



THE UNITED STATES ATTORNEYS OFFICE

WESTERN DISTRICT *of* NEW YORK

Father And Son Plead Guilty In Chinese Magnesium Scheme

FOR IMMEDIATE RELEASE

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BUFFALO, N.Y.--U.S. Attorney William J. Hochul Jr., announced today that Gregory Magness, 66, of Polk, PA, pleaded guilty to conspiracy to smuggle and conspiracy to commit money laundering before Chief U.S. District Judge William M. Skretny. The charges carry a maximum penalty of 10 years, and a \$250,000 fine. In addition, Magness' son Justin, 36, of Oil City, PA, pleaded guilty to aiding and abetting in the presentation of a false document to Custom and Border Protection officers. The charge carries a maximum penalty of one year in prison and a \$100,000 fine.

Assistant U.S. Attorney Michael DiGiacomo, who is handling the case, stated the Gregory Mangess was the president of Superior Metal Powders, Inc. and Justin Magness served as vice-president. The company was in the business of supplying specialty metal powders which included magnesium and magnesium reagent. Between 2003 and 2006, Superior Metal Powders had an agreement to provide the ESM Group Inc. with pure magnesium powder. ESM then sold the magnesium powder to Kilgore Flares Inc. which used the magnesium to produce countermeasure flares for the United States Department of Defense.

Gregory and Justin Magness bought the magnesium that was supplied to ESM from William Nehill which was imported from China. At the time of the importations, the United States had a 305.56% antidumping duty in place with respect to the type of magnesium powder the defendants were importing through Nehill. In order to avoid the antidumping duty, the defendants mixed the pure magnesium with chunks of aluminum and falsely labeled it as magnesium reagent. By doing so, the duty imposed on the shipments was only 5%. The mislabeling resulted in a \$6,000,000 duty loss to the United States. During one such import in 2004, Justin Magness aided William Nehill in preparing false documents that were provided to and relied on by customs resulting in a lower duty cost.

In April 2010, Gregory Magness, Justin Magness, William Nehill, Charles Wright, and Eldon Bott were charged with participating in a conspiracy to import Chinese magnesium into the United States. Gregory and Justin Magness, as well as defendants Nehill and Wright have all been convicted. Charges are pending against Eldon Bott. The fact that a defendant has been charged with a crime is merely an accusation and the defendant is presumed innocent until and unless proven guilty.

The pleas are the culmination of an investigation on the part of the Immigration and Customs Enforcement, Homeland Security Investigations, under the direction of James C. Spero, the Internal Revenue Service, Criminal Investigation Division, under the direction of Shantelle P. Kitchen, Acting Special Agent in Charge, and the Department of Defense Criminal Investigative Service, under the direction of Edward T. Bradley, Special Agent in Charge, Northeast Field Office.

Gregory and Justin Magness will be sentenced on May 13, 2015 at 9:00 a.m. by Judge Skretny.