

GLOBE EDITORIAL

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Big Dig's flawed contractor

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MODERN CONTINENTAL filed for bankruptcy protection this week to avoid lawsuits and criminal complaints connected with the Central Artery project, but that work is not the cause of the firm's demise. Reckless expansion by its owner, Les Marino, who died in 2004, is to blame for that.

Because Modern Continental is almost defunct, it will never be able to restore a reputation tattered by two accidents: the major leak in the Central Artery Tunnel in 2004 and the ceiling collapse that caused the death of Jamaica Plain resident Milena Del Valle in 2006. Modern Continental and Bechtel/Parsons Brinckerhoff, the project manager, acknowledged responsibility for the leak and fixed it at no charge to the project. Del Valle's death was the result of negligence, and Modern Continental shares responsibility for that, with Bechtel/Parsons and other companies.

Marino nurtured the company from a one-wheelbarrow operation in 1967. Once he began to get the Big Dig contracts, he started a restaurant, constructed an office building on Fort Point Channel, opened a farm and petting zoo, operated two marinas, and expanded the construction business down the East Coast. And he cut corners along the way, designing his restaurant so that it seated 150, instead of the agreed-upon 100, and adding an extra story to the Fort Point building beyond that allowed by permit.

Did Marino act in a similarly dodgy way on the Dig? He was an aggressive low bidder on contracts, and then tried to bill the state for supposedly unexpected problems. But that practice is encouraged by a law that requires the state to accept low bids. The quality of his work will be better known next month when the Patrick administration completes its "stem-to-stern" review of the project.

Bankruptcy or not, the US attorney, Michael Sullivan, should keep working to extract \$24.5 million in fines from the company if he believes he can make a strong case for criminal negligence. And the Del Valle family should press its civil lawsuit as well. The family may be able to tap into insurance policies that the company obtained to work on the artery.

The state has learned from the artery experience not to abdicate its supervisory authority to a private company, in this case Bechtel. It needs to be doubly vigilant because of the temptations of the low-bid law.

Modern Continental did \$3 billion worth of work on artery project, the most of any contractor. Its work was essential to a project that has kept Boston moving, even as its failings have tarnished that performance. ■