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BUSINESS

Guardrail Whistleblower Puts Own Company Into Bankruptcy

Joshua Harman won whistleblower suit against guardrail maker Trinity

By **KATY STECH**

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A Virginia man who's been battling guardrail maker Trinity Industries Inc. over safety concerns has put his own firm, a smaller guardrail maker, into bankruptcy protection.

Joshua Harman, who stands to profit from the largest-ever whistleblower award won without Justice Department help, owns 37.5% of Spig Industry LLC, which filed for bankruptcy Monday. The company said in court papers it has seen no revenue for more than a year.

A jury decided in October that Trinity Industries may need to pay \$525 million for lying to federal regulators when the Dallas-based company changed the guardrail's design system in 2005.

Mr. Harman sued Trinity in 2012 on behalf of the government under the qui tam provisions of the False Claims Act, which enables outsiders to sue companies for allegedly fraudulent acts that have harmed the government. He argued that Trinity's redesigned ET-Plus model product was unsafe, pointing to more than a dozen accidents—some fatal—that have involving Trinity-made guardrail end caps.

Trinity has denied wrongdoing in the cases and said its ET-Plus models are safe. With that award still in limbo, the bankruptcy is meant to stop a foreclosure sale of its 40,000-square foot manufacturing plant in Bristol, Va., Mr. Harman said.

Throughout the whistleblower controversy, Trinity officials argued that Mr. Harman was suing out of spite and that his business could profit from Trinity's potential losses. Though Trinity has stopped shipping the guardrail ends in question, Spig has gotten "very minor jobs" and is trying to find investors to revive the company, according to court papers.

“It’s very obvious that we have not profited from it,” Mr. Harman told The Wall Street Journal Tuesday.

Trinity’s guardrail end recently passed several crash tests ordered by the Federal Highway Administration, although that hasn’t assuaged all of the company’s critics. A spokesman for Trinity declined to comment.

Spig Industry listed \$11,746,712.08 in debts in a petition filed in U.S. Bankruptcy Court in Roanoke, Va.

Founded in 2007 by Mr. Harman and his brother, Chris, Spig is no stranger to bankruptcy court. The company sought bankruptcy protection in 2013 after an expensive patent battle with Trinity Industries.

The dispute ended in a confidential settlement, though Spig’s court documents listed the rights to a \$12 million settlement award as an asset. Mr. Harman declined to comment on the settlement award or explain why Spig is unable to use that money to pay its debts.

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