

Office Depot accused of overcharging state agencies, cities, school districts

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By REESE DUNKLIN / The Dallas Morning News
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The Texas attorney general's office is investigating whether a leading office supply chain has overcharged state agencies, counties, cities and school districts, *The Dallas Morning News* has learned.

At least seven other states and the U.S. Justice Department have examined similar allegations against Office Depot, leading the company to repay nearly \$3 million in the last year. Georgia has canceled its \$40 million contract.

Texas attorney general spokesman Tom Kelley declined to comment, saying, "We don't acknowledge investigations." Office Depot clients include the Texas Senate, the Family and Protective Services department and Texas A&M University.

Office Depot, based in Boca Raton, Fla., said it was cooperating with the attorney general's demands for records and intended "to vigorously defend any allegations of wrongdoing lodged against our company."

The investigations stem from allegations by David Sherwin, a former senior account manager for Office Depot. He said he repeatedly warned superiors that overcharging could create liabilities for the retailer.

Office Depot spokesman Jason Shockley said Sherwin was fired over "highly inappropriate and threatening internal e-mails" he sent superiors last April. Sherwin said he was drunk and frustrated at the time because his warnings had not been heeded.

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The Texas attorney general's office is investigating the question after **receiving a complaint** from a former Office Depot employee who accuses the company of manipulating prices.

The **ex-employee** accused the Florida-based company of overcharging Texas public agencies that made purchases, in part, through a national contract for office and classroom supplies. His information has led to investigations in multiple states, and Office Depot has responded in some cases by repaying nearly \$3 million.

When we asked Texas AG spokesman Tom Kelley for a status report, he declined to comment. "We don't acknowledge investigations," he told *The News*.

Office Depot, though, did acknowledge receiving what amounts to a subpoena from the AG. Spokesman Jason Shockley said the company was cooperating.

"We intend to vigorously defend any allegations of wrongdoing lodged against our company," he said in a written statement.

Shockley described the ex-employee, David Sherwin, as "disgruntled" after Office Depot fired him for "workplace misconduct" in April 2008. That misconduct included sending "highly inappropriate and threatening internal emails," Shockley said.

Sherwin has acknowledged sending an e-mail to Office Depot's chief executive in which he threatened to "kick your ass so hard that you would fly across Florida like Tinkerbelle."

Sherwin said he was drunk at the time and has entered rehab since he was terminated. He said he was frustrated that Office Depot superiors had not taken seriously e-mails and memos that he sent warning of liabilities from the alleged overcharging he found.

At issue are prices charged to government agencies, in part, through a national contract brokered through a non-profit, **U.S. Communities Government Purchasing Alliance**.

U.S. Communities says it helps public agencies "in reducing the cost of purchased goods and services through pooling the purchasing power of public agencies nationwide." Once a contract is bid and a supplier selected by one agency, others can piggyback onto the same terms when buying products.

Texas' investigation comes after some states, cities and counties have settled complaints against Office Depot. Others agencies -- including the federal government -- are still examining overpricing allegations. Here is a snapshot of events to date:

February 2008: The **state of Georgia** terminated its \$40 million contract after finding billing errors that Office Depot failed to correct.

April 2008: A **Nebraska state audit** found agencies there were "paying too much for office supplies because of serious pricing errors and overcharges."

July 2008: The **Florida's inspector general's** said the attorney general was investigating and the management services department's inspector general was conducting an audit.

August 2008: The **state of California** won a repayment of \$2.5 million for two years of overcharging. Officials said they did not receive promised discounts from Office Depot.

September 2008: A **North Carolina audit** found state agencies were overcharged \$294,000 and noted that the company "inflated retail prices on Office Depot brand items so that they could offer a higher discount to win the bid."

February 2009: The **Alabama attorney general** said it was conducting a preliminary review. Office Depot also confirmed in its annual report that the **Justice Department was conducting a joint investigation** with the Defense and Education departments, as well as the General Services Administration.

Comments

Posted by **bigd** @ 3:17 PM Mon, Apr 20, 2009

Sherwin has acknowledged sending an e-mail to Office Depot's chief executive in which he threatened to "kick your ass so hard that you would fly across Florida like Tinkerbelle."

Pure gold right there!

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Posted by **RC** @ 4:48 PM Mon, Apr 20, 2009

Maybe office depot will be forced to go out of business. Then the taxpayers can pay for all of their employees that go on unemployment. Lets drink to that!
RC

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Posted by **lilikoï** @ 12:46 PM Tue, Apr 21, 2009

Perhaps none of the people responding here are in the office supply industry. What about all of the independent dealers and their employees who have suffered because of OD and their suspect practices?

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Posted by **Reese Dunklin -- DMN** @ 3:27 PM Tue, Apr 21, 2009

@lilikoï ... Can you elaborate on how you believe these dealers and employees have been impacted?

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Posted by **Steve** @ 9:50 PM Tue, Apr 21, 2009

Reese, simple. Depot goes in with low, low prices on bids knowing full well they will not honor the prices. They win the contract, then they start raising prices.

Those who were honest lose. The cheater wins.

Look at the evidence in the article. It's overwhelming -- Depot is a dishonest company.

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Posted by **Bill** @ 9:55 PM Tue, Apr 21, 2009

The problem with office supplies is the high volume of transactions. Office Depot knows governments are poor at tracking.

Honest local dealers can't compete when Depot goes in below cost knowing they won't keep that cost.

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Posted by **Jonathan** @ 7:58 AM Wed, Apr 22, 2009

I agree, government agencies do not have the systems to track tens of thousands of items and compare against contract pricing. Both Office Depot and OfficeMax have both been very aggressive on front end pricing. In addition, OfficeMax perpetrates a fraud on the State of Texas by passing their revenue through HUB businesses who are nothing more than front operations. State agencies look the other way because they get a pat on the head for good HUB results and the HUB reporting process is so inefficient that no one will catch it.

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Posted by **Reese Dunklin -- DMN** @ 9:39 AM Wed, Apr 22, 2009

Interesting comments. Is anyone else seeing similar situations, especially in Texas? You may also contact me offline at rdunklin@dallasnews.com.

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Posted by **liliko** @ 1:41 PM Wed, Apr 22, 2009

Steve, Bill and Jonathan answered your question fairly well. In addition for the UT bid, OD had a prebate of over \$80,000 if they got the bid. They also use a HUB as a sub contractor to help agencies and UT get the HUB points. Many businesses have been impacted by having to lay off employees, or even go out of business.

Switch and bait is very popular as well--where publicly traded companies, ie OD, MAX, Staples quote a low price on an item, but then that item is 'discontinued' or it's not a good number and the substitute is 3-5 times more.

Several local govt entities in Central Texas have gone back to local dealers to get fair prices and good service.

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