

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION

UNITED STATES OF AMERICA)	CRIMINAL ACTION NO.: 96-40056
)	
vs.)	
)	FILED: [6/18/96]
GILLETTE DAIRY OF THE)	
BLACK HILLS, INC.,)	
)	JUDGE: PEARSALL
Defendant.)	

INFORMATION

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

I.

DESCRIPTION OF THE OFFENSE

1. Gillette Dairy of the Black Hills, Inc. is hereby made a defendant on the charge stated below.

2. The defendant and others entered into and engaged in a combination and conspiracy to suppress and eliminate competition by fixing prices, allocating customers, and rigging bids submitted for the award and performance of publicly bid contracts to supply milk products to certain customers in the State of South Dakota. The charged conspiracy began at least as early as 1987 and continued until at least 1991, the exact dates being unknown to the United States. The combination and conspiracy, engaged in by the defendant and its co-conspirators in unreasonable restraint of interstate trade and commerce, violated Section 1 of the Sherman Act (15 U.S.C. § 1).

3. The charged combination and conspiracy consisted of a continuing agreement, understanding, and concert of action among the defendant and its co-conspirators, the substantial terms of which were:

- (a) to allocate among the co-conspirators contracts with certain customers for the supply of milk products to those accounts;
- (b) to refrain from submitting bids or to submit collusive, noncompetitive, and rigged bids to certain customers for the supply of milk products to those accounts; and
- (c) to have the designated co-conspirators supply milk products to certain customers at noncompetitive prices and receive compensation therefor.

4. For the purpose of forming and carrying out the charged combination and conspiracy, the defendant and its co-conspirators did those things that they combined and conspired to do, among other things:

- (a) discussing among themselves the submission of prospective bids to certain customers;
- (b) designating which co-conspirator would be the low, responsive bidder for contracts to supply milk products to certain customers;
- (c) refraining from bidding, or submitting intentionally high, complementary bids for contracts to supply milk products to certain

customers;

- (d) having the designated co-conspirators supply milk products to certain customers and receive compensation therefor; and
- (e) concealing and attempting to conceal the conspiracy.

II.

DEFENDANT AND CO-CONSPIRATORS

5. Defendant Gillette Dairy of the Black Hills, Inc. is a corporation organized and existing under the laws of the State of South Dakota with its corporate headquarters in Rapid City, South Dakota. During the period covered by this Information, Gillette Dairy of the Black Hills, Inc. was engaged in the sale and distribution of dairy products in various locations within the State of South Dakota and elsewhere.

6. Various corporations and individuals, not made defendants in this Information, participated as co-conspirators in the offense charged and performed acts and made statements in furtherance of it.

7. Whenever in this Information reference is made to any act, deed, or transaction of any corporation, the allegation means that the corporation engaged in the act, deed, or transaction by or through its officers, directors, employees, agents, or other representatives while they were actively engaged in the management, direction, control, or transaction of its business or affairs.

III.

TRADE AND COMMERCE

8. The business activities of the defendant and its co-conspirators that are the subject of this Information were within the flow of, and substantially affected, interstate trade and commerce.

IV.

JURISDICTION AND VENUE

9. The combination and conspiracy charged in this Information was carried out, at least in part, in the District of South Dakota, and is not barred by the Statute of Limitations.

ALL IN VIOLATION OF TITLE 15 U.S.C. SECTION 1.

_____/s/_____
ANNE K. BINGAMAN
Assistant Attorney General
Antitrust Division

_____/s/_____
DAN W. GOLDFINE

_____/s/_____
GARY R. SPRATLING
Deputy Assistant Attorney General

_____/s/_____
MICHAEL G. PATEYUK

_____/s/_____
JAMES M. GRIFFIN
MARVIN PRICE

Attorneys
Antitrust Division
U.S. Department of Justice
209 S. LaSalle Street
Suite 600
Chicago, Illinois 60604
(312) 353-7530

Attorneys
Antitrust Division
U.S. Department of Justice