

ORIGINAL

Approved: Eli J. Mark
ELI J. MARK
Assistant United States Attorney

Before: THE HONORABLE ANDREW J. PECK
United States Magistrate Judge
Southern District of New York

18 MAG 0542

----- X	:	<u>SEALED COMPLAINT</u>
UNITED STATES OF AMERICA	:	
	:	Violation of
- v. -	:	18 U.S.C. § 874
	:	
ERRON STRACHAN,	:	
	:	COUNTY OF OFFENSE:
Defendant.	:	NEW YORK
	:	
----- X	:	

SOUTHERN DISTRICT OF NEW YORK, ss.:

STEPHEN DONNELLY, being duly sworn, deposes and says that he is a Special Agent with Department of Labor, Office of the Inspector General ("DOL-OIG"), and charges as follows:

COUNT ONE
(Copeland Anti-Kickback Act)

1. From in or about November 2014 through in or about December 2015, in the Southern District of New York and elsewhere, ERRON STRACHAN, the defendant, by force, intimidation, or threat of procuring dismissal from employment, or by any other manner whatsoever induced any person employed in the construction, prosecution, completion or repair of any public building, public work, or building or work financed in whole or in part by loans or grants from the United States, to give up any part of the compensation to which he is entitled under his contract of employment, to wit, STRACHAN solicited and received kickbacks from workers on a residential housing construction project in Harlem that was financed in part by funds from the United States.

(Title 18, United States Code, Section 874.)

The bases for my knowledge and for the foregoing charge are, in part, as follows:

OVERVIEW

2. I am a Special Agent with the United States Department of Labor Office of Inspector General ("DOL-OIG"), and have been in that position for approximately 14 years. I along with criminal investigators with the United States Attorney's Office for the Southern District of New York ("USAO-SDNY") have been personally involved in the investigation of this matter, and I base this affidavit on that experience; my review of documents and other evidence, including reports prepared by United States Department of Labor Wage and Hour Division ("WHD") investigators; my conversations with other law enforcement personnel and a WHD investigator; and on my examination of various reports and records. Because this affidavit is being submitted for the limited purpose of demonstrating probable cause, it does not include all the facts I have learned during the course of my investigation. Where the contents of documents and the actions, statements, and conversations of others are reported herein, they are reported in substance and in part, except where otherwise indicated.

3. As set forth in more detail below, there is probable cause to believe that ERRON STRACHAN, the defendant, a former foreman for a construction company based in Brooklyn, New York ("Contractor-1"), solicited and received kickbacks from workers on a prevailing wage project to provide construction services at the Randolph Houses, a public housing project located in the Harlem neighborhood of New York, New York (the "Construction Project") that received more than \$41 million from the United States Department of Housing and Urban Development ("HUD").

BACKGROUND

4. From my participation in this investigation, I have learned that, in or about October 2014, Contractor-1 was awarded a \$3.75 million subcontract for its services on the Construction Project, which included demolition, sheetrock installation, interior wall framing, carpentry, window frame installation and taping (the "Subcontract"). Because the Construction Project received funds from HUD, its contracts and subcontracts were governed by the Davis-Bacon and Related Acts, 40 U.S.C. § 3142, et seq. ("Davis Bacon"). In particular, Davis

Bacon required Contractor-1 to pay its laborers no less than the locally prevailing wages and fringe benefits for corresponding work on similar projects in the area, as determined by the U.S. Department of Labor.

5. From my participation in this investigation, conversations with DOL-OIG and WHD investigators, review of reports of interviews prepared by a WHD investigator, and review of documents provided by Contractor-1, among other things, I have learned the following:

a. ERRON STRACHAN, the defendant, was hired by the owner of Contractor-1 (the "Owner") to act as a foreman on the Construction Project for Contractor-1. STRACHAN worked on the Construction Project from approximately at least November 2014 to December 2015, when he was fired by the Owner after the WHD commenced the instant investigation into labor violations by STRACHAN and Contractor-1.

b. STRACHAN's responsibilities on the Construction Project on behalf of Contractor-1 included hiring and firing employees, setting rates of pay, scheduling employees, supervising the workers on site, and disbursing checks to workers.

c. STRACHAN was paid an hourly wage by Contractor-1 to act as its foreman on the Construction Project. In addition to those wages, between January and October 2015, STRACHAN's company, E.G. & E. New York Contracting Corp. received an additional \$74,402.29 from Contractor-1.¹

Kickback Scheme

6. Through my investigation, which has included discussions with DOL-OIG and WHD investigators, my interviews of employees of Contractor-1, my review of interview memoranda of interviews of employees of Contractor-1 conducted by a WHD investigator, among other things, I have learned that ERRON STRACHAN, the defendant, demanded and received kickbacks from numerous employees of Contractor-1, including, among others, the below employees:

¹ According to the New York State Department of State Division of Corporation, E.G. & E. New York Contracting Corp. was dissolved on October 26, 2016.

a. Employee-1 worked for Contractor-1 on the Construction Project from May to November 2015, and paid kickbacks to STRACHAN. Employee-1 stated that he was paid cash for his first week of work on the project, and thereafter, every week, he received a paycheck from STRACHAN in STRACHAN's on-site office at the Randolph Houses. As directed by STRACHAN, Employee-1 would then kick back approximately \$500 or \$550 in cash to STRACHAN from each weekly paycheck. On occasion, STRACHAN wrote the kickback amount on the envelope containing Employee-1's paycheck. For example, on one envelope Employee-1 provided to a WHD investigator, STRACHAN wrote "\$500 BACK TO ERRON." According to Employee-1, in or around September 2015, after STRACHAN had fired an employee who declined to pay kickbacks ("Employee-2"), the Owner asked workers for Contractor-1 on the Construction Project to fill out Form I-9s (a form to verify eligibility for employment), and STRACHAN did not solicit kickbacks for about two weeks after that. A short time later, however, STRACHAN again demanded a kickback from Employee-1, which this time Employee-1 refused to pay. Thereafter, STRACHAN reduced Employee-1's work schedule, and told Employee-1 it was because Employee-1 did not pay STRACHAN kickbacks. After Employee-1 and STRACHAN had an argument over Employee-1's work schedule, STRACHAN fired Employee-1.

b. Employee-2 worked for Contractor-1 on the Construction Project intermittently from July 2015 to October 2015. Shortly after Employee-2 began working on the Construction Project, STRACHAN demanded kickbacks from Employee-2, and instructed Employee-2 to cash his paycheck and return half of that amount to STRACHAN in cash the following week. In or about August 2015, after Employee-2 refused to pay STRACHAN the kickback, STRACHAN publicly fired Employee-2. After Employee-2 reported to the Owner that he had been fired for not kicking a portion of his wages back to STRACHAN, and threatened to report the kickbacks to the general contractor on the Project, the Owner re-hired Employee-2, and told him to report to another foreman. After Employee-2 returned to the job site to resume his employment, Employee-2 ran into STRACHAN, and got into a public and loud argument with him regarding kickbacks. Employee-2 then again called the Owner to tell him what happened and reaffirmed that he would not pay kickbacks. The Owner told Employee-2 not to discuss the kickbacks, and came down to the job site where he paid Employee-2 for the day and fired him from the job site. A few weeks later, the Owner offered Employee-2 his job back and Employee-2 was permitted to return to work. Employee-2 worked on the job for another approximately eight

weeks, and then was fired again by STRACHAN, even though workers with similar responsibilities continued to work on the job.

c. Employee-3 worked for Contractor-1 on the Construction Project from approximately October 2014 to October 2015, and paid kickbacks to STRACHAN. Initially, Employee-3 received two checks each week from Contractor-1, and STRACHAN directed Employee-3 to cash one of them for STRACHAN each week or STRACHAN would fire Employee-3. After a few weeks, Employee-3's payroll check was consolidated, and STRACHAN directed Employee-3 to kickback \$700 each week, which Employee-3 did pay. Employee-3 also heard of other workers kicking back between \$500 and \$700 each week to STRACHAN.

d. Employee-4 worked for Contractor-1 on the Construction Project from approximately March to December 2015, and paid kickbacks to STRACHAN because Employee-4 was afraid to lose his job if he did not pay them. In or about August 2015, STRACHAN commenced disbursing Employee-4's paychecks to Employee-4 personally. Beginning at that time, STRACHAN also demanded kickbacks from Employee-4 each week in amounts that ranged from \$350 to \$600 per week, and Employee-4 paid those kickbacks to STRACHAN. STRACHAN either wrote the amount of the required kickback on the envelope of Employee-4's paycheck or STRACHAN would orally inform Employee-4 of the expected kickback amount. For example, on one envelope Employee-4 provided to a WHD investigator, STRACHAN wrote "\$1250 [Employee-4's name] BAL \$500 ERRON," on it, which Employee-4 understood to mean that Employee-4 could keep \$1,250 of that week's wages and Employee-4 had to kickback \$500 of that week's wages to STRACHAN.

e. Employee-5 worked for Contractor-1 on the Construction Project from June to September 2015, and Employee-5 paid kickbacks to STRACHAN in order to work on the project. Employee-5 explained that STRACHAN demanded kickbacks from workers on the Construction Project and that STRACHAN had brazenly attempted to justify the kickback requests to Employee-5 by suggesting that he provided the kickbacks to Contractor-1 in order to offset the financial burden on Contractor-1 of having to pay prevailing wages on the Construction Project.

f. Employee-6 worked for Contractor-1 on the Construction Project from November 2014 to July 2015, and Employee-6 paid kickbacks to STRACHAN in order to work on the project. STRACHAN told Employee-6 that he demanded kickbacks from Employee-6 for work because STRACHAN considered the full

salary to be "too much" money for Employee-6.² Employee-6 heard from other construction workers on the Construction Project that STRACHAN previously had fired individuals who refused to kick back a portion of their earnings to STRACHAN, and thus Employee-6 believed that if he did not kick back wages to STRACHAN, he would be fired. Employee-6 paid approximately \$260 every week in kickbacks to STRACHAN.

g. Employee-7 worked for Contractor-1 on the Construction Project for approximately one week in or about September 2015. During that week, Employee-7 was informed by another worker on the project (who he believed had known STRACHAN a long time) that STRACHAN was demanding kickbacks from workers. At the end of the week, after Employee-7 had informed that other worker that he would not pay kickbacks to STRACHAN, STRACHAN fired Employee-7.

h. Employee-8 worked for Contractor-1 on the Construction Project from approximately March 2015 to October 2015, and paid kickbacks to STRACHAN. Despite it being a prevailing wage job, STRACHAN demanded money from Employee-8 to cover purported insurance payments for Employee-8 and other workers who Employee-8 recruited for the Project, which totaled approximately \$1,600 every three months.³ After several months on the job, STRACHAN demanded that Employee-8 inform workers whom Employee-8 had recruited that they needed to pay kickbacks to STRACHAN directly. Employee-8 resisted STRACHAN's demands, and STRACHAN subsequently did not retain several of Employee-8's workers on the job. STRACHAN also instructed Employee-8 to fire workers who had truthfully reported allegations of STRACHAN's kickbacks to a regulatory agency.

**The Defendant's Admissions to WHD Investigators that
He Demanded and Accepted Kickbacks from Workers
on the Construction Project**

7. Through my participation in the investigation, discussions with WHD investigators, and my review of memoranda of two interviews conducted by a WHD investigator of ERRON STRACHAN, the defendant, I have learned, among other things, the following:

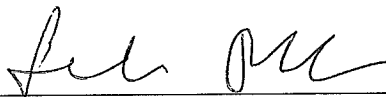
² According to Employee-6, STRACHAN knew that Employee-6 had made less money on previous non-prevailing wage jobs, including jobs that Employee-6 had previously worked on with STRACHAN.

³ Employee-8 stated that he later was informed by the Owner that all insurance premiums were paid for by Contractor-1.

a. On or about January 20, 2016, during STRAHAN's initial interview with a WHD Investigator, STRACHAN admitted to accepting kickbacks from Employee-1 on the Construction Project. STRACHAN also stated that other workers had offered him money but he had not accepted it.

b. On or about March 17, 2016, STRACHAN was interviewed a second time. During this interview, he admitted to demanding kickbacks from seven workers on the Construction Project, including Employee-1, Employee-2, Employee-4, and Employee-8. STRACHAN explained that he considered himself to be a father-figure to the workers because he looked out for them on the Project and kept them from getting fired. Therefore, according to STRACHAN, he thought the workers should provide him with a benefit in return. STRACHAN stated that he trusted those workers not to say anything about the kickbacks. STRACHAN also stated that the Owner knew about the kickbacks.

WHEREFORE, deponent respectfully requests that a warrant be issued for the arrest of ERRON STRACHAN, the defendant, and that he be arrested and imprisoned or bailed, as the case may be.



STEPHEN DONNELLY
Special Agent
Office of the Inspector General -
Department of Labor

Sworn to before me this
23rd day of January, 2018

THE HONORABLE ANDREW J. PECK
UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT OF NEW YORK

