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News Release

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President of drywall company sentenced for misappropriating employees' wages, pension and benefit funds

MINNEAPOLIS – Late yesterday afternoon in federal court in St. Paul, the owner and president of Franklin Drywall, a union sheet-rocking company based in Little Canada, was sentenced on one count of providing a false statement to two labor union pension and benefit funds as part of a scheme to underpay employees for overtime and underpay the union for pension and benefit contributions required by collective bargaining agreements. United States District Court Judge Donovan W. Frank sentenced Philip Joseph Franklin, age 49, of Leesburg, Virginia, to 24 months in prison. In addition, the government sought restitution in the amount of $3,286,553. Judge Frank took that request under advisement and will issue an order at a future date. Earlier, Franklin admitted filing false reports with Minnesota Carpenters Pension and Benefit Funds and the Painters and Allied Trades District Council No. 82 Pension and Benefit Funds. He was indicted on May 11, 2010.

Following today's sentencing, James Purcell, Acting Regional Director of the U.S. Department of Labor's Employee Benefits Security Administration's Kansas City Regional Office, said, "This sentencing shows that the Labor Department is committed to ensuring that justice is served for those who steal from their workers. We continue to aggressively investigate those who steal from plan participants and their beneficiaries through our Prevailing Wage Regional Project."

While conducting business in Minnesota, Franklin Drywall was bound to the terms of collective bargaining agreements with the Lakes and Plains Regional Council of Carpenters and Joiners, the Painters and Allied Trades District Council No. 82 of Minnesota, and the International Union of Painters and Allied Trades. Under the terms of those agreements, Franklin Drywall was required to pay into applicable pension and benefit funds specified amounts of money for each hour worked by any employee in a job classification covered by the agreements. Employees of Franklin Drywall were eligible to receive benefits from those funds if they retired, became disabled, or were terminated. Relatives could also receive benefits from the funds upon an employee’s death.

In his plea agreement, Franklin admitted that in order to evade payments into the pension and benefit funds, he directed employees of Franklin Drywall to falsify time sheets and submit false information to the union pension and benefit funds that materially under-reported the hours worked. Franklin also routinely directed Franklin Drywall administrative employees to report to the pension and benefit funds no more than 40 hours of work per week for any Franklin Drywall union employee, regardless of the number of hours actually worked.

To evade reporting and paying fringe benefits for the number of hours actually worked, Franklin directed that employees who worked more than 40 hours (a) be paid for excess hours on a separate paycheck at the straight hourly rate, rather than the overtime rate; or (b) be paid for excess hours at the straight hourly rate on paychecks marked as "other pay." From January through December of 2006, Franklin evaded payment of at least $190,000 owed to the pension and benefit funds. Moreover, he knew the information he provided to the union pension and benefit funds would be used by the funds to compile reports required by the Employee Retirement Security Act of 1974 (“ERISA”), and that by submitting reports to the funds that falsely reported employee work hours and pension and benefit fund contributions, the reports required by ERISA would be false.

This case was the result of an investigation by the U.S. Department of Labor-Office of Inspector General and the Employee Benefits Security Administration of the U.S. Department of Labor. It was prosecuted by Assistant U.S. Attorney Tim Rank.

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