



***United States Attorney
District of New Jersey***

FOR IMMEDIATE RELEASE

October 20, 2011

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**FORMER LOUIS BERGER GROUP, INC. CEO SURRENDERS TO FACE
INDICTMENT CHARGING FRAUDULENT BILLING SCHEME FOR
IRAQ, AFGHANISTAN RECONSTRUCTION CONTRACTS**

NEWARK, N.J. – The former president and CEO of New Jersey-based international engineering consulting company Louis Berger Group, Inc. (“LBG”) surrendered to the FBI this morning to face a six-count Indictment alleging he led a scheme to intentionally overbill the United States in connection with hundreds of millions of dollars in overseas reconstruction contracts over a nearly 20-year period, U.S. Attorney Paul J. Fishman announced.

The Indictment, which was returned yesterday and unsealed today, charges Derish Wolff, 76, of Miami, Fla., and Bernardsville, N.J. – who was president and CEO of LBG from 1982 to 2002 and more recently served as the chairman of LBG’s parent company, Berger Group Holdings, Inc. – with one count of conspiring to defraud the United States Agency for International Development (“USAID”) and five counts of making false claims in connection with those billings.

The Indictment alleges that while at LBG, Wolff conspired to defraud USAID by billing the agency on so-called “cost plus” contracts – including hundreds of millions of dollars in contracts for reconstructive work in Iraq and Afghanistan – for LBG’s overhead and other indirect costs at falsely inflated rates.

Wolff is expected to make his initial appearance this afternoon before U.S. Magistrate Judge Madeline Cox Arleo in Newark federal court.

“The Indictment alleges that during decades at the helm of a company entrusted with the rebuilding of battle-scarred nations Derish Wolff focused on profits over progress,” U.S. Attorney Fishman said. “Wolff allegedly used his position to lead others in the scheme, setting targets that could be reached only through fraud. Especially when representing our business practices overseas, there is no excuse for playing fast and loose with the taxpayers’ tab.”

“Today’s arrest of Derish Wolff represents personal accountability for allegedly defrauding the U.S. government out of millions of dollars,” said Michael B. Ward, Special Agent In Charge of the Newark Division of the FBI. “According to the Indictment, by instructing his company to pad costs involving foreign reconstruction efforts at falsely inflated rates, he attempted to enrich himself at taxpayer expense. At a time when the U.S. government was attempting to build relationships and trust within the Middle East, Wolff sought profits over patriotism, and commercial gain over corporate duty.”

“This Indictment alleges that Derish Wolff conspired to defraud USAID and the Department of Defense through a scheme of intentional overbilling and the filing of false claims,” said Edward T. Bradley, Special Agent in Charge, U.S. Department of Defense, Defense Criminal Investigative Service. “Such schemes, perpetrated by dishonest contractors and individuals, erode public confidence and deny full support to the mission of our brave men and women serving in the military services. The American taxpayer expects the DoD and Defense Criminal Investigative Service to be champions of fiscal accountability and acquisition integrity and these charges demonstrate the commitment of DCIS and our law enforcement partners to vigorously investigate procurement fraud allegations.”

“Thanks to the diligent efforts of USAID special agents and auditors, as well as the perseverance of our interagency partners, fraud against the U.S. government will not be tolerated,” stated USAID Acting Inspector General Michael G. Carroll.

“This case highlights the importance of imposing accountability upon those who use wartime contracting for their own criminal purposes,” said Stuart W. Bowen Jr., Special Inspector General for Iraq Reconstruction. “I applaud the hard work of the investigative team, which included agents from my staff, for pursuing this case to its conclusion. Defrauding the U.S. taxpayer must be stopped by bringing to justice those who engage in it.”

According to the Indictment and other documents filed and statements made in court in this and related cases:

USAID is an independent federal government agency that advances U.S. foreign policy by supporting economic growth, agriculture, trade, global health, democracy, and humanitarian assistance in developing countries, including countries destabilized by violent conflict. The agency awarded LBG, formerly based in East Orange, N.J., and now in Morristown, N.J., hundreds of millions of dollars in reconstruction contracts in Iraq and Afghanistan as well as other nations. LBG calculated certain overhead rates and charged USAID and other federal agencies those rates on what are known as “cost plus contracts,” which enabled LBG to pass on their overhead costs to the agency in general proportion to how much labor LBG devoted to the government contracts.

From at least 1990 through about July 2009, LBG, through Wolff and other former executives, intentionally overbilled USAID in connection with the contracts in a scheme carried out by a number of LBG employees at Wolff’s direction.

Regardless of the actual numbers, Wolff targeted a particular overhead rate and ordered his subordinates to achieve that target rate through a variety of fraudulent means. From at least as early as 1990 through 2000, Wolff ordered LBG’s assistant controller to pad time sheets with hours ostensibly devoted to federal government projects when that employee had not actually worked on such projects. Wolff ordered this subordinate to instruct the accounting division to do

the same.

At an LBG annual meeting in September 2001, Salvatore Pepe, 58, of Tuckahoe, N.Y., – who was then the controller and eventually became the chief financial officer – presented a USAID overhead rate that was significantly below Wolff’s target. In response, Wolff denounced Pepe, called him an “assassin” of the overhead rate, and ordered him to target a rate above 140 percent, meaning that for every dollar of labor devoted to a USAID contract, LBG would receive an additional \$1.40 in overhead expenses supposedly incurred by LBG.

In response to this instruction to target an overhead rate, Pepe and former Controller Precy Pellettieri 55, of Rahway, N.J., with Wolff’s supervision, hatched a fraudulent scheme to systematically reclassify the work hours of LBG’s corporate employees, such as those in the general accounting division, to make it appear as if those employees worked on federal projects when they did not. Pepe and Pellettieri, at Wolff’s direction, reclassified these hours from approximately 2003 through 2007 without the employees’ knowledge and without investigating whether the employees had correctly accounted for their time, at times over an employee’s objection.

In addition to padding employees’ work hours with fake hours supposedly devoted to USAID work, Wolff instructed his subordinates to charge all commonly shared overhead expenses for LBG’s Washington office, such as rent, to an account created to capture USAID-related expenses, even though that office supported many projects unrelated to USAID or other federal government agencies.

The conspiracy charge carries a maximum potential penalty of 10 years in prison; each of the false claims counts carries a maximum potential penalty of five years in prison. Each of the six counts also carries a maximum \$250,000 fine, or twice the loss from the offense.

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On November 5, 2010, Pepe and Pellettieri each pleaded guilty before U.S. Magistrate Judge Patty Schwartz to separate Informations charging them with conspiring to defraud the government with respect to claims. They await sentencing. Also on that date, LBG resolved criminal and civil fraud charges related to Wolff’s and others’ conduct. The components of the settlement included:

- a Deferred Prosecution Agreement (“DPA”), pursuant to which the U.S. Attorney’s Office in New Jersey suspended prosecution of a criminal Complaint charging LBG with a violation of the Major Fraud Statute; in exchange, LBG agreed, among other things, to pay \$18.7 million in related criminal penalties; make full restitution to USAID; adopt effective standards of conduct, internal controls systems, and ethics training programs for employees; and employ an independent monitor who would evaluate and oversee the company’s compliance with the DPA for a two-year period;

- a civil settlement that required the company to pay the government \$50.6 million to resolve allegations that LBG violated the False Claims Act by charging inflated overhead rates that were used for invoicing on government contracts; and
- an administrative agreement between LBG and USAID, which was the primary victim of the fraudulent scheme.

The settlement took into consideration LBG's cooperation with the investigation and the fact that those responsible for the wrongdoing are no longer associated with the company.

U.S. Attorney Fishman credited special agents of the FBI, under the direction of Special Agent in Charge Ward; the U.S. Department of Defense, Defense Criminal Investigative Service, under the direction of Special Agent in Charge Bradley; USAID, Office of Inspector General, under the direction of Acting Inspector General Carroll; and the Office of the Special Inspector General for Iraq Reconstruction, under the direction of Special Inspector General Bowen, with the investigation leading to today's Indictment.

Fishman also reiterated his thanks to those whose work regarding the civil investigation was critical to the settlement with LBG. The civil investigation was conducted by special agents and auditors within the Office of Inspector General for USAID. Audit support was also provided by the Defense Contract Audit Agency. The settlement was negotiated by the Civil Division of the Department of Justice and the U.S. Attorney's Office for the District of Maryland.

The government is represented by Assistant U.S. Attorneys Scott B. McBride of the U.S. Attorney's Office Health Care and Government Fraud Unit, and Joyce M. Malliet of the Office's National Security Unit.

The charges and allegations in the Indictment are merely accusations, and the defendant is considered innocent unless and until proven guilty.

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Defense counsel: Herbert J. Stern Esq.; Mark W. Rufolo Esq., Roseland, N.J.