

U.S. Department of Justice



Florida

United States Attorney
Southern District of

99 N.E. 4 Street,
Miami, FL 33132
(305)961-9001

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NEWS RELEASE:

**MUNITIONS SUPPLIER, HIS COMPANY, AND OTHERS INDICTED
FOR LYING TO ARMY ON GOVERNMENT MUNITIONS CONTRACT**

R. Alexander Acosta, United States Attorney for the Southern District of Florida, Sharon Woods, Director, U.S. Department of Defense, Defense Criminal Investigative Service, Anthony V. Mangione, Special Agent in Charge, U.S. Immigration and Customs Enforcement, Office of Investigations, Brigadier General Rodney Johnson, Commanding General, U.S. Army Criminal Investigation Command, and Paul Phillips, Regional Director, Defense Contract Audit Agency, announced today that **AEY, Inc. (AEY), Efraim Diveroli, David Packouz, Alexander Podrizki, and Ralph Merrill** were indicted by a federal grand jury in Miami on wide-ranging fraud charges in connection with their provision of ammunition to Afghanistan.

More specifically, Count 1 charges all defendants with conspiracy to defraud the U.S. by making false representations to the government and by conspiring to commit procurement fraud, in violation of Title 18, United States Code, Section 371 (Count 1). Counts 2 through 36 charge defendants AEY and Efraim Diveroli with making false statements to the U.S. Army regarding the country of origin of the ammunition, in violation of Title 18, United States Code, Section 1001. Lastly, all defendants are charged with procurement fraud against the United States, in violation of Title 18, United States Code, Section 1031 (Counts 37 - 71).

As alleged in the Indictment, AEY is a munitions supplier, with offices in Miami Beach, FL. Defendant Efraim Diveroli is the President of AEY, and manages and directs the business operations of AEY. Defendant David Packouz was a Director and Vice President of AEY. Defendant Alexander Podrizki was an agent of AEY, stationed in Tirana, Albania. Defendant Ralph Merrill was a business associate of Diveroli, who provided financial and managerial assistance to AEY.

According to the Indictment, on July 28, 2006, the Department of the Army (Army) issued a solicitation requesting bids on a contract to provide various types of ammunition to the Islamic Republic of Afghanistan. AEY submitted a bid and represented to the Army that it could fulfill the requirements of the contract and procure the ammunition for \$298,000,000. Based on that bid, the Army awarded the contract to AEY on January 26, 2007. Under the terms of the contract, AEY was required to certify that it was providing serviceable and safe ammunition. The contract also prohibited delivery of ammunition acquired, directly or indirectly, from a Communist Chinese

military company.

The Indictment alleges that the defendants submitted documents to the Army falsely attesting that the ammunition they were providing was manufactured and originated in Albania, when, in fact, the ammunition came from China. To effectuate the scheme, defendants Efraim Diveroli, David Packouz, and Alexander Podrizki would direct others to assist in the packaging of ammunition to be delivered to Afghanistan, and would provide instructions to remove Chinese markings from containers in order to conceal that the ammunition was manufactured and originated in China.

With each shipment, Diveroli, on behalf of AEY, would falsely certify in a Certificate of Conformance that the ammunition being furnished conformed with the contract requirements, and that the manufacturer and point of origin of the ammunition was the Military Export and Import Company (hereinafter referred to as MEICO) in Tirana, Albania. These false statements in the Certificates of Conformance are the basis for Counts 2- 36 of the Indictment against AEY and Diveroli. Each of the 35 Certificates of Conformance accompanied a separate shipment of ammunition.

Upon delivery of each shipment of ammunition, defendant Efraim Diveroli would submit and cause others to submit to the Department of the Army, a copy of the Certificate of Conformance and an invoice for payment to AEY. Based on these false submissions, the Army paid AEY approximately \$10,331,736 for 35 shipments of Chinese ammunition. These submissions and resulting payments to AEY are the basis of Counts 37- 71.

If convicted of the charges in Counts 1 through 36, each defendant named faces a maximum term of imprisonment of up to five years per count. If convicted of the charges in Counts 37 through 71, each defendant named faces a maximum term of imprisonment of up to ten years per count.

United States Attorney Alex Acosta stated, “Defense contractors are responsible for the effectiveness and safety of munitions they provide to our troops and allies. When these contractors intentionally cut corners to line their own pockets, they risk the safety and lives of our men and women in uniform. Such callousness and disregard for the lives of our soldiers and our allies will not be tolerated, and will be vigorously prosecuted.”

Amie R. Tanchak, Resident Agent in Charge of the Department of Defense Criminal Investigative Service, stated, “In this day, when our soldiers and our coalition partners are fighting to keep us safe, it is reprehensible that greed and disregard for human safety have resulted in such dangerous fraud. The DoD Inspector General's Defense Criminal Investigative Service is committed to pursuing and bringing to justice those who so recklessly cheat the United States.”

“The indictment and arrest of these four individuals is a result of a three-year joint law enforcement agency investigation conducted by U.S. Immigration and Customs Enforcement’s Counter Proliferation Investigations (CPI) Unit, DCIS and Army CID,” said Anthony V. Mangione, Special Agent in Charge of the ICE Office of Investigations in Miami. “This investigation is a fine example of how effective these law enforcement partnerships can be at ensuring that the sale and distribution of defense articles is done lawfully. This case will send a message to those individuals who attempt to profit by illegally supplying improper defense articles to our allies. ICE will continue to aggressively pursue those who violate U.S. export laws.”

“The mission of the Special Agents from our Major Procurement Fraud Unit is to protect the

integrity of the Army's procurement process and ensure that we get the products we pay for. Today's indictment serves as notice that the Army CID and our law enforcement partners will bring violators to justice," said the Commanding General of the U.S. Army Criminal Investigation Command, Brigadier General Rodney Johnson. "Special Agents from our Major Procurement Fraud Unit have worked tirelessly on this case and have played a critical role in today's indictment. The tenacity and dedication of our criminal investigators, who work these cases and return money and assets to the Army and the American taxpayer, is a testament to their support of our soldiers," said Johnson.

Paul Phillips, Regional Director of the Defense Contract Audit Agency, added "XX"

Mr. Acosta commended the investigative efforts of the various agencies involved in this matter. This case is being prosecuted by Assistant United States Attorneys Eloisa D. Fernandez and James M. Koukios.

A copy of this press release may be found on the website of the United States Attorney's Office for the Southern District of Florida at <http://www.usdoj.gov/usao/fls>. Related court documents and information may be found on the website of the District Court for the Southern District of Florida at <http://www.flsd.uscourts.gov> or on <http://pacer.flsd.uscourts.gov>.