



JIM HOOD
ATTORNEY GENERAL

July 16, 2007

Honorable Alice F. Martin
United States Attorney
Northern District, Alabama
1801 4th Avenue North
Birmingham, AL 35203
Sent Via Facsimile 205-244-2171

Re: E.A. Renfroe & Co., Inc. v. Moran et al, 2:06-CV-1752

Dear Ms. Martin:

I understand that the Honorable Judge William Acker has asked your office to consider pursuing a criminal prosecution against Richard Scruggs for contempt allegedly arising from Scruggs' conduct in the above-referenced case, currently pending in the U.S. District Court in Birmingham. Since Mr. Scruggs was a confidential informant, I respectfully request that you consider as a matter of comity the impact a criminal contempt prosecution will have upon our ability as prosecutors to fight white collar crime as well as the damage such a prosecution would cause to state whistle-blower protections.

By way of background, you are probably aware that Mr. Scruggs represents Cori and Kerri Moran, two sisters employed by Renfroe who were working as contractors for State Farm on the Mississippi Gulf Coast following Hurricane Katrina. The sisters became concerned with the apparently fraudulent practices they witnessed in the handling of Katrina claims and, in the spring of 2006, removed incriminating documents from State Farm's catastrophe office. Renfroe has sued the sisters for violating their employment contract and has demanded the return of the documents.

Mr. Scruggs represents the sisters and took custody of those documents. Copies were provided to our office and our local U.S. Attorney, Dunn Lampton. Importantly, Renfroe is on record as having no objections to the documents being provided to either state or federal law enforcement by Mr. Scruggs. In January 2007, Judge Acker ordered Mr. Scruggs to return the documents to Renfroe shortly before our grand jury convened in Jackson County, Mississippi to investigate the State Farm matter. Mr. Scruggs sent the documents to our office instead of returning them to the court; that is the allegedly contemptuous behavior for which your assistance has been requested.

Our investigation into the conduct of State Farm necessarily implicates Renfroe, because Renfroe is the preferred adjusting services provider used by State Farm and the direct link to the National Flood Insurance Program, the point at which we believe fraudulent claim assessments were passed on to the taxpayers for payment. The degree to which State Farm and Renfroe are intertwined in this situation is perhaps best demonstrated by the fact that,


when asked to provide Judge Acker with a claims file for illustrative purposes, Renfroe had to issue a subpoena to State Farm in order to acquire what are supposedly Renfroe documents. Renfroe has asserted repeatedly since Hurricane Katrina that they do not maintain any documentation of the catastrophe work they did for State Farm and that those documents are in the custody of State Farm. We view State Farm and Renfroe as potential co-conspirators. Naturally this office is adamant that the subjects of a grand jury investigation should not be allowed to review the evidence against them before the grand jurors have an opportunity to do so.

Mr. Scruggs has functioned as a confidential informant for our investigation and is protected by state law as a whistle blower. Using those documents, my office has conducted an ongoing investigation into what we believe is State Farm's fraudulent conduct, not only toward their own policyholders, but also against the National Flood Insurance Program as well. Our investigation continues and in both of our reports to Congress, it has been our recommendation that federal racketeering charges should be considered. The prospect of bringing a federal prosecution against an out-of-state whistle blower, who has cooperated in state and federal criminal investigations in another state, raises serious comity concerns.

Given your personal success as a prosecutor in convicting white collar criminals, you undoubtedly have an appreciation for the fact that most of the evidence may come from documents generated or used by defendants. Allowing a white collar criminal to somehow segregate evidence of their crimes by hiding behind confidentiality agreements or employment contracts sets a daunting and debilitating precedent for prosecutors. Certainly, a healthy business climate must provide protection for intellectual property and trade secrets, but that is not the sort of information Renfroe is trying to conceal. In evaluating Judge Acker's request, I respectfully request that you consider the chilling effect a criminal prosecution would have on citizens' cooperation with law enforcement and the extremely damaging standard this would set for future white collar prosecutions.

Please feel free to contact me with any questions or concerns. Thank you for your time.

Sincerely yours,


Jim Hood
Attorney General