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THE UNITED STATES ATTORNEY'S OFFICE  
EASTERN DISTRICT *of* VIRGINIA

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**Department of Justice**

U.S. Attorney's Office

Eastern District of Virginia

FOR IMMEDIATE RELEASE

Tuesday, April 23, 2019

## **Company Agrees to \$46 Million Penalty for Falsifying Test Results**

RICHMOND, Va. – An Oregon aluminum extrusion manufacturer has agreed to pay \$46 million to NASA, the Department of Defense, and others to resolve criminal charges and civil claims relating to a 19-year fraud scheme that included falsifying thousands of certifications for aluminum extrusions provided to hundreds of customers.

“For nearly two decades, SPI and its employees covered up substandard manufacturing processes by brazenly falsifying test results,” said G. Zachary Terwilliger, U.S. Attorney for the Eastern District of Virginia. “They then provided the false test results to hundreds of customers across the country, all to increase corporate profits and obtain production-based bonuses. This proposed resolution ensures that the victims of this conduct, including the U.S. military, can replace faulty product put into the supply chain and help recover the costs foisted on taxpayers to investigate this scheme. I want to thank our partners at NASA-OIG, DCIS, and the FBI for their efforts in helping bring much-needed oversight and reform to these companies.”

According to court documents, Hydro Extrusion Portland, Inc., formerly known as Sapa Profiles Inc. (SPI), and its corporate parent, Hydro Extrusion USA, LLC, formerly known as Sapa Extrusions, Inc. (SEI), admitted to providing customers, including U.S. government contractors, with falsified certifications after altering the results of tensile tests designed to ensure the consistency and reliability of aluminum extruded at the companies' Oregon-based facilities. Tensile testing involves slowly stretching and then ripping apart a sample of the metal using a machine, which then measures the force applied to the sample at each stage of the test.

“For nearly 20 years, Sapa Profiles and Sapa Extrusions falsified critical tests on the aluminum they sold—tests that their customers, including the U.S. government, depended on to ensure the reliability of the aluminum they purchased,” said Brian A. Benczkowski, Assistant Attorney General of the Justice Department's Criminal Division. “Corporate and personal greed

perpetuated this fraud against the government and other private customers, and this resolution holds these companies to account for the harm caused by their scheme.”

According to court documents, SPI has agreed to plead guilty to one count of mail fraud, and SEI has entered into a deferred prosecution agreement (DPA) in connection with a criminal information filed here today charging the company with mail fraud. As part of the plea agreement, SPI has agreed to pay \$34.1 million in combined restitution to NASA, the Department of Defense’s Missile Defense Agency (MDA), and commercial customers. SPI has also agreed to forfeit \$1.8 million in ill-gotten gains. The plea agreement remains subject to acceptance by the court at a plea hearing currently scheduled for May 13 before U.S. District Judge Liam O’Grady. The DPA with SEI is conditioned on the court’s acceptance and SPI’s satisfaction of the plea agreement’s terms.

“Today’s settlement reflects the Civil Division’s commitment to pursue fraudulent conduct,” said Jody Hunt, Assistant Attorney General Jody Hunt of the Department of Justice’s Civil Division. “The Department will vigorously pursue those who seek to take advantage of American taxpayers and undermine the safety and integrity of critical government programs.”

SPI also agreed to pay \$34.6 million as part of a related civil settlement to resolve its liability under the False Claims Act for causing a government contractor to invoice MDA and NASA for aluminum extrusions that did not comply with contract specifications. Government contractors purchased aluminum extrusions for use on rockets for NASA and missiles provided to the MDA. Under the terms of the civil settlement agreement, SPI will satisfy the \$34.6 million settlement through credits totaling \$23.6 million for its restitution payments as part of the criminal plea agreement, plus additional payments of \$6 million to NASA and \$5 million to the MDA.

“The results of this investigation are indicative of the law enforcement community’s unwavering commitment to protecting the aerospace supply chain,” said Paul K. Martin, Inspector General of the National Aeronautics and Space Administration (NASA). “I am very proud of the central role the NASA OIG played in unraveling the test falsification scheme.”

According to the companies’ admissions, employees at SPI facilities in the Portland area generally altered the tests in one of two ways. First, from in or about 1996 through in or about 2006, an SPI plant manager led a scheme to make thousands of handwritten alterations to failing test results by changing failing numbers that fell below the minimum required test results to appear to be passing. Those numbers were then typed onto a certification and provided to customers. Second, from in or about 2002 through September 2015, Dennis Balius, the SPI testing lab supervisor, led a scheme to alter tests within SPI’s computerized systems and provide false certifications with the altered results to customers. Balius also instructed employees to violate other testing standards, such as increasing the speed of the testing machines or cutting samples in a manner that did not meet the required specifications. Balius pleaded guilty in July 2017 and was sentenced to three years in prison and ordered to pay over \$170,000 in restitution.

“Our partners at NASA and in the military – as well as hundreds of private businesses – put their faith in the integrity of this supplier and the structural integrity of its products,” said Loren ‘Renn’ Cannon, Special Agent in Charge of the FBI’s Portland Field Office. “For almost two decades, this company’s greed violated that trust and put lives at risk. Today’s settlement is an important step to repairing the harm done.”

According to court documents, the SPI employees generally engaged in these practices to conceal the inconsistent quality of aluminum extrusions produced by SPI, avoid the costly scrapping of metal and accompanying production delays, improve SPI's and SEI's profits, and receive bonuses that were calculated in part based on a production metric.

"Today's proposed resolution with SPI exhibits the unending commitment of DCIS and its investigative partners to bring to justice those who seek to defraud the Department of Defense," said Bryan Denny, Special Agent in Charge for Defense Criminal Investigative Service's (DCIS) Western Field Office. "Those who purposely disregard requirements imposed to assure the quality of materials provided to our military will be investigated and prosecuted to the fullest extent of the law."

In addition, the companies admitted that SPI's customers included U.S. government contractors who in turn provided aluminum extrusions produced by SPI to NASA and the MDA for use in "frangible joints" in rockets provided to NASA and missiles provided to the MDA, respectively. According to court documents, the replacement cost of frangible joints provided to the MDA that included SPI extrusions is approximately \$15.3 million, and NASA incurred approximately \$9 million in investigative and other costs to determine the impact of SPI extrusions on NASA operations.

As described in the civil settlement agreement, NASA maintains that SPI's manufacturing processes lacked sufficient controls and produced extrusions unable to pass mechanical properties testing. NASA further maintains that it identified SPI's out-of-specification extrusions as the cause of two failed rocket launches, which resulted in the loss of important scientific missions. SPI disputes NASA's positions, and except for those facts admitted to in the DPA and the plea agreement, the claims resolved by the civil settlement are allegations only. There has been no determination of liability. To protect the government supply chain, NASA both suspended SPI from government contracting and proposed SPI for debarment government-wide. The exclusion from government contracting has been effective since September 30, 2015.

A number of significant factors contributed to the Department's criminal resolution with the companies. Among these, the companies received significant credit for their cooperation with the Department's investigation and their engagement in extensive remedial measures to address the misconduct, including the termination and severance of employees who were involved, the implementation of state-of-the-art equipment to automate the tensile testing process, company-wide audits at all U.S. tensile labs, increased resources devoted to compliance and revamping internal quality controls and quality audit processes. However, the companies did not receive more significant mitigation credit, either in the penalty or the form of resolution, because the companies did not voluntarily self-disclose the full extent of their misconduct to the Department.

G. Zachary Terwilliger, U.S. Attorney for the Eastern District of Virginia; Brian A. Benczkowski, Assistant Attorney General of the Justice Department's Criminal Division; Joseph H. Hunt, Assistant Attorney General of the Justice Department's Civil Division; Paul K. Martin, Inspector General of the National Aeronautics and Space Administration (NASA); Loren 'Renn' Cannon, Special Agent in Charge of the FBI's Portland Field Office, and Bryan Denny, Special Agent in Charge for Defense Criminal Investigative Service's (DCIS) Western Field Office, made the announcement. Assistant U.S. Attorney Ryan K. Faulconer and Trial Attorneys Emily Scruggs

and Laura Connelly of the Criminal Division's Fraud Section are prosecuting the criminal case. Trial Attorneys Allison Cendali and Greg Pearson of the Civil Division's Fraud Section handled the civil case.

NASA Launch Services Program provided extensive cooperation and assistance throughout the investigation.

Except for those facts admitted to in the DPA and the plea agreement, the claims resolved by the civil settlement are allegations only, and there has been no determination of liability.

A copy of this press release is located on the website of the U.S. Attorney's Office for the Eastern District of Virginia. Related court documents and information is located on the website of the District Court for the Eastern District of Virginia or on PACER by searching for Case No. 1:19-cr-123 and 124.

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**Topic(s):**

Financial Fraud

**Component(s):**

USAO - Virginia, Eastern

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