

August 2, 2007

U.S. Halts Heating Oil Deliveries by Two Companies Accused of Swindling

By ELLEN BARRY

After charges of theft and money-laundering against officials with two major New York City heating oil delivery companies, federal prosecutors announced yesterday that deliveries by their trucks would be halted.

Each truck will be inspected for alterations that the authorities say have allowed the two companies to divert and resell \$75 million worth of oil stolen over the last 17 years.

One of the companies, Mystic Tank Lines, which has said it delivers most of the region's heating oil, will continue to operate under stringent restrictions, which include no cash withdrawals of more than \$400 a week, according to court records. Once its trucks pass inspection, they can resume making deliveries.

The other company, the T & S Trucking Corporation, by far the smaller of the two companies, will cease operating. Trucks for the two companies used a number of strategies to skim a percentage of oil from each delivery, said an official close to the investigation.

Springs were cut to allow air to mix with oil, meters were rigged to incorrectly measure deliveries, and hoses were crimped to inhibit oil flow. City inspectors now "know the techniques," the official said.

The companies' four principal employees were charged last month with embezzlement and money laundering. They were released yesterday on bail, set at \$20 million apiece for Leonard Baldari Jr., Mystic's founder, and Tonino Solimine of T & S, and \$10 million apiece for their associates, Michael David Hiller, with Mystic, and Eston Clare, with T & S.. All four pleaded not guilty on July 18. If convicted of all charges, they could face up to 30 years in prison.

While the phenomenon of "skimming" is not a new one, the scope of the charges has shocked many in the heating-oil business. Nicholas Panebianco of Panco Petroleum Products, which used Mystic to deliver oil to its customers, said that inspections are routine and that the company was well respected.

"That length of time, that many trucks, it's impossible," Mr. Panebianco said. "Nobody's that good. You're talking about a guy who ran through a hurricane, ran through the raindrops, and didn't get wet."

The investigation was conducted by the Internal Revenue Service's criminal investigation division and the F.B.I., and the case will be prosecuted by Roslynn R. Mauskopf, the United States attorney in Brooklyn.

The evidence in the case includes recordings made over 14 months of company officials selling stolen oil and seven years of financial records, said Burton Ryan, an assistant United States attorney, during court proceedings yesterday.

The recordings show company officials reselling diverted oil for a 33 percent discount, according to F.B.I. documents.

At Mr. Solimine's bail hearing, Mr. Ryan described a dramatic arrest scene. Mr. Solimine observed federal agents through a closed-circuit camera as they approached his house, and he fled through a rear entrance, toward a large boat moored there, before being arrested. Mr. Ryan added that Mr. Solimine is an Italian citizen and "owns property and has family south of Naples."

One of Mr. Solimine's defense lawyers, Jeffrey Lichtman, said his client had lived in this country for 40 years and raised five children here. Mr. Solimine panicked when he saw the agents, and was not trying to escape, he added.

"He was going nowhere," Mr. Lichtman said. "It would've taken him a half-hour to unmoor the boat."

While the case's timing prevents a crisis in the availability of heating oil, it has nevertheless sent ripples of unease among suppliers and customers, said John Maniscalco of the New York Oil Heating Association.

Local suppliers, who use transporters like Mystic and T & S to deliver their products, have been "inundated with phone calls" from customers who suspect they have been defrauded.

"The brush comes out and paints the entire industry as not being honest," Mr. Maniscalco said. "That's what's most distressing about this whole thing."

Mystic Tank Lines has a fleet of 300 vehicles, which carry gasoline, asphalt and cement, as well as heating oil. In a disclosure statement filed in 2005, when Mystic was operating in bankruptcy, it claimed to transport "most of the heating fuels utilized to supply the thousands of homes and buildings that rely on oil heat" in New York, New Jersey and Connecticut.