



United States Attorney
Western District of New York



U.S. Immigration
and Customs
Enforcement

News Release

FOR IMMEDIATE RELEASE
April 30, 2010
www.usdoj.gov/usao/nyw

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NINE CHARGED WITH DEFRAUDING THE U.S. GOVERNMENT OF MORE THAN \$40 MILLION IN MILITARY SUPPLY SCHEME

BUFFALO, N.Y.— U.S. Attorney William J. Hochul, Jr., announced today that a federal grand jury has returned an indictment charging six persons and three corporations with conspiring to defraud the U.S. government and wire fraud in connection with the supply and composition of critical materials used in the American war effort. U.S. Immigration and Customs Enforcement (ICE), along with other agencies mentioned below, investigated the case.

The Indictment alleges that the defendants sold 1.8 million countermeasure flares, which are used in military aircraft to divert heat-seeking missiles, valued at \$42 million to the Department of Defense (DoD) in violation of contract regulations. Such flares are composed primarily of magnesium powder.

The Indictment states that the defendants violated DoD rules by obtaining magnesium produced by companies in China, rather than companies in the United States or Canada as required. The Indictment further alleges that the defendants fraudulently mislabeled and undervalued the imported materials in order to evade customs and anti-dumping duties, which resulted in the loss of more than \$10 million in customs duties. The U.S. Government enacted the anti-dumping duties on magnesium imports to protect the domestic magnesium industry. Such protection ensures a domestic supplier would always be available in times of war or national emergency given the critical need for magnesium for war fighting purposes.

The indictment specifically names: Gregory Magness, age 62, of Polk, PA; Justin Magness, age 34, Oil City, PA; Superior Metal Powders, Inc., Franklin, PA; Charles Wright, age 60, Youngstown, NY; William Nehill, age, 65, of Orchard Park, NY; International Technology Group, Inc., Orchard Park, NY; Eldon Bott, age 58, of Brigham City, UT; Innovative Materials & Solutions, Inc., Brigham City, UT; and Qian Chen, age 48, of Beijing, China.

The charges carry a maximum penalty of five years imprisonment, \$250,000 fine or both (the conspiracy charge), and 20 years imprisonment, a fine of \$250,000 or both (the wire fraud charge) along with the forfeiture of assets.

“The critical aspect of this case is that the defendants stand accused of intentionally evading Department of Defense regulations, jeopardizing military service men and women and a



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critical American industry, and defrauding the Government out of millions of dollars of tariffs and duties,” said U.S. Attorney Hochul of the Western District of New York.

“This is a case where men, operating under the guise of legitimate businesses, conspired to import mislabeled and undervalued magnesium powder – a key component of flares – from China into the United States,” said ICE Special Agent in Charge Lev Kubiak. “As a result, DoD was sold non-conforming flares, which could have put our war fighters at additional risk.”

The Indictment was the culmination of an investigation by Special Agents of the ICE Buffalo Office of Investigations; Defense Criminal Investigative Service, Philadelphia Office under the direction of Special Agent in Charge Edward Bradley, Internal Revenue Service Criminal Investigation Division, New York Field Division, under the direction of Patricia Haynes and, U.S. Customs and Border Protection, Office of Field Operations under the direction of Port Director Joseph Wilson provided significant assistance in this case.

The evidence was presented to the Grand Jury by Assistant U.S. Attorney Michael DiGiacomo, who will handle the trial of the case.

The fact that a defendant has been charged with a crime is merely an accusation and the defendant is presumed innocent until and unless proven guilty.

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