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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

BROOKLYN OFFICE

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UNITED STATES OF AMERICA

- against -

JOO AHN KANG and
CHUNG SIK KWAK,

Defendants.

----- X

THE GRAND JURY CHARGES:

INDICTMENT
CR 10 - 660
Cr. No. _____
(T. 15, U.S.C., § 1; T. 18,
U.S.C., § 3551 et seq.)

GLEESON, J.

POI I AK M. J.

INTRODUCTION

At all times relevant to this Indictment, unless otherwise indicated:

I. Background

A. Relevant Entities and the Defendants

1. Asiana Airlines, Inc. ("Asiana Airlines"), was a corporation organized and existing under the laws of South Korea (officially the Republic of Korea) and its principal place of business was in Seoul, South Korea. The headquarters for the Americas region of Asiana Airlines was located in Los Angeles, California.

2. From approximately January 2000 to December 2001, the defendant JOO AHN KANG was Vice President of the Americas region of Asiana Airlines, and he worked at the regional

headquarters in Los Angeles, California. From approximately January 2004 to February 2006, the defendant CHUNG SIK KWAK was the Vice President of the Americas region of Asiana Airlines, and he worked at the regional headquarters in Los Angeles, California.

3. Korean Air Lines Co., Ltd. ("Korean Air Lines"), was a corporation organized and existing under the laws of South Korea (officially the Republic of Korea) and its principal place of business was in Seoul, South Korea. The headquarters for the Americas region of Korean Air Lines was located in Los Angeles, California.

4. During the period covered by this Indictment, the business activities of Asiana Airlines and Korean Air Lines in connection with the passenger transportation services that are the subject of this Indictment were within the flow of, and substantially affected, interstate and foreign trade and commerce. Asiana Airlines and Korean Air Lines transported substantial numbers of passengers, in a continuous and uninterrupted flow of interstate and foreign commerce, between various airports in the United States and South Korea. Tickets, invoices for payment, payments, and other documents essential to the provision of the passenger transportation services from certain United States cities to South Korea were transmitted by Asiana Airlines and Korea Air Lines in interstate and foreign

trade and commerce between and among offices of Asiana Airlines and Korean Air Lines and their customers located in various states.

B. Passenger Transportation Services and Ticket Sales

5. Asiana Airlines and Korean Air Lines separately provided passenger transportation services in the United States and elsewhere. For passenger transportation services from the United States to South Korea, both Asiana Airlines and Korean Air Lines sold economy class tickets to passengers directly, and also through travel agents.

6. When Asiana Airlines and Korean Air Lines sold tickets to passengers directly, they charged passengers a published fare and, during part of the relevant period, a fuel surcharge (together, the "passenger fare").

7. When Asiana Airlines and Korean Air Lines sold tickets to passengers through travel agents, they charged travel agents a discounted passenger fare. The discounts were called "commissions" and they enabled travel agents to resell the tickets to passengers at or below the passenger fare.

II. The Defendants' Collusive Conduct

8. From approximately January 2000 to February 2006, the defendants JOO AHN KANG and CHUNG SIK KWAK, together with others, executed a scheme to fix the prices charged for passenger transportation services on flights from certain airports in the

United States to Korea by, among other things, (a) communicating and agreeing on one or more components of the passenger fares, (b) charging passenger fares in accordance with the agreements reached, (c) charging discounted passenger fares for tickets sold through travel agents which were pegged to, and necessarily affected by, the agreed-upon passenger fares, (d) monitoring and enforcing adherence to the agreed-upon passenger fares and discounted passenger fares, and (e) accepting payment for passenger transportation services at the agreed-upon, collusive, and noncompetitive fares.

COUNT ONE
(Price-Fixing Conspiracy)

9. The allegations contained in paragraphs 1 through 8 are realleged and incorporated as though fully set forth in this paragraph.

10. In or about and between January 2000 and February 2006, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendants JOO AHN KANG and CHUNG SIK KWAK, together with others, entered into and engaged in a combination and conspiracy to suppress and eliminate competition by fixing one or more components of the passenger fares for passenger transportation services from certain airports in the United States to South Korea. The combination and conspiracy engaged in by the defendants JOO AHN KANG and CHUNG SIK KWAK and their co-conspirators was in


unreasonable restraint of interstate and foreign trade and commerce in violation of Section 1 of the Sherman Act.


11. The charged combination and conspiracy consisted of a continuing agreement, understanding, and concert of action among the defendants JOO AHN KANG and CHUNG SIK KWAK and their co-conspirators, the substantial terms of which were to suppress and eliminate competition by fixing passenger fares for passenger transportation services from certain United States cities to South Korea.

(Title 15, United States Code, Section 1; Title 18, United States Code, Section 3551 et seq.)

A TRUE BILL


FOREPERSON


LORETTA E. LYNCH
UNITED STATES ATTORNEY
EASTERN DISTRICT OF NEW YORK


SCOTT D. HAMMOND
DEPUTY ASSISTANT ATTORNEY GENERAL
ANTITRUST DIVISION
UNITED STATES DEPARTMENT OF JUSTICE