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### NEWS RELEASE

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**REVISED**

## **Federal Jury Finds Idaho Contractors Guilty**

*Treasure Valley Residents Convicted of Conspiracy, Obstruction of Justice,  
Wire and Tax Fraud*

BOISE – Elaine Martin, 66, of Meridian, Idaho, the former president and majority stockholder of MarCon, Inc., was convicted by a federal jury in Boise today of 22 criminal counts, including four counts of filing false individual and corporate tax returns, two counts of conspiracy to defraud the United States, five counts of wire fraud, five counts of mail fraud, one count of false statement, three counts of interstate transportation of property taken by fraud, one count of conspiracy to obstruct justice and one count of obstruction of justice, U.S. Attorney Wendy J. Olson and Assistant Attorney General for the Tax Division Kathryn Keneally announced. Martin's co-defendant, Darrell Swigert, 67, of Boise, a minority shareholder in Marcon, was found guilty of two counts of obstruction of justice and one count of conspiracy to obstruct justice. Sentencing for both defendants has been set for December 9, 2013, before Chief U.S. District Judge B. Lynn Winmill.

“The jury's verdicts send the strong message that those who seek federal government contracts must deal openly and honestly with the federal government,” said Olson. “I commend the cooperative investigation and prosecution in this case that involved the efforts of several

agencies. This office will continue to prioritize and vigorously prosecute those who defraud the federal government and federal taxpayers.”

During the 26-day trial, the jury heard evidence that as early as 2000, Martin submitted false and fraudulent applications to have her construction company, Marcon, admitted and/or remain in two different federally funded programs, the U.S. Small Business Administration (SBA) 8(a) Program, and the Department of Transportation Disadvantaged Business Enterprise (DBE) Program. Both programs are designed to help economically and socially disadvantaged businesses compete in the marketplace. To be admitted into the program, the owner/shareholder that qualifies as socially disadvantaged must also demonstrate economic disadvantage, in part by having a personal net worth below a certain statutory cap.

According to evidence presented at trial, Martin took steps to artificially lower her personal net worth, such as acquiring, holding and transferring assets into the names of nominees in order to appear to be economically disadvantaged. This allowed Martin’s construction firm, MarCon, to qualify for the DBE and SBA 8(a) programs. Martin also caused false and fraudulent tax returns to be filed for herself and Marcon, Inc., which did not report all of the income received by Martin or the company. The false returns were submitted in support of Marcon’s applications to the SBA 8(a) Program and DBE Programs for Idaho and Utah, along with false personal financial statements. The government presented evidence that Martin omitted, deleted, altered and mis-categorized entries in Marcon’s financial books and records. Martin also concealed her role or relationship in other business entities that dealt with Marcon, Inc.

The jury heard evidence that Marcon received more than \$2.5 million in government contracts based on the company’s fraudulently obtained SBA 8(a) status, and that Marcon received more than \$15 million in government contracts based on the company’s fraudulently obtained DBE status in the states of Idaho and Utah.

The government presented evidence that in order to impede an IRS audit of MarCon and criminal investigation into Martin, Martin and Swigert conspired to obstruct justice by fabricating documents and making false statements that sought to conceal the true nature, source, and extent of property belonging to Martin.

The government is seeking \$9,237,722.10 in forfeiture from Martin, which represents the proceeds obtained as a result of the criminal conduct.

“The Small Business Administration Office of Inspector General is committed to helping ensure that only eligible disadvantaged small businesses benefit from the SBA’s 8(a) Business Development Program. We are pleased with the jury’s verdict today which sends a strong message to those who lie to obtain preferences for federal contract awards,” said Inspector General Peggy E. Gustafson of the Small Business Administration.

“This verdict should send a clear message, income tax evasion is unacceptable and those who attempt to commit such fraud will be brought to justice,” said Stephen Boyd, IRS Criminal Investigation Special Agent-in-Charge for the State of Idaho.

“The Disadvantaged Business Enterprise (DBE) Program is a business assistance program of the U.S. Department of Transportation (DOT) which helps economically and socially

disadvantaged small businesses compete in the marketplace. DBE fraud harms the integrity of the program and adversely impacts law-abiding, small business contractors trying to compete on a level playing field,” said William Swallow, regional Special Agent-in-Charge of the DOT’s Office of Inspector General. “Working with our Federal, State, and local law enforcement and prosecutorial colleagues, we will vigorously pursue those who violate the law, and expose and shut down fraud schemes that adversely affect public trust and DOT-assisted highway programs.”

The charge of making and subscribing a false return is punishable by up to three years in prison and up to three years of supervised release. The charge of conspiracy is punishable by up to five years in prison and up to three years of supervised release. Wire fraud is punishable by up to 20 years in prison and up to five years of supervised release. The charge of making a false statement is punishable by up to two years in prison and up to one year of supervised release. The charge of mail fraud is punishable by up to 20 years in prison and up to five years of supervised release. Each charge of interstate transportation of property taken by fraud is punishable by up to 10 years in prison and up to three years of supervised release. The charges of conspiracy to obstruct justice and obstruction of justice are each punishable by up to five years in prison and up to three years of supervised release. The aforementioned charges are each punishable by a maximum fine of \$250,000, per count.

The case was investigated by Internal Revenue Service-Criminal Investigation, Federal Bureau of Investigation, the Office of Inspector General for the U.S. Small Business Administration, and the Office of Inspector General for the U.S. Department of Transportation.

Today's announcement is part of an effort by President Obama's Financial Fraud Enforcement Task Force (FFETF), created in November 2009, to combat financial fraud crimes by waging aggressive, coordinated and proactive investigations and prosecutions. With more than 20 federal agencies, 94 U.S. attorneys' offices and state and local partners, the task force is the broadest coalition of law enforcement, investigatory and regulatory agencies ever assembled to combat fraud. Since its formation, the task force has made great strides in facilitating increased investigation and prosecution of financial crimes; enhancing coordination and cooperation among federal, state and local authorities; addressing discrimination in the lending and financial markets; and conducting outreach to the public, victims, financial institutions and other organizations. Over the past three fiscal years, the Justice Department has filed more than 10,000 financial fraud cases against nearly 15,000 defendants including more than 2,700 mortgage fraud defendants. For more information on the task force, visit [www.stopfraud.gov](http://www.stopfraud.gov).

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