



*United States Attorney
Southern District of New York*

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CONTACT: U.S. ATTORNEY'S OFFICE
HERBERT HADAD, HEATHER TASKER,
BRIDGET KELLY
PUBLIC INFORMATION OFFICE
(212) 637-2600

**FERRY OPERATOR AGREES TO PAY \$1.2 MILLION TO
SETTLE CIVIL CHARGES THAT IT DEFRAUDED THE
GOVERNMENT AFTER THE SEPTEMBER 11TH
TERRORIST ATTACKS**

MICHAEL J. GARCIA, the United States Attorney for the Southern District of New York, announced today that PORT IMPERIAL FERRY CORPORATION (d/b/a NY WATERWAY) has agreed to pay \$1.2 million to settle civil fraud charges brought by the United States in connection with payments made by the Government to NY WATERWAY for ferry service after the September 11th terrorist attacks in New York City. United States District Judge NAOMI REICE BUCHWALD approved the settlement today in Manhattan Federal Court.

The Government alleged in its complaint that after the terrorist attacks destroyed part of the NJ Port Authority Trans-Hudson ("PATH") transportation services, the Port Authority of New York and New Jersey (the "Port Authority") contracted with NY WATERWAY for ferry services to replicate in part the PATH services between New York and New Jersey that were interrupted by the attacks. In connection with that contract, the United States Department of Homeland Security ("DHS") agreed to pay NY WATERWAY for the costs it incurred. According to the Government's complaint, however, NY WATERWAY submitted false bills to the Port Authority and obtained payments from DHS funds to which NY WATERWAY was not entitled under the contract.

The Government alleged in its complaint that in circumstances where NY WATERWAY did not have a sufficient number of boats to replicate the PATH service, DHS, through the Port Authority, agreed to reimburse NY WATERWAY for its costs in obtaining additional boats from other companies. The complaint alleged, however, that NY WATERWAY submitted false bills to the Port Authority to gain reimbursement for charter boat expenses that NY WATERWAY, in fact, did not incur. For example, NY

WATERWAY contracted with, among other companies, Seastreak America, Inc. ("Seastreak") to use one of its boats. The Government's complaint alleged that, during the Major League Baseball Season, NY WATERWAY returned Seastreak's boat on 13 separate Friday afternoons to allow Seastreak to ferry passengers to Yankee games in New York City. Although NY WATERWAY only paid Seastreak for use of its boat for half days on these Fridays, the complaint alleged that NY WATERWAY billed the Port Authority for full day use of the boat. DHS then paid NY WATERWAY for the thirteen full days charged by NY WATERWAY.

The complaint further charged that NY WATERWAY's agreement with the Port Authority provided that NY WATERWAY would earn on its service for the Port Authority the same profit margin that it earned for its ferry service before starting the service for the Port Authority. According to the complaint, however, NY WATERWAY overstated its ferry service profit margin, causing DHS to make payments to NY WATERWAY based on this overstated profit margin. The inflation resulted from NY WATERWAY's inclusion in its profit margin calculation of profits earned from non-ferry activities, when the contract only entitled NY WATERWAY to recover the profit margin from its ferry service activities. For example, the complaint alleged that NY WATERWAY included profits relating to its real estate in its calculations, and that a historical analysis of NY WATERWAY's profit history based solely on the ferry service segment of its business would have substantially reduced the profit margin that NY WATERWAY was entitled to charge under its contract with the Port Authority and DHS.

Finally, the complaint alleged that NY WATERWAY inflated its incremental costs, and that based on these costs, NY WATERWAY overstated its per hour charge for incremental costs. Although NY WATERWAY claimed this charge was solely for incremental costs associated with replicating the PATH service, as the contract required, the complaint alleged that the charge was almost identical to the total global costs incurred by NY WATERWAY for all of its business endeavors prior to the terrorist attacks.

Pursuant to the settlement approved by the Court today, NY WATERWAY agreed to pay the Government \$1.2 million. In agreeing to the settlement, NY WATERWAY did not admit any wrongdoing or liability.

MR. GARCIA stated: "Federal 9/11 funds were allotted to help the city recover and build anew. This Office is committed to recouping those funds from any company than took more than its fair share of profit from business it did as a result of those

tragic events."

MR. GARCIA praised the investigative efforts and assistance of the Port Authority Office of Inspector General in this case.

Assistant United States Attorney RUSSELL M. YANKWITT is in charge of the case.

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