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FOR IMMEDIATE RELEASE
MONDAY MAY 9, 2005

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**LEVINE, KIFERBAUM AND HURTGEN INDICTED ON FRAUD CHARGES
ALLEGING KICKBACKS, INFLUENCE-PEDDLING AND INSIDER-DEALING**

Hospital projects in McHenry and Will counties subjected to pay-to-play scheme

CHICAGO – Three Chicago area executives – one of them a former member of the Illinois Health Facilities Planning Board, which controls medical facility construction projects in Illinois, and one a managing director of Bear Stearns & Co., an investment firm that arranges financing for public works projects in Illinois – were indicted on federal charges for allegedly engaging in insider-dealing, influence-peddling, kickbacks and corruption involving their private interests and public duties, federal officials announced today. One defendant, **Stuart Levine**, a lawyer and businessman, allegedly engaged in a fraud scheme to obtain a total of at least \$9.5 million for himself and certain associates, while the other two defendants, **Jacob Kiferbaum**, an architect and construction firm executive, and **P. Nicholas Hurtgen**, a lawyer and investment banker, allegedly participated in the same fraud scheme to obtain multi-million dollar contracts for their businesses through construction kickbacks or other fraudulent deals. Levine and Hurtgen were arrested this morning by federal agents. Kiferbaum is cooperating with the investigation and was not arrested. All three were charged with various counts of fraud and extortion in a 28-count indictment that was returned by a

federal grand jury last Wednesday and unsealed today, announced Patrick J. Fitzgerald, United States Attorney for the Northern District of Illinois.

Levine, 59, of Highland Park, and Hurtgen, 42, of Glencoe, were expected to be arraigned later today in U.S. District Court in Chicago. Kiferbaum, 52, also of Glencoe, will be arraigned at a later date. Through his attorney, Kiferbaum has authorized the government to disclose that he is cooperating in the investigation.

The indictment identifies the defendants, with the charges against each, as follows:

Stuart Levine – 19 counts of mail fraud, 4 counts of wire fraud, 2 counts of misapplication of funds, 2 counts of money laundering and one count of extortion – a businessman whose interests included S.L. Investment Enterprises, L.P., and a former member of the Illinois Health Facilities Planning Board (Planning Board), a state commission appointed by the Governor that grants or denies a permit, known as a “Certificate of Need” (CON), to build hospitals, physician offices or other medical facilities statewide. Levine was also a member of the board of trustees of Rosalind Franklin University of Medicine and Science, formerly known as Finch University of Health Sciences/Chicago Medical School (Chicago Medical School or CMS) in North Chicago, and he was chairman of its real estate committee. He was also a trustee of the Northshore Supporting Organization (NSO), a charitable trust that supported Chicago Medical School;

Jacob Kiferbaum – 16 counts of mail fraud, 3 counts of wire fraud, 2 counts of misapplication of funds and one count of extortion – chief executive officer of KCC Group Design + Build, Inc., formerly known as Kiferbaum Construction Corp., of Deerfield. Kiferbaum was also a trustee of Chicago Medical School; and

P. Nicholas Hurtgen – 3 counts of mail fraud, 3 counts of wire fraud and 1 count of extortion – formerly senior managing director in the Chicago office of Bear Stearns & Co., an investment bank that did business and sought to do business with the State of Illinois, Edward Hospital in Naperville, part of Edward Health Services Corp., and Mercy Health System Corp., of Janesville, Wis.

The indictment also seeks forfeiture from Levine alone of approximately \$9.5 million as proceeds of the alleged fraud, and approximately \$1 million in alleged money laundering proceeds, as well as his residence at 57 South Deere Park Dr., Highland Park, and a residence in Weston, Fla.

The indictment alleges that Levine, Hurtgen and Kiferbaum engaged in a fraud scheme between early 2001 through at least June 2004 to defraud Chicago Medical School, NSO, the Planning Board and the State of Illinois of money and the honest services of Levine and Kiferbaum in connection with four construction projects and a fraudulent transaction involving \$6 million belonging to the charity.

According to the indictment, the fraud scheme included the following fraudulent transactions:

Edward Hospital: Levine, Kiferbaum and Hurtgen agreed that they would use Levine's position on the Planning Board to attempt to force Edward Hospital to hire Kiferbaum's company to build a \$90 million hospital and \$23 million medical office building in Plainfield, by threatening Edward Hospital representatives that the Planning Board would not approve those projects unless Kiferbaum was hired to build them. Hurtgen assisted in the scheme because he wanted his employer, Bear Stearns, to receive the financing work from the new Edward hospital.

Hurtgen agreed to introduce Kiferbaum to the CEO of Edward Hospital. As a result of Kiferbaum's recent prior dealings with Levine, Kiferbaum understood that Levine would direct him to provide a kickback. According to the indictment, in mid-December 2003, Hurtgen called Edward's CEO and said that the hospital should postpone its application before the Planning Board on Dec. 17 to allow time to hire Kiferbaum if it wanted to have its CON approved; otherwise, it would be denied – which, in fact, is what occurred at the Dec. 17 meeting. Although Levine was barred from *ex parte* communications with Edward representatives about its pending application, on Dec. 23, 2003, Hurtgen and Kiferbaum met with Edward's CEO to attempt to force the hiring of Kiferbaum's company. On Jan. 8, 2004, Hurtgen met again with the CEO and also Edward's project administrator. The defendants were unaware that the hospital officials were cooperating with the FBI at the time of those meetings. In explaining his role in persuading Edward officials to hire Kiferbaum's company, Hurtgen said that Bear Stearns would finance the hospital if it was approved, the indictment alleges. During the January meeting, Hurtgen said he might be able to arrange a situation in which Levine would inadvertently bump into the CEO and Hurtgen in response to the CEO's request for proof that the threats and promises were real. After further discussions among various parties related to proving that Levine and Hurtgen knew each other and were talking, Levine and Hurtgen went to a restaurant in Deerfield on April 18, 2004, to prove to the CEO that Levine, Hurtgen and Kiferbaum were working together and that their threats and promises were real. Levine and Hurtgen walked over to the table where Kiferbaum and the CEO were sitting. Levine said that he was the board chairman of CMS and

that Kiferbaum had done a project for them, adding that Kiferbaum is a person who could be relied upon and whose word could be depended on, according to the indictment. At the April 21 Planning Board meeting, Edward had not hired Kiferbaum and, with Levine voting against the project, its Plainfield hospital application was denied;

CMS addition – \$1 million kickback from Kiferbaum at direction of Levine: In connection with an \$18 million contract in the summer of 2001 for Kiferbaum's company to build an addition to CMS, Levine and Kiferbaum agreed that Kiferbaum would include an extra \$1 million for Levine in the cost of the project. Kiferbaum then paid approximately \$700,000, at Levine's direction, to a business operated by Individual 2, an attorney and CEO of a consulting company in Chicago. Levine and Kiferbaum later agreed that the remaining amount would be paid to a company operated by Individual 1, a medical doctor and businessman who shared a business suite with Levine, and who was also a trustee of CMS and NSO. Levine and Kiferbaum did not disclose to CMS the nature or purpose of the additional costs to CMS, nor did they disclose that Levine was directing the payment of CMS funds, or that Individuals 1 and 2 had agreed to receive them. Levine, Kiferbaum and Individuals 1 and 2, used sham marketing and consulting contracts to conceal the fraudulent nature of the diversion, and the planned diversion, of CMS funds to Individuals 1 and 2;

CMS student housing – \$1 million kickback from Kiferbaum at direction of Levine: In connection with a \$22 million contract in the summer of 2002 for Kiferbaum's company to build a student dormitory for CMS, Levine and Kiferbaum agreed that Kiferbaum would include an extra \$1 million for Levine in the cost of the project. Kiferbaum then paid the money, at Levine's direction, in the form of a \$628,000 check on Dec. 12, 2002, and a \$372,000 check on March 13, 2003, to Individual 3, a European businessman who maintained financial accounts in Chicago. Levine and Kiferbaum did not disclose to CMS the nature or purpose of the additional costs to CMS, nor did they disclose that Levine was directing the payment of CMS funds. Levine and Kiferbaum concealed the fraudulent nature of the diversion of CMS funds to Individual 3 through the use of a sham marketing contract;

Diversion of \$6 million by Levine from NSO: On July 19, 2002, Levine caused NSO to lend \$3 million to his company, S.L. Investment Enterprises, and \$3 million to a company controlled by Individual 1, and then arranged to have both loans forgiven without repayment. Each company executed promissory notes requiring them to repay NSO after 20 years, with an annual interest rate of 7.5 percent, resulting in each company owing NSO approximately \$12.5 million at that time. On Dec. 1, 2002, Levine and Individual 1 signed promissory notes substituting themselves as the borrowers. Levine then used his position as an NSO trustee to

arrange for NSO to “donate” the notes to CMS in a sealed envelope and with the condition that CMS would immediately sell the notes to Individual 3 for \$1 million, which was the amount of the kickback that Levine and Kiferbaum fraudulently obtained from CMS in building the student dormitory and diverted to Individual 3. After purchasing the notes from CMS for \$1 million, Individual 3 transferred them to Levine and Individual 1 as “gifts,” thus freeing Levine and Individual 1 from any obligation to repay the \$6 million that they had purportedly borrowed from NSO. As a result, Levine fraudulently obtained \$3 million for himself, and \$3 million for Individual 1, through the use of the \$1 million that was fraudulently obtained from CMS by Levine and Kiferbaum; and

Mercy Hospital - \$1.5 million kickback from Kiferbaum to Levine: Levine solicited a kickback of approximately \$1.5 million from Kiferbaum relating to the construction of Mercy Hospital’s \$49 million Crystal Lake facility. Kiferbaum agreed to pay a kickback, with the exact amount and manner of the payments to be determined at a later date. Levine used his influence with the Planning Board to ensure that Mercy Hospital received approval of its application to build the Crystal Lake hospital after hiring Kiferbaum’s company. In voting for, and influencing other Planning Board members to vote for, Mercy’s application, Levine concealed from the Planning Board his financial arrangement or contacts with Kiferbaum. After the Planning Board voted to approve Mercy’s application on April 21, 2004, Levine reported to Individual 1 that hiring Kiferbaum did it for Mercy. When Levine told Kiferbaum that no one really knew that Levine was orchestrating the approval, Kiferbaum said he could not thank Levine enough, and Levine said they were in this together. Levine directed that Kiferbaum pay the kickback proceeds to Individual 1 pursuant to a sham consulting contract for \$1,728,000, which included the \$1.5 million kickback that Levine had solicited and \$228,000 that Kiferbaum still owed from the CMS addition kickback. On May 1, 2004, Levine told Individual 1 that other people knew that Mercy received its CON because of the combination of Kiferbaum, Hurtgen and a law firm and that this information would spread like wildfire.

Mr. Fitzgerald announced the charges with Robert D. Grant, Special Agent-in-Charge of the Chicago Office of the Federal Bureau of Investigation; Kenneth T. Laag, Inspector-in-Charge of the U.S. Postal Inspection Service; James Vanderberg, Special Agent-in-Charge of the U.S. Department of Labor Office of Inspector General in Chicago; and Byram Tichenor, Special Agent-in-Charge of the Internal Revenue Service Criminal Investigation Division in Chicago. The U.S. Attorney’s

Office in Milwaukee also cooperated with the investigation, and the investigation is continuing, the officials said.

“Individuals who serve on public boards or boards of private institutions and charities must serve the interests of the public or the institution and not steal for themselves,” Mr. Fitzgerald said. “Beyond owing basic duties of honesty and integrity, hospital Planning Board members play an important role in providing access to health care while containing costs. The indictment charges that Levine instead sold out his duties and gave out state approvals and hospital contracts on the basis of ‘who you know’ and worse, ‘who you pay,’” he added.

The government is being represented by Assistant U.S. Attorneys Jacqueline Stern, Christopher Niewoehner, Kaarina Salovaara and James Barz.

Upon conviction, the charges alleged in the indictment carry the following maximum penalties on each count: mail fraud, wire fraud and extortion – 20 years in prison and a \$250,000 fine; and misapplication of government funds – 10 years and a \$250,000 fine. One of the money laundering counts carries a maximum prison term of 20 years and the other count a maximum of 10 years, and both carry a maximum fine of \$500,000 or twice the amount of the money involved in the transaction. As an alternative maximum fine, the Court could impose a fine of twice the gross profit to any defendant or twice the loss to any victim. The Court, however, would determine the appropriate sentence to be imposed.

The public is reminded that an indictment contains only charges and is not evidence of guilt. The defendants are presumed innocent and are entitled to a fair trial at which the government has the burden of proving guilt beyond a reasonable doubt.

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