

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

| | | |
|--------------------------|---|------------------------|
| UNITED STATES OF AMERICA | : | Hon. |
| | : | |
| v. | : | Crim. No. 22- |
| | : | |
| LINDA MIKA, | : | 18 U.S.C. § 1349 |
| KENNETH MIKA, and | : | 18 U.S.C. § 1343 |
| PAUL MIKA | : | 18 U.S.C. § 1001(a)(2) |
| | : | 18 U.S.C. § 2 |

INDICTMENT

The Grand Jury, in and for the District of New Jersey, sitting at Trenton, charges:

Count One
(Conspiracy to Commit Wire Fraud)

Relevant Individuals And Entities

1. At all times relevant to this Indictment:
 - a. Defendant LINDA MIKA was a resident of Jackson Township, New Jersey.
 - b. Defendant KENNETH MIKA, defendant LINDA MIKA's son, was a resident of Ewing Township, New Jersey.
 - c. Defendant PAUL MIKA, defendant LINDA MIKA's husband and defendant KENNETH MIKA's father, was a resident of Jackson Township, New Jersey.
 - d. Monmouth Marine Engines, Inc. ("Monmouth Marine") was a maritime equipment and servicing facility located in Monmouth County, New Jersey, which, among other functions, entered into contracts with the Defense

Logistics Agency (“DLA”) to supply the Department of Defense (“DoD”) with hardware and replacement parts for the United States Armed Forces.

Defendant PAUL MIKA was the owner of Monmouth Marine. Defendant LINDA MIKA and defendant KENNETH MIKA were employees of Monmouth Marine.

e. “Individual One” was employed by Monmouth Marine, and was a resident of Brick Township, New Jersey.

f. The DoD was a department of the Executive Branch of the United States government charged with coordinating and supervising all agencies and functions of the government directly related to national security and the United States Armed Forces.

g. The DLA was a combat logistics support component of the DoD, which managed the end-to-end global defense supply chain for the United States Armed Forces by, among other actions, acquiring weapons, fuel, repair parts, and other materials to ensure the preparedness of the United States Armed Forces.

h. The DLA Internet Bid Board System (“DIBBS”) was a web-based application that provided the capability for contractors, like Monmouth Marine, to search for, view, and submit secure bids in response to requests for quotations (“RFQ”) for items DLA was seeking to procure for the United States Armed Forces. The DIBBS server was located in Ogden, Utah.

i. Commercial and Government Entity (“CAGE”) codes were five-character unique identifiers assigned to all entities registered to do business with the U.S. Government. The CAGE codes were used to identify

entities bidding on government contracts. The CAGE codes also were used to identify entities awarded contracts to provide supplies and services to the United States Armed Forces.

j. The Defense Finance and Accounting Service (“DFAS”) was the financial and accounting organization for the DoD, which, among other services, executed payments on DoD contracts. Upon shipment or delivery of supplies under DoD contracts, contracting entities would submit an electronic invoice which represented to the DoD that the products shipped met the requirements of the contract. Upon receipt of the electronic invoice, DFAS paid the contractor via electronic funds transfer (“EFT”), from its origination location in Columbus, Ohio.

The Conspiracy

2. From at least as early as in or about March 2016 through in or about April 2020, in Monmouth County, in the District of New Jersey, and elsewhere, defendants

LINDA MIKA,
KENNETH MIKA, and
PAUL MIKA

did knowingly and intentionally conspire and agree with each other and others to devise a scheme and artifice to defraud the United States, and others, and to obtain money and property by means of materially false and fraudulent pretenses, representations, and promises, and, for the purpose of executing such scheme and artifice to defraud, did transmit and cause to be transmitted by means of wire communications in interstate and foreign commerce, certain

writings, signs, signals, pictures, and sounds, contrary to Title 18, United States Code, Section 1343.

Overview of the Conspiracy

3. Beginning at least in or about March 2016 and continuing through in or about April 2020, defendants LINDA MIKA, KENNETH MIKA, and PAUL MIKA (collectively, the “DEFENDANTS”), did knowingly and intentionally conspire and agree with each other and others to defraud the DLA and the DoD by engaging in a pattern of unlawful product substitution. As set forth in greater detail below, the DEFENDANTS submitted electronic bids for the award of DLA contracts, repeatedly and systematically falsely representing in the bids that Monmouth Marine would provide, as required by the contracts, specific and unique replacement parts manufactured or supplied by specific entities.

4. However, once awarded the contracts by DLA, the DEFENDANTS knowingly and intentionally sourced unauthorized and cheaper replacement parts without notifying DLA of their plan to substitute the alternative parts for the required replacement parts. By furtively substituting cheaper replacement parts for the contractually-required parts, the DEFENDANTS (i) increased Monmouth Marine’s profit margin; (ii) unfairly suppressed fair competition for the award of DLA contracts; and (iii) deceived the downstream purchasers of the replacement parts, who believed they were receiving the parts explicitly identified in the DLA contracts.

5. Further, the DEFENDANTS routinely delivered the unauthorized substitute replacement parts to DLA in packaging that purposefully concealed

the parts' identities in an effort to deceive the unwitting government purchasers.

The Goal of the Conspiracy

6. The goal of the conspiracy was for the DEFENDANTS to enrich themselves financially by engaging in an unlawful product substitution scheme designed to deliver cheaper, substitute replacement parts without authorization from the DoD or notice to the purchasing military parties.

Manner and Means

7. It was part of the conspiracy that the DEFENDANTS used DIBBS to bid on contracts advertised by DLA through an RFQ, or solicitation, process. The RFQ would contain details of the item to be procured, including, among other information, the Original Equipment Manufacturer ("OEM") and the part number. In RFQs for specific products, the RFQs required Monmouth Marine to supply the "Exact Product," which was identified in each of these types of contracts as a combination of a specific manufacturer or supplier and a unique part number. The RFQ would also explain that when Monmouth Marine bid "without exception" it would be a certification that the Exact Product would be furnished under the contract. The RFQ would inform Monmouth Marine that any product not manufactured and/or supplied by one of the entities cited in the RFQ was an "alternate product." The RFQ would also inform Monmouth Marine that if an alternate product was furnished under a contract for an Exact Product, the alternate product would be an unauthorized substitution, subjecting Monmouth marine to potential penalties.

8. It was further part of the conspiracy that on many DLA Exact Product contracts on which the DEFENDANTS bid without exception, in that portion of the bid captioned: “Product Offered Representations,” among other sections of the bid, the DEFENDANTS provided a CAGE Code for a specific manufacturer or supplier and a part number for a unique part, both identifiers together describing an Exact Product required to fulfill the contract.

9. It was further part of the conspiracy that by bidding on Exact Product contracts without exception, Monmouth Marine represented that it would furnish an Exact Product under the contract, that is a particular and uniquely identifiable product from a specific manufacturer or supplier, and would not be substituting any other product to fulfill the Exact Product contract. Further, the DEFENDANTS elected to bid on these DLA contracts without exception, even though the option to bid “with exception,” thereby permitting certain product substitution, was available to Monmouth Marine.

10. It was further part of the conspiracy that the DEFENDANTS knew that DLA, in deciding which vendor to award an Exact Product contract, would rely upon the representations made by the DEFENDANTS in the bids as to the unique products to be furnished under the Exact Product contracts.

11. It was further part of the conspiracy that, in connection with the DEFENDANTS’ efforts to secure an Exact Product contract without exception, defendant LINDA MIKA ordinarily sought out and corresponded with after-market unapproved sources of supply to obtain pricing on non-conforming

replacement parts that were significantly cheaper than the unique products that the DEFENDANTS had represented they would provide under the contract.

12. It was further part of the conspiracy that the DEFENDANTS maintained internal documents, including, among others, "Control Tickets," which, in connection with Exact Product contracts that substituted non-conforming after-market replacement parts for the required parts, identified by part number, manufacturer and unit price both contractually approved and unapproved parts, thereby reflecting not only price differences, but also the per-contract profit that could be realized by the unlawful product substitution scheme.

13. It was further part of the conspiracy that either defendant KENNETH MIKA or defendant PAUL MIKA, or both, ordinarily selected the after-market unapproved source of supply to fill an Exact Product contract that was bid without exception before creating a purchase order to obtain the non-conforming parts.

14. It was further part of the conspiracy that, in order to pass off the non-conforming substituted parts as the parts required under the Exact Product contracts, the DEFENDANTS disguised, and directed others to disguise, the identities of the substituted parts by packaging them in a way that masked their origins.

Acts in Furtherance of the Conspiracy

15. In furtherance of the conspiracy and in order to effect the object thereof, its members committed the following acts, among others, in Monmouth County, in the District of New Jersey and elsewhere:

- a. On or about March 24, 2017, defendant KENNETH MIKA submitted a bid without exception for the award of DoD contract SPE7MC-17-V-6096 through DIBBS.
- b. On or about April 4, 2017, defendant LINDA MIKA printed contract SPE7MC-17-V-6096, which had been awarded to Monmouth Marine.
- c. On or about April 5, 2017, defendant LINDA MIKA and defendant KENNETH MIKA reviewed contract SPE7MC-17-V-6096.
- d. On or about July 20, 2017, defendant LINDA MIKA communicated with an after-market parts supplier regarding the availability of after-market, non-conforming parts to fill contract SPE7MC-17-V-6096.
- e. On or about April 3, 2018, defendant KENNETH MIKA submitted a bid without exception for the award of DoD contract SPE7M1-18-V-7118 through DIBBS.
- f. On or about April 11, 2018, defendant PAUL MIKA prepared a purchase order for after-market, non-conforming parts to fill contract SPE7M1-18-V-7118.
- g. On or about October 17, 2018, defendant KENNETH MIKA submitted a bid without exception for the award of DoD contract SPE5EM-19-V-1073 through DIBBS.
- h. On or about January 9, 2019, defendant PAUL MIKA prepared a purchase order for after-market, non-conforming parts to fill contract SPE5EM-19-V-1073.
- i. On or about January 9, 2019, defendant LINDA MIKA placed the purchase order on contract SPE5EM-19-V-1073 with an after-market parts supplier for non-conforming parts.

- j. On or about January 8, 2019, defendant KENNETH MIKA submitted a bid without exception for the award of DoD contract SPE5EJ-19-V-2256 through DIBBS.
- k. On or about February 15, 2019, defendant LINDA MIKA provided both the Control Ticket for contract SPE5EJ-19-V-2256 and a quote for non-conforming parts from an after-market supplier to defendant PAUL MIKA so that defendant PAUL MIKA could prepare a purchase order for after-market, non-conforming parts to fill contract SPE5EJ-19-V-2256.
- l. On or about August 5, 2019, Individual One submitted a bid without exception for the award of DoD contract SPE5EJ-19-V-7344 through DIBBS.

In violation of Title 18, United States Code, Section 1349.

Counts Two Through Six
(Wire Fraud)

1. Paragraphs One and Three through Fifteen of Count One of this Indictment are realleged as if set forth in full herein.

2. On or about each of the dates set forth below, in Monmouth County, in the District of New Jersey, and elsewhere, defendants

LINDA MIKA,
KENNETH MIKA, and
PAUL MIKA

did knowingly and intentionally devise and intend 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 for the purpose of executing such scheme and artifice to defraud, did knowingly and intentionally transmit and cause to be transmitted by means of wire communication in interstate and foreign commerce certain writings, signs, signals, pictures and sounds, as set forth more fully below, each transmission constituting a separate count:

| Count | Approximate Date | Description of Interstate Wire Transmission |
|--------------|-------------------------|--|
| Two | October 23, 2017 | EFT in the amount of approximately \$138,650.21 from DFAS, located in Columbus, Ohio to Monmouth Marine's financial institution, headquartered in Charlotte, North Carolina. |
| Three | April 3, 2018 | Bid for the award of DoD contract SPE7M1-18-V-7118 submitted through DIBBS from a server in New Jersey to the DIBBS server in Ogden, Utah. |
| Four | October 17, 2018 | Bid for the award of DoD contract SPE5EM-19-V-1073 submitted through DIBBS from a server in New Jersey to the DIBBS server in Ogden, Utah. |

| | | |
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| Five | January 8, 2019 | Bid for the award of DoD contract SPE5EJ-19-V-2256 submitted through DIBBS from a server in New Jersey to the DIBBS server in Ogden, Utah. |
| Six | August 5, 2019 | Bid for the award of DoD contract SPE5EJ-19-V-7344 submitted through DIBBS from a server in New Jersey to the DIBBS server in Ogden, Utah. |

In violation of Title 18, United States Code, Section 1343 and Section 2.

Count Seven
(False Statements)

1. Paragraphs One and Three through Fifteen of Count One of this Indictment are realleged as if set forth in full herein.

2. On or about February 24, 2020, defendant KENNETH MIKA, in response to an audit letter from the DLA identifying numerous deficiencies in Monmouth Marine's provision of documentation for a sampling of ten Exact Product contracts, submitted a letter to the DLA. In that letter, defendant KENNETH MIKA falsely stated that:

- a. Monmouth Marine's "[Defense Contract Management Agency Quality Assurance Representative] at the time, [Individual 1], along with our Industrial Specialist [Individual 2], both instructed us that the government standard that we needed to meet was form, fit and function - as long as the parts supplied met this standard, we could use suppliers other than the original manufacturer."
- b. "At that time, we again inquired as to the government standard and were again told parts supplied need only comply to form, fit and function. As our contact personnel have changed, we have continually confirmed this standard still applies, most recently with [Individual 3], Administrative Contracting Officer [Individual 4], Industrial Specialist and [Individual 5], Contract Administrator."

3. Defendant KENNETH MIKA's statements and representations set forth in paragraph 2 above were false, fictitious, and fraudulent because, as defendant KENNETH MIKA then and there knew: (i) neither Individual 1 nor Individual 2 had instructed defendant KENNETH MIKA that the government standard that Monmouth Marine needed to meet to perform DLA Exact Product contracts was form, fit and function; (ii) neither Individual 1 nor Individual 2 had instructed defendant KENNETH MIKA that as long as parts supplied by

Monmouth Marine met this standard, Monmouth Marine could use suppliers other than the original manufacturer; and (iii) Individual 3, Individual 4, and Individual 5 had not confirmed to defendant KENNETH MIKA that parts supplied by Monmouth Marine on DLA Exact Product contracts needed only to comply with the standard of form, fit and function.

4. On or about February 24, 2020, in Monmouth County, in the District of New Jersey, and elsewhere, defendant

KENNETH MIKA

did knowingly and willfully make materially false, fictitious, and fraudulent statements and representations, as set forth above in paragraph 2 of Count Seven of this Indictment, in a matter within the jurisdiction of the Executive Branch of the government of the United States, namely an audit conducted by the DLA, a component of the DoD.

In violation of Title 18, United States Code, Section 1001(a)(2) and Section 2.

Count Eight
(False Statements)

1. Paragraphs One and Three through Fifteen of Count One of this Indictment and paragraphs One through Three of Count Seven of this Indictment are realleged as if set forth in full herein.

2. On or about July 29, 2020, defendant KENNETH MIKA was interviewed by Special Agents of the Defense Criminal Investigative Service, Office of the Inspector General (“DCIS”) and the Federal Bureau of Investigation (“FBI”) regarding his involvement in an unlawful product substitution scheme for Exact Product contracts awarded by the DLA. During that interview, defendant KENNETH MIKA falsely stated that:

- a. Defense Contract Management Agency representatives, Individual 1, Individual 2, and others, told defendant KENNETH MIKA and others that Monmouth Marine could provide substitute parts on contracts, as long as the substitute parts were the same form, fit, and function.
- b. In or around 2017/2018 or 2018/2019, in response to a question by defendant KENNETH MIKA regarding whether Monmouth Marine could substitute the contractually obligated O-Ring part in one of Monmouth Marine’s contract awards with another product, Defense Contract Management Agency representatives Individual 2 and Individual 3 told defendant KENNETH MIKA that Monmouth Marine could supply substitute parts as long as the substitute parts were the same form, fit, and function.

3. Defendant KENNETH MIKA’s statements and representations set forth in paragraph 2 above were false, fictitious, and fraudulent because, as Defendant KENNETH MIKA then and there knew: (i) neither Individual 1 nor Individual 2 had told defendant KENNETH MIKA that Monmouth Marine could provide substitute parts on contracts as long as the substitute parts were the

same form, fit, and function; and (ii) in or around 2017/2018 and 2018/2019, neither Individual 2 nor Individual 3 had told defendant KENNETH MIKA that Monmouth Marine could supply substitute parts as long as the substitute parts were the same form, fit, and function.

4. On or about July 29, 2020, in Monmouth County, in the District of New Jersey, and elsewhere, defendant

KENNETH MIKA

did knowingly and willfully make materially false, fictitious, and fraudulent statements and representations, as set forth above in paragraph 2 of Count Eight of this Indictment, in a matter within the jurisdiction of the Executive Branch of the government of the United States, namely a criminal investigation conducted by the DCIS and the FBI.

In violation of Title 18, United States Code, Section 1001(a)(2).

FORFEITURE ALLEGATION AS TO COUNTS ONE THROUGH SIX

1. As a result of committing the offenses charged in Counts One through Six of this Indictment, defendants

LINDA MIKA,
KENNETH MIKA, and
PAUL MIKA

shall forfeit to the United States, pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461, all property, real and personal, that constitutes or is derived from, proceeds traceable to the commission of the offenses Charged in Counts One through Six of this Indictment, and all property traceable thereto.

FORFEITURE ALLEGATION AS TO COUNTS SEVEN AND EIGHT

2. As a result of committing the offenses charged in Counts Seven and Eight of this Indictment, defendant

KENNETH MIKA

shall forfeit to the United States, pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461, all property, real and personal, that constitutes or is derived from, proceeds traceable to the commission of the offenses Charged in Counts Seven and Eight of this Indictment, and all property traceable thereto.

SUBSTITUTE ASSETS PROVISION
(Applicable to All Forfeiture Allegations)

3. If any of the above-described forfeitable property, as a result of any act or omission of the defendants:

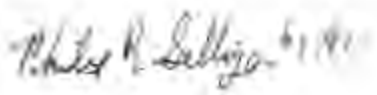
a. cannot be located upon the exercise of due diligence;

- b. has been transferred or sold to, or deposited with, a third party;
- c. has been placed beyond the jurisdiction of the Court;
- d. has been substantially diminished in value; or
- e. has been commingled with other property which cannot be divided without difficulty;

it is the intention of the United States, pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 18, United States Code, Section 981 and Title 28, United States Code, Section 2461(c), to seek forfeiture of any other property of the defendants up to the value of the above-described forfeitable property.

A TRUE BILL

Grand Jury Foreperson



PHILIP R. SELLINGER
UNITED STATES ATTORNEY