

FILED

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

2011 NOV -2 PM 4: 22

UNITED STATES OF AMERICA,

NO. SA-11-CR-

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS

BY
DEPUTY CLERK

Plaintiff,

INDICTMENT
SA 11 CR 0964

FB

V.

[Vio: 18 USC § 371,
Conspiracy to defraud the
United States; 18 USC 1343,
Wire fraud; 18 USC 1031,
Major fraud against the
United States; Demand for
Forfeiture]

DONALD DEAN BREWER,
SHERRI LYNN BREWER,
JAMES MCKINNEY,

Defendants.

THE GRAND JURY CHARGES:

COUNT ONE
[18 U.S.C. § 371]

At times relevant:

1. The Air Force Medical Support Agency (AFMSA) and the Air Force Civil Engineer Support Agency (AFCESA) were components of the United States Air Force within the Department of Defense. AFMSA purchased information technology systems for Air Force hospitals and medical treatment facilities worldwide through its Medical Systems Infrastructure Modernization (MSIM) program. AFCESA provided facility design and construction support to Air Force units worldwide.

2. The General Services Administration (GSA) was an agency of the United States that procured property and services for other government agencies. GSA and the Air Force made purchases though task or delivery orders to prime contractors who had

previously negotiated Indefinite Delivery Indefinite Quantity (IDIQ) contracts with the government.

3. Karta Technologies, Inc. (Karta), a government contractor, beginning in December 2002, supplied engineers and technical analysts to support AFMSA in implementing the MSIM program at Brooks City-Base, San Antonio, Texas. Karta employees assisted AFMSA in (a) defining MSIM requirements for medical treatment facilities worldwide, including the updating of electronic cabling; (b) creating government contracting documents announcing the requirements to interested and qualified Air Force or GSA IDIQ contractors; (c) evaluating proposals from qualified contractors seeking MSIM program work; and (d) selecting contractors to perform task or delivery orders for particular MSIM projects. Karta personnel worked and communicated directly with Air Force military personnel and civilian employees at Brooks City-Base and elsewhere and enjoyed access to confidential information not usually available to government contractors. Karta was a fiduciary of the United States entrusted with valuable confidential information and property and was obligated to be honest and loyal to the government and its agencies, to disclose all facts to the United States which it was entitled to know, and to comply with all laws and regulations, including those prohibiting conflicts of interest and self dealing.

4. Defendant Donald Dean Brewer was employed by Karta, and

previously by Affiliated Computer Services, Inc. (ACS), as the MSIM program manager at Brooks City-Base, San Antonio. Defendant Brewer was a fiduciary of Karta and ACS obligated to be honest and loyal, and to disclose all facts that his employers were entitled to know. During 2002 and thereafter, while employed as the MSIM program manager, Defendant Brewer joined with Defendant Sherri Lynn Brewer, Defendant James McKinney, and Sidney Brandler in the formation, ownership, and control of Enterprise and Deployment, LLC.

5. Ark Systems, Inc. (Ark) was a Maryland corporation engaged in the business of installing electronic cabling for information technology and telephone systems, including cabling work funded by the MSIM program. In the years preceding 2002, Ark performed almost every MSIM cable installation/upgrade as a subcontractor of government prime contractors. During 2002 and thereafter, Ark continued to perform MSIM cable installation/upgrades, but teamed exclusively with Enterprise and Deployment, LLC, which acted as an additional subcontractor between Ark and government prime contractors.

6. Defendant James McKinney was employed by Ark as the Vice President of Government Systems and was a friend of Defendant Donald Dean Brewer. Defendant McKinney prepared Ark's bids and proposals on Air Force projects and managed Ark's performance of the resulting subcontracts. After joining in the formation and

ownership of E & D in 2002, Defendant McKinney was President of E & D, as well as Vice President of Ark, prepared bids and proposals for both Ark and E & D, and managed Ark's performance of the resulting subcontracts.

7. Enterprise and Deployment, LLC, (E & D) originally named Engineering and Deployment, LLC, was a Texas based entity organized by Defendants Donald Dean Brewer, Sherri Lynn Brewer, and James McKinney, and Sidney Brandler. E & D owned no tools and equipment, performed no actual cabling work, borrowed no money, and carried no inventory. Beginning in or about 2002, on Air Force contracts, Ark exclusively performed cabling work as a subcontractor of E & D. On July 25, 2003, Ark and E & D signed a teaming agreement obligating Ark to work exclusively with E & D on MSIM contracts. E & D teamed with United States government prime contractors Information Systems Support, Inc. (ISS), URS Group, Inc. (URS), and Multimax, Inc. (Multimax) as a subcontractor.

8. Defendant Sherri Lynn Brewer, the spouse of Defendant Donald Dean Brewer, at various times, was designated as majority owner/member, manager, and employee of E & D. Defendant Sherri Lynn Brewer managed the bank accounts and conducted general bookkeeping for E & D.

9. Sidney Brandler, a retired Air Force Medical Service Corps Colonel, was an employee of Karta and a friend of Defendant

Donald Dean Brewer. While on active duty with the Air Force from in or about 1996 until in or about 1999, Sidney Brander served as the AFMSA Commander. He joined with Defendants Donald Dean Brewer, Sherri Lynn Brewer, and James McKinney in the formation, ownership, and control of E & D.

10. Beginning in or about July 2002, and continuing until in or about December 2008, in the Western District of Texas, and elsewhere, Defendants,

DONALD DEAN BREWER,
SHERRI LYNN BREWER,
JAMES MCKINNEY,

and others, willfully conspired together and with each other:

a. To defraud the United States of the right to have Air Force and General Services Administration business conducted honestly and impartially, free from corruption, conflict of interest, fraud, and dishonesty and of the right to have the loyal, faithful, disinterested, and unbiased services and performance of its contractors, subcontractors, and their employees free from corruption, conflict of interest, fraud, and dishonesty; and

b. To devise and execute a wire fraud scheme in violation of Title 18, United States Code, Section 1343; and

c. To commit Major Fraud Against the United States, in violation of Title 18, United States Code, Section 1031.

Manner and means

11. The conspiratorial plan and the scheme were:

a. To create a sham subcontracting business, E & D, and insert it as an extra subcontractor between prime contractors and Ark;

b. To conceal the true nature of the ownership and control of E & D by lying, telling half truths, and omitting materials facts and by initially purportedly transferring ownership of E & D to J.K.S., the Brewers' adult child, while Defendants Donald Dean Brewer and Sherri Lynn Brewer retained actual control;

c. To lie to prime contractors with false E & D invoices combining Ark's charges for actual work with E & D's made up fees, charges, and profits;

d. To steal from the Air Force by causing prime contractors to overcharge the Air Force by including E & D's fraudulent charges in the prime contractor invoices;

e. For Defendant Donald Dean Brewer to betray Karta and the United States by misusing his knowledge and influence as Karta's MSIM program manager to create and hide the scheme rather than prevent it;

f. For Defendant Donald Dean Brewer to violate his fiduciary duties of loyalty, honesty, and disclosure to Karta and to cause Karta to violate its fiduciary duties of loyalty, honesty, and disclosure to the United States;

g. For Defendant McKinney to betray Ark by misusing his knowledge and influence as Ark's Vice President of Government Systems to persuade Ark to team exclusively with E & D on Air Force projects; and

h. For Defendant McKinney to violate his fiduciary duties of loyalty, honesty, and disclosure to Ark.

12. It was a part of the conspiracy and scheme to insert E & D as an extra subcontractor between prime contractors and certain suppliers of electronic equipment.

13. It was a part of the conspiracy and scheme that from July 2002 through 2008, the conspirators carried out their fraudulent plan, obtaining approximately \$33.5 million in subcontracts for E & D, submitting false invoices to prime contractors, causing prime contractors to overcharge the Air Force, violating Karta's, Defendant Donald Dean Brewer's, and Defendant James McKinney's fiduciary duties, and thereby enriching the conspirators by \$6,445,370.

Overt acts

14. In furtherance of the conspiracy and to effect its objects and purposes, the Defendants committed the following overt acts and others in the Western District of Texas:

a. On or about August 2, 2002, Sidney Brandler signed the organization document for E & D;

b. On or about October 1, 2002, Defendant Sherri Lynn

Brewer, at a special meeting of the members of E & D, announced that Defendant Donald Dean Brewer had resigned as President of E & D and that her ownership interest in E & D had been sold to J.K.S.;

c. On or about October 1, 2002, Defendants Brewer caused J.K.S., their adult daughter, to sign a document entitled "Special Power of Attorney" authorizing Sherri Brewer to operate E & D and to sell it, dissolve it, and/or close it;

d. On or about April 13, 2003, Sidney Brandler emailed Defendants Brewer and McKinney requesting input concerning E & D's on going negotiations with prime contractor ISS for a teaming agreement;

e. On or about April 16, 2003, Defendant Donald Dean Brewer, using the Air Force email system, emailed ISS a copy of an AFMSA MSIM statement of work (SOW) for Nellis Air Force Base;

-Advised ISS that he had sent the SOW to GSA to execute to ISS and E & D;

-Expressed hope that a teaming agreement between ISS and E & D could be accomplished soon;

-Expressed his appreciation to ISS for doing business with companies AFMSA preferred; and

-Advised that millions of dollars of installation work could flow from AFMSA through ISS, as well as additional opportunities for ISS;

f. On or about April 24, 2003, Defendant Sherri Lynn Brewer delivered \$77,258 to J.K.S., the adult daughter of Defendants Brewer, to be used for the payment of taxes on income derived by Defendants Brewer from E & D;

g. On or about May 29, 2003, Defendant James McKinney prepared and emailed to Sidney Brandler, Ark price proposals to E & D, and E & D price proposals to ISS, for projects at Randolph, Cannon, and Holloman Air Force bases, and a telephony device installation;

h. On or about July 11, 2003, Defendants Brewer directed San Antonio Credit Union to change the Donald D. Brewer/Sherri Brewer accounts to Brewer Living Trust accounts;

i. On or about July 25, 2003, Sidney Brandler signed a teaming agreement between E & D and Ark;

j. On or about November 11, 2003, Defendants Sherri Lynn Brewer, Defendant James McKinney and Sidney Brandler held a special meeting of E & D members and approved a proposal that E & D borrow \$1.5 million and lend it to Defendants Brewer for the purchase of a supermarket in Clovis, New Mexico;

k. On or about January 9, 2004, Defendants Brewer and Sidney Brandler created and provided a signature card for an E & D bank account to SouthTrust Bank;

l. Beginning on or about May 11, 2005, and continuing until on or about May 25, 2005, Defendant Sherri Lynn Brewer

transferred approximately \$115,000 obtained from E & D through a Brewer Living Trust account to a supermarket in Clovis, New Mexico;

m. On or about September 7, 2006, Sidney Brandler submitted to URS, a \$421,931.49 E & D invoice relating to Keesler Air Force Base;

n. On or about December 11, 2006, Sidney Brandler emailed a revised E & D quote to Multimax for Ramstein, Bitburg, and Spangdahlem bases, Germany; and

o. On or about March 9, 2007, Sidney Brandler submitted to Multimax a \$1,794,928.95 E & D invoice relating to Ramstein, Bitburg, and Spangdahlem bases, Germany.

A violation of Title 18, United States Code, Section 371.

COUNTS TWO THROUGH THIRTEEN
[18 U.S.C. §§ 1343 & 2]

1. The Grand Jury re-alleges and charges the scheme to defraud and to obtain money and property by means of false and fraudulent pretenses, representations, and promises set forth in paragraphs one through 13 of Count One of this indictment as if fully set forth in this count.

2. On or about each of the dates stated in the Western District of Texas, Defendants,

DONALD DEAN BREWER,
SHERRI LYNN BREWER,
JAMES MCKINNEY,

aiding and abetting one another, having devised and intending to devise the aforesaid scheme to defraud and for obtaining money and property by means of false and fraudulent pretenses, representations, and promises, and for the purpose of executing the scheme, did transmit and cause to be transmitted in interstate commerce by means of wire communication, writings, signs, signals, pictures, and sounds relating to the matters described below:

| | <u>Date</u> | <u>Matter</u> |
|--------------------|-------------|---|
| <u>COUNT TWO</u> | 04/02/03 | Email: Donald Brewer response to Sidney Brandler regarding whether E & D should seek teaming agreements: "Yes, EDI to ISS...then Ark can be the installation sub." |
| <u>COUNT THREE</u> | 04/16/03 | Email: Donald Brewer to ISS expressing hope that a teaming agreement between ISS and E & D could be accomplished and advising that millions of dollars of installation work could flow from AFMSA through ISS |
| <u>COUNT FOUR</u> | 09/17/03 | Email: Donald Brewer to James McKinney asking if nine Ark invoices to E & D were for current charges or prepayments and advising that Brewer was trying to keep some money in the bank |
| <u>COUNT FIVE</u> | 11/19/03 | \$650,022 transfer from ISS to E & D account |
| <u>COUNT SIX</u> | 01/30/04 | \$453,209 transfer from E & D to Donald and Sherri Brewer account |
| <u>COUNT SEVEN</u> | 04/26/04 | \$994,818.04 transfer from ISS to E & D account |

| | | |
|---------------------|----------|---|
| <u>COUNT EIGHT</u> | 04/09/05 | \$56,651 transfer from E & D to James McKinney account |
| <u>COUNT NINE</u> | 05/10/05 | \$106,299 transfer from E & D to Brewer Living Trust account |
| <u>COUNT TEN</u> | 07/09/05 | \$220,000 transfer from E & D to Brewer Living Trust account |
| <u>COUNT ELEVEN</u> | 12/11/06 | Email: E & D revised quote to Multimax for Ramstein, Bitburg, and Spangdahlem bases, Germany |
| <u>COUNT TWELVE</u> | 01/29/07 | Email: Multimax order to E & D for Ramstein, Bitburg, and Spangdahlem bases, Germany |
| <u>COUNT 13</u> | 03/09/07 | Email: E & D \$1,794,928.95 invoice to Multimax for Ramstein, Bitburg, and Spangdahlem bases, Germany |

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

COUNT 14
[18 U.S.C. §§ 1031 and 2]

1. The Grand Jury re-alleges and charges the scheme to defraud and to obtain money and property by means of false and fraudulent pretenses, representations, and promises set forth in paragraphs one through 13 of Count One of this indictment as if fully set forth in this count.

2. Beginning in or about 2002 and continuing until in or about 2008 in the Western District of Texas, Defendants,

DONALD DEAN BREWER,
SHERRI LYNN BREWER,
JAMES MCKINNEY,

and others, aiding and abetting one another as Enterprise and

Deployment, LLC, a subcontractor/supplier on subcontracts for the procurement of property and/or services valued at more than \$1,000,000 for the Air Force that were a part of prime contracts between the United States and prime contractors ISS, URS, and Multimax, with intent to defraud the United States and to obtain money and property by means of false and fraudulent pretenses, representations, and promises, knowingly did execute and attempt to execute the scheme described above.

A violation of Title 18, United States Code, Sections 1031 and 2.

COUNT 15

[18 U.S.C. §§ 1031 and 2]

Robins Air Force Base, Georgia

1. The Grand Jury re-alleges and charges the scheme to defraud and to obtain money and property by means of false and fraudulent pretenses, representations, and promises set forth in paragraphs one through 13 of Count One of this indictment as if fully set forth in this count.

2. Beginning in or about April 2005 and continuing until on or about May 22, 2006, in the Western District of Texas,
Defendants,

DONALD DEAN BREWER,
SHERRI LYNN BREWER,
JAMES MCKINNEY,

and others, aiding and abetting one another as Enterprise and

Deployment, LLC (E & D), a subcontractor/supplier on a subcontract/delivery order for the procurement of property and/or services valued at more than \$1,000,000 for the Air Force at Robins Air Force Base, Georgia, which subcontract was a part of prime contract number GS00T03AHD0004, order number GST0605BN8080, a contract action between the United States and prime contractor ISS, with intent to defraud the United States and to obtain money and property by means of false and fraudulent pretenses, representations, and promises, knowingly did execute and attempt to execute the scheme described above by submitting fraudulent E & D invoices relating to said prime contract, order, and subcontract and obtaining payments.

A violation of Title 18, United States Code, Sections 1031 and 2.

COUNT 16

[18 U.S.C. §§ 1031 and 2]

Keesler Air Force Base, Mississippi (Keesler Medical Center)

1. The Grand Jury re-alleges and charges the scheme to defraud and to obtain money and property by means of false and fraudulent pretenses, representations, and promises set forth in paragraphs one through 13 of Count One of this indictment as if fully set forth in this count.

2. Beginning on or about December 13, 2005, and continuing until on or about February 8, 2008, in the Western District of Texas, Defendants,

DONALD DEAN BREWER,
SHERRI LYNN BREWER,
JAMES MCKINNEY,

and others, aiding and abetting one another as Enterprise and Deployment, LLC (E & D), a subcontractor/supplier on a subcontract for the procurement of property and/or services valued at more than \$1,000,000 for the Air Force at Keesler Air Force Base, Mississippi, which subcontract was a part of prime contract FA8903-04-D-8679, order number SK02, a contract action between the United States and prime contractor URS, with intent to defraud the United States and to obtain money and property by means of false and fraudulent pretenses, representations, and promises, knowingly did execute and attempt to execute the scheme described above by submitting fraudulent E & D invoices relating to said prime contract, order, and subcontract and obtaining payments.

A violation of Title 18, United States Code, Sections 1031 and 2.

COUNT 17
[18 U.S.C. §§ 1031 and 2]

Ramstein, Bitburg, Spangdahlem Air Force bases, Germany

1. The Grand Jury re-alleges and charges the scheme to defraud and to obtain money and property by means of false and fraudulent pretenses, representations, and promises set forth in paragraphs one through 13 of Count One of this indictment as if

fully set forth in this count.

2. Beginning on or about December 11, 2006, and continuing until on or about March 9, 2007, in the Western District of Texas, Defendants,

DONALD DEAN BREWER,
SHERRI LYNN BREWER,
JAMES MCKINNEY,

and others, aiding and abetting one another as Enterprise and Deployment, LLC (E & D), a subcontractor/supplier on a subcontract for the procurement of property valued at more than \$1,000,000 for the Air Force at the Ramstein, Bitburg, and Spangdahlem bases in Germany, which subcontract was a part of prime contract number FA8771-04-D-0003, order number QY19, a contract action between the United States and prime contractor Multimax, with intent to defraud the United States and to obtain money and property by means of false and fraudulent pretenses, representations, and promises, knowingly did execute and attempt to execute the scheme described above by submitting fraudulent E & D invoices relating to said prime contract, order, and subcontract and obtaining payments.

A violation of Title 18, United States Code, Sections 1031 and 2.

NOTICE OF UNITED STATES OF AMERICA'S DEMAND FOR FORFEITURE
[Title 18 U.S.C. §§ 371 and 1343, subject to forfeiture pursuant to Title 18 U.S.C. §§ 982(a)(2) and 981(a)(1)(C), made applicable by Title 28 U.S.C. § 2461 See Fed. R. Crim. P. 32.2)]

Criminal Forfeiture Statutes

As a result of the foregoing criminal violations set forth in Counts One through Thirteen which are punishable by imprisonment for more than one year, Defendants DONALD DEAN BREWER, SHERRI LYNN BREWER, and JAMES MCKINNEY shall forfeit to the United States certain property described below pursuant to Title 18 U.S.C. §§ 982(a)(2)(A) and 981(a)(1)(C), made applicable to criminal forfeiture by Title 28 U.S.C. § 2461, which state the following:

Title 18 U.S.C. § 981(a)(1) The following property is subject to forfeiture to the United States: (C) Any property, real or personal, which constitutes or is derived from proceeds traceable to a violation . . . of this title or any offense constituting specified unlawful activity (as defined in section 1956(c)(7) of this title), or a conspiracy to commit such offense.

Title 18 U.S.C. § 982(a)(2): The court, in imposing sentence on a person convicted of a violation of, or conspiracy to violate --(A) section . . . 1343 . . . of this title, . . . shall order that the person forfeit to the United States any property constituting, or derived from, proceeds the person obtained directly or indirectly, as the result of such violations.

This Notice of Demand for Forfeiture includes, but is not

limited to, all right, title, and interest of the Defendants in the following money judgment subject to forfeiture to the United States of America.

Money Judgment


A sum of money equal to Six Million, Four Hundred Forty Five Thousand, Three Hundred and Seventy Dollars (\$6,445,370), representing the amount of proceeds obtained directly or indirectly, as a result of the violations set out in the above-described Counts for which Defendants DONALD DEAN BREWER, SHERRI LYNN BREWER, and JAMES MCKINNEY are jointly and severally liable.

Substitute Assets

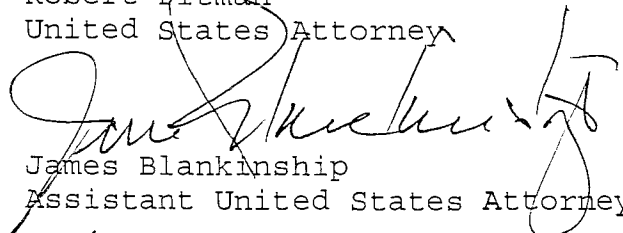
If any of the property described above as being subject to forfeiture for violations of Title 18 U.S.C. §§ 371 and 1343 and subject to forfeiture pursuant to Title 18 U.S.C. § 981(a)(1)(C), made applicable to criminal forfeiture by Title 28 U.S.C. § 2461, as a result of any act or omission of the Defendants (a) cannot be located upon the exercise of due diligence; (b) has been transferred or sold to, or deposited with, a third person; (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 subdivided without difficulty; it is the intent of the United States of America to seek the forfeiture of any other property of the Defendants up to the value of said money judgment as substitute assets pursuant to


Fed. R. Crim. P. 32.2(c)(1) and 18 U.S.C. § 982 (see Title 21
U.S.C. § 853(p)).

A TRUE BILL.


Foreperson of the Grand Jury

Robert Pitman
United States Attorney


James Blankinship
Assistant United States Attorney


Gary W. McCown
Special Assistant United States Attorney