

[Home](#) » [News](#) » [Press Release](#)

NEWS

**Co-Defendant Sentenced In MarCon Case**

FOR IMMEDIATE RELEASE

March 19, 2014

Federal Jury Found Company Shareholder Guilty of Obstruction of Justice and Conspiracy to Obstruct Justice

BOISE – Darrell Swigert, 68, of Boise, Idaho, the second of two defendants in a Treasure Valley federal fraud case, was sentenced to three months in prison followed by two years of supervised release, U.S. Attorney Wendy J. Olson and Assistant Attorney General for the Tax Division Kathryn Keneally announced. Chief U.S. District B. Lynn Winmill also ordered Swigert to pay a \$5,000 fine and perform 100 hours of community service. Swigert was convicted by a federal jury on September 19, 2013, of two counts of obstruction of justice and one count of conspiracy to obstruct justice.

Swigert was a co-owner of MarCon, Inc., a highway construction company that specialized in guardrail installation. Swigert's co-defendant, Elaine Martin, of Meridian, Idaho, the former president and majority stockholder of MarCon, was sentenced on February 27, 2014, to 84 months in prison for wire fraud and mail fraud. She was sentenced to 24 months in prison for conspiracy, tax fraud, and obstruction of justice, with the sentences to run concurrently. Martin was ordered to pay restitution of \$98,825.20 to the Internal Revenue Service and \$32,575.28 to the Idaho Disadvantaged Business Enterprise (DBE) Program, as well as prosecution costs of \$22,859.60. Martin also forfeited \$3,084,038.05, which was paid in full prior to sentencing.

Swigert was convicted of obstructing the then-pending IRS civil audit, as well as the subsequent criminal investigations by the IRS and U.S. Attorney's Office for the District of Idaho. During the 26-day trial, the jury heard evidence that Swigert conspired with Martin and others to provide false and fraudulent information to the IRS revenue agent who was conducting the civil audit of MarCon and Martin. The jury also heard that Swigert provided hundreds of thousands of dollars in loans to MarCon and a closely related company, Martin Swigert LLP, although he denied knowledge of these loans before the grand jury. Swigert was also convicted of fabricating documents that were designed to conceal over \$250,000 that he was holding off the books for Martin. When asked about one of these documents in grand jury, Swigert falsely claimed that the money was his, and that he was giving the money to Martin in thanks for her investment advice over the years.

The jury also heard evidence that Swigert assisted Martin in submitting false and fraudulent applications so that her construction company, MarCon, could participate in two different federally funded programs, the U.S. Small Business Administration (SBA) 8(a) Program, and the Department of Transportation 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 who qualifies as socially disadvantaged must also demonstrate economic disadvantage, in part by having a personal net worth below a certain statutory cap. Martin took steps to artificially lower her personal net worth, such as by failing to report all of her income from MarCon, and acquiring, holding and transferring assets into the names of nominees in order to appear to be economically disadvantaged. At trial, the government presented evidence that one of these nominees was Swigert. 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. Swigert, as a co-owner of MarCon, was shown to have financially benefited from these fraudulently-obtained contracts.

"This sentence 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. "We are committed to helping ensure that only eligible disadvantaged small businesses benefit from the SBA's 8(a) Business

Development Program.”

“The sentence handed down today is a clear signal that severe penalties await those that would seek to defraud DOT’s DBE Program,” said William Swallow, regional Special Agent-in-Charge of the DOT’s Office of Inspector General. “DBE fraud harms the integrity of the program and adversely impacts law-abiding, small business contractors trying to compete on a level playing field. Working with the Secretary of Transportation and other DOT leaders, and our law enforcement and prosecutorial colleagues, we will continue to protect the taxpayers’ investment in our nation’s infrastructure from fraud, waste, abuse and violations of law.”

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. It was prosecuted by Assistant U.S. Attorney George Breitsameter and Trial Attorneys Katherine Wong and Mark Williams from the Tax Division.

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.

[Sí, hablamos español](#)

[UNITED STATES ATTORNEYS’ OFFICES
HOMEPAGE](#)

[UNITED STATES ATTORNEYS’ OFFICES
BRIEFING ROOM](#)



project safe childhood



Project Safe Childhood (PSC) is a Department of Justice initiative launched in 2006.

[LEARN MORE](#)

**PROJECT
SAFE**
NEIGHBORHOODS
★★★★★

Project Safe Neighborhoods (PSN) is a collaborative effort by federal, state, and local law enforcement agencies, prosecutors, and communities to prevent and deter gun violence.

[LEARN MORE](#)

LAW ENFORCEMENT COORDINATING COMMITTEE



Training and seminars for Federal, State,
and Local Law Enforcement Agencies.

[LEARN MORE](#)

VWA VICTIM WITNESS ASSISTANCE

Making sure that victims of federal crimes
are treated with compassion, fairness and
respect.

[LEARN MORE](#)

STAY CONNECTED



Facebook Twitter

DISTRICT *of* IDAHO

Washington Group Plaza, 800 Park Blvd., Suite 600 - Boise, ID 83712-9903

- [HOME](#)
- [ABOUT](#)
 - The Office
 - The District
- [NEWS](#)
 - 2014
 - 2013
 - 2012
- [MEET THE U.S. ATTORNEY](#)
- [DIVISIONS](#)
 - Civil Division
 - Criminal Division
 - Financial
 - Litigation Unit
- [PROGRAMS](#)
 - LECC
 - PSC
 - PSN
 - VWA
 - Civil Rights
- [JOBS](#)
- [CONTACT US](#)
 - LEP
 - LEP En
 - Español

JUSTICE.GOV/USAO

- [Site Map](#)
- [Accessibility](#)
- [FOIA](#)
- [Privacy Policy](#)
- [Legal Policies & Disclaimers](#)
- [Justice.gov](#)
- [USA.gov](#)