

**IN THE DISTRICT COURT OF THE UNITED STATES
for the Western District of New York**

MAY 2007 GRAND JURY
(Impaneled 5/04/07)

THE UNITED STATES OF AMERICA

v.

CARL A. LARSON [1]
(Counts 1, 2, 3, 4, 6, 8),
JAMES L. MINTER III [2]
(Counts 1, 2, 4, 6, 7),
MARK N. KIRSCH [3]
(Counts 1, 2, 6, 7),
GERALD H. FRANZ, JR. [4]
(Counts 1, 2, 4, 8),
JEFFREY A. PETERSON [5]
(Counts 1, 2, 4, 5, 6),
GERALD E. BOVE [6]
(Counts 1, 2, 5),
MICHAEL J. CAGGIANO [7]
(Counts 2, 3),
JEFFREY C. LENNON [8]
(Counts 1, 2),
KENNETH EDBAUER [9]
(Counts 1, 2),
GEORGE DEWALD [10]
(Counts 1, 2, 4, 6),
MICHAEL J. EDDY [11]
(Counts 1, 2, 6, 7), and
THOMAS FREEDENBERG [12]
(Counts 2, 8).

**SUPERSEDING
INDICTMENT**

07-CR-304-S

Violations:

18 U.S.C. § 1962(d)
(Racketeering Conspiracy)
18 U.S.C. § 1963
(Racketeering Forfeiture)
18 U.S.C. § 1951(a)
(Hobbs Act Attempted
Extortion and Conspiracy)
18 U.S.C. § 2
(Aiding and Abetting)

(8 Counts and Forfeiture)

COUNT 1

(RACKETEERING CONSPIRACY)

The Grand Jury Charges that:

INTRODUCTION

At all times material to Count 1:

A. The Enterprise

1. There existed in the Western District of New York, and elsewhere, an "Enterprise" as that term is defined in Title 18, United States Code, Section 1961(4); namely, a labor union and a group of individuals associated in fact. The Enterprise consisted of a labor union known as the International Union of Operating Engineers, Local 17, AFL-CIO (hereinafter, Local 17), a labor organization as defined under the Labor Management Relations Act, Title 29, United States Code, Section 152(5), with principal offices located at 5959 Versailles Road, Lakeview, New York 14085, and defendants **CARL A. LARSON, JAMES L. MINTER III, MARK N. KIRSCH, GERALD H. FRANZ, JR., JEFFREY A. PETERSON, GERALD E. BOVE, JEFFREY C. LENNON, KENNETH EDBAUER, GEORGE DEWALD, and MICHAEL J. EDDY**, and others, known and unknown to the grand jury, who were associated in fact and will be hereinafter referred to as the **Local 17 Criminal Enterprise**. From on or about January 1, 1997, to on or about December, 2007, the exact dates being to the grand jury unknown,

the **Local 17 Criminal Enterprise** functioned as a continuing unit **for a common purpose** to achieve shared objectives as set forth below. The **Local 17 Criminal Enterprise** was engaged in, and its activities affected, interstate commerce.

B. Roles of the Defendants

2. Defendant **CARL A. LARSON** was a primary figure within the **Local 17 Criminal Enterprise** and a member of Local 17. **LARSON** has held the position of Organizer within Local 17 since 2001.

3. Defendant **JAMES L. MINTER III** was a primary figure within the **Local 17 Criminal Enterprise** and a member of Local 17. **JAMES L. MINTER III** has held the positions of Trustee and Organizer within Local 17 since at least 2001.

4. Defendant **MARK N. KIRSCH** was a primary figure within the **Local 17 Criminal Enterprise** and a member of Local 17. **KIRSCH** is currently the President and Business Manager for Local 17 and has held those positions continuously since 1997.

5. Defendant **GERALD H. FRANZ, JR.** was a primary figure within the **Local 17 Criminal Enterprise** and a member of Local 17.

Since at least 2000, **FRANZ** has held a variety of management positions within Local 17 including the positions of Trustee, Organizer, Business Representative and Treasurer.

6. Defendant **JEFFREY A. PETERSON** was a member of Local 17 who also occupied positions of influence within the **Local 17 Criminal Enterprise**, including, Guard, Organizer, Financial Secretary and Business Representative since at least 2000.

7. Defendant **GERALD E. BOVE** was a member of Local 17 who also occupied positions of influence within the **Local 17 Criminal Enterprise**, including, Vice President and Business Representative from at least 2000 through his retirement in 2004.

8. Defendants **JEFFREY LENNON, KENNETH EDBAUER, GEORGE DEWALD**, and **MICHAEL J. EDDY**, were all members of Local 17 and were all associated with the **Local 17 Criminal Enterprise**.

9. The defendants, as a group, were willing to engage in, among other things, acts and threats of violence against persons, and sabotage and destruction of property on construction projects in Western New York. These criminal acts were perpetrated by the defendants upon a number of victims including persons and

businesses conducting construction projects in the Western District of New York.

C. Objectives of the Local 17 Criminal Enterprise

10. The objectives of the **Local 17 Criminal Enterprise** included attempts to obtain by extortion the following:

a. Property of construction contractors consisting of wages and benefits to be paid pursuant to labor contracts with Local 17 at construction projects in Western New York.

b. Property of non-union construction laborers consisting of the jobs being performed by those non-union laborers and the wages and benefits associated with those jobs at construction projects in Western New York.

c. Property of construction contractors and businesses consisting of the right to make business decisions free from outside pressure at construction projects in Western New York.

d. Property of construction contractors consisting of wages and employee benefit contributions paid or to be paid by said contractors for unwanted, unnecessary, and superfluous labor.

D. Means and Methods of the Local 17 Criminal Enterprise

11. Among the means and methods by which the defendants and their associates agreed to conduct and participate in the conduct of the affairs of the **Local 17 Criminal Enterprise** were the following:

a. Members of the **Local 17 Criminal Enterprise** and their associates engaged in the wrongful use of actual and threatened force, violence and fear, including fear of economic harm resulting from actual and threatened physical violence to construction contractors, non-union construction laborers and their property, to accomplish the objectives of the **Local 17 Criminal Enterprise**, all of which affected interstate commerce.

b. Members of the **Local 17 Criminal Enterprise** and their associates promoted a climate of fear through violence and threats of violence to businesses, construction industry employers and employees.

c. Members of the **Local 17 Criminal Enterprise** and their associates used and threatened to use physical violence against businesses and numerous persons, including persons associated with

construction industry employers and employees and innocent bystanders.

d. Members of the **Local 17 Criminal Enterprise** and their associates destroyed and sabotaged, and threatened to destroy and sabotage, property and construction equipment, and to interrupt and impede the progress of construction projects.

e. Members of the **Local 17 Criminal Enterprise** and their associates promoted a climate of fear through violence, and threats of violence, against construction contractors in an effort to induce employers to pay wages and employee benefits pursuant to labor contracts with Local 17 for themselves and third persons.

f. Members of the **Local 17 Criminal Enterprise** and their associates promoted a climate of fear through violence, and threats of violence, against construction contractors in an effort to induce employers to pay wages and employee benefits for unwanted, unnecessary and superfluous labor by members of Local 17.

g. Members of the **Local 17 Criminal Enterprise** and their associates promoted a climate of fear through violence, and threats of violence, against non-union construction laborers working in Western New York, in an effort to induce employers to terminate

those non-union laborers in order to obtain the jobs being performed by those non-union laborers, the payment of wages and employee benefits associated with those jobs, for themselves and third persons.

h. Members of the **Local 17 Criminal Enterprise** and their associates promoted a climate of fear through violence, and threats of violence, against construction contractors and businesses in an effort to obtain the construction contractors' and businesses' right to make business decisions free from outside pressure at construction projects in Western New York.

E. Racketeering Conspiracy Charge

12. Beginning on or about January 1, 1997, the exact date being to the grand jury unknown, and continuing thereafter, up to and including on or about December, 2007, the exact dates being to the grand jury unknown, in the Western District of New York and elsewhere, the defendants, **CARL A. LARSON, JAMES L. MINTER III, MARK N. KIRSCH, GERALD H. FRANZ, JR., JEFFREY A. PETERSON, GERALD E. BOVE, JEFFREY C. LENNON, KENNETH EDBAUER, GEORGE DEWALD,** and **MICHAEL J. EDDY,** together and with others, both known and unknown, being persons employed by and associated with the **Local 17 Criminal Enterprise,** which was engaged in, and the activities of which

affected, interstate commerce, unlawfully and knowingly combined, conspired, confederated and agreed, together, with each other, and with others, to violate the provisions of Title 18, United States Code, Section 1962(c); that is, to conduct and participate, directly and indirectly, in the conduct of the affairs of the **Local 17 Criminal Enterprise** through a pattern of racketeering activity, as that term is defined in Title 18, United States Code, Sections 1961(1) and (5). The pattern of racketeering through which the defendants agreed to conduct the affairs of the enterprise consisted of the acts set forth in Racketeering Acts 1 through 11 of this Count, which are fully incorporated as if fully set forth herein.

13. It was a part of the conspiracy that during the aforesaid period, the defendants, **CARL A. LARSON, JAMES L. MINTER III, MARK N. KIRSCH, GERALD H. FRANZ, JR., JEFFREY A. PETERSON, GERALD E. BOVE, JEFFREY C. LENNON, KENNETH EDBAUER, GEORGE DEWALD,** and **MICHAEL J. EDDY,** together and with others, agreed that a conspirator employed by or associated with the **Local 17 Criminal Enterprise** would commit at least two acts of racketeering activity in the conduct of the affairs of the **Local 17 Criminal Enterprise.**

RACKETEERING ACT 1

**Attempted Extortion of STS Construction of Western New York and
its Employees**

Defendant **CARL A. LARSON** committed the following acts, either one of which alone constitutes the commission of Racketeering Act 1.

A. Attempted Extortion – Hobbs Act

Commencing in or about January, 1997, through and including May, 2003, the exact dates being to the grand jury unknown, in the Western District of New York, and elsewhere, the defendant, **CARL A. LARSON**, with others, known and unknown, did unlawfully obstruct, delay and affect interstate commerce and the movement of articles and commodities in interstate commerce, by extortion, and attempted to do so; that is, did attempt to obtain property of STS Construction of Western New York (hereinafter, "STS"), and its employees such property consisting of (i) STS' right to make business decisions free from outside pressure, (ii) wages and benefits to be paid by STS for unwanted, unnecessary, and superfluous labor, and (iii) STS's employees' jobs and associated wages and benefits, at several construction project locations, to include, among others: the Roswell Park Cancer Institute site, in Buffalo, New York; the Rath Building site, in Buffalo, New York;

the Buffalo Psychiatric Center site, in Buffalo, New York; the Army Corps of Engineers site, in Tonawanda, New York; and the General Motors Plant in the Town of Tonawanda, New York, with the consent of STS and its owner Timothy P. Such, agents, and employees induced by the wrongful use of actual and threatened force, violence and fear, including fear of economic harm resulting from actual and threatened physical violence to STS, its owner Timothy P. Such, and employees and their property, which is indictable as a violation of Title 18, United States Code, Sections 1951(a) and 2.

B. Attempted Extortion of STS and Employees – New York Penal Law

Commencing in or about January, 1997, through and including May, 2003, the exact dates being to the grand jury unknown, in the Western District of New York and elsewhere, the defendant, **CARL A. LARSON**, with others, known and unknown, with intent to appropriate and obtain property for themselves and third persons from STS and its owner Timothy P. Such, their operators, employees, and agents, such property consisting of (i) wages and benefits to be paid by STS pursuant to labor contracts with Local 17, and (ii) STS's employees' existing jobs and wages and benefits associated with those jobs; did wrongfully attempt to obtain such property from STS and its owner Timothy P. Such, their operators, employees, and agents, at several construction project locations, to include,

among others: the Roswell Park Cancer Institute site in Buffalo, New York; the Rath Building site in Buffalo, New York; the Buffalo Psychiatric Center site in Buffalo, New York; the Army Corps of Engineers site in Tonawanda, New York; and the General Motors Plant in the Town of Tonawanda, New York, by means of extortion, that is, by compelling and inducing and attempting to compel and induce STS and its owner Timothy P. Such, their operators, employees, and agents, to deliver said property to the defendant, and others, by means of instilling in STS and its owner Timothy P. Such, their operators, agents, and employees, a fear that if the property was not so delivered, the defendant and others would cause physical injury to some person in the future and cause damage to property, which is chargeable as a violation of New York State Penal Law Sections 155.05(2)(e)(i) and (ii), 155.40, 110.00, 110.05 and 20.00.

RACKETEERING ACT 2

Attempted Extortion of Zoladz Construction Company, Inc. and its Employees

The defendants, **JEFFREY A. PETERSON, CARL A. LARSON, JAMES L. MINTER III, GERALD H. FRANZ JR.,** and **GEORGE DEWALD** committed the following acts, either one of which alone constitutes the commission of Racketeering Act 2.

A. Attempted Extortion – Hobbs Act

Commencing in or about sometime in 2002, through and including about May 25, 2004, the exact dates being to the grand jury unknown, in the Western District of New York, and elsewhere, the defendants, **JEFFREY A. PETERSON, JAMES L. MINTER III, CARL A. LARSON, GERALD H. FRANZ JR.,** and **GEORGE DEWALD,** together and with others, known and unknown, did unlawfully obstruct, delay and affect interstate commerce and the movement of articles and commodities in interstate commerce, by extortion, and attempted to do so, that is, did attempt to obtain property of Zoladz Construction (hereinafter referred to as "Zoladz"), and its employees, such property consisting of (i) Zoladz's right to make business decisions free from outside pressure, (ii) wages and benefits to be paid by Zoladz for unwanted, unnecessary, and superfluous labor, and (iii) Zoldaz's employees' jobs and associated wages and benefits, at several construction project locations, to include, among others: 73 Tyler Street, Buffalo, New York; 216 Strauss Street, Buffalo, New York; 32 Wilson Street, Buffalo, New York; 841 Clinton Street, Buffalo, New York; and the Dunkirk landfill, Pomfret, New York, with the consent of Zoladz, its owners, agents, and employees, induced by the wrongful use of actual and threatened force, violence and fear, including fear of economic harm resulting from actual and threatened physical

violence to Zoladz, its owners, and employees and their property, which is indictable as a violation of Title 18, United States Code, Sections 1951(a) and 2.

B. Attempted Extortion – New York Penal Law

Commencing in or about sometime in 2002, through and including about May 25, 2004, the exact dates being to the grand jury unknown, in the Western District of New York, and elsewhere, the defendants, **JEFFREY A. PETERSON, CARL A. LARSON, JAMES L. MINTER III, GERALD H. FRANZ JR.,** and **GEORGE DEWALD,** together and with others, known and unknown, with intent to appropriate and obtain property for themselves and third persons from Zoladz, its owners, operators, employees, and agents, such property consisting of (i) wages and benefits to be paid by Zoldaz pursuant to labor contracts with Local 17, and (ii) Zoldaz's employees' existing jobs and wages and benefits associated with those jobs; did wrongfully attempt to obtain such property from Zoladz, its owners, operators, employees, and agents, at several construction project locations to include, among others: 73 Tyler Street, Buffalo, New York; 216 Strauss Street, Buffalo, New York; 32 Wilson Street, Buffalo, New York; 841 Clinton Street, Buffalo, New York; and the Dunkirk landfill, Pomfret, New York, by means of extortion; that is, by compelling and inducing, and attempting to compel and induce, Zoladz, its

owners, operators, employees, and agents, to deliver said property to the defendants, and others, by means of instilling in Zoladz, its owners, operators, employees, and agents, a fear that, if the property was not so delivered, the defendants and others would cause physical injury to some person in the future and cause damage to property, which is chargeable as a violation of New York State Penal Law Sections 155.05(2)(e)(i) and (ii), 155.40, 110.00, 110.05 and 20.00.

RACKETEERING ACT 3

Attempted Extortion of Waste Management and Marcy Excavation Company and Employees Relating to the Chaffee, New York Landfill Project

Defendants **GERALD E. BOVE** and **JEFFREY A. PETERSON** committed the following acts, either one of which alone constitutes the commission of Racketeering Act 3.

A. Attempted Extortion – Hobbs Act

Commencing in or about January, 2003, through and including in or about September, 2003, the exact dates being to the grand jury unknown, in the Western District of New York, and elsewhere, defendants **GERALD E. BOVE** and **JEFFREY A. PETERSON**, together and with others, known and unknown, did unlawfully obstruct, delay and affect interstate commerce and the movement of articles and

commodities in interstate commerce, by extortion, and attempted to do so, that is, did attempt to obtain property of Waste Management (hereinafter referred to as "WM"), Marcy Excavation Company (hereinafter, "Marcy") and its employees, such property consisting of (i) WM's and Marcy's right to make business decisions free from outside pressure, (ii) wages and benefits to be paid by Marcy for unwanted, unnecessary, and superfluous labor, and (iii) Marcy's employees' jobs and associated wages and benefits, at a landfill construction project in Chaffee, New York with the consent of WM, Marcy, their owners, agents, and employees induced by the wrongful use of actual and threatened force, violence and fear, including fear of economic harm resulting from actual and threatened physical violence to WM, Marcy, their owners, and employees and their property, which is indictable as a violation of Title 18, United States Code, Sections 1951(a) and 2.

B. Attempted Extortion – New York Penal Law

Commencing in or about January, 2003, through and including in or about September 2003, the exact dates being to the grand jury unknown, in the Western District of New York, and elsewhere, defendants **GERALD E. BOVE** and **JEFFREY A. PETERSON**, with others, known and unknown, with intent to appropriate and obtain property for themselves and third persons from Marcy, its owners, operators,

employees, and agents, such property consisting of (i) wages and benefits to be paid by Marcy pursuant to labor contracts with Local 17 and (ii) Marcy's employees' existing jobs and the payment of wages and benefits associated with those jobs; did wrongfully attempt to obtain such property from Marcy, its owners, operators, employees, and agents, at the Chaffee landfill construction project in Chaffee, New York, by means of extortion; that is, by compelling and inducing, and attempting to compel and induce, Marcy, its owners, operators, employees, and agents, to deliver said property to the defendants, and others, by means of instilling in Marcy, its owners, operators, employees, and agents, a fear that, if the property was not so delivered, the defendants and others would cause physical injury to some person in the future and cause damage to property, which is chargeable as a violation of New York State Penal Law Sections 155.05(2)(e)(i) and (ii), 155.40, 110.00, 110.05 and 20.00.

RACKETEERING ACT 4

**Attempted Extortion of Environmental Strategies and Ontario
Specialty Contracting and Employees
Relating to a Construction Clean-up Project at the
Former National Fuel Site in Buffalo, New York**

The defendants, **CARL A. LARSON, JAMES L. MINTER III, MARK N. KIRSCH, JEFFERY A. PETERSON, GEORGE DEWALD, and MICHAEL J. EDDY**

committed the following acts, either one of which alone constitutes the commission of Racketeering Act 4.

A. Attempted Extortion – Hobbs Act

Commencing in or about April 2005, through and including in or about November 2005, the exact dates being to the grand jury unknown, in the Western District of New York and elsewhere, the defendants, **CARL A. LARSON, JAMES L. MINTER III, MARK N. KIRSCH, JEFFERY A. PETERSON, GEORGE DEWALD,** and **MICHAEL J. EDDY,** together and with others, known and unknown, did unlawfully obstruct, delay and affect interstate commerce in the movement of articles and commodities in interstate commerce by extortion, and attempted to do so, that is, did attempt to obtain property of Environmental Strategies (hereinafter referred to as "ES"), Ontario Speciality Contracting (hereinafter, "OSC") and its employees, such property consisting of (i) ES's and OSC's right to make business decisions free from outside pressure (ii) wages and benefits to be paid by OSC for unwanted, unnecessary, and superfluous labor, and (iii) OSC's employees' jobs and associated wages and benefits, at a construction clean-up project at the former National Fuel site in Buffalo, New York, with the consent of ES, OSC, their owners, agents, and employees, induced by the wrongful use of actual and threatened force, violence and fear, including fear of economic

harm resulting from actual and threatened physical violence to ES, OSC, their owners, and employees and their property, which is indictable as a violation of Title 18, United States Code, Sections 1951(a) and 2.

B. Attempted Extortion – New York Penal Law

Commencing in or about April 2005, through and including in or about November 2005, the exact dates being to the grand jury unknown, in the Western District of New York and elsewhere, the defendants, **CARL A. LARSON, JAMES L. MINTER III, MARK N. KIRSCH, JEFFERY A. PETERSON, GEORGE DEWALD, and MICHAEL J. EDDY**, together and with others, known and unknown, with intent to appropriate and obtain property for themselves and third persons from OSC, its owners, operators, employees, and agents, such property consisting of (i) wages and benefits to be paid by OSC pursuant to labor contracts with Local 17 and (ii) OSC's employees existing jobs and the payment of wages and benefits associated with those jobs, did wrongfully attempt to obtain such property from OSC, its owners, operators, employees, and agents, at a construction clean-up project at the former National Fuel site in Buffalo, New York, by means of extortion; that is, by compelling and inducing, and attempting to compel and induce, OSC, its owners, operators, employees, and agents, to deliver said property to the defendants,

and others, by means of instilling in OSC, its owners, employees, operators and agents, a fear that, if the property was not so delivered, the defendants and others would cause physical injury to some person in the future and cause damage to property, which is chargeable as a violation of New York State Penal Law Sections 155.05(2)(e)(i) and (ii), 155.40, 110.00, 110.05 and 20.00.

RACKETEERING ACT 5

Attempted Extortion of Ecology & Environment and Earth Tech and Employees Relating to a Construction Project at the Fourth Street Remediation Site in Buffalo, New York

The defendants, **JAMES L. MINTER III**, **MARK N. KIRSCH**, and **MICHAEL J. EDDY**, committed the following acts, either one of which alone constitutes the commission of Racketeering Act 5.

A. Attempted Extortion – Hobbs Act

Commencing in or about April 2005, through and including in or about September 2005, the exact dates being to the grand jury unknown, in the Western District of New York and elsewhere, the defendants, **JAMES L. MINTER III**, **MARK N. KIRSCH**, and **MICHAEL J. EDDY**, together and with others, known and unknown, did unlawfully obstruct, delay and affect interstate commerce and the movement of articles and commodities in interstate commerce by extortion, and attempted to do so, that is, did attempt to obtain property of

Ecology & Environment (hereinafter referred to as "EE"), Earth Tech and its employees, such property consisting of (i) EE's and Earth Tech's right to make business decisions free from outside pressure, (ii) wages and benefits to be paid by Earth Tech for unwanted, unnecessary, and superfluous labor, and (iii) Earth Tech's employees' jobs and associated wages and benefits, at a construction project at the Fourth Street Remediation site in Buffalo, New York, with the consent of EE, Earth Tech, their owners, agents, and employees, induced by the wrongful use of actual and threatened force, violence and fear, including fear of economic harm resulting from actual and threatened physical violence to EE, Earth Tech, its owners, and employees and their property, which is indictable as a violation of Title 18, United States Code, Sections 1951(a) and 2.

B. Attempted Extortion – New York Penal Law

Commencing in or about April 2005, through and including in or about September 2005, the exact dates being to the grand jury unknown, in the Western District of New York and elsewhere, the defendants, **JAMES L. MINTER III**, **MARK N. KIRSCH**, and **MICHAEL J. EDDY**, together and with others, known and unknown, with intent to appropriate and obtain property for themselves and third persons from Earth Tech, its owners, operators, employees, and agents, such

property consisting of (i) wages and benefits to be paid by Earth Tech pursuant to labor contracts with Local 17; and (ii) Earth Tech's employees' existing jobs and wages and benefits associated with those jobs; did wrongfully attempt to obtain such property from Earth Tech, its owners, operators, employees, and agents, at a construction project at the Fourth Street Remediation site in Buffalo, New York, by means of extortion; that is, by compelling and inducing, and attempting to compel and induce, Earth Tech, its owners, operators, employees, and agents, to deliver said property to the defendants, and others, by means of instilling in Earth Tech, its owners, operators, employees, and agents, a fear that, if the property was not so delivered, the defendants and others would cause physical injury to some person in the future and cause damage to property, which is chargeable as a violation of New York State Penal Law Sections 155.05(2)(e)(i) and (ii), 155.40, 110.00, 110.05 and 20.00.

RACKETEERING ACT 6

**Attempted Extortion of Ingalls Site Development and
Employees Relating to a Construction Project on
Delaware Avenue in Buffalo, New York**

Attempted Extortion – New York Penal Law

Commencing in or about March 2006, through and including in or about June 2006, the exact dates being to the grand jury unknown,

in the Western District of New York and elsewhere, the defendants, **JEFFREY C. LENNON** and **KENNETH EDBAUER**, together and with others, known and unknown, with intent to appropriate and obtain property for themselves and third persons from Ingalls, its owners, operators, employees, and agents, such property consisting of (i) wages and benefits to be paid by Ingalls pursuant to labor contracts with Local 17; and (ii) Ingalls' employees existing jobs and wages and benefits associated with those jobs; did wrongfully attempt to obtain such property from Ingalls, its owners, operators, employees, and agents, at a construction project on Delaware Avenue in Buffalo, New York, by means of extortion; that is, by compelling and inducing, and attempting to compel and induce, Ingalls, its owners, operators, employees, and agents, to deliver said property to the defendants, and others, by means of instilling in Ingalls, its owners, operators, employees, and agents, a fear that, if the property was not so delivered, the defendants and others would cause physical injury to some person in the future and cause damage to property, which is chargeable as a violation of New York State Penal Law Sections 155.05(2)(e)(i) and (ii), 155.40, 110.00, 110.05 and 20.00.

RACKETEERING ACT 7

Attempted Extortion of H.G. Spicer & Sons, Inc. and
Employees Relating to a Construction Project
at Buffalo State College, Buffalo, New York

Attempted Extortion – New York Penal Law

In or about March 2001 through May 2001, the exact dates being to the grand jury unknown, in the Western District of New York and elsewhere, defendant **GERALD E. BOVE**, with others, known and unknown, with intent to appropriate and obtain property for themselves and third persons from H.G. Spicer and Sons, Inc. (hereinafter referred to as "Spicer"), its owners, operators, employees, and agents, such property consisting of (i) wages and benefits to be paid by Spicer pursuant to labor contracts with Local 17; and (ii) Spicer's employees' existing jobs and wages and benefits associated with those jobs, did wrongfully attempt to obtain such property from Spicer, its owners, operators, employees, and agents, at a construction project at Buffalo State College in Buffalo, New York, by means of extortion; that is, by compelling and inducing, and attempting to compel and induce, Spicer, its owners, operators, employees, and agents, to deliver said property to the defendants, and others, by means of instilling in them a fear that, if the property was not so delivered, the defendant and others would cause physical injury to some person in the future and cause damage to property, which is chargeable as a violation of New

York State Penal Law Sections 155.05(2)(e)(i) and (ii), 155.40, 110.00, 110.05 and 20.00.

RACKETEERING ACT 8

**Attempted Extortion of C.O. Falter Construction and Employees
Relating to a Construction Project
at the Bird Island Treatment Plant**

Attempted Extortion – New York Penal Law

In or about November 2002, the exact dates being to the grand jury unknown, in the Western District of New York and elsewhere, defendant **GERALD H. FRANZ, JR.**, with others, known and unknown, with intent to appropriate and obtain property for themselves and third persons from C.O. Falter Construction Company (hereinafter referred to as "Falter"), its owners, operators, and employees, agents, such property consisting of (i) wages and benefits to be paid by Falter pursuant to labor contracts with Local 17; and (ii) Falter's employees' existing jobs and wages and benefits associated with those jobs; did wrongfully attempt to obtain such property from Falter, its their owners, operators, agents, and employees, at a construction project at the Bird Island Treatment Plant, by means of extortion; that is, by compelling and inducing, and attempting to compel and induce, Falter, its owners, operators, employees, and agents, to deliver said property to the defendants, and others, by means of instilling in them a fear that, if the property was not so

delivered, the defendant and others would cause physical injury to some person in the future and cause damage to property, which is chargeable as a violation of New York State Penal Law Sections 155.05(2)(e)(i) and (ii), 155.40, 110.00, 10.05 and 20.00.

RACKETEERING ACT 9

**Attempted Extortion of Tom Greenauer Development, Inc. (TGDI)
and Employees Relating to a Construction Project
at the Ralph Wilson Stadium Renovation Project**

Attempted Extortion – New York Penal Law

In or about January 1999, the exact dates being to the grand jury unknown, in the Western District of New York and elsewhere, defendant **MARK N. KIRSCH**, with others, known and unknown, with intent to appropriate and obtain property for themselves and third persons from Tom Greenauer Development Inc. (hereinafter referred to as "TGDI"), its owners, operators, employees, and agents, such property consisting of (i) wages and benefits to be paid by TGDI pursuant to labor contracts with Local 17; and (ii) TGDI's employees existing jobs and wages and benefits associated with those jobs; did wrongfully attempt to obtain such property from TGDI, its owners, operators, employees, and agents, at a renovation project at the Ralph Wilson Stadium renovation project, by means of extortion; that is, by compelling and inducing, and attempting to compel and induce, TGDI, its owners, operators, employees, and

agents, to deliver said property to the defendants, and others, by means of instilling in them a fear that, if the property was not so delivered, the defendant and others would cause physical injury to some person in the future and cause damage to property, which is chargeable as a violation of New York State Penal Law Sections 155.05(2)(e)(i) and (ii), 155.40, 110.00, 110.05 and 20.00.

RACKETEERING ACT 10

Attempted Extortion of Wadsworth Golf Construction (WGC) and Employees Relating to a Construction Projects in Orchard Park and Cheektowaga, New York

The defendants, **CARL A. LARSON** and **GERALD H. FRANZ, JR.**, committed the following acts, either one of which alone constitutes the commission of Racketeering Act 10.

A. Attempted Extortion – Hobbs Act

In or about October 2003, through Summer 2007, in the Western District of New York and elsewhere, the defendants, **CARL A. LARSON** and **GERALD H. FRANZ, JR.**, together and with others, known and unknown, did unlawfully obstruct, delay and affect interstate commerce and the movement of articles and commodities in interstate commerce by extortion, and attempted to do so, that is, did attempt to obtain property of Wadsworth Golf Construction (WGC), and its employees, such property consisting of (i) WGC's right to make

business decisions free from outside pressure, (ii) wages and benefits to be paid by WGC for unwanted, unnecessary, and superfluous labor, and (iii) WGC's employees' jobs and associated wages and benefits, at construction projects at the First Tee job site in Orchard Park, New York and at a job site in Cheektowaga, New York, with the consent of WGC, its owners, agents, and employees, induced by the wrongful use of actual and threatened force, violence and fear, including fear of economic harm resulting from actual and threatened physical violence to WGC, its owners, and employees and their property, which is indictable as a violation of Title 18, United States Code, Sections 1951(a) and 2.

B. Attempted Extortion – New York Penal Law

In or about October 2003, through Summer 2007, the exact dates being to the grand jury unknown, in the Western District of New York and elsewhere, the defendants, **CARL A. LARSON** and **GERALD H. FRANZ, JR.**, together and with others, known and unknown, with intent to appropriate and obtain property for themselves and third persons from WGC, its owners, operators, employees, and agents, such property consisting of (i) wages and benefits to be paid by WGC pursuant to labor contracts with Local 17; and (ii) WGC's employees' existing jobs and wages and benefits associated with those jobs; did wrongfully attempt to obtain such property from

WGC, its owners, operators, employees, and agents, at a construction project at the First Tee job site in Orchard Park, New York and at a job site in Cheektowaga, New York, by means of extortion; that is, by compelling and inducing, and attempting to compel and induce, WGC, its owners, operators, employees, and agents, to deliver said property to the defendants, and others, by means of instilling in them a fear that, if the property was not so delivered, the defendants and others would cause physical injury to some person in the future and cause damage to property, which is chargeable as a violation of New York State Penal Law Sections 155.05(2)(e)(i) and (ii), 155.40, 110.00, 110.05 and 20.00.

RACKETEERING ACT 11

Conspiracy to Commit Extortion

The defendants, **JEFFREY A. LENNON** and **KENNETH EDBAUER**, committed the following acts, either one of which alone constitutes the commission of Racketeering Act 11.

A. Attempted Extortion – Hobbs Act

Between on or about January 1, 1997, and December 2007, the exact dates being to the grand jury unknown, in the Western District of New York and elsewhere, the defendants, **JEFFREY A. LENNON** and **KENNETH EDBAUER**, together and with others, known and

unknown, did unlawfully obstruct, delay and affect interstate commerce and the movement of articles and commodities in interstate commerce by extortion, and attempted to do so, that is, did attempt to obtain property of employer construction contractors, and their employees, such property consisting of (i) the employer construction contractors' right to make business decisions free from outside pressure, (ii) wages and benefits to be paid by the employer construction contractors for unwanted, unnecessary, and superfluous labor, and (iii) the employer construction contractors' employees' jobs and associated wages and benefits, at construction projects in Western New York, with the consent of employer construction contractors, their owners, agents, and employees, induced by the wrongful use of actual and threatened force, violence and fear, including fear of economic harm resulting from actual and threatened physical violence to the employer construction contractors, their owners, and employees and their property, which is indictable as a violation of Title 18, United States Code, Sections 1951(a) and 2.

B. Conspiracy to Commit Extortion in violation of New York Penal Law

Between on or about January 1, 1997, and December 2007, the exact dates being to the grand jury unknown, in the Western District of New York and elsewhere, the defendants, **JEFFREY C.**

LENNON and **KENNETH EDBAUER**, together and with others, known and unknown, did combine, conspire, confederate, and agree together with each other and with others, with intent to appropriate and obtain property for themselves and third persons from employer contractors, their owners, operators, agents, and employees, such property consisting of (i) wages and benefits to be paid by employer contractors pursuant to labor contracts with Local 17, and (ii) the existing jobs and wages and benefits associated with those jobs of the contractor employers' employees, did wrongfully attempt to obtain such property from contractors, their owners, operators, agents, and employees, at construction projects at job sites in the Western District of New York, by means of extortion; that is, by compelling and inducing, and attempting to compel and induce, contractors, their owners, operators, agents, and employees to deliver said property to the defendants, and others, by means of instilling in them a fear that, if the property was not so delivered, the defendants and others would cause physical injury to some person in the future and cause damage to property, which is chargeable as a violation of New York State Penal Law Sections 155.05(2)(e)(i) and (ii) and 155.40.

IN FURTHERANCE OF SAID CONSPIRACY, and in order to affect its purpose and object, on or about May 1, 2006, defendant **KENNETH EDBAUER** discussed with defendant **JEFFREY C. LENNON**, and others, the

recording of the description of trucks crossing a picket line at Uniland's Delaware Avenue job site for the purpose of targeting the trucks and damaging them at a later time, all in violation of New York State Penal Law Section 105.10.

All in Violation of Title 18 U.S.C. § 1962(d).

COUNT TWO

Hobbs Act Conspiracy

In or about October 2003, through December 2007, in the Western District of New York and elsewhere, the defendants, **CARL A. LARSON, JAMES L. MINTER III, MARK N. KIRSCH, GERALD H. FRANZ, JR., JEFFREY A. PETERSON, GERALD E. BOVE, MICHAEL J. CAGGIANO, JEFFREY C. LENNON, KENNETH EDBAUER, GEORGE DEWALD, MICHAEL J. EDDY, and THOMAS FREEDENBERG**, together and with others, known and unknown, did unlawfully obstruct, delay and affect interstate commerce and the movement of articles and commodities in interstate commerce by extortion, and did attempt to do so, that is, obtain and attempt to obtain property of certain employer contractors and their employees, such property consisting of (i) the employer contractor's right to make business decisions free from outside pressure, (ii) wages and benefits to be paid by the employer contractors for unwanted, unnecessary, and superfluous labor, and

(iii) the jobs and associated wages and benefits of the employer contractors' employees, at construction projects in the Buffalo, New York area, and elsewhere, with the consent of the employer contractors, their owners, agents, and employees, induced by the wrongful use of actual and threatened force, violence and fear, including fear of economic harm resulting from actual and threatened physical violence to the employer contractors, their owners, and employees and their property, which is indictable as a violation of Title 18, United States Code, Sections 1951(a) and 2.

OVERT ACTS IN FURTHERANCE OF COUNT 2

In furtherance of the conspiracy and in order to effect the objects thereof, the defendants and their co-conspirators committed the following overt acts, among others:

1. In approximately 1997, a representative of STS Construction, was approached by business agent of Local 17 at a construction site at Roswell Park to sign a Collective Bargaining Agreement (hereinafter, "CBA"). The representative of STS refused and the Local 17 Business Agent subsequently harassed the STS representative over the telephone after this meeting.

2. In January 1999, Local 17 members picketed a construction project at Ralph Wilson Stadium and the use of non-union contractor, Tom Greenauer Development. On January 13, 1999, a Local 17 member broke a window on a Greenauer company vehicle as it crossed through the picket line, causing the broken glass to cut the face of the driver of the vehicle. Greenauer was later replaced on the project by a union contractor and the picketing ceased. At a later date, during a discussion about the damage caused by Local 17 at the Ralph Wilson Stadium picket, defendant **MARK N. KIRSCH** stated, "We did what we had to do."

3. On or about March 8, 2000, defendant **GERALD H. FRANZ, JR.** visited a job site on Milestrip Road in Hamburg, NY, where Custom Topsoil, a non-union contractor, was working. Overnight, on March 8, 2000, ten pieces of construction equipment were vandalized after sand was poured in the oil systems, causing damage totaling approximately \$74,987.

4. On or about May 29, 2001, H.G. Spicer & Sons, Inc. was working on a project at Buffalo State College. Local 17 members, including defendants **GERALD E. BOVE** and **GERALD H. FRANZ, JR.**, were picketing this site and entered the work site. A Local 17 picketer yelled to an employee of H.G. Spicer & Sons, Inc., "Come here and

I will rip your fucking head off." **BOVE** yelled, "You can't come into our area and steal our work."

5. In or about 2001, two Local 17 members attempted to drag a representative of STS Construction into a bathroom at the Purple Moose. One of the Local 17 members told the representative of STS, "You're going to sign up with Local 17."

6. On or about June 4 or 5, 2002, defendants **CARL A. LARSON** and **JAMES L. MINTER III** visited a job site in West Seneca where Economy Tree Service, a non-union contractor, was working. On June 5, 2002, members of Local 17 ran the license plates of an Economy Tree Service employee and a company truck. Overnight, on or about June 7, 2002, and again on or about June 10, 2002, two excavators at the job site were vandalized after sand was poured into the oil systems causing significant damage to the equipment.

7. On June 14, 2002, a Local 17 member told a representative of Zoladz Construction, a non-union contractor, that any private work in Buffalo was the Local 17 member's, that the Local 17 member was going to force the representative of Zoladz out of Buffalo, and that the Local 17 member was going to "play the game dirty."

8. In the summer of 2002, a representative of STS was confronted by a Local 17 member who attempted to get the representative of STS to sign a CBA. The representative of STS declined. Subsequently, two pieces of STS's construction equipment were vandalized at the Buffalo Psychiatric Center.

9. In September 2002, defendant **CARL A. LARSON** was observed at the Town of Hamburg Soccer Fields where Oliveri Development, a non-union contractor, was working. On September 25, 2002, members of Local 17, utilizing the New York State Department of Motor Vehicles license database, ran the license plate of a vehicle registered to Oliveri Development that was located at this work site. Overnight, on September 27, 2002, four (4) pieces of construction equipment were vandalized when a grinding compound was poured into the oil, transmission, and fuel systems causing approximately \$250,000 in damage to the equipment. A Town of Hamburg bulldozer located at the same site was not vandalized.

10. During the same weekend beginning September 27, 2002, NC Contracting, Tom Greenauer Development, and Russo Development, all non-union contractors working in the Hamburg area, had a total of approximately fourteen (14) pieces of their construction equipment vandalized after a grinding compound was poured into their oil systems causing approximately \$80,000 in damage. Defendant **CARL A.**

LARSON was observed at the Russo Development work site two days before the damage occurred and was attempting to speak with Russo's employees.

11. On December 23, 2002, defendant **MICHAEL J. CAGGIANO**, a Local 17 member, stabbed Timothy P. Such, President of STS, in the neck with a knife at Kettle's Restaurant in Orchard Park, New York. Also, on that night, Such's tires were slashed on his 2002 Ford F-350 pickup truck.

12. On December 27, 2002, representatives of STS had a conversation with defendant **CARL A. LARSON**. The STS representatives told **LARSON** that it appeared that **LARSON** "pumped up" his members to get them "to take aggressive action." **LARSON** stated, "We kind of do that."

13. On December 30, 2002, defendant **CARL A. LARSON** told a representative of STS, "You should sign. Russo's Equipment was damaged ... If you had signed, these things wouldn't happen to you."

14. On February 5, 2003, defendant **CARL A. LARSON** had a conversation with a representative of STS. **LARSON** attempted to have STS sign a CBA. The representative of STS asked **LARSON**, "What

are the positives? You guys slash my tires, stab me in the neck, try to beat me up in a bar. What are the positives to signing? There are only negatives." **LARSON** responded, "The positives are that the negatives you are complaining about would go away."

15. On February 7, 2003, at Milligan's Pub, a representative of STS was told by an unknown male, "If anything happens to Mike (defendant **MICHAEL J. CAGGIANO**), we're going to get you."

16. On January 27, 2003, at 73 Tyler Street in Buffalo, New York, defendant **JAMES L. MINTER III** and five (5) other Local 17 members verbally harassed a representative of Zoladz. **MINTER** told the representative of Zoladz, "We are going to destroy you and your machine and you are not going to work in Buffalo." As the representative of Zoladz left, a Local 17 member spit on him.

17. On January 27, 2003, as a representative of Zoladz was driving his automobile, defendant **JAMES L. MINTER III** attempted to cut him off and run him off the road on several different occasions at different locations.

18. On January 28, 2003, at 32 Wilson Street in Buffalo, New York, a representative of Zoladz's excavator was sabotaged by having sand poured into the oil box. During that time, at the

site, defendants **JAMES L. MINTER III**, **GERALD H. FRANZ, JR.**, **CARL A. LARSON**, and **JEFFREY C. LENNON** said to the representative of Zoladz, "What's the matter with your machine?" and, "You've got problems with your machine?" and, "We told you we were going to destroy you and your machine."

19. On or about March 18, 2003, Local 17 members threatened to kill a representative of Zoladz while the representative was at a demolition site at 841 Clinton Street in Buffalo, New York.

20. On March 25, 2003, defendant **CARL A. LARSON** sent by facsimile a Memorandum of Agreement to STS Construction of Western New York.

21. In April, 2003, a representative of Marcy Excavation Company had a telephone conversation with defendant **GERALD E. BOVE**, wherein **BOVE** stated that the Chaffee Landfill work had been done by the union in the past and "that was the way the landfill was going to be done."

22. Sometime in April, 2003, defendant **GERALD E. BOVE** had a meeting with representatives of Marcy Excavation and **BOVE** asked them if they had a tape recorder secreted on them. At that

meeting, **BOVE** repeated that the work on the Chaffee Landfill had been done by the union and that was the way it was to be done.

23. Sometime in April, 2003, a representative of Marcy called defendant **GERALD E. BOVE** and asked **BOVE** to reconsider Marcy's proposal to hire Local 17 workers but to not sign a contract. **BOVE** hung up the telephone on the representative of Marcy.

24. On or about April 28, 2003, defendant **GERALD E. BOVE** spoke with a representative of Waste Management to inquire about who was going to be awarded the new project to be done at the Chaffee Landfill. After being advised that Marcy Excavating was low bidder and was awarded the work, **BOVE** responded that they were non-union and he was going to go to all of the local towns and let them know that Waste Management was not hiring local people.

25. On or about May 1, 2003, defendant **JEFFREY A. PETERSON** told a representative of Waste Management that Local 17 would start a campaign to organize the Waste Management employees if Waste Management used a non-union contractor on the landfill project.

26. On approximately May 8, 2003, eight (8) pieces of Marcy Excavation Company's construction equipment were vandalized after

a grinding compound was poured into the construction equipment causing approximately \$200,000 in damage.

27. On May 29, 2003, and continuing for several weeks thereafter, members of Local 17, including defendants **GERALD E. BOVE** and **JEFFREY A. PETERSON**, began picketing at the Chaffee Landfill where Marcy Excavating was working.

28. On May 30, 2003, three (3) welded, sharp pieces of metal known as "stars" were found in the gravel driveway at the Chaffee Landfill.

29. On June 2, 2003, a representative of Marcy Excavation Company had a tire flattened on his pickup truck by "stars".

30. On May 29 and 30, 2003 and June 2 and 9, 2003, Local 17 members ran New York State Department of Motor Vehicle checks on license plates of the vehicles at the Chaffee Landfill and operated by Marcy Excavation employees.

31. In mid-2003, STS Construction signed a CBA with Local 17 at the initiation of a project his company obtained at the General Motors Plant in Tonawanda, New York. Defendant **THOMAS FREEDENBERG** informed a representative of STS that Local 17 would only admit two

of STS' employees to the union and the additional employees required by STS at the General Motors job would have to come from the existing Local 17 members. The remaining STS employees were not allowed to operate equipment at this job site.

32. On September 11, 2003, a Local 17 member, advised a representative of Amstar of Western New York, a union painting contractor, that Local 17 would require a Local 17 member to be hired by Amstar as a stand-by operator of a painting compressor being used at the Michigan Street bridge reconstruction job site. The representative of Amstar refused. Over the night of September 11, 2003, a fuel line was cut on the compressor causing diesel fuel to spill onto the asphalt, thus requiring the asphalt to be removed and replaced. The removed asphalt also had to be disposed of as hazardous waste due to the contamination by the diesel fuel resulting in over \$14,000 in damage at this site.

33. On or about April 9, 2004, defendant **GERALD H. FRANZ, JR.** arrived with a bus load of Local 17 members at the Western New York Golf and Recreation Center project in Orchard Park, New York where Wadsworth Golf Construction was building a new golf course. Upon arriving at the project, the Local 17 members, including defendant **CARL A. LARSON**, broke off into two groups and surrounded two Wadsworth employees there, making threatening statements at the

employees, including "fuck you, you mother fucker, you're taking our work from us".

34. On May 25, 2004, a representative of Zoladz Construction, upon unlocking a gate at the Dunkirk landfill on Van Buren Road in Pomfret, New York, was surrounded by Local 17 picketers and told by defendant **GEORGE DEWALD**, "You're not working here today." and, "You're gonna get hurt." Also on that date, a Local 17 picketer stated to an employee of Zoladz, "Laugh, you fucker, you're gonna be sorry." and, "You're gonna wish you signed." Later, defendant **DEWALD** advised an employee of Zoladz that to stop the picketing, Zoladz needed to sign an agreement with Local 17. Defendant **JEFFREY A. PETERSON** was the picket leader at this site.

35. On April 26, 2005, a representative of Wadsworth Golf Construction signed a Memorandum of Agreement with defendant **MARK N. KIRSCH**, forcing Wadsworth to replace all but one of their operators on each of their Buffalo area golf course projects with existing Local 17 operators. The representative of Wadsworth signed this agreement after members of Local 17 threatened unfair labor practice charges against Wadsworth.

36. On or about May 9, 2005, a representative of Ontario Speciality Contracting (OSC), had a meeting at Chef's Restaurant in

Buffalo, New York, with defendants **MARK N. KIRSCH** and **GERALD H. FRANZ, JR.** to discuss an upcoming project at the former National Fuel Gas site in Buffalo, New York. At the meeting, **KIRSCH** advised the OSC representative that if OSC did not sign a Project Labor Agreement, **KIRSCH** would shut the job down.

37. On June 28, 2005, defendant **JAMES L. MINTER III** spoke with a representative of Earth Tech regarding an upcoming project on Fourth Street in Buffalo, New York. **MINTER** told the Earth Tech representative to expect picketing by Local 17 at that work site and that **MINTER** could not control Local 17 members' commission of unlawful activity.

38. Beginning on July 18, 2005, and continuing for several months thereafter, Local 17 members picketed at the former National Fuel Gas site. Among the picketers were defendants **CARL A. LARSON, JAMES MINTER III, JEFFREY A. PETERSON,** and **MICHAEL J. EDDY.** While picketing at this location, defendants **LARSON, MINTER, PETERSON** and **EDDY,** and other Local 17 members, told representatives of OSC that all of the problems would go away if OSC signed a CBA.

39. At the former National Fuel Gas site, on July 18, 2005, defendant **JAMES L. MINTER III** was observed writing down the license plates of vehicles parked at the work site, including a security

guard's license plate number. **MINTER** also advised a security guard there to "go home and get your gun" and advised a security guard that that was a threat.

40. On July 18, 2005, members of Local 17 ran six (6) license plates of vehicles that were located at the former National Fuel Gas site including the plates of security guards and employees of OSC.

41. On July 19, 2005, Local 17 members began picketing at the Fourth Street Remediation site and delayed Earth Tech employees from entering. Also on that date, two (2) employees from Ecology & Environment that were working at the site had metal "stars" placed under their tires while parked on the road causing damage to one (1) tire. Also, three (3) "stars" were placed on an access road and discovered on that date.

42. On July 19, 2005, Local 17 members ran five (5) license plate checks on vehicles that included employees of Earth Tech and Ecology & Environment.

43. On July 19, 2005, in a meeting with the General Contractor of the former National Fuel Gas site, defendant **MARK N. KIRSCH** demanded that OSC be thrown off the project and replaced

with a union contractor. When advised that a union contractor was already performing some of the work **KIRSCH** stated that it wasn't enough.

44. On July 20, 2005, Local 17 picketers delayed five (5) Earth Tech employees access to the Fourth Street Remediation site. Also, the lock to the access gate had been glued shut and was required to be cut off. After the Earth Tech employees gained access, two employees observed picketers placing their own lock back on the access gate. Access by a number of vehicles continued to be denied by Local 17 members throughout this date. Defendant **MARK N. KIRSCH**, with defendant **JAMES E. MINTER III** present, advised Earth Tech representatives that Earth Tech would have to hire all union operators at that job site.

45. On July 21, 2005, a truck driven by an Earth Tech employee was gouged with a sharp object as the truck passed through the Local 17 picket line. Picketers surrounded the truck and driver after he passed through the line and defendant **MICHAEL J. EDDY**, a Local 17 member, was arrested.

46. On July 22, 2005, defendant **JAMES L. MINTER III** told an employee of Earth Tech, "Tell Tara you're going to be a little late tonight." Tara was the Earth Tech employee's wife. Also, on that

date, an Earth Tech employee departing the job site was followed by defendant **CARL A. LARSON**, a Local 17 member, and the license plate number of an Earth Tech employee was run on the Local 17 New York State Department of Motor Vehicles account.

47. On or about July 23, 2005, an Earth Tech employee and Ecology & Environment employee each received anonymous threatening letters at their homes referring to their work at the Fourth Street Remediation site.

48. On or about July 25, 2005, the wife of an Earth Tech employee received an anonymous threatening letter at their home referring to the work at the Fourth Street Remediation site.

49. On July 25, 2005, a line to the fuel tank of a John Deere loader was cut at the Fourth Street Remediation site.

50. On or about July 26, 2005, a representative of Earth Tech and defendant **JAMES L. MINTER III** discussed the picket and the illegal activities involved. **MINTER** told the Earth Tech representative, "What do we have to lose?"

51. On July 26, 2005, defendant **JEFFREY A. PETERSON** informed a representative of Earth Tech that Local 17 would allow 50 percent

of Earth Tech's operators at the site to continue working there, however, they would have to become members of Local 17. The remaining 50 percent of the operators would come from the existing Local 17 membership. Defendant **PETERSON** added that Local 17 has lawyers on retainer and Earth Tech could save a lot of lawyer fees by signing with Local 17.

52. On July 29, 2005, a gas truck arrived at the Fourth Street Remediation project to repair an exposed gas line at the project site. Local 17 members who were picketing there prevented the gas truck access to the Fourth Street Remediation site and the gas truck departed the Fourth Street Remediation site.

53. On August 8, 2005, one of the locks at Gate 3 of the former National Fuel site clean-up project was glued shut. Also, on that date, Local 17 picketers told an OSC employee that they would follow him home.

54. On August 9, 2005, a metal star was found outside one of the gates at the former National Fuel site clean-up project.

55. On August 10, 2005, members of Local 17 ran the license plate of a private investigator parked at the National Fuel Gas

site and defendant **JAMES E. MINTER III** called out the investigator's home address to this individual.

56. On August 10, 2005, metal "stars" were placed under the tires of two vehicles parked on the street near the National Fuel Gas site where Local 17 members were picketing. One of the vehicles obtained a flat tire when it attempted to pull away.

57. Also, on August 10, 2005, a Local 17 picketer told an OSC representative, "We know where you live. We'll get you at home."

58. On August 11, 2005, defendant **GEORGE DEWALD**, a Local 17 member, put a gouge in a vehicle operated by a security guard at the former National Fuel site clean-up project.

59. On August 25, 2005, a Local 17 member attempted to cause a truck departing the National Fuel Gas site and carrying contaminated soil to crash.

60. On August 27, 2005, a padlock on a gate at the former National Fuel site clean-up project was glued shut. As OSC employees attempted to cut the lock off of the gate, defendant **MICHAEL J. EDDY**, a Local 17 member, kicked a gate causing injury to

the hand of an OSC employee. **EDDY** and other Local 17 picketers then threw hot cups of coffee in the face of the OSC employee.

61. On August 27, 2005, a truck loaded with contaminated soil leaving the former National Fuel site clean-up project sustained a flat tire caused by a metal star and Local 17 picketers cheered. As workers from the job site responded to assist the truck, Local 17 picketers threw coffee on their vehicle.

62. On August 27, 2005, defendants **CARL A. LARSON** and **JEFFREY A. PETERSON**, and other Local 17 picketers pushed a gate over causing injury to a security guard at the National Fuel Gas site. Also on that date, the door of a truck operated by Pariso was dented by a bottle thrown by a Local 17 picketer.

63. On September 22, 2005, defendant **MARK N. KIRSCH**, Local 17 President, signed a Settlement Agreement with the National Labor Relations Board regarding Local 17's actions towards Earth Tech at the Fourth Street Remediation site.

64. On September 22, 2005, defendant **MARK N. KIRSCH** signed a Settlement Agreement with the National Labor Relations Board regarding Local 17's actions taken against OSC at the National Fuel Gas site.

65. During the week of April 2, 2006, defendant **GERALD H. FRANZ, JR.**, a Local 17 Business Representative, advised a Uniland Development Company representative to replace Ingalls Development and hire Anastasi Construction, a union contractor.

66. On April 4, 2006, the Uniland Development Company job site on Delaware Avenue in Buffalo, New York was picketed by Local 17. On that date, a lock was placed on one of the gates and had to be cut off.

67. On April 10, 2006, while departing the Delaware Avenue job site, a dump truck operated by Pariso ran over a "star" which caused a flat tire.

68. On April 10, 2006, Local 17 picketers took pictures of license plates of vehicles at the job site and followed workers and trucks from the job site.

69. On May 2, 2006, defendant **JEFFREY C. LENNON** attempted to place "stars" in the entrances to the Delaware Avenue work site.

70. On May 2, 2006, defendant **JEFFREY C. LENNON**, a Local 17 member, handed out "stars" to a picketer to throw at the Uniland job site.

71. In late May 2006, a Local 17 member told a representative of Wadsworth Golf Construction that the Local 17 member learned to weld during their Local 17 apprenticeship by welding metal "stars" to be thrown at picket sites.

72. In early June, 2006, one of the Local 17 picketers advised a representative of Uniland Development Company, "I'm going to Anderson to fuck your wife."

73. During the week of June 6, 2006, defendant **THOMAS FREEDENBERG** had a telephone conversation with a representative of Wadsworth Golf Construction in which **FREEDENBERG** told Wadsworth that their agreement "doesn't mean shit" when Wadsworth advised **FREEDENBERG** that Wadsworth wanted to utilize one of their own employees on a piece of construction equipment, within the terms of their agreement.

74. On June 28, 2006, defendant **KENNETH EDBAUER**, a Local 17 member, threw coffee at a truck driver at the Uniland Development Company site and was arrested.

75. During a discussion with another Local 17 member at the Uniland job site, defendant **KENNETH EDBAUER** stated that Local 17

has a new type of grinding compound that they can use to vandalize construction equipment and that this compound cannot be detected.

All in violation of Title 18, United States Code, Section 1951(a) .

COUNT 3

**Attempted Hobbs Act Extortion of STS Construction
of Western New York**

The Grand Jury Further Charges that:

Commencing in or about January, 1997, through and including about May, 2003, the exact dates being to the grand jury unknown, in the Western District of New York, and elsewhere, the defendants, **CARL A. LARSON** and **MICHAEL J. CAGGIANO**, together and with others, known and unknown, did unlawfully obstruct, delay and affect interstate commerce and the movement of articles and commodities in interstate commerce, by extortion, and attempted to do so; that is, did attempt to obtain property of STS Construction of Western New York (hereinafter, "STS"), and its employees, such property consisting of (i) STS' right to make business decisions free from outside pressure, (ii) wages and benefits to be paid by STS for unwanted, unnecessary, and superfluous labor, and (iii) STS's employees jobs and associated wages and benefits, at several construction project locations, to include, among others: the

Roswell Park Cancer Institute site, in Buffalo, New York; the Rath Building site, in Buffalo, New York; the Buffalo Psychiatric Center site, in Buffalo, New York; the Army Corps of Engineers site in Tonawanda, New York; and the General Motors Plant in Tonawanda, New York, with the consent of STS and its owner Timothy P. Such, agents, and employees, induced by the wrongful use of actual and threatened force, violence and fear, including fear of economic harm resulting from actual and threatened physical violence to STS, its owner Timothy P. Such, and employees and their property.

All in violation of Title 18, United States Code, Sections 1951(a) and 2.

COUNT 4

**Attempted Hobbs Act Extortion of
Zoladz Construction Company, Inc. and its Employees**

The Grand Jury Further Charges that:

Commencing in or about May, 2002, through and including about May 25, 2004, the exact dates being to the grand jury unknown, in the Western District of New York, and elsewhere, the defendants, **JEFFREY A. PETERSON, CARL A. LARSON, JAMES L. MINTER III, GERALD H. FRANZ JR.**, and **GEORGE DEWALD**, together and with others, known and unknown, did unlawfully obstruct, delay and affect interstate commerce in the movement of articles and commodities in interstate

commerce by extortion, and attempted to do so, that is, did attempt to obtain property of Zoladz Construction Company, Inc. (hereinafter, "Zoladz") and its employees, such property consisting of (i) Zoladz's right to make business decisions free from outside pressure, (ii) wages and benefits to be paid by Zoladz for unwanted, unnecessary, and superfluous labor, and (iii) Zoldaz's employees jobs and associated wages and benefits, at several construction project locations, to include, among others: 73 Tyler Street, Buffalo, New York; 216 Strauss Street, Buffalo, New York; 32 Wilson Street, Buffalo, New York; 841 Clinton Street, Buffalo, New York; and the Dunkirk landfill, Pomfret, New York, with the consent of Zoladz, its owners, agents, and employees, induced by the wrongful use of actual and threatened force, violence and fear, including fear of economic harm resulting from actual and threatened physical violence to Zoladz, its owners, and employees and their property.

All in violation of Title 18, United States Code, Sections 1951(a) and 2.

COUNT 5

Attempted Hobbs Act Extortion of Waste Management and
Marcy Excavation Company and Employees

The Grand Jury Further Charges that:

Commencing in or about January, 2003, through and including in or about September, 2003, the exact dates being to the grand jury unknown, in the Western District of New York, and elsewhere, the defendants, **GERALD E. BOVE** and **JEFFREY A. PETERSON**, with others, known and unknown, did unlawfully obstruct, delay and affect interstate commerce and the movement of articles and commodities in interstate commerce, by extortion, and attempted to do so, that is, did attempt to obtain property of Waste Management (hereinafter referred to as "WM"), Marcy Excavation Company (hereinafter, "Marcy") and its employees, such property consisting of (i) WM's and Marcy's right to make business decisions free from outside pressure, (ii) wages and benefits to be paid by Marcy for unwanted, unnecessary, and superfluous labor, and (iii) Marcy's employees jobs and associated wages and benefits, at a landfill construction project in Chaffee, New York with the consent of WM, Marcy, their owners, agents, and employees, induced by the wrongful use of actual and threatened force, violence and fear, including fear of economic harm resulting from actual and threatened physical

violence to WM, Marcy, its owners, and employees and their property.

All in violation of Title 18, United States Code, Sections 1951(a) and 2.

COUNT 6

Attempted Hobbs Act Extortion of Environmental Strategies and Ontario Speciality Contracting and Employees

The Grand Jury Further Charges that:

Commencing in or about April 2005, through and including in or about November 2005, the exact dates being to the grand jury unknown, in the Western District of New York and elsewhere, the defendants, **CARL A. LARSON, JAMES L. MINTER III, MARK N. KIRSCH, JEFFERY A. PETERSON, GEORGE DEWALD, and MICHAEL J. EDDY**, together and with others, known and unknown, did unlawfully obstruct, delay and affect interstate commerce and the movement of articles and commodities in interstate commerce by extortion, and attempted to do so, that is, did attempt to obtain property of Environmental Strategies (hereinafter referred to as "ES"), Ontario Speciality Contracting (hereinafter, "OSC") and their employees, such property consisting of (i) ES's and OSC's right to make business decisions free from outside pressure, (ii) wages and benefits to be paid by OSC for unwanted, unnecessary, and superfluous labor, and (iii)

OSC's employees' jobs and associated wages and benefits, at a construction clean-up project at the former National Fuel site in Buffalo, New York, with the consent of ES, OSC, their owners, agents, and employees, induced by the wrongful use of actual and threatened force, violence and fear, including fear of economic harm resulting from actual and threatened physical violence to ES, OSC, their owners, and employees and their property.

All in violation of Title 18, United States Code, Sections 1951(a) and 2.

COUNT 7

Attempted Hobbs Act Extortion of Ecology & Environment and Earth Tech and Employees

The Grand Jury Further Charges that:

Commencing in or about April 2005, through and including in or about September 2005, the exact dates being to the grand jury unknown, in the Western District of New York and elsewhere, the defendants, **JAMES L. MINTER III, MARK N. KIRSCH, and MICHAEL J. EDDY**, together and with others, known and unknown, did unlawfully obstruct, delay and affect interstate commerce and the movement of articles and commodities in interstate commerce by extortion, and attempted to do so, that is, did attempt to obtain property of Ecology & Environment (hereinafter referred to as "EE"), Earth Tech

and their employees, such property consisting of (i) EE's and Earth Tech's right to make business decisions free from outside pressure, (ii) wages and benefits to be paid by Earth Tech for unwanted, unnecessary, and superfluous labor, and (iii) Earth Tech's employees jobs and associated wages and benefits, at a construction project at a construction project at the Fourth Street Remediation site in Buffalo, New York, with the consent of EE, Earth Tech, its owners, agents, and employees induced by the wrongful use of actual and threatened force, violence and fear, including fear of economic harm resulting from actual and threatened physical violence to EE, Earth Tech, its owners, and employees and their property.

All in violation of Title 18, United States Code, Sections 1951(a) and 2.

COUNT 8

**Attempted Hobbs Act Extortion of
Wadsworth Golf Construction Company and Employees
Relating to Construction Projects in
Orchard Park and Cheektowaga, New York**

The Grand Jury Further Charges that:

Commencing in or about October, 2003, through and including in or about Summer, 2007, the exact dates being to the grand jury unknown, in the Western District of New York and elsewhere, the defendants, **CARL A. LARSON, GERALD H. FRANZ, JR., and THOMAS**

FREEDENBERG, together and with others, known and unknown, did unlawfully obstruct, delay and affect interstate commerce and the movement of articles and commodities in interstate commerce by extortion, and attempted to do so, that is, did attempt to obtain property of Wadsworth Golf Construction Company (hereinafter, "WGC") and their employees, such property consisting of (i) WGC's right to make business decisions free from outside pressure, (ii) wages and benefits to be paid by WGC for unwanted, unnecessary, and superfluous labor, and (iii) WGC's employees jobs and associated wages and benefits, at construction projects at the First Tee job site in Orchard Park, New York and at a job site in Cheektowaga, New York, with the consent of WGC, its owners, agents, and employees induced by the wrongful use of actual and threatened force, violence and fear, including fear of economic harm resulting from actual and threatened physical violence to WGC, its owners, and employees and their property.

All in violation of Title 18, United States Code, Sections 1951(a) and 2.

RICO FORFEITURE

The Grand Jury further Charges that:

1. The allegations contained in Count 1 of this Superseding Indictment are hereby re-alleged and incorporated by reference for

the purpose of alleging forfeitures pursuant to the provisions of Title 18, United States Code, Section 1963.

2. From their convictions on Count 1 of this Superseding Indictment, the defendants, **CARL A. LARSON, JAMES L. MINTER III, MARK N. KIRSCH, GERALD H. FRANZ, JR., JEFFREY A. PETERSON, GERALD E. BOVE, JEFFREY C. LENNON, KENNETH EDBAUER, GEORGE DEWALD,** and **MICHAEL J. EDDY,** shall forfeit to the United States the following:

a. any interests the person has acquired or maintained in violation of Title 18, United States Code, Section 1962;

b. any interests in, security of, claims against, or property or contractual rights of any kind affording a source of influence over, any enterprise which the person has established, operated, controlled, conducted, or participated in the conduct of, in violation of Title 18, United States Code, Section 1962; and

c. any property constituting, or derived from, any proceeds which the person obtained, directly or indirectly, from racketeering activity, in violation of Title 18, United States Code, Section 1962.

3. The property rights and interests sought to be forfeited to the United States, includes, but is not limited to the following, any and all job related benefits, specifically including the following property: respective rights, titles, interest, memberships, and/or union offices or positions in International Union of Operating Engineers, Local 17, AFL-CIO.

**All pursuant to Title 18, United States Code, Sections 1963
(a) (1), (2) and (3).**

DATED: Buffalo, New York, April 1, 2008.

TERRANCE P. FLYNN
United States Attorney

BY: **S/CHARLES B. WYDYSH**
CHARLES B. WYDYSH
Assistant United States Attorney
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A TRUE BILL:

S/DEPUTY FOREPERSON
FOREPERSON