

**FILED**

**FEB 13 2008**

DAVID CREWS, CLERK  
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Deputy

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI

UNITED STATES OF AMERICA

v.

CRIMINAL NO. 3:08CR014

ROBERT L. MOULTRIE,  
NIXON E. CAWOOD,  
CHARLES K. MOREHEAD,  
FACILITY HOLDING CORP., d/b/a  
THE FACILITY GROUP,  
FACILITY MANAGEMENT GROUP, INC.,  
FACILITY CONSTRUCTION MANAGEMENT INC. and  
FACILITY DESIGN GROUP INC.

**INDICTMENT**

The Grand Jury charges that:

**COUNT ONE**

1. At all times relevant to this indictment:

- a. ROBERT L. MOULTRIE, defendant, was Chairman and Chief Executive Officer of THE FACILITY GROUP.
- b. NIXON E. CAWOOD, defendant, was the Chief Operating Officer of THE FACILITY GROUP.
- c. CHARLES K. MOREHEAD, defendant, was Executive Vice-President of the Project Quality Control Management Group of THE FACILITY GROUP.
- d. FACILITY HOLDING CORP., was a corporation located in Smyrna, Georgia, engaged in design, engineering and construction management, also known as THE FACILITY GROUP, composed of and doing business through numerous corporate entities with similar names.
- e. FACILITY MANAGEMENT GROUP, INC., defendant, was a for profit corporation and a subsidiary of Facility Holding Corporation.

- f. FACILITY CONSTRUCTION MANAGEMENT INC., defendant, was a for profit corporation and a subsidiary of Facility Holding Corporation now d/b/a Facility Program Management, Inc.
- g. FACILITY DESIGN GROUP INC., defendant, was a for profit corporation and a subsidiary of Facility Holding Corporation.
- h. The State of Mississippi and the Mississippi Development Authority (“MDA”), received benefits in excess of \$10,000 pursuant to federal programs providing assistance to the State of Mississippi.

2. From on or about February, 2003, to on or about March 12, 2004, in the Northern District of Mississippi and elsewhere, ROBERT L. MOULTRIE, NIXON E. CAWOOD and FACILITY HOLDING CORP., d/b/a, THE FACILITY GROUP, FACILITY MANAGEMENT GROUP, INC., FACILITY CONSTRUCTION MANAGEMENT INC. and FACILITY DESIGN GROUP INC., hereinafter collectively referred to as “THE FACILITY GROUP”, defendants, did knowingly and willfully conspire with each other and with others known and unknown to the Grand Jury to corruptly give, offer and agree to give things of value to another person with intent to influence and reward an agent of the government of the State of Mississippi, which State government received federal assistance in excess of \$10,000 in a one year period, in connection with a business, transaction and series of transactions of such State government, things of value of \$5,000 or more, to wit: ROBERT L. MOULTRIE, Chairman and Chief Executive Officer of THE FACILITY GROUP and NIXON E. CAWOOD, Chief Operating Officer of THE FACILITY GROUP, defendants, devised and executed a scheme and plan to corruptly give, offer and agree to give more than \$5,000 in campaign contributions to the reelection campaign of an agent of the government of the State of Mississippi, hereinafter referred to as “the public official”, who is not charged in this indictment, with intent to influence and reward the public

official in connection with the State of Mississippi's selection of TFG to manage the completion of the design and construction of Mississippi Beef Processors, LLC beef processing plant located in Yalobusha County, Mississippi, in violation of Section 666(a)(2) of Title 18 of the United States Code.

### **BACKGROUND**

3. Beginning in 2000, members of the Mississippi Legislature, officials of the Department of Agriculture, the Mississippi Development Authority ("MDA") and others approached Richard N. Hall, Jr., to construct and operate a beef processing plant in Yalobusha County, Mississippi. In April, 2001, Hall submitted a business plan for the construction and operation of the plant, requesting approximately \$17,000,000 in state funds, \$5,000,000 of which would be in the form of a grant.

4. The Mississippi Legislature then passed legislation, which called for a 100% guarantee of a loan to Hall for the project. In April, 2002, MDA approved a 100% state backed loan guarantee. Based on the 100% guarantee, Community Bank agreed to provide Richard N. Hall, Jr. a \$21,000,000 construction loan, plus a \$6,500,000 line of operating credit. On April 16, 2002, following competitive bidding, Carothers Construction, Inc. of Water Valley, Mississippi was selected to build the beef processing plant.

5. In late 2002, Richard N. Hall, Jr., d/b/a Mississippi Beef Processors, LLC closed the \$6,500,000 line of credit and the \$21,000,000 in state guaranteed loans with Community Bank. Thereafter, monthly disbursements from the grant and loan funds were made to Hall and service and equipment providers for the plant. The project, however, was quickly over budget and behind schedule. In February, 2003, the Bank, the Board and MDA, concerned about cost

overruns and delays, stopped the project and decided an audit of the project was necessary to evaluate the status and future of the project.

6. During the time period when construction on the Mississippi Beef Processors project was halted, THE FACILITY GROUP was selected by the State of Mississippi and Community Bank to perform a study to evaluate the construction of the Mississippi Beef Processors plant at a cost of approximately \$450,000. In March of 2003, THE FACILITY GROUP made an additional proposal, whereby if selected, it would not only perform the evaluation of the project, but if chosen would also become Project Manager in charge of completing the Mississippi Beef Processors plant, thus potentially receiving millions of additional dollars in compensation.

7. Desiring that THE FACILITY GROUP be selected Project Manager of the beef processing facility, ROBERT L. MOULTRIE, Chairman and Chief Executive Officer of THE FACILITY GROUP, contacted Robin Williams, a consultant employed by THE FACILITY GROUP who is not charged in this indictment, and asked Williams to set up a meeting with the public official. On or about April 2, 2003, MOULTRIE and Williams met with the public official and an employee of the public official's campaign staff at a Jackson, Mississippi restaurant to discuss the Mississippi Beef Processors project.

8. On or about April 3, 2003, in partnership with Hendon Redmond, an engineering firm located in Cincinnati, Ohio, Carothers Construction, Inc. submitted a competing proposal to become the Project Manager. The public official then contacted the President of Carothers Construction, Inc., Sean Carothers, and told Carothers he wanted to meet with him in person at the public official's residence in Jackson.

9. On or about April 11, 2003, the public official met with Sean Carothers

to discuss Carothers Construction's proposal to become Project Manager. Before the meeting started, the public official told an employee of Carothers Construction, who had accompanied Sean Carothers on the trip from Water Valley to Jackson, that he wished to meet with Sean Carothers alone. The public official then met alone with Sean Carothers to discuss Carothers' proposal to become the Project Manager of Mississippi Beef Processors.

10. On or about April 15, 2003, THE FACILITY GROUP was selected by the State of Mississippi to manage the Mississippi Beef Processors project and on April 23, 2003, THE FACILITY GROUP entered into a "Letter of Intent" with the State of Mississippi to sign a Project Management Agreement.

11. On or about July 7, 2003, however, before a Project Management Agreement had been executed, MOULTRIE caused invitations to be mailed to individuals living in Georgia, Mississippi and elsewhere to attend a fundraiser for the public official, to be held at MOULTRIE'S residence in Smyrna, Georgia..

12. Less than a week later, on or about July 11, 2003, THE FACILITY GROUP d/b/a FACILITY CONSTRUCTION MANAGEMENT INC. ("FCMI"), entered into a Project Management Agreement with the State of Mississippi and the Bank to manage the completion and design of the Mississippi Beef Processors plant whereby THE FACILITY GROUP would be paid not only a \$3,547,974.00 fee, but also an additional reimbursement of up to \$3,021,418.00 for costs associated with the project "at cost."

13. On or about mid July, 2003, ROBERT L. MOULTRIE and NIXON E. CAWOOD did instruct employees of THE FACILITY GROUP, who were invited to the fundraiser, to issue \$1,000.00 personal checks payable to the public official. MOULTRIE and CAWOOD advised the employees that THE FACILITY GROUP would, however, pay back each

contributing employee their entire \$1,000.00 for their campaign contributions to the public official, which were in fact unlawful "contributions" from THE FACILITY GROUP with the employees acting as conduits to conceal that the contributions came from THE FACILITY GROUP.

14. On or about July 23, 2003, a fund raiser for the public official was held at MOULTRIE'S Smyrna, Georgia residence, during which MOULTRIE, CAWOOD and other individual employees of THE FACILITY GROUP contributed campaign checks to the public official, payable to the public official.

15. On or about late July, 2003, ROBERT L. MOULTRIE caused company checks to issue from FACILITY MANAGEMENT GROUP, INC. to pay back THE FACILITY GROUP employees for their political campaign contributions to the public official.

16. On or about July 29, 2003, ROBERT L. MOULTRIE caused to be created The Facility Group Political Action Committee ("TFG Political Action Committee").

17. On or about August 13, 2003, MOULTRIE caused TFG Political Action Committee to issue a \$20,000 check to the public official's campaign.

18. On or about September 30, 2003, MOULTRIE caused TFG Political Action Committee to issue a \$25,000 check to the public official's campaign.

19. Beginning in August, 2003 and continuing to March, 2004, THE FACILITY GROUP also caused to be included in monthly invoices submitted to Mississippi Beef Processors, LLC, Mississippi Development Authority ("MDA"), the Board and Bank, false labor billings specifically designed to recoup the money THE FACILITY GROUP spent in reimbursing its employees for their campaign contributions to the public official and to recover the money ROBERT L. MOULTRIE, NIXON E. CAWOOD and TFG Political Action

Committee contributed to the public official.

**MANNER AND MEANS OF THE CONSPIRACY**

20. In furtherance of the conspiracy, to evade and circumvent the State of Mississippi's \$1,000 per candidate per election limit on corporate political campaign contributions, Miss. Code Ann. 97-13-15 (1972), MOULTRIE and CAWOOD did cause THE FACILITY GROUP'S employees to act as "straw contributors" to the public official's reelection campaign, that is, MOULTRIE and CAWOOD would and did cause THE FACILITY GROUP'S employees to issue personal checks in the amount of \$1,000 each made payable to the public official's reelection campaign, advising contributing employees that they would be paid back by THE FACILITY GROUP for their individual political campaign contributions, all in an effort to conceal and disguise the fact that THE FACILITY GROUP was the true corporate source of the campaign contributions to the public official.

21. To further conceal and disguise the scheme, MOULTRIE and CAWOOD would and did cause THE FACILITY GROUP'S Controller to "bonus up" each employee's reimbursement check to the amount of \$1,500, withholding taxes and other deductions from each check, so that employees received a net reimbursement of \$1,000 from FACILITY MANAGEMENT GROUP, INC., thereby causing each reimbursement check to appear to be a legitimate "bonus" to the employee's salary, when in truth and fact, as MOULTRIE and CAWOOD then and there well knew, each reimbursement check was not a legitimate "bonus" for good performance but was a direct payback for each employee's \$1,000 campaign contribution to the public official.

22. To further accomplish the objects of the conspiracy, ROBERT L. MOULTRIE did then cause to be created on or about July 29, 2003, The Facility Group Political Action

Committee (“TFG Political Action Committee), from which MOULTRIE caused to be issued two additional checks to the public official’s campaign in the amounts of \$20,000.00 and \$25,000.00, which were intended to influence and reward the public official in connection with the State of Mississippi’s selection of THE FACILITY GROUP to manage and complete the design and construction of the Mississippi Beef Processors plant located in Yalobusha County, Mississippi.

23. Beginning in August, 2003 and continuing to March, 2004, THE FACILITY GROUP also caused to be included in monthly invoices submitted to Mississippi Beef Processors, LLC, Mississippi Development Authority (“MDA”), the Board and Bank, false labor billings specifically designed to recoup the money THE FACILITY GROUP spent in reimbursing its employees for their campaign contributions to the public official and to recover the money ROBERT L. MOULTRIE, NIXON E. CAWOOD and TFG Political Action Committee contributed to the public official.

24. On or about February, 2004, THE FACILITY GROUP submitted an invoice claiming defendant, MOULTRIE’S April 2, 2003 dinner with the public official as a business expense associated with its work on the Mississippi Beef Processors project, and also billed Mississippi Beef Processors for MOULTRIE’s expenses for his travel to the dinner with the public official and campaign manager.

#### **OVERT ACTS**

25. To accomplish the objects of their conspiracy, ROBERT L. MOULTRIE, NIXON E. CAWOOD and FACILITY HOLDING CORP., d/b/a THE FACILITY GROUP, FACILITY MANAGEMENT GROUP, INC., FACILITY CONSTRUCTION MANAGEMENT INC. and FACILITY DESIGN GROUP, INC., hereinafter collectively referred to as “THE FACILITY



GROUP”, defendants, committed the following overt acts, among others:

26. On or about February, 2003, an employee of THE FACILITY GROUP, defendant, submitted a proposal to the Mississippi Land, Water and Timber Resources Board (“the Board”) and to Community Bank of Mississippi (“the Bank”) to study and evaluate the Mississippi Beef Processors, LLC project.

27. On or about March, 2003, an employee of THE FACILITY GROUP submitted an additional proposal to the Board and Bank, whereby if selected, THE FACILITY GROUP would be hired not only to perform an evaluation of Mississippi Beef Processors project, but if chosen would also become the Project Manager of the Mississippi Beef plant and receive additional compensation for managing the completion and design of the construction of the beef processing facility.

28. On or about late March or early April, 2003, ROBERT L. MOULTRIE, Chairman and Chief Executive Officer of THE FACILITY GROUP, contacted Robin Williams, a consultant employed by THE FACILITY GROUP, who is not charged in this indictment, and asked Williams to set up a meeting between MOULTRIE and the public official concerning MOULTRIE’S desire that TFG be selected as the Project Manager of the Mississippi Beef Processors project.

29. On or about April 2, 2003, ROBERT L. MOULTRIE and Robin Williams met with the public official and an employee of the public official’s campaign staff at a Jackson, Mississippi restaurant and discussed the project.

30. On or about April 23, 2003, NIXON E. CAWOOD, defendant, did execute and sign a “Letter of Intent” between the Mississippi Land, Water and Timber Resources Board and THE FACILITY GROUP, d/b/a FACILITY CONSTRUCTION MANAGEMENT INC.

("FCMI"). The "Letter of Intent" notified THE FACILITY GROUP of the Board's intent to negotiate a design and construction contract (the "Project Management Agreement") to be entered into among the Board, Community Bank and THE FACILITY GROUP.

31. On or about June 16, 2003, NIXON E. CAWOOD signed and executed an "Appointment Agreement" on behalf of THE FACILITY GROUP, d/b/a FACILITY CONSTRUCTION MANAGEMENT INC. ("FCMI"), whereby THE FACILITY GROUP was made agent of Mississippi Beef Processors for purposes of managing the design and completion of the Mississippi Beef Processors plant, which Hall signed and executed on behalf of Mississippi Beef Processors, LLC.

32. On or about July 7, 2003, ROBERT L. MOULTRIE, defendant, caused invitations to the fundraiser for the public official to be mailed from Smyrna, Georgia to invitees residing in Mississippi, Georgia and elsewhere.

33. On or about July 11, 2003, on behalf of THE FACILITY GROUP, d/b/a FACILITY CONSTRUCTION MANAGEMENT INC ("FCMI"), NIXON E. CAWOOD did knowingly sign and execute a "Project Management Agreement" between FACILITY CONSTRUCTION MANAGEMENT INC., the Board and the Bank. According to the Project Management Agreement, THE FACILITY GROUP would be compensated for supervising, managing and performing services related to the completion of the design and construction of Mississippi Beef Processors, LLC. Under the Project Management Agreement, two forms of compensation to THE FACILITY GROUP were created: (1) the "FCMI Fee" - a lump sum fee of \$3,547,974.00 paid for by the Board; and (2) "Services Compensation" - whereby THE FACILITY GROUP was permitted to be reimbursed, "at cost", for its costs associated with the project. According to the "Services Compensation" provision, THE FACILITY GROUP would

receive a minimum of \$2,500,000.00 and up to \$3,021,418.00 for “cost” reimbursement.

34. On or about mid July, 2003, ROBERT L. MOULTRIE and NIXON E. CAWOOD, defendants, did instruct employees of THE FACILITY GROUP who were invited to the fundraiser to each issue a \$1,000 personal check made payable to the public official and that TFG would reimburse each contributing employee \$1,000 for their campaign contributions to the public official.

35. On or about July 23, 2003, ROBERT L. MOULTRIE, defendant, Chairman and Chief Executive Officer of TFG, held a political campaign fundraiser at his Smyrna, Georgia residence for the public official, during which MOULTRIE, NIXON E. CAWOOD and other individual employees of THE FACILITY GROUP contributed campaign checks to the public official.

36. On or about late July, 2003, ROBERT L. MOULTRIE caused to be provided to THE FACILITY GROUP’S Controller the names of the employees to reimburse for their political campaign contributions to the public official.

37. On or about the end of July, 2003, ROBERT L. MOULTRIE, defendant, caused THE FACILITY GROUP Controller to issue corporate checks from FACILITY MANAGEMENT GROUP, INC. to reimburse employees not only for their campaign contributions to the public official but did cause THE FACILITY GROUP’S controller to “bonus up” the reimbursement checks to the amount of \$1,500, withholding taxes and other deductions from each check, so that each employee received, after deductions, a net reimbursement of \$1,000. In doing so, MOULTRIE did cause the pay stub accompanying each contributing employee’s reimbursement check to falsely state that each contributing employee’s reimbursement check was a legitimate “bonus” to the employee, when in truth and fact, as

MOULTRIE then and there well knew, the reimbursement checks were not bonuses for good performance but a direct reimbursement for the employees' \$1,000 political campaign contribution to the public official, on behalf of THE FACILITY GROUP.

38. On or about July 29, 2003, ROBERT L. MOULTRIE and THE FACILITY GROUP caused to be created THE FACILITY GROUP Political Action Committee ("The Facility Group PAC").

39. On or about August 13, 2003, ROBERT L. MOULTRIE did cause to be issued another campaign contribution to the public official, to wit, a check in the amount of \$20,000 from The Facility Group PAC made payable to the public official's reelection campaign.

40. On or about September 30, 2003, ROBERT L. MOULTRIE, did cause to be issued another campaign contribution to the public official, to wit, a check in the amount of \$25,000 from The Facility Group PAC made payable to the public official's reelection campaign.

41. Beginning in August, 2003 and continuing to March, 2004, THE FACILITY GROUP also caused to be included in monthly invoices submitted to Mississippi Beef Processors, LLC, Mississippi Development Authority ("MDA"), the Board and Bank, false labor billings specifically designed to recoup the money THE FACILITY GROUP spent in reimbursing its employees for their campaign contributions to the public official and to recover the money ROBERT L. MOULTRIE, NIXON E. CAWOOD and TFG Political Action Committee contributed to the public official.

42. On or about February, 2004, THE FACILITY GROUP submitted an invoice claiming defendant, MOULTRIE'S April 2, 2003 dinner with the public official as a business expense associated with its work on the Mississippi Beef Processors project, and also billed

Mississippi Beef Processors for MOULTRIE's expenses for his travel to the dinner with the public official and campaign manager.

All in violation of Title 18, United States Code, Section 371.

**COUNT TWO**

1. The Grand Jury re-allege paragraphs 1 - 42 of Count One.
2. From on or about February, 2003 to on or about May, 2005, in the Northern District of Mississippi and elsewhere, ROBERT L. MOULTRIE, NIXON E. CAWOOD, CHARLES K. MOREHEAD, FACILITY HOLDINGS, CORP., d/b/a, THE FACILITY GROUP, FACILITY CONSTRUCTION MANAGEMENT INC. AND FACILITY DESIGN GROUP, INC., hereinafter collectively referred to as "THE FACILITY GROUP," defendants, aided and abetted by each other and by others known and unknown to the Grand Jury, devised and executed a scheme to defraud Richard N. Hall, Jr., Mississippi Beef Processors, LLC, the Mississippi Development Authority, the Mississippi Land Water and Timber Resources Board, Community Bank, private companies and persons who supplied services and products to the Mississippi Beef Processors plant, the State of Mississippi and its citizens and taxpayers, all in order to obtain money by means of false and fraudulent pretenses, representations and promises by submitting invoices for work not performed and by fraudulently overstating and inflating costs associated with the construction of the Mississippi Beef Processors plant.

**BACKGROUND**

3. On or about July 11, 2003, NIXON E. CAWOOD, on behalf of THE FACILITY GROUP, d/b/a FACILITY CONSTRUCTION MANAGEMENT INC. ("FCMI"), executed a "Project Management Agreement" between FACILITY CONSTRUCTION MANAGEMENT INC., Community Bank of Mississippi ("the Bank") and the Mississippi, Land Water and Timber Resources Board ("the Board"). According to the agreement, THE FACILITY GROUP represented its Guaranteed maximum Price ("GMP") for completion of the Mississippi Beef Processors, LLC Project to be \$43,395,134.00, and the substantial completion date for the project

was set for April 1, 2004.

4. Under the Project Management Agreement, THE FACILITY GROUP would be compensated for supervising and performing services related to the completion of the design and construction of Mississippi Beef Processors, LLC. The two established forms of compensation THE FACILITY GROUP would receive under the Project Management Agreement were:

- a. "FCMI Fee" - a lump sum fee of \$3,547,974.00 paid for by the Board, and
- b. "Services Compensation" - a portion of the contract whereby THE FACILITY GROUP was not to Profit, but was permitted to be reimbursed, "at cost", for its costs on the project. According to the "Services Compensation" provision, THE FACILITY GROUP would be reimbursed "at cost" a minimum of \$2,500,00.00 and a maximum of \$3,021,418.00 for their costs associated with the project, which were to be paid to FCMI by Richard N. Hall, Jr. from monies secured by a loan from the Bank, which loan was 100% guaranteed by the State of Mississippi.

5. After entering the Project Management Agreement, THE FACILITY GROUP began to authorize work and acquire parts and equipment, submitting monthly requests to the Board and the Bank for payment of vendors and service providers.

6. THE FACILITY GROUP also began overbilling its costs by submitting to Mississippi Beef Processors, the Bank, the Board and MDA invoices containing fraudulent, overstated and inflated costs.

7. Beginning in August, 2003 and continuing to March, 2004, THE FACILITY GROUP also caused to be included in monthly invoices submitted to Mississippi Beef Processors, the Bank, the Board and MDA, false labor billings specifically designed to recoup the money THE FACILITY GROUP spent in reimbursing its employees for their campaign contributions to the public official and to recover the money ROBERT L. MOULTRIE, NIXON E. CAWOOD and TFG Political Action Committee contributed to the public official.

8. From September 2003 through September 2004, despite being aware that the

project was over budget, THE FACILITY GROUP continued to order work and materials from contractors and vendors, knowing that the contractors and vendors would only be paid if the Bank and the State approved large cost overruns by way of “change orders,” which defendants knew was unlikely to happen. THE FACILITY GROUP concealed from the contractors and vendors the dangerous financial position in which defendants were placing those victims.

9. On or about August, 2004, after depleting all of the \$3,021,418.00 available under the “Services Compensation” portion of the Project Management Agreement, THE FACILITY GROUP walked away from the project with all its profits, inflated costs and campaign contributions to the public official reimbursed, leaving behind approximately \$2,000,000 in unpaid bills owed to vendors and contractors.

10. On or about August 23, 2004, the Mississippi Beef Processors plant finally opened for business, but immediately experienced significant financial and production shortfalls, and ceased operation less than three months later on November 17, 2004.

11. On or about February 4, 2005, the Bank foreclosed on its loan guaranteed by the State of Mississippi, and on June 3, 2005, the State of Mississippi paid the Bank approximately \$54,000,000 plus interest and other costs lost by the State of Mississippi due to the failure of the plant and foreclosure on the 100% State guaranteed loan.

#### THE SCHEME TO DEFRAUD

The following were parts of the scheme, which operated as follows:

12. By the terms of the July 11, 2003, Project Management Agreement, THE FACILITY GROUP, d/b/a FACILITY CONSTRUCTION MANAGEMENT INC. was prohibited from making a profit from the “Services Compensation” portion of the contract and was permitted only to seek reimbursement for its services “at cost.” The “Services



Compensation” portion of the agreement also contained a savings clause under which THE FACILITY GROUP would receive a minimum of \$2,500,000.00, and if its costs equaled less than \$3,021,418.00, THE FACILITY GROUP would receive an additional amount equal to 50% of the difference between \$3,021,418.00 and the “total costs.” According to the “Services Compensation” portion of the agreement, THE FACILITY GROUP’S costs were to be reimbursed monthly by Mississippi Beef Processors, LLC. from loan proceeds provided to Hall by Community Bank, which were 100% guaranteed by the State of Mississippi.

13. Although NIXON E. CAWOOD and THE FACILITY GROUP caused to be presented a proposed budget for projected labor and other expenses as “Services Compensation” and also proposed to Richard N. Hall, Jr. to split savings “50/50” with Hall, CAWOOD and THE FACILITY GROUP never intended to submit actual costs for reimbursement, nor did they intend to split savings with Hall. Instead, starting with the first invoice submitted and continuing until THE FACILITY GROUP had depleted all of the “Services Compensation” portion of the contract, THE FACILITY GROUP grossly overstated and inflated its costs, thereby unlawfully profiting from a pool of money specifically set aside not for THE FACILITY GROUP’S profit, but solely for its reimbursement of “costs.”

14. To obtain excess monies under the “Services Compensation” provision, ROBERT L. MOULTRIE, NIXON E. CAWOOD, CHARLES K. MOREHEAD and the FACILITY GROUP devised and executed a scheme to overbill the project by presenting fraudulent, overstated and inflated costs to the Board, MDA, Community Bank and Richard N. Hall, Jr., for reimbursement, and to seek reimbursement for services THE FACILITY GROUP did not provide and for costs THE FACILITY GROUP did not incur. In doing so, THE FACILITY GROUP presented false and fraudulent documentation to conceal and disguise their scheme to

defraud.

15. As an example of such false documentation, defendant CHARLES K. MOREHEAD, and another employee of THE FACILITY GROUP, at the direction of NIXON E. CAWOOD, created a false and fraudulent schedule of hours that depicted the number of hours THE FACILITY GROUP would claim that employees in the accounting division worked on the project. CAWOOD directed MOREHEAD and the other employee to “get it all” referring to the maximum possible amount budgeted for accounting, and MOREHEAD caused these employees’ hours to be billed to the project based on the fictitious schedule rather than the actual hours the employees worked on the Mississippi Beef project.

16. Defendant MOREHEAD and THE FACILITY GROUP also caused to be included in monthly invoices submitted to Mississippi Beef Processors, Mississippi MDA, the Board and Bank, false labor billings specifically designed to recoup the money THE FACILITY GROUP spent in reimbursing its employees for their campaign contributions to the public official and to recover the money ROBERT L. MOULTRIE, NIXON E. CAWOOD and TFG Political Action Committee contributed to the public official.

17. MOREHEAD similarly directed employees of THE FACILITY GROUP to bill to Mississippi Beef Processors time that they worked on projects other than Mississippi Beef Processors and time in excess of the actual hours the employees worked on the Mississippi Beef project.

18. Although THE FACILITY GROUP represented it would use “open book accounting” on the Mississippi Beef project, when questioned by Richard N. Hall, Jr. about certain billings, THE FACILITY GROUP refused to provide backup documentation to show how they came up with certain costs that THE FACILITY GROUP billed to the project.

19. In reliance on the material misrepresentations and omissions by THE FACILITY GROUP, the Board authorized and Community Bank paid THE FACILITY GROUP approximately \$2,000,000 for "Services Compensation" in excess of THE FACILITY GROUP'S actual costs, contrary to the terms of the Project Management Agreement.

20. To further conceal and disguise their scheme, defendants had employees represent that THE FACILITY GROUP had built in "contingencies" to cover erroneous estimates of costs and had employees withhold from vendors and service providers the fact that no such "contingencies" existed, thereby causing vendors and service providers to supply parts, equipment and labor for which they were never paid.

21. With all available funds nearly depleted, on or about May 6, 2004, THE FACILITY GROUP, submitted a change order to the Board and Bank requesting an additional \$804,521.38, for the vendors and service providers which was later denied.

22. By July 5, 2004, through the submission of fraudulent, overstated and inflated cost reimbursement requests, FCMI had collected all \$3,021,418.00 of the "Services Compensation" funds.

23. On or about September 22, 2004, over two months later, having totally depleted and collected all available monies from the "Services Compensation" funds, NIXON E. CAWOOD on behalf of THE FACILITY GROUP, requested the Bank pay the unpaid vendors and service providers through a second change order, which was also denied, leaving vendors and service providers unpaid.

24. From on or about July 11, 2003, through on or about September 22, 2004, ROBERT MOULTRIE, NIXON E. CAWOOD, CHARLES K. MOREHEAD and FACILITY HOLDING CORP, d/b/a THE FACILITY GROUP, FACILITY MANAGEMENT GROUP,

INC., FACILITY CONSTRUCTION MANAGEMENT INC. and FACILITY DESIGN GROUP, INC., hereinafter collectively referred to as “THE FACILITY GROUP”, defendants, did submit and cause to be submitted false and fraudulent claims for payment to the Mississippi Land, Water and Timber Resources Board (“the Board”), Mississippi Development Authority (“MDA”), Community Bank (“the Bank”) and Mississippi Beef Processors, LLC, via Federal Express, an interstate carrier. The false and fraudulent claims caused agents of the Board, the MDA and the Bank to issue payments to THE FACILITY GROUP for fraudulent, overstated and inflated costs, and for costs THE FACILITY GROUP did not incur, contrary to the Project Management Agreement.

Execution of The Scheme

25. On or about July 7, 2003, in the Northern District of Mississippi, and elsewhere, for the purpose of executing the scheme, ROBERT L. MOULTRIE, NIXON E. CAWOOD, CHARLES K. MOREHEAD and FACILITY HOLDINGS CORP., d/b/a THE FACILITY GROUP, FACILITY MANAGEMENT GROUP, INC., FACILITY CONSTRUCTION MANAGEMENT INC. and FACILITY DESIGN GROUP, INC., defendants, did knowingly cause to be delivered by Federal Express, an interstate carrier, according to the directions thereon, envelopes addressed to the Richard N. Hall, Jr., d/b/a Mississippi Beef Processors, LLC, 395 CR 238, Tillatoba, Mississippi, 38961; Mississippi Land, Water & Timber Resources Board/ Mississippi Development Authority, 501 North West Street, Woolfolk Building, Jackson, Mississippi, 39201; and Community Bank, 323 East Third, Forrest, Mississippi, 39072, which envelopes contained a fraudulent request for payment, all in violation of Title 18, United States Code, Sections 2 and 1341.

**COUNT THREE**

1. The Grand Jury re-alleges paragraphs 1 - 42 of Count One and paragraphs 1 - 24 of Count Two.

2. On or about August 4, 2003, in the Northern District of Mississippi, and elsewhere, for the purpose of executing the scheme, ROBERT L. MOULTRIE, NIXON E. CAWOOD, CHARLES K. MOREHEAD and FACILITY HOLDINGS CORP., d/b/a THE FACILITY GROUP, FACILITY MANAGEMENT GROUP, INC., FACILITY CONSTRUCTION MANAGEMENT INC. and FACILITY DESIGN GROUP, INC., defendants, did knowingly cause to be delivered by Federal Express, an interstate carrier, according to the directions thereon, envelopes addressed to the Richard N. Hall, Jr., d/b/a Mississippi Beef Processors, LLC, 395 CR 238, Tillatoba, Mississippi, 38961; Mississippi Land, Water & Timber Resources Board/ Mississippi Development Authority, 501 North West Street, Woolfolk Building, Jackson, Mississippi, 39201; and Community Bank, 323 East Third, Forrest, Mississippi, 39072, which envelopes contained a fraudulent request for payment, all in violation of Title 18, United States Code, Sections 2 and 1341.

**COUNT FOUR**

1. The Grand Jury re-alleges paragraphs 1 - 42 of Count One and paragraphs 1 - 24 of Count Two.

2. On or about August 25, 2003, in the Northern District of Mississippi, and elsewhere, for the purpose of executing the scheme, ROBERT L. MOULTRIE, NIXON E. CAWOOD, CHARLES K. MOREHEAD and FACILITY HOLDINGS CORP., d/b/a THE FACILITY GROUP, FACILITY MANAGEMENT GROUP, INC., FACILITY CONSTRUCTION MANAGEMENT INC. and FACILITY DESIGN GROUP, INC., defendants, did knowingly

cause to be delivered by Federal Express, an interstate carrier, according to the directions thereon, envelopes addressed to the Richard N. Hall, Jr., d/b/a Mississippi Beef Processors, LLC, 395 CR 238, Tillatoba, Mississippi, 38961; Mississippi Land, Water & Timber Resources Board/ Mississippi Development Authority, 501 North West Street, Woolfolk Building, Jackson, Mississippi, 39201; and Community Bank, 323 East Third, Forrest, Mississippi, 39072, which envelopes contained a fraudulent request for payment, all in violation of Title 18, United States Code, Sections 2 and 1341.

**COUNT FIVE**

1. The Grand Jury re-alleges paragraphs 1 - 42 of Count One and paragraphs 1 - 24 of Count Two.
2. On or about September 29, 2003, in the Northern District of Mississippi, and elsewhere, for the purpose of executing the scheme, ROBERT L. MOULTRIE, NIXON E. CAWOOD, CHARLES K. MOREHEAD and FACILITY HOLDINGS CORP., d/b/a THE FACILITY GROUP, FACILITY MANAGEMENT GROUP, INC., FACILITY CONSTRUCTION MANAGEMENT INC. and FACILITY DESIGN GROUP, INC., defendants, did knowingly cause to be delivered by Federal Express, an interstate carrier, according to the directions thereon, envelopes addressed to the Richard N. Hall, Jr., d/b/a Mississippi Beef Processors, LLC, 395 CR 238, Tillatoba, Mississippi, 38961; Mississippi Land, Water & Timber Resources Board/ Mississippi Development Authority, 501 North West Street, Woolfolk Building, Jackson, Mississippi, 39201; and Community Bank, 323 East Third, Forrest, Mississippi, 39072, which envelopes contained a fraudulent request for payment, all in violation of Title 18, United States Code, Sections 2 and 1341.

**COUNT SIX**

1. The Grand Jury re-alleges paragraphs 1 - 42 of Count One and paragraphs 1 - 24 of Count Two.

2. On or about October 21, 2003, in the Northern District of Mississippi, and elsewhere, for the purpose of executing the scheme, ROBERT L. MOULTRIE, NIXON E. CAWOOD, CHARLES K. MOREHEAD and FACILITY HOLDINGS CORP., d/b/a THE FACILITY GROUP, FACILITY MANAGEMENT GROUP, INC., FACILITY CONSTRUCTION MANAGEMENT INC. and FACILITY DESIGN GROUP, INC., defendants, did knowingly cause to be delivered by Federal Express, an interstate carrier, according to the directions thereon, envelopes addressed to the Richard N. Hall, Jr., d/b/a Mississippi Beef Processors, LLC, 395 CR 238, Tillatoba, Mississippi, 38961; Mississippi Land, Water & Timber, Mississippi Development Authority, 501 North West Street, Woolfolk Building, Jackson, Mississippi, 39201; and Community Bank, 323 East Third, Forrest, Mississippi, 39072, which envelopes contained a fraudulent request for payment, all in violation of Title 18, United States Code, Sections 2 and 1341.

**COUNT SEVEN**

1. The Grand Jury re-alleges paragraphs 1 - 42 of Count One and paragraphs 1 - 24 of Count Two.

2. On or about December 1, 2003, in the Northern District of Mississippi, and elsewhere, for the purpose of executing the scheme, ROBERT L. MOULTRIE, NIXON E. CAWOOD, CHARLES K. MOREHEAD and FACILITY HOLDINGS CORP., d/b/a THE FACILITY GROUP, FACILITY MANAGEMENT GROUP, INC., FACILITY CONSTRUCTION MANAGEMENT INC. and FACILITY DESIGN GROUP, INC., defendants, did knowingly

cause to be delivered by Federal Express, an interstate carrier, according to the directions thereon, envelopes addressed to the Richard N. Hall, Jr., d/b/a Mississippi Beef Processors, LLC, 395 CR 238, Tillatoba, Mississippi, 38961; Mississippi Land, Water & Timber Resources Board/ Mississippi Development Authority, 501 North West Street, Woolfolk Building, Jackson, Mississippi, 39201; and Community Bank, 323 East Third, Forrest, Mississippi, 39072, which envelopes contained a fraudulent request for payment, all in violation of Title 18, United States Code, Sections 2 and 1341.

**COUNT EIGHT**

1. The Grand Jury re-alleges paragraphs 1 - 42 of Count One and paragraphs 1 - 24 of Count Two.

2. On or about January 5, 2004, in the Northern District of Mississippi, and elsewhere, for the purpose of executing the scheme, ROBERT L. MOULTRIE, NIXON E. CAWOOD, CHARLES K. MOREHEAD and FACILITY HOLDINGS CORP., d/b/a THE FACILITY GROUP, FACILITY MANAGEMENT GROUP, INC., FACILITY CONSTRUCTION MANAGEMENT INC. and FACILITY DESIGN GROUP, INC., defendants, did knowingly cause to be delivered by Federal Express, an interstate carrier, according to the directions thereon, envelopes addressed to the Richard N. Hall, Jr., d/b/a Mississippi Beef Processors, LLC, 395 CR 238, Tillatoba, Mississippi, 38961; Mississippi Land, Water & Timber Resources Board/ Mississippi Development Authority, 501 North West Street, Woolfolk Building, Jackson, Mississippi, 39201; and Community Bank, 323 East Third, Forrest, Mississippi, 39072, which envelopes contained a fraudulent request for payment, all in violation of Title 18, United States Code, Sections 2 and 1341.



**COUNT NINE**

1. The Grand Jury re-alleges paragraphs 1 - 42 of Count One and paragraphs 1 - 24 of Count Two.

2. On or about February 9, 2004, in the Northern District of Mississippi, and elsewhere, for the purpose of executing the scheme, ROBERT L. MOULTRIE, NIXON E. CAWOOD, CHARLES K. MOREHEAD and FACILITY HOLDINGS CORP., d/b/a THE FACILITY GROUP, FACILITY MANAGEMENT GROUP, INC., FACILITY CONSTRUCTION MANAGEMENT INC. and FACILITY DESIGN GROUP, INC., defendants, did knowingly cause to be delivered by Federal Express, an interstate carrier, according to the directions thereon, envelopes addressed to the Richard N. Hall, Jr., d/b/a Mississippi Beef Processors, LLC, 395 CR 238, Tillatoba, Mississippi, 38961; Mississippi Land, Water & Timber Resources Board/ Mississippi Development Authority, 501 North West Street, Woolfolk Building, Jackson, Mississippi, 39201; and Community Bank, 323 East Third, Forrest, Mississippi, 39072, which envelopes contained a fraudulent request for payment, all in violation of Title 18, United States Code, Sections 2 and 1341.

**COUNT TEN**

1. The Grand Jury re-alleges paragraphs 1 - 42 of Count One and paragraphs 1 - 24 of Count Two.

2. On or about March 3, 2004, in the Northern District of Mississippi, and elsewhere, for the purpose of executing the scheme, ROBERT L. MOULTRIE, NIXON E. CAWOOD, CHARLES K. MOREHEAD and FACILITY HOLDINGS CORP., d/b/a THE FACILITY GROUP, FACILITY MANAGEMENT GROUP, INC., FACILITY CONSTRUCTION MANAGEMENT INC. and FACILITY DESIGN GROUP, INC., defendants, did knowingly

cause to be delivered by Federal Express, an interstate carrier, according to the directions thereon, envelopes addressed to the Richard N. Hall, Jr., d/b/a Mississippi Beef Processors, LLC, 395 CR 238, Tillatoba, Mississippi, 38961; Mississippi Land, Water & Timber Resources Board/ Mississippi Development Authority, 501 North West Street, Woolfolk Building, Jackson, Mississippi, 39201; and Community Bank, 323 East Third, Forrest, Mississippi, 39072, which envelopes contained a fraudulent request for payment, all in violation of Title 18, United States Code, Sections 2 and 1341.

**COUNT ELEVEN**

1. The Grand Jury re-alleges paragraphs 1 - 42 of Count One and paragraphs 1 - 24 of Count Two.

2. On or about March 25, 2004, in the Northern District of Mississippi, and elsewhere, for the purpose of executing the scheme, ROBERT L. MOULTRIE, NIXON E. CAWOOD, CHARLES K. MOREHEAD and FACILITY HOLDINGS CORP., d/b/a THE FACILITY GROUP, FACILITY MANAGEMENT GROUP, INC., FACILITY CONSTRUCTION MANAGEMENT INC. and FACILITY DESIGN GROUP, INC., defendants, did knowingly cause to be delivered by Federal Express, an interstate carrier, according to the directions thereon, envelopes addressed to the Richard N. Hall, Jr., d/b/a Mississippi Beef Processors, LLC, 395 CR 238, Tillatoba, Mississippi, 38961; Mississippi Land, Water & Timber Resources Board/ Mississippi Development Authority, 501 North West Street, Woolfolk Building, Jackson, Mississippi, 39201; and Community Bank, 323 East Third, Forrest, Mississippi, 39072, which envelopes contained a fraudulent request for payment, all in violation of Title 18, United States Code, Sections 2 and 1341.

**COUNT TWELVE**

1. The Grand Jury re-alleges paragraphs 1 - 42 of Count One and paragraphs 1 - 24 of Count Two.

2. On or about April 28, 2004, in the Northern District of Mississippi, and elsewhere, for the purpose of executing the scheme, ROBERT L. MOULTRIE, NIXON E. CAWOOD, CHARLES K. MOREHEAD and FACILITY HOLDINGS CORP., d/b/a THE FACILITY GROUP, FACILITY MANAGEMENT GROUP, INC., FACILITY CONSTRUCTION MANAGEMENT INC. and FACILITY DESIGN GROUP, INC., defendants, did knowingly cause to be delivered by Federal Express, an interstate carrier, according to the directions thereon, envelopes addressed to the Richard N. Hall, Jr., d/b/a Mississippi Beef Processors, LLC, 395 CR 238, Tillatoba, Mississippi, 38961; Mississippi Land, Water & Timber Resources Board/ Mississippi Development Authority, 501 North West Street, Woolfolk Building, Jackson, Mississippi, 39201; and Community Bank, 323 East Third, Forrest, Mississippi, 39072, which envelopes contained a fraudulent request for payment, all in violation of Title 18, United States Code, Sections 2 and 1341.

**COUNT THIRTEEN**

1. The Grand Jury re-alleges paragraphs 1 - 42 of Count One and paragraphs 1 - 24 of Count Two.

2. On or about June 7, 2004, in the Northern District of Mississippi, and elsewhere, for the purpose of executing the scheme, ROBERT L. MOULTRIE, NIXON E. CAWOOD, CHARLES K. MOREHEAD and FACILITY HOLDINGS CORP., d/b/a THE FACILITY GROUP, FACILITY MANAGEMENT GROUP, INC., FACILITY CONSTRUCTION MANAGEMENT INC. and FACILITY DESIGN GROUP, INC., defendants, did knowingly

cause to be delivered by Federal Express, an interstate carrier, according to the directions thereon, envelopes addressed to the Richard N. Hall, Jr., d/b/a Mississippi Beef Processors, LLC, 395 CR 238, Tillatoba, Mississippi, 38961; Mississippi Land, Water & Timber Resources Board/ Mississippi Development Authority, 501 North West Street, Woolfolk Building, Jackson, Mississippi, 39201; and Community Bank, 323 East Third, Forrest, Mississippi, 39072, which envelopes contained a fraudulent request for payment, all in violation of Title 18, United States Code, Sections 2 and 1341.

**COUNT FOURTEEN**

1. The Grand Jury re-alleges paragraphs 1 - 42 of Count One and paragraphs 1 - 24 of Count Two.

2. On or about July 5, 2004, in the Northern District of Mississippi, and elsewhere, for the purpose of executing the scheme, ROBERT L. MOULTRIE, NIXON E. CAWOOD, CHARLES K. MOREHEAD and FACILITY HOLDINGS CORP., d/b/a THE FACILITY GROUP, FACILITY MANAGEMENT GROUP, INC., FACILITY CONSTRUCTION MANAGEMENT INC. and FACILITY DESIGN GROUP, INC., defendants, did knowingly cause to be delivered by Federal Express, an interstate carrier, according to the directions thereon, envelopes addressed to the Richard N. Hall, Jr., d/b/a Mississippi Beef Processors, LLC, 395 CR 238, Tillatoba, Mississippi, 38961; Mississippi Land, Water & Timber Resources Board/ Mississippi Development Authority, 501 North West Street, Woolfolk Building, Jackson, Mississippi, 39201; and Community Bank, 323 East Third, Forrest, Mississippi, 39072, which envelopes contained a fraudulent request for payment, all in violation of Title 18, United States Code, Sections 2 and 1341.

**COUNT FIFTEEN**

1. The Grand Jury re-alleges paragraphs 1 - 42 of Count One and paragraphs 1 - 24 of Count Two.
2. On or about September 20, 2004, in the Northern District of Mississippi, and elsewhere, for the purpose of attempting to execute the scheme, ROBERT L. MOULTRIE, NIXON E. CAWOOD, CHARLES K. MOREHEAD and FACILITY HOLDINGS CORP., d/b/a THE FACILITY GROUP, FACILITY MANAGEMENT GROUP, INC., FACILITY CONSTRUCTION MANAGEMENT INC. and FACILITY DESIGN GROUP, INC., defendants, did knowingly cause to be delivered by Federal Express, an interstate carrier, according to the directions thereon, envelopes addressed to the Richard N. Hall, Jr., d/b/a Mississippi Beef Processors, LLC, 395 CR 238, Tillatoba, Mississippi, 38961; Mississippi Land, Water & Timber Resources Board/ Mississippi Development Authority, 501 North West Street, Woolfolk Building, Jackson, Mississippi, 39201; and Community Bank, 323 East Third, Forrest, Mississippi, 39072, which envelopes contained a fraudulent request for payment, all in violation of Title 18, United States Code, Sections 2 and 1341.

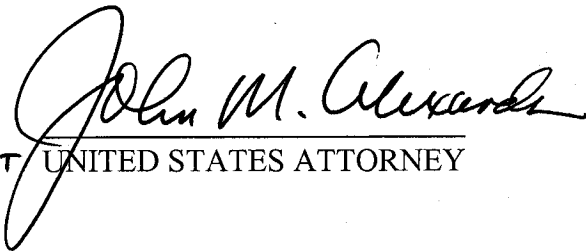
**COUNT SIXTEEN**

1. The Grand Jury re-alleges paragraphs 1 - 42 of Count One and paragraphs 1 - 24 of Count Two.
2. On or about September 22, 2004, in the Northern District of Mississippi, and elsewhere, for the purpose of attempting to execute the scheme, ROBERT L. MOULTRIE, NIXON E. CAWOOD, CHARLES K. MOREHEAD and FACILITY HOLDINGS CORP., d/b/a THE FACILITY GROUP, FACILITY MANAGEMENT GROUP, INC., FACILITY CONSTRUCTION MANAGEMENT INC. and FACILITY DESIGN GROUP, INC., defendants,

did knowingly cause to be delivered by Federal Express, an interstate carrier, according to the directions thereon, envelopes addressed to the Richard N. Hall, Jr., d/b/a Mississippi Beef Processors, LLC, 395 CR 238, Tillatoba, Mississippi, 38961; Mississippi Land, Water & Timber Resources Board/ Mississippi Development Authority, 501 North West Street, Woolfolk Building, Jackson, Mississippi, 39201; and Community Bank, 323 East Third, Forrest, Mississippi, 39072, which envelopes contained a fraudulent request for payment, all in violation of Title 18, United States Code, Sections 2 and 1341.

A TRUE BILL

/s/ signature redacted  
FOREPERSON

  
ASSISTANT UNITED STATES ATTORNEY