



Department of Justice

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Northern District of New York**

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\$2.3 Million in IFCO Forfeiture Distributed to State & Local Law Enforcement

Albany, New York – United States Attorney Richard S. Hartunian and Lev Kubiak, Special Agent-in-Charge of the Buffalo Division of U.S. Department of Homeland Security Investigations announce the distribution to state and local law enforcement agencies of over \$2.3 million forfeited by IFCO Systems North America in settlement of its corporate criminal liability for conduct associated with the hiring and employment of illegal alien workers at IFCO pallet plants prior to April 19, 2006. At a ceremony today, \$2,207,520 was presented to the New York State Police, \$61,320 was presented to the Albany County District Attorney, and \$61,320 was presented to the Guilderland Police Department.

The money presented is a portion of the first installment of the payments by IFCO pursuant to the settlement agreement. In December of 2008, IFCO agreed to pay a total of \$20,697,317.51, comprised of:

- \$18,132,000 in forfeiture to be deposited into the Department of Treasury Forfeiture Fund, and
- \$2,565,317.51 in overtime compensation and civil penalties to the Secretary of Labor, Employment Standards Administration, Wage and Hour Division for violations of the Fair

Labor Standards Act.

The forfeiture money is being paid in three installments; this distribution comes from the initial payment by IFCO of \$6,132,000. An additional \$6 million was just received, and another \$6 million is due at the beginning of 2012. IFCO has also paid the \$2,565,317.51 to the Labor Department.

The IFCO settlement agreement concerned only the liability of the corporation and did not address criminal charges against individual employees. The government's investigation documented that several IFCO managers and employees harbored and transported illegal aliens, and encouraged and induced them to remain in the United States as pallet workers. An analysis of the payroll information IFCO submitted to the Internal Revenue Service and the Social Security Administration (SSA), and the hiring patterns and practices at IFCO, suggested that during the time period from 2003 through April 2006, as many as 6,000 illegal aliens worked at IFCO pallet plants. IFCO received repeated notice from the SSA and others, dating back to at least the year 2000, of the irregularities in the social security numbers used for employment purposes by many of its pallet workers. IFCO, its managers and employees, failed to take significant measures to verify the social security numbers of these workers, and in 2004 and 2005 failed to make any effort to address the use of invalid social security numbers by numerous pallet employees. Investigative entities further concluded that, at 30 of IFCO's pallet plants, back wages were due, under the Fair Labor Standards Act, to piece-wage pallet workers – the vast majority of whom were illegal aliens.

Under the settlement agreement, IFCO acknowledged and accepted responsibility for the unlawful conduct of its managers and employees, as described in the agreement. The company further agreed to cooperate fully and actively with the U.S. Attorney's Office and the government entities involved in the investigation, as it had done since the date of the work site enforcement

action. The agreement further included a precedent-setting compliance and reporting program, designed to prevent the employment of illegal aliens at IFCO plants in the future. The company agreed to take remedial actions in hiring, such as use of DHS's "E-Verify" screening program for all new hires, and to verify the social security numbers of all IFCO employees through SSA. IFCO is also required to maintain an employee hotline to receive reports of any suspected violation of law at the company. The agreement runs through the year 2012, at which time, if the company has been in full compliance with all of the agreement's terms and conditions, the United States Attorney's Office will not seek to prosecute the company for any criminal charges related to the conduct of its employees prior to April 2006. IFCO has complied with the agreement to date.

The forfeiture resulted from an extensive investigation by United States Immigration and Customs Enforcement (ICE), the Internal Revenue Service, the Office of the Inspector General for the Social Security Administration, the U.S. Department of Labor - Wage and Hour Division, the New York State Police, and the Guilderland Police Department, assisted by the Albany County District Attorney's Office and working with the United States Attorney's Offices in the Northern District of New York and the Southern District of Texas. The investigation originated at the IFCO pallet plant in Albany following a tip to ICE in February of 2005 that illegal alien laborers at the Albany IFCO plant were observed ripping up their W-2 forms. On April 19, 2006, federal and local law enforcement agencies conducted a work site enforcement action at over 40 of the company's pallet plants in 26 states, and found and detained 1,181 workers who were in the United States illegally and unauthorized to work in the United States. Eleven defendants have pled guilty to federal offenses in the Northern District of New York, and 5 defendants are pending trial in the Southern District of Texas.

Five defendants pled guilty on February 27,2007, as follows:

1. James Rice, IFCO New Market Development Manager, pled guilty to conspiracy to transport and harbor illegal aliens for commercial and private financial gain (a felony);
2. Robert Belvin, General Manager of the Albany pallet plant, pled guilty to conspiracy to transport and harbor illegal aliens for commercial advantage and private financial gain and conspiracy to possess five or more identification documents with the intent to use them unlawfully (both felonies);
3. Dario Salzano, an Assistant General Manage of the Albany plant, pled guilty to unlawful employment of illegal aliens (a misdemeanor);
4. Michael Ames, General Manager of the Westborough, Massachusetts pallet plant, pled guilty to unlawful employment of illegal aliens (a misdemeanor); and
5. Scott Dodge, an Assistant General Manager of the Albany plant, pled guilty to conspiracy to unlawfully employ illegal aliens (a misdemeanor).

On March 28, 2007, Craig Losurdo, an Assistant General Manager of the Albany plant, pled guilty to unlawful employment of illegal aliens (a misdemeanor).

On July 16,2007, Abelino Chicas, a Plant Foreman/Systems Manager in Houston, Texas, pled guilty to aiding and abetting the harboring and transportation of illegal (a felony).

On October 14,2008, IFCO New Market Development Manager Bryan Bailey pled guilty to conspiracy to unlawfully employ illegal aliens (a misdemeanor).

On October 21, 2008, IFCO New Market Development Manager Steven Means pled guilty to conspiracy to unlawfully employ illegal aliens (a misdemeanor).

On February 10, 2010, IFCO New Market Development Manager William Hoskins pled

guilty to conspiracy to harbor illegal aliens and encourage and induce illegal aliens to reside in the United States (a felony).

On March 11, 2010, Tomas Soto Castillo, a foreman at the IFCO pallet plant in Cincinnati, Ohio, pled guilty to conspiracy to hire at least 10 illegal aliens in a year (a felony).

All eleven defendants who have pled guilty are awaiting sentencing before Senior United States District Judge Lawrence E. Kahn in Albany.

Five additional defendants were charged by indictment in the Northern District of New York: Charles Davidson, 47, of San Antonio, Texas, then Director of New Market Development for IFCO; Christopher Tiesman, 41, of Spring, Texas, IFCO's Vice President for Finance and Accounting; Kenneth Gines, Jr., 52, of Spring, Texas, Controller for IFCO's Pallet Services Division; Haskell "Buddy" Ross, 43, of Lakeland, Florida, IFCO's Vice President for Human Resources; and Wendy Mudra, 35, an IFCO Human Resources Manager in Tampa, Florida. Trial was scheduled to begin in April of 2010. However, on April 1, 2010, Judge Kahn granted a motion by defendants to change the venue of the case to the Southern District of Texas.

On May 24, 2010, a federal grand jury in Houston returned a two-count indictment naming the five defendants. The indictment contains mere accusations, and the defendants are presumed innocent unless and until proven guilty beyond a reasonable doubt in a court of law. Count One charges the five named defendants with conspiring, between at least 2003 and April 2006, to harbor illegal aliens employed by IFCO and to encourage and induce those aliens to reside in the United States. If convicted, each defendant faces a maximum of 10 years imprisonment and a \$250,000 fine. Count Two charges Tiesman, Gines, Ross and Mudra with a related conspiracy to defraud the Internal Revenue Service (IRS) and the Social Security Administration (SSA) by submitting false

payroll-related information to those agencies and to facilitate the misuse of Social Security numbers by IFCO employees. Count Two carries a maximum penalty of five years imprisonment and a \$250,000 fine. All five defendants have pled not guilty to the charges and have been released on bond pending trial in Houston before United States District Judge Gray Miller, presently scheduled to begin May 9, 2011.

United States Attorney Hartunian said, “These payments were made possible by the hard work and perseverance of federal, state, and local law enforcement officers and prosecutors, and recognize the collaborative efforts of the New York State Police, the Guilderland Police Department, and the Albany County District Attorney. The record monetary settlement in this case demonstrates how effective asset forfeiture can be to address the hiring and employment of illegal alien workers for commercial advantage – affording deterrence and punishment for serious immigration and employment violations while allowing IFCO to continue operations so its lawful employees and innocent shareholders do not suffer the consequences of a business failure.”

Lev J. Kubiak, special agent in charge of the U.S. Immigration and Customs Enforcement (ICE) Homeland Security Investigations (HSI) in Buffalo stated: “As demonstrated by today’s return of \$2.3 million, state and local support of federal investigations is essential to the HSI mission. Asset forfeiture has proven to be an invaluable tool in combating criminal activity that threatens the safety and security of all New Yorkers.” He continued, “HSI will use all of its unique investigative resources to disrupt and dismantle criminal organizations that are only motivated by greed as in this case. Those employers who knowingly hire and profit from hiring illegal labor are on notice that ICE considers their business records as important as their tax records.”

The case is being prosecuted by Assistant United States Attorneys Tina E. Sciocchetti and

Sara M. Lord of the Northern District of New York and David Searle of the Southern District of Texas. Inquiries may be directed to AUSA Sciocchetti at (518) 431-0247.