Relative 1 to generate a false invoice from E Company to Pumps Vendor for \$13,200,

which amount corresponded to MARSHAK's commission, and to enter into a written "Single Transaction Commission Agreement" with Pumps Vendor, which agreement recited that E Company had "assisted [Pumps Vendor] in obtaining the [Pumps FMF Contract]" and that, in exchange for that assistance, the parties agreed that Pumps Vendor would pay E Company a "one-time commission payment of \$13,200[.]" As a result, Relative 1 prepared a \$13,200 E Company invoice and sent it to a representative of British Pumps Vendor via email on or about November 17, 2010 and received from Pumps Vendor via email on or about December 15, 2010 and signed shortly thereafter the Single Transaction Commission Agreement, which was backdated to March 31, 2010. However, in truth and in fact, neither Relative 1 nor any other representative of E Company had performed any service in connection with the Pumps FMF Contract.

28. It was further part of the scheme and artifice to defraud that on or about December 2, 2010, using Relative 1's email account, MARSHAK sent or caused to be sent an email to a sales representative of British Pumps Vendor discussing the commission he expected to receive and requesting that "you will honor our arrangement, as you did in the past."

29. It was further part of the scheme and artifice to defraud that by the end of 2010, MARSHAK caused Pumps Vendor to receive payment for the Pumps FMF Contract, which payment, unknown to the DOD, included a commission for MARSHAK.

30. It was further part of the scheme and artifice to defraud that on or about January 27, 2011, MARSHAK caused Pumps Vendor to issue and mail from its offices in Ocala, Florida to E Company's address in Hamden, Connecticut a \$13,200 check payable to E Company for MARSHAK's commission.

31. It was further part of the scheme and artifice to defraud that on or about February 8, 2011, MARSHAK caused Relative 1 to deposit the check from Pumps Vendor into an E Company bank account at Citizens Bank in Connecticut.

32. It was further part of the scheme and artifice to defraud that between early February 2011 and late March 2011, pursuant to an ongoing understanding between MARSHAK and Relative 1, MARSHAK caused Relative 1 to record on a spreadsheet Relative 1 maintained a \$10,200 credit for MARSHAK's benefit.

33. On or about January 27, 2011, for the purpose of executing and attempting to execute the above-described scheme and artifice, MARSHAK did knowingly cause to be sent by United States Mail and commercial interstate carrier according to the directions thereon from Ocala, Florida to Hamden, Connecticut, an envelope containing a \$13,200 check issued by Pumps Vendor to E Company, which check represented MARSHAK's commission from Pumps Vendor.

All in violation of Title 18, United States Code, Sections 1341 and 2.

COUNT TWO  
(Wire Fraud)

34. The allegations contained in paragraphs 1 through 2, 5, and 7 through 18 of this Indictment are repeated and realleged as though fully set forth herein.

Background

35. In or about December 2009, MARSHAK caused Employer 1 to recommend that the IMOD enter into an FMF-funded direct commercial contract with Kits Vendor to supply a collection of parts known as a "kit" (the "Kits FMF Contract") in connection with Employer 1's aircraft refueling tankers contract. Prior to the award of the Kits FMF Contract, Employer 1 provided the IMOD with documentation that purportedly showed that it had conducted a competitive bidding

process and that Kits Vendor's bid was the lowest of the four bidders from which it had received bids. As part of the documentation associated with the award of the contract, Kits Vendor submitted multiple Certifications to the IMOD stating that it was not paying any commissions, contingent fees, or similar compensation with FMF funds in connection with the Kits FMF Contract. Based, in part, on these representations, the IMOD accepted Employer 1's recommendation and issued a \$1,511,157.21 purchase order to Kits Vendor. Because it was necessary to revise the FMF funding for this purchase order, Kits Vendor submitted a second Certification to the IMOD in which it made the same representations regarding commissions as made in the first Certification, and the IMOD issued a second purchase order for the same amount to Kits Vendor. The DOD subsequently approved the Kits FMF Contract for funding.

#### The Scheme

36. Beginning in or about July 2009 and continuing through as late as August 2013, the precise dates being unknown to the Grand Jury, in the District of Connecticut and elsewhere, MARSHAK, the defendant, together with others known and unknown to the Grand Jury, willfully and knowingly and with intent to defraud devised and intended to devise a scheme and artifice to defraud and to obtain money and property by means of materially false and fraudulent pretenses, representations, and promises and, further, to deprive the DOD of the property right to control its assets by causing it to make economic decisions based on false and misleading information, which scheme is described below in paragraphs 37 through 47 of this Count, and for the purpose of executing and attempting to execute the scheme and artifice did knowingly transmit, and cause to be transmitted, by means of wire communication in interstate and foreign commerce, certain writings, signs, signals and sounds.

37. It was a part of the scheme and artifice to defraud that MARSHAK negotiated a price that Kits Vendor would charge in the Kits FMF Contract, which price included a commission for MARSHAK.

38. It was further part of the scheme and artifice to defraud that on or about December 16, 2009, MARSHAK caused Employer 1 to submit documentation to the IMOD recommending that Kits Vendor be awarded the Kits FMF Contract and specifically stating that “[w]e chose [Kits Vendor] since its price is the lowest we received.” The documentation purported to show that Employer 1 had received independent bids from Kits Vendor and three other potential vendors, including E Company, for the supply of kits. However, in truth and fact, as part of the preparation of this documentation, working with employees at Employer 1, MARSHAK caused Employer 1 to prepare and submit forged bids from the three other potential vendors, including the bid from E Company. Some or all of the forged bids were made to appear to quote prices higher than the price quoted by Kits Vendor when, in fact, the bids had initially quoted prices lower than Kits Vendor’s price.

39. It was further part of the scheme and artifice to defraud that MARSHAK caused multiple false, signed Certifications to be submitted to the IMOD, at least one of which was submitted to the DOD. These Certifications all stated that “the Purchase Agreement price does not include commissions, contingent fees, or similar compensation paid or promised to any person for the purpose of soliciting or securing the Purchase Agreement, unless such payments have been identified to and approved in writing by the Purchaser prior to contract award for payment with repayable FMF credit or with the Purchaser’s national funds” and that the aggregate amount of commissions, contingent fees, or similar compensation “paid or to be paid” was “0” and that the “aggregate amount included in purchase agreement” was “0.” An initial Certification dated March

2, 2010 was sent to the IMOD by Kits Vendor via email on the same day and a copy was sent via email to MARSHAK at the same time. A second false Certification dated May 10, 2010 was sent to the IMOD by Kits Vendor via email on or about June 25, 2010. This certification was later sent to the DOD by the IMOD, as part of the process by which DOD approved the Kits FMF Contract. A third false Certification was signed by Kits Vendor on or about July 27, 2010.

40. It was further part of the scheme and artifice to defraud that MARSHAK caused the IMOD to award the Kits FMF Contract to Kits Vendor at a price that, unknown to the IMOD and the DOD, included a commission for MARSHAK. As part of that award process, on or about March 22, 2010, MARSHAK caused the IMOD issue a \$1,511,157.21 purchase order to Kits Vendor that included a provision that "Seller [Kits Vendor] represents and warrants that no element of the Order includes any commission or other contingent fees." This purchase order was sent to Kits Vendor via email on or about March 23, 2010. After it became necessary to revise the FMF funding for the Kits FMF Contract, the IMOD sent a second purchase order to Kits Vendor, including the provision set forth above. Kits Vendor then countersigned the second purchase order from the IMOD for the Kits FMF Contract, thereby accepting the representations relating to commissions, among others, and sent it back to the IMOD and, separately, to MARSHAK via email on or about July 27, 2010. Based on these representations, among other things, DOD subsequently approved the Kits FMF Contract for funding on or about September 1, 2010.

41. It was further part of the scheme and artifice to defraud that by the end of 2010, MARSHAK caused Kits Vendor to receive payment for the Kits FMF Contract, which payment, unknown to the DOD, included a commission for MARSHAK.

42. It was further part of the scheme and artifice to defraud that MARSHAK also concealed Kits Vendor's payment and MARSHAK's receipt of a commission by directing and

instructing Relative 1 to generate a false invoice from E Company to Kits Vendor claiming that E Company was entitled to receive a fee for “Consulting Services” in connection with the Kits FMF Contract and to send that invoice to the president of Kits Vendor. As a result, Relative 1 prepared a \$13,000 E Company invoice to Kits Vendor for consulting services, specifically “Technical support for Aircraft refueler part project” and sent this invoice on or about March 21, 2011 to the president of Kits Vendor via an email that requested payment “per you agreement with [MARSHAK][sic].” However, in truth and in fact, as MARSHAK well knew, neither Relative 1 nor any other representative of E Company had performed any consulting services, or any other services, in connection with the Kits FMF Contract.

43. It was further part of the scheme and artifice to defraud that on or about March 23, 2011, MARSHAK caused Kits Vendor to issue a \$13,000 check to E Company.

44. It was further part of the scheme and artifice to defraud that on or about March 29, 2011, MARSHAK caused Relative 1 to deposit the check from Kits Vendor to E Company into an E Company bank account at Citizens Bank in Connecticut.

45. It was further part of the scheme and artifice to defraud that on or about March 21, 2011, pursuant to an ongoing understanding between MARSHAK and Relative 1, MARSHAK caused Relative 1 to record on a spreadsheet Relative 1 maintained a \$13,000 credit for MARSHAK’s benefit.

46. It was further part of the scheme and artifice to defraud that, during the course of a DCAA audit of the Kits FMF Contract, in order to further conceal Kits Vendor’s payment and MARSHAK’s receipt of a commission, on or about August 6, 2013 Kits Vendor sent an email to a DCAA auditor falsely stating that “[t]here were no amounts paid for commissions or other

contingent fees to agents, brokers, employees, consultants, or other recipients for the contract [the Kits FMF Contract].”

47. On or about March 21, 2011, MARSHAK, for the purpose of executing and attempting to execute the above-described scheme and artifice did knowingly transmit, and cause to be transmitted, by means of wire communication in interstate and foreign commerce, certain writings, signs, signals and sounds, to wit, MARSHAK caused Relative 1 to send an email at 8:35 a.m. from Relative 1’s personal email account, [Relative 1]@comcast.net, in Connecticut to the email account for the owner and president of Kits Vendor in Teaneck, New Jersey, [president]@[Kits Vendor].com, with the subject line “Yuval [MARSHAK],” that referred to an attached invoice “per you agreement with [MARSHAK][sic]” and attached a \$13,000 invoice from E Company to Kits Vendor for “consulting” services in connection with “Technical support for Aircraft refueler part project.”

All in violation of Title 18, United States Code, Sections 1343 and 2.

COUNT THREE

(Major Fraud against the United States)

48. The allegations contained in paragraphs 34 through 47 of Count Two are repeated and realleged as though fully set forth herein.

49. Beginning in or about July 2009 and continuing through as late as August 2013, the precise dates being unknown to the Grand Jury, in the District of Connecticut and elsewhere, MARSHAK, the defendant, together with others known and unknown to the Grand Jury, willfully and knowingly and with intent to defraud devised and intended to devise a scheme and artifice to defraud and to obtain money and property by means of materially false and fraudulent pretenses, representations, and promises and, further, to deprive the DOD of the property right to control its



assets by causing it to make economic decisions based on false and misleading information, in a grant, contract, subcontract, subsidy, loan, guarantee, insurance, and other form of Federal assistance, where the value of such grant contract, subcontract, subsidy, loan guarantee, insurance, and other form of Federal assistance, and a constituent part thereof, was \$1,000,000 or more.

50. It was a part of the scheme and artifice to defraud that MARSHAK executed and attempted to execute the scheme described in paragraphs 34 to 47 of Count Two, in connection with the Kits FMF Contract, the value of which contract was \$1,000,000 or more.

All in violation of Title 18 United States Code Sections 1031(a) and 2.

COUNT FOUR  
(Wire Fraud)

51. The allegations contained in paragraphs 1 through 3, and 6 through 17 of this Indictment are repeated and realleged as though fully set forth herein.

Background

52. Beginning in or about mid-2010, the government of Israel took steps to spend FMF funds to purchase a prototype of a heavy duty tank trailer from a United States vendor and contacted Trailer Vendor to determine whether it was qualified to supply and interested in bidding to supply such equipment. Trailer Vendor was interested in pursuing this opportunity and, over the next few months, prepared a bid to supply a prototype of a heavy duty tank trailer to Israel.

53. In order to perform the contract, Trailer Vendor needed to obtain and utilize engineering design services and certain other services from an outside source because it did not have the ability to provide these services in-house.

54. MARSHAK suggested that Trailer Vendor hire Relative 1, whom MARSHAK said was an engineer in Connecticut, to provide such engineering design services and other services

through E Company. Trailer Vendor agreed with MARSHAK's suggestion and provided a bid to the IMOD that included these services.

55. Beginning in or about November 2010, the IMOD conducted a competitive bidding process to select a vendor of a prototype of a heavy duty tank trailer and entered into a \$228,500 contract with Trailer Vendor to supply this prototype (the "first Tank Trailer FMF Contract"). Because Trailer Vendor's original prototype was damaged as it was arriving in Israel, the IMOD entered into a second contract for \$230,000 with Trailer Vendor to provide a second prototype (the "second Tank Trailer FMF Contract" and collectively, the "Tank Trailer FMF Contracts").

56. As part of the documentation associated with both awards of the Tank Trailer FMF Contracts, Trailer Vendor submitted a Certification to the IMOD stating that all goods and services utilized in the manufacture and assembly of the trailer contained no ("0") "non-U.S." content. Based on these representations, among others, the IMOD issued two successive purchase orders to Trailer Vendor, the first for \$228,500 and the second for \$230,000. The DOD subsequently approved both Tank Trailer FMF Contracts for funding.

#### The Scheme

57. Beginning in or about June 2010, and continuing through at least February 2014, the precise dates being unknown to the Grand Jury, in the District of Connecticut and elsewhere, MARSHAK, the defendant, and others, known and unknown to the Grand Jury, willfully and knowingly and with intent to defraud devised and intended to devise a scheme and artifice to defraud and to obtain money and property by means of materially false and fraudulent pretenses, representations, and promises and, further, to deprive the DOD of the property right to control its assets by causing it to make economic decisions based on false and misleading information, which scheme and artifice is described below in paragraphs 58 through 68 of this Count, and for the

purpose of executing and attempting to execute the scheme and artifice did knowingly transmit, and cause to be transmitted, by means of wire communication in interstate and foreign commerce, certain writings, signs, signals and sounds.

58. It was part of the scheme and artifice to defraud that MARSHAK falsely represented to the owner of Trailer Vendor that Relative 1 was an engineer in Connecticut who could provide engineering design services and certain other services in connection with the first Tank Trailer FMF Contract and suggested that Trailer Vendor hire E Company to provide those services.

59. It was further part of the scheme and artifice to defraud that in connection with the award of the first Tank Trailer Contract, on or about October 26, 2010, MARSHAK caused Trailer Vendor to sign and submit a Certification in which Trailer Vendor represented to the IMOD and the DOD, among other things, that “the materiel, components, goods, or services (hereinafter ‘content’) to be provided . . . are of U.S. manufacture and/or origin” and that there was no “non-U.S.” content. Having stated that there was no foreign content in the “materiel, components, goods, or services” it was contracting to supply, Trailer Vendor further certified that it would not use any of the FMF funds it received to purchase services from “non-U.S. contractors or individuals that are not U.S. citizens or resident aliens of the United States[.]”

60. It was further part of the scheme and artifice to defraud that, on or about November 16, 2010, MARSHAK caused the IMOD to issue and Trailer Vendor to receive and countersign a \$228,500 purchase order for the first Tank Trailer FMF Contract, which included a provision stating that Trailer Vendor would be responsible for “maintaining the U.S. content percentage set forth in the Seller’s proposal [*i.e.*, 100% U.S. content].” Based on these representations, among other things, DOD subsequently approved the first Tank Trailer FMF Contract for funding on or about July 28, 2011.

61. It was further part of the scheme and artifice to defraud that, on or about February 22, 2011, MARSHAK directed Relative 1 to cause E Company to enter into a contract called a “Project Cooperation Agreement” with Trailer Vendor, in which E Company falsely represented that it was qualified to provide engineering design and certain other services in connection with the first Tank Trailer FMF Contract. The contract called for Trailer Vendor to pay E Company a set fee for engineering design services and a per-trailer fee for services in connection with any tank trailers Trailer Vendor manufactured after the government of Israel accepted the prototype and ordered more units.

62. It was further part of the scheme and artifice to defraud that MARSHAK arranged for various individuals and entities in Israel, including Employer 2, to provide the engineering design services E Company was obliged to perform for Trailer Vendor in connection with the Tank Trailers FMF Contracts. In order to conceal this arrangement, engineering drawings that were provided to Trailer Vendor were labeled to make it appear that E Company created those drawings, when, in truth and in fact, as MARSHAK well knew, E Company did not create any of those drawings nor did it direct anyone in the United States to create those drawings.

63. It was further part of the scheme and artifice to defraud that in connection with the award of the second Tank Trailer FMF Contract, on or about August 27, 2012, MARSHAK caused Trailer Vendor to sign a second Certification in which Trailer Vendor again represented to the IMOD and the DOD, among other things, that “the materiel, components, goods, or services to be provided (hereinafter ‘content’) are of U.S. manufacture and/or origin” and that there was no “non-U.S.” content and, further, that it would not use any FMF funds to purchase any services from foreign contractors or individuals. On or about August 29, 2012, Trailer Vendor received and countersigned a \$230,000 purchase order with the IMOD for the second Tank Trailer FMF Contract,

which included a provision stating that Trailer Vendor would be responsible for “maintaining the U.S. content percentage set forth in the Seller’s proposal [*i.e.*, 100% U.S. content].” Based on these representations, among other things, DOD subsequently approved the second Tank Trailer FMF Contract for funding on or about July 22, 2013.

64. It was further part of the scheme and artifice to defraud that by September 2013, MARSHAK caused Trailer Vendor to receive payments for both Tank Trailer FMF Contracts, which payments, unknown to the DOD, included the cost of services not performed in the United States.

65. It was further part of the scheme and artifice to defraud that, on or about October 28, 2013, MARSHAK instructed and caused Relative 1 to prepare and send an email to Trailer Vendor requesting payment for the some of the services E Company had agreed to provide to Trailer Vendor.

66. It was further part of the scheme and artifice to defraud that, on or about November 13, 2013, pursuant to the February 22, 2011 Project Cooperation Agreement, MARSHAK caused Trailer Vendor to send via wire transfer approximately \$19,327 from its bank account at SpiritBank in Oklahoma to an E Company bank account at Citizens Bank in Connecticut for some of the services E Company had agreed to provide to Trailer Vendor.

67. It was further part of the scheme and artifice to defraud that, on or about February 27, 2014, MARSHAK instructed and caused Relative 1 to send approximately \$17,970 of the funds E Company had received from Trailer Vendor to a bank account for Employer 2 in Israel. Shortly thereafter, on or about March 25, 2014, MARSHAK caused Employer 2 to issue and send to Relative 1 an Employer 2 invoice to E Company for \$17,930 for “Maintenance for [Trailer Vendor] HDTT [heavy duty tank trailer] and IDF [Israeli Defense Forces] test esco” [sic], which services

neither E Company nor Relative 1 either performed or directed anyone in the United States to perform.

68. On or about November 13, 2013, MARSHAK, for the purpose of executing and attempting to execute the above-described scheme and artifice did knowingly transmit, and cause to be transmitted, by means of wire communication in interstate and foreign commerce, certain writings, signs, signals and sounds, to wit, MARSHAK caused Trailer Vendor to wire approximately \$19,327 from its bank account at SpiritBank in Oklahoma to an E Company bank account ending in 8340 at Citizens Bank in Connecticut.

All in violation of Title 18, United States Code, Sections 1343 and 2.

COUNT FIVE  
(International Money Laundering)

69. The allegations contained in paragraphs 51 through 68 of Count Four are repeated and realleged as though fully set forth herein.

70. On or about February 27, 2014, in the District of Connecticut and elsewhere, MARSHAK, the defendant, with the intent to promote the carrying on of a specified unlawful activity, to wit, wire fraud, willfully and knowingly transported, transmitted, and transferred, and attempted to transport, transmit, and transfer a monetary instrument and funds from a place in the United States to and through a place outside the United States, to wit, MARSHAK caused Relative 1 to send approximately \$17,970 from an E Company bank account ending in 8340 at Citizens Bank in Connecticut to a bank account for Employer 2 in Israel in order to promote a scheme to defraud the United States through the use of interstate and foreign wires as set forth in Count Four of this Indictment.

All in violation of Title 18, United States Code, Sections 1956(a)(2)(A) and 2.

NOTICE OF FORFEITURE ALLEGATIONS

(Forfeiture Relating to Mail Fraud, Wire Fraud and Major Fraud against the United States)

Upon conviction of the mail, wire, and major fraud offenses alleged in Counts One through Four of this Indictment, MARSHAK, the defendant, shall forfeit to the United States, pursuant to 18 U.S.C. § 981(a)(1)(C), 18 U.S.C. § 981(a)(1)(D), and 28 U.S.C. § 2461(c), all right, title, and interest in any and all property, real or personal, which constitutes or is derived from proceeds traceable to violations of 18 U.S.C. §§ 1341, 1343, and 1031, including but not limited to the following:

Money Judgment:

A sum of money equal to the total amount of any property, real or personal, which constitutes or is derived from proceeds traceable to violations of 18 U.S.C. §§ 1341, 1343 or 1031.

If any of the above described forfeitable property, as a result of any act or omission of the defendant cannot be located upon the exercise of due diligence, has been transferred or sold to, or deposited with, a third party, has been placed beyond the jurisdiction of the court, has been substantially diminished in value, or has been commingled with other property which cannot be divided without difficulty, it is the intent of the United States, pursuant to 21 U.S.C. § 853(p), as incorporated by 28 U.S.C. § 2461(c), to seek forfeiture of any other property of said defendant up to the value of the forfeitable property described above.

All in accordance with 18 U.S.C. § 981(a)(1) as incorporated by 28 U.S.C. § 2461(c), and Rule 32.2(a), Federal Rules of Criminal Procedure.

NOTICE OF FORFEITURE ALLEGATIONS

(Forfeiture Relating to Money Laundering)

Upon conviction of the money laundering offense alleged in Count Five of this Indictment, MARSHAK shall forfeit to the United States, pursuant to 18 U.S.C. § 982(a)(1), all right title and interest in any and all money and any other property, real or personal, involved in such offense in

violation of 18 U.S.C. § 1956, and all property traceable to such property, including but not limited to the following:

Money Judgment:

A sum of money equal to the total amount of any property, real or personal, which constitutes or is derived from proceeds involved in the offense as charged in Count Five.


If any of the above described forfeitable property, as a result of any act or omission of the defendant cannot be located upon the exercise of due diligence, has been transferred or sold to, or deposited with, a third party, has been placed beyond the jurisdiction of the court, has been substantially diminished in value, or has been commingled with other property which cannot be divided without difficulty, it is the intent of the United States, pursuant to 21 U.S.C. § 853(p), as incorporated by Title 18, United States Code, Section 982(b), to seek forfeiture of any other property of said defendant up to the value of the forfeitable property described above.





All in accordance with 18 U.S.C. § 981(a)(1) as incorporated by 28 U.S.C. § 2461(c), and Rule 32.2(a), Federal Rules of Criminal Procedure.


A TRUE BILL


\_\_\_\_\_  
FOREPERSON

  
\_\_\_\_\_  
WILLIAM J. BAER  
Assistant Attorney General  
Antitrust Division  
U.S. Department of Justice

  
\_\_\_\_\_  
DEIRDRE M. DALY  
United States Attorney  
District of Connecticut  
157 Church Street, 25<sup>th</sup> Floor  
New Haven, CT 06510  
Tel: (203) 821-3700

  
\_\_\_\_\_  
BRENT SNYDER  
Deputy Assistant Attorney General  
Antitrust Division  
U.S. Department of Justice

  
\_\_\_\_\_  
JEFFREY D. MARTINO, Chief  
MICHELLE O. RINDONE, Assistant Chief  
New York Office  
Antitrust Division  
U.S. Department of Justice

  
\_\_\_\_\_  
MARVIN N. PRICE, JR.  
Director of Criminal Enforcement  
Antitrust Division  
U.S. Department of Justice

  
\_\_\_\_\_  
REBECCA MEIKLEJOHN  
PATRICIA L. JANNACO  
DANIEL TRACER  
Attorneys, New York Office  
Antitrust Division  
U.S. Department of Justice  
26 Federal Plaza, Room 3630  
Tel: (212) 335-8016  
Fax: (212) 335-8023  
Email: Rebecca.Meiklejohn@usdoj.gov