

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA

Norfolk Division

UNITED STATES OF AMERICA)	
)	
v.)	CRIMINAL NO. 2:06cr91
)	
GERALD THERMOS,)	Filed: 06/14/06
)	
Defendant.)	

CRIMINAL INFORMATION

THE UNITED STATES OF AMERICA, THROUGH ITS ATTORNEYS, CHARGES THAT:

I. DESCRIPTION OF THE OFFENSE

1. Beginning at least as early as June 2000 and continuing until as late as August 2005, the exact dates being unknown to the United States, the defendant and co-conspirators entered into and engaged in a combination and conspiracy to suppress and eliminate competition by allocating customers and rigging bids for contracts of foam-filled marine fenders and buoys in the United States and elsewhere. The combination and conspiracy engaged in by the defendant and co-conspirators was in unreasonable restraint of interstate and foreign trade and commerce in violation of Section 1 of the Sherman Act (15 U.S.C. § 1).

2. The charged 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 allocate customers and rig bids for contracts of foam-filled marine fenders and buoys in the United States and elsewhere. The victims of this conspiracy included the U.S. Coast Guard and elements of the Department of Defense, including the U.S. Navy, as well as private companies.

II. MEANS AND METHODS OF THE CONSPIRACY

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

- (a) attended meetings and engaged in discussions by telephone, facsimile and electronic mail, regarding the sale of foam-filled marine fenders and buoys sold in the United States and elsewhere;
- (b) agreed during those meetings and discussions to allocate jobs and to create and exchange order logs in order to implement and monitor this agreement;
- (c) agreed during those meetings and discussions not to compete for one another's customers either by not submitting prices or bids to certain customers, or by submitting intentionally high prices or bids to certain customers;
- (d) submitted bids in accordance with the agreements reached;
- (e) sold foam-filled marine fenders and buoys to the U.S. Coast Guard, the U.S. Navy, and others pursuant to those agreements at collusive and noncompetitive prices;
- (f) accepted payment for foam-filled marine fender and buoys sold at the collusive and noncompetitive prices; and
- (g) authorized or consented to the participation of subordinate employees and/or distributors in the conspiracy.

III. DEFENDANT AND CO-CONSPIRATORS

4. From the beginning of the period covered by this Information until on or about April 28, 2004, the defendant was President of Urethane Products Corporation (“UPC”). From on or around the beginning of May 2004 until the end of the period covered by this Information, the defendant was President of Marine Fenders International, Inc. (“MFI”). Both UPC and MFI are entities organized and existing under the laws of California and have their principal places of business in Los Angeles County, California.

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

IV. TRADE AND COMMERCE

6. Foam-filled marine fenders are used as a cushion between ships and either fixed structures such as docks or piers, or floating structures such as other ships. Foam-filled buoys are used in a variety of applications including as channel markers and navigational aids. Foam-filled marine fenders and buoys are constructed of an elastomer shell filled with closed-cell polyethylene foam. During the period covered by this Information, both UPC and MFI manufactured and sold foam-filled marine fenders and buoys in the United States and elsewhere.

7. During the period covered by this Information, foam-filled marine fenders and buoys sold by one or more of the conspirator firms, and equipment and supplies necessary to the production and distribution of foam-filled marine fenders and buoys, as well as payments for foam-filled marine fenders and buoys, traveled in interstate commerce.

8. During the period covered by this Information, the business activities of defendant and his co-conspirators in connection with the production and sale of foam-filled

marine fenders and buoys that are the subject of this Information were within the flow of, and substantially affected, interstate and foreign trade and commerce.

V. JURISDICTION AND VENUE

9. The combination and conspiracy charged in this Information was carried out, in part, within the Eastern District of Virginia within the five years preceding the filing of this Information.

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

Dated:

_____/s/
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Assistant Attorney General

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By: _____/s/
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