

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA	:	Criminal No. 03-730
v.	:	Filed: 6/09/03
ROBERT GUGLIUZZA,	:	Violations: 15 U.S.C. § 1
	:	18 U.S.C. § 371
Defendant.	:	26 U.S.C. § 7206(1)

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INFORMATION

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

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

1. Robert Gugliuzza ("Gugliuzza") is hereby made a defendant on the charge stated below.

I. THE RELEVANT PARTIES AND ENTITIES

During the period covered by this Count:

2. Gugliuzza was a resident of Seaford, New York. He was employed as a purchasing agent and, after January 1999, as the director of printing services at Impact Communication, Inc. ("Impact"). Gugliuzza had primary responsibility for selecting suppliers of printed advertising materials to Impact.

3. Impact, located in Manhattan, was an advertising agency that specialized in servicing customers in the pharmaceutical industry. Its main customers included Pfizer, Inc. and Merck & Co., Inc.

4. Advertising agencies, including Impact, frequently solicit multiple competitive bids before awarding sizable contracts to suppliers of printed advertising materials, and then award those contracts to the lowest responsible bidder. Such a practice allows the agencies to demonstrate to their clients that they have attempted to obtain products and services at a fair market price.

5. In carrying out his responsibilities at Impact, Gugliuzza generally attempted to create the appearance that he was following a competitive bidding policy for contracts for printed advertising materials that were valued at more than \$2500.

6. Ivan Glick ("Glick") was a co-conspirator who was an independent sales representative working primarily for The Color Wheel, Inc. ("Color Wheel"), a printing company located in Manhattan. Glick created and controlled an entity named "New Horizons Litho," to which his commissions were paid.

7. Steven Briggin ("Briggin") was a co-conspirator who was a sales representative for Darbert Offset Corp. ("Darbert"), a printing company located in Manhattan.

8. "CC-1" was a co-conspirator who was a sales representative for a printing company located in Manhattan ("Printing Company-1").

9. Various persons and firms, not made defendants herein, including Glick, Briggin, and CC-1, participated as co-conspirators in the offense charged herein and performed acts and made statements in furtherance thereof.

## II. DEFINITION

10. The term "printed advertising materials" includes custom-designed mailings, insets, brochures, workbooks, and similar items.

### III. TRADE AND COMMERCE

11. During the period covered by this Count, Impact purchased substantial quantities of printed advertising materials from suppliers who produced those materials outside the State of New York or obtained the goods used to produce those materials from sources located throughout the United States.

12. From approximately mid- to late 1997 until approximately June 2000, as a result of the conspiracy charged herein, Impact awarded contracts for printed advertising materials worth a total of at least \$2 million to Color Wheel, Darbert, Printing Company-1, and other co-conspirators.

13. During the period covered by this Count, the activities of the defendant and co-conspirators with respect to the sale of printed advertising materials to Impact were within the flow of, and substantially affected, interstate trade and commerce.

### IV. DESCRIPTION OF THE OFFENSE

14. From approximately mid- to late 1997 until approximately June 2000, 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).

15. 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 printed advertising materials awarded by Impact.

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) Gugliuzza discussed and agreed with Glick, Briggin, or CC-1 which co-conspirators, Color Wheel, Darbert, Printing Company-1, or others, would be awarded contracts by Impact for printed advertising materials;

(b) Gugliuzza and Glick, Briggin, or CC-1 arranged for the company that had been designated to win a particular contract to submit the lowest bid or price quotation to Impact for that contract. In order to create the false appearance that a competitive bidding policy was being followed, Gugliuzza and Glick, Briggin, or CC-1 also arranged for co-conspirators to submit bids or price quotations for the same contract at prices that were intentionally higher (“cover bids”). On some contracts, Gugliuzza specified which co-conspirators he wanted to submit cover bids and the prices to be quoted in those bids; and

(c) Glick, Briggin, and CC-1 paid substantial amounts of cash to Gugliuzza for his assistance in frustrating and subverting the competitive bidding for contracts to supply printed advertising materials, and for ensuring that no potential competitors who were not co-conspirators would be invited to bid on contracts for printed advertising materials.

## V. JURISDICTION AND VENUE

17. 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.

### COUNT TWO -- CONSPIRACY TO COMMIT MAIL FRAUD (18 U.S.C. § 371)

The United States of America further charges:

18. Paragraphs 1 through 10 of Count One of this Information are repeated, realleged, and incorporated in Count Two as if fully set forth in this Count.

## VI. DESCRIPTION OF THE OFFENSE

19. From approximately mid-1997 until approximately June 2000, the exact dates being unknown to the United States, in the Southern District of New York and elsewhere, Gugliuzza and others, known and unknown, unlawfully, willfully, and knowingly did combine, conspire, confederate, and agree together and with each other to commit offenses against the United States of America, to wit, to violate Title 18, United States Code, Sections 1341 and 1346.

20. It was a part and an object of the conspiracy that Gugliuzza and others known and unknown, having devised and intending to devise a scheme and artifice to defraud Impact and its customers, including a scheme to deprive Impact of the intangible right of Gugliuzza's honest services, and for obtaining money and

property from Impact and its customers by means of false and fraudulent pretenses, representations, and promises, unlawfully, willfully, and knowingly, for the purpose of executing such scheme and artifice, would and did place in post offices and authorized depositories for mail matter, matters and things to be sent and delivered by the Postal Service, and deposit and cause to be deposited matters and things to be sent and delivered by private and commercial interstate carriers, and take and receive therefrom, such matters and things, and knowingly cause to be delivered by mail and such carriers according to the directions thereon, and at the place at which they were directed to be delivered by the persons to whom they were addressed such matters and things, in violation of Title 18, United States Code, Sections 1341 and 1346.

VII. THE MANNER AND MEANS BY WHICH THE  
CONSPIRACY WAS CARRIED OUT

The manner and means by which the conspiracy was sought to be accomplished included, among others, the following:

21. From approximately mid-1997 until approximately June 2000, three suppliers of printed advertising materials to Impact, Glick, Briggin, and CC-1, agreed to pay and, in fact, paid substantial cash kickbacks to Gugliuzza to ensure that he would allocate to the companies they represented, or to co-conspirators, a portion of the total value of contracts for printed advertising materials awarded by Impact. Gugliuzza received at least \$665,000 in kickbacks during this period.

22. The amount of the kickbacks paid by each of these suppliers was

determined primarily by Gugliuzza himself, based on amounts that he caused them and co-conspirators to add to the prices of contracts awarded by Impact on a job-by-job basis. Before determining the price at which each of the contracts affected by the conspiracy would be awarded, Gugliuzza first asked Glick, Briggin, or CC-1 to give him a verbal estimate of the price for performing that contract. Gugliuzza then instructed Glick, Briggin, or CC-1 to increase that price by a specific amount, all or a substantial portion of which he expected to receive in cash after the job had been performed and paid for by Impact. Glick, Briggin, or CC-1 then caused the company that was to be awarded the contract to submit a written price quotation at a price that was equal to or greater than the sum of the original verbal estimate and the amount specified by Gugliuzza. Gugliuzza's superiors at Impact were not aware of and did not approve of the method by which the prices of the contracts awarded to the suppliers represented by Glick, Briggin, and CC-1 were determined.

23. In order to make it appear that contracts awarded to the suppliers represented by Glick, Briggin, and CC-1 had been awarded in compliance with a competitive bidding policy, Gugliuzza and Glick, Briggin, or CC-1 made arrangements for Impact to receive written price quotations or bids from multiple sources in addition to the supplier that had been designated to win a particular contract. Gugliuzza often specified which companies he wanted to submit the losing written bids or price quotations on a particular contract and the prices each company should quote.

## VIII. OVERT ACTS

In furtherance of the conspiracy, and to effect the objects thereof, the following overt acts were committed in the Southern District of New York, and elsewhere:

24. On numerous occasions between 1997 and June 2000, Gugliuzza met with Glick, usually at Grand Central Station or O'Casey's Restaurant in Manhattan, to receive some portion of the kickbacks he was owed. Gugliuzza received a total of at least \$515,000 in cash from Glick during this period.

25. On numerous occasions between 1997 and June 2000, Gugliuzza met with Briggin, usually on Thursdays at O'Casey's Restaurant in Manhattan, to receive some portion of the kickbacks he was owed. Gugliuzza received a total of approximately \$150,000 in cash from Briggin during this period.

26. Between mid-1997 and June 2000, Gugliuzza and his co-conspirators caused Impact to receive and pay numerous invoices issued by Color Wheel, Darbert, Printing Company-1, or other co-conspirators, that sought payment for contracts for printed advertising materials at prices that had been fraudulently inflated. Glick, Briggin, CC-1, and other co-conspirators caused those invoices to be sent by and through the United States mails. Impact sent the corresponding payments by and through the United States mails.

IN VIOLATION OF TITLE 18, UNITED STATES CODE, SECTION 371

COUNT THREE -- FRAUD AND FALSE STATEMENTS  
(26 U.S.C. § 7206(1))

The United States of America further charges:



27. Paragraphs 1 and 2 of Count One of this Information are repeated, realleged, and incorporated in Count Three as if fully set forth in this Count.

28. On or about the filing dates set forth below, in the Southern District of New York and elsewhere, Gugliuzza, unlawfully, knowingly and willfully, did make and subscribe U.S. Individual Income Tax Returns, Forms 1040, on behalf of himself and his spouse, for the tax years set forth below, which contained and were verified by Gugliuzza's written declaration that the returns were made under penalties of perjury, and which were filed with the Internal Revenue Service, and which income tax returns he did not believe to be true and correct as to every material matter, in that the income tax returns reported taxable income in the amounts set forth below, whereas Gugliuzza then and there well knew and believed that their income was substantially in excess of the amounts reported because the income tax returns failed to report as income a total of least \$600,000 in cash kickbacks he had received from suppliers of printed advertising materials to his employer, Impact Communication, Inc., as set forth in Count Two of this Information:

<u>YEAR</u>	<u>FILING DATE</u>	<u>REPORTED TAXABLE INCOME</u>	<u>REPORTED TAX</u>
1997	4/15/98	\$70,963	\$14,700
1998	4/15/99	\$69,271	\$13,422
1999	4/15/00	\$110,607	\$24,353

IN VIOLATION OF TITLE 26, UNITED STATES CODE, SECTION 7206(1)

Dated: June 9, 2003

/s/\_\_\_\_\_  
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