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United States Attorney's Office

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EIGHT ASSOCIATED WITH RALPHS GROCERY COMPANY INDICTED FOR REHIRING WORKERS LOCKED OUT DURING LABOR DISPUTE

Defendants Allegedly Engaged in Covert Rehiring of Locked-out Workers as Means of Undermining 2003-2004 Strike Affecting Grocery Stores

LOS ANGELES – A federal grand jury in Los Angeles has returned a 23-count indictment against former Ralphs employees, alleging that they participated in a conspiracy to secretly rehire hundreds of locked-out employees under false names and false social security numbers during the 2003-2004 grocery workers labor dispute.

The indictment, returned late Thursday, accuses:

- Scott Drew, 47, of Carmel, Indiana, now a vice president of Ralphs parent company, The Kroger Co., who is based in Indianapolis;
- former Ralphs vice president Patrick McGowan, 49, of Menifee, California;
- Charles Vance, 56, of Norco, California, a former Ralphs zone manager;
- Randall Kruska, 55, of Leucadia, California, a former Ralphs zone manager; and
- Karen Montoya, 48, of Peoria, Arizona, a former Ralphs zone manager.

The grand jury also returned three separate one-count indictments against former and current Ralphs managers for making false statements to investigators. Those charged with making false statements are:

- Craig Totman, 55, of Paso Robles, California, a former Ralphs store director;
- Kelly Clark, 40, of Carmel, Indiana, a former Ralphs store director; and
- current district manager Allen Moorman, 43, of Yorba Linda.

The main indictment alleges that McGowan, Vance, Drew, Kruska, and Montoya directed and caused their subordinates at Ralphs to rehire locked-out employees to work under false identities to hide the illegal activities from labor unions, the Internal Revenue Service, and the Social Security Administration. According to the indictment, by secretly rehiring hundreds of locked-out employees under false identities, they caused Ralphs store managers to falsify the employment records of hundreds of locked-out employees, including various forms filed with government agencies. The indictment also alleges that McGowan, Vance, Drew, Kruska, and Montoya caused Ralphs to submit false reports to trust funds responsible for providing pension and health benefits for current and retired grocery workers.

The indictment alleges that, in combination with a secret revenue sharing agreement that Ralphs executed with its two main competitors, the covert rehiring of locked-out workers was intended to better Ralphs' position in the 2003-2004 labor dispute by, among other things, mitigating the financial and operational hardships of a complete lockout. The indictment further alleges that Vance made false statements to investigative agents during the criminal investigation.

The one-count indictments against Totman, Clark, and Moorman allege that they falsely denied to investigators that they hired locked-out workers under false identities.

The main indictment specifically charges McGowan, Vance, Drew, Kruska, and Montoya in a conspiracy to commit three objectives: to use false social security numbers, to commit identity fraud, and to falsify and conceal material facts in matters within the jurisdiction of the Internal Revenue Service and Social Security Administration. Additionally, the indictment alleges 11 counts of causing the use of false social security numbers, five counts of identity fraud, and one count of falsifying and concealing material facts in matters within the jurisdiction of the Internal Revenue Service and the Social Security Administration (various defendants are charged in various counts). The indictment further charges Vance with making false statements to investigators during the criminal investigation.

On July 26, 2006, the Ralphs Grocery Company entered guilty pleas to five felony counts: conspiracy, use of a false social security number, identity fraud, falsifying and concealing material facts in matters within the jurisdiction of the Internal Revenue Service and the Social Security Administration, and concealment of facts from an employee benefit plan. The company admitted that it covertly rehired locked-out workers under false names and social security numbers during a lockout of approximately 19,000 Ralphs grocery clerks and meat cutters. In addition to rehiring locked-out workers under false identities, Ralphs admitted that it submitted false tax information to the Social Security Administration and Internal Revenue Service for the employees working under false identities. The company later paid a $70 million fine (see: http://www.usdoj.gov/usao/cac/pressroom/pr2006/157.html).

As it admitted in court, Ralphs engaged in illegal conduct throughout its lockout of approximately 19,000 grocery clerks and meat cutters employed at its Southern California stores, a lockout that lasted from October 12, 2003 to March 1, 2004. The labor dispute that prompted the lockout began after a collective bargaining agreement covering grocery workers employed by Ralphs, Albertson's, Inc., and Vons (a Safeway Company) expired on October 5, 2003. On October 11, the seven local unions of the United Food and Commercial Workers Union, AFL-CIO-CLC, that represented grocery workers employed by the three supermarket chains, struck Vons. In response, on October 12, Ralphs and Albertsons announced that they were locking out all their grocery workers who were members of these unions. The lockout and strike lasted approximately 4½ months and was the longest and largest labor dispute involving the grocery industry in United States history.

The charges contained in an indictment are only allegations. A defendant is presumed innocent unless and until proven guilty in a court of law.

If convicted on all charges, McGowan, Vance, Drew, Kruska, and Montoya face maximum sentences of at least 30 years in federal prison, as well as the payment of restitution to the victims of the alleged crimes.

The defendants will be summoned to appear in United States District Court in Los Angeles for arraignment next month.

These cases were investigated by the Department of Labor, Office of Inspector General; the Department of Labor, Employee Benefit Security Administration; the Social Security Administration, Office of Inspector General; and the IRS-Criminal Investigation.

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