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PRESS RELEASE

Stoughton Fuel Company Settles Claims It Overcharged State for Substandard Fuel Delivered in Violation of Contracts

Fuel Company Also Ignored Diversity Spending Requirements

FOR IMMEDIATE RELEASE:

7/14/2021

Office of Attorney General Maura Healey

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BOSTON — A Stoughton fuel delivery company, Diesel Direct, LLC, and its chief executive officer and senior vice president will pay \$850,000 to resolve allegations that the company knowingly delivered nonconforming petroleum diesel fuel to state agencies while charging for a higher-priced and more environmentally-friendly biodiesel fuel, Attorney General Maura Healey announced today. The settlement also resolves allegations that

the company failed to comply with its contractually obligated diversity spending requirements aimed at fostering growth and development for women-, minority-, and veteran-owned businesses.

“By not delivering on the terms of its contracts, this company bilked Massachusetts out of taxpayer dollars and undermined our efforts to reduce harmful emissions,” AG Healey said. “The company further ignored an important part of its contracts designed to ensure minority-, women-, and veteran-owned businesses have an opportunity to participate in government work. Those who accept taxpayer funding to contract with the state have a duty to operate with integrity and those who don’t will be held accountable.” ()

The settlement agreement resolves a 2019 *qui tam* complaint, brought by a whistleblower on behalf of the state, that alleged Diesel Direct violated the Massachusetts False Claims Act when its Senior Vice President of Operations, Augustine Pesaturo, directed employees to deliver nonconforming petroleum diesel fuel to state agencies, instead of the higher-priced and more environmentally-friendly biodiesel blend the agencies ordered. The AG’s Office contends that Pesaturo then directed employees to charge state agencies for the higher-priced biodiesel that it did not provide. The AG’s Office further claims that the company’s chief executive officer, William McNamara, Jr., knew about the company’s improper actions, failed to stop the conduct, and did not disclose it to the state.

Diesel Direct’s improper conduct caused state agencies to consume fuel that emitted greater amounts of greenhouse gases and particulate matter into the atmosphere. Biodiesel is a renewable fuel made from agricultural resources, vegetable oils, or animal fats and reduces particulate matter and tailpipe emissions that contribute to global warming. Biodiesel is also nontoxic, biodegradable, and suitable for sensitive environments, making spills far less harmful and much less expensive to clean up than a petroleum diesel spill.

The AG’s Office also alleges that Diesel Direct improperly charged state agencies a federal fuel excise tax in violation of the terms of the contracts, and that it used an incorrect benchmark price to determine the per gallon price of the fuel it delivered to the state, by using the higher-priced “winter blend” fuel rate for deliveries made in the summer, resulting in an overpayment by the state.

In addition, in an effort to foster growth and development of diverse businesses, as part of its Supplier Diversity Program (SDP), the state’s Operational Services Division requires that in written bids, contractors commit to a specific percentage of sales derived from each contract to be spent with certified diverse partners. The SDP’s bid evaluation criteria then allocates a meaningful percentage of its evaluation points to each bidder’s promise on this issue. If selected as the successful bidder, the contractor must then actually spend the agreed-to percentage with a diverse partner. Here, despite Diesel Direct’s contractual obligations to spend two percent of its sales generated under the contracts with minority-, women-, and/or service-disabled veteran owned business enterprises, it failed to pay any amount to diverse partners.

In addition to paying \$850,000, Diesel Direct has agreed not to bid, submit a response to a request for proposal, or otherwise participate in any contract with the state or any state agencies for five years.

The False Claims Division was created by AG Healey to safeguard public funds and promote integrity and accountability in public contracting. AG Healey urges anyone with information about suspected fraud or abuse relating to state or municipal contracts or funds to contact the False Claims Division’s tip line at 617-963-2600.

This matter was handled by Assistant Attorneys General Mary-Ellen Kennedy and Cassandra Arriaza, Special Assistant Attorney General Coleman Gay, and Paralegal Cara Bradley, with assistance from Division Chief Amy Crafts, all of the AG's False Claims Division.

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Attorney General Maura Healey is the chief lawyer and law enforcement officer of the Commonwealth of Massachusetts.

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