

## **NEWS RELEASE**

### **Posh Bagel Founder, Posh Bakery CEO and Accountant Arrested, Charged in Workers' Comp Fraud Scheme**

The insurance Commissioner announced today the arrests of Posh Bagel founder, Posh Bakery CEO and accountant for multiple counts of suspected workers' compensation insurance premium fraud, failing to report employee injuries and unemployment insurance fraud. Cheryl Ann Lee, 39, and her husband, Jeffrey Michael Ottoveggio, 48, were arrested Thursday at their residence in Redwood City. Bruce William Campbell, 54, was arrested Thursday at his residence in Palo Alto. All three suspects were booked into Santa Clara County Jail. Bail was set at \$500,000 for each.

"Purposely underreporting payroll to a workers' compensation insurer is illegal and drives up the cost of workers' comp insurance for all businesses," said Commissioner Poizner. "It is not worth it for businesses to break the law and cheat the system - they will only wind up paying for it later with jail time, penalties and legal fees."

Jeffrey Ottoveggio is founder of Posh Bagel in Los Altos. He also founded wholesale bakery, The Posh Bagel, Inc., in Santa Clara and several additional Posh Bagel shops in the San Francisco Bay Area. In 2005, attorney Cheryl Lee, as Chief Executive Officer, incorporated business entity The Posh Bakery Operating Company, Inc. (POSH) located at 445 Nelo Street, Santa Clara, CA, dba Posh Bagel, Inc., Whole Grains Bon Croissant Bakery, CLO Foods, Inc., The Posh Bakery, Inc. Bruce Campbell is listed on insurance carrier policy documents, EDD and Paychex registration documents as the company accountant/controller.

From January 1, 2006 through September 29, 2006, The Posh Bakery Operating Company, Inc. dba The Posh Bagel, Whole Grains Bon Croissant Bakery, CLO Foods, Inc. maintained a workers' compensation insurance policy with California Insurance Company, under parent company Applied Underwriters. The company was required to report payroll on a bi-weekly basis to Applied Underwriters. In June 2006, Applied Underwriters received an internal spreadsheet from Posh Bakery Operating Company, Inc., allegedly tracking two sets of payroll records, one for Applied Underwriters, and another for a payroll company named Paychex, with the lesser payroll being reported to Applied Underwriters.

Based on this internal spreadsheet, it is alleged that POSH underreported the number of hours employees were working in order to affect how their premium for workers' compensation insurance was determined. When Applied Underwriters contacted Lee to discuss the payroll discrepancy, she allegedly claimed the insurer was mistaken, and that 100 percent of The Posh Bakery Operating Company, Inc. payroll was processed through AU. Lee subsequently

cancelled the policy with Applied Underwriters and purportedly failed to keep several audit appointments.

CDI's investigation and evidence seized from POSH bank accounts held by Lee, Campbell, and Ottoveggio revealed the following:

From January 1, 2006 through September 29, 2006:

- POSH under-reported \$1,622,391.27 in payroll to AU.
- The under-reported payroll resulted in a premium loss to AU of \$295,890.07
- POSH did not report \$852,036.29 in payroll to EDD, resulting in \$151,002.99 owed to EDD
- POSH failed to report to AU two employees who sustained finger lacerations while cutting dough, which resulted in medical treatment including sutures, injections and prescription medications.

From October 1, 2006 through October 1, 2009, Lee obtained a workers' compensation insurance policy with First Comp/Endurance Reinsurance Corporation of America.

CDI's investigation and evidence seized from POSH bank accounts held by Lee, Campbell and Ottoveggio revealed that the three allegedly attempted to avoid reporting all payroll associated with the business operations of The Posh Bakery Operating Company, Inc./The Posh Bakery, Inc., by having employees establish business entities in Nevada as a subterfuge in order to claim payroll for employees conducting delivery and/or distribution as payments to independent contractors and vendors. Four POSH delivery drivers incorporated businesses in Nevada listing Campbell as a corporate officer, opened bank accounts listing Campbell as a co-signatory and utilized the same mailing address as POSH. Of the 32 individuals receiving a paycheck from these Nevada companies, 25 of them were also receiving pay from POSH for the same time period.

It is alleged that for the policy period of October 1, 2006 through May 31, 2008:

- POSH under-reported \$1,530,806.20 in payroll to First Comp/Endurance.
- The under-reported payroll resulted in a premium loss to First Comp of \$137,622.24.
- POSH did not report \$1,530,806.20 in payroll to EDD, resulting in \$268,404.14 owed to EDD.

The case is being prosecuted by the Santa Clara County District Attorney's Office. Additional assistance was provided by the Special Investigations Units (SIU) from Applied Underwriters and First Comp.

There are sixteen CDI Enforcement Branch regional offices throughout the state. Nearly 2,800 insurance fraud-related arrests have been made by CDI since 2007