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## **News Release**

FOR IMMEDIATE RELEASE  
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[WWW.JUSTICE.GOV/USAO/MN](http://WWW.JUSTICE.GOV/USAO/MN)

### **President of drywall company pleads guilty to misappropriating \$190,000 in wages, pension and benefit funds**

The owner and president of Franklin Drywall, a union sheet-rocking company based in Little Canada, pleaded guilty earlier today in federal court in St. Paul to one count of providing a false statement to two labor union pension and benefit funds in connection to a scheme to underpay employees for overtime and to underpay the union funds for pension and benefit contributions required by collective bargaining agreements. Philip Joseph Franklin, age 48, of Leesburg, Virginia, admitted to filing false reports to Minnesota Carpenters Pension and Benefit Funds and the Painters and Allied Trades District Council No. 82 Pension and Benefit Funds. Franklin was indicted on May 11, 2010.

While conducting business in Minnesota, Franklin Drywall was bound to the terms 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 by Franklin Drywall union employees. Franklin also admitted that he routinely directed Franklin Drywall administrative employees to report to the pension and benefit funds no more than 40 hours of work per week for Franklin Drywall union employees, regardless of the number of hours actually worked by the employee.

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) would be paid for excess hours on a separate paycheck at the straight hourly rate, rather than the overtime rate; or (b) would be paid for excess hours at the straight hourly rate on paychecks marked as "other pay." He further admitted that from January through December of 2006, he evaded payment of at least \$190,000 owed to the pension and benefit funds. Moreover, he admitted knowing that 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 the number of hours worked by employees and the contributions that Franklin Drywall owed to the fund, the reports required by ERISA contained false information.

For his crime, Franklin faces a potential maximum penalty of five years in prison. U.S. District Court Judge Donovan W. Frank will determine his sentence at a future hearing, yet to be scheduled.

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

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