

**STATEMENT OF JAMES J. O'NEILL
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BEFORE THE
SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS AND
THE SUBCOMMITTEE ON ECONOMIC OPPORTUNITY
COMMITTEE ON VETERANS' AFFAIRS
UNITED STATES HOUSE OF REPRESENTATIVES
HEARING ON
"ODYSSEY OF THE CENTER FOR VETERANS ENTERPRISE"
AUGUST 2, 2012**

Chairman Johnson and Chairman Stutzman, Members of the Subcommittees, thank you for the opportunity to discuss the Office of Inspector General's investigative work in the Service Disabled Veterans Owned Small Business (SDVOSB) program. The OIG investigates allegations that companies and individuals have fraudulently obtained Government noncompetitive set-aside contracts by misrepresenting their SDVOSB status or eligibility, which would deprive legitimate, eligible veterans from obtaining these economic opportunities earned through their honorable military service.

BACKGROUND

The OIG has full law enforcement authority to investigate allegations of criminal activity involving VA programs and operations. The OIG's Office of Investigations has committed significant resources to investigating fraud in SDVOSB operations. As of June 2012, OIG has worked a total of 144 cases involving SDVOSB fraud. Currently, we have 96 open criminal investigations, including 37 joint cases with the Small Business Administration (SBA) OIG, 16 with the General Services Administration (GSA) OIG, 14 with the various Department of Defense criminal investigative agencies¹, and 13 with the Federal Bureau of Investigation.

We have closed 48 cases since fiscal year (FY) 2009: 35 were unsubstantiated, 8 lacked interest by the United States Attorney's Office for prosecution, and 5 involved administrative remedies.

Of the cases currently open, 56 are "pass-through" schemes, in which a purported SDVOSB obtains the Government contract award and passes it on to a non-SDVOSB business to perform the work; 28 cases involve "rent-a-vet" schemes, in which an otherwise ineligible concern uses a genuine service-disabled veteran as a front to try to establish SDVOSB eligibility; 6 cases involving veterans who are not service-disabled or, in some cases, people who are not even veterans but who attempt to obtain SDVOSB status; 1 case involving a veteran who is marketing his status to concerns to try to provide them SDVOSB status; and 5 are cases combining one or more or other types of schemes.

¹ Including the Defense Criminal Investigative Service (DCIS), Army Criminal Investigations Division (CID), and Air Force Office of Special Investigations.

In the 144 SDVOSB investigations, 419 subpoenas have been issued; 26 search warrants have been executed; and 24 consensual monitorings have been conducted. We have effected 12 arrests, 16 indictments, and 6 convictions. The contract value of the open cases is \$908.2 million, including \$158.8 million in American Recovery and Reinvestment Act (ARRA) funds.

We have completed our investigation in 20 of the 96 open cases. Another 29 cases have earned prosecutive interest by Assistant United States Attorneys (AUSA) but still require more investigation. Of the 96 open SDVOSB cases, 77 involve construction contracts. Eleven cases involve a service-disabled veteran who is a former employee of a large company. Three cases involve allegations of bribery of Government employees.

The OIG has developed a good working relationship with the Center for Veterans Enterprises (CVE) involving potential fraud matters. Since February 2011, CVE has made 84 referrals to the OIG of which we accepted 34, declined 46, and already had open cases in 4 instances.

We have also worked with the Government Accountability Office (GAO) in this area. We have met with GAO to discuss cases cited in their previous reports. Several of our cases arose from GAO referrals, and we anticipate continuing to work with GAO in this area.

OIG INVESTIGATIONS

Following is a discussion of several cases in which there has been prosecutive action that has been made public. We cannot discuss nonpublic information on pending cases as that might compromise the ongoing criminal prosecutions.

Mitsubishi Construction (New York, New York)

In January 2010, a confidential source contacted the OIG with allegations that Mitsubishi Construction (Mitsubishi) is not owned and operated by a service-disabled veteran but claims it is an SDVOSB. Mitsubishi received approximately \$16 million in SDVOSB and Veteran Owned Small Business (VOSB) contracts from June 2007 through June 2010. The OIG investigated this case jointly with the SBA OIG. The investigation established from incriminating statements from Mitsubishi President and Chief Executive Officer John Raymond Anthony White that a service-disabled veteran was not involved in running the company. White claimed to be a service-disabled veteran to obtain Government construction contracts and later made incriminating statements to a Federal agent that another individual was the service-disabled veteran who actually was the majority owner of the company. In April 2011, White was found guilty of major fraud against the United States, mail fraud, obstruction of justice, and making false statements by a jury in the U.S. District Court for the Southern District of New York. White faces a maximum sentence of 75 years in prison and maximum fine of \$3.75 million. Prior to the verdict, both Mitsubishi and White had been suspended

and debarred² by VA. Mitsubishi had self-certified its SDVOSB status under the earlier regulations.

B&J Multi Service Corporation (Leominster, Massachusetts)

In November 2009, we received an allegation from a confidential source that B&J Multi Service Corporation (B&J) did not meet eligibility requirements for the SDVOSB program. We also received information from GAO in December 2009 about this company. Our joint investigation with the SBA OIG, the GSA OIG, Army CID, and the U.S. Department of Labor OIG substantiated the allegation.

On June 22, 2012, a criminal information was filed in the U.S. District Court for the District of Massachusetts charging Tyrone Jones, who is not a service-disabled veteran, with one count of conspiracy to commit wire fraud. Jones faces up to 5 years in prison, followed by 3 years of supervised release, and a fine of \$250,000 or twice the gross gain or loss from the crime, whichever is greater. B&J had self-certified its SDVOSB status under the earlier regulations. B&J has been referred to the VA Suspension and Debarment Committee.

GMT Mechanical (Grantville, Georgia)

The OIG initiated a joint investigation with the SBA OIG after receiving a referral from GAO alleging that GMT Mechanical (GMT), an SDVOSB, was a shell company. Our investigation revealed that Arthur Wayne Singleton, the owner of Singleton Enterprises, which is not an SDVOSB, approached a bedridden Vietnam War veteran and proposed the idea of starting a joint venture, GMT, using the veteran's service-disabled veteran status. The veteran performed no work for either company, did not have an ownership stake in GMT, and GMT was merely a pass-through for Singleton Enterprises. In November 2011, a Federal grand jury in the U.S. District Court for the Northern District of Georgia indicted Singleton on charges of wire fraud and major fraud against the United States. The wire fraud counts carry a maximum sentence of 20 years in prison and up to \$250,000 in fines, and the major fraud count carries a maximum sentence of 10 years in prison and a fine of \$1,000,000. GMT had self-certified its SDVOSB status under the earlier regulations. Both Singleton and Singleton Enterprises have been debarred from doing business with the Federal government.

CJMS Contracting (St. Louis, Missouri)

We initiated a joint investigation with the SBA OIG and the GSA OIG after receiving allegations that CJMS Contracting, LLC (CJMS) was engaging in SDVOSB fraud and that a VA employee was accepting bribes and/or gifts from the company. Our investigation revealed that Joseph Madlinger, a civil engineer and project manager engaged in commercial construction, and Michael Woodling, who was doing business as Gateway Contractors, approached a service-disabled veteran about setting up a construction company to compete for Government contracts under the SDVOSB program. They gave Russell Todd, a now retired VA employee, luxury box tickets at sporting events, lunches, and interest-free loans to ensure that CJMS continued to

² Debarment is an administrative remedy to bar individuals and companies from obtaining Federal contracts for a specific period of time.

receive VA contracts. Todd steered \$3.4 million in work at VA to Madlinger and Woodling.

In February 2012, in U.S. District Court for the Eastern District of Missouri, Madlinger and Woodling pled guilty to conspiracy involving the illegal payment of gratuities. As part of his plea agreement, Woodling agreed to forfeit \$1.5 million and a 2011 Jaguar Series XKR Model XK, which were proceeds of his criminal activity. In May 2012, Madlinger was sentenced to serve 2 years in prison followed by 1 year of probation and ordered to pay a \$50,000 fine. Woodling was sentenced to serve 3 years' probation and ordered to pay \$1,550,000 in restitution and a \$60,000 fine. In March 2012, Todd pled guilty to accepting an illegal gratuity and was sentenced to 15 months' imprisonment and 12 months' probation. CJMS had self-certified its SDVOSB status under the earlier regulations and was later verified by CVE under the current regulations as eligible based on false information. We submitted information to the VA Suspension and Debarment Committee on the individuals and the two companies.

Silver Star Construction (Blue Springs, Missouri)

A joint VA OIG, SBA OIG, GSA OIG, and DCIS investigation determined that Silver Star Construction, LLC (Silver Star) acted as a pass-through company for a larger company and that the owner was not a service-disabled veteran. Silver Star received more than \$8 million in Government contracts from December 2008 through July 2010. Warren Parker, owner of Silver Star, had claimed to have been awarded three Silver Stars, four Bronze Stars, three Purple Hearts, and other medals for valor during service in Vietnam, Cambodia, and Laos. In June 2011, Warren Parker, Silver Star Construction, and three other individuals, Warren's wife Mary Parker, their son Michael Parker, and Thomas Whitehead, the owner of the larger company, were indicted in the U.S. District Court for the District of Kansas for conspiracy, major fraud against the United States, wire fraud, false statements, and engaging in monetary transactions in property derived from specified unlawful activity. Silver Star and all four individuals have been suspended. The investigation determined that Warren Parker served in the National Guard, was not a service-disabled veteran, and never served overseas. Silver Star had self-certified its SDVOSB status under the earlier regulations.

On April 9, 2012, Warren Parker pled guilty to conspiracy to commit fraud against the United States, major program fraud, wire fraud, money laundering, and making a false statement. In addition, he pled guilty to the forfeiture counts of the indictment which will result in a \$6.8 million judgment against him. Parker agreed to forfeit personal property, including military medals and medallions, veterans' patches, various certificates and DD 214 forms, and a notebook he labeled "Book of Death" which contained a list of Vietnam War "sniper kills." Parker faces a potential sentence of up to 30 years in prison.

M.R. Tafoya Construction (Albuquerque, New Mexico)

In February 2012, Max R. Tafoya and Tyler Cole, his son-in-law, were indicted by a Federal grand jury in the U.S. District Court for the District of New Mexico for conspiracy, major fraud against the United States, and false statements after a proactive VA OIG investigation determined that Tafoya and Cole conspired to defraud

VA by falsely claiming that M.R. Tafoya Construction, Inc., was an SDVOSB. Andrew Castillo, a service-disabled veteran who received payment for allowing the use of his status, had previously pled guilty to conspiracy and major fraud. Tafoya and Cole face a maximum penalty of 5 years' imprisonment and a \$250,000 fine for the conspiracy charge, 10 years' imprisonment and a \$1 million fine on each of the four fraud charges, and 5 years' imprisonment and a \$250,000 fine for each of the false statement charges. Between March 2009 and February 2012, the company had been awarded five SDVOSB set-aside contracts totaling \$10.9 million. The company and the three individuals were suspended in March 2012. Tafoya had self-certified its SDVOSB status under the earlier regulations.

McDonald Roofing and Construction (Boise, Idaho)

After receiving a GAO referral alleging that McDonald Roofing and Construction (MRC), an SDVOSB, was a pass-through established for the sole purpose of obtaining set-aside contracts, we initiated a joint investigation with the SBA OIG, the GSA OIG, the Department of Interior OIG, the Department of Agriculture OIG, DCIS, and Army CID. Our investigation substantiated the allegation. In March 2012, MRC pled guilty to wire fraud charges relating to HUBZone contracts. In July 2012, MRC was sentenced to 3 years' probation and ordered to pay a \$5,000 fine. MRC had self-certified its SDVOSB status under the earlier regulations.

OTHER ACTION AVAILABLE

Criminal and civil prosecution, and the suspension and debarment actions resulting from prosecution, are not the only actions available to the Government in these cases. We have instructed our special agents to begin discussions with prosecutors upon conclusion of the covert phase of an SDVOSB investigation about pursuing fact-based suspension and debarment before prosecution commences. Prosecutors will have to determine what evidence can be made available to VA to support these actions and compromise neither Grand Jury secrecy nor successful prosecution.

CONCLUSION

As our work demonstrates, the VA OIG has devoted significant resources to the allegations of fraudulent claims of SDVOSB status for the purposes of obtaining noncompetitive set-aside contracts for Government work. Our work has produced significant prosecutions as well as suspensions and debarments of the wrongdoers. Our pending cases give us good reason to expect these successes will continue into the foreseeable future. This work will bring to light, and bring to justice, criminals who have deprived legitimate service-disabled veterans who have earned the SDVOSB eligibility as a result of disabilities they sustained during service to our country and will increase the economic opportunities for those veterans for whom the SDVOSB program was designed.

Chairman Johnson and Chairman Stutzman, this concludes my statement. I welcome any questions that you or other Members of the Subcommittees may have about our work in this area.