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Department of Justice
U.S. Attorney's Office
District of New Jersey

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Tuesday, July 12, 2016

Commercial Supply Company Owner Gets Four Years In Prison For Defrauding Public And Private Customers Out Of More Than \$700,000

TRENTON, N.J. – A part owner of Bayway Lumber, a Linden, New Jersey, company that sold commercial and industrial products to numerous public and private entities, was sentenced today to 48 months in prison for his role in a scheme to defraud customers out of \$708,386, U.S. Attorney Paul J. Fishman announced.

Robert R. Dattilo, 61, previously pleaded guilty before U.S. District Judge Peter G. Sheridan to an information charging him with one count of conspiracy to commit mail and wire fraud. Judge Sheridan imposed the sentence today in Trenton federal court.

According to documents filed in this case and statements made in court:

From 2007 to November 2015, Dattilo conspired with others to defraud certain customers by engaging in fraudulent business practices, including overbilling, charging for more expensive items or larger quantities of items, and providing free items to employees of customers, then recouping the cost of the items (and additional profits) by overbilling and fraudulent billing.

At Dattilo's direction, Bayway Lumber inflated the prices on items sold or intentionally failed to provide the prices called for in contractual agreements between Bayway Lumber and customers, including the

University of Medicine and Dentistry of New Jersey (UMDNJ) and its successor entities – Rutgers University and University Hospital; the City of Elizabeth; and the New York Transit Authority. These methods included:

- Concealing the true cost of items to Bayway Lumber, sometimes by manually altering vendor invoices, in order to enable Bayway Lumber to bill UMDNJ higher mark-ups.
- Charging Elizabeth prices that did not apply the discounts called for by contracts.
- Consistently billing the Transit Authority for the most expensive items, such as doors, frames and door hardware, permitted by the contract, although Bayway Lumber was providing less-expensive items than what was ordered.

Dattilo also conspired to provide certain customers, such as the Philadelphia Housing Authority, Con Edison, the New York Department of Corrections and the City of Newark, with lower-quality lumber than the customers ordered and paid for. The lower-quality lumber, including “reject” lumber, did not meet certain industry specifications and was not of construction-grade quality, as required by contract.

To conceal this product substitution scheme, Dattilo directed Bayway Lumber employees to spray paint or rearrange the lower-quality lumber sent to the customer entities in order to hide any markings on the lumber that would indicate that it was the lower-quality lumber. At Dattilo’s direction, Bayway Lumber also issued invoices to customers that falsely described the lower-quality lumber as the higher-quality lumber that the customers ordered.

Employees of some of Bayway Lumber’s customers, including Amtrak, the Plainfield Board of Education and a Bergen County company identified in the information as “Company 1,” were given a variety of items, including electronics, tickets to sporting events, merchandise and gift cards. Bayway Lumber then overbilled and fraudulently billed those customers to recoup the cost of the gifts, plus additional profits. Dattilo kept a running tally of how much Bayway Lumber overbilled and fraudulently billed those customers, which Dattilo referred to as the “Bank,” to ensure that Bayway Lumber recovered the full cost of the free items.

In addition to the prison term, Judge Sheridan sentenced Dattilo to three years of supervised release and ordered him to pay restitution of \$708,386 and a \$2,000 fine.

U.S. Attorney Fishman credited special agents with the Office of Inspector General, U.S. Department of Housing and Urban Development, under the direction of Special Agent in Charge Christina Scaringi; special agents of the FBI, under the direction of Acting Special Agent in Charge Timothy Gallagher; and the Office of Inspector General, Amtrak, under the direction of Special Agent in Charge Robert Koons, as well as investigators of the U.S. Attorney’s Office, with the investigation leading to today’s sentencing.

The government is represented by Assistant U.S. Attorneys Barbara R. Llanes and Cari Fais of the U.S. Attorney’s Office Special Prosecutions Division and Barbara Ward, Acting Chief of the U.S. Attorney’s Office Asset Forfeiture and Money Laundering Unit in Newark.

Defense counsel: Alain Leibman Esq., Princeton, New Jersey

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