

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

U.S. DISTRICT COURT
EASTERN DISTRICT-WI
FILED

2017 MAY 23 P 3 52

STEPHEN C. DRIES
CLERK

UNITED STATES OF AMERICA,

Plaintiff,

v.

JAY L. FUSS,

Defendant.

17-CR-92

Case No. 17-CR-

[18 U.S.C. § 666(a)(1)(A) and (b)]
Green Bay Division

INDICTMENT

THE GRAND JURY CHARGES:

1. Beginning in approximately September 2012, and continuing thereafter until at least May 2013, in the State and Eastern District of Wisconsin,

JAY L. FUSS,

as an agent of an Indian tribal government that received benefits in excess of \$10,000 in a one-year period from a federal grant program, did knowingly obtain by fraud, convert without authority to his own use, and intentionally misapply, property valued at \$5,000 or more that was under the care, custody, and control of the Indian tribal government and its agency.

2. At all times material to this indictment:

- a. The United States Department of Housing and Urban Development (“HUD”) provided grant funds, in an amount exceeding \$1 million dollars, to the Oneida Indian Tribe of Wisconsin (the “Tribe”) for purposes that included the construction of low-income housing. Grant funds are not authorized for non-Tribally authorized privately owned properties.
- b. The Tribe assigned its agency, the Oneida Housing Authority (“OHA”), to administer the grant and build the homes for Tribal members. More than \$10,000 of the grant funds were received by the Tribe within a one-year period of Fuss’ unlawful actions alleged herein.
- c. Fuss was employed by the Tribe as a new construction contractor and was authorized to submit purchase orders and approve vendor invoices for payment using HUD funds for HUD approved properties.
- d. Fuss also operated Jay Fuss Construction (“JFC”), a home improvement and remodeling business that Fuss owned and managed in his private capacity. JFC was not authorized to work on HUD properties or use HUD grant money to purchase building materials for private remodels.

3. Between approximately September 2012 and May 2013, and contrary to the terms of the HUD grant, Fuss engaged in the following unlawful acts:

- a. Fuss, doing business as JFC, contracted with Adult Female 1 for a home improvement project (“the Project”) at her residence located in Green Bay, Wisconsin, to include the installation of a new roof, wooden deck, and garage and service doors, among other things. Adult Female 1 owned her residence, which was not affiliated with any OHA property and thus was not eligible for HUD grants or funding. Adult Female 1 paid Fuss approximately \$50,000 for materials and labor to complete the Project.
- b. Fuss utilized OHA purchase orders for the Project and approved vendor invoices for building materials and supplies resulting in the fraudulent use of HUD grant money for payment. Among other things, Fuss listed on purchase orders and invoices for building supplies the address of HUD approved properties when in fact the supplies were ultimately delivered to Adult Female 1’s residence.
- c. One invoice, dated February 7, 2013, detailed the delivery of a garage door and two service doors totaling \$1,051.18, to Powless Dr. Lot XX, a HUD property, as well as Adult Female 1’s residence. The invoice description of the doors matches those doors visible on Adult Female 1’s garage.

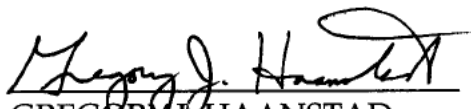
- d. In total, Fuss fraudulently obtained building materials and supplies paid for with HUD funds in an amount exceeding \$5,000 during the above time period.

All in violation of Title 18, United States Code, Section 666(a)(1)(A) and (b).

FORFEITURE NOTICE

1. Upon conviction of the offense in violation of 18 U.S.C. § 666, set forth in Count 1 of this Indictment, the defendant shall forfeit to the United States of America, pursuant to Title 18, United States Code, Section 981(a)(1)(C), and Title 28, United States Code, Section 2461(c), any property, real or personal, which constitutes or is derived from proceeds traceable to the offense(s).

2. If any of the property described above, as a result of any act or omission by a defendant: cannot be located upon the exercise of due diligence; has been transferred or sold to, or deposited with, a third person; has been placed beyond the jurisdiction of the Court; has been substantially diminished in value; or has been commingled with other property which cannot be subdivided without difficulty, the United States of America shall be entitled to forfeiture of substitute property, pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 28, United States Code, Section 2461(c).


GREGORY J. HAANSTAD
United States Attorney

A TRUE BILL:



FOR PERSON

05/23/17

Date