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REMARKS OF DOI COMMISSIONER MARK G. PETERS
PRESS CONFERENCE REGARDING INDICTMENT RELATED TO APRIL DEATH OF CONSTRUCTION WORKER

The partnership between DOI and your office has already resulted in many important investigations and arrests that have made this City safer and ensured that those who seek to circumvent City safety regulations are stopped and held accountable for their actions.

This case certainly falls into that category.

I want to thank District Attorney Vance and his team for their collaboration on this investigation, including Executive Assistant District Attorney David Szuchman, Chief of the Rackets Bureau Jodie Kane, Senior Investigative Counsel Diana Florence and Assistant District Attorney Carey Ng.

Let me also recognize the hard work of the NYPD and OSHA who stood side-by-side with us on this investigation and many others.

And, from DOI, I want to thank Chief Investigators Barry Romm and James McElligott, Assistant Inspector General Tiffany Dumas, Inspector General Gregory Cho, Deputy Commissioner/Chief of Investigations Mike Carroll and First Deputy Lesley Brovner.

This investigation is about the tragic results when contractors choose to cut corners, ignore City safety regulations, and defy the warnings of construction professionals. In fact, this investigation highlights what DOI has seen in so many of its construction investigations – that the correlation between integrity and safety is direct: Ignore integrity, disregard the rules and you are on course to disastrous results.

That is why the Construction Fraud Task Force is such an important step forward in tackling this major public safety issue – one that affects both construction workers and New Yorkers as a whole.

This multi-agency task force brings together the key law enforcement partners who have worked on so many of these cases. We will now have an expert team of investigators targeting this type of wrongdoing. Investigators who understand the construction industry from all angles, who know the ways corruption, fraud, and wrongdoing impact construction safety who know how to root it out, and who know how to make the City safer.

Before discussing today's case, I would like to note that there are a couple of actions that the City Buildings Department has taken as a result of the criminal investigation unsealed today, which are important to note and which DOI was pleased to see.

- First, within the last month, DOB has suspended the general contractor's license for Harco/H&H, which means they are not able to work in this City; and
- Second, one of the concerns DOI found during its investigation was the inability of the "special inspectors" hired by contractors to directly contact DOB to report hazardous conditions, which would prompt a DOB inspector to be dispatched to the site. DOB is now in the process of providing an emergency number for "special inspectors" to report these type of dangerous conditions.

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Let me turn briefly to the events that led to today's arrests. On the day of the fatality in this criminal case, the work site was a couple months behind schedule, a truck was on its way to deliver concrete, and there was a rush to finish the excavation.

That meant no proper shoring of the site. No underpinning. And workers in the trench when they should not have been.

The tragic result: a construction laborer was crushed by thousands of pounds of dirt that should have been held back by shoring, according to the charges.

From the moment DOI investigators arrived on site, they were hearing that contractors flouted warnings and their own construction plans.

From witness interviews, internal emails from the contractors, and plans filed with the City, investigators pieced together the most startling of facts, according to the charges:

Nearly two months prior to the fatal collapse, the defendants were alerted by a "special inspector," who was a professional engineer, about the dangerous excavation practices at the site. This "special inspector" was hired by the contractor to specifically monitor the efficacy of the underpinning process, but when that "inspector" saw the perilous excavation protocols, he took action, reporting it to the defendants. But they did nothing to address the problem.

The morning of the incident, another "special inspector," also a professional engineer, told the defendants that the excavation being done was not proper, including allowing workers in the trench. A couple hours later, the "special inspector" returned to the site and saw the workers in the trench. Immediately, the inspector alerted the project manager, defendant Alfonso Prestia, and told him to get the workers out and stop excavating in that manner.

But the dangerous excavation continued.

And the workers remained in the trench.

At around noon, the wall of dirt on one side of the trench gave way, killing Carlos Moncayo.

While Moncayo was an immigrant from Ecuador, he took the time to obtain the proper construction training for the work he was doing. In fact, a family member paid the \$500 for Moncayo to attend 26 hours of training to obtain the required OSHA and scaffold cards.

The irony here is too great to ignore. An immigrant to this country scrapes together \$500 to make sure he complies with the laws and is trained on correct safety. A large company who can certainly afford to do things right decides to cut corners, evade the law, and gets that immigrant killed, as outlined in the charges.

Intentional ignorance on a construction site does not beget an accident. In NYC, it leads to a thorough criminal investigation that calls those responsible to account.

That is what we did here. That is what we will continue to do.

An indictment is an accusation. Defendants are presumed innocent until proven guilty.

DOI is one of the oldest law-enforcement agencies in the country and New York City's corruption watchdog. Investigations may involve any agency, officer, elected official or employee of the City, as well as those who do business with or receive benefits from the City. DOI's strategy attacks corruption comprehensively through systemic investigations that lead to high-impact arrests, preventive internal controls and operational reforms that improve the way the City runs.

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