

**IN THE CIRCUIT COURT
FOR WASHINGTON COUNTY**

STATE OF MARYLAND,
200 St. Paul Place
Baltimore, Maryland 21202

BOARD OF EDUCATION OF
WASHINGTON COUNTY
10435 Downsville Pike
Hagerstown, MD 21740

Plaintiffs,

v.

CASE NO.

J&K CONTRACTING, INC.
5408 Dower House Road
Upper Marlboro, Maryland 20772

Serve on:
Kyriakos Kiotsekoglou
5408 Dower House Road
Upper Marlboro, Maryland 20772
Registered Agent

KYRIAKOS KIOTSEKOGLU
8301 Satinleaf Court
Bowie, Maryland 20715

Defendants.

* * * * *

COMPLAINT

Plaintiff, the State of Maryland, through its undersigned counsel, brings this Complaint against J& K Contracting, Inc. and Kyriakos Kiotsekoglou and states:

1. The State of Maryland seeks to recover approximately \$382,000 that was paid to J&K Contracting, Inc. and impose additional civil penalties based upon false representations that J&K Contracting had used the services of subcontractors that were certified minority business

enterprises. J&K Contracting had not, in fact, obtained the described services from the identified subcontractors. By falsely claiming that it had done so, J&K Contracting submitted false claims for payment and used false records and statements within the meaning of the Maryland False Claims Act, Md. Code Ann., Gen. Prov. §§ 8-101 through 8-111.

Parties

2. Plaintiff, the State of Maryland is a free, sovereign, and independent State.

3. The Board of Education of Washington County is a State agency established under Section 3-104 of the Maryland Education Code. Md. Code Ann., Educ. § 3-104. The Board is responsible for maintaining a system of public elementary and secondary schools to provide quality educational opportunities for all children in Washington County.

4. Defendant J&K Contracting, Inc. (“J&K”) is a Maryland corporation whose principal place of business is in Prince George’s County, Maryland.

5. Defendant Kyriakos Kiotsekoglou is the president of J&K and is a resident of Prince George’s County, Maryland.

Jurisdiction and Venue

6. This Court has jurisdiction over the subject matter of this action pursuant to Md. Code Ann., Cts. & Jud. Proc. §1-501.

7. Venue is proper in this Court because, on information and belief, J&K regularly carries on a business in Washington County (Md. Code Ann., Cts. & Jud. Proc. § 6-201(a)).

Factual Allegations

8. The Interagency Commission on School Construction is a multi-agency State program that provides State funding for school construction projects.¹

9. The Interagency Commission is composed of representatives from the Maryland State Department of Education, the Department of General Services, and the Department of Planning.

10. The Interagency Commission reviews and approves school construction projects, which are then funded, in part, by the State appropriations.

11. The remaining funds are supplied by local boards of education through other sources, such as local tax assessments.

12. The Board of Education of Washington County is responsible for construction and maintenance of public school buildings throughout Washington County.

13. The Board of Education sought, and the Interagency Commission and Board of Public Works approved, State funding to replace the roofs on two Washington County school buildings, Boonsboro Middle School and Fountain Rock Elementary.

14. In 2016, The Board of Education issued two invitations for bid by which roofing contractors were invited to submit proposals for performing this work. Bid 2016-20 invited offers to perform the roofing work at Boonsboro Middle School, and Bid 2016-22 invited offers to perform the roofing work at Fountain Rock Elementary School.

¹ Before June 1, 2018, the Interagency Commission on School Construction was known as the Interagency Committee on School Construction. It is referred to throughout this Complaint by its current name.

15. Both contracts were funded by both general State funds through the Interagency Commission (as approved by the Board of Public Works) and funds provided by the Board of Education.

16. In 1978, the State created a Minority Business Enterprise Program to provide business opportunities to minority-owned companies. Qualified minority-owned businesses, known as MBEs, are certified by the State. Contractors performing work on government contracts are generally required to use one or more certified MBEs as subcontractors for a portion of the work performed.

17. The Interagency Commission requires that all contracts that are funded through the Interagency Commission contain MBE participation requirements and otherwise comply with the State MBE program. The Board Education has adopted MBE policies to fulfill these requirements.

The Boonsboro Project

18. Bid 2016-20 for Boonsboro Middle School required that eighteen percent of the contract be performed by an MBE.

19. The Invitation for Bids required bidders to certify by affidavit, under penalty of perjury, that they had “fully complied with the State Minority Business Enterprise Law, State Finance and Procurement Article, §14-308 (a)(2), Annotated Code of Maryland,” which prohibits contractors from identifying an MBE in a proposal and then “[f]ail[ing] to use the certified minority business enterprise in the performance of the contract” or “[p]ay[ing] the certified minority business enterprise solely for the use of its name in the bid or proposal.”

20. The Invitation for Bids further provides that a false certification of MBE compliance is grounds for rejecting a bid or terminating a contract.

21. J&K submitted a proposal for the Boonsboro project. In doing so, it affirmed its compliance with the MBE requirements multiple times.

22. First, J&K submitted a form called a Bid/Proposal Affidavit in which it certified that it had fully complied with State MBE requirements, including the prohibition against failing to use the MBE in the performance of the contract or paying an MBE for use of its name in a bid or proposal, and acknowledged that a false certification could result in termination of the contract.

23. The Bid/Proposal Affidavit was signed by Kyriakos Kiotsekoglou.

24. Second, J&K submitted a form called Attachment A – Certified Minority Business Enterprise Utilization and Fair Solicitation Affidavit Bid/Proposal Affidavit, an affidavit signed under penalty of perjury, in which bidders must certify that they have met the MBE goals for the contract or seek a waiver of those requirements.

25. Specifically, the contractor must affirm that the MBE subcontractors and suppliers listed in the related forms “will be used to accomplish the percentage of MBE participation that I intend to achieve.”

26. J&K submitted an Attachment A in which it stated that it had met the MBE subcontracting goals. It did not seek a waiver of those requirements.

27. The Attachment A was signed by Kyriakos Kiotsekoglou.

28. Third, J&K submitted a form called Attachment B - MBE Participation Schedule, on which it identified the MBE subcontractors to be used and the amount of their subcontracts.

29. In its proposal for the Boonsboro project, J&K submitted an Attachment B that identified two MBE’s with whom J&K would subcontract - G.E. Frisco in the amount of \$70,000 and BizSolutions in the amount of \$245,000.

30. The Attachment B - MBE Participation Schedule was signed by Kyriakos Kiotsekoglou on behalf of J&K.

31. On or about February 22, 2016, the Board of Education notified J&K that it was the apparent successful bidder on the Boonsboro project.

32. It requested that J&K provide an updated Attachment B - MBE Participation Schedule to reflect the fact that the Board of Education had decided to exercise an option for additional work, thereby increasing the total contract amount.

33. J&K provided the updated Attachment B - MBE Participation Schedule, stating that G.E. Frisco would now be paid \$76,300 and BizSolutions would now be paid \$257,600.

34. The updated Attachment B-MBE Participation Schedule was signed by Kyriakos Kiotsekoglou on behalf of J&K.

35. As the apparent successful bidder, J&K was also required to submit an additional form called Attachment D - MBE Subcontractor Project Participation Statement, in which each proposed MBE subcontractor acknowledges its participation in the project and the amount thereof and J&K re-affirmed this information.

36. J&K submitted an Attachment D Participation Statement for both BizSolutions and G.E. Frisco noting the amount of their contracts as \$76,300 and \$257,600, respectively.

37. The Participation Statements were signed on J&K's behalf by Kyriakos Kiotsekoglou.

38. The Board of Education then requested additional information regarding what services would be provided by BizSolutions.

39. Kyriakos Kiotsekoglou responded on J&K's behalf, stating that BizSolutions' role would be to prepare submittals, take measurements, order materials, prepare daily progress reports, perform quality control, coordinate other subcontractors, monitor timeliness, and prepare close-out documents.

40. On or about March 2, 2016, J&K entered into a contract with the Board of Education for the Boonsboro Middle roof replacement project.

41. The Notice of Award reiterated that the contract was subject to State MBE requirements, with a specific goal of eighteen percent MBE subcontracting.

42. The contract again emphasized the importance of the MBE requirement. It includes a liquidated damages provision that states, "This contract requires the contractor to make good faith efforts to comply with the Minority Business Enterprise ("MBE") Program and contract provisions."

43. The contract explained that the Board of Education would incur damages, including "loss of goodwill, detrimental impact on economic development, and diversion of internal staff resources" if J&K did not make good faith efforts to comply with the MBE requirements.

44. The contract goes on to set out liquidated damages for breaches of various MBE program requirements. Among them, the parties agreed that damages for "[f]ailure to meet the Contractor's total MBE participation goal and subgoal commitments" would be "the difference between the dollar value of the total MBE participation commitment on the MBE participation schedule and the MBE participation actually achieved."

45. The MBE participation requirements were a material part of the contract. The Board of Education would not have selected J&K for award or entered into a contract with it had the Board known that J&K would not comply with the MBE requirements.

46. J&K did not comply with (or even intend to comply with) the contract's MBE requirements.

47. In order to obtain the contract, J&K – via Kyriakos Kiotsekoglou – represented to the Board of Education that BizSolutions would play a substantive role in the roof replacement project, including ordering materials, coordinating the work of other subcontractors, preparing daily reports, and quality control.

48. In order to make it appear as if BizSolutions would perform substantive services, J&K provided BizSolutions with a Subcontract Agreement to sign. The Subcontract Agreement states that BizSolutions will be paid \$257,600 for performing a variety of quality control and coordination tasks.

49. The agreement was presented to BizSolutions by Kyriakos Kiotsekoglou. BizSolutions had no role in drafting the document.

50. Kyriakos Kiotsekoglou explained to BizSolutions that the companies would not, in fact, act in accordance with the subcontract agreement.

51. Instead, if J&K needed assistance from BizSolutions, J&K would pay BizSolutions on an hourly basis for the work that was performed.

52. BizSolutions provided a total of 294 hours of work, for which it invoiced J&K the sum of \$26,309.34.

53. J&K paid BizSolutions a total of \$24,000 for BizSolutions' work on the Boonsboro contract: \$12,000 on or about Oct. 28, 2016 and \$12,000 on or about February 2, 2017.

54. The checks to BizSolutions were signed by Kyriakos Kiotsekoglou.

55. In order to obtain the contract, J&K – via Kyriakos Kiotsekoglou – represented to the Board of Education that G.E. Frisco would supply materials for the Boonsboro project.

56. The Invitation for Bids required J&K to “order materials as soon as submittals are approved by the Architect so that the materials are in possession upon commencement of field work.”

57. J&K did not obtain any materials from G. E. Frisco for the Boonsboro project.

58. Instead, it obtained the materials from a non-MBE company.

59. When seeking payment from the Board of Education, J&K was required to sign and submit IAC/PSCP Form 306.4 -- Certified Minority Business Enterprise Participation, Standard Monthly Contractor's Requisition for Payment.

60. This form requires contractors to certify payments made to MBE subcontractors. Contractors may pay the MBE subcontractors before submitting Form 306.4. But because many contractors may not have the financial resources to pay the MBE subcontractors before the contractor receives its own payment, Form 306.4 requires the contractor to report both its current intent to pay a specific amount to the MBE subcontractor upon the contractor's receipt of the moneys sought in the current payment requisition and the amounts that it has already paid to the MBE subcontractor. As subsequent payment requisitions are submitted, therefore, each reflects the total, cumulative amount paid to the MBE subcontractor as of the date of the requisition and

the amount of the future payment that the contractor has agreed to pay from the current requisition.

61. The prime contractor must certify that “timely payments have been and will be made to suppliers and subcontractors on this project as requisitioned payments are received, and in accordance with our contracts.”

62. On or about June 27, 2016, J&K submitted its first payment requisition to the Board of Education for the Boonsboro contract.

63. The requisition stated that \$100,000 would be paid to BizSolutions.

64. The certification was signed by Kyriakos Kiotsekoglou on behalf of J&K.

65. The Board of Education paid J&K the amounts sought in its payment requisition, including the \$100,000 that J&K was to pay, in turn, to BizSolutions, based on the representations made in the payment requisition.

66. On or about July 27, 2016, J&K submitted a second payment requisition.

67. The requisition stated that \$100,000 had been paid to BizSolutions from the June payment requisition and that an additional \$57,600 would be paid to BizSolutions from July requisition. It also stated that \$20,000 would be paid to G.E. Frisco.

68. The certification was signed by Kyriakos Kiotsekoglou on behalf of J&K.

69. J&K knew that it had not, in fact, made any payments to BizSolutions when it submitted this payment requisition.

70. The Board of Education paid J&K the amounts sought in the July payment requisition, including the \$57,600 that J&K was to pay to BizSolutions and the \$20,000 that J&K was to pay to G.E. Frisco, based on the representations made in the requisition.

71. On or about September 20, 2016, J&K submitted a third payment requisition.

72. The requisition stated that \$157,600 had already been paid to BizSolutions from the previous requisitions and that another \$80,000 would be paid to BizSolutions from the September requisition. It also stated that \$20,000 had been paid to G.E. Frisco from the previous requisitions and that another \$40,000 would be paid to G.E. Frisco from the September requisition.

73. The certification was signed by Kyriakos Kiotsekoglou on behalf of J&K.

74. J&K knew that it had not, in fact, made any payments to BizSolutions or G. E. Frisco when it submitted this payment requisition.

75. The Board of Education paid J&K the amounts sought in its payment requisition, including the \$80,000 that was to be paid to BizSolutions and the \$40,000 that was to be paid to G.E. Frisco based on the representations made in the requisition.

76. On or about November 22, 2016, J&K submitted a fourth payment requisition.

77. The requisition stated that \$237,600 had already been paid to BizSolutions from prior requisitions and that an additional \$20,000 would be paid to BizSolutions from the November requisition. It also stated that \$60,000 had already been paid to G. E. Frisco from prior requisitions and that an additional \$13,600 would be paid to G. E. Frisco from the November requisition.

78. The certification was signed by Kyriakos Kiotsekoglou on behalf of J&K.

79. J&K knew that it had, in fact, only paid BizSolutions \$12,000 and that it had not paid G. E. Frisco any amount when it submitted the November payment requisition.

80. The Board of Education did not pay the amounts requested in the November payment requisition.

The Fountain Rock Project

81. Bid 2016-22 for replacing the roof at Fountain Rock Elementary School required that eighteen percent of the contract be performed by an MBE.

82. The Invitation for Bids required bidders to certify by affidavit, under penalty of perjury, that they had “fully complied with the State Minority Business Enterprise Law, State Finance and Procurement Article, §14-308 (a)(2), Annotated Code of Maryland,” which prohibits contractors from identifying an MBE in a proposal and then “[f]ail[ing] to use the certified minority business enterprise in the performance of the contract” or “[p]ay[ing] the certified minority business enterprise solely for the use of its name in the bid or proposal.”

83. The Invitation for Bids further provides that a false certification of MBE compliance is grounds for rejecting a bid or terminating a contract.

84. J&K submitted a proposal for the Fountain Rock project. In doing so, it affirmed its compliance with the MBE requirements multiple times.

85. First, it submitted a form called a Bid/Proposal Affidavit in which it certified that it had fully complied with State MBE requirements, including the prohibition against failing to use the MBE in the performance of the contract or paying an MBE for use of its name in a bid or proposal, and acknowledged that a false certification could result in termination of the contract.

86. The Bid/Proposal Affidavit was signed by Kyriakos Kiotsekoglou.

87. Second, J&K submitted a form called Attachment A – Certified Minority Business Enterprise Utilization and Fair Solicitation Affidavit Bid/Proposal Affidavit, an affidavit signed under penalty of perjury, in which bidders must certify that they have met the MBE goals for the contract or seek a waiver of those requirements.

88. Specifically, the contractor must affirm that the MBE subcontractors and suppliers listed in the related forms “will be used to accomplish the percentage of MBE participation that I intend to achieve.”

89. J&K submitted an Attachment A in which it stated that it had met the MBE subcontracting goals. It did not seek a waiver of those requirements.

90. The Attachment A was signed by Kyriakos Kiotsekoglou.

91. Third, J&K submitted a form called a form called Attachment B - MBE Participation Schedule, on which it identified the MBE subcontractors to be used and the amount of their subcontracts.

92. In its proposal for the Fountain Rock project, J&K submitted an Attachment B - MBE Participation Schedule. It identified two MBE’s with whom J&K would subcontract – G.E. Frisco in the amount of \$30,720 and BizSolutions360, Inc. in the amount of \$107,520.

93. The Attachment B – MBE Participation Schedule was signed by Kyriakos Kiotsekoglou on behalf of J&K.

94. After the Board of Education reviewed the bids, it notified J&K that it was the apparent successful bidder for the Fountain Rock Contract.

95. As the apparent successful bidder, J&K was required to submit an additional form called Attachment D - MBE Subcontractor Project Participation Statement, in which each proposed MBE subcontractor acknowledges its participation in the project and the amount thereof and J&K re-affirmed this information.

96. J&K submitted an Attachment D Participation Statement for both G.E. Frisco and BizSolutions, noting the amount of their contracts as \$30,720 and \$107,520, respectively.

97. The Participation Statements were signed on J&K's behalf by Kyriakos Kiotsekoglou.
98. On or about April 5, 2016, J&K entered into a contract with the Board of Education for the Fountain Rock roof replacement project.
99. The Notice of Award reiterated that the contract was subject to State MBE requirements, with a specific goal of eighteen percent MBE subcontracting.
100. The contract again emphasized the importance of the MBE requirement. It includes a liquidated damages provision that states, "This contract requires the contractor to make good faith efforts to comply with the Minority Business Enterprise ("MBE") Program and contract provisions."
101. The contract explained that the Board of Education would incur damages, including "loss of goodwill, detrimental impact on economic development, and diversion of internal staff resources" if J&K did not make good faith efforts to comply with the MBE requirements.
102. The contract goes on to set out liquidated damages for breaches of various MBE program requirements. Among them, the parties agreed that damages for "[f]ailure to meet the Contractor's total MBE participation goal and subgoal commitments" would be "the difference between the dollar value of the total MBE participation commitment on the MBE participation schedule and the MBE participation actually achieved."
103. The MBE participation requirements were a material part of the contract. The Board of Education would not have selected J&K for award or entered into a contract with it had the Board known that J&K would not comply with the MBE requirements.

104. J&K did not comply with (or even intend to comply with) the contract's MBE requirements.

105. J&K provided BizSolutions with a Subcontract Agreement to sign for the Fountain Rock project. The Subcontract Agreement states that BizSolutions will be paid \$107,520 for performing a variety of quality control and coordination tasks.

106. The agreement was presented to BizSolutions by Kyriakos Kiotsekoglou. BizSolutions had no role in drafting the document.

107. Kyriakos Kiotsekoglou explained to BizSolutions that the companies would not, in fact, act in accordance with the subcontract agreement.

108. Instead, if J&K needed assistance from BizSolutions, J&K would pay BizSolutions on an hourly basis for the work that was performed.

109. BizSolutions provided a total of 161 hours of work, for which it invoiced J&K the sum of \$14,394.81.

110. On March 20, 2017, J & K paid BizSolutions a total of \$12,000 for BizSolutions' work on the Fountain Rock contract.

111. The check to BizSolutions was signed by Kyriakos Kiotsekoglou.

112. In order to obtain the contract, J&K – via Kyriakos Kiotsekoglou – represented to the Board of Education that G.E. Frisco would supply materials for the Boonsboro project.

113. The Invitation for Bids required J&K to “order materials as soon as submittals are approved by the Architect so that the materials are in possession upon commencement of field work.”

114. J&K did not obtain any materials from G. E. Frisco for the Fountain Rock project.

115. Instead, it obtained the materials from a non-MBE company.

116. When seeking payment from the Board of Education, J&K was required to sign and submit IAC/PSCP Form 306.4 -- Certified Minority Business Enterprise Participation, Standard Monthly Contractor's Requisition for Payment.

117. On June 27, 2016, J&K submitted its first payment requisition to the Board of Education for the Fountain Rock contract.

118. The requisition stated that \$50,000 of the total requisition would be paid to BizSolutions.

119. The certification was signed by Kyriakos Kiotsekoglou on behalf of J&K.

120. The Board of Education paid J&K the \$50,000 that J&K was to pay, in turn, to BizSolutions, based on the representations made in the requisition.

121. On or about July 27, 2016, J&K submitted a second payment requisition.

122. The requisition stated that \$50,000 had already been paid to BizSolutions from the prior requisition and that an additional \$50,000 would be paid to BizSolutions from the July requisition. The requisition also stated that \$12,000 would be paid to G.E. Frisco.

123. The certification was signed by Kyriakos Kiotsekoglou on behalf of J&K.

124. J&K knew that it had not, in fact, made any payments to BizSolutions when it submitted the July payment requisition.

125. On or about September 20, 2016, J&K submitted a third payment requisition.

126. The requisition stated that \$100,000 had been paid to BizSolutions from the previous payment requisitions. It also stated that \$12,000 had already been paid to G.E. Frisco from previous requisitions and that an additional \$15,000 would be paid to G.E. Frisco from the September requisition.

127. The certification was signed by Kyriakos Kiotsekoglou on behalf of J&K.

128. J&K knew that it had not, in fact, made any payments to BizSolutions or G.E. Frisco when it submitted the September payment requisition and MBE participation form.

129. The Board of Education paid J&K the amounts sought in its payment requisition, including the \$15,000 that J&K was to pay to G.E. Frisco, based on the representations made in the requisition.

130. On or about November 22, 2016, J&K submitted a fourth payment requisition.

131. The requisition stated that \$100,000 had already been paid to BizSolutions and that \$27,000 had already been paid to G. E. Frisco from prior requisitions. It did not seek additional amounts to be paid to either company.

132. The certification was signed by Kyriakos Kiotsekoglou on behalf of J&K.

133. J&K knew that it had not, in fact, made any payments to BizSolutions or G.E. Frisco when it submitted the November payment requisition.

134. The Board of Education did not pay the amounts requested in the fourth payment requisition.

J&K Provides False Documentation

135. The fourth payment requisitions on both the Boonsboro and Fountain Rock projects were the final payment requests.

136. Both contracts require the submission of additional, close-out documentation, including lien releases from any subcontractor who might assert a claim that they had not received full payment for its work on the project, before the final contract payment can be processed.

137. When J&K submitted the final payment requisition for Boonsboro, the Board of Education noted that it was "OK" with the request, "[a]s long as the MBE paperwork is correct" and other close-out documents were adequate.

138. On January 15, 2017, the Board of Education requested lien releases from all subcontractors on the project.

139. With respect to Fountain Rock, the Board of Education had a number of questions with regard to the final close out of the project, and again requested lien releases from the subcontractors who worked on the project.

140. J&K provided a set of documents, each titled Subcontractor's Partial Waiver, Release, and Affidavit.

141. According to the release affidavits, with respect to the Boonsboro project, BizSolutions had received a final payment of \$20,000 resulting in total payments of \$237,000 and G.E. Frisco had received a final payment of \$13,600 for a total payment of \$60,000.

142. With respect to the Fountain Rock project, J&K submitted two release affidavits purporting to show payment to BizSolutions: one dated December 20, 2016, stating that BizSolutions had been paid \$100,000 and one dated January 22, 2017, stating it had received final payment of \$7,520 for a total payment of \$107,520.

143. With respect to the Fountain Rock project, J&K submitted two release affidavits purporting to show payment to G.E. Frisco: one dated December 6, 2016, stating that G.E. Frisco had been paid \$27,000 and one dated January 22, 2017, stating it had received final payment of \$3,720 for a total payment of \$30,720.

144. The amounts recited in the Fountain Rock affidavits did not match the amounts noted in the payment requisitions J&K previously submitted for this project.

145. The signatures on the three release affidavits purportedly signed by BizSolutions are photocopies of each other.

146. The signatures on the three release affidavits purportedly signed by G.E. Frisco are photocopies of each other.

147. The Board of Education reached out to both BizSolutions and G.E. Frisco to confirm their receipt of the payments noted in the release affidavits.

148. BizSolutions initially confirmed that it had received the payments as recited in the release affidavits.²

149. G.E. Frisco stated that it had not supplied anything to J&K on either project and had received no payment.

150. In light of these discrepancies, on February 15, 2017, the Board of Education notified J&K that the Board's communications with the two MBEs and the release affidavits submitted by J&K warranted further review to confirm compliance with the MBE program.

151. The Board of Education requested that J&K provide the originals of the release affidavits from the two MBE companies and copies of cancelled checks showing the payments made to them.

152. Kyriakos Kiotsekoglou responded later that day, stating that J&K would have a substantive response by "next week."

153. The Board of Education followed up on February 24, 2017, noting that it had not yet received a substantive response.

² It later acknowledged that it had not received the payments noted in the release affidavits, but received only \$24,000 for the Boonsboro project and \$14,000 for the Fountain Rock project.

154. Kyriakos Kiotsekoglou responded that he would be meeting with BizSolutions on February 27.

155. J&K set out to create the appearance that it had obtained services from the two MBE companies and had paid them for those services.

156. With respect to BizSolutions, J&K had BizSolutions create a set of payment requests from BizSolutions to J&K that matched the release affidavits.

157. The BizSolutions payment requests were back-dated to correspond with the dates that J&K submitted payment requisitions to the Board of Education.

158. In the payment requests, the payment amounts sought by BizSolutions include not only its own work, but amounts for payment for work performed by other subcontractors.

159. BizSolutions was told by Kyriakos Kiotsekoglou that J&K would pay these sums to BizSolutions, who would in turn pay the companies that had actually performed the work.

160. Kyriakos Kiotsekoglou gave checks to BizSolutions in the amounts recited in the BizSolutions payment requests.

161. Kyriakos Kiotsekoglou then instructed BizSolutions not to cash the checks.

162. BizSolutions did not cash the checks.

163. With respect to G. E. Frisco, on January 26, 2017, Kyriakos Kiotsekoglou contacted G.E. Frisco about purchasing materials.

164. G.E. Frisco required payment upfront by cashier's check.

165. Accordingly, on February 24, 2017, J&K paid G.E. Frisco \$31,955 and on March 21, 2017, J&K paid G.E. Frisco \$74,147.

166. G.E. Frisco then delivered materials to J&K's office location in Upper Marlboro, Maryland.

167. The Boonsboro and Fountain Rock projects were “substantially complete” in October 2016.

168. The materials J&K purchased from G. E. Frisco in early 2017 were not, and could not have been, used for the already-completed Boonsboro and Fountain Rock projects.

169. Meanwhile, J&K continued to misrepresent to the Board of Education that it had complied with the MBE requirements for the Boonsboro and Fountain Rock projects.

170. In 2016, J&K submitted bids for additional contracts with the Board of Education. On February 27, 2017, the Board informed J&K that based on the MBE payment problems and other issues with J&K’s performance of the Boonsboro and Fountain Rock projects, J&K had been determined to be a non-responsible bidder for the other contracts and its proposals would not be considered for award.

171. On February 28, 2017, J&K responded, stating that it had copies of the release affidavits, but was still waiting on BizSolutions and G.E. Frisco to send the originals.

172. The letter was signed on J&K’s behalf by Kyriakos Kiotsekoglou.

173. On March 3, 2017, the Board of Education again wrote to J&K, noting that J&K had not provided the documentation requested on February 15, 2017.

174. J&K responded the same day, providing a copy of the February 24 certified check for \$31,955 to G.E. Frisco, but it did not provide any additional documentation of payments to G.E. Frisco or BizSolutions.

175. The letter was signed on J&K’s behalf by Kyriakos Kiotsekoglou.

176. On or about March 24, 2017, J&K provided copies of its so-called “final MBE documentation” for the Boonsboro project.

177. This letter was signed on J&K’s behalf by Kyriakos Kiotsekoglou.

178. J&K submitted revised fourth payment requisition requests for both projects, on which it claimed that G.E. Frisco had been paid \$74,147 from the final payment for Boonsboro and \$31,955 from the final payment for Fountain Rock, contradicting the requisitions that it had submitted when performing the two contracts.

179. The revised requisitions were signed by Kyriakos Kiotsekoglou on J&K's behalf.

180. J&K submitted new release affidavits from BizSolutions and G.E. Frisco. It stated that the new release affidavits replaced the previously submitted release affidavits, which it claimed actually pertained to a different project and were submitted due to clerical error.

181. The G.E. Frisco release affidavits recited that it had received payment on both the Boonsboro and Fountain Rock projects, when, in fact, J&K had not used the supplies it belatedly purchased from G.E. Frisco on either project.

182. With respect to BizSolutions' work on the Boonsboro project, J&K submitted a document titled Partial Receipt, Waiver, & Release of Claims, reciting that BizSolutions had received the following checks totaling \$237,000 for its work on the Boonsboro project: check nos. 1787, 1799, and 1813 purportedly dated July 26, 2016, September 1, 2016, and October 20, 2016 respectively.

183. Copies of the front of these checks were also attached.

184. J&K also submitted a document titled Final Receipt, Waiver, and Release of Claims, stating that BizSolutions was to be paid an additional \$20,000 for the Boonsboro project upon J&K's receipt of final payment from the Board of Education.

185. J&K and Kyriakos Kiotsekoglou knew that J&K had only paid BizSolutions \$24,000 for the Boonsboro project, that the checks allegedly evidencing payment of \$237,000 had not been negotiated by BizSolutions, that the checks would not be negotiated, and that J&K did not intend to pay BizSolutions any additional sums for the Boonsboro project.

186. J&K also submitted a Partial Receipt, Waiver & Release of Claims for the Fountain Rock project reciting that BizSolutions had received the following checks totaling \$100,000 for its work on the project: check nos. 1788 and 1800 purportedly dated July 26, 2016 and September 1, 2016, respectively.

187. Copies of the fronts of these checks were also attached.

188. J&K also submitted a document titled Final Receipt, Waiver, and Release of Claims stating that BizSolutions was to be paid an additional \$7,500 for the Fountain Rock project and noting that J&K had not received final payment from the Board of Education.

189. J&K and Kyriakos Kiotsekoglou knew that J&K had only paid BizSolutions \$14,000 for the Fountain Rock project, that the checks allegedly evidencing payment of \$100,000 had not been negotiated, that the checks would not be negotiated, and that J&K did not intend to pay BizSolutions any additional sums for the Fountain Rock project.

**Kyriakos Kiotsekoglou Directed J&K's Efforts to
Hide its Failure to Comply with the MBE Requirements**

190. Kyriakos Kiotsekoglou is the President of J&K.

191. Kyriakos Kiotsekoglou was the project manager for both the Boonsboro and Fountain Rock project.

192. As J&K's president and the project manager, Kyriakos Kiotsekoglou was involved in the day-to-day management of each project and was in a position to know what services or goods had been provided by subcontractors and what J&K had paid for these services and goods.

193. Kyriakos Kiotsekoglou submitted both bid proposals on behalf of J&K, including signing the MBE compliance certification and associated affidavits and participation schedules specifically representing the monetary value of the goods and services the two MBEs were to provide on each project.

194. Kyriakos Kiotsekoglou told BizSolutions that BizSolutions would not perform the amount of work listed in the participation schedules, but would instead play a more limited role on an as-needed basis on both projects. He then signed the checks to BizSolutions for payment for the more limited work it actually provided on these projects.

195. Kyriakos Kiotsekoglou signed each payment requisition that J&K submitted to the Board of Education, including certifying that the payments had been made to the MBEs as represented.

196. Kyriakos Kiotsekoglou knew that these statements were false.

197. Kyriakos Kiotsekoglou submitted to the Board of Education the photocopied lien release affidavits.

198. Kyriakos Kiotsekoglou knew that the release affidavits contained false statements regarding payments made to BizSolutions and G.E. Frisco.

199. Kyriakos Kiotsekoglou purchased materials from G.E. Frisco after work on the Boonsboro and Fountain Rock projects was complete and arranged to have the materials delivered to J&K's office.

200. Kyriakos Kiotsekoglou provided checks to BizSolutions to make it appear as if BizSolutions had been paid certain sums for the Boonsboro and Fountain Rock projects, then instructed BizSolutions not to cash the checks.

201. Kyriakos Kiotsekoglou then submitted to the Board of Education a second set of release affidavits purporting to evidence payment to the two MBE companies on the Boonsboro and Fountain Rock projects.

202. Kyriakos Kiotsekoglou knew that J&K had not used the supplies purchased from G.E. Frisco on either project, that BizSolutions had not cashed the checks by which it had allegedly been paid, and that the release affidavits submitted in March 2017 contained false statements regarding payments made to BizSolutions and G.E. Frisco.

COUNT I
Submission of False Claims
Md. Code Ann., Gen. Prov. § 8-102(b)(a)

203. The State incorporates the foregoing paragraphs as if set forth fully herein.

204. The Boonsboro and Fountain Rock projects were subject to MBE participation requirements.

205. J&K, through statements made by Kyriakos Kiotsekoglou, represented that it had complied with the MBE requirements by obtaining goods and services from two MBE firms, BizSolutions and G.E. Frisco.

206. J&K had not, in fact, obtained the goods and services as represented.

207. J&K, through Kyriakos Kiotsekoglou, submitted payment requisitions to the Board of Education for the Boonsboro and Fountain Rock projects.

208. These payment requisitions contained certifications, signed by Kyriakos Kiotsekoglou, stating that J&K had made hundreds of thousands of dollars in payments to BizSolutions and G.E. Frisco.

209. These certifications were false and misleading. In fact, J&K paid only \$42,000 to BizSolutions, paid nothing to G.E. Frisco, and did not intend to make future payments to either company.

210. J&K's representations regarding compliance with the MBE program and the payments that it had or would make to BizSolutions and G.E. Frisco were material to the Board of Education's decision to pay those claims.

211. The Board of Education reasonably relied upon J&K's representations of compliance with the MBE program, that J&K had made the payments reflected requisition forms, and that J&K would make the future payments reflected on those forms.

212. The Board of Education paid the claims submitted by J&K based on these misleading representations.

213. The State has been damaged in the amount of \$382,600, the amount that the Board of Education paid to J&K based on its false representations that it would pay this amount to BizSolutions and G.E. Frisco and its subsequent false representations that it had, in fact, paid this amount to the companies.

214. Kyriakos Kiotsekoglou personally directed and participated in J&K's attempts to obtain the improper payments.

215. J&K and Kyriakos Kiotsekoglou are jointly and severally liable to the State.

WHEREFORE the State seeks damages in excess of \$75,000, penalties of \$10,000 for each violation of the False Claims Act, treble damages, and such other and further relief as the Court deems just and appropriate.

COUNT II
False Record or Statement
Md. Code Ann., Gen. Prov. § 8-102(b)(2)

216. The State incorporates the foregoing paragraphs as if set forth fully herein.

217. The Boonsboro and Fountain Rock projects were subject to MBE participation requirements.

218. J&K, through Kyriakos Kiotsekoglou, submitted payment requisitions to the Board of Education for the Boonsboro and Fountain Rock projects.

219. These payment requisitions contained certifications, signed by Kyriakos Kiotsekoglou, stating that J&K had made hundreds of thousands of dollars in payments to BizSolutions and G.E. Frisco.

220. These certifications were false and misleading. In fact, J&K paid only \$42,000 to BizSolutions, paid nothing to G.E. Frisco, and did not intend to make future payments to either company.

221. The Board of Education reasonably relied upon J&K's representations of compliance with the MBE program, that J&K had made the payments reflected in the payment requisition forms, and that J&K would make the future payments reflected on those forms. The Board of Education paid the claims submitted by J&K based on these misleading representations.

222. The State has been damaged in the amount of \$382,600, the amount that the Board of Education paid to J&K based on its false representations that it would pay this amount to BizSolutions and G.E. Frisco and its subsequent false representations that it had, in fact, paid this amount to the companies.

223. J&K made additional, materially misleading statements regarding its compliance with the MBE program and payments to its MBE subcontractors in an attempt to obtain additional payments from the Board of Education. The State is entitled to penalties for these additional false statements, even though they did not result in the Board of Education making additional payments to J&K.

224. In March 2017, J&K, through Kyriakos Kiotsekoglou, submitted six release affidavits – three of which purported to represent payments to BizSolutions and three of which purported to represent payments to G.E. Frisco.

225. These release affidavits were photocopied and the representations contained therein regarding payments to BizSolutions and G.E. Frisco were false.

226. J&K and Kyriakos Kiotsekoglou knew that these release affidavits had not been signed by the purported affiants and that they contained false information.

227. In March 2017, J&K, through Kyriakos Kiotsekoglou, submitted two documents titled Partial Receipt, Waiver & Release of Claims, along with copies of checks made out to BizSolutions, purporting to represent payments made to BizSolutions.

228. J&K and Kyriakos Kiotsekoglou knew that the payments recited in the documents had not, in fact, occurred and that the accompanying checks had not been and would not be cashed.

229. In March 2017, J&K, through Kyriakos Kiotsekoglou, submitted two documents titled Final Receipt, Waiver & Release of Claims purporting to represent payments that J&K would make to BizSolutions in the future, once J&K received its final payment from the Board of Education.

230. J&K and Kyriakos Kiotsekoglou knew that J&K did not, in fact, intend to make any future payments to BizSolutions.

231. J&K, through Kyriakos Kiotsekoglou, submitted two documents titled Final Receipt, Waiver & Release of Claims, along with copies of checks made out to G.E. Frisco, purporting to represent payments made to G. E. Frisco for the materials used in the Boonsboro and Fountain Rock projects.

232. J&K and Kyriakos Kiotsekoglou knew that J&K had not, in fact, purchased any materials from G. E. Frisco for these projects and that the materials J&K purchased from D.E. Frisco in early 2017 were delivered to J&K's office for use on other projects.

233. Kyriakos Kiotsekoglou personally directed and participated in J&K's making material misrepresentations regarding its use of MBE subcontractors and the payments made to them in an attempt to obtain payments from the Board of Education.

234. J&K and Kyriakos Kiotsekoglou are jointly and severally liable to the State.

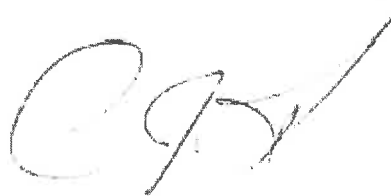
WHEREFORE the State seeks damages in excess of \$75,000, penalties of \$10,000 for each violation of the False Claims Act, treble damages, and such other and further relief as the Court deems just and appropriate.

Respectfully submitted,

BRIAN E. FROSH
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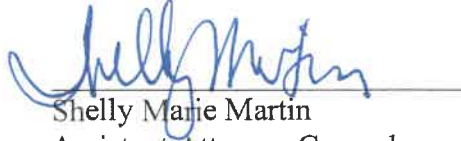
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LSM by permission

Dated: May 10, 2019

REQUEST FOR WRIT OF SUMMONS

Plaintiffs hereby request that a Writ of Summons be issued for each Defendant.



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