

Press Release

MUNITIONS SUPPLIER SENTENCED ON DEFENSE PROCUREMENT FRAUD AND LYING TO ARMY ON GOVERNMENT MUNITIONS CONTRACT

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FOR IMMEDIATE RELEASE

Wifredo A. Ferrer, United States Attorney for the Southern District of Florida, James Burch, Deputy Inspector General for Investigations, U.S. Department of Defense, Defense Criminal Investigative Service, Anthony V. Mangione, Special Agent in Charge, U.S. Immigration and Customs Enforcement (ICE), Homeland Security Investigations (HSI), Colleen McGuire, Provost Marshal General of the Army and Commanding General of the U.S. Army Criminal Investigation Command, and Paul Phillips, Regional Director, Defense Contract Audit Agency, announced yesterday's sentencing of **Ralph Merrill**, of North Salt Lake, Utah, on charges of defense procurement contract fraud.

U.S. District Court Judge Joan A. Lenard sentenced Merrill to 48 months' imprisonment on charges of conspiracy to make false statements to the United States Army, to execute a scheme to defraud in connection with a procurement contract with the United States worth \$1 million or more, and to commit wire fraud, as well as major fraud and wire fraud.

Merrill was one of five defendants named in a superseding indictment returned in July 2008. Three co-defendants, **Efraim Diveroli**, **David Packouz**, and **Alexander Podrizki**, and Diveroli's company, AEY, Inc., pled guilty in 2009 and were sentenced.

According to the indictment and evidence presented at trial, the defendants engaged in a scheme regarding a contract issued by the Department of the Army in January, 2007 to secure \$298 million in munitions for use by the Afghanistan National Army and Police. Among the items to be provided were millions of rounds of 7.62 mm automatic rifle and machine gun ammunition suitable for the Afghan armed forces' Warsaw Pact -model small arms. AEY Inc. won the contract to provide these supplies to the United States Army.

The testimony at trial related how defendant Ralph Merrill joined with Diveroli to finance the purchases of this ammunition and to seek sources of supply garnered through Merrill's years of experience in arms dealing. According to the evidence, Merrill was to receive 50% of the total profits, which the defendants projected to be millions of dollars.

According to the testimony and evidence at trial, AEY's plans ran into trouble in April, 2007, when they discovered that the 7.62 mm ammunition they had planned to buy from the Albanian Ministry of Defense was actually manufactured in Communist China. Following the Tien An Minh Square massacre, the United States Government had enacted an arms embargo that precluded purchases of ammunition made by any entity that was part of Communist China's military establishment. A clause noting this prohibition and precluding supplying the contract with Chinese-made ammunition was included prominently in the Army's contract with AEY.

Testimony at the trial and numerous e-mails exchanged amongst Merrill and the other participants disclosed that they knew that they could not legally sell the Chinese 7.62 mm ammunition to the Army. However, procuring it from alternative sources would have cost more, and delayed meeting their delivery schedule, on which they were already late. To protect their investment and to pursue the extensive profit potential of the contract, the

defendants decided to buy the Chinese ammunition, disguise its origin, and ship it to the U.S. Army's ammunition depot in Afghanistan.

The scheme came apart in August, 2007, when federal agents served a search warrant at AEY Inc.'s offices in Miami Beach, in an investigation of licensing violations. Packouz and Podrizki then came forward and revealed to federal agents the scheme that had been in place to ship the Chinese ammunition disguised as being of Albanian manufacture.

Mr. Ferrer commended the investigative efforts of the U.S. Department of Defense, Defense Criminal Investigative Service, ICE's Homeland Security Investigations in Miami, the U.S. Army Criminal Investigation Command, and the Defense Contract Audit Agency. The case was prosecuted by Assistant U.S. Attorneys Eloisa Fernandez, Adam Schwartz, Frank Tamen, and James Koukios, formerly an AUSA in Miami and now with the Fraud Section of the Justice Department's Criminal Division.

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>.

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