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News Release

FOR IMMEDIATE RELEASE
Wednesday, September 8, 2010
WWW.USDOJ.GOV/USAO/MN

President of drywall company indicted for misappropriating more than \$500,000 in wages and pension and benefit funds

The owner and president of Franklin Drywall, a union sheet-rocking contractor that was based in Little Canada, was arraigned on Tuesday in United States District Court for the District of Minnesota on a 14-count federal indictment. The indictment, originally filed with in federal court in Minneapolis on May 11, 2010, charges Philip Joseph Franklin, age 48, of Leesburg, Virginia, with one count of conspiracy to commit offenses against the United States, eight counts of mail fraud, two counts of providing a false statement to a government official, one count of money laundering, and two counts of providing a false statement in relation to a document required by the Employee Retirement Income Security Act ("ERISA").

From January of 2004 through August of 2007, Franklin allegedly defrauded his employees and his employees' pension and benefit funds out of more than \$500,000 in overtime pay, retirement and health benefits, and other contributions. Through his company, Franklin obtained lucrative government contracts for work on several federally funded construction projects. Under those contracts, Franklin agreed and was required to pay his employees a "prevailing wage," which included overtime pay and fringe benefits.

The indictment charges Franklin with conspiring to enrich himself by retaining money that should have been paid into his employees' pension and benefit funds. To that end, either directly or through employees, he allegedly falsified time sheets and other payroll documentation and submitted documents containing false information to the pension and benefit funds as well as to the government agencies that administer federally funded construction projects. In addition, Franklin created a shell company to facilitate the scheme. That company, Master Drywall, Inc., had separate accounting books and bank accounts but no employees or operations. Master Drywall ceased existence in December of 2005.

While conducting business in Minnesota, Franklin Drywall was bound to the terms of two collective bargaining agreements with two labor unions. Under the terms of the agreements,

Franklin Drywall was required to pay into applicable pension and benefit funds specified amounts 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. In addition, relatives were eligible to receive benefits upon an employee's death.

In order to evade payment into the pension and benefit funds, Franklin allegedly directed payroll employees at Franklin Drywall to falsify time sheets, reporting no more than 40 hours of work per week per employee regardless of the time actually spent on the job. Any extra hours were paid at a straight hourly rate rather than the overtime rate, either through Master Drywall or through a separate Franklin Drywall check characterizing it as "other pay." More than \$500,000 was obtained in this manner and used for Franklin's personal benefit. At the same time, salaries for Franklin and his wife were paid from the Franklin Drywall account, as were expensive cars, jewelry, vacation trips, personal credit card bills, and a partial down payment on a \$675,000 house in Las Vegas.

In furtherance of his conspiracy, Franklin sent false certified payroll registers and remittance reports through the mail. Specific to the money laundering count, on July 27, 2007, Franklin wire transferred \$150,554.97 in funds derived from the mail fraud for the down payment on the Las Vegas home.

If convicted, Franklin faces a potential maximum penalty of five years on the conspiracy charge, 20 years on each mail fraud count, 10 years on the money laundering charge, and five years on each false statement count. All sentences will be determined by a federal district court judge.

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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An indictment is a determination by a grand jury that there is probable cause to believe that offenses have been committed by a defendant. A defendant, of course, is presumed innocent until he or she pleads guilty or is proven guilty at trial.