



Department of Justice



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FOR IMMEDIATE RELEASE

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PRESS RELEASE

**CONSTRUCTION GIANT LEND LEASE (f/k/a BOVIS) CHARGED WITH
DEFRAUDING CLIENTS IN THREE SEPARATE SCHEMES – WILL PAY OVER \$50
MILLION AND INSTITUTE COMPREHENSIVE REFORMS**

**Former Principal in Charge of Bovis's New York
Office Pleads Guilty to Fraud Charge – Faces up to 20 Years in Prison**

Earlier today, the U.S. Attorney's Office for the Eastern District of New York filed fraud charges against the construction firm Lend Lease (US) Construction LMB Inc. (formerly Bovis Lend Lease LMB Inc.) ("Bovis") and James Abadie, the former Principal in Charge of Bovis's New York office. Abadie pled guilty this morning in United States District Court to conspiring to commit mail and wire fraud by fraudulently overbilling Bovis's clients for over a decade. Also this morning, Bovis entered into a deferred prosecution agreement with the U.S. Attorney's Office for the Eastern District of New York and the New York County District Attorney's Office in which Bovis admitted to fraudulently overbilling clients for over 10 years. Bovis also admitted defrauding two of its public clients by falsely misrepresenting the work performed by its minority business enterprise partners, thus fraudulently obtaining payments on lucrative contracts. The deferred prosecution agreement requires Bovis to pay up to \$56 million in penalties to the federal government and restitution to victims, and to institute far-reaching corporate reforms designed to eliminate future problems and enforce best industry practices.

The charges and dispositions were announced by: Loretta E. Lynch, United States Attorney for the Eastern District of New York; Cyrus R. Vance, Jr., District Attorney, New York County; Janice K. Fedarczyk, Assistant Director in Charge, Federal Bureau of Investigation; Robert E. Van Etten, Inspector General, The Port Authority of New York and New Jersey, Office of the Inspector General; Brian D. Miller, Inspector General, General Services Administration, Office of the Inspector General; Robert L. Panella, Special Agent in Charge, Department of

Labor, Office of Inspector General; and Rose Gill Hearn, Commissioner of the New York City Department of Investigation.

Bovis is one of the largest construction firms operating in New York City. Bovis provides construction, project management and consulting services on large-scale public and private construction projects. Bovis is a U.S. subsidiary of the company Lend Lease Corporation Limited (“Lend Lease”), which, as of 2009, operated in over 40 countries in Asia and Europe, as well as in Australia and the United States. Bovis’s New York office is its largest. In 2008, Bovis employed over 1,000 people in the United States, with the majority working in the New York office.

The Overbilling Scheme

As alleged in the felony information filed in court today (the “Bovis Information”), Bovis intentionally and fraudulently billed clients, from at least 1999 to 2009, for hours that were not worked by labor foremen from Local 79 Mason Tenders’ District Council of Greater New York (“Local 79”). Bovis systematically added one to two hours of unworked overtime per day to the time sheets for labor foremen. Bovis also systematically completed and submitted time sheets falsely listing unworked hours as worked when labor foremen were absent for sick days, major holidays and weeks of vacation. Bovis fraudulently billed its clients for this unworked time and, on public projects, falsely submitted certified payrolls, defrauding taxpayers. Finally, Bovis made extra, undisclosed lump sum and stipend payments to a select group of labor foremen and billed those payments to clients as well. The clients were unaware of these practices. Pursuant to the deferred prosecution agreement, Bovis has admitted all of the allegations in the Bovis Information.

As alleged in a separate felony information also filed in court today (the “Abadie Information”), defendant James Abadie played a critical role in executing Bovis’s overbilling practices when he served as the Principal in Charge of Bovis’s New York office from 2002 to June 2009, and as the General Superintendent at Bovis prior to 2002. As Principal in Charge, all aspects of project operations and union labor issues fell under Abadie’s supervision. As the General Superintendent for Bovis, Abadie personally oversaw the day-to-day field operations on all projects and had extensive involvement with managing union labor. While in both positions, Abadie explicitly and fraudulently directed his subordinates to carry out the practice of adding unworked hours to labor foremen’s time sheets, knowing that these unworked hours were billed to clients who were unaware that they were the victims of fraud. Abadie pled guilty to the mail and wire fraud conspiracy charged in the Abadie Information.

Abadie and Bovis employed the fraudulent overbilling scheme across the broad spectrum of Bovis’s projects in the New York metropolitan area, including some of the area’s most important, large-scale public and private construction projects. Affected projects included: the United States Post Office/Bankruptcy Court in Brooklyn, New York; the Bronx Criminal Courthouse in the Bronx, New York; Grand Central Terminal; the Deutsche Bank building deconstruction in New York, New York; Citifield in Queens, New York; and the very United States Courthouse in which Bovis was charged and Abadie pled guilty this morning.

The Minority Business Enterprise Schemes

Bovis was also charged today with defrauding the Dormitory Authority of the State of New York (“DASNY”) with respect to the Minority Business Enterprise (“MBE”) requirements on the Bronx Criminal Courthouse construction project, and the New Jersey Schools Development Authority (“NJSDA”) and its predecessor organizations with respect to MBE requirements on school construction projects. Earlier today, Bovis admitted engaging in these MBE fraud schemes.

MBE programs are affirmative-action programs designed to increase the participation of small construction firms and firms owned by women or minorities on public construction projects. New York and New Jersey set goals for the percentage of work to be awarded to MBEs on a particular project. In order to win bids on public projects, Bovis agreed to comply with the MBE program goals. The Bovis Information filed today alleges that on two separate projects Bovis falsely represented that certified MBEs were performing work and fraudulently counted that work towards its required MBE participation goals when Bovis, not the MBE, was actually performing that work.

The Bovis Information alleges that in 2000, Bovis told DASNY, which had responsibility for the Bronx Criminal Courthouse construction project, that H.J. Russell & Company (“HJR”), an MBE, would perform 100 percent of Bovis’s general conditions contract¹ work that involved union labor, thereby substantially satisfying Bovis’s MBE requirements. Over the course of the project, Bovis falsely informed DASNY in writing every month that HJR was performing the general conditions contract work as promised. In reality, Bovis secretly performed the work itself by directly managing the union labor that was supposed to be employed and supervised by HJR, and relegated HJR’s role to a mere pass-through, thereby fraudulently enabling Bovis to get false credit for compliance with its MBE obligations and get paid for its work on the project. Bovis placed many of its long-term union workers on HJR’s payroll, hired other union labor that was then placed on HJR’s payroll, supervised and directed the union workers itself, and made all important decisions. HJR’s only function with respect to the general conditions union labor work was to provide paychecks for work performed by, or at the direction of, Bovis personnel.

Similarly, in 2001, Bovis told the NJSDA and its predecessors that Imperial Construction Group, Inc., and Imperial Architectural Group (collectively “Imperial”) and Qualified Women/Minorities in Construction (“QWIC”) would satisfy Bovis’s obligation to have MBEs perform 25 percent of Bovis’s project management contract on the Abbott Schools Program in New Jersey. Over the course of the project, Bovis falsely informed the NJSDA in written progress reports that employees of these MBEs were performing work as Bovis had promised and

¹ The “general conditions” contract included the infrastructure costs of the construction project not covered by the trade contracts, such as daily trash removal and operation of the elevators and hoists on the construction site, as well as certain union labor, including workers from Local 79.

the contract required, when in fact Bovis itself secretly performed this work and relegated the roles of the MBEs to mere pass-throughs. This fraud enabled Bovis to get false credit for compliance with its MBE obligations and to get paid for its work on the projects. During the course of the project, Bovis directed Imperial and QWIC to hire various individuals, some of whom were friends or relatives of Bovis employees. Some Bovis employees were also transferred to the MBEs' payrolls. Although these employees received paychecks from the MBEs, their work was directed by Bovis, they had Bovis identification and business cards, and they often had little or no contact with the MBEs while working on the project. In March 2004, Bovis and Imperial entered into two "Staffing Secondment Agreements," pursuant to which fourteen Bovis employees were "transferred" to Imperial for a period of ten to twelve months. As part of these contracts, the employees remained on Bovis's payroll but were mischaracterized as employees of Imperial to improperly enable Bovis to count these employees toward its MBE obligations.

The Guilty Plea and Deferred Prosecution Agreement

Pursuant to the guilty plea entered this morning, the defendant James Abadie faces a maximum sentence of 20 years' imprisonment and a fine of \$250,000 or the greater of twice the gross gain or loss from the fraudulent conduct.

Pursuant to the deferred prosecution agreement filed in court today, Bovis has admitted and accepted responsibility for its crimes, has agreed to pay up to \$56.6 million in penalties to the federal government and restitution to victims, has agreed to continue to cooperate with the government, and has agreed to institute far-reaching corporate compliance reforms. With respect to the financial aspects of the agreement, \$40.5 million represents a penalty to be paid by Bovis to the federal government in three installments over two years; up to \$13.6 million in restitution will be afforded to all victims of the overbilling scheme; and \$2.5 million in restitution will be paid to the victims of the MBE schemes.

The deferred prosecution agreement also requires Bovis to institute comprehensive corporate reforms with respect to its billing practices and its participation in MBE programs. To begin, Bovis has created the position of Ethics and Compliance Officer, as well as a Regional Risk and Compliance Committee, to oversee its corporate reforms and compliance with the agreement.

In order to ensure that only hours being worked are being recorded on time sheets and billed to clients, Bovis has revised its policies to require (1) that each individual worker certify the accuracy of all hours recorded on his or her time sheet; (2) require multiple layers of supervisory review of the time sheets to verify the accuracy of the time sheets; and (3) maintain daily records for cross-referencing purposes, so as to independently verify the accuracy of the time sheets. To verify that the union time sheet recording and billing procedures are being followed at all levels, Bovis will maintain a full-time auditor in the New York office who will utilize site visits, spot audits and regular review of union hours.

In order to ensure compliance with MBE programs, Bovis will create a MBE liaison position based in the New York office, whose function is to actively ensure that Bovis is meeting its federal, state and local MBE obligations. The MBE liaison will regularly meet with federal, state and local agencies to discuss the agencies' expectations and implementation of the MBE programs on a project-by-project basis. Furthermore, the MBE liaison will play an active role in the process by which Bovis engages qualified MBEs and uses best efforts to verify that each MBE is capable of performing its subcontracts and provides a commercially useful function.

"Through this deliberate scheme of billing clients for work not done, Bovis deceived their customers and stole taxpayer dollars. They also abused a program - designed to benefit and train minority contractors - for their own profit motive. Today's charges, guilty plea and settlement mark a significant step in our effort to eliminate fraud in the construction industry in New York City. Our investigation of the industry continues, and the resolution we reached today should send a very clear message," stated United States Attorney Lynch. "Given the public nature of many of these projects, we must ensure that taxpayers get their money's worth and that the industry complies with the law. The defense of 'everyone does it' will not be a shield against law enforcement." Ms. Lynch expressed her grateful appreciation to the investigating agencies.

FBI Assistant Director-in-Charge Fedarcyk stated, "Today's proceedings mark the culmination of a three-year investigation into a systemic pattern of audacious fraud by one of the world's largest construction firms. The overbilling fraud affected city, state and federal public building projects. If you are a New York City resident, Bovis indirectly swindled you on three different levels. Whether projects are publicly or privately funded, padding contracts and skirting the law are crimes. And we are watching."

Port Authority Inspector General Van Etten stated, "I commend United States Attorney Loretta Lynch and her staff for spearheading this prosecution and thorough investigation that now brings this conspiracy out of the shadows and into the light. Bovis's conduct, as outlined in the Deferred Prosecution Agreement and Information, has gone on for nearly a decade unchecked. Under-the-table deals with employees, at the cost of clients, that continue to plague the regional construction industry are simply unacceptable. This investigation reminds us how both the government and private sectors must remain vigilant in monitoring the conduct of contractors.

Equally egregious was Bovis's manipulation of minority and women-owned businesses. The goal of M/WBE programs is to provide valuable opportunities for smaller disadvantaged businesses to gain market share, not to fill the coffers of multi-national corporations."

"Today's guilty plea by Mr. Abadie and the multi-million dollar settlement by Bovis puts an end to a fraud scheme to overbill various construction contracts, including taxpayer-funded public works contracts throughout New York City, for bogus overtime hours by Bovis's labor foremen. We will continue to work with our law enforcement partners to vigorously investigate such crimes related to the nation's unions, workers and public contracts," said Special Agent-in-Charge Panella, New York Regional Office of the U.S. Department of Labor's Office of Inspector General, Office of Labor Racketeering and Fraud Investigations.

The government's case is being prosecuted by Assistant United States Attorneys Sarah Coyne and Stephen Meyer.

This case was brought in coordination with President Barack Obama's Financial Fraud Enforcement Task Force. President Obama established the interagency Task Force to wage an aggressive, coordinated and proactive effort to investigate and prosecute financial crimes. The Task Force includes representatives from a broad range of federal agencies, regulatory authorities, inspectors general, and state and local law enforcement who, working together, bring to bear a powerful array of criminal and civil enforcement resources. The Task Force is working to improve efforts across the federal executive branch, and with state and local partners, to investigate and prosecute significant financial crimes, ensure just and effective punishment for those who perpetrate financial crimes, combat discrimination in the lending and financial markets, and recover proceeds for victims of financial crimes.

The Defendant:

Name: JAMES ABADIE

Age: 55