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7 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**
8 **IN AND FOR THE COUNTY OF MARICOPA**

9 STATE OF ARIZONA,

10 Plaintiff,

11 v.

12 DOUGLAS K. MARTIN (001),

13 Defendant.
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No.

INDICTMENT

59 SGJ 145

CHARGING VIOLATIONS OF:

COUNTS 1 and 3: THEFT
a Class 3 Felony, A.R.S. § 13-1802

COUNT 2: THEFT
a Class 4 Felony, A.R.S. § 13-1802

COUNTS 4-6: FRAUDULENT
SCHEMES AND PRACTICES
Class 5 Felonies, A.R.S. § 13-2311

COUNTS 7-9:
PROCUREMENT CODE FRAUD,
Class 4 Felonies, A.R.S. § 41-2616

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21 The Arizona State Grand Jury accuses Defendant DOUGLAS K. MARTIN, charging
22 on this 13th day of December, 2006, that:

23 **PREAMBLE**

24 At all times relevant to this Indictment,

- 25 1. Defendant DOUGLAS K. MARTIN is an elected public official; namely, the
26 State Mine Inspector.
27 2. The State Mine Inspector's Office (ASMI) is an agency of the State of
28 Arizona.

1 3. When procuring motor vehicles for ASMI, Defendant DOUGLAS K.
2 MARTIN was required to comply with the Arizona Procurement Code, A.R.S.
3 § 41-2501 *et. seq* and A.A.C. R2-7-101 *et seq.*, and also with an
4 Intergovernmental Agreement (IGA) that ASMI and the Arizona Department
5 of Administration (DOA) entered into in February 1993 (and that was signed
6 by Defendant DOUGLAS K. MARTIN as "State Mine Inspector"). This IGA
7 provided that ASMI would primarily obtain its vehicles from federal agencies
8 and that any additional vehicle requirements of ASMI would be placed with
9 the Fleet Management Office (of DOA), which would "purchase, title,
10 maintain, replace and insure all such vehicles and place them on its extended
11 dispatch program to the ASMI."

12 4. When disposing of ASMI motor vehicles, Defendant DOUGLAS K.
13 MARTIN was required to comply with the Arizona Administrative Code.
14 Section R2-15-303 of that Code provides, "a state governmental unit shall not
15 transfer, sell, trade-in, condemn or otherwise dispose of materials owned by
16 the state without written authorization from the Surplus Property
17 Administrator [of DOA]."

18 COUNT 1 (THEFT)

19 In about January 2006, Defendant DOUGLAS K. MARTIN knowingly and without
20 lawful authority converted for an unauthorized term or use property of another that was
21 entrusted to him or placed in his possession for a limited, authorized term or use, and the
22 property had a value of \$3,000 or more but less than \$25,000, in violation of A.R.S. §§ 13-
23 1802, 13-1801, 13-301, 13-302, 13-303, 13-304, 13-701, 13-702, 13-702.01, and 13-801.

24 This conduct occurred when Defendant DOUGLAS K. MARTIN, the State Mine
25 Inspector, knowing that he had no lawful authority to dispose of ASMI vehicles without
26 complying with the applicable provisions of the Arizona Administrative Code, and knowing
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1 that he had not complied with those provisions, converted for an unauthorized use three
2 ASMI vehicles; namely, two 2001 Chevrolet Astro Vans and one 1999 Chevrolet Astro Van,
3 by trading those vehicles in to Five Star Ford for \$6,500 in trade-in value on the lease-
4 purchase for ASMI of two 2006 Ford Explorers, transactions he knew he had no lawful
5 authority to enter into on behalf of ASMI or the State.

6 **COUNT 2 (THEFT)**

7 In about March 2006, Defendant DOUGLAS K. MARTIN knowingly and without
8 lawful authority converted for an unauthorized term or use property of another that was
9 entrusted to him or placed in his possession for a limited, authorized term or use, and the
10 property had a value of \$1,000 or more but less than \$2,000, in violation of A.R.S. §§ 13-
11 1802, 13-1801, 13-301, 13-302, 13-303, 13-304, 13-701, 13-702, 13-702.01, and 13-801.

12 This conduct occurred when Defendant DOUGLAS K. MARTIN, the State Mine
13 Inspector, knowing that he had no lawful authority to dispose of ASMI vehicles without
14 complying with the applicable provisions of the Arizona Administrative Code, and knowing
15 that he had not complied with those provisions, converted for an unauthorized use one
16 ASMI vehicle; namely, a 2000 Dodge Caravan, by trading that vehicle in to Five Star Ford
17 for \$1,500 in trade-in value on the lease-purchase for ASMI of a 2006 Ford F-150 4x4
18 Supercab, a transaction he knew he had no lawful authority to enter into on behalf of ASMI
19 or the State.

20 **COUNT 3 (THEFT)**

21 In about June 2006, Defendant DOUGLAS K. MARTIN knowingly and without
22 lawful authority converted for an unauthorized term or use property of another that was
23 entrusted to him or placed in his possession for a limited, authorized term or use, and the
24 property had a value of \$3,000 or more but less than \$25,000, in violation of A.R.S. §§ 13-
25 1802, 13-1801, 13-301, 13-302, 13-303, 13-304, 13-701, 13-702, 13-702.01, and 13-801.
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1 This conduct occurred when Defendant DOUGLAS K. MARTIN, the State Mine
2 Inspector, knowing that he had no lawful authority to dispose of ASMI vehicles without
3 complying with applicable provisions of the Arizona Administrative Code, and knowing that
4 he had not complied with those provisions, converted for an unauthorized use one ASMI
5 vehicle; namely, a 2002 Chevrolet Astro Van, by donating that vehicle to the Arizona Mine
6 Emergency Association, a private entity for which Defendant DOUGLAS K. MARTIN was
7 the Director/Treasurer; a disposition of ASMI property that Defendant DOUGLAS K.
8 MARTIN knew he had no lawful authority to make.

9 **COUNTS 4-6 (FRAUDULENT SCHEMES AND PRACTICES)**

10 In about the months specified below, Defendant DOUGLAS K. MARTIN, in a matter
11 related to the business conducted by any department or agency of this state, pursuant to a
12 scheme or artifice to defraud or deceive, knowingly falsified, concealed or covered up a
13 material fact by any trick, scheme or device or made or used any false writing or document
14 knowing such writing or document contained any false, fictitious or fraudulent statement or
15 entry, in violation of A.R.S. §§ 13-2311, 13-301, 13-302, 13-303, 13-304, 13-701, 13-702,
16 13-702.01, and 13-801.

17 This conduct occurred when Defendant DOUGLAS K. MARTIN, the State Mine
18 Inspector, acquired for ASMI by lease-purchase agreements the motor vehicles specified
19 below, knowing that he was precluded by the Arizona Procurement Code and the 1993 IGA
20 from acquiring motor vehicles for ASMI in this fashion. The scheme or artifice was
21 intended to, and did, defraud or deceive the State of Arizona into making monthly payments
22 on those vehicles without realizing that ASMI had acquired those vehicles with lease-
23 purchase agreements in violation of the Arizona Procurement Code and the 1993 IGA. The
24 scheme or artifice to defraud or deceive DOA included the following knowing deceptions
25 and falsehoods, among others, by Defendant DOUGLAS K. MARTIN:
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1. Representing to the auto dealer and others that the 1993 IGA authorized ASMI to lease-purchase its own motor vehicles without the approval of DOA, knowing that the IGA directed Defendant DOUGLAS K. MARTIN and ASMI to obtain ASMI vehicles from other governmental agencies or through the Fleet Management Office of DOA;
2. Failing to record the new vehicles as capital assets in the Fixed Asset Subsystem, which an agency was required to do and which would have given notice to DOA that ASMI had those vehicles;
3. Failing to notify the Arizona General Accounting Office of the ASMI lease-purchase of those new vehicles, which an agency was required to do and which would have given notice to GAO that ASMI had those vehicles;
4. Representing to the auto dealer that lease payments would be made through the Arizona General Fund, which had a \$1 billion balance, knowing that those payments would actually be made from Federal grant funds awarded to ASMI;
5. Having an ASMI employee provide information to DOA for the monthly lease payments and having the employee certify on each occasion, "this expenditure/transaction is for a valid purpose and is consistent with all applicable statutes, laws, appropriations, grants and contracts," a certification that Defendant DOUGLAS K. MARTIN knew to be false in material respects.

<u>COUNT</u>	<u>DATE</u>	<u>VEHICLE</u>	<u>SERIAL NUMBER</u>
4	September 2004	2004 Ford Explorer	1FMZU...B39557
5	January 2006 and	2006 Ford Explorer 2006 Ford Explorer	1FMEU...A41257 1FMEU...A41258
6	March 2006	2006 F-150 4x4 Supercab	1FTPX...B10064

COUNTS 7-9 (PROCUREMENT CODE FRAUD)

In about the months specified below, Defendant DOUGLAS K. MARTIN intentionally or knowingly contracted for or purchased any material pursuant to a scheme or artifice to avoid the requirements of the Arizona Procurement Code, in violation of A.R.S. §§ 41-2616, 41-2503, 13-301, 13-302, 13-303, 13-304, 13-701, 13-702, 13-702.01, and 13-801.

This conduct occurred as described in Counts 4-6 of this Indictment regarding the scheme or artifice by which Defendant DOUGLAS K. MARTIN, the State Mine Inspector, acquired the vehicles specified below; that scheme or artifice was intended to, and did, unlawfully allow Defendant DOUGLAS K. MARTIN to avoid the requirements of the Arizona Procurement Code by, among other things, acquiring motor vehicles for himself and ASMI without a valid State contract that was competitively bid and awarded.

<u>COUNT</u>	<u>DATE</u>	<u>VEHICLE</u>	<u>SERIAL NUMBER</u>
7	September 2004	2004 Ford Explorer	1FMZU...B39557
8	January 2006 and	2006 Ford Explorer 2006 Ford Explorer	1FMZU...A41257 1FMZU...A41258
9	March 2006	2006 F-150 4x4 Supercab	1FTPX...B10064

Pursuant to A.R.S. § 21-425, the State Grand Jurors find that all offenses described above were committed in Maricopa County, Arizona.

A True Bill

(A "True Bill")

TERRY GODDARD
ATTORNEY GENERAL
STATE OF ARIZONA

Dated: 12.13.06

E. G. NOYES, JR.

E. G. NOYES, JR.
Assistant Attorney General

Luis Savage

Foreperson of the State Grand Jury