# 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


**FEBRUARY 10, 2003**
**FOR IMMEDIATE RELEASE**

## SECOND SIBLING PLEADS GUILTY IN POLSKY MOTORS FEDERAL FRAUD CASE

**KANSAS CITY, Mo. –** Todd P. Graves, United States Attorney for the Western District of Missouri, announced that a second sibling who formerly operated Polsky Motors, Inc., in St. Joseph, Mo., pleaded guilty today to federal charges of fraud.

**Gregory H. Polsky**, 41, former vice president and used car manager at Polsky Motors, pleaded guilty before District Judge Fernando J. Gaitan, Jr., this morning to three counts of fraud against the company's customers, employees and lenders.

By pleading guilty, Graves said, **Polsky** admitted that he knowingly, with an intent to defraud, submitted a loan application on Dec. 2, 1998, to the Small Business Administration that did not include accurate tax information.

The Internal Revenue Service notified **Polsky** of two instances Polsky Motors had unpaid taxes in 1989 and 1990 for $189,987 and $44,393, respectively. However, **Polsky** failed to include information about Polsky Motors' assessed IRS tax deficiencies and penalties on a loan application to receive a $700,000 loan from MoKan Development Corp., a community development corporation that worked with the Small Business Administration in packaging loans for businesses in Northwest Missouri.

**Polsky** also admitted that, under fraudulent pretenses, the family company issued a bad check to its employees' insurance provider, Managed Health Funding, in the amount of $5,180.22 on April 25, 2000. Polsky Motors employees participated in a self-funded health care plan wherein Polsky Motors would pay claims directly with money contributed by employees and the company. As a result of the bad check to Managed Health Funding, which was returned for insufficient funds, the company was notified by letter of the policy's termination. Following the termination of the plan, the company allegedly continued to withhold insurance premiums from employees' paychecks, failing to inform them the health program no longer was active.

Finally, **Polsky** pleaded guilty to an electronic funds transfer in the amount of $51,620 to Mellon Bank which included $42,153 in receipts received by Polsky Motors for the purchase of a 1999 Lincoln Navigator by a customer. The wire transfer was designed to divert money to Polsky Motors, instead of Ford Motor Credit Corporation.

**Polsky** is the second sibling that has entered a plea of guilty in this case. His older brother **Michael S. Polsky**, 43, former president of Polsky Motors, pleaded guilty to the same charges on Jan. 31, 2003.

By pleading guilty, Graves said, **Michael Polsky** made the same admissions regarding the company's crimes, which were included in a 12-count indictment returned by a federal grand jury on Oct. 1, 2002.

David Polsky, the father of all three co-defendants and founder of Polsky Motors, died in 1995. After his death, Graves explained, his son, **Michael Polsky**, began operating the business as president of the firm. His other son, **Gregory Polsky**, was vice president and used car manager. MGT Property Investments, Inc., a holding company, was incorporated by the family in July 1998, with **Michael Polsky** acting as president and **Gregory Polsky** as vice president.

According to Graves, the indictment alleges that the defendants, aiding and abetting each other, devised a scheme to defraud others in order to obtain money and property from Ford Motor Credit Corporation, various financial institutions, the Small Business Administration and employees and customers of Polsky Motors.

Graves outlined the allegations of the federal indictment, as it relates to each of the victims:

## Ford Motor Credit Corporation

The indictment alleges that the defendants instructed an employee to create false documents to show Ford Credit auditors and to conceal the fact that the Polsky Motors was in violation of its loan agreement with Ford Credit, which required the dealership to make payment for the sale of any vehicle covered under the Ford Credit floor plan loan on a timely basis.

Between January 2000 and April 2000, the indictment alleges, **Gregory Polsky** and an employee would contact customers who had recently purchased a vehicle from Polsky Motors and falsely tell them that Polsky Motors would provide a complimentary oil change, tire rotation and detailing if the customers would allow for the car to be taken to the dealership for the service. In reality, the indictment alleges, the reason the vehicles were being returned to the dealership was to place them on the lot during the quarterly audits so that Ford Credit could count the vehicle as part of Polsky Motors' current inventory. By placing vehicles that had previously been sold on the lot as current inventory, the defendants concealed the fact that the vehicle had been sold, but the money due and owing Ford Credit had not been paid by Polsky Motors as required.

As a result of the defendants' scheme to defraud, the indictment alleges, their failure to remit the sales proceeds due Ford Credit in a timely manner resulted in a loss to Ford Credit of $143,298.15.

**<u>First Bank CBC and Small Business Administration</u>**

On December 4, 1998, all three defendants signed an application for a $700,000 loan from MoKan Development Corp. According to the indictment, the defendants failed to disclose material information to MoKan Development Corp. and the SBA, by failing to provide information about Polsky Motors' assessed IRS tax deficiencies and penalties for tax years 1989 and 1990. Two tax assessments had been made against Polsky Motors for unpaid taxes: one in the amount of $189,987 for the tax period ending 12/31/89, and a second in the amount of $44,393 for the tax period ending 12/31/90. Those assessments were the result of a stipulation signed on July 20, 1998, by **Michael Polsky** on behalf of Polsky Motors, Inc., in a case entitled *Polsky Motors, Inc. v. Commissioner of Internal Revenu*e, in the United States Tax Court, agreeing that there were income deficiencies and penalties due from Polsky Motors, Inc.

MGT Investments borrowed $1,551,000 from First Bank CBC on December 28, 1998, with a participation of $700,000 in that loan amount formally approved and guaranteed by the Small Business Administration. **Michael Polsky's** signature appeared on an affidavit provided to the Small Business Administration which falsely and fraudulently stated that all federal, state, and local taxes were current.

As a result of the false and fraudulent material omissions concerning the delinquent tax assessments the defendants obtained a loan in the amount of $1,551,000, and the Small Business Administration lost a total of $558,303 on that loan.

**<u>Customers</u>**

In order to maintain cash flow, the indictment alleges, the defendants began to write checks to other car dealers to purchase new vehicles to sell to Polsky Motors' customers and to write checks to banks to pay off loan balances due on vehicles traded in by customers who were buying other vehicles from Polsky Motors. According to the indictment, the defendants knew that there were not sufficient funds in their checking accounts to cover the checks written to other dealers or to customers.

According to the indictment, the total loss suffered by other automobile dealers, financial institutions, and by Polsky Motors' customers from the scheme to defraud was approximately $170,000.

**<u>Employees</u>**

Polsky Motors' employees participated in a self-funded health care plan wherein Polsky Motors would pay claims directly with money contributed to the plan by both the employer and the employees. The indictment alleges that, although premiums continued to be collected from employees of Polsky Motors, Inc., no payments were made to Benefits Assistance Company (the broker handling the collection of premiums and the payment of claims on behalf of Managed Health Funding) after April 2000. On May 31, 2000, the excess loss policy lapsed, and on June 2, 2000, that coverage was terminated. The defendants continued to withhold insurance premiums from the employees' paychecks after the policy was terminated, the indictment alleges, but failed to inform the employees of the material fact that they were collecting money due and owing to the employees for insurance premiums, then using those premium monies for other purposes.

As a result of the defendants' scheme to defraud, the indictment alleges, they obtained over $7,000.

Counts One, Three and Six of the federal indictment, Graves explained, charge specific instances in which the defendants utilized mail matter to be delivered by the Postal Service, or electronic funds transfers between financial institutions, to further their scheme to defraud.

The case is being prosecuted by Assistant U.S. Attorney Michael Warner and Special Assistant United States Attorney Marietta Parker. It was investigated by the Federal Bureau of Investigation and the U.S. Department of Labor, Pension and Welfare Benefits Administration.

****************