

The United States Attorney's Office

Southern District of Florida

Press Release

KROY CORPORATION AND JAMES GARRIDO PLEAD GUILTY TO ILLEGAL SMUGGLING OF OZONE DEPLETING SUBSTANCE

November 23, 2009

FOR IMMEDIATE RELEASE

Jeffrey H. Sloman, Acting United States Attorney for the Southern District of Florida, Maureen O'Mara, Special Agent in Charge, Environmental Protection Agency, 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, pled guilty on Friday, November 20, 2009, in federal District Court in Miami to charges related to their illegal smuggling into the United States of restricted ozone-depleting substances contrary to 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.

More specifically, James Garrido and Kroy Corporation each pled guilty before U.S. District Court Judge Patricia A. Seitz to a three count Information, charging them with knowingly importing approximately 418,654 kilograms of illegal hydrochlorofluorocarbon - 22 ("HCFC-22"), in violation of the provisions of the Clean Air Act. Defendant Garrido faces a possible statutory maximum term of imprisonment of 20 years and a fine of \$250,000 on each count. The statutory maximum fine for Kroy Corporation is \$500,000 per count. Garrido also faces a term of supervised release of three years per count of conviction, while Kroy Corporation may be placed on probation for up to five years per count. In addition, the defendants could be ordered to forfeit the illegal proceeds of their conduct. Sentencing has been scheduled for February 11, 2010 at 8:30 a.m., before Judge Seitz.

The Federal Clean Air Act regulates air pollutants, including ozone-depleting substances such as HCFC-22. HCFC-22 is a widely used refrigerant for 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 obligations under International Treaty to reduce its consumption of the 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.

According to court records, Kroy, a corporation formed in February 2007, was in the business of importing merchandise, including refrigerant. James Garrido is Kroy's President. Between March 2007 and April 2009, Kroy and Garrido engaged in the illegal smuggling of large quantities of HCFC-22 into the United States for subsequent resale. The defendants would routinely declare imported merchandise as either legal R-134A refrigerant or as "United States Goods Returned." In truth, 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. At no time did Kroy or Garrido hold 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 1418,654 kilograms of restricted HCFC-22 in eleven separate shipments, with a total fair market value of more than \$3.9 million.

more than 400 million.

Acting United States Attorney Jeffrey H. Sloman stated, "The ozone layer provides crucial protection to all life on earth, and it must be preserved. The defendants jeopardized the global effort to restore and protect the ozone for their own financial benefit. Such conduct is short-sighted and inexcusable."

EPA Special Agent in Charge Maureen O'Mara said, "HCFCs deplete the stratospheric ozone layer, which protects people from such harmful effects of ultraviolet radiation as skin cancer. These guilty pleas sends a strong message that those who place the public at risk in order to make illegal profits will be vigorously prosecuted."

"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 U.S. Environmental Protection 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>.

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