

## Department of Justice

Office of Public Affairs

FOR IMMEDIATE RELEASE

Tuesday, March 12, 2019

### **Lumber Liquidators Enters into Corporate Resolution for Securities Fraud and Agrees to Pay \$33 Million Penalty**

#### **Resolution Comes after Company Lied to Investors Following March 2015 “60 Minutes” Episode**

Lumber Liquidators Holdings Inc. (Lumber Liquidators) has agreed to pay a total penalty of \$33 million for filing a materially false and misleading statement to investors regarding the sale of its laminate flooring from China to its customers in the United States.

Lumber Liquidators, a public corporation headquartered in Toano, Virginia, and one of the largest retailers of flooring products in the United States, entered into a deferred prosecution agreement (DPA) in connection with a criminal information filed today in the Eastern District of Virginia charging the company with securities fraud. The case was primarily focused on the fact that Lumber Liquidators knowingly filed a false and misleading statement to investors broadly denying the allegations featured in a March 2015 episode of 60 Minutes, and affirming that the company complied with California Air Resources Board (CARB) regulations.

Assistant Attorney General Brian A. Benzckowski of the Justice Department’s Criminal Division, U.S. Attorney G. Zachary Terwilliger of the Eastern District of Virginia, Special Agent in Charge David W. Archey of the FBI’s Richmond Field Office, Special Agent in Charge Kelly R. Jackson of IRS-Criminal Investigation (IRS-CI) Washington, D.C. Field Office and Inspector in Charge Peter R. Rendina of the U.S. Postal Inspection Service Washington Division, made the announcement.

“Lumber Liquidators lied to investors and to the public about its compliance with formaldehyde regulations for the flooring it sold – all to protect its stock price,” said Assistant Attorney General Benzckowski. “False and misleading financial reports undermine the integrity of our securities markets and harm investors. The Department and our law enforcement partners are committed to doing everything we can to ensure that those who commit securities fraud are held accountable.”

“This resolution holds Lumber Liquidators accountable for misleading the investing public,” said U.S. Attorney Terwilliger. “It also recognizes that the company has cooperated with the government’s investigation, completely replaced its senior executive team, and installed experienced executives who have displayed a commitment to building an ethical corporate culture. We will continue to ensure that market participants can trust information communicated by public companies when making investment decisions. My thanks to our prosecutorial team and our investigative partners for their outstanding work on this case.”

“This penalty should serve as a warning to other corporations who seek to mislead investors,” said FBI Special Agent in Charge Archey. “FBI Richmond is grateful for the commitment to this case of its partners at the U.S. Attorney’s Office, the Justice Department’s Fraud Section, the IRS Criminal Investigation and the U.S. Postal Inspection Service.”

“Lumber Liquidators knowingly deceived the shareholders they were entrusted to serve,” said IRS-CI Special Agent in Charge Jackson. “IRS-CI will continue to work diligently with our federal law

enforcement partners to ensure that the punishment for such crimes matches the seriousness of the offense.”

“Those seeking to maximize profits while misleading investors should expect to pay a heavy price,” said U.S. Postal Inspector in Charge Rendina. “The U.S. Postal Inspection Service has investigated these kind of deceptive practices for years to protect investors and the integrity of the market place. Postal Inspectors work tirelessly to identify and hold accountable any company who uses the U.S. mail to defraud American citizens.”

According to court documents filed as part of the DPA, Lumber Liquidators was subject to various laws that regulated the chemicals used in wood products, including laminate flooring. Specifically, CARB enforced limits on formaldehyde emissions from composite wood products. In September 2013, CARB announced that it intended to use deconstructive testing to determine whether finished flooring products contained CARB compliant cores. In 2013 and 2014, CARB informed Lumber Liquidators that flooring samples collected from its California stores failed deconstructive testing for formaldehyde emissions. Lumber Liquidators’ own deconstructive tests of the same products yielded similar results.

Also in 2014, foreign and domestic flooring suppliers alerted Lumber Liquidators of CARB compliance concerns related to the company’s Chinese laminate products. In February 2014, Lumber Liquidators’ Chinese laminate suppliers requested a price increase citing concerns about the increased cost of CARB compliant cores and their ability to pass deconstructive testing for formaldehyde emissions. Approximately one month later, a U.S. laminate supplier informed Lumber Liquidators that it tested a Chinese laminate sample purchased from one of Lumber Liquidators’ stores in the United States and that the sample emitted high levels of formaldehyde. Lumber Liquidators took only limited steps to determine the validity of the suppliers’ concerns, and instead sought to generate support for its position that deconstructive testing was not a valid test method, the company admitted.

To that end, Lumber Liquidators visited two Chinese laminate suppliers in August 2014 to collect and test samples. While collecting samples from Supplier A, a then-Lumber Liquidators employee noticed a pallet of laminate flooring that factory workers indicated was Lumber Liquidators’ product, but the label on the pallet indicated that it contained non-CARB compliant cores. The former employee took samples from this suspect pallet for testing along with other samples manufactured in his and other employees’ presence. Laboratory A later provided Lumber Liquidators with test results that undermined the company’s criticisms of deconstructive testing. All but one of the products manufactured in front of the Lumber Liquidators employees passed deconstructive testing. But the samples from the suspect pallet, manufactured before employees arrived, failed deconstructive testing.

Lumber Liquidators representatives again visited Supplier A in September 2014 and January 2015. Following these visits, Lumber Liquidators concluded that Supplier A had numerous recordkeeping anomalies, refused to implement CARB-related corrective action requests made by the company, and could not reliably demonstrate that its laminate flooring contained CARB compliant cores. Accordingly, in January 2015, the company’s former senior management team decided to discontinue its relationship with Supplier A due to CARB compliance concerns. Nevertheless, that same day, Lumber Liquidators admitted it ordered more laminate flooring from Supplier A.

In Fall 2014, Lumber Liquidators learned that the CBS news program, 60 Minutes, also retained Laboratory A to conduct deconstructive testing of Lumber Liquidators’ products. Shortly thereafter, Laboratory A secretly notified Lumber Liquidators that the deconstructive tests commissioned by 60 Minutes yielded significant test failures. The lab then allowed a former Lumber Liquidators employee to review and take pictures of these test results. In December 2014, the lab owner told former Lumber Liquidators employees that a high deconstructive test failure was a strong indicator that the product was not CARB compliant, the company admitted.

On Feb. 25, 2015, Lumber Liquidators learned that 60 Minutes obtained undercover videos from three of its Chinese laminate suppliers, including Supplier A, in which the suppliers admitted that the laminates they made for Lumber Liquidators were not CARB compliant. Lumber Liquidators’ former senior

management team retained outside counsel from Law Firm B to interview the suppliers in the undercover videos. On Feb. 28, 2015, Law Firm B informed former Lumber Liquidators executives that it recorded one person from each of the three factories in the undercover videos saying that the product they sold Lumber Liquidators was CARB compliant. Nevertheless, Law Firm B told these former executives that they had limited confidence in the suppliers' statements because, among other things, a former Lumber Liquidators inspector alleged that suppliers offered bribes to him and other company employees, the company admitted.

On March 1, 2015, 60 Minutes aired a segment alleging that laminate flooring sold by Lumber Liquidators in the United States did not meet CARB emission standards for formaldehyde. The episode featured the undercover videos and test results previously shown to Lumber Liquidators.

The next morning, March 2, 2015, the New York Stock Exchange halted trading of the company's stock, with the expectation that Lumber Liquidators intended to issue a statement responding to the 60 Minutes episode. Later that morning, Lumber Liquidators, through its employees, knowingly filed a false and misleading Securities and Exchange Commission (SEC) Form 8-K broadly denying the allegations in the 60 Minutes episode and affirming Lumber Liquidators complied with CARB regulations, the company admitted. Specifically, Lumber Liquidators omitted material facts from investors, including CARB's investigation of the company's Chinese laminate products; its own deconstructive test results; the company's decision to discontinue sourcing from Supplier A due to CARB compliance concerns; and evidence that undermined the suppliers' statements that all products provided to Lumber Liquidators were CARB compliant.

Pursuant to its agreement with the Department of Justice, Lumber Liquidators agreed to pay a total criminal penalty of \$33 million to the United States, including a criminal fine of approximately \$19 million, and approximately \$14 million in forfeiture. This amount represents the company's net profits from the sale of 100 percent of its Chinese laminate from approximately Jan. 16, 2015 through May 7, 2015.

Lumber Liquidators also agreed to implement rigorous internal controls and cooperate fully with the Department's ongoing investigation, including its investigation of individuals. Under the DPA, prosecution of the company for securities fraud will be deferred for an initial period of three years to allow Lumber Liquidators to demonstrate good conduct.

The SEC **announced** a separate settlement with Lumber Liquidators in connection with related, parallel proceedings. Under the terms of its resolution with the SEC, Lumber Liquidators agreed to a total of \$6,097,298.42 in disgorgement of profits and prejudgment interest. The Department of Justice agreed to credit the amount paid to the SEC in disgorgement as part of its agreement. Thus, the combined total amount of criminal and regulatory penalties paid by Lumber Liquidators will be \$33 million.

This penalty reflects the nature and seriousness of the conduct, as well as Lumber Liquidators' ongoing cooperation with the United States and the company's extensive efforts at remediation. Among other remedial efforts, Lumber Liquidators suspended the sale of all laminate flooring from China in May 2015; offered consumers in-home testing for already installed flooring; and implemented new policies and procedures regarding compliance with CARB emission standards and other environmental regulations, sourcing of flooring products, financial reporting and internal controls. The employees involved in wrongdoing either were terminated or resigned from Lumber Liquidators, and the company replaced its executive management team with experienced executives who have displayed a commitment to building an ethical corporate culture.

Trial Attorney Cory E. Jacobs of the Criminal Division's Fraud Section and Assistant U.S. Attorneys Katherine Lee Martin and Uzo E. Asonye of the Eastern District of Virginia prosecuted the case.

The Criminal Division's Fraud Section plays a pivotal role in the Department of Justice's fight against white collar crime around the country.

**Attachment(s):**

[Download Criminal Information](#)

[Download Deferred Prosecution Agreement](#)

**Topic(s):**

Securities, Commodities, & Investment Fraud

**Component(s):**

Criminal Division

Criminal - Criminal Fraud Section

USAO - Virginia, Eastern

**Press Release Number:**

19-211

*Updated March 12, 2019*