The United States Department of Justice

District of Montana

FOR IMMEDIATE RELEASE

Thursday, March 31, 2011

MICHAEL PAUL MOLITOR SENTENCED IN U.S. DISTRICT COURT

The United States Attorney's Office announced that during a federal court session in Missoula, on March 31, 2011, before U.S. District Judge Donald W. Molloy, MICHAEL PAUL MOLITOR, a 41-year-old resident of Boulder, appeared for sentencing. MOLITOR was sentenced to a term of:

Probation: 5 years, with 1 year house arrest

Special Assessment: $100

Restitution: $37,891.76

MOLITOR was sentenced in connection with his guilty plea to embezzlement from an employee benefit plan.

In an Offer of Proof filed by Assistant U.S. Attorney Ryan M. Archer, the government stated it would have proved at trial the following:

MOLITOR owns M.S. Molitor Trucking, Inc. and MD Service, LLC with his brother Donald Molitor. Before these companies were sold in September 2008, Molitor Trucking was a trucking/transportation company and MD Service was a vehicle repair shop. Each of these companies established a retirement plan called a SIMPLE IRA Plan in 2001.

Under the SIMPLE IRA Plan, employees elect to make salary reduction contributions from their paycheck and the employer makes matching contributions. All contributions are made directly to an Individual Retirement Account or Individual Retirement Annuity set up for each employee.

Under the Molitor Trucking and Service plans, when employees elected to have a certain percentage of their pay withheld, they relied on MOLITOR to forward the contributions to the plans. MOLITOR was the Plan Administrator and had the duty to collect and forward employee and employer contributions to the plans and sign checks to make payments to the plans.

Beginning in February 2006, while MOLITOR reduced employee salaries according to their elected contributions, he failed to make payments to his employee plans. In the end, the Department of Labor was able to confirm that while MOLITOR continued to deduct retirement payments from his employees' income, he failed to make payments into their retirement accounts in the amount of $47,017.56. He failed to make matching contributions in the amount of $14,244.59, and the 22 participants in the retirement plans lost an additional $10,392.62 in projected interest earnings. The investigation further revealed that while MOLITOR was first contacted in November 2007 regarding the payment shortages, he continued to withhold income from his employees while failing to make payments to the plan through September 2008. MOLITOR had also ceased making payments to the plan for himself and his family members shortly before the investigation.

Additional investigation revealed that MOLITOR paid himself and his family large sums of money over and above their salaries during the same time period they were failing to make payments for their employees' retirement plans. The majority of these funds were used to pay personal debts, including credit card debt. Additional analysis revealed that instead of forwarding withheld monies to retirement accounts as required, MOLITOR and his brother Donald used some of the monies for their own personal use to pay for expenses incurred at such stores and restaurants as McDonalds, Red Lobster, Sports Authority, JC Penney, Dillards, and Zales Jewelry. MOLITOR admitted in interviews that he failed to make required payments to the plan.

Because there is no parole in the federal system, the "truth in sentencing" guidelines mandate that MOLITOR will likely serve all of the time imposed by the court. In the federal system, MOLITOR does have the opportunity to earn a sentence reduction for "good behavior." However, this reduction will not exceed 15% of the overall sentence.

The investigation was conducted by the U.S. Department of Labor.

Search

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