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Construction Company Operator, Foreperson and Engineer Indicted for Manslaughter in Death of Laborer Buried in Debris Following Wall Collapse

*Defendants Allegedly Ignored Workers' Safety Concerns, Industry Protocols
And Concerns Expressed by Adjacent Property Owners*

Brooklyn District Attorney Eric Gonzalez, together with New York City Department of Investigation Commissioner Margaret Garnett, New York City Department of Buildings Commissioner Melanie La Rocca, and Occupational Safety and Health Administration Regional Administrator Richard Mendelson, today announced that the operator of a Sunset Park construction company, two other men and two businesses, have been indicted on manslaughter and other charges after a wall collapsed at an excavation site, killing a construction worker, Luis Almonte Sanchez, who was buried under thousands of pounds of debris. Three additional defendants have been indicted on lesser related charges.

District Attorney Gonzalez said, “Despite a construction-related conviction for attempted bribery a few years earlier, the construction company operator allegedly continued to play fast and loose with safety protocols, taking shortcuts to increase profit margins – this time with deadly consequences. We allege that the dangerous conditions at the site – which had been reported by laborers and neighbors – were ignored by these defendants and directly led to the death of Luis Almonte Sanchez, a 47-year-old family man. As new construction continues to proliferate in Brooklyn, it is incumbent upon builders to put safety first. As District Attorney, I am committed to protecting the safety of all workers.”

Commissioner Garnett said, “This indictment demonstrates the tragic results that we have seen far too often when individuals who purport to be construction professionals ignore safety problems and warnings. These defendants discounted the City’s construction code, making up the rules as they went along, creating the perfect conditions for a disaster that ultimately cost a worker his life, according to the charges. DOI thanks the Brooklyn District Attorney, the City Department of Buildings, and our other partners for their collaboration and commitment on this investigation.”

Commissioner La Rocca said, “Cutting corners on the work site costs lives. Luis Almonte Sanchez is no longer with us due to the defendants’ callous disregard for even the most basic excavation safety regulations, in service of padding their own bank accounts. I want to thank my colleagues District Attorney Gonzalez and Commissioner Garnett for their ongoing partnership during this investigation. This indictment sends a resolute message to bad actors in the construction industry: The City will not tolerate those who put profit ahead of the lives of their workers.”

Regional Administrator Mendelson said, “OSHA will continue to work with our law enforcement colleagues to achieve our mutual goal of safe and healthful workplaces by ensuring that employers comply with our agencies’ applicable laws and regulations, and by holding employers accountable if they disregard their safety and health responsibilities.”

The District Attorney identified the defendants as Jiayi “Jimmy” Liu, 46, of Staten Island; Wilson Garcia Jr., 45, of Staten Island; Paul Bailey, 56, of Pelham, New York; Jia Rong “Tommy” Liu, 49, of Brooklyn; Siu Wah Maria Cheung-Mui, 31, of Brooklyn; Cindy Chai, 42, of Staten Island; Bailey’s Engineering, of Manhattan; WSC Group LLC, of Brooklyn; and WS Construction Inc., of Brooklyn.

Jiaxi Liu, Garcia, Bailey, WSC Group LLC, and Bailey's Engineering PC are charged with second-degree manslaughter; Jiaxi Liu, WSC Group LLC, Garcia, Bailey, Bailey's Engineering PC and Cheung-Miu are charged with criminally negligent homicide. Jiaxi and Jia Rong Liu, WSC Group, Garcia, Bailey, Bailey's Engineering and Cheung-Mui are charged with second-degree reckless endangerment. Jiaxi Liu, Garcia and WSC Group are charged with fourth-degree criminal mischief. Jiaxi and Jia Rong Liu and Cheung-Mui are charged with first-degree offering a false instrument for filing. The defendants are also variously charged with third-degree insurance fraud; fraudulent practices, workers' compensation law, Section 114 (3) and Section 96; third-degree grand larceny; criminal tax fraud in the third-, fourth- and fifth-degree; and second- and third-degree criminal possession of a forged instrument.

The defendants were arrested and are expected to be arraigned before Brooklyn Supreme Court Justice Danny Chun this afternoon.

The District Attorney said that, according to the indictment, between April and September 2018, construction workers employed by WSC Group Inc., performed demolition, excavation and foundation work at a construction site at 714 39th Street in Sunset Park. The construction involved removing a one-story industrial building and replacing it with a four-story manufacturing and community facility, including a new cellar level that would serve as an underground garage approximately nine feet below the first-floor level.

It is alleged that, despite repeated warnings of dangerous conditions at the site from workers and adjacent property owners, Jiaxi "Jimmy" Liu refused to stop work at the site. On September 12, 2018, at approximately 2 p.m., a portion of a support of excavation system (SOE) and an existing masonry wall – adjacent to residential apartment buildings – collapsed, trapping one of the construction workers who was performing foundation work in the immediate vicinity. That worker, Luis Almonte Sanchez, 47, an employee of WSC Group, was struck by one of the underpinning pin sections, which weighed between 15,000 and 45,000 pounds and was buried under the collapsing debris. First responders couldn't recover Sanchez's body until the following day due to unstable conditions at the site, which were worsened by significant rain.

The District Attorney said that, according to the indictment, Jimmy Liu ran WSC Group, the company hired to perform the excavation work and it was his responsibility to give instructions to his foreperson and workers; His brother, Tommy Liu owned WSC Group; Wilson Garcia was the foreperson at the site; Paul Bailey was an engineer, acting as the Special Inspector at the site, and whose responsibility was to oversee the work and ensure that all building and administrative codes were complied with and that the construction site was safe for workers; Wilson Garcia served as the foreperson and "competent person," designated to identify hazards and take immediate action to correct the hazards on site; Cheung-Mui was licensed as a construction superintendent by the DOB and was required to be on site to maintain a safe job site, maintain compliance with approved construction documents and perform daily site visits; Cindy Chai was the bookkeeper at WSC Group LLC and is only charged in connection with financial crimes alleged in the indictment.

It is alleged, according to the indictment, that the defendants were obligated by law to ensure that the construction site was in compliance with regulations promulgated by the DOB and Occupational Safety and Health Administration to ensure the safety of the work site, but, in fact, the site was not in compliance and, furthermore, the defendants failed to follow the design plans submitted and approved by the DOB. They allegedly solicited new plans, which were not submitted to DOB, but ultimately didn't follow any plans, leading to hazardous conditions at the site. Among the issues: the excavation was too deep, the underpinning system wasn't installed properly and safe bracing procedures were not followed.

Furthermore, it is alleged that in the days prior to September 12, 2018, Jimmy Liu and Garcia were informed by several of their workers of a number of potentially dangerous conditions, including that the rear wall was moving forward and that it had to be further braced with another beam across the lower portion of the wall in order to stop the wall's movement.

Also, it is alleged, Jimmy Liu and Garcia were notified by a resident who lived immediately adjacent to the rear wall that her patio and garage had caved in. It is alleged that, despite those warnings, Jimmy Liu and Garcia refused to direct the workers to install additional

bracing and never halted work at the site in order to assess or remedy the conditions. Nor did they notify DOB about the conditions.

Instead, it is alleged, they ordered workers to continue working on the underpinning at the rear of the site and in the days immediately preceding the collapse allowed a trucking company to continue to remove truckloads of dirt during a heavy rain storm, further destabilizing the site and causing the fatal collapse.

Additionally, it is alleged, some of the same individuals and companies were involved in another construction project located at 1759 Bay Ridge Parkway in 2017-2018, that was subject to numerous safety complaints that led to a DOB inspection, which uncovered numerous violations, and resulted in a stop work order. It is alleged that work continued at the site despite the order.

Finally, it is alleged, that WSC defrauded the New York State Insurance Fund of nearly \$47,000 by making false statements about their employees, and that it also committed tax fraud by failing to file taxes between 2015 and 2018 and owes more than \$28,000 for 2015 and 2016.

Following the 2018 fatal construction incident at 714 39th Street, DOB inspection teams conducted enforcement sweeps citywide of every construction site associated with the defendants and issued additional enforcement actions for site safety conditions where appropriate. In addition, DOB is taking additional administrative actions against any of the defendants that have licenses, registrations, or privileges with the Department.

The case was investigated by DOI, specifically Investigative Inspector Ross Hoffman, Chief Investigator James McElligott and Special Investigators Janaina Siguencia and Alejandra Gomero, under the supervision of Inspector General Gregory Cho, Deputy Commissioner/Chief of Investigations Dominick Zarrella and First Deputy Commissioner Daniel Cort, with assistance from DOI's squad of NYPD Detectives.

DOB Executive Engineer Construction Safety Enforcement Geoff Eisele and Supervising Inspector Greg Gonzalez assisted in the investigation. New York State Insurance Fund Investigator Maliaka Williams, Division of Confidential Investigations and OSHA Assistant Area Director Mitchel Konca and Safety Engineer James Ng, also assisted in the investigation.

The New York City Sheriff's Bureau of Criminal Investigation's Tax Auditor Giselle Decamps-Guthrie and Bureau Chief Gary Wong assisted in the investigation.

The District Attorney thanked Senior Assistant District Attorney Joel Greenwald of the District Attorney's Asset Forfeiture and Crimes Against Revenue Bureau, Assistant District Attorney Gregory P. Mitchel, Bureau Chief, Frauds Bureau Paralegal Stephanie Ducatel and Supervising Financial Investigator Debbie Wey of the Investigations Division for their assistance in the investigation.

The case is being prosecuted by Assistant District Attorney Samantha Magnani, Chief of the District Attorney's Construction Crimes and Labor Fraud Unit, and Assistant District Attorney Elliot Wertheim, of the District Attorney's Frauds Bureau, under the supervision of Assistant District Attorney Michel Spanakos, Deputy Chief of the District Attorney's Investigations Division, and the overall supervision of Assistant District Attorney Patricia McNeill, Chief.

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An indictment is merely an accusation and not proof of a defendant's guilt

Materials that were displayed at the press conference can be viewed via this link:

https://brooklynda-my.sharepoint.com/:f/g/personal/yanivo_brooklynda_org/EpkKAbLf80tLsS0I0IL8kcwBcFex_V4C3ThQ8zL6zNX4BQ?e=yxTahL