

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
- - - - -x

UNITED STATES OF AMERICA :

v. : Criminal No. 02 CR 106

EARL P.L. APFELBAUM, INC. and : Filed: 1/28/02

JOHN APFELBAUM. : Violation: 15 U.S.C. § 1

Defendants. :

- - - - -x

INFORMATION

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

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

1. Earl P.L. Apfelbaum, Inc. and John Apfelbaum are hereby made defendants on the charge stated below.

I. DESCRIPTION OF THE OFFENSE

2. Beginning at least in the early 1980s and continuing until at least 1997, the exact dates being unknown to the United States, the defendants and co-conspirators engaged in a combination and conspiracy in unreasonable restraint of interstate and foreign trade and commerce in violation of Section 1 of the Sherman Act (15 U.S.C. § 1).

3. The aforesaid combination and conspiracy consisted of a continuing agreement, understanding, and concert of action among the defendants and co-conspirators, the

substantial terms of which were to rig bids for the purchase of stamps at auctions in the United States and elsewhere.

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

(a) participating in preauctions at which it was determined which stamp dealer would be the bidder for specific lots of stamps at the subsequent public auction;

(b) agreeing not to bid at public auctions against other stamp dealers who submitted the highest bid price at the preauction for lots of stamps;

(c) making payments to stamp dealers who agreed not to bid at public auctions when they were not the high bidder at the preauction for those lots of stamps.

II. DEFENDANTS AND CO-CONSPIRATORS

5. Earl P.L. Apfelbaum, Inc. is incorporated and is located in Philadelphia, Pennsylvania. During the period covered by this Information, Earl P.L. Apfelbaum, Inc. was engaged in the purchase of stamps for resale.

6. During the period covered by this Information, John Apfelbaum was Executive Vice President of Earl P.L. Apfelbaum, Inc., and was responsible for determining the price to be bid for stamps purchased at auction by Earl P.L. Apfelbaum, Inc.

7. Whenever in this Information reference is made to any act, deed, or transaction of any corporation, such allegation shall be deemed to mean that the corporation engaged in

such act, deed, or transaction by or through its officers, directors, agents, employees, or representatives while they were actively engaged in the management, direction, control, or transaction of its business or affairs.

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

III. INTERSTATE AND FOREIGN TRADE AND COMMERCE

9. Stamps are often sold at auctions at which the highest bid price determines who will purchase the stamps. Stamp auctions take place periodically throughout the year at various locations in the United States, including in New York City, and elsewhere.

10. During the period covered by this Information, stamps of substantial value were bid for at public auctions at which the defendants and co-conspirators rigged the prices bid. During the period covered by this Information, approximately \$20 million in stamps were sold at public auctions at which the defendants and co-conspirators rigged the prices bid.

11. During the period covered by this Information, the activities of the defendant and co-conspirators with respect to the sale of stamps at public auctions were within the flow of, and substantially affected, interstate and foreign trade and commerce.

IV. JURISDICTION AND VENUE

12. The aforesaid combination and conspiracy was 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.

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

The United States of America further charges:

13. Earl P.L. Apfelbaum, Inc. and John Apfelbaum are made defendants on the charge stated below:

V. DESCRIPTION OF THE OFFENSE

14. Beginning at least as early as 1999 and continuing for at least several months in 1999, the exact dates being unknown to the United States, the defendants 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 (15 U.S.C. § 1).

15. The aforesaid combination and conspiracy consisted of a continuing agreement, understanding, and concert of action among the defendants and co-conspirators, the substantial terms of which were to rig bids for the purchase of stamps at auctions.

16. 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) engaging in activities in which it was determined which stamp dealer would be the bidder for specific lots of stamps at public auctions;

- (b) agreeing not to submit a bid at public auctions for specific lots of stamps another stamp dealer was designated to win;

17. Paragraphs 5 through 10 and Paragraph 12 of Count One of this Information are repeated, realleged, and incorporated in Count Two as if fully set forth in this Count.

18 During the period covered by this Information, the activities of the defendants and co-conspirators with respect to the sale of stamps at public auctions were within the flow of, and substantially affected, interstate trade and commerce.

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

Dated: January 16, 2002

/s/ _____
CHARLES A. JAMES
Assistant Attorney General

/s/ _____
RALPH T. GIORDANO
Chief, New York Office

/s/ _____
JAMES M. GRIFFIN
Deputy Assistant Attorney General

/s/ _____
CHARLES V. REILLY
Attorney, Antitrust Division
26 Federal Plaza, Room 3630
United States Department of Justice
New York, New York 10278
(212) 264-0665

/s/ _____
SCOTT D. HAMMOND
Director of Criminal Enforcement
Antitrust Division
United States Department of Justice

/s/ _____
JAMES COMEY
United States Attorney
Southern District of New York