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Department of Justice

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Southern District of New York

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Manhattan U.S. Attorney Files And Simultaneously Settles False Claims Act Lawsuit Against Defense Contractor And Its President For Multi-Year Fraud Involving Sale Of Defective Weapons Sights To U.S. Military And Other Agencies

Preet Bharara, the United States Attorney for the Southern District of New York, Craig Rupert, the Northeast Field Office Special Agent of the Department of Defense-Office of Inspector General ("DoD-OIG"), Andrew Traver, the Director of the Naval Criminal Investigative Service ("NCIS"), and Frank Robey, the Major Procurement Fraud Unit Director of the U.S. Army Criminal Investigation Command ("CID"), announced today that the United States filed and simultaneously settled a civil fraud lawsuit under the False Claims Act and common law against L-3 COMMUNICATIONS EOTECH, INC. ("EOTECH"); its parent company, L-3 COMMUNICATIONS CORPORATION ("L-3"); and EOTECH's president PAUL MANGANO ("MANGANO") (collectively, "Defendants"). As alleged in the complaint, for years, EOTECH sold defective holographic weapon sights to the U.S. Department of Defense ("DOD"), the U.S. Department of Homeland Security ("DHS"), and the Federal Bureau of Investigation ("FBI"). These sights were designed to allow users to quickly acquire and hit targets, and to return fire in a range of extreme environmental conditions. Defendants knew that the sights failed to perform as represented in cold temperatures and humid environments, but delayed disclosure of these defects for years. In connection with the settlement, approved today by United States District Judge Richard Sullivan EOTECH and L-3 have agreed to pay the United States \$25,600,000, and all three defendants have made admissions of conduct alleged in the complaint.

Manhattan U.S. Attorney Preet Bharara said: “The defendants, L-3, EOTech, and EOTech’s senior executive Paul Mangano, engaged in fraudulent double dealing by selling defective products to the men and women who risk their lives to protect our country. With their own sights focused exclusively on corporate profits, the defendants let our soldiers fight with defective sights on their weapons. We will continue to pursue and hold accountable corporations and their executives who put profits over honesty and fair dealing, particularly when it comes to dealings that affect our service men and women.”

DoD-OIG Northeast Field Office Special Agent in Charge Craig Rupert said: “This settlement illustrates the seriousness of the harm to the Defense Department and other federal agencies from defective products. The safety of our warfighters and law enforcement who depend on these products is paramount in the fight against terror and crime. DCIS remains vigilant for and vigorously pursues all similar complaints in our effort to shield America's investment in our national defense.”

NCIS Director Andrew Traver said: “American service members not only deserve the highest quality equipment, American taxpayers deserve the highest integrity suppliers, who do not take millions of dollars and squander public trust. Holographic Weapons Sights are used in combat; a sight that 'almost works' is not acceptable. It is gratifying that NCIS could be part of the joint investigation to hold EOTECH accountable.”

U.S. Army CID Major Procurement Fraud Unit Director Frank Robey said: “We are pleased with today's settlement; however, there is no monetary substitute great enough for the safety and required tactical advantage that the young men and women serving in our armed forces in harm's way deserve. It is imperative that when someone contracts with the U.S. Army, they provide only their very best with no exceptions.”

According to the complaint filed in Manhattan federal court:

EOTECH has earned tens of millions of dollars through its sales of sights to DOD, DHS, and the FBI. In 2004, and again in 2010, EOTECH contracted with DOD to supply holographic weapon sights for use in close quarter urban combat as well as longer range target acquisition. EOTECH represented to DOD that its sights could operate in temperatures ranging from -40 degrees to 140 degrees Fahrenheit, as well as in humid and other extreme environmental conditions. Those representations were important because EOTECH’s combat optical sights were used by operators in Iraq and Afghanistan, as well as by special operations forces around the world.

By early 2006, Defendants knew that their sights failed to perform as represented. At hot and cold temperatures, the sights experienced a condition known as “thermal drift,” meaning that the sight’s point of aim differed from its point of impact. EOTECH’s own internal tests showed that some models experienced drift of 6 to 12 minutes of angle (“MOA”), *i.e.*, 6 to 12 inches per 100 yards. Even though EOTECH’s contracts with DOD required disclosure of any information concerning the reliability of the sights, EOTECH did not disclose this defect to DOD until 2015, after the FBI discovered the problem and presented its findings to EOTECH.

In 2007, Defendants became aware of a separate performance failure in cold temperature, known internally as “cold weather distortion.” At around 32 degrees Fahrenheit, the sight’s aiming dot became distorted, affecting accuracy by 12 MOA, increasing to 20 MOA at 5 degrees Fahrenheit. Defendants did not disclose this defect from DOD for more than a year, until EOTECH had a fix in place. EOTECH then presented the fix as an upgrade to a product that conformed to specifications, and did not disclose that the entire stock of sights that DOD had purchased since 2004 was defective.

By 2008, Defendants also knew that EOTECH’s sights failed in humid environments, a defect known internally as “moisture incursion.” Although EOTECH represented that the sights passed humidity and other testing, Defendants knew that the seals leaked, allowing moisture to enter the sight, resulting in dimming of the circle and aiming dot necessary for acquiring a target. Over the next several years, EOTECH’s internal tests repeatedly confirmed these leaks. Nevertheless, EOTECH did not notify DOD of the problem until 2013, when it once again presented a fix as an upgrade to a product that conformed to specifications.

MANGANO, as president of EOTECH, was ultimately responsible for disclosing quality issues to customers. MANGANO was apprised of each of the defects with the sights and yet did not recommend disclosing any of the defects until he believed either a fix was in place or that DOD would find out about the defect from another source.

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As part of today’s settlement, EOTECH and L-3 admitted that EOTECH knew that its holographic weapon sights experienced thermal drift, cold weather distortion, and moisture incursion. EOTECH and L-3 also admitted that despite EOTECH’s representations to DOD that the sights performed in hot, cold, and humid conditions, and despite EOTECH’s contractual obligation to disclose to DOD any performance-related data affecting the reliability of the sights, EOTECH continued to sell the sights to the Government for more than one year without disclosing cold weather distortion, and for several years without disclosing thermal drift or moisture incursion. MANGANO, who has been the president of EOTECH since 2006, admitted that he knew that the sights experienced cold weather distortion and moisture incursion, but EOTECH continued to sell the sights to the Government for over one year (in the case of cold weather distortion) or several years (in the case of moisture incursion) without a disclosure.

Mr. Bharara praised the DOD’s Defense Criminal Investigative Service, Naval Criminal Investigative Service, and Army Criminal Investigation Command; DHS Homeland Security Investigations; and the FBI for their investigative efforts and ongoing support and assistance with the case.

The case is being handled by the Office’s Civil Frauds Unit. Assistant United States Attorneys Jaimie L. Nawaday and Joseph N. Cordaro are in charge of the case.