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Office of the State Attorney
20th Judicial Circuit

Serving Charlotte, Collier, Glades, Hendry and Lee

For Immediate Release

February 24, 2010

FELONY CHARGE FILED AGAINST CAPE CORAL COUNCIL MEMBER GRILL

The State Attorney's Office has been reviewing the evidence regarding Eric D. Grill, submitted by the Lee County Sheriff's Office several weeks after he was arrested in December, 2009 on one count of scheme to defraud and two counts of grand theft. At this time, we remain unable to establish a criminal theft or fraud charge from the evidence provided. We have found evidence, however, to support the filing of a felony charge of Making or Furnishing a False Statement in connection with a construction project, a violation of F.S. 713.35, in respect to a false document provided by Mr. Grill to Mr. & Mrs. Malmberg several months after the initial contract. The charge is a third degree felony, punishable by up to 5 years in prison. A copy of the Information containing the allegation is attached.

Numerous rulings by appeals courts of this State have determined that the failure to perform as required under a contract does not automatically create a criminal violation, even if money was accepted and not returned. The courts have found that the law requires proof of some misrepresentation or fraud at the time the money is obtained or other evidence of an intent to steal, before a crime can be proven. Otherwise, the failure to abide by the terms of a contract is a matter for resolution by the civil courts in a lawsuit. One of the projects in this case was already the subject of a filed lawsuit, which remains ongoing.

The evidence initially submitted was not sufficient to legally charge a criminal theft or fraud. Since the receipt of the case report from the Sheriff's Department in late December, we have met with the victims, and with the Sheriff's detectives in this matter, and requested additional investigation for the purpose of determining whether sufficient evidence exists to charge a theft or fraud. Some of the requested additional information was received this week; however, it still does not support theft or fraud charges.

We will continue to review any additional information that may be provided by Sheriff's investigators in the future with regard to possible theft or fraud charges, and will make such decisions as are justified by the law and evidence. As these charges remain under investigation, we cannot comment on the specific evidence in this case. As required by statute, we are notifying the Department of Business and Professional Regulation of the filing of this charge against a licensed contractor. We have also notified the Governor that a felony charge has been filed against Mr. Grill.

Grill will be arraigned on the charge on March 1.

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