



Department of Justice

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FORMER LIBERTY COUNTY JUDGE AND COMMISSIONER
INDICTED IN HURRICANE FRAUD SCHEME

*Public officials alleged to have violated conflict of interest laws;
pocketed over a half-million in disaster relief funds*

BEAUMONT, Texas – A former Liberty County Judge and Commissioner, and a local businessman have all been indicted in a hurricane fraud scheme in the Eastern District of Texas announced U.S. Attorney John M. Bales today.

John "Phil" Fitzgerald, 51, of Liberty, Texas, Herman "Lee" Groce, 62, of Cleveland, Texas, and Mark Wayne Miksch, 52, of LaVernia, Texas, were named in a 25-count indictment returned by a federal grand jury on Jan. 26, 2011. The defendants have been summoned and will make their initial appearances on Feb. 1, 2011 before U.S. Magistrate Judge Earl S. Hines.

The indictment alleges that following Hurricane Ike's landfall on Sep. 13, 2008, Fitzgerald, the Liberty County Judge, and Groce, the Liberty County Precinct 2 Commissioner, used their elected positions to fraudulently influence and award debris removal contracts to a company in return for sub-contracts being awarded to Fitzgerald's brother-in-law and businessman, Miksch. As part of the scheme, Fitzgerald is alleged to have received approximately \$611,000.00 in kickbacks disguised as legitimate business transactions.

Additionally, Fitzgerald is charged with the unauthorized use of a 155 kilowatt generator which was purchased by and for the benefit of Liberty County and then reimbursed by FEMA. Instead, Fitzgerald is alleged to have commandeered and used the generator to power Fitzpak, a convenience store and gas station in Moss Hill, which Fitzgerald owned and operated.

As a result of the conspiracy, approximately \$3,269,456.76 in debris removal contracts were fraudulently awarded by Fitzgerald and Groce in violation of state and federal laws.

Fitzgerald and Groce both lost their bids for re-election in November 2010, thus concluding their respective positions with Liberty County on Dec. 31, 2010.

This case was brought as part of this District's partnership with the National Center for Disaster Fraud (NCDF), a nationwide initiative to protect available funds and assistance for those victims of both natural and man-made disasters such as hurricanes, floods, tornadoes and the recent Gulf oil spill. If you have knowledge of fraud, waste, abuse or allegations of mismanagement involving disaster relief operations, you can contact the NCDF by either calling

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the hotline at (866) 720-5721, faxing the hotline at (225) 334-4707, emailing at disaster@leo.gov or in writing to National Center for Disaster Fraud, Baton Rouge, LA 70821-4909.

If convicted, the defendants face up to five years in federal prison for the conspiracy charge. Additional charges range from five to 30 years in federal prison.

This case is being investigated by the FBI, the Department of Homeland Security – Office of Inspector General, and the Office of the Texas Attorney General – Criminal Investigations Division. This case is being prosecuted by Assistant U.S. Attorney Joseph R. Batte.

A grand jury indictment is not evidence of guilt and all defendants are presumed innocent until proven guilty beyond a reasonable doubt in a court of law.

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Counts	Defendants	Violation	Maximum Penalty
1	Groce Fitzgerald Miksch	18 U.S.C. § 371 Conspiracy	5 years
2-7	Groce Fitzgerald	18 U.S.C. § 1343(A) and 2 Wire Fraud involving a major disaster	30 years
8-13	Groce Fitzgerald	18 U.S.C. § 666(a)(1)(A) and 2 Theft from organization receiving federal funds	10 years
14	Fitzgerald	18 U.S.C. § 666(a)(1)(B) and 2 Program bribery and kickbacks	10 years
15	Groce Fitzgerald Miksch	18 U.S.C. § 666(a)(2) and 2 Program bribery and kickbacks	10 years
16-21	Groce Fitzgerald Miksch	18 U.S.C. § 1040 and 2 Fraud in connection with a major disaster	30 years
22-23	Fitzgerald	18 U.S.C. § 1040 and 2 Fraud in connection with a major disaster	30 years
24-25	Fitzgerald	18 U.S.C. § 287 Making a false claim	5 years