



Office of the Inspector General Commonwealth of Massachusetts

Cognos Case Summary, February 2012

The Massachusetts Office of the Inspector General (OIG) had an instrumental role in the investigation that resulted in the prosecution and conviction of former Speaker of the House Salvatore F. DiMasi and lobbyist Richard McDonough in 2011. Staff of the Inspector General's office initiated the case, which began in mid-October 2007 with an inquiry into the faulty procurement of \$13 million in software from the firm Cognos. The case ended in September 2011 with the sentencing of DiMasi and McDonough to federal prison for eight and seven years respectively.

The OIG investigated two contract awards - a \$4.5 million software purchase by the Department of Education in 2006 and a \$13 million purchase of performance management software by the state, funded by a March 2007 emergency bond bill. Several elements of the Cognos case that played a prominent role at DiMasi's trial were first uncovered by the Inspector General's staff. For example, the OIG established that:

- Cognos had paid DiMasi's law associate, Steven J. Topazio, \$125,000 beginning in April 2005 and ending in March 2007, immediately after the bond bill was approved;
- Topazio performed no work in exchange for the \$125,000;
- The language directing the state to buy performance management software was inserted in the bond bill at DiMasi's request.

In October 2008, this information was provided by OIG staff to the FBI and prosecutors at the U.S. Attorney's office. Topazio ultimately became a key witness during the trial and testified that he gave DiMasi almost half of the \$125,000 received from Cognos. He also testified that McDonough helped arrange his contracts with Cognos.

In 2008 prior to the involvement of the FBI and the U.S. Attorney's office, the OIG analyzed email records obtained from Cognos by summons as well as from the state's Department of Education (DOE) and the Information Technology Division (ITD). The OIG's analysis showed that:

- Cognos officials and a former Cognos salesman, Joseph Lally, exerted influence over the language for the March 2007 bond bill funding the software contract as well as the Request for Responses issued in April 2007.
- In emails, Lally and Cognos officials discussed DiMasi, who was sometimes referred to as "Coach," using his influence to help the firm get a contract awarded.

- In summer 2007, Lally reported to Cognos that Administration and Finance Secretary Leslie A. Kirwan was resisting awarding the contract despite pressure from senior officials in the governor's office. Lally referred to Kirwan as a "rogue secretary."
- In 2005, Education Commissioner David Driscoll told his staff that DiMasi was "very interested" in a software contract that DOE was on the verge of awarding to Cognos. Driscoll said DiMasi was "OK with" Cognos receiving the contract and Driscoll believed DiMasi would support a budget amendment of \$6 million to fund statewide implementation of the software.

In September 2008, the OIG obtained records of financial transactions by Cognos and by Lally's firm, Montvale Solutions LLC. The OIG's analysis established that:

- Cognos paid Montvale Solutions a commission of \$891,000 in August 2006 in connection with the \$4.5 million DOE contract. Shortly afterwards, Montvale Solutions in turn paid \$100,000 each to McDonough's firm and an entity controlled by Richard Vitale, DiMasi's former accountant and campaign treasurer.
- On Aug. 31, 2007, Cognos paid a \$2.8 million commission to Montvale Solutions in connection with the \$13 million performance management contract. The same day, Montvale paid \$500,000 to Vitale's firm and \$200,000 to McDonough.

In October 2008, the Inspector General reported this information to state and federal law enforcement authorities. In late October, the Inspector General signed memoranda of understanding with several law enforcement agencies to cooperate in investigating possible criminal acts in connection with the Cognos contracts. The OIG worked on the case as part of the team conducting the federal criminal investigation. OIG investigator Jack Meyers interviewed witnesses and analyzed email, phone and business records in coordination with the FBI and U.S. Attorney's office.

DiMasi, McDonough, Lally and Vitale were indicted in U.S. District Court on June 2, 2009. Lally pleaded guilty in March 2011. In a trial that lasted several weeks ending in June 2011, DiMasi and McDonough were convicted on most, but not all, counts against them. Vitale was found not guilty on all counts. Following the verdicts, U.S. Attorney Carmen M. Ortiz thanked the Inspector General's office for its work on the case.

At DiMasi's sentencing on Sept. 9, 2011, U.S. District Court Chief Judge Mark L. Wolf said:

This case has been very dispiriting. It has demonstrated a recurrence of corruption in state government....It will undoubtedly heighten public cynicism regarding public officials in the short run. However, I'd like to say that the case also shows, I believe, that the system can work and...that the system does work and something can be done to combat corruption.

The Inspector General's office was created as a result of the Ward Commission which, after investigating the legislature in the late 1970s, found that in public contracting - well, the legislature and the executive branch found that public [corruption] was a 'way of life.' It led to the successful prosecution by the Ward Commission of State Senator Jimmy Kelly. But it also led to the creation of the Inspector General's office. And it was the Inspector General who first focused on the Cognos contracts and found misconduct that caused those contracts to be revoked

and save \$13 million for the Commonwealth of Massachusetts. And then the media investigated it and it found much more misconduct. It publicized it. Then the Department of Justice devoted substantial resources to investigating and prosecuting a difficult case, which in my view is just what it should be doing. No one else can do this. Nobody else will do this.

For additional information see:

- [U.S. Attorney's Office - District of Massachusetts Press Release: Former Software Salesmen Who Testified Against DiMasi and McDonough Sentenced on Corruption Charges, October 19, 2011](#)
- [U.S. Attorney's Office - District of Massachusetts Press Release: Former Speaker of the Massachusetts House of Representatives and Lobbyist Sentenced on Corruption Charges, September 9, 2011](#)
- Letter to Secretary of State William Francis Galvin Regarding Payments to Certain Lobbyists, October 2008
- Review of a Procurement of Performance Management Software, letter to Leslie A. Kirwan, Secretary of Administration & Finance, March 2008