

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

UNITED STATES OF AMERICA

v.

BRIAN L. POTASHNIK (04)

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Criminal No. 3:07-CR-289-M

FACTUAL RESUME

It is hereby agreed by and between the defendant, Brian L. Potashnik, and the United States, that the following is true, correct, and can be used in support of the defendant's plea of guilty:

ELEMENTS OF THE OFFENSE

In order to prove the offense alleged in Count Ten of the Indictment, the government must prove each of the following elements beyond a reasonable doubt:

Elements of the Offense: Conspiracy to Commit Bribery Concerning a Local Government Receiving Federal Benefits

The essential elements of an offense under 18 U.S.C. § 371(18 U.S.C. § 666(a)(2)), that is, conspiracy to corruptly provide a reward to a public official concerning a local government receiving federal benefits are as follows:

- First:* that the defendant and at least one other person made an agreement to commit the offense described;
- Second:* that the defendant knew the unlawful purpose of the agreement and joined in it willfully, that is, with the intent to further the unlawful purpose; and



Third: that one of the conspirators during the existence of the conspiracy knowingly committed at least one of the overt acts described in the indictment, in order to accomplish some object or purpose of the conspiracy.

II. Stipulated Facts

The stipulated facts that support the defendant's plea of guilty to Count Ten of the Indictment are as follows:

Defendant Brian L. Potashnik ("Potashnik") was a real estate developer and the founder, president, and a principal of Southwest Housing Development Company, Inc. ("SWH"). Donald W. Hill ("Hill"), was an agent of local government who was elected to the Dallas City Council, District 5, in 1999, and re-elected to the same position in 2001, 2003, and 2005. D'Angelo Lee ("Lee") was an agent of local government who was nominated to the City Plan and Zoning Commission ("CPC") by Hill in August 2003; then appointed by the Dallas City Council on October 1, 2003 as the plan commissioner for District 5 for a term that expired on August 31, 2005.

From on or about August 2004 through on or about June 2005, Hill and/or Lee pressured Potashnik to corruptly provide them, through the hiring of a specific community consultant and a specific subcontractor, with things of value to reward these agents of local government in connection with the business of the City Council and CPC. These actions were done by Potashnik to advance the general interests of SWH (rather than for the approval of any specific development of SWH) and to ensure the continuing goodwill of Hill and/or Lee. Hill and/or Lee had in the past supported SWH

developments which, among others, included affordable housing developments in Dallas, Texas.

Potashnik wanted to ensure Hill's and Lee's continuing support for, and lack of opposition to, further developments in Dallas or elsewhere as Potashnik understood that refusing Hill's and Lee's demands would adversely affect SWH in the future. Thus, after initially resisting their pressure, Potashnik agreed to Hill's and Lee's demands to hire a specific community consultant and to hire a specific subcontractor. In doing so, Potashnik consciously avoided actual knowledge or inquiry that Hill and /or Lee would share financially in the consulting and subcontractor contracts they were requiring him to enter.

Consequently, Potashnik admits that he knowingly and willfully combined, conspired, confederated, and agreed with Hill, Lee and others, in the Northern District of Texas, in a transaction and series of transactions, to corruptly offer, give or agree to give something of value of \$5,000.00 or more to a person, in connection with any business, transaction, and series of transactions of the City of Dallas, with the intent to reward Hill and Lee, agents of the City of Dallas, a local government that received benefits in excess of \$10,000.00 under a federal program involving a grant and other forms of federal assistance during the one year periods beginning October 1, 2003, and October 1, 2004, and is pleading to the charge of Count Ten of the Indictment.

Potashnik further admits and acknowledges that his conduct violated 18 U.S.C. § 371.

The above facts are true and correct.

AGREED TO AND SIGNED this 21 day of June, 2009.

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