

Personal Protection Equipment (PPE): courthouses worldwide flooded with cases

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USPA NEWS - The pandemic caused a surge in demand for Personal Protection Equipment, known as PPE - with increased need for and consumption of gloves, masks, and the like. The resulting shortage led to a spike in cases of wide scale fraud. The American department of Justice has already started responding by pressing charges against both companies and individuals who profiteered from the crisis. Cases range from non-compliant merchandise (of both counterfeit and fraudulently reconditioned nature) to goods that were paid for, partially or fully, but never delivered. The problem is not specifically American, and cases around the world are suspected to amount to tens of billions of dollars in losses.

Reconditioned equipment

The effects of the pandemic were the same as in all crises: a sudden increase in demand, which took weeks and months for the global production apparatus to match. This naturally pushed the prices for PPE upwards, despite government efforts worldwide to contain the brutal inflation. This also placed businesses who produce and provide these PPEs under a difficult alternative: either turn good-paying clients away when stocks had run out, or resort to ingenious (a.k.a. illegal) solutions. In the latter case, many companies realized that discreetly reconditioning equipment could enable them to circumvent inventory problems. CNN reporter Scott McLean writes: "A months-long CNN investigation has found that tens of millions of counterfeit and second-hand nitrile gloves have reached the United States, according to import records and distributors who bought the gloves -- and that's just the tip of the iceberg. Criminal investigations are underway by the authorities in the US and Thailand."

By recuperating used gloves and masks, and reconditioning them, they could sell the same item several times, and stop turning clients away. Of course, given the single-use nature of these products, this amounts to malpractice, aggravated by the fact that clients were naturally kept uninformed about the process. This plague is suspected to be a threat even to the supply chain of vaccines into Europe.

Counterfeit or non-compliant equipment

Another trick which was commonly used during the pandemic was the sale of non-compliant equipment. PPE is basic equipment in the management of a pandemic, but it is nonetheless critical and must comply with various norms and certification standards. The CDC issued its first set of norms, in February of 2021, as reported by NBC reporter Zoe Malin: "Once tested and approved for meeting ASTM's specs, brands will be able to slap a label on their product to that end, informing shoppers that their face mask meets certain requirements — namely, that it "meets ASTM F3502," part of the actual language you'll see on the label." The European Union applies its own set of norms, although these are very similar. The process to have a production unit certified is long and tedious, and each day awaiting certification is money lost. Setting up illegal production units and "skipping" the certification process, however, can be done very quickly, namely in China where such cases are very common.

Profiteers then counted on false indications on the packaging and the urgency under which clients were ordering to inject their illegal goods into the global market. Alternatively, fraudulent companies simply resorted to good old-fashioned counterfeiting, in which they imitated the packaging of already existing and genuinely certified manufacturers. Anti-counterfeiting organizations have published advice on how to detect non-compliant PPE.

Paid but never delivered goods

Fraud also contaminated the "legitimate" business world, as in many cases businesses left deposits with their regular suppliers, but never saw the goods, nor their money back. Some intermediate companies demanded deposits or partial payments upon order, before securing their own supplying capacities. If such a deal is to fall through, the intermediate company has an obligation to pay back the deposit, if goods cannot be delivered. Some intermediate businesses and middlemen refused to reimburse clients upon failure to

deliver, leaving them scrambling for new PPE, with depleted budgets. Legally, this amounts to theft or fraud.

The New Jersey District court of the American DOJ reported in September 2021, that “Guaravjit Singh, 26, pleaded guilty by videoconference before U.S. District Court Judge Peter G. Sheridan to an information charging him with one count of wire fraud. [...] Beginning in May 2020, in the midst of the COVID-19 pandemic, Singh engaged in a scheme to enrich himself by fraudulently inducing 10 victims to send him over \$2 million to obtain personal protective equipment (PPE). He stole the money, spending it on personal expenses, and he did not provide the promised PPE to the victims.”

Establishing individual responsibility is difficult for law enforcement

Hurdles in the way of justice are many, and courthouses are overcoming them one by one. First of all, courthouses and law enforcement agencies are not up against one type of fraud, but many. As stated above, these cases range from counterfeiting to industrial malpractice, and from fake certifications to deposit theft. Secondly, in many cases, the supply chain was transnational - such as with a client in North America and a would-be supplier or intermediary in China. These legal procedures do exist, naturally, but they typically take a little longer, as two or more legal systems are involved. Finally, some wholesale companies set up a string of shell companies, so as to hide the benefit they draw from the fraud. By paying another intermediate company (owned and secretly controlled by the fraudster, of course), embezzling companies hope to convince the court that they were also a victim in the matter. Judges know how to look out for these tricks, but it takes a while longer to establish the daisy-chain legally.

A case was opened in the fall of 2021, which illustrates the phenomenon of non-delivery scams and highlights the complexity of legal proceedings. Elixir Therapeutics placed an order for 200 million face masks boxes to TNR Holding Group, in the summer of 2021, and never received the goods. After placing a deposit for a sample lot, representing 150,000 USD, Elixir claims the seller misrepresented himself as the owner of the masks. When Elixir realized it could not collect the face masks from the warehouse where they were stored, it asked for a refund of its deposit, only to find out that the funds had already been transferred without the knowledge of plaintiff to other companies, namely Pods Health (a Canadian company) and Warehouse Holdings, based in Florida. Fraud and racketeering charges were pressed against TNR Holding, Pods Health and Warehouse Holdings, and the owners and managers are awaiting trial. A supplier of the French State, which did not wish to comment, is also said to have been deceived by Pods Health. According to testimonies, the company would have failed to honor an order of PPE amounting to \$1 million or more.

Collateral damages

In addition to the financial victims of these scams, this phenomenon has taken a sanitary toll on health workers and individuals. Entire budgets, initially dedicated to protective equipment for vulnerable people and at-risk workers, have been swindled. This has created gaps in supplies for hospital workers and employees in contact with the public - thus reducing the collective ability to fight the pandemic throughout the world. In April 2021, “Adventist Health System asked a Florida federal court Friday to award it more than \$1.5 million after a California-based asset management company defaulted on their settlement to resolve the hospital system's fraud suit over a failed \$57.5 million deal for personal protective equipment needed for the COVID-19 pandemic”, legal reporter Nathan Hale writes.

The time necessary for the legal system to establish individual responsibility and apply the law acts seems to have acted as an aggravating factor in the crisis. Because there was no immediate backlash to fraud and commercial malpractice, the companies which engaged in them quickly got a feeling of invulnerability, thinking they would never be caught. As it turns out, law enforcement agencies have known about these cases for a long time, and legal action against these fraudulent companies has simply not revealed itself to them, yet.

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