

**FILED**

JAN 15 2009  
Phil Lombardi, Clerk  
U.S. DISTRICT COURT

**SEALED**

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

|                           |   |   |
|---------------------------|---|---|
| UNITED STATES OF AMERICA, | ) | Case No. <u>09 CR 010 JHP</u>             |
|                           | ) |   |
| Plaintiff,                | ) | <u>FILED UNDER SEAL</u>                   |
|                           | ) |   |
| v.                        | ) | <u>INDICTMENT</u>                         |
|                           | ) | [18 U.S.C. §§ 1343 and 1346: Honest       |
| MAX ELLIOT WOLF and,      | ) | Services Wire Fraud;                      |
| ALBERT S. MARTINEZ,       | ) | 18 U.S.C. §§ 1341 and 1346: Honest        |
|                           | ) | Services Mail Fraud;                      |
| Defendants.               | ) | 18 U.S.C. § 371: Conspiracy;              |
|                           | ) | 18 U.S.C. § 666: Bribery;                 |
|                           | ) | 18 U.S.C. § 1956(a)(1)(B)(i): Money       |
|                           | ) | Laundering;                               |
|                           | ) | 18 U.S.C. § 2: Aiding and Abetting;       |
|                           | ) | 18 U.S.C. § 981(a)(1)(C) and              |
|                           | ) | 28 U.S.C. § 2461(c): Criminal Forfeiture] |

**THE GRAND JURY CHARGES:**

INTRODUCTION

At all times material to this Indictment, unless otherwise stated:

1. The City of Tulsa ("City") was a political subdivision and municipal corporation within the State of Oklahoma.
2. The City of Tulsa Public Works Department ("Public Works Department") was responsible for planning, constructing, operating, maintaining, and managing the City's streets, water, wastewater, storm-water, solid waste, engineering, public property and related customer and development services. The Public Works Department included five (5) divisions: Policy Development, Engineering Services, Environmental Operations, Public Facilities Maintenance, and Development Services.

3. Public Works Department projects to be completed for and on behalf of the City were identified through various means, including the Capital Improvement Projects Plan. Funding for such projects was derived from sales tax, bonds, and federal grants. There were essentially two (2) basic phases of each project, to wit: the design phase, and the construction and inspection phase. Projects, throughout both phases, were supervised and managed by the Public Works Department.

4. The City, by law, was required to use competitive bidding in the award of public construction contracts to qualified low bidders. Construction contractors periodically submitted invoices as the construction progressed to receive payments for the work they had performed.

5. The City made final payments after the completion of the contractually required construction. Each claim for payment by a vendor, including the final payment invoice, included an affidavit from the vendor swearing that it had not made a payment or given any money to any City employee to obtain payment of the invoice. Final payment was only to be made after an engineer with the Public Works Department, knowledgeable of the project's construction, had examined and certified the costs claimed.

6. **MAX ELLIOT WOLF** ("Defendant **WOLF**") was the President of Horizon Construction Company, Inc. ("Horizon Construction").

7. Horizon Construction engaged in business doing all aspects of highway construction, including excavation, bridges, utilities, and concrete and asphalt paving. A

significant portion of its business was derived from contracts for public construction projects awarded by the City.

8. **ALBERT S. MARTINEZ** ("Defendant **MARTINEZ**") was the Field Engineering Manager at the Public Works Department, where he had been continuously employed since 1992 as an engineer.

**COUNTS ONE THROUGH SIX**  
**[18 U.S.C. §§ 1343 and 1346 and 18 U.S.C. § 2]**

**THE DUTY OF HONEST SERVICES**

1. The State of Oklahoma had in force and effect the Political Subdivisions Ethics Act, Title 51, Oklahoma Statutes, Section 302, providing that no employee of a municipal government should have any interest, financial or otherwise, direct or indirect, that would be in substantial conflict with the proper discharge of duties in the public interest.
2. The Tulsa Revised Ordinances (“City Code”) established a Code of Ethics applicable to all employees of the City. The City Code prohibited employees of the City from engaging in activities that conflicted with the proper discharge of their duties in the public interest, using their public positions for personal gain, acting in such a way as to give any appearance of impropriety, and from receiving gifts, entertainment, or other favors which could influence or be reasonably perceived as influencing City officials in the performance of their official duties.
3. Defendant **MARTINEZ** was subject to the provisions of State law and the City Code prohibiting him from acting illegally and unethically, that is, defrauding the City for his personal enrichment, and depriving the City, the Public Works Department and the citizens of the City of Tulsa (“citizens of Tulsa”) of their right to the honest services of Defendant **MARTINEZ**.
4. Defendant **MARTINEZ** owed his employer, the City, a general duty of loyalty, honesty, integrity and faithfulness.

### THE SCHEME

5. From sometime in or about the mid-year of 2005 until in or about July 2008, more exact dates being unknown to the Grand Jury, within the Northern District of Oklahoma, Defendants **WOLF** and **MARTINEZ** devised and intended to devise a scheme and artifice to defraud the City and to deprive the City, the Public Works Department and the citizens of Tulsa of their intangible right to the honest services of Defendant **MARTINEZ** as an employee of the City and the Field Engineering Manager, performed free from deceit, fraud, dishonesty, favoritism, self-enrichment and self-dealing ("the Scheme").

### THE PURPOSE OF THE SCHEME

6. It was a purpose of the scheme to unlawfully enrich Defendants **WOLF** and **MARTINEZ** through:

- (a) The unlawful presentment to the City of materially false and fraudulent claims by Defendants **WOLF** and **MARTINEZ**;
- (b) The exploitation of the fiduciary relationship Defendant **MARTINEZ** had as the Field Engineering Manager for the Public Works Department;
- (c) The corrupt offers and unlawful payments by Defendant **WOLF** with the intent to influence and reward Defendant **MARTINEZ** for supporting the interests of Defendant **WOLF** in connection with Horizon Construction contracts with the City for public construction projects;

(d) The corrupt solicitations, acceptances, and agreement to accept unlawful payments by Defendant **MARTINEZ** with the intent of being influenced and rewarded for supporting the interests of Defendant **WOLF** in connection with Horizon Construction contracts with the City for public construction projects; and,

(e) The concealment by Defendants **WOLF** and **MARTINEZ** of the Scheme from the City and the Public Works Department.

#### **MANNER AND MEANS OF EXECUTING THE SCHEME**

7. It was part of the Scheme that, as to final payment requests on projects for which Defendant **MARTINEZ** was the managing Public Works Department engineer, Defendant **WOLF** would and did submit final payment invoices having inflated costs directly to Defendant **MARTINEZ** for certification.

8. It was further part of the Scheme that, as to final payment requests on projects for which Defendant **MARTINEZ** was not the managing Public Works Department engineer, Defendant **WOLF** would and did submit final payment invoices without inflated costs which were reviewed and certified for payment by the Public Works Department. In those instances, Defendant **WOLF** would and did then provide fraudulent final payment invoices with inflated costs to Defendant **MARTINEZ**. Defendant **MARTINEZ** would and did intercept the approved final payment invoices, remove the signatures, place them on the substitute inflated invoices, and cause them to be paid.

9. It was further part of the Scheme that Defendant **WOLF** would and did receive final payments obtained with fraudulently inflated invoices from the City, by means of Automatic Clearing House ("ACH") transactions, to a Horizon Construction bank account maintained at First Bank of Owasso, in Owasso, Oklahoma ("First Bank of Owasso").

10. It was further part of the Scheme that Defendant **WOLF** would and did make payments to Defendant **MARTINEZ** from the fraudulently obtained proceeds using checks drawn upon a second Horizon Construction bank account at the First Bank of Owasso.

**WIRE COMMUNICATIONS IN FURTHERANCE OF THE SCHEME**

11. As specified below for Counts One through Six, on or about the dates set forth below, in the Northern District of Oklahoma, **MAX ELLIOT WOLF** and **ALBERT S. MARTINEZ**, the Defendants, for the purpose of executing and attempting to execute the Scheme, and in attempting to do so, did knowingly cause the City to have the ACH transactions as specified below, to be transmitted, in interstate commerce, by means of wire communication, from the Bank of Oklahoma, in Tulsa, Oklahoma ("BOK"), through the Federal Reserve System to the First Bank of Owasso, in Owasso, Oklahoma, account number XX5999, in the amounts as set forth below, to-wit:

| COUNT | DATE             | ACH TRANSACTION AMOUNT |
|-------|------------------|------------------------|
| 1     | October 14, 2005 | \$232,465.42           |
| 2     | January 9, 2007  | \$942,147.15           |
| 3     | June 29, 2007    | \$157,270.03           |
| 4     | April 8, 2008    | \$274,389.91           |
| 5     | April 25, 2008   | \$120,959.91           |
| 6     | July 1, 2008     | \$185,806.23           |

All in violation of Title 18, United States Code, Sections 1343 and 1346 and Title 18, United States Code, Section 2.

**FORFEITURE ALLEGATION**  
**[18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c)]**

The allegations contained in Counts One through Six of this Indictment are hereby realleged and incorporated by reference for the purpose of alleging forfeitures pursuant to the provisions of Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c).

Upon conviction of the wire fraud scheme alleged in Counts One through Six of this Indictment, as part of their sentence, defendants **MAX ELLIOT WOLF** and **ALBERT S. MARTINEZ** shall forfeit to the United States any property, real or personal, which constitutes or is derived from proceeds traceable to the wire fraud scheme, including but not limited to the following:

**1. MONEY JUDGMENT:**

A sum of money equal to \$1,913,038.65 in United States Currency, representing proceeds obtained as a result of the wire fraud scheme.

**2. SUBSTITUTE ASSETS**

Pursuant to Title 21, United States Code, Section 853(p), as incorporated by 18 U.S.C. § 982(b), the defendant shall forfeit substitute property, up to the value of the amount described in paragraph one, if, by any act or omission of the defendant, the property described in paragraph one, or any portion thereof, cannot be located upon the exercise of due diligence; has been transferred or sold to, or deposited with, a third party; has been placed beyond the jurisdiction of the court; has been substantially diminished in value; or has been commingled with other property which cannot be divided without difficulty, including but not limited to:

a. **REAL PROPERTY:**

- i. Real property commonly known as 12248 E. Kalil Dr, Scottsdale, Arizona, together with all appurtenances, improvements, and attachments thereon, more particularly described as follows, to-wit:

Lot 13, SONORAN ARROYOS NORTH, PHASE ONE, according to Book 367 of Maps, Page 21 and Affidavits recorded in Document No. 95-0079096 and in Document No. 95-0177564, records of Maricopa County, Arizona

- ii. Real property commonly known as 12320 E. 111<sup>th</sup> St. North, Owasso, Oklahoma, together with all appurtenances, improvements, and attachments thereon, more particularly described as follows, to-wit:

Lot Three (3), Block Three (3), FOX MEADOW ESTATES, THIRD, an addition to Tulsa County, State of Oklahoma, according to the recorded plat thereof.

- iii. Real property located in Lincoln County, Wyoming, together with all appurtenances, improvements, and attachments thereon, more particularly described as follows, to-wit:

Lot 46 of Star Valley Ranch Plat 18, Lincoln County, Wyoming as described on the official plat thereof.

All in accordance with Title 18, United States Code, Section 981 and Title 28 United States Code, Section 2461(c) and Rule 32.2 of the Federal Rules of Criminal Procedure.

**COUNT SEVEN**  
**[18 U.S.C. §§ 1341 and 1346 and 18 U.S.C. § 2]**

1. The allegations contained in Paragraphs 1 through 10 of Counts One through Six of this Indictment are realleged, adopted, and incorporated by reference as though fully set forth herein.

**EXECUTION OF THE SCHEME**

2. On or about July 2, 2008, in the Northern District of Oklahoma, the Defendant, **MAXELLIOT WOLF**, for the purpose of executing and attempting to execute the Scheme, knowingly caused to be delivered by mail, according to the directions thereon, an envelope containing Horizon Construction Company, Inc., check number 39336, in the amount of \$14,839.51, addressed to Albert Martinez, 9908 East 117<sup>th</sup> Street South, Bixby, Oklahoma 74008.

All in violation of Title 18, United States Code, Sections 1341 and 1346 and Title 18, United States Code, Section 2.

**COUNT EIGHT**  
**[18 U.S.C. §§ 1341 and 1346 and 18 U.S.C. § 2]**

1. The allegations contained in Paragraphs 1 through 10 of Counts One through Six of this Indictment are realleged, adopted, and incorporated by reference as though fully set forth herein.

**EXECUTION OF THE SCHEME**

2. On or about August 18, 2008, in the Northern District of Oklahoma, the Defendant, **MAX ELLIOT WOLF**, for the purpose of executing and attempting to execute the Scheme, knowingly caused to be delivered by mail, according to the directions thereon, an envelope containing Horizon Construction Company, Inc., check number 39637, in the amount of \$23,509.20, addressed to Albert Martinez, 9908 East 117<sup>th</sup> Street South, Bixby, Oklahoma 74008.

All in violation of Title 18, United States Code, Sections 1341 and 1346 and Title 18, United States Code, Section 2.

**COUNT NINE**

**[18 U.S.C. §§ 1341 and 1346 and 18 U.S.C. § 2]**

1. The allegations contained in Paragraphs 1 through 10 of Counts One through Six of this Indictment are realleged, adopted, and incorporated by reference as though fully set forth herein.

**EXECUTION OF THE SCHEME**

2. On or about September 6, 2008, in the Northern District of Oklahoma, the Defendant, **MAX ELLIOT WOLF**, for the purpose of executing and attempting to execute the Scheme, knowingly caused to be delivered by mail, according to the directions thereon, an envelope containing Horizon Construction Company, Inc., check number 39755, in the amount of \$23,509.20, addressed to Albert Martinez, 9908 East 117<sup>th</sup> Street South, Bixby, Oklahoma 74008.

All in violation of Title 18, United States Code, Sections 1341 and 1346 and Title 18, United States Code, Section 2.

COUNT TEN  
[18 U.S.C. § 371]

THE CONSPIRACY

1. From sometime in or about the mid-year of 2005 until on or about June 4, 2008, more exact dates being unknown to the Grand Jury, within the Northern District of Oklahoma, the Defendants, **MAX ELLIOT WOLF** and **ALBERT S. MARTINEZ**, did knowingly and willfully combine, conspire, confederate and agree with each other to commit offenses against the United States, to wit:

(a) to corruptly give, offer, and agree to give anything of value to any person, with intent to influence and reward an agent of local government, which local government received federal assistance in excess of \$10,000 in a one-year period, in connection with any business, transaction, and series of transactions of such local government involving anything of value of \$5,000 or more, in violation of Title 18, United States Code, Section 666(a)(2); and,

(b) being an agent of local government, which local government received federal assistance in excess of \$10,000 in a one-year period, to corruptly solicit and demand for the benefit of any person, and accept and agree to accept, anything of value from any person, intending to be influenced and rewarded in connection with any business, transaction, and series of transactions of such local government involving anything of value of \$5,000 or more, in violation of Title 18, United States Code, Section 666(a)(1)(B).

### OBJECTS OF THE CONSPIRACY

2. It was an object of the conspiracy for Defendant **WOLF** to corruptly give, offer, and agree to give payments to Defendant **MARTINEZ** with the intent of influencing and rewarding him for assisting Defendant **WOLF** in connection with obtaining fraudulently inflated final payments from the City on Horizon Construction contracts.

3. It was further an object of the conspiracy for Defendant **MARTINEZ** to enrich himself by corruptly soliciting and accepting payments with the intent of being influenced and rewarded for assisting Defendant **WOLF** in connection with obtaining fraudulently inflated final payments from the City on Horizon Construction contracts.

### MANNER AND MEANS OF THE CONSPIRACY

4. The manner and means of the conspiracy include the same manner and means employed by Defendants **WOLF** and **MARTINEZ** in the Scheme charged in Counts One through Six of this Indictment. As such, the allegations contained in Paragraphs 7 through 10 of Counts One through Six of this Indictment are realleged, adopted, and incorporated by reference as though fully set forth herein.

5. It was further a part of the conspiracy that the conspirators would and did take steps to hide and conceal their role in the conspiracy and the corrupt payments to Defendant **MARTINEZ**.

## OVERT ACTS

In furtherance of the conspiracy and to effect the objects thereof, the Defendants committed the following overt acts, among others, in the Northern District of Oklahoma:

6. On or about September 2, 2005, Defendant **WOLF**, as the President of Horizon Construction, subscribed, under oath, an "AFFIDAVIT OF CLAIMANT" related to a claim for payment in Public Construction Project Number 994178.
7. On or about September 14, 2005, Defendant **MARTINEZ**, as the Field Engineering Manager for the Public Works Department, signed the "CERTIFICATE OF THE ENGINEERS UTILITY BOARD IN CHARGE" for Public Construction Project Number 994178.
8. On or about November 27, 2006, Defendant **WOLF**, as the President of Horizon Construction, subscribed, under oath, an "AFFIDAVIT OF CLAIMANT" related to a claim for payment in Public Construction Project Number 014160.
9. On or about November 28, 2006, Defendant **MARTINEZ**, as the Field Engineering Manager for the Public Works Department, signed the "CERTIFICATE OF THE ENGINEERS UTILITY BOARD IN CHARGE" for Public Construction Project Number 014160.
10. On or about May 23, 2007, Defendant **WOLF**, as the President of Horizon Construction, subscribed, under oath, an "AFFIDAVIT OF CLAIMANT" related to a claim for payment in Public Construction Project Number 014170.

11. On or about May 30, 2007, Defendant **MARTINEZ**, as the Field Engineering Manager for the Public Works Department, signed the "CERTIFICATE OF THE ENGINEERS UTILITY BOARD IN CHARGE" for Public Construction Project Number 014170.

12. On or about January 30, 2008, Defendant **WOLF**, as the President of Horizon Construction, subscribed, under oath, an "AFFIDAVIT OF CLAIMANT" related to a claim for payment in Public Construction Project Number 054230/054231.

13. On or about February 14, 2008, Defendant **MARTINEZ**, as the Field Engineering Manager for the Public Works Department, signed the "CERTIFICATE OF THE ENGINEERS UTILITY BOARD IN CHARGE," Public Construction Project Number 054230/054231.

14. On or about February 15, 2008, Defendant **WOLF**, as the President of Horizon Construction, subscribed, under oath, an "AFFIDAVIT OF CLAIMANT" related to a claim for payment in Public Construction Project Number 054467.

15. On or about the May 13, 2008, Defendant **WOLF**, as the President of Horizon Construction, subscribed, under oath, an "AFFIDAVIT OF CLAIMANT" related to a claim for payment in Public Construction Project Number 054032.

All in violation of Title 18, United States Code, Section 371.

**FORFEITURE ALLEGATION**  
**[18 U.S.C. §§ 981(a)(1) and 28 U.S.C. § 2461(c)]**

The allegations contained in the bribery conspiracy charge in this Indictment are hereby realleged and incorporated by reference for the purpose of alleging forfeitures pursuant to the provisions of Title 18, United States Code, Section 981(a)(1) and 28 U.S.C. § 2461(c).

Upon conviction of the conspiracy alleged in Count Ten of this Indictment, as part of their sentence, defendants **MAX ELLIOT WOLF** and **ALBERT S. MARTINEZ** shall forfeit to the United States any property, real or personal, which constitutes or is derived from proceeds traceable to the bribery conspiracy, including but not limited to the following:

**1. MONEY JUDGMENT:**

A sum of money representing proceeds obtained as a result of the bribery conspiracy, for which the defendants shall be jointly and severally liable, to be reduced by any assets forfeited as directly traceable asset.

**2. SUBSTITUTE ASSETS**

Pursuant to Title 21, United States Code, Section 853(p), as incorporated by 18 U.S.C. § 982(b), the defendant shall forfeit substitute property, up to the value of the amount described in paragraph one, if, by any act or omission of the defendant, the property described in paragraph one, or any portion thereof, cannot be located upon the exercise of due diligence; has been transferred or sold to, or deposited with, a third party; has been placed beyond the jurisdiction of the court; has been substantially diminished in value; or has been commingled with other property which cannot be divided without difficulty, including but not limited to:

a. **REAL PROPERTY:**

- i. Real property commonly known as 12248 E. Kalil Dr, Scottsdale, Arizona, together with all appurtenances, improvements, and attachments thereon, more particularly described as follows, to-wit:

Lot 13, SONORAN ARROYOS NORTH, PHASE ONE, according to Book 367 of Maps, Page 21 and Affidavits recorded in Document No. 95-0079096 and in Document No. 95-0177564, records of Maricopa County, Arizona

- ii. Real property commonly known as 12320 E. 111<sup>th</sup> St. North, Owasso, Oklahoma, together with all appurtenances, improvements, and attachments thereon, more particularly described as follows, to-wit:

Lot Three (3), Block Three (3), FOX MEADOW ESTATES, THIRD, an addition to Tulsa County, State of Oklahoma, according to the recorded plat thereof.

- iii. Real property located in Lincoln County, Wyoming, together with all appurtenances, improvements, and attachments thereon, more particularly described as follows, to-wit:

Lot 46 of Star Valley Ranch Plat 18, Lincoln County, Wyoming as described on the official plat thereof.

All in accordance with Title 18, United States Code, Section 981 and Title 28 United States Code, Section 2461(c) and Rule 32.2 of the Federal Rules of Criminal Procedure.

**COUNTS ELEVEN THROUGH TWENTY**  
**[18 U.S.C. § 666(a)(2)]**

1. The City was a local government and received federal assistance in excess of \$10,000 in a one-year period.

2. As specified below for Counts Eleven through Twenty, on or about the dates listed in the table below, in the Northern District of Oklahoma, the Defendant, **MAX ELLIOT WOLF**, did corruptly give, offer, and agree to give, things of value described below, to Albert S. Martinez, an agent of a local government, the City, intending to influence and reward Albert S. Martinez in connection with any business, transaction, and series of transactions of the City involving \$5,000 or more, to-wit: the public construction projects set forth in the table below.

| COUNT | DATE              | THING OF VALUE                             | PROJECT NUMBER    | AMOUNT OF PAYMENT |
|-------|-------------------|--|-------------------|-------------------|
| 11    | October 14, 2005  | Horizon Construction<br>Check Number 33134 | 994178            | \$15,478.77       |
| 12    | December 26, 2006 | Horizon Construction<br>Check Number 36061 | 014160            | \$18,810.67       |
| 13    | January 12, 2007  | Horizon Construction<br>Check Number 36062 | 014160            | \$18,810.67       |
| 14    | July 2, 2007      | Horizon Construction<br>Check Number 37055 | 014170            | \$13,035.51       |
| 15    | April 9, 2007     | Horizon Construction<br>Check Number 38818 | 054230/<br>054231 | \$24,687.94       |
| 16    | April 28, 2007    | Horizon Construction<br>Check Number 38945 | 054467            | \$10,645.82       |
| 17    | July 2, 2008      | Horizon Construction<br>Check Number 39336 | 054032            | \$14,839.51       |
| 18    | July 28, 2008     | Horizon Construction<br>Check Number 39503 | 964106            | \$23,509.20       |
| 19    | August 18, 2008   | Horizon Construction<br>Check Number 39637 | 964106            | \$23,509.20       |
| 20    | September 5, 2008 | Horizon Construction<br>Check Number 39755 | 964106            | \$23,509.20       |

All in violation of Title 18, United States Code Section 666(a)(2).

**COUNTS TWENTY-ONE THROUGH THIRTY**  
**[18 U.S.C. § 1956(a)(1)(B)(i) and 18 U.S.C. § 2]**

1. The allegations contained in Paragraphs 9 and 10 of Counts One through Six of this Indictment are realleged, adopted, and incorporated by reference as though fully set forth herein.

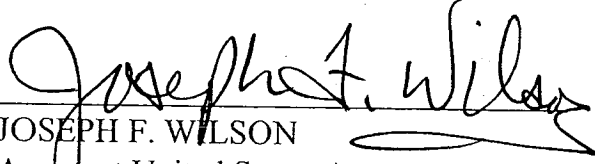
2. As specified below for Counts Twenty-One through Thirty, on or about the dates listed in the table below, in the Northern District of Oklahoma, the Defendant, **MAX ELLIOT WOLF**, did knowingly conduct and attempt to conduct financial transactions affecting interstate commerce, to-wit: the transfer, delivery, and other disposition of the Horizon Construction Company, Inc., checks, identified by number in the table below, drawn on an account number XX6144 at First Bank of Owasso, a financial institution engaged in and the activities of which affected interstate commerce, which involved the proceeds of a specified unlawful activity, that is wire fraud, as provided in Title 18, United States Code, Section 1956(c)(7)(A), incorporating Title 18, United States Code, Section 1961(1), knowing that the transactions were designed in whole and in part to conceal and disguise the nature and source of the proceeds of said specified unlawful activity, and that while conducting and attempting to conduct such financial transactions, knew that the property involved in the financial transactions, that is monetary instruments in the amounts as stated in the table below, represented the proceeds of some form of unlawful activity, to-wit:

| COUNT | DATE              | HORIZON<br>CONSTRUCTION<br>CHECK NUMBER | AMOUNT OF<br>MONETARY<br>INSTRUMENT |
|-------|-------------------|---|-------------------------------------|
| 21    | October 14, 2005  | 33134                                   | \$15,478.77                         |
| 22    | December 26, 2006 | 36061                                   | \$18,810.67                         |
| 23    | January 12, 2007  | 36062                                   | \$18,810.67                         |
| 24    | July 2, 2007      | 37055                                   | \$13,035.51                         |
| 25    | April 9, 2007     | 38818                                   | \$24,687.94                         |
| 26    | April 28, 2007    | 38945                                   | \$10,645.82                         |
| 27    | July 2, 2008      | 39336                                   | \$14,839.51                         |
| 28    | July 28, 2008     | 39503                                   | \$23,509.20                         |
| 29    | August 18, 2008   | 39637                                   | \$23,509.20                         |
| 30    | September 5, 2008 | 39755                                   | \$23,509.20                         |

All in violation of Title 18, United States Code, Section 1956(a)(1)(B)(i) and Title 18,  
United States Code, Section 2.

DAVID E. O'MEILIA  
UNITED STATES ATTORNEY

A TRUE BILL

  
JOSEPH F. WILSON  
Assistant United States Attorney

/s/ Grand Jury Foreperson  
Grand Jury Foreperson