

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

FILED - GR
November 30, 2016 10:15 AM
CLERK OF COURT
U.S. DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
BY: mkc / Scanned 11/30/16

UNITED STATES OF AMERICA,

Plaintiff,

v.

JERRY LEE AKERS,

Defendant.

1:16-cr-226
Paul L. Maloney
United States District Judge

FELONY INFORMATION

The United States Attorney charges:

(Conspiracy to Commit Mail Fraud and Wire Fraud)

From in or about June 2010, to in or about July 2015, in Ottawa County, in the Southern Division of the Western District of Michigan,

JERRY LEE AKERS

did conspire with another person (“the co-conspirator”) whose identity is known to the United States Attorney to devise a scheme and artifice to defraud and to obtain money from Herman Miller, Inc. (“HMI”) by means of false and fraudulent pretenses, representations, and promises delivered through the United States mail and transmitted by means of wire communication in interstate commerce.

OBJECT OF THE CONSPIRACY

The principal object of the conspiracy was to obtain money belonging to HMI by means of false and fraudulent pretenses and representations to unlawfully enrich themselves.

MANNER AND MEANS OF THE CONSPIRACY

1. In furtherance of the conspiracy and to effect the object thereof, Defendant and the co-conspirator knowingly and voluntarily agreed with each other to devise and execute a scheme

and artifice to defraud HMI to obtain money by means of false and fraudulent pretenses and representations.

2. Defendant was employed by HMI as a Senior Energy Manager and Facilities Engineer in Plant Engineering Services. Defendant was responsible for HMI's energy-related programs, including the coordination of its natural gas energy requirements. In or about June 2010, Defendant devised a scheme to defraud HMI of money. The scheme consisted of, among other acts:

- a. Advising the co-conspirator to create a company to facilitate entering into an agreement with HMI to ostensibly provide natural gas nomination, balancing, and transportation services;
- b. Drafting a document, entitled "Supplier Maintenance Form," to facilitate the co-conspirator's ability to invoice HMI for natural gas services;
- c. Drafting and signing documents for gas sales and delivery to four different HMI locations by the co-conspirator's company; and
- d. Providing the co-conspirator with data and other information to assist him with creating false and fraudulent invoices claiming payment for gas services that were never actually rendered by the co-conspirator's company.

3. It was further part of the conspiracy that the co-conspirator submitted materially false and fraudulent invoices to HMI using electronic mail communications. By executing the scheme and artifice to defraud, Defendant and the co-conspirator caused HMI to send payments by U.S. Mail to the co-conspirator in the amounts requested in the false and fraudulent invoices. Between June 2010 and July 2015, when the contract was terminated by HMI, the scheme generated approximately \$1,772,726 in payments to the co-conspirator's company. From time to

time throughout the course of the conspiracy, Defendant obtained cash payments from the co-conspirator.

4. In truth, as Defendant well knew, the co-conspirator never provided any natural gas services to HMI as falsely represented in the invoices. All of the invoices electronically submitted to HMI for payment by the co-conspirator were false and fraudulent, and all of the payments mailed by HMI to the co-conspirator constitute illegal proceeds of the conspiracy.

18 U.S.C. § 1349

18 U.S.C. § 1341

18 U.S.C. § 1343

FORFEITURE ALLEGATION
(Conspiracy to Commit Mail Fraud and Wire Fraud)

The allegations contained in this Information are hereby re-alleged and incorporated by reference for the purpose of alleging forfeitures pursuant to 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c).

Pursuant to 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c), upon conviction of conspiracy to commit mail fraud and wire fraud in violation of 18 U.S.C. § 1349 as set forth above, the defendant,

JERRY LEE AKERS,

shall forfeit to the United States any property, real or personal, which constitutes or is derived from proceeds traceable to the violation. The property to be forfeited includes the following:

1. MONEY JUDGMENT: A sum of money equal to approximately \$1,772,726, which represents the proceeds the defendant obtained from the offense charged in the Information.

2. SUBSTITUTE ASSETS: If any of the property described above, as a result of any act or omission of the defendant:

- 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,

the United States of America shall be entitled to forfeiture of substitute property pursuant to

21 U.S.C. § 853(p), as incorporated by 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c).

18 U.S.C. § 981(a)(1)(C)

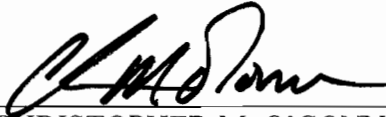
28 U.S.C. § 2461(c)

21 U.S.C. § 853(p)

18 U.S.C. § 1349

PATRICK A. MILES, JR.
United States Attorney

Dated: November 30, 2016


CHRISTOPHER M. O'CONNOR
Assistant United States Attorney