



NEWS RELEASE

OFFICE OF THE UNITED STATES ATTORNEY
WESTERN DISTRICT OF MISSOURI

TODD P. GRAVES

Contact Don Ledford, Public Affairs • (816) 426-4220 • 400 East Ninth Street, Room 5510 • Kansas City, MO 64106

www.usdoj.gov/usao/mow

MARCH 3, 2003

FOR IMMEDIATE RELEASE

TWO DEFENDANTS SENTENCED IN FREON FRAUD SCHEME

SPRINGFIELD, Mo. – Todd P. Graves, United States Attorney for the Western District of Missouri, announced today that the former owner of a Pittsburg, Kan., car dealership and implement company and a former manager of Sam's Club Membership Warehouses were sentenced in federal court today for their role in a scheme to split what the government alleged totaled more than \$756,000 in kickbacks on fraudulent sales of the refrigerant gas Freon.

Phillip O'Malley, 39, of Pittsburg, Kan., was sentenced by U.S. District Judge Richard E. Dorr this morning to three years of probation, which includes 250 hours of community service. The court also ordered **O'Malley** to pay a \$10,000 fine and \$459,047.02 in restitution, for which he is jointly and severally liable with the other defendants in this case.

O'Malley was convicted by a federal jury on Nov. 4, 2002, of paying kickbacks to two Sam's Club Membership Warehouse managers, who participated in the conspiracy by purchasing Freon from **O'Malley** at artificially inflated prices. **O'Malley** was the owner of Pittsburg Ford-Mercury, Inc., and O'Malley Implement Company, both in Pittsburg, Kan.

Marc Lininger, 40, of Farmington, Ark., was sentenced by U.S. District Judge Richard E. Dorr this morning to five years of probation, which includes 150 hours of community service and three months of home detention. The court also ordered **Lininger** to pay a \$5,000 fine and \$459,047.02 in restitution, for which he is jointly and severally liable with the other defendants in this case.

On Oct. 15, 2002, **Lininger** pleaded guilty to the mail and wire fraud conspiracy. **Lininger** was a business development manager at the Sam's Club Membership Warehouses in Springdale, Ark.

A third co-defendant, **Paul Doyon**, 44, of San Antonio, Texas, was sentenced on Nov. 13,

2002, to two years in federal prison without parole. The court also ordered **Doyon** to pay \$459,047.02 in restitution, for which he is jointly and severally liable with the other defendants in this case. On July 23, 2002, **Doyon** pleaded guilty to a superseding information charging him with make a false material statement to a federal government agent. **Doyon** was a business development manager at the Sam's Club Membership Warehouse in Joplin, Mo., and in Tulsa, Okla.

The conspiracy began in 1996, Graves explained, after the production of Freon – a refrigerant gas used in many automobile air-conditioning systems and other cooling applications – was banned in the United States. Freon was perceived to be an item that would be in short supply, Graves added, allowing dealers of Freon to create an artificial shortage by buying all the Freon that was available in anticipation of price increases. Because of the volatility of the Freon market, Sam's Club Membership Warehouses, a large volume buyer and distributor of Freon, allowed its business development managers to purchase Freon at the local level rather than being controlled by the purchasing department located at Bentonville, Arkansas.

According to Graves, **Lininger** and **Doyon** arranged with **O'Malley** to inflate the price of Freon and to take kickbacks from **O'Malley** consisting of a share of the inflated price. **Lininger** and **Doyon** also conspired with **O'Malley** to engage in circular transactions, Graves added, in which Freon was purchased and then was resold to Sam's Club Membership Warehouses at a higher price. Graves explained that **Doyon** and **Lininger** caused Sam's Club Membership Warehouses to sell Freon to an entity controlled by **O'Malley**, then subsequently caused Sam's Club Membership Warehouses to repurchase Freon from an entity controlled by **O'Malley** at a higher price. **O'Malley** then paid kickbacks to **Lininger** and **Doyon** in exchange for their participation in the transactions.

The case is being prosecuted by Assistant U.S. Attorney Richard E. Monroe. The case was investigated by the U.S. Customs Bureau.

This news release, as well as additional information about the office of the United States Attorney for the Western District of Missouri, is available on-line at www.usdoj.gov/usao/mow