

Southern District of Florida

Press Release

KROY CORPORATION AND JAMES GARRIDO SENTENCED FOR ILLEGAL OZONE-DEPLETING SUBSTANCE SMUGGLING OPERATION; ASSOCIATE PLEADS GUILTY TO FALSE CUSTOMS DECLARATIONS

February 11, 2010

FOR IMMEDIATE RELEASE

Jeffrey H. Sloman, United States Attorney for the Southern District of Florida, Maureen O'Mara, Special Agent in Charge, United States Environmental Protection Agency (EPA), Criminal Investigation Division, Atlanta Area Office, and Anthony V. Mangione, Special Agent in Charge, U.S. Immigration and Customs Enforcement (ICE), Office of Investigations, announced that defendants **James Garrido**, 44, of Miami, and **Kroy Corporation**, a Florida corporation with its principal place of business in Miami, were sentenced today on charges related to their smuggling of ozone-depleting substances into the U.S., contrary to the provisions of the Clean Air Act, Title 42, United States Code, Sections 7413(c)(1) and 7671d, in violation of Title 18, United States Code, Section 545. In addition, an associate working for Kroy and Garrido, **Amador Hernandez**, 43, of Miami, pled guilty today to charges of making false statements and declarations on Customs entry forms to disguise the illegal merchandise being imported.

More specifically, James Garrido and Kroy Corporation were each sentenced today by U.S. District Court Judge Patricia A. Seitz. Garrido was sentenced to 30 months' imprisonment, to be followed by three years of supervised release. Kroy Corporation was sentenced to five years of probation. Additionally, Garrido and Kroy were sentenced, jointly and severally, to pay a criminal fine of \$40,000, and were further ordered to forfeit \$1,356,160 to the United States.

In the related matter, defendant Hernandez pled guilty before U.S. District Court Judge Marcia G. Cooke to a one-count Information charging him with willfully and knowingly entering and attempting to enter hydrochlorofluorocarbon - 22 ("HCFC-22") using false invoices and declarations. Defendant Hernandez faces a possible statutory maximum term of imprisonment of two years. Sentencing has been scheduled for April 21, 2010 before Judge Cooke.

The Federal Clean Air Act regulates air pollutants, including ozone-depleting substances such as HCFC-22. HCFC-22 is a widely used refrigerant in residential heat pump and air-conditioning systems. The Clean Air Act and its implementing regulations established a schedule to phase out the production and importation of ozone-depleting substances beginning in 2002, with a complete ban starting in 2030. To meet its obligation under an international treaty to reduce consumption of ozone-depleting substances, the United States issued baseline allowances for the production and importation of HCFC-22 to individuals and companies. In order to legally import HCFC-22, one must hold an unexpended consumption allowance. These matters, as well as others involving the smuggling and distribution of ozone-depleting substances, are being investigated through a multi-agency initiative known as Operation Catch-22, following in the footsteps of Operation Cool Breeze which targeted illegal trafficking of CFC-12 in the mid 1990's.

According to court records, Kroy, a corporation formed in February 2007, and its president, James Garrido, were in the business of importing merchandise, including refrigerant gas. Between March 2007 and April 2009, Kroy and Garrido engaged in the smuggling of large quantities of HCFC-22 into the United States for subsequent resale. The defendants routinely declared imported merchandise as either legal HFC-134A refrigerant gas or as "United States Goods Return." Except for a small quantity of legal refrigerant strategically placed in front of the contraband, the shipments contained HCFC-22 and were accompanied by false documentation. Neither Kroy nor Garrido held unexpended consumption allowances that would have allowed them to legally import the HCFC-22.

In all, from 2007 to April 2009, Kroy and Garrido illegally imported approximately 418,654 kilograms, or 29,107 cylinders, of illegal HCFC-22 in eleven separate shipments, with a total fair market value of more than \$3.9 million.

According to court records in the related case, Hernandez was in the business of facilitating importation of merchandise, including refrigerant gas, by completing the necessary Customs entry paperwork. Hernandez was one of the associates who worked for Kroy and Garrido and completed Customs entry paperwork for four of the illegal importations in early 2009. In each of those shipments, Hernandez declared the merchandise as either refrigerant gas HFC-134A, HFC-404A, or HFC-410, and as "United States Goods Return," when in fact the shipments contained predominantly restricted HCFC-22. Hernandez completed false paperwork for approximately 82,852 kilograms, or 5,116 cylinders, of HCFC-22 with a fair market value of more than \$700,000.

United States Attorney Jeffrey H. Sloman stated, "The defendants jeopardized the global effort to restore and protect the ozone for their own financial benefit. Such conduct is short-sighted and inexcusable. We will continue to aggressively enforce federal laws that seek to protect our environment."

EPA Special Agent in Charge Maureen O'Mara said, "HCFCs deplete the stratospheric ozone layer, which is critical to life on earth and protecting people from the harmful effects of ultraviolet radiation, including cancer. EPA is committed to working aggressively with ICE and other agencies to combat such criminal conduct, preventing these dangerous smuggling operations, and preventing flagrant violations of our Nation's environmental laws. These sentences and the guilty plea send a strong message that those who jeopardize public safety in order to make illegal profits will be vigorously prosecuted and punished."

"The unlawful importation of goods pose a triple threat to the national security, public safety, and economic well-being of the United States," said Anthony V. Mangione, Special Agent in Charge of ICE's Office of Investigations in Miami. "This case demonstrates ICE's partnership and aggressive approach with the U.S. Attorney's Office and EPA to protect the American public from inferior and unsafe products that illegally enter the United States and combat those who exploit our commerce system and compromise the safety of our citizens."

Mr. Sloman commended the investigative efforts of the Special Agents and officers of the United States Environmental Agency, ICE's Office of Investigations in Miami, the Florida Department of Environmental Protection, Criminal Investigation Bureau, and the Miami-Dade Police Department, Environmental Investigation Unit. The case was prosecuted by Special Assistant U.S. Attorney Jodi A. Mazer.

A copy of this press release may be found on the website of the United States Attorney's Office for the Southern District of Florida at <http://www.usdoj.gov/usao/fls>. Related court documents and information may be found on the website of the District Court for the Southern District of Florida at <http://www.flsd.uscourts.gov> or on <http://pacer.flsd.uscourts.gov>.