

PRESS RELEASE
(For Immediate Release)

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Re: Big Dig Fraud Settlement

DAN JOHNSTON -BIG DIG WHISTLEBLOWER- PLEASED WITH 10-9 CONCRETE
FRAUD SETTLEMENT—ENCOURAGES OTHERS TO COME FORWARD

The United States and the Commonwealth of Massachusetts announced today that Aggregate Industries Northeast Region, Inc. F/K/A Bardon Trimount and Aggregate Industries, Inc. (“Aggregate”) will pay over \$42 million to resolve a criminal and civil investigation into Aggregate supplying 5,700 loads of out-of-specification or non-conforming “10-9” concrete to the Big Dig. As part of this Big Dig concrete settlement, Aggregate Industries Northeast Region will plead guilty to criminal charges that it conspired to submit false or fraudulent claims to the Government for that concrete and will pay a criminal fine. Aggregate will also settle the Government’s civil claims, initiated by whistleblowers, by paying over \$15.5 million to the Government under the federal and state False Claims Acts. Together the Big Dig whistleblowers who filed *qui tam* suits under the False Claims Acts will receive close to 18% of that recovery. Aggregate will also contribute over \$27 million to a fund to be used for future repairs on the Big Dig and Aggregate has entered into a Compliance Agreement with the federal Department of Transportation.

For several years Aggregate, one of two major suppliers of concrete to the Big Dig, supplied the Big Dig with defective 10-9 redi-mixed concrete. As part of the scheme, Aggregate mixed concrete left over from other jobs with fresh concrete and delivered this mixture of old and new concrete to contractors on the Big Dig. Additionally, Aggregate rerouted concrete that had already been rejected by Big Dig inspectors to different locations at the Big Dig project. These loads of concrete would not set properly leading to cracking, leaking, and other defects.

Dan Johnston, one of the whistleblowers, is a former employee of Aggregate who worked on the Big Dig from about mid-1997-late 2001 as a Quality Control Technician in Aggregate’s

Concrete Division. He reported to Gerald M. McNally, Head of Quality Control in the Concrete Division. In 2006, Mr. McNally and five other Aggregate employees came under federal indictment in connection with the 10-9 concrete scam.

“He’s very pleased with the settlement,” said his attorneys, Suzanne Durrell, Robert Thomas and Rory Delaney. “He pursued this over the years at great personal risk to himself, and is enormously gratified to see this first major Big Dig fraud settlement.” Mr. Johnston, who left Aggregate in late 2002 after suffering a debilitating on-the-job injury, will receive a portion of the share being split by the whistleblowers. Johnston said he hopes that the settlement will encourage others with knowledge of wrongdoing on the almost \$15 billion project to come forward:

“I would like to thank the United States and the Commonwealth of Massachusetts for taking this matter seriously. The Big Dig is ten *billion* dollars over budget and is literally leaking at the seams. The money sunk into this project could have been better spent on schools for our children and care for our elderly. Instead, some of those we all trusted to do the right thing with our money did not, and we the taxpayers are all footing the bill.

The millions recovered today is a good start. It is the first crack in the wall of Big Dig fraud. I would like to encourage everyone who has worked on the Big Dig and knows about fraud or safety issues to step forward and tell their story. Maybe you tried before and no one would listen, maybe you got bad advice, or maybe you feared for your family. If you thought no one was listening before, I can assure you that they are listening now. All of America paid for this project and wants to hear what you have to say. It was not done right the first time, so who is going to pay for it to be done right the second time? Now is the time to hold those who illegally profited from the Big Dig accountable and ensure the safety of those who use the roads and tunnels.”

There has been concern for some time that the sheer size of the Big Dig would make it a magnet for fraud, said Mr. Johnston’s attorneys. “We suspect the 10-9 scheme is but the tip of the iceberg,” said Attorney Durrell. His attorneys echo Mr. Johnston’s hope that others who know of fraud or safety issues will come forward. One of the main reasons the Massachusetts False Claims Act was passed in 2000 was to counter Big Dig fraud “The whistleblower statute works. Courageous people can actually change things,” said Attorney Thomas, noting that because False Claims Act cases are filed under seal, relators’ identities are often not public until the end of the case.

Today’s settlement is the largest to date involving Big Dig fraud.

For further information, please contact Suzanne E. Durrell at (617) 333-9681 or 617 571 3441 or by email at Suzanne.durrell@verizon.net or Robert M. Thomas, Jr. at (617) 371-1072 or by email at rmt@thomasandassoc.net. Information on the False Claims Act and related areas of interest may also be found at the firms’ websites: www.thomasandassoc.net, and www.durrelllaw.com.