



Department of Justice

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OUACHITA COUNTY JUDGE AND CONSTRUCTION COMPANY OWNER INDICTED FOR BRIBERY AND CONSPIRACY TO DEFRAUD FEMA

Fort Smith, Arkansas - Conner Eldridge, United States Attorney for the Western District of Arkansas, and Randy Coleman, Special Agent for the Federal Bureau of Investigation, announced today that James Michael Hesterly, age 49 of Camden, Arkansas, and Harry Clemons Jr., age 39 of Bearden, Arkansas, were indicted for a scheme to award a Federal Emergency Management Agency ("FEMA") disaster-relief contract to Clemons in return for a contribution to Hesterly's 2010 reelection campaign for Ouachita County Judge. Hesterly has been the county judge of Ouachita County Arkansas for the past 10 years. Harry Clemons is the owner and operator of Clemons Construction. A federal grand jury handed down the indictment in Fort Smith.

As alleged in documents filed in court, beginning in March 2010, Hesterly and Clemons conspired to award Clemons a contract to clean up debris in Ouachita County in exchange for a payment to Hesterly to his reelection campaign. The debris was the product of two tornados that struck the county in October of 2009. In furtherance of this conspiracy, Clemons arranged for two other bidders to submit intentionally inflated bids to Hesterly through fax. Clemons then met with Hesterly at his office and submitted a bid on behalf of himself and another company for the contract in the amount of \$120,730, a total amount below the inflated bids. Hesterly accepted Clemons's bid on March 26, 2010, and, on April 8, 2010, applied for federal funds from FEMA to help Ouachita County pay for the contract. Hesterly represented to FEMA that Clemons was the lowest bidder among the three bids that he had received. In order to promote open competition, federal regulations require that the contract be awarded through a sealed bidding process and in compliance with all applicable state law. While state law requires the bid to be advertised for 10 days, the bid in this case was advertised for one day. No sealed bidding process took place. In August 2010, Clemons submitted documentation to Hesterly stating that all work on the contract had been complete and requested a payment of \$69,865 for Clemons Construction. That same month, Hesterly certified to the state of Arkansas and FEMA that the work set forth in the contract had been completed. On October 13, 2010, Hesterly signed an order allowing Clemons's claim for payment to go through. Later that month, Clemons received a check from Ouachita County for \$69,865.

The indictment charges both men with one count of conspiracy to defraud an agency of the United States and two counts of bribery concerning a program receiving federal funds. The maximum term of imprisonment for conspiracy is 5 years. The maximum term of imprisonment for bribery is 10 years per count.

This case was investigated by the FBI. Assistant United States Attorney Kenny Elser represented the United States.

Hesterly and Clemons are scheduled to be arraigned tomorrow, January 18, 2013, at the Federal Courthouse in El Dorado, Arkansas, at 10 a.m.

The charges in an indictment are only allegations. A person is presumed innocent unless or until he or she is proven guilty beyond a reasonable doubt in a court of law.

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