



# Department of Justice

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## **THREE EXECUTIVES AND TWO FOOD COMPANIES ORDERED TO PAY A TOTAL OF \$4.23 MILLION IN RESTITUTION TO NYC BOARD OF EDUCATION**

### **Three Executives Sentenced to Jail Time**

WASHINGTON, D.C. -- Three executives and two New York City food distribution companies were sentenced to pay a total of \$4.23 million in restitution this week for their roles in rigging bids on more than \$200 million of food contracts awarded by the New York City Board of Education (NYCBOE), the Department of Justice announced.

Landmark Food Corp. of Holtsville, NY, and its president and co-owner, Gordon Kerner of Lloyds Neck, NY, were sentenced today by Judge Jed S. Rakoff of U.S. District Court in Manhattan. Kerner was sentenced to 14 months in prison, and Kerner and Landmark were together ordered to pay a total of \$1.5 million in restitution to the NYCBOE. In addition, Kerner was ordered to pay a \$74,000 fine.

Landmark and Kerner pled guilty in February 2001 to rigging NYCBOE food contracts, and Kerner also pled guilty to participating in a conspiracy to defraud the IRS and evade taxes. In imposing Kerner's sentence, the court granted the Justice Department's motion for a downward departure based on Kerner's cooperation in the investigation.

On August 7 and 8, DiCarlo Distributors Inc. of Holtsville, NY, its president and co-owner, Vincent DiCarlo of East Islip, NY, and its vice president and co-owner, John DiCarlo of Shoreham, NY, were also sentenced by Judge Rakoff. Vincent DiCarlo was sentenced to five and a half months in prison and five and a half months of home confinement, while John DiCarlo was sentenced to six months in prison and six months of home confinement. In addition, Vincent

and John DiCarlo were ordered to pay fines of \$130,000 each and jointly to pay \$530,000 in restitution to the NYCBOE. DiCarlo Distributors Inc. was sentenced to pay an additional \$2.2 million in restitution to the NYCBOE. John DiCarlo and DiCarlo Distributors Inc. pled guilty to rigging NYCBOE food contracts in February 2001. Vincent DiCarlo pled guilty to the same charge in March 2001.

These defendants were among the 22 individuals and 13 food companies charged May 31 and June 1, 2000, by the New York Field Office of the Department's Antitrust Division with rigging bids for the supply and delivery of food to the NYCBOE. All agreed to plead guilty except one individual, David Salomon of Cranford, NJ, and his company, M & F Meat Products Co. of East Orange, NJ, who were convicted in June after a three-week trial. Sentencing of the remaining defendants is scheduled to be completed by September.

In all, the government is seeking to have all of the defendants pay more than \$20 million in restitution to the NYCBOE, the amount by which the Board was overcharged as a result of the bid rigging.

The NYCBOE operates New York City's public school system, the largest in the United States. It services a student population of nearly 1.1 million, and serves approximately 640,000 lunches and 150,000 breakfasts every day. The NYCBOE purchases more food than any other single customer in the U.S., other than the Department of Defense. It receives the bulk of its funding from the federal, state, and city governments. Most of the meals it serves are subsidized by the United States Department of Agriculture under the National School Lunch Act of 1946.

In addition to public schools, numerous private and parochial schools receive food under the NYCBOE's contracts through programs that provide free or reduced-price meals to needy

students. More than 80 percent of the students fed by the NYCBOE receive free meals. Another 10 percent receive reduced-price meals.

These sentences were the result of an investigation by the Antitrust Division's New York Field Office, the Federal Bureau of Investigation, and the Internal Revenue Service Criminal Investigation.

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) 264-0679 or the New York Division of the FBI at (212) 384-3252.

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