



The City of New York
Department of Investigation

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CONTRACTOR SENTENCED TO 6 MONTHS JAIL FOR FILING FALSE VENDEX INFORMATION

ROSE GILL HEARN, Commissioner of the New York City Department of Investigation (DOI), announced today that DAVID KESTENBAUM, owner and president of Delta Testing Laboratories (DELTA), was sentenced to six months jail after pleading guilty in June 2006 to Offering a False Instrument for Filing in the Second Degree, a Class "A" Misdemeanor. KESTENBAUM also must forfeit approximately \$75,000 in payments being held by the New York City Economic Development Corporation (EDC), and has agreed not to bid on future City Contracts.

KESTENBAUM, 55, from New City, New York, was arrested in June for falsifying VENDEX forms that he filed with EDC so that he could obtain two subcontracts with EDC to conduct controlled and technical inspections of concrete and construction-related materials.

Commissioner Gill Hearn said, "This defendant has struck out again. This is his second conviction for filing false documents with the City in connection with contracts. Rather than learn his lesson, KESTENBAUM tried once again to circumvent the system and once again found that if you lie to the City, you will get caught and prosecuted. Today's sentencing is a justifiably strong warning to other City vendors or potential vendors that those who provide false statements on City contracting documents will face strong penalties."

In 1998, KESTENBAUM was convicted at a jury trial of filing false documents with the City in connection with a contract with the School Construction Authority in 1998. He was sentenced to probation.

DOI's investigation revealed that KESTENBAUM lied on the VENDEX Principal and Business Entity Questionnaires he submitted in January 2003 and on the Affidavits of No Change filed in February 2004. By law, vendors under consideration for award of contracts must complete VENDEX questionnaires for their company and the principals. The questionnaires assist City agencies in reaching a responsibility determination. In the VENDEX questionnaires KESTENBAUM and DELTA submitted to EDC, they failed to disclose that both had previously been convicted of multiple felonies related to work the company performed under a contract with the School Construction Authority (SCA), and that both were permanently disqualified from bidding on future SCA contracts. Because of the false filings, KESTENBAUM and his company, DELTA, were named subcontractors on the two EDC projects valued at more than \$400,000 to perform inspectional testing services.

Commissioner Gill Hearn thanked EDC Interim President Joshua J. Sirefman and members of his staff, including the General Counsel's Office and the Contracts and Procurement Unit, for their assistance and cooperation in the investigation.

The investigation was conducted by DOI Inspectors Generals Mary T. Piechocki and Gia L. Morris, and Confidential Investigator Lourdes December. The office of Manhattan District Attorney Robert M. Morgenthau prosecuted the case, with Assistant District Attorney Melissa Marrus of the Special Prosecutions Bureau handling the matter.

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