



CYRUS R. VANCE, JR.
DISTRICT ATTORNEY

DISTRICT ATTORNEY – NEW YORK COUNTY

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**DA VANCE: SKY MATERIALS AND OWNER INDICTED FOR FALSIFYING
INFORMATION ABOUT WORKERS AND SALARIES**

Company Previously Indicted in Connection with Construction Site Fatality in Meatpacking District

Manhattan District Attorney Cyrus R. Vance, Jr., today announced the indictment of MICHAEL CHOLOWSKY, 52, and SKY MATERIALS CORP. (“SKY”) for concealing information about payroll and submitting false information about the number of workers employed by the company. The defendants are charged in a New York State Supreme Court indictment with Insurance Fraud in the First and Second Degrees, as well as Offering a False Instrument for Filing in the First Degree. [1] The indictment was filed in connection with an investigation into a construction site fatality and criminal charges [announced last year](#) by the Manhattan District Attorney’s Office, New York City Department of Investigation (“DOI”), and New York City Police Department. The indictment is the also the most recent product of the [Construction Fraud Task Force](#) and involved the assistance of partner agencies including the New York City Business Integrity Commission (“BIC”), DOI, and Port Authority of New York and New Jersey (“PANYNJ”).

“In the construction industry, a lax approach to following proper procedures may be characteristic of a much more dangerous disregard for workers’ safety,” said District Attorney Vance. “Dishonest business practices hinder oversight and create potentially life-threatening hazards for workers and residents. Last year, my Office and our partners announced the indictment of several individuals and companies in connection with a tragic and foreseeable casualty that occurred as a result of the indicted defendants’ alleged negligence. In today’s case, one of the same companies and its owner are charged with falsifying information about the number of workers it employed, as well as their salaries. My Office and our partners will continue to investigate and prosecute those who risk the safety others in order to profit financially.”

BIC Commissioner Daniel D. Brownell said: “Construction companies who defraud the New York State Insurance Fund by underreporting their employees put their workers at risk

should they be injured in a job-related accident because the company is now underinsured. We thank the Manhattan District Attorney's Office for prosecuting these cases that, unfortunately, are becoming much too frequent. The Business Integrity Commission stands ready to assist in whatever way we can."

DOI Commissioner Mark G. Peters said: "Today's indictment grew out of a search by DOI, our Construction Fraud Task Force partners, and the Manhattan District Attorney's Office of the corporate offices of Sky Materials, one of the defendants charged last year in the deadly collapse of a trench in the Meatpacking District. The search revealed rampant insurance fraud and millions of dollars in underreported payroll amounts, again demonstrating an utter disregard of the law by this company and its principals, according to the charges. Working with our partners in the Construction Fraud Task Force we will continue to hold these companies accountable for their unlawful actions."

PANYNJ Inspector General Michael Nestor said: "We are very pleased to be a member of the Construction Fraud Task Force working with superb law enforcement partners. Our joint efforts are towards the goal of preventing, detecting, and investigating fraud and corruption in the construction industry. We are also focused on making certain that construction in New York City proceeds safely. Today's indictment should serve as a continued reminder to those in the construction industry that we will be vigilant in bringing to justice those that are willing to compromise their integrity and the safety of their workers in return for increasing their profit margin."

According to the indictment and documents filed in court, in 2015, CHOLOWSKY, the owner of SKY, an excavation subcontractor, received premium reductions by underreporting payroll to the New York State Insurance Fund ("NYSIF"), a workers' compensation carrier, in two separate filings pertaining to two distinct policy periods. For the period between April 2013 and April 2014, CHOLOWSKY and SKY concealed more than \$650,000 in payroll, resulting in a premium reduction of more than \$100,000. For the period between April 2014 and April 2015, CHOLOWSKY and SKY concealed more than \$3 million in payroll, resulting in a premium reduction of well over \$1 million. The defendants concealed the funds by processing payroll through a check casher and paying employees through the company's operating bank account. In addition, CHOLOWKY is charged with submitting false documents regarding the company's registration and employees to the BIC. In two different applications, CHOLOWSKY claimed that SKY employed fewer than 20 workers, when in fact, SKY employed at least 50 individuals between 2012 and 2014, and employed more than 150 individuals between 2014 and 2015.

The indictment stems from an [investigation into a construction site fatality](#) that occurred last year at the former location of Pastis restaurant in the Meatpacking District. In April 2015, a 22-year-old worker was killed when an improperly secured trench collapsed and fatally crushed the victim. The defendants in the related case are charged with Manslaughter in the Second Degree and Criminally Negligent Homicide, among other charges, and include SKY, the company's on-site foreman, WILMER CUEVA, and several others accused of failing to heed and address unsafe work conditions, contributing to the work site cave-in and death of a worker.

In 2015, the Manhattan District Attorney's Office and partners also announced [the formation of a citywide Construction Fraud Task Force](#) to investigate misconduct and prosecute wrongdoing in the construction industry. The indictment is the most recent product of the Task Force and involved the assistance of partner agencies, including BIC, DOI, and PANYNJ.

Assistant District Attorney Diana Florence, Attorney-in-Charge of the Construction Fraud Task Force and Senior Investigative Counsel of the Rackets Bureau, is handling the prosecution of the case under the supervision of Assistant District Attorney Judy Salwen, Principal Deputy Chief of the Rackets Bureau, Assistant District Attorney Jodie Kane, Chief of the Rackets Bureau, and Executive Assistant District Attorney David M. Szuchman, Chief of the Investigation Division. Assistant District Attorney Carey Ng, Special Assistant District Attorney Kate Zdrojeski, and Investigative Analyst Devon Rettew provided additional assistance with the case.

District Attorney Vance also thanked the following agencies and individuals for their assistance with the investigation: NYSIF, and in particular, Supervising Investigator Curtis Brantley and Senior Forensic Auditor Jamie King; BIC, and in particular, Commissioner Daniel D. Brownell and Executive Agency Counsel Jonathan Jacobs; DOI, and in particular, Commissioner Mark G. Peters, Associate Inspector General Michael Carroll, Chief Investigator James McElligott, and Special Investigator Dan Taylor; and PANYNJ, and in particular, Inspector General Michael Nestor, Deputy Inspector General Steven Pasichow, and Forensic Investigator Mia Chang.

[1] The charges contained in the indictment are merely allegations, and the defendants are presumed innocent unless and until proven guilty. All factual recitations are derived from documents filed in court and statements made on the record in court.

Defendant Information:

MICHAEL CHOLOWSKY, D.O.B. 1/6/1964
Nassau, NY

Charged:

- Insurance Fraud in the First Degree, a class B felony, 1 count
- Insurance Fraud in the Second Degree, a class C felony, 1 count
- Offering a False Instrument for Filing in the First Degree, a class E felony, 2 counts

SKY MATERIALS CORP.

Queens, NY

Charged:

- Insurance Fraud in the First Degree, a class B felony, 1 count
- Insurance Fraud in the Second Degree, a class C felony, 1 count
- Offering a False Instrument for Filing in the First Degree, a class E felony, 2 counts

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