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Former Chief Operating Officer and Co-Owner of Schuylkill Products Sentenced in Largest Disadvantaged Business Enterprise Fraud in Nation's History

U.S. Attorney's Office
July 14, 2014

Middle District of Pennsylvania
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Ernest G. Fink, Jr., 68, of Orwigsburg, Pennsylvania, the former Chief Operating Officer and co-owner of Schuylkill Products Inc., was sentenced in federal court in Harrisburg, Pennsylvania, today to 51 months' imprisonment and ordered to pay fines totaling \$25,100 for his role in a massive conspiracy to defraud the Disadvantaged Business Enterprise (DBE) program, announced Peter Smith, U.S. Attorney for the Middle District of Pennsylvania. Senior U.S. District Court Judge Sylvia H. Rambo directed that Fink report to prison no later than September 8, 2014.

In handing down the sentence, Judge Rambo stated "DBE fraud is pervasive in the construction industry and persons so inclined to commit the same kind of fraud need to be aware that they face serious consequences from DBE fraud."

According to the U.S. Department of Transportation (USDOT), this scheme, which lasted for over 15 years and involved over \$136 million in government contracts in Pennsylvania alone, is the largest reported Disadvantaged Business Enterprise (DBE) fraud in the nation's history.

On August 16, 2010, Fink pleaded guilty to conspiracy. Sentencing was deferred pending the resolution of the case against Joseph W. Nagle, SPI's former president and co-owner.

In April 2012, after a four-week jury trial, a federal jury found Nagle guilty on 26 charges in the indictment, including conspiracy to defraud the USDOT and to commit wire and mail fraud, seven counts of wire fraud, six counts of mail fraud, conspiracy to commit money laundering and 11 counts of money laundering.

On June 30, 2014, Nagle was sentenced to 84 months' imprisonment and ordered to pay fines totaling \$27,600.

Fink was Vice-President, Chief Operating Officer and co-owner of Schuylkill Products Inc. (SPI) and its wholly-owned subsidiary CDS Engineers Inc. (CDS), until April 2009 when SPI was sold. SPI, based in Cressona, Pennsylvania, manufactured concrete bridge beams used on highway construction projects in Pennsylvania and surrounding states. CDS was SPI's erection division and installed SPI's bridge beams as well as other suppliers' products on highways in Pennsylvania and surrounding states. The conspiracy defrauded USDOT, the Pennsylvania Department of Transportation (PennDOT) and the Southeastern Pennsylvania Transportation Authority (SEPTA) in connection with the federal government's DBE program.

USDOT provides billions of dollars a year to states and municipalities for the construction and maintenance of highways and mass transit systems on the condition that small businesses, owned and operated by disadvantaged individuals, receive a fair share of these federal funds. In Pennsylvania, PennDOT and SEPTA receive these funds and requires contractors to award a percentage of their subcontracts to eligible DBE's.

The USDOT Office of Inspector General has cautioned prime contractors and subcontractors not to engage in fraudulent DBE activity and encouraged them to report any suspected DBE fraud by contacting www.oig.dot.gov/hotline.

Fink and his co-conspirators executed the scheme by using a small Connecticut highway construction firm known as Marikina Construction Corporation as a front company to obtain these lucrative government contracts.

Marikina was owned by Romeo P. Cruz of West Haven, Connecticut, a naturalized American citizen born in the Philippines. Marikina was certified by PennDOT and SEPTA as a DBE. Although Marikina received the DBE contracts on paper, all the work was performed by SPI and CDS personnel, and SPI and CDS received all the profits. In exchange for letting SPI and CDS use its name, Marikina was paid a small fixed-fee, set by SPI.

SPI and CDS personnel pretended to be Marikina employees by using Marikina business cards, e-mail addresses, stationery, and signature stamps, as well as using magnetic placards and decals bearing the Marikina logo to cover up SPI and CDS logos on SPI and CDS vehicles.

Earlier this year, three other former executives associated with SPI, CDS and Marikina were sentenced

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... and year, three other former executives associated with SPI, CDS and Marikina were sentenced for their roles in the scheme.

Romeo P. Cruz, the former owner of Marikina, was sentenced to 33 months' imprisonment, must pay \$119 million in restitution and serve two years' supervised release.

Timothy G. Hubler, of Ashland, Pennsylvania, CDS' former Vice-President in charge of field operations, was sentenced to 33 months' imprisonment, pay \$119 million in restitution and serve two years' supervised release.

Dennis F. Campbell, of Orwigsburg, Pennsylvania, SPI's former Vice-President in charge of sales and marketing was sentenced to 24 months' imprisonment, \$119 million in restitution and serve two years' supervised release.

The investigation was conducted by the FBI, the U.S. Department of Transportation Inspector General's Office, the U.S. Department of Labor Inspector General's Office, and the Criminal Investigation Division of the IRS. Senior Litigation Counsel Bruce Brandler handled the prosecution.

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