

## Press Release

### MIAMI MAN SENTENCED IN ILLEGAL REFRIGERANT SMUGGLING OPERATION

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July 29, 2011

#### FOR IMMEDIATE RELEASE

Wifredo A. Ferrer, United States Attorney for the Southern District of Florida, Maureen O'Mara, Special Agent in Charge, U.S. Environmental Protection Agency (EPA), Criminal Investigation Division, Atlanta Area Office, Drusilla Hufford, Director, EPA's Stratospheric Protection Division, and Michael Shea, Deputy Special Agent in Charge, U.S. Immigration and Customs Enforcement's Homeland Security Investigations (ICE-HSI), Miami Field Office, announced that defendant **Brendan Clery**, 34, of Miami, was sentenced today on charges of knowingly importing approximately 278,256 kilograms of illegal hydrochlorofluorocarbon-22 (HCFC-22), contrary to the provisions of the Clean Air Act (CAA). HCFC-22 is a widely used refrigerant for residential heat pump and air-conditioning systems.

U.S. District Court Judge Adalberto Jordan sentenced Clery to 18 months in prison, to be followed by two years of supervised release. Judge Jordan also imposed a fine of \$10,000. Additionally, Clery was ordered to forfeit to the United States \$935,240, representing the proceeds of his illegal conduct.

The CAA regulates air pollutants, including ozone depleting substances such as HCFC-22. The CAA and its implementing regulations established a schedule to phase out the production and importation of ozone depleting substances, with a complete ban starting in 2030. To meet its obligations under an international treaty to reduce its consumption of ozone depleting substances, the United States issued baseline consumption allowances for the production and importation of HCFC-22 to individuals and companies. To legally import HCFC-22, one must hold an unexpended consumption allowance.

According to court records and statements made in court, in 2005 Clery formed Lateral Investments, a Florida corporation, for the purpose of importing merchandise, including refrigerant gas. Clery was the President of Lateral. Between June and August 2007, Clery illegally smuggled large quantities of HCFC-22 into the United States to sell on the black market. At no time did Clery or Lateral Investments hold unexpended consumption allowances that would have allowed them to legally import the HCFC-22. During 2007, Clery illegally imported approximately 278,256 kilograms or 20,460 cylinders of restricted HCFC-22, with a market value of \$1,438,270.

United States Attorney Wifredo Ferrer said, "The U.S. Attorney's Office, along with its law enforcement partners, is committed to enforcing our nation's laws and protecting our environment from actions that threaten both the well being of our citizens and the quality of our environment."

Maureen O'Mara, Special Agent in Charge of EPA's criminal enforcement program in Florida said, "Releases of the refrigerant R-22 can deplete the ozone layer that protects people from the harmful effects of ultraviolet radiation such as skin cancer. Through the course of our investigation we found that the defendant violated the Clean Air Act by smuggling R-22 into the U.S. The significant sentence imposed in this case demonstrates that breaking the law isn't worth the risk."

"The consequence of illegal smuggling of ozone-depleting substances for our health is a higher risk of skin cancer, a disease that is now more common than breast, lung, colon and prostate cancer combined," said Drusilla Hufford, EPA's Stratospheric Protection Division Director. "Stopping this unconscionable trade is an important step in protecting the health of Americans today and into the future."

"The unlawful importation of goods poses a triple threat to the national security, public safety, and economic well-being of the United States," said Michael Shea, Acting Special Agent in Charge of ICE HSI in Miami. "This case is another example of 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 compromise the safety of our citizens."

Mr. Ferrer commended the investigative efforts of the Environmental Protection Agency, Criminal Investigation Division, ICE's Homeland Security Investigations, and the Florida Department of Environmental Protection, Criminal Investigation Bureau. The case was prosecuted by Special Assistant U.S. Attorney Jodi A. Mazer and Assistant U.S. Attorney Thomas Watts-FitzGerald.

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>.

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