



Department of Justice

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District of Massachusetts

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BIG DIG CONTRACTOR, MODERN CONTINENTAL, CHARGED

Boston, MA. **MODERN CONTINENTAL CORPORATION** (“MCC”), the largest construction contractor on the Central Artery/Tunnel project (“CA/T”), was charged today in federal court with making false statements in connection with its execution of construction documents certifying the quality of the work it performed on certain contracts, submitting false time and materials slips on contracts, and with wire fraud

United States Attorney Michael J. Sullivan, Theodore L. Doherty III, Special Agent in Charge of the Department of Transportation Inspector General’s Office in New England, Warren T. Bamford, Special Agent in Charge of the Federal Bureau of Investigation’s Boston Office, and Gordon S. Heddell, Inspector General for the U.S. Department of Labor - Office of Labor Racketeering announced today that **MCC**, a Cambridge, MA company, was charged in a multi-count Information.

The Information alleges that **MCC** made false statements concerning the quality of the construction work it performed on two CA/T contracts, C17A1 and CO9B2. The C17A1 contract was for the construction of the Tip O’Neil Tunnel from Congress Street to High Street. The CO9B2 contract was for the finish work in the I-90 Connector Tunnel. The Information alleges that **MCC** knowingly executed documents stating that the two contracts were built in accordance with the contract documents and procedures, when in fact **MCC** was aware that it had not built the contracts in accordance with those documents and procedures. On September 15, 2004, a defect in slurry wall panel EO-45 caused the slurry wall to blowout, resulting in extensive traffic delays and, ultimately, the discovery of numerous other unrepaired defects in the slurry walls built by **MCC**. On July 10, 2006, a ceiling module installed by **MCC** in the portal area of the I-90 Connector tunnel, using concrete anchors installed with epoxy, collapsed and killed a motorist passing through the tunnel. After the collapse, a tunnel inspection revealed a systemic failure of the epoxy anchors throughout the tunnel. In both instances, **MCC** was aware at, or near, the time it constructed the slurry walls and the installed the tunnel ceiling that it was not adhering to the contract documents.

Specifically, **MCC** knowingly failed to properly and fully execute concrete placement cards documenting the pouring of the concrete in the slurry walls, knowingly failed to meet the written specifications for the slurry mix used in the construction process and knowingly signed a certification that panel EO-45, among other defective panels, was built to specifications when

MCC was aware it was not.

It is further alleged that **MCC** also knowingly executed certifications that various sections of the I-90 Connector Tunnel were built in accordance with plans and specifications. One aspect of that concerned the use of concrete anchors installed with epoxy used to support the ceiling system. According to the Information, in or about December 1999 **MCC** became aware, through documents in its possession, that the epoxy it was using for the concrete anchors was in fact not appropriate for long-term loads such as the ceiling. It is alleged that, despite this knowledge, **MCC** continued to use the epoxy after December 1999 and executed the false certifications.

The Information also alleges that **MCC** engaged in a scheme of over-billing the Central Artery/Tunnel Project by falsely categorizing apprentice workers as journeyman on a variety of CA/T contracts. The work was performed on a time and materials (T & M) basis, which meant the contractor, **MCC**, was paid for the time spent by each worker, as opposed to a fixed price for the work under contract. **MCC** was also paid 10% of its total T & M billings to cover overhead, plus an additional 10% of that total for a profit margin. The scheme involved hundreds of instances of over-billing, totaling hundreds of thousands of dollars.

Additionally, the Information charges **MCC** with wire fraud in connection with its receipt of electronic payment for the inadequate and non-specification work it knowingly performed on the contracts discussed above.

United States Attorney Michael J. Sullivan said, “This is yet another example of the ongoing commitment by the Big Dig Task Force to vigorously investigate those who have perpetrated a fraud on American taxpayers. I want to commend the investigators from the Department of Transportation Inspector General’s Office, the Federal Bureau of Investigation and the U.S. Department of Labor - Office of Labor Racketeering for their outstanding contributions that led to today’s charges against Modern Continental.” “It is critically important that federal and state tax dollars needed to fund important public work projects like the Big Dig, are safeguarded against waste, fraud and corruption. As I have said before, we will leave no stone unturned, and will continue to dedicate the resources necessary to complete a comprehensive review and investigation of the Big Dig Project,” concluded Sullivan.

If convicted of these charges **MCC** faces criminal fines of up to \$500,000 and payment of restitution.

The case was investigated by the Department of Transportation, Inspector General’s Office, the Federal Bureau of Investigation, and Department of Labor - Office of Labor Racketeering. It is being prosecuted by Assistant U.S. Attorneys Fred M. Wyshak, Jeffrey M. Cohen, Anthony E. Fuller and Eugenia M. Carris of Sullivan’s Public Corruption Unit.

The details contained in the Information are allegations. The defendant is presumed to be innocent unless and until proven guilty beyond a reasonable doubt in a court of law.

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