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PRESS RELEASE

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A third defendant pleads guilty in government auction scheme

ST. THOMAS, V.I. – A third man accused of participating in a scheme to defraud the government through a property auction has admitted to – and has been sentenced for – his role in the conspiracy.

Edward McKenzie, 61, pleaded guilty to taking part in the scheme that occurred between January 18, 2012, and June 26, 2013, in which the Office of the Lieutenant Governor (“OLG”) initiated a series of real property auctions.

McKenzie faced four charges – conspiracy, obtaining money by false pretense, conversion of government property and Criminally Influenced and Corrupt Organizations Conspiracy (CICO) – in connection with the crime. However, rather than face a jury, McKenzie accepted the terms of a plea bargain. Appearing before V.I. Superior Court Judge Michael Dunston on March 17, he pleaded guilty to the single charge of compounding a crime and was sentenced to a suspended jail term of 90 days, supervised probation for one year and 100 hours of community service.

On August 30, 2012, an auction in the St. Thomas-St. John District was conducted and one of the properties auctioned was 97 Estate Frydenhoj. An investigation by the Office of the Inspector General determined that there were certain irregularities in the conduct of the bidding at the auction. Based upon the investigation, the Department of Justice filed criminal charges against McKenzie alleging that he and others conspired and associated with an enterprise, through a pattern of activity with the intent to defraud the Government by manipulating the OLG property auction process with the ultimate purpose of fraudulently transferring and obtaining the property located at 97 Estate Frydenhoj.

The Government of the Virgin Islands was prepared to file a civil action under the Criminally Influenced and Corrupt Organizations Act (“CICO”), alleging that McKenzie engaged in CICO civil violations, but on March 31, DOJ entered into a civil settlement with McKenzie.

Commenting on a resolution of McKenzie’s criminal and civil cases, Attorney General Claude Earl Walker stated, “DOJ has resolved criminal charges against a third defendant in the tax assessor's property auction scam. McKenzie has pled guilty for his role, and like two other defendants who have also pleaded guilty, he has agreed to cooperate. The prosecutors will continue to go through its mountain of evidence in this case to prepare

for trial against the fourth and final defendant. In addition, DOJ has settled its civil CICO claims against McKenzie, whereby he has paid \$100,000.00 dollars to the Government of the Virgin Islands, and is barred from personally participating or associating with any real estate, agent, broker or other person for purposes of participating in any real property auction conducted by the Office of the Tax Assessor.”

In all, four men – Sylvester Warner, Calford Charleswell, Paul Sabers and McKenzie – were taken into custody and charged in connection with the public auction scheme. On Feb. 8, Charleswell, 51, of Est. Anna’s Retreat, who faced 14 charges stemming from the incident, admitted his wrongdoing and pleaded guilty to the single count of conspiracy. Warner, 43, of Est. St. Peter, also pleaded to a single charge of conspiracy at a change-of-plea hearing on Feb. 3.

An investigation by Nicholas Peru, special investigator in the office of the Inspector General, led to the apprehension of the four men. In his affidavit supporting the arrests, Peru gave the following details:

A property auction was conducted on Aug. 30, 2012. One of the properties being auctioned was 97 Est. Frydenhoj, on which the opening bid was placed at \$6,442.28. The first bidder offered \$75,000, a second person bid \$42,000 and the third bid was \$10,100; however, the bidder tracking sheet prepared by Charleswell showed that there were only two bidders on the property, according to Peru.

An unwritten policy developed by officials in 2012 required that the three highest bidders be recorded in the event that the highest bidder failed to meet the ten percent deposit amount, but the day after the auction, the winning bidder did not make the required deposit and the second highest bidder should have been contacted, Peru wrote.

On Sept. 4, 2012, a deposit of \$2,000 was paid on a bid that was not noted on the record and on Oct. 11, 2012, a man paid the balance of \$8,000 on the Est. Frydenhoj property and the office of the lieutenant governor transferred the property to that man for \$10,000. Then, on Sept. 25, 2013, the man transferred the same property to another man, according to Peru.

A woman whose name appeared on the bidder tracking sheet told Peru that she accompanied Warner to the auction and he completed the registration form using her name, but used his address. She said Warner bid on the Frydenhoj property and told her that he was bidding for a friend. On the day of the auction, Warner bid on three other properties, but although he was the highest bidder, he failed to pay deposits or take any of the properties, according to Peru.

The investigation revealed that certain procedural changes made by officials at the office of the lieutenant governor allowed individuals to fraudulently manipulate the bidding process in a scheme in which the highest bidder purposefully makes a substantially inflated high bid, then fails to post the ten percent deposit so that the property would go to another bidder or individual for a substantially low price, Peru wrote.

This manipulation prevented potential bidders from making fair and legitimate bids on properties offered at public auctions and potentially reduced the likelihood of the property owner recouping any excess proceeds from the sale after taxes and fees are paid, according to Peru.