

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

UNITED STATES OF AMERICA,

Plaintiff,

v.

[1] IVAN ROSA,
[2] JOSE ROSA,
[3] LOUIS TORRES,

Defendants.

INDICTMENT

CRIMINAL NO. 15-387(JAF)

Title 18, USC, Sections 1031 and
Title 18, USC, Sections 1343 and

(FIVE COUNTS)

FORFEITURE

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THE GRAND JURY CHARGES:

GENERAL ALLEGATIONS

At all times relevant to this Indictment:

1. The United States Department of Veterans Affairs (VA) is an agency within the executive branch of the United States government responsible for providing federal services and benefits to veterans: that is, persons who have served in the nation's Armed Forces.
2. A "service-disabled veteran" is a veteran with a disability that was incurred or aggravated in the line of duty in the active military, naval or air service.
3. In 1999, Congress passed the Veterans Entrepreneurship and Small Business Development Act of 1999. The Act announced that "the United States has done too little to assist veterans, particularly service-disabled veterans, in playing a greater role in the economy of the United States by forming and expanding small business enterprises." Accordingly, Congress established a Government-wide goal to increase the number of government contracts awarded to small businesses that are owned and controlled by service-disabled veterans.

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4. Small businesses that are owned and controlled by service-disabled veterans are known as Service Disabled Veteran Owned Small Businesses (SDVOSBs).

5. The Veterans Benefits, Health Care, and Information Technology Act of 2006 gave SDVOSBs the highest priority in contracting preferences for VA contracts awarded to small businesses – that is, small businesses owned and controlled by service-disabled veterans were to be chosen for VA contracts before small businesses owned by any other class of persons, including veterans that did not have a service-connected disability.

6. By law, a small business must be both owned and controlled by one or more service-disabled veterans to qualify as an SDVOSB.

7. By law, a small business is “owned” by a service-disabled veteran when the service-disabled veteran unconditionally and directly owns at least 51% of the business. In the case of a corporation, the service-disabled veteran must unconditionally own at least 51% of all outstanding stock.

8. By law, a small business is “controlled” by a service-disabled veteran when the service-disabled veteran (1) conducts the business’s long-term decision making, (2) conducts the day-to-day management and administration of the business operations, (3) holds the highest officer position in the business, and (4) has managerial experience of the extent and complexity needed to run the business.

9. IRC Air Contractor (hereinafter referred to as “IRC”) is a domestic for profit corporation authorized to do business in Puerto Rico with its business office located in Naranjito, Puerto Rico, since on or about September 17, 1998. IRC is not registered as a SDVOSB in the United States Government Central Contractor Registration.

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10. BELKRO General Contractors (herein after referred to as "BELKRO") is a domestic for profit corporation authorized to do business in Puerto Rico with its business office located in Naranjito, Puerto Rico, since on or about October 24, 2007. Since 2007, BELKRO is registered as a SDVOSB in the United States Government Central Contractor Registration.

11. From on or about 2007 to 2014, BELKRO was awarded a total of eight (8) contracts that required BELKRO to hold SDVOSB status: (1) contract number VA248-C-0726, valued at \$4,733,070.19; (2) contract number VA248-C-1157, valued at \$927,136.80; (3) contract number VA248-C-1186, valued at \$27,810.00; (4) contract number VA248-C-1207, valued at \$174,063.26; (5) contract number VA248-C-1225, valued at \$694,273.58; (6) contract number VA248-C-1351, valued at \$115,958.72; (7) contract number VA248-C-1476, valued at \$36,404.71; and (8) contract number VA248-C-1565, valued at \$172,236.93. All contracts were relating to work at VA Caribbean Healthcare System, San Juan, PR.

12. Defendant [1] IVAN ROSA is a resident of Puerto Rico. Ivan is defendant [2] JOSE ROSA's brother. IVAN is listed both as the President and Chief Executive Officer of IRC. He is also listed as the Vice-president of BELKRO. IVAN conducts the day-to-day management and controls the operations of both corporations. IVAN is a veteran, but does not have any service-connected disability. IVAN used BELKRO's SDVOSB status to obtain contracts for the VA Caribbean Healthcare System, San Juan, PR.

13. Defendant [2] JOSE ROSA is a resident of Puerto Rico. JOSE is defendant [1] IVAN ROSA's brother. JOSE is the president of BELKRO. He is not the 51% owner operator of

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BELKRO. JOSE did not control the management or daily business operations of BELKRO. Beginning in 2007, and continuing through all times relevant to this Indictment up until October 2012, JOSE was a full-time employee of the United States Postal Service in San Juan, Puerto Rico. JOSE is a service-disabled veteran.

14. Defendant [3] LOUIS TORRES is a resident of Puerto Rico. TORRES at all relevant times to this Indictment served as the project manager of IRC and BELKRO. TORRES registered BELKRO as a SDVOSB in the government database. TORRES certified BELKRO's SDVOSB status for contracts requiring SDVOSB status, including those of the VA Caribbean Healthcare System, San Juan, PR. TORRES is not a veteran.

COUNT ONE
(Major Fraud against the United States)
Title 18, United States Code, Sections 1031 and 2

Paragraphs one (1) through fourteen (14) of the Introduction are realleged and incorporated as if fully stated herein. From in or about September 26, 2008, through in or about October 25, 2013, in the District of Puerto Rico and elsewhere and within the jurisdiction of this Court,

[1] IVAN ROSA,
[2] JOSE ROSA,
[3] LOUIS TORRES,

the defendants herein, aiding and abetting each other, with others known and unknown to the Grand Jury, did knowingly and execute and attempt to execute a scheme and artifice with the intent to defraud the United States and to obtain money and property by means of false and fraudulent pretenses, presentations, and promises in a procurement of services as a prime

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contractor with the United States, where the value of such contract was \$1,000,000 and more, to wit: defendants [1] IVAN ROSA, [2] JOSE ROSA and [3] LOUIS TORRES, falsely represented to the United States Department of Veteran Affairs (hereinafter referred to as "VA") that BELKRO was a service-disabled veteran owned small business, obtained for BELKRO a contract in the approximate amount of \$4,733,070.19, to perform construction work, specifically the Surgical Retrofit Project, at the VA Caribbean Healthcare System, San Juan, PR. All in violation of Title 18, United States Code, Sections 1031 and 2.

COUNTS TWO THROUGH FIVE

(Wire Fraud)

Title 18, United States Code, Sections 1343 and 2

Paragraphs one (1) through fourteen (14) of the General Allegations are hereby realleged and incorporated as though fully set forth herein. On or about the dates listed below, in the District of Puerto Rico, and elsewhere within the jurisdiction of this court,

**[1] IVAN ROSA,
[2] JOSE ROSA,
[3] LOUIS TORRES,**

the defendants herein, aiding and abetting each other, for the purpose of executing and attempting to execute the scheme described in the General Allegations and below to obtain money and property by false and fraudulent pretenses, representations and promises, did transmit and cause to be transmitted, in interstate and foreign commerce, by means of wire communication, the writings, signs, signals, pictures and sounds set forth below:

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| COUNT | DATE OF WIRE | DESCRIPTION OF TRANSACTIONS |
|-------|-------------------|--|
| 2 | April 8, 2011 | Wire transfer of \$168,730.00 from VA, United States Treasury, located in the United States, to BELKRO's Banco Popular Account Number XXXXXX302, located in Puerto Rico. |
| 3 | December 14, 2011 | Wire transfer of \$280,907.00 from VA, United States Treasury, located in the United States, to BELKRO's Banco Popular Account Number XXXXXX302, located in Puerto Rico. |
| 4 | May 29, 2012 | Wire transfer of \$199,718.00 from VA, United States Treasury, located in the United States, to BELKRO's Banco Popular Account Number XXXXXX302, located in Puerto Rico. |
| 5 | December 5, 2013 | Wire transfer of \$189,302.11 from VA, United States Treasury, located in the United States, to BELKRO's Banco Popular Account Number XXXXXX302, located in Puerto Rico. |

All in violation of Title 18, United States Code, Sections 1343 and 2.

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FORFEITURE

Title 18, United States Code, Section 982(a)(3)

The allegations contained in Count One (1) of this Indictment/Information are hereby realleged and incorporated by reference for the purpose of alleging forfeitures pursuant to Title 18, United States Code, Section 982(a)(3). Upon conviction of the offense in violation of Title 18, United States Code, Section 1031, set forth in Count One (1) of this Indictment, the defendants,

**[1] IVAN ROSA,
[2] JOSE ROSA,
[3] LOUIS TORRES,**

shall forfeit to the United States of America, pursuant to Title 18, United States Code, Section 982(a)(3), any property, real or personal, which represents or is traceable to the gross receipts obtained, directly or indirectly, as a result of such violation. The property to be forfeited includes, but is not limited to, the following:

1. MONEY JUDGEMENT

A sum of money equal to Four Million Seven Hundred Thirty-three thousand Seventy Dollars and Ten Cents (\$4,733,070.19) in United States Currency, representing the amount of money involved in the offense, for which the defendants are jointly and severally liable.

If any of the property described above, as a result of any act or omission of the defendants:

- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third party;
- c. has been placed beyond the jurisdiction of the court;

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d. has been substantially diminished in value; or


e. has been commingled with other property which cannot be divided without difficulty,

the United States of America shall be entitled to forfeiture of substitute property pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 18, United States Code, Section 982(b)(1) and Title 28, United States Code, Section 2461(c).

All pursuant to Title 18, United States Code, Section 982(a)(3) and Title 28, United States Code, Section 2461(c).

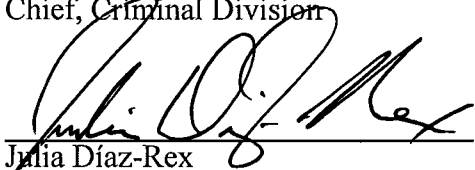
ROSA EMILIA RODRIGUEZ-VELEZ
United States Attorney

TRUE BILL



Jose Ruiz-Santiago
Assistant U.S. Attorney
Chief, Criminal Division

Foreperson
Dated: 6-3-2015



Julia Díaz-Rex
Assistant U.S. Attorney
Dated: 1 JUN 2015