



NEWS RELEASE

United States Attorney's Office
Central District of California
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For Immediate Distribution

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VALLEY BUSINESSMAN SENTENCED TO 2½ YEARS IN PRISON FOR SELLING NON-CONFORMING GASKETS USED ON BOEING JETS

A Woodland Hills businessman was sentenced today to 30 months in federal prison for selling uncertified rubber gaskets that were installed on Boeing 737 aircraft.

Duane Lepire, 74, was sentenced this morning by United States District Judge S. James Otero in Los Angeles. Lepire pleaded guilty in April to one count of fraud in the sale of aircraft parts.

Lepire, who owned and operated the Canoga Park-based Chatsworth Rubber and Gasket Company, sold "commercial grade" O-rings to aircraft parts brokers by falsely claiming that the O-rings were certified for use in the manufacture of aircraft parts.

Lepire purchased the commercial grade O-rings – which are cheaper, do not require an aircraft quality manufacturing process, and are not sold with any type of certification – and repackaged the O-rings, identifying them as having been manufactured by well-known aviation quality manufacturers. When he sold the non-conforming O-rings, Lepire submitted bogus "certificates of conformance" and painted markings on the O-rings to make it appear as if they had been manufactured by aviation quality manufacturers.

The non-conforming O-rings were used to make vibration dampeners on Boeing 737 aircraft and caused the vibration dampeners to leak hydraulic fluid. While the non-conforming O-rings posed a safety hazard, there are no crashes associated with the

non-conforming O-rings that Lepire sold.

When Boeing discovered the problem with parts sold by Chatsworth Rubber and Gasket, Lepire submitted a false Certificate of Conformance certifying that the O-rings met specifications for aircraft parts, as well as false documents that purported to be from a well-known aviation parts broker referencing the O-rings in question.

In rejecting Lepire's plea for probation, Judge Otero noted the "very devious" nature of the fraud and that Lepire had endangered the flying public.

This case was investigated by the United States Department of Transportation, Office of Inspector General; NASA's Office of Inspector General and the Defense Criminal Investigative Service.

Three months ago, the FAA issued an "Unapproved Parts Notification" for O-rings sold by Chatsworth Rubber and Gasket (see: http://www.faa.gov/aircraft/safety/programs/sups/upn/media/2009/upn_2006-00012.pdf).

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**IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA**

UNITED STATES OF AMERICA)
)
 vs.) PRESENTENCE INVESTIGATION REPORT
)
 Duane Carl Lepire) Docket No. CR09-00124-SJO

**Prepared For: THE HONORABLE S. JAMES OTERO
UNITED STATES DISTRICT JUDGE**

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Sentence Date:

10/26/2009

Offense:

Count 1:

Fraud Involving Aircraft Parts in Interstate or Foreign Commerce, Causing and Act to be Done (18 U.S.C. §§ 38(a)(1)(C), 2(b)): 15 years/\$500,000 or Twice gross gain/loss Class C Felony

Release Status:

Summons date: 3/02/2009; Released on \$10,000 unsecured appearance bond with Pretrial Services Agency (PSA) supervision; 4/29/2009: Detained without bail

Detainers:

None

Date Report Disclosed: SEP 22 2009

Date Parties Notified: SEP 22 2009

Co-Defendants: None
Related Cases: None

Defendant Identifying Data:

Date of Birth: 1/25/1935
Age: 74
Race: White Non-hispanic origin
Sex: Male
Social Security No.: 565-44-1296
FBI No.: 246922C
Marshals No.: 55885-112
Other ID Nos.: CII: M01028918
CDC: A42971; A79142
CADL/ID: B1655953

Education: High School Diploma
Marital Status: Married
Dependents: One (wife)
Citizenship: US Citizen
Legal Address: 5842 Serrania Avenue
Woodland Hills, CA 91367
(818) 884-1046

Aliases: None

Restrictions on Use and Rediscovery of Presentence Investigation Report. Disclosure of this Presentence Investigation Report to the Federal Bureau of Prisons and redisclosure by the Bureau of Prisons is authorized by the United States Court solely to assist administering the offender's prison sentence (i.e., classification, designation, programming, sentence calculation, pre-release planning, escape apprehension, prison disturbance response, sentence commutation, or pardon) and other limited purposes, including deportation proceedings and federal investigations directly related to terrorists activities. If this Presentence Investigation Report is redisclosed by the Federal Bureau of Prisons upon completion of its sentence administration function, the report must be returned to the Federal Bureau of Prisons or destroyed. It is the policy of the Federal Judiciary and the Department of Justice that further redisclosure of the Presentence Investigation Report is prohibited without the consent of the sentencing judge.

PART A. THE OFFENSE

Charge(s) and Conviction(s)

1. On April 23, 2009, Duane Carl Lepire (Lepire) pleaded guilty to count one of the four-count information in which he is solely named.
2. Count one alleges that on or about May 21, 2004, Lepire violated 18 U.S.C. §§ 38(a)(1)(C), 2(b) by causing to be made and using, with intent to commit fraud, a materially false Certificate of Conformance, certifying that accompanying shipment of 1,000 O-rings manufactured under batch number 241079 and cure date of first quarter 2004 met specifications for National Aerospace Standard NAS1611-220.
3. Pursuant to the plea agreement, the parties agree to a factual basis and the following sentencing factors: A base offense level of six pursuant to U.S.S.G. § 2B1.1(a)(2); a 12-level increase for causing a loss greater than \$200,000, but less than \$400,000 pursuant to U.S.S.G. § 2B1.1(b)(1)(F); a two-level increase for conscious or reckless risk of death or bodily injury to U.S.S.G. § 2B1.1(b)(12)(A); and a three-level reduction for acceptance of responsibility pursuant to U.S.S.G. § 3E1.1. Furthermore, the parties reserve the right to argue that additional offense characteristics, adjustments and departures under the Sentencing Guidelines are appropriate. In addition, the parties reserve the right to argue for a sentence outside the range established by the Sentencing Guidelines pursuant to the factors set forth in 18 U.S.C. § 3553(a)(1), (a)(2), (a)(3), (a)(6), and (a)(7).
4. Lepire further understands that he will be required to pay full restitution for the losses caused by his activities. Lepire conditionally agrees that the amount of restitution is not restricted to the amounts alleged in the counts to which Lepire is pleading guilty and may include losses arising from all relevant conduct in connection with those counts. The parties currently believe that the applicable amount of restitution is \$216,848, but recognize and agree that this amount could change based on facts that come to the attention of the parties prior to sentencing. Furthermore, Lepire agrees that he will not seek the discharge of any restitution obligation in any bankruptcy proceeding.
5. The government conditionally agrees to recommend up to a three-level reduction for acceptance of responsibility pursuant to U.S.S.G. § 3E1.1.
6. The parties agree to a limited mutual waiver of appeal and collateral attack.
7. Counts two, three, and four, to be dismissed, charge violations of 18 U.S.C. §§ 38(a)(1)(C), 2(b): Fraud Involving Aircraft Parts in Interstate or Foreign Commerce, Causing an Act to be Done.

GUIDELINE SUMMARY

Case Name: Duane Lepire

Docket No.: CR09-00124-SJO

Guideline Edition: November 1, 2008

BASE OFFENSE LEVEL: Guideline: § 2B1.1(a)(2)		6
SPECIFIC OFFENSE CHARACTERISTICS		+14
ROLE IN THE OFFENSE		0
VICTIM ADJUSTMENT		0
OBSTRUCTION OF JUSTICE		0
ADJUSTED OFFENSE LEVEL	20	
MULTIPLE COUNT ADJUSTMENT		N/A
CAREER OFFENDER/CRIM. LIVELIHOOD/ ARMED CAREER CRIMINAL/REPEAT SEX OFFENDER		N/A
ACCEPTANCE OF RESPONSIBILITY		-3
TOTAL OFFENSE LEVEL	17	
CRIMINAL HISTORY CATEGORY	I	

SENTENCING OPTIONS:

GUIDELINE SENTENCE 24 to 30 months

SUPERVISED RELEASE 2 to 3 years

FINE \$5,000 to \$50,000

Pretrial Adjustment

8. On March 2, 2009, Lepire appeared before a U.S. Magistrate Judge Ralph Zarefsky and was released on a \$10,000 unsecured appearance bond with Pretrial Services Agency (PSA) supervision. On April 23, 2009, this Court was remanded Lepire to custody without bail following Lepire's change of plea.

The Offense Conduct

9. Information pertaining to this offense was obtained from the following sources: The indictment; the factual basis of the plea agreement; the investigative materials prepared by the Office of Inspector General, Department of Defense and Department of Transportation; and information provided by the Assistant United States Attorney (AUSA).
10. Lepire owned and operated the Chatsworth Rubber and Gasket Company (Chatsworth Rubber) located in Canoga Park, California. Chatsworth Rubber purchased commercial grade O-rings, repackaged the O-rings and then sold the O-rings, gaskets and other rubber-based parts to aircraft parts brokers, end users, and commercial companies. Chatsworth Rubber submitted a "Chatsworth Rubber 'certificate of conformance'" with each sale of parts to an aircraft parts broker. This document purported to certify that the materials furnished were produced to meet the specifications of the part number supplied.
11. In addition, Chatsworth Rubber repackaged the commercial grade O-rings with packaging that identified the O-rings as having been manufactured by well-known aviation quality manufacturers such as Parker O-ring Division, Parker Hannifin (Parker). For example, the O-rings were painted with markings that were similar to the markings that are imbedded on O-rings that are normally manufactured by Parker in order to make it appear as if the O-rings were in fact manufactured by Parker and of aviation quality. In addition, Chatsworth Rubber marked the packaging in which it shipped the O-rings with a false and fictitious cure date and batch number in order to make it appear as if the O-rings were manufactured by aviation quality manufacturers within a quarter or two of the date of sale.
12. On or about May 21, 2004, Chatsworth Rubber delivered 1,000 O-rings to Emanon Aircraft Fasteners (Emanon), an aircraft parts broker, accompanied by a certificate of conformance (COC) signed by Lepire. The COC stated that the O-rings, manufactured under batch number 241079 with a cure date of 1st quarter 2004, met specifications for National Aerospace Standard NAS1611-220, that is, in conformity with established specifications which render the part suitable for use in the manufacture of aircraft parts.
13. Emanon subsequently sold the O-rings to Advanced Technology Company (Advanced Technology). Advanced Technology used the O-rings in manufacturing vibration dampeners for the wheel wells of Boeing Corporation (Boeing) 737 aircraft. The vibration dampeners were used in Boeing 737 aircraft worldwide and the subject O-rings caused the vibration dampeners to leak hydraulic fluid.

14. An investigation by Boeing revealed that the O-rings on the leaking vibration dampeners were not manufactured by Parker as represented by Chatsworth Rubber. In fact, the Boeing investigation found that the painted markings on the O-rings could be easily removed when immersed in hydraulic fluid; Whereas, O-rings manufactured by Parker have the markings imbedded in the rubber and cannot be removed. Advanced Technology then requested information from Emanon about the source of the O-rings that had caused the leak, and Emanon forwarded the request to Chatsworth Rubber.
15. In response to Emanon's request, Lepire submitted the following writings, certifications, documents and records:
 - (1) On or about September 15, 2005, Lepire submitted a Compound Data Sheet purporting to be issued by Parker O-Ring Division located in Lexington, Kentucky, referencing O-rings manufactured under batch numbers 241079 and 102479.
 - (2) On or about September 19, 2005, Lepire submitted a Compound Data Sheet purporting to be issued by Parker O-Ring Division, referencing O-rings manufactured under batch number 241079.
 - (3) On or about October 20, 2005, Lepire submitted a Certificate of Conformance, certifying that the shipment of 1,000 O-rings manufactured under batch number 241079 and cure date of 1st quarter 2004 met specifications for National Aerospace Standard NAS1611-220 and had a shelf life of 10 years.

Subsequent investigation revealed that all of the documents Lepire sent to Emanon were false. Personnel at Parker confirmed that the batch numbers on the documents produced by Chatsworth Rubber did not relate to O-rings manufactured by Parker and that Parker had in fact stopped using six-digit batch numbers in 2000.
16. During the execution of a search warrant at the premises of Chatsworth Rubber in February 2006, the one employee who worked for Lepire stated that Chatsworth Rubber purchased O-rings from APG, a commercial parts broker, and that at Lepire's direction, these commercial O-rings were re-packaged and sold to various end users, including aircraft parts brokers. The employee also admitted "painting" the markings on the O-rings at Lepire's direction.
17. During the period January 2002 to January 2006, Lepire sold \$41,620 in commercial grade O-rings bearing false and fraudulent batch numbers, including sales of O-rings that purported to meet the specifications for National Aerospace Standard NAS1611-220. As a result of the investigation, Boeing, Advanced Technology and its sister company, Pulsco, spent over \$175,228 to determine the cause of the vibration dampeners leaks and to replace the vibration dampeners on Boeing aircraft.

Victim Impact

18. Based on available information, victims Boeing, Advanced Technology and Pulsco suffered a total loss of \$216,848.92.

Adjustment for Obstruction of Justice

19. The Probation Officer has no information suggesting that Lepire impeded or obstructed justice.

Adjustment for Acceptance of Responsibility

20. On July 21, 2009, the Probation Officer interviewed Lepire at the Metropolitan Detention Center. During the interview, Lepire accepted full responsibility for his conduct. In addition, defense counsel referred the Probation Officer to Lepire's factual basis in the plea agreement regarding Lepire's acceptance of responsibility.

Offense Level Computation

21. In United States v. Booker, 543 U.S. 220, 125 S. Ct. 738 (2005), the Supreme Court determined that the district courts, "while not bound to apply the Guidelines, must consult those Guidelines and take them into account when sentencing." Accordingly, the Probation Officer calculated the advisory sentencing range using the Guidelines Manual in effect on November 1, 2008.
22. The fraudulent behavior involving aircraft parts in interstate or foreign commerce as alleged in counts two, three and four, is considered relevant conduct because it is part of the same course of conduct or common scheme or plan as the offense of conviction, and the offense of conviction is of a character for which U.S.S.G. § 3D1.2(d) would require grouping or multiple counts. U.S.S.G. § 1B1.3(a)(2).
23. In determining the offense level, the Probation Officer is instructed by the Relevant Conduct Guideline at U.S.S.G. § 1B1.3(a), and the commentary at Application Note 2. This guideline and commentary hold the defendant accountable for his own behavior, as well as the actions of others committed in furtherance of the jointly undertaken criminal activity, with the exception of the conduct of others that was not reasonably foreseeable to the defendant.
24. Base Offense Level: U.S.S.G. § 2B1.1 applies to a violation of 18 U.S.C. § 38(a)(1)(C) and provides for a base offense level of six because the offense of conviction does not have a statutory maximum term of imprisonment of 20 years or more. 6
25. Specific Offense Characteristics: Pursuant to U.S.S.G. § 2B1.1(b)(1)(G), a 12-level increase applies if the loss was more than \$200,000 but less than \$400,000.

26. Application Note 3 indicates that loss is the greater of actual loss or intended loss. Actual loss means the reasonably foreseeable pecuniary harm that resulted from the offense. In the case of a product substitution offense, the reasonably foreseeable pecuniary harm includes the reasonably foreseeable costs of making substitute transactions and handling or disposing of the product delivered, or of retrofitting the product so that it can be used for its intended purpose, and the reasonably foreseeable costs of rectifying the actual or potential disruption to the victim's business operations caused by the product substitution. Reasonably foreseeable pecuniary harm includes pecuniary harm that the defendant knew or, under the circumstances, reasonably should have known, was a potential result of the offense.
27. Here, Lepire sold the victims commercial grade O-rings instead of airworthy O-rings for \$41,620. The victims also incurred \$175,228 in investigative costs to determine the cause of the vibration dampeners leaks and to replace the vibration dampeners on Boeing aircraft due to their use of Lepire lower grade O-rings. The victims' investigative costs were reasonably foreseeable to Lepire and are included in the total loss calculation in this case. Therefore, the 12-level increase applies because Lepire caused a total actual loss of \$216,848. +12
28. Pursuant to U.S.S.G. § 2B1.1(b)(13)(A), a two-level increase is warranted if the offense involved the conscience or reckless risk of death or serious bodily injury. Here, Lepire's substitution of commercial grade O-rings in place of airworthy O-rings knowing that they would be used on commercial aircraft, which rely on airworthy parts in order to operate properly, involved a risk of death or serious bodily injury. Accordingly, the two-level increase applies. +2
29. Victim-Related Adjustments: None. 0
30. Adjustment for Role in the Offense: Pursuant to U.S.S.G. § 3B1.1, a two-level increase applies if the defendant was an organizer, leader, manager, or supervisor in any criminal activity. Application Note 1 to this section indicates that a participant is a person who is criminally responsible for the commission of the offense, but need not have been convicted. A person who is not criminally responsible for the commission of the offense (e.g., an undercover law enforcement officer) is not a participant.
31. Lepire managed and supervised a single employee. That employee stated that Chatsworth Rubber purchased O-rings from APG, a commercial parts broker, and that at Lepire's direction, these commercial O-rings were re-packaged and sold to various end users, including aircraft parts brokers. The employee also admitted "painting" the markings on the O-rings at Lepire's direction. However, based on available evidence, the Probation Officer is unable to conclude, applying a preponderance of the evidence standard, that Lepire's employee was criminally responsible for the offense because the employee may not have had the requisite mens rea or intent to commit a crime when the employee repackaged the parts or painted them for resale at Lepire's direction. As a result, if the employee is not a criminal participant, then Lepire's conduct does not qualify him for an aggravating role adjustment in this case.

Therefore, the Probation Officer does not recommend an aggravating role enhancement in this case. 0

32. Adjustment for Obstruction of Justice: None. 0
33. Adjusted Offense Level: 20. 20
34. Adjustment for Acceptance of Responsibility: Lepire has pleaded guilty pursuant to a plea agreement containing a factual basis. Therefore, a two-level reduction for acceptance of responsibility has been applied pursuant to U.S.S.G. § 3E1.1(a). The additional one-level reduction has also been applied, pursuant to U.S.S.G. § 3E1.1(b), upon motion of the Government stating that Lepire timely notified authorities of his intention to enter a guilty plea, and provided the adjusted offense level prior to operation of subsection (a), is level 16 or greater. -3
35. Total Offense Level: 17. 17
36. Chapter Four Enhancements: None. 0
37. Total Offense Level: 17 (Count 1). 17

Offense Behavior Not Part of Relevant Conduct

38. None.

PART B. THE DEFENDANT'S CRIMINAL HISTORY

39. Pursuant to United States v. Booker, 543 U.S. 220, 125 S. Ct. 738 (2005), the Court should consider the following criminal history category calculation to be advisory.
40. Lepire declined to discuss this issue per advice of counsel during the presentence interview.
41. A criminal record inquiry was conducted through the Justice Data Interface Controller System (JDIC) which accesses several databases on the county, state and national level. Arrest records and court records were obtained from the following additional sources: Los Angeles County Superior Court, Van Nuys.

Criminal Convictions

42. According to CLETS, on October 31, 1956, Lepire, age 21, was arrested by the San Diego Police Department for grand theft automobile. On March 28, 1957, Lepire pleaded guilty to the charge for which he was arrested and placed on probation for five years with a three-month jail condition. He was ordered to pay restitution of \$350. On August 19, 1957, Lepire was sentenced to an indeterminate sentence of between six months and ten years. Lepire was paroled on May 18, 1959 and

discharged from parole on August 19, 1960. Court and police records are not available due to the age of this offense.

43. According to CLETS, on November 2, 1956, Lepire was arrested by the San Diego Sheriff's Department for grand theft. On March 28, 1956, Lepire was placed on probation for five years with a three-month jail condition. Court and police records are not available due to the age of this offense.
44. According to CLETS, on November 26, 1956, Lepire was arrested by the Fort Worth Texas Police Department for burglary of a private residence. Lepire was released the following day and rearrested. On January 31, 1957, Lepire was placed on probation for two years. Court and police records are not available due to the age of this offense.
45. According to CLETS, on May 21, 1963, Lepire was arrested by the Los Angeles Police Department for grand theft auto. On June 26, 1963, Lepire is convicted of forgery and sentenced to prison to an indeterminate sentence of between six months and 14 years. On July 9, 1963, Lepire was admitted to prison and paroled on October 9, 1964. Lepire was discharged from parole on July 9, 1966. Court and police records are not available due to the age of this offense.

	<u>Date Arrest/ Referred</u>	<u>Charge/Agency</u>	<u>Date Sentence Imposed/Disp.</u>	<u>Guideline Score</u>
46.	5/01/1991	2118 California Unemployment Insurance Code: Failure to pay Worker's Compensation Insurance Tax (misdemeanor) (Ct. 1); L.A. Co. Supr. Crt.-Van Nuys, Case No. 92P00202	1/28/1992: 3 years probation	4A1.1(c) 4A1.2(e)(2)
				<u>1</u>

47. According to court records, Lepire waived his right to counsel and represented himself when he pleaded nolo contendere to the above charge. The court dismissed the remaining 41 counts due to plea negotiation. Those counts alleged additional violations of the California Unemployment Insurance Code. Lepire was ordered to pay a fine and investigative costs.
48. A detailed description of this offense is not available.

Criminal History Computation

49. The above conviction results in one criminal history point. 1
50. According to the Sentencing Table (Chapter 5, Part A), 0 to 1 criminal history point establishes a criminal history category of I.

Other Criminal Conduct

51. None.

Pending Charges

52. None.

Other Arrests

53. According to CLETS, on July 17, 1957, Lepire was arrested by the San Diego Police Department for embezzlement, rail fare fraud, vehicle registration fraud, and attempted murder. Lepire was released the same day. Court and police records are not available due to the age of this offense.
54. According to CLETS, on May 13, 1963, Lepire was arrested by the Reno, Nevada, Police Department. No further information is available. Police records are not available due to the age of this offense.

PART C. OFFENDER CHARACTERISTICS

55. The Probation Officer interviewed Lepire on July 21, 2009, regarding his personal background. His background information was confirmed by Stephen Lepire, Lepire's son, who was contacted at (818) 469-2995. Otherwise, information was verified where noted.

Personal and Family Data

56. Duane Carl Lepire, age 74, was born on January 25, 1935, in Walhalla, North Dakota, to the union of Oliva Lepire and Airha Lepire (nee: Dahl). Lepire's father was a machinist who died at an unknown age after suffering a stroke. Lepire's mother was a housewife who died at an unknown age from complications due to diabetes.
57. Lepire is the second youngest of eight children. Gloria Dodson, age unknown, is a housewife living in Texas. Claire Wallson, age unknown, is a housewife living in Cherry Valley, California. Margaret Hoopingartner, died at an unknown age, was a housewife living in Prescott, Arizona. Olive Green, died at an unknown age, was a housewife in Wilmington, California. Francis Borourussa, died at an unknown age, was a housewife living in Norwalk, California. Roy Lepire, age unknown, is a machinist living in Garden Grove, California. David Lepire, age unknown, is a

machinist living in Oregon. Gary Lepire, age unknown, is a machinist living in Whittier, California.

58. Lepire lived in a very small village in North Dakota with a population of approximately 600 people. Lepire lived in a house owned by his parents. He shared the house with nine family members. His father was a constable and his mother was a housewife. His father was able to provide the family with the barest living necessities.
59. Lepire was seven years old when his family moved to San Pedro, California. Lepire's father found work as a machinist and his mother continued to be a housewife. Lepire's parents purchased a small three or four bedroom house. The last of his five older sisters moved out of the house soon after. This left Lepire sharing the house with his parents and three brothers. His father was able to provide the family with their basic living necessities.
60. Lepire attended public schools and played baseball. When he was a junior or senior in high school, Lepire went to work on the weekends at a Starkist Tuna cannery. He also had a morning paper route. He used his wages to pay for private school and to help his father support the family. During his senior year, Lepire was active in the U.S. Naval Reserve.
61. After Lepire graduated from high school, he was interested in joining the Navy but due to a six month waiting list, he instead joined the U.S. Marine Corps. in July 1953 at age 18. He served for three years, including 14 months in Seoul, Korea. He was a radio operator/listener.
62. Lepire's father passed a way during Lepire's term of service and he was permitted to attend his father's funeral. After his tour of duty, Lepire decided not to re-enlist because he was no longer interested in the military.
63. Lepire returned to California and worked for Standard Oil and lived in San Diego, California. After approximately one year, Lepire moved to the Los Angeles area and lived in San Pedro where he found work at a drapery company installing draperies.
64. Lepire moved to Culver City where he found work at Parker Seal located in the same city. Lepire was involved in inside sales selling rubber products. After three years, Lepire was layed-off.
65. Lepire subsequently found work at a small rubber company in Southgate, California, before he was layed-off again. He then moved to Van Nuys, California, where he started his own company. He initially rented manufacturing equipment and made his own parts. He later hired a shipping and handling clerk. He added a laborer who helped him with the manufacturing process at later date. Lepire did most of the work nevertheless.

66. Lepire was about 33-years old when he met his wife, Helen Lepire, age 69 (nee: Hawkins). They married in October 1966 in Long Beach, California. They moved to Woodland Hills, California. He continued to own and operate his own business and his wife was employed as a schoolteacher until their first child was born. His wife has primarily been a housewife and was a bookkeeper for his business until recently. Lepire and his wife live in a single-family residence in Woodland Hills, California.
67. Lepire and his wife have two children. Stephen Lepire, age 39, is a high school principal living in West Hills, California. Michelle Lepire, age 37, lived in Florida and was employed by a restaurant and attending school, but she has lived with Lepire's wife since Lepire was placed into custody. She assists her mother and brother with Lepire's business and she also helps her mother with household chores.

Physical Condition

68. Lepire stands 5'9" tall and weighs 170 pounds. He has brown eyes and white hair. Lepire has a scar on his left arm. Lepire reports that he does not have tattoos and none were visible to the undersigned Probation Officer during the presentence interview.
69. According to two letters dated April 23, 2009, and May 5, 2009, from Dr. Louis Elperin, M.D., Lepire suffers from the following medical ailments: Peptic ulcer disease; hypertension, diabetic mellitus II with diabetes mellitus II peripheral neuropathy and retinopathy; chronic kidney disease; and hyperlipidemia. He also has a history of urinary bladder cancer.
70. Lepire was prescribed the following medications: Omeprazole 20 mg, one tablet daily for ulcer; hydrochlorothiazide 25 mg, one tablet daily for high blood pressure; terazosin 1 mg, three tablets at bedtime for high blood pressure; simvastatin 40 mg, one tablet per day for high cholesterol; glipizide 10 mg, two tablets twice per day for diabetes; lisinopril 20 mg, one tablet twice per day for high blood pressure. Dr. Elperin also directed Lepire to take aspirin 81 mg, one tablet per day.
71. Moreover, Dr. Elperin wrote the following in the May 5, 2009, letter:

Poor control of his sugars will lead to progression of his kidney disease, progression of his visual impairment and place him at increased risk of stroke, heart attack and kidney failure. It is important that Mr. Lepire takes his medications and receive[s] close medical follow up including lab work for his diabetes, high cholesterol, and kidney impairment. In addition, he needs close follow up with his Internist, Nephrologist, Ophthalmologist and Urologist.
72. On September 16, 2009, Lepire's son informed the undersigned Probation Officer that the medical staff at the Metropolitan Detention Center were having difficulties maintaining his blood sugar levels.

Mental and Emotional Health

73. During the interview with the Probation Officer, Lepire displayed no obvious signs of psychological dysfunction. Furthermore, Lepire reports no mental problems and no history of psychiatric or psychological treatment.

Substance Abuse

74. Lepire reports that he does not have a history of alcohol or substance abuse. He reports that he had his last drink of alcohol about 13 years prior to his incarceration in this case.

Education and Vocational Skills

75. Lepire reports that he graduated in 1953 from St. Anthony's High School, a private parochial school, located in Long Beach.
76. Lepire reports that he is proficient with radio communications due to his service in Korea.
77. Lepire reports that he has management skills from operating his own business for approximately 38 years. He is also a skilled rubber parts manufacturing machine operator.

Employment

78. Since 1971 to the present, Lepire has been self-employed as the owner and operator of DCL Company doing business as Chatsworth Rubber and Gasket Company located in Canoga Park, California.¹ The company produces gaskets and molded rubber parts. Lepire reports that the sale of O-rings to aircraft manufacturers represents 5% of his business. The remaining 95% of his business customers are commercial manufacturers. Lepire reports that he has incurred losses for the last two to three years, or since about 2007. He reports sales of \$195,000 last year and spent about \$6,000 to \$8,000 on personal expenses and approximately \$7,500 in the cost of goods. Lepire reports that his wife and children are operating the business and do not sell to aircraft suppliers anymore.
79. Starting in 1966, Lepire was employed a total of two years at separate times as a salesman by Parker Seal Company located in Culver City, California.

Military Service

80. Lepire enlisted in the U.S. Marine Corps. and commenced service in July 1953. He was trained to operate radios. He achieved the rank of corporal and was a private first

¹According to public records databases, the state of California suspended D.C.L. Corporation (Corporate number C0736236) on a date unknown.

class when he separated from service in 1956. He reports that he was honorably discharged.

Financial Condition: Ability to Pay

81. Lepire has been supplied with General Order 03-01, which mandates certain financial disclosures to the Probation Officer. Lepire has substantially complied with this order by providing financial documentation.
82. Lepire signed a personal financial statement (PFS) which contains the following:

Assets:

Cash	\$ Unknown
Unencumbered Assets	\$30,000
Equity in Other Assets	<u>\$ 1,000</u>
Total Assets:	\$31,000

Unsecured Debts: \$0

Net Worth: \$31,000

Monthly Cash Flow:

Income	\$Unknown
Necessary Living Expenses	<u>\$1,875</u>
Net Monthly Cash Flow:	\$Unknown

Assessment of Financial Condition

Net Worth

83. Based on Lepire's personal financial statement provided during the presentence interview and financial documentation subsequently provided, it appears that he and his wife have a net worth totaling approximately \$344,634.12.
84. Lepire reports the he owns a single-family residence. According to Zillow.com, on September 16, 2009, the residence had a fair market value of between \$438,915 and \$544,860. On March 26, 2009, Lepire and his wife obtained a home equity conversion loan (a reverse mortgage) on their residence. According to loan documentation provided by Lepire, as of May 2009, the their total equity balance was \$334,905.11.

85. According to a bank statement submitted by Lepire, as of July 2009, his business checking account balance was \$8,729.01. The beginning balance as of June 1, 2009, was \$5,475.56. The checking account activity reveals debits totaling \$12,597.18, and credits of \$15,850.63, resulting in a net balance increase of \$3,253.45 for the month of June 2009. Lepire did not provide any further financial statements.
86. Lepire and his wife own a 2007 Buick LeSabre which Lepire estimates has a fair market value of about \$10,000 to \$12,000, with a note of about \$9,000 to \$10,000. However, Lepire did not provide documentation concerning this asset.
87. Lepire owns a company which manufactures rubber parts. Lepire did not provide information reflecting the value of any business equipment or inventory. However, Lepire's income tax returns indicate that he leases his equipment.
88. Lepire indicated that he does not have any liabilities, including charge accounts and lines of credit or other debts. However, according to Lexis/Nexis and Choicepoint public records databases, Lepire had state and federal tax liens from 1992 through 2005. All of which were subsequently released. Lepire also had numerous small claims judgments in Los Angeles County courts in 1992, 1994, 1995, 1996, 1998, 2002, and 2003
89. Lepire reported having filed for bankruptcy in this federal court district in 1995. Public records databases indicate that Lepire filed for bankruptcy under Chapter 13 on February 24, 1995 and the petition was dismissed on January 17, 1996, in case number 9511401. Furthermore, Lepire filed for bankruptcy under Chapter 13 on September 9, 1996 and the petition was dismissed on October 11, 1996. However, the U.S. Bankruptcy Court for the Central District of California does not have a record of this filing and Lepire did not provide records of this bankruptcy.

Monthly Cash Flow

90. Based on Lepire's personal financial statement and financial documentation, it appears that his and his wife's income is sufficient to meet their monthly living expenses and results in a lack of net monthly cash flow. However, if their reverse mortgage is taken into account, it appears that Lepire can pay approximately \$30,000 immediately and at least \$1,000 per month.
91. Lepire's financial statement indicates that prior to his incarceration, Lepire received \$1,200 per month in social security benefits and his wife received \$700 per month from an undisclosed source. However, given that Lepire does not draw a salary from his business, his total monthly income was not provided at the time of the presentence interview.
92. On March 26, 2009, Lepire and his wife obtained a home equity conversion loan (a reverse mortgage) on their residence. Lepire and his wife chose to receive payments from the lender using a line of credit payment plan which permits them to set the amounts and times of the lender's payments to Lepire and his wife. Lepire and his wife can direct the lender to make a loan advance payment as long as that payment by

the lender is less than or equal to the applicable principle limit, excluding any portion of the principle limit set asides. According to documentation provided by Lepire, as of May 2009, the net principle limit was \$34,087.29 based on an original line of credit of \$33,020.94 and interest growth of \$1,068.35, for the month of April. As of May 2009, they have not withdrawn any funds.

93. According to Lepire individual (married filing jointly) state and federal tax records for 2008, 2007, 2006, and 2005, reveal that their business has been operating at a loss for the entire period mostly due to the company's high cost for goods relative to income and expenses:
- a. In 2008, Lepire reported a gross income of \$170,000 and a cost of goods of \$145,000. This resulted in a gross profit of \$25,000 and net profit of \$754.
 - b. In 2007, Lepire reported a gross income of \$227,122 and a cost of goods of \$210,000. This resulted in a gross profit of \$17,122 and a net loss of \$11,278.
 - c. In 2006, Lepire reported a gross income of \$227,122 and a cost of goods of \$210,000. This resulted in a gross profit of \$17,122 and a net loss of \$10,798.
 - d. In 2005, Lepire reported a gross income of \$241,000 and a cost of goods of \$235,000. This resulted in a gross profit of \$5,607 and a net loss of \$13,201.

Lepire's tax records reflect income from social security in every year except 2005.

94. Lepire's financial statement indicates that their monthly living expenses total \$1,875 per month. Based on Lepire's financial documentation, it appears that his wife's \$700 per month income from an undisclosed source along with Lepire's \$1,200 social security income, covers their net monthly expenses and appears to result in a lack of net monthly cash flow.
95. Furthermore, the cash flow analysis does not include items from the PFS that are not necessary according to the Administrative Office of the United States Courts. See Monograph 114: Criminal Monetary Penalties: Chapter IV, Page 15. These include \$150 for religious contributions.

Assessment of Ability to Pay

96. Immediate Payment: Based on available information, it appears that Lepire can make a lump sum payment of at least \$30,000 toward restitution immediately.
97. Payment Schedule: Based on available information, it appears that Lepire can make payments of at least \$1,000 toward restitution per month.

PART D. SENTENCING OPTIONS

98. Pursuant to United States v. Booker, 543 U.S. 220, 125 S. Ct. 738 (2005), the Court should consider the following guideline provisions to be advisory.
99. The guideline sentencing range, as determined by the Probation Officer, results in the various sentencing options described below, which could include the following options, unless otherwise prohibited by law: (1) straight probation; (2) straight imprisonment; (3) a probationary sentence that includes community confinement or home detention as a condition; or (4) a sentence of imprisonment followed by a term of supervised release that includes community confinement or home detention as a condition.

CUSTODY

100. Guideline Provisions: TOTAL OFFENSE LEVEL: 17
CRIMINAL HISTORY CATEGORY: I
SENTENCING RANGE: 24 to 30 Months
101. Statutory Provisions: 15 years maximum; 18 U.S.C. § 38(a)(1)(C); (Count 1), Class C Felony.

IMPACT OF PLEA AGREEMENT

102. The Probation Officer's calculations are consistent with the parties' plea agreement.

SUPERVISED RELEASE

103. Guideline Provisions: Recommended if imprisonment is over one year or if statute mandates. U.S.S.G. § 5D1.1(a).

2 years minimum, 3 years maximum (Count 1).
U.S.S.G. § 5D1.2(a)(2).
104. When imposing a sentence of imprisonment, the Court can also include, as a condition of supervised release, a condition requiring confinement at a community corrections center, participation in a home confinement program, or a combination of both. In assessing the propriety and duration of community confinement and/or home detention, the Court should also consider the sentencing factors enumerated at 18 U.S.C. § 3553(a). Advisory input regarding the use of these options can be found at U.S.S.G. §§ 5C1.1, 5F1.1 and 5F1.2.
105. Statutory Provisions: 3 years maximum (Count 1), 18 U.S.C. § 3583(b)(2).

106. For offenses committed on or after September 13, 1994, 18 U.S.C. §§ 3583(d) and 3563(a)(5), mandate an explicit drug testing condition unless the Court finds a low risk of future substance abuse.

PROBATION

107. Guideline Provisions: Not recommended, Zone D of the Sentencing Table. U.S.S.G. § 5B1.1.
- 1 year minimum, 5 years maximum (offense level 6 or more). U.S.S.G. § 5B1.2(a)(1).
108. Unless probation is precluded by statute, the Court can include, as part of a sentence of probation, a condition requiring confinement at a community corrections center, participation in a home confinement program, or a combination of both. In assessing the propriety and duration of community confinement and/or home detention, the Court should consider the sentencing factors enumerated at 18 U.S.C. § 3553(a). Advisory input regarding the use of these options can be found at U.S.S.G. §§ 5B1.1, 5F1.1 and 5F1.2.
109. Statutory Provisions: 1 year minimum, 5 years maximum (Count 1), 18 U.S.C. § 3561(c)(1).
110. For offenses committed on or after September 13, 1994, 18 U.S.C. § 3563(a)(5), mandates an explicit drug testing condition unless the Court finds a low risk of future substance abuse.

FINES

111. Guideline Provisions: Application of U.S.S.G. § 5E1.2 results in a fine range of \$5,000 to \$500,000.
112. United States Sentencing Guideline Section 5E1.2(a) and (e) advise that the Court impose a fine in all cases, except where the defendant establishes that he is unable to pay and is not likely to become able to pay, or that a fine would unduly burden his dependents.
113. Statutory Provisions: \$500,000 maximum; 18 U.S.C. §38(a)(1)(C); Count 1.
- \$100 mandatory special assessment. 18 U.S.C. § 3013.
114. Pursuant to 18 U.S.C. § 3572(d), the order for a fine must establish the manner in which and the schedule according to which the fine is to be paid. The interest due on fines is addressed at 18 U.S.C. § 3612(f).

115. Pursuant to 18 U.S.C. § 3572(a)(6) and U.S.S.G. § 5E1.2(d)(7) among the factors the court shall consider in determining the amount of a fine are the expected costs to the government of any term of imprisonment, supervised release, or probation. During fiscal year 2008 the monthly per capita costs were \$2,157.88 for prison facilities, \$1990.13 for community corrections confinement, and \$311.94 for supervision.

RESTITUTION

116. Guideline Provisions: Restitution is addressed by the provisions of U.S.S.G. § 5E1.1.

117. Statutory Provisions: Restitution is applicable pursuant to 18 U.S.C. § 3663A, which is part of the April 24, 1996 amendment to the Victim/Witness Protection Act. This provision mandates restitution to victims of certain crimes without consideration of ability to pay: (1) a crime of violence (as defined in 18 U.S.C. § 16); (2) an offense against property; and (3) a crime related to tampering with consumer products.

118. Restitution is applicable as follows:

<u>Count</u>	<u>Victims</u>	<u>Amount</u>
1	Emanon Aircraft Fasteners 404 S. Lake St. Burbank, CA 91502-2176	\$ 41,620.11
	The Boeing Company 100 North Riverside Chicago, Il 60606	\$102,000.00
	Advanced Technology Company 2858 E. Walnut St. Pasadena, CA 91107	\$ 21,175.00
	PULSCO, Incorporated 17945 Sky Park Circle, Suite G Irvine, CA 92614	\$ 52,053.81
	TOTAL:	\$216,848.92

PART E. FACTORS THAT MAY WARRANT DEPARTURE

119. The Probation Officer has not identified any factors that would warrant a recommendation for a departure from the advisory guideline range.

**PART F. FACTORS THAT MAY WARRANT A SENTENCE OUTSIDE THE
ADVISORY GUIDELINES SYSTEM**

120. The Probation Officer has not identified any factors that may warrant a sentence outside the advisory guidelines system.

Respectfully submitted,

LORETTA S. MARTIN
Chief U. S. Probation Officer



LUIS A. RIVAS
U. S. Probation Officer
213-894-6112

Reviewed and Approved:



MICHAEL BARRETT
Acting Supervisor
213-894-6450

LAR:lar
9/9/2009

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