



Department of Justice

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NEW YORK FOOD SUPPLIER CHARGED WITH RIGGING \$2.4 MILLION IN BIDS TO PUBLIC AGENCIES

Company and Its Owner Also Charged With Conspiracy to Defraud 148 Customers and Evade Income Taxes

WASHINGTON, DC -- The Department of Justice today charged a New York City food company with participating in a conspiracy to rig bids for \$2.4 million in contracts to deliver food to New York City hospitals and jails, the Newark Public Schools and Nassau County agencies. The company and its owner were also charged with conspiring to defraud customers and evade income taxes.

The five-count criminal information, filed today in U.S. District Court in Manhattan, charges Jitney Ltd., a supplier of food and related products located in Richmond Hill, New York, with conspiring with other suppliers to rig bids on food contracts, primarily produce, awarded by the Department of Citywide Administrative Services of the City of New York, the Newark Public Schools, and the Nassau County Department of General Services. Jitney is also charged with conspiring to defraud the New York State Office of General Services by overcharging the agency for food and submitting fraudulent cost data.

In addition, Jitney and its owner, Pamela Merberg, of Kings Point, New York, are each charged with: conspiring to defraud Odyssey House Inc., a not-for-profit residential substance abuse treatment organization located in Manhattan, by submitting approximately \$955,000

through fraudulent billing and paying \$200,000 in kickbacks to the former director of operations at Odyssey House; conspiring to defraud approximately 147 customers, most of which are not-for-profit social service organizations, through the payment of approximately \$1 million in kickbacks to employees of those customers, and the embezzlement of an additional \$100,000 from those customers in fraudulent invoices; and conspiring to evade income taxes on \$2.3 million of income earned by Jitney.

Today's charges are the latest to arise out of an ongoing federal investigation of bid rigging, bribery, fraud, and tax-related offenses in the food distribution industry. Recently, 22 individuals and 13 food companies were charged with rigging bids for the supply and delivery of over \$210 million of food to the New York City Board of Education. Some of those defendants were also charged with participating in bid-rigging conspiracies victimizing the New York City hospitals and jails, the Newark Public Schools, and the Nassau County Department of General Services. Among those charged was Michael Beberman, a Jitney salesperson, who has since pled guilty to bid rigging and tax charges. In addition, in September 1999, Aaron Lugo, the former director of operations at Odyssey House, pled guilty to bid rigging, fraud, and tax charges.

Jitney is charged with violating Section One of the Sherman Act which carries a maximum fine per count of \$10 million for corporations.

Jitney is further charged with four counts, and Merberg with three counts, of conspiracy to commit mail fraud and tax offenses in violation of 18 U.S.C. § 371. The maximum penalty per count for a conviction of conspiracy, in violation of 18 U.S.C. § 371, is a fine of \$500,000 for corporations, and a maximum penalty of five years imprisonment and a \$250,000 fine for individuals.

The maximum fine per count for both corporations and individuals for each of the charged offenses may be increased to twice the gain derived from the crime or twice the loss suffered by the victims of the crime, if either of those amounts is greater than the statutory maximum fine. The court will determine the appropriate sentences under the U.S. Sentencing Guidelines.

In addition, each of the defendants could, on conviction, be ordered to pay restitution to any victim for the full amount of that victim's loss.

The ongoing investigation is being conducted by the Antitrust Division's New York Field Office, with the assistance of the Federal Bureau of Investigation and the Internal Revenue Service Criminal Investigation Division.

Anyone with information concerning bid rigging, bribery, tax offenses, or fraud in the food distribution industry or concerning bid rigging on any government contract should contact the New York Field Office of the Antitrust Division at (212) 264-0677 or the New York Division of the FBI at (212) 384-3252.

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