

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA	:	Criminal No. 06 Crim. 851
v.	:	Filed: 9/26/06
STEPHEN COGLIANO,	:	Violation: 15 U.S.C. § 1
	:	
Defendant.	:	

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INFORMATION

The United States of America, acting through its attorneys, charges:

1. Stephen Cogliano ("Cogliano") is hereby made a defendant on the charge stated below.

SHERMAN ACT CONSPIRACY
(15 U.S.C. § 1)

I. RELEVANT PARTIES AND ENTITIES

During the period covered by this Count:

2. Cogliano resided in Staten Island, New York

3. Cogliano was employed by Mount Sinai School of Medicine and The Mount Sinai Hospital (collectively, "Mount Sinai"), a teaching hospital located in New York, New York, as a Network Management Professional in Mount Sinai's Information Technology department from October 2000 until July 2003. In July 2003, Cogliano became an employee of International Business Machines, Corp. ("IBM") but maintained

the same job title and performed the same job within the same department at Mount Sinai, pursuant to a contract between IBM and Mount Sinai. His job title changed to Technical Services Professional in October 2004. In May 2003, Cogliano opened a bank account under the name of a consulting company that was primarily used to conceal his receipt of illegal payments from vendors to Mount Sinai.

4. "CC-1" was a co-conspirator who was employed by Mount Sinai as a Information Technology Manager in Mount Sinai's Information Technology department from August 2000 until July 2003. In July 2003, CC-1 became an employee of IBM but maintained the same job title and performed the same job within the same department at Mount Sinai, pursuant to a contract between IBM and Mount Sinai. CC-1 directly supervised Cogliano. In April 2001, CC-1 opened a bank account under the name of a consulting company that was primarily used to conceal his receipt of illegal payments from vendors to Mount Sinai.

5. "CC-2" was a co-conspirator who was a vice president of a company located in Manhattan, New York that supplied telecommunications equipment and services to Mount Sinai ("Vendor 1"). CC-2's wife was the President and owner of Vendor 1, although CC-2 was primarily responsible for the management of the company.

6. "CC-3" and "CC-4" were co-conspirators who jointly owned a company located in Great Neck, New York that supplied telecommunications equipment and services to Mount Sinai ("Vendor 2").

7. Various other persons, not made defendants herein, participated as co-conspirators in the offense charged herein and performed acts and made statements in furtherance thereof.

II. BACKGROUND

8. The Mount Sinai Hospital is a 1,171-bed tertiary-care teaching hospital with a medical staff of nearly 1,800, serving the New York metropolitan area. Mount Sinai School of Medicine performs clinical and basic-science research, in addition to its medical education function. Jointly, both entities operate an Information Technology department located within the Mount Sinai Medical Center on Madison Avenue.

9. Mount Sinai's Information Technology department served the various departments and facilities within Mount Sinai by assisting them in creating and maintaining their telecommunications infrastructures. This included selecting and contracting with third parties that were vendors of telecommunications equipment and services in order to install equipment such as voice and data cables in Mount Sinai facilities.

10. Mount Sinai had a competitive bidding policy that required the Information Technology department to obtain at least three competitive bids before entering into any single contract for goods or services in excess of \$10,000, and then award those contracts to the lowest responsible bidder. The purpose of the bidding policy was to ensure that the Information Technology department obtained products and services at competitive, fair market prices.

11. As the Information Technology Manager, CC-1 was responsible for obtaining bids from vendors of telecommunications equipment and services before contracts were awarded in accordance with Mount Sinai's policies and procedures, including adhering to Mount Sinai's competitive bidding policy. In addition, CC-1 was responsible for supervising these vendors and reviewing and authorizing their invoices for payment. As a manager, CC-1 sometimes delegated these tasks to individuals he supervised, including Cogliano. As a Network Management Professional, and later as a Technical Services Professional, Cogliano carried out some of these tasks under CC-1's direction and was also separately responsible for ensuring that contracts were awarded in accordance with Mount Sinai's policies and procedures and reviewing and authorizing invoices for payment.

12. Cogliano and his co-conspirators attempted to create the appearance that the Information Technology department was awarding contracts in compliance with Mount Sinai's competitive bidding policy when, in fact, it frequently was not. In actuality, CC-1 determined in advance which contracts to allocate to Vendor 1 or Vendor 2, and then, in order to make it appear that contracts had been awarded based on competitive bids, Cogliano and CC-1 at times arranged to receive bids with intentionally high prices (i.e., cover bids) from either Vendor 1 or Vendor 2. Cogliano and CC-1 sometimes specified what prices should be quoted on these cover bids, and that the bids be backdated. On other occasions, Cogliano and CC-1 allocated contracts without obtaining multiple bids or irrespective of whether the vendor to which the contract was allocated was the lowest

responsible bidder. At the time, Cogliano and CC-1 were receiving payments from Vendor 1 and Vendor 2.

13. Mount Sinai maintained a written “conflict of interest” policy prohibiting employees and contractors, including Cogliano and CC-1, from accepting gifts (other than of token value) from vendors or from entering into business arrangements with vendors. In the fall of 2000, when he was hired by Mount Sinai, Cogliano signed an acknowledgment that he had reviewed this “conflict of interest” policy.

14. At no time did Cogliano or his co-conspirators disclose to Mount Sinai Cogliano’s receipt of the payments from Vendors 1 or Vendor 2. All such payments were made without the knowledge or approval of Mount Sinai, and in violation of Cogliano’s duty of loyalty to Mount Sinai.

III. TRADE AND COMMERCE

15. From approximately January 2001 through October 2004, pursuant to contracts that are the subject of this Information, Mount Sinai purchased approximately \$2,089,000 in telecommunications equipment and services from Vendor 1 and Vendor 2.

16. During the period covered by this Information, Vendor 1 and Vendor 2 supplied telecommunications equipment and services to Mount Sinai, including materials produced pursuant to contracts that are the subject of this Information, which were shipped across state lines, in a continuous and uninterrupted flow of interstate commerce, in the form of voice and data cables and other equipment obtained from distributors located outside the State of New York.

17. The activities of the defendant and co-conspirators with respect to the sale of telecommunications equipment and services to Mount Sinai, including the sale of voice and data cables and other equipment pursuant to contracts that are the subject of this Information, were within the flow of, and substantially affected, interstate trade and commerce.

IV. DESCRIPTION OF THE OFFENSE

18. From approximately January 2001 through October 2004, the exact dates being unknown to the United States, the defendant and co-conspirators engaged in a combination and conspiracy in unreasonable restraint of interstate trade and commerce in violation of Section 1 of the Sherman Act (Title 15, United States Code, Section 1).

19. The aforesaid combination and conspiracy consisted of a continuing agreement, understanding, and concert of action among the defendant and co-conspirators, the substantial terms of which were to rig bids and allocate contracts for the supply of telecommunications equipment and services to Mount Sinai.

20. For the purpose of forming and effectuating the aforesaid combination and conspiracy, the defendant and co-conspirators did those things which they combined and conspired to do, including, among other things:

(a) CC-1 designated in advance whether Vendor 1 or Vendor 2 would be the low bidder on certain contracts to supply telecommunications equipment and services to Mount Sinai;

(b) Cogliano and co-conspirators discussed and agreed on the prices that would be bid on contracts to supply telecommunications equipment and services to Mount Sinai;

(c) Cogliano and co-conspirators submitted, or caused Vendor 1 and Vendor 2 to submit, intentionally high, noncompetitive bids (i.e., cover bids) on certain contracts to supply telecommunications equipment and services to Mount Sinai, with the understanding that each vendor would be allowed to submit bids for, and under certain circumstances allocated other contracts with Mount Sinai to supply telecommunications equipment and services. The intentionally high bids were submitted in order to make it appear that there had been competition for Mount Sinai contracts when, in fact, there had not; and

(d) Cogliano and CC-1 allocated other contracts between Vendor 1 and Vendor 2 in violation of Mount Sinai's competitive bidding policy by either failing to obtain competitive bids or awarding contracts to either Vendor 1 or Vendor 2 regardless of whether that vendor was in fact the lowest qualified bidder, or otherwise manipulating bids so as to justify an allocation to either Vendor 1 or Vendor 2 while making it appear that there had been competition for Mount Sinai contracts when, in fact, there had not;

(e) Cogliano and CC-1 allocated other, smaller contracts between Vendor 1 and Vendor 2 and did not seek alternative vendors; and

(f) Cogliano received payments from CC-1, CC-2, CC-3, CC-4, or the

companies they represented, in part, for his role in allocating contracts between Vendor 1 and Vendor 2.

21. During all or some of the period from approximately January 2001 until September 2003, Cogliano received a payment totaling \$15,000 from Vendor 1. Vendor 1 made this payment to Cogliano, in part, to ensure that Cogliano and CC-1 would allocate to it a portion of Mount Sinai's total purchases of telecommunications equipment and services, and that they would not seek alternative vendors of telecommunications equipment and services for these contracts. As a result, Vendor 1 was able to maintain non-competitive prices because it did not face open and honest competition from other vendors. Also, Cogliano and CC-2 fraudulently inflated some of Vendor 1's invoices and caused Mount Sinai to pay Vendor 1 for those fraudulently inflated invoices, which the \$15,000 check was also partially in payment of. As a result, Mount Sinai paid higher prices for the telecommunications equipment and services it purchased than it would have if Cogliano had aggressively and honestly solicited competitive prices from other vendors, and had not approved fraudulently inflated invoices for payment.

22. In approximately June 2002, Cogliano and CC-1 allocated to Vendor 1 a contract to install telecommunications equipment in a Mount Sinai emergency room facility called the "ED Project." CC-1 discussed and agreed in advance with a representative of Vendor 1 that Vendor 1 would be allocated the "ED Project" contract for a specified inflated price. CC-1 instructed Vendor 1 to submit a bid with the inflated price and instructed Cogliano to get other vendors to submit bids with higher, non-competitive

prices (i.e., cover bids), which Cogliano did. As a result, Vendor 1 was awarded the “ED project” contract for \$295,000.

23. Cogliano also received payment for his role in rigging bids and allocating contracts to Vendor 2. For example, in approximately March 2002, Cogliano and CC-1 allocated a contract to install telecommunications equipment for Mount Sinai’s Radiation Oncology department to Vendor 2. Defendant and co-conspirators rigged the bids for the job by causing Vendor 1 to submit an inflated cover bid. Additionally, defendant and co-conspirators instructed Vendor 2 to fraudulently inflate invoices related to the Radiation Oncology job by \$10,000, and then caused Mount Sinai to pay Vendor 2 for the fraudulently inflated invoices. Mount Sinai completed payment to Vendor 2 for performing Radiation Oncology job in December 2002 and, shortly thereafter, Vendor 2 wrote two checks totaling \$10,000 to CC-1's company. In January 2003, CC-1 issued a \$5,000 check from his company to Cogliano for his assistance in rigging the bids, allocating the contract, and arranging for the inflated invoices to be paid by Mount Sinai for the Radiation Oncology job.

24. As a result of the aforementioned conspiracy, Mount Sinai paid more for the telecommunications equipment and services it purchased pursuant to the contracts that are the subject of this Information than it would have had the contracts instead been awarded pursuant to truly competitive bidding, or an otherwise competitive process, where free and open competition among vendors existed, and had there been no payments to Cogliano from CC-1, CC-2, CC-3, CC-4, or the companies they represented. In addition, other

legitimate vendors of telecommunications equipment and services were foreclosed from selling to Mount Sinai.

V. JURISDICTION AND VENUE

25. The aforesaid combination and conspiracy was formed and carried out, in part, within the Southern District of New York within the five years preceding the filing of this Information.

IN VIOLATION OF TITLE 15, UNITED STATES CODE, SECTION 1.

Dated:

/s/
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Assistant Attorney General

/s/
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Chief, New York Office

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