



*United States Attorney
Southern District of New York*



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**FORMER DUANE READE CEO SENTENCED IN MANHATTAN FEDERAL
COURT TO THREE YEARS IN PRISON FOR SECURITIES FRAUD**

PREET BHARARA, the United States Attorney for the Southern District of New York, announced that ANTHONY CUTI, the former Chief Executive Officer ("CEO"), Chairman of the Board, and President of Duane Reade, Inc. ("Duane Reade") was sentenced today in Manhattan federal court to three years in prison for perpetrating a scheme to falsely inflate the income and reduce the expenses that Duane Reade reported. CUTI was convicted in June 2010 after a two-month jury trial. U.S. District Judge DEBORAH A. BATTS imposed today's sentence.

U.S. Attorney PREET BHARARA stated: "Anthony Cuti's breach of his fiduciary duty to Duane Reade, its board of directors, auditors, and investors was as egregious as it was audacious. He will now have to live with the consequences of his actions."

According to the Indictment and evidence presented at trial:

From November 2000 through June 2005, CUTI and WILLIAM TENNANT, the former Chief Financial Officer ("CFO") and Senior Vice President of Duane Reade, engaged in a scheme to misrepresent Duane Reade's financial performance. The scheme involved: 1) the reporting of inflated income from fraudulent real estate transactions; and 2) the artificial reduction of expenses through fictitious credits from vendors who did work for Duane Reade.

Real Estate Transactions

CUTI and TENNANT engaged in fraudulent real estate transactions that Duane Reade sold to various brokers and real estate developers. Specifically, they sold real estate rights,

including remaining time on leases and options on retail locations that were largely worthless for various reasons, including that there was little or no time left on the leases, the property subject to the transactions was unusable, or Duane Reade had already sold the rights. Accordingly, the income received for the sale of the real estate rights was not real income but rather fraudulently generated income.

In order to convince the brokers and developers to participate in these fraudulent transactions, CUTI promised, through various side agreements, to reimburse the third parties for the costs of the transactions. TENNANT and CUTI carried out these promises by engaging in additional fraudulent transactions that were merely vehicles to return money to the third parties.

CUTI misled Duane Reade's auditors about the real estate transactions by failing to disclose that they were largely worthless, and by failing to inform them that he was reimbursing the brokers and developers for participating in the deals.

Fictitious Credits

CUTI also falsely inflated the income that Duane Reade reported to the investing public by engaging in fraudulent vendor credit transactions. In these transactions, CUTI directed co-conspirator JERRY RAY, who was a Senior Vice President at Duane Reade, to seek fictitious credits from vendors who did work for the company. At the same time, CUTI directed RAY to tell the vendors that they could recover the money from the fictitious credits by rebilling Duane Reade for the same amounts in later quarters without doing any additional work. The false credits were used to decrease Duane Reade's expenses, which had the effect of increasing the net income reported to the public.

As a result of both aspects of the scheme, materially false and misleading information about the company's true income and other financial results was provided to the investing public, Duane Reade shareholders and auditors, the SEC, and the private equity firm Oak Hill Capital Partners, L.P. ("Oak Hill") that purchased Duane Reade's publicly traded stock and took the company private in 2004.

On June 8, 2010, the jury found CUTI guilty of one count of conspiracy to make false statements in annual and quarterly SEC reports and to auditors, and to make false entries in the books and records of Duane Reade; one count of securities fraud; and three counts of making false statements in SEC reports. The jury also found TENNANT guilty of one count of securities fraud.

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In addition to the prison term, Judge BATTIS sentenced CUTI, 65, of Saddle River, New Jersey, to three years of supervised release. CUTI was also ordered to pay a \$5 million fine and a \$500 special assessment fee. Restitution will be determined at a later date.

TENNANT, 64, of Richmond, Virginia, is scheduled to be sentenced by Judge BATTIS on August 29, 2011, at 2:30 p.m.

RAY, 63, previously pled guilty to conspiracy, cooperated with the Government, and testified as a Government witness at CUTI's and TENNANT's trial. He will be sentenced at a later date.

Mr. BHARARA praised the work of the Federal Bureau of Investigation and thanked the United States Securities and Exchange Commission for its assistance with this case.

This case was brought in coordination with President BARACK OBAMA's Financial Fraud Enforcement Task Force, on which Mr. BHARARA serves as a Co-Chair of the Securities and Commodities Fraud Working Group. President OBAMA established the interagency Financial Fraud Enforcement Task Force to wage an aggressive, coordinated, and proactive effort to investigate and prosecute financial crimes. The task force includes representatives from a broad range of federal agencies, regulatory authorities, inspectors general, and state and local law enforcement who, working together, bring to bear a powerful array of criminal and civil enforcement resources. The task force is working to improve efforts across the federal executive branch, and with state and local partners, to investigate and prosecute significant financial crimes, ensure just and effective punishment for those who perpetrate financial crimes, combat discrimination in the lending and financial markets, and recover proceeds for victims of financial crimes.

Assistant United States Attorneys JONATHAN R. STREETER,
REBECCA MONCK RICIGLIANO, and Special Assistant United States
Attorney LUKE M. FITZGERALD are in charge of the prosecution.

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