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UTAH ATTORNEY GENERAL
MARK SHURTLEFF

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Contact
Paul Murphy, Utah A.G.'s Office:
(801) 538-1892
pmurphy@utah.gov

Elena Bensor, Utah Labor Comm.:
(801)530-6918
elenabensor@utah.gov

UTAH VIDEO GAME DEVELOPER ORDERED TO PAY BACK DEFRAUDED EMPLOYEES

A Utah video game developer has been ordered to serve a year in jail and pay at least \$1.2 million for withholding wages from his employees. David M. Rushton, 57, was sentenced October 10 for a second-degree felony count of pattern of unlawful activity, third-degree felony count of attempted unlawful dealing with property by fiduciary and a class A misdemeanor count of payment of wages violation.

"This is significant because it is the first criminal prosecution for non-payment of wages in Utah and involved more than \$2 million in unpaid wages," says Attorney General Mark Shurtleff.

In 2005 Rushton started the video game development company Sensory Sweep Studio, which later became known as Ffootube LLC after the original business got into financial trouble. These businesses employed as many as 211 employees and developed video games like "Street Fighter II: Hyper Fighting," "Alvin and the Chipmunks," "Tiger Woods PGA Tour 2005," "Justice League Heroes," "Marvel Nemesis: Rise of the Imperfects" and "Jackass: The Game."

Ninety-five employees, nearly half of the company's staff at the time, filed wage claims with the Utah Labor Commission in 2009. After conducting an extensive investigation, the Labor Commission referred the matter to the Utah Attorney General's Office.

"Although Rushton's jail sentence does not compensate the claimants for the wages they are owed, this brings a certain measure of justice," says Utah Labor Commissioner Sherrie Hayashi. "In a tough economy employers may face challenging times, but we hope this sends a strong message that ultimately, employers are responsible to pay their employees the wages they have rightfully earned."

After an investigation by the Utah Tax Commission and prosecution by the Utah Attorney General's Office, Rushton was sentenced in 2010 to 18 months in jail and ordered to pay \$516,816 for tax fraud and pattern of unlawful activity for the non-payment of income and withholding taxes.

Arrangements can be made to set up media interviews with some of the victims. A jail booking photo of Rushton can be found at <http://1.usa.gov/MhLH0>.

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