

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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| UNITED STATES OF AMERICA | : | Criminal No.: 99CR883 |
| v. | : | Filed: September 9, 1999 |
| MARTIN B. COHEN, | : | Violations: 15 U.S.C. § 1 |
| Defendant. | : | 18 U.S.C. § 371 |

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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. Martin Cohen ("Cohen") is hereby made a defendant on the charge stated below.

I. DESCRIPTION OF THE OFFENSE

2. Beginning at least as early as 1994 and continuing until at least late 1997, 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).

3. 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 materials and office supplies awarded by three not-for-profit social service organizations located in New York City.

4. 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) agreed that Leonard Martin Business Systems, Inc. or Leonard Martin Office Products, Inc., companies partly-owned and controlled by Cohen, would be the low bidder on contracts for printed materials and office supplies awarded by three not-for-profit social service organizations located in New York City;
- (b) arranged for one or more higher, noncompetitive price quotations or bids to be submitted by other suppliers, on contracts to be awarded by three not-for-profit social service organizations; and
- (c) paid money to purchasing agents at three not-for-profit social service organizations for their assistance in controlling those organizations' programs for seeking competitive bids for contracts for printed materials and office supplies.

II. DEFENDANTS AND CO-CONSPIRATORS

5. Cohen resides in New City, New York. During the period covered by this Information, Cohen was a co-owner of Leonard Martin Business Systems, Inc.

d/b/a Leonard Martin Associates, and a co-owner of Leonard Martin Office Products, Inc.

6. Leonard Martin Business Systems, Inc., d/b/a Leonard Martin Associates, is an S corporation with its principal place of business in Manhattan, New York. Leonard Martin Business Systems, Inc. is a broker of printed materials.

7. Leonard Martin Office Products, Inc. is a corporation with its principal place of business in Manhattan, New York. Leonard Martin Office Products, Inc. is a broker of office supplies and printed materials.

8. 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 other representatives while they were actively engaged in the management, direction, control, or transaction of its business or affairs.

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

III. DEFINITIONS

10. The term "printed materials" includes custom-designed business forms, brochures, posters, letterhead paper, and business cards.

11. The term "office supplies" includes office furniture, photocopy machine supplies, staplers, pens, paperclips, and similar items.

IV. TRADE AND COMMERCE

12. During the period covered by this Count, Leonard Martin Business Systems, Inc. purchased substantial quantities of printed materials from manufacturers and suppliers located throughout the United States.

13. During the period covered by this Count, Leonard Martin Office Products, Inc. purchased substantial quantities of office supplies and printed materials from manufacturers and suppliers located throughout the United States.

14. Beginning at least as early as 1994 and continuing until at least late 1997, as a result of the conspiracy charged herein, Cohen caused Leonard Martin Business Systems, Inc. to obtain contracts for printed materials worth a total of approximately \$147,850.40, from three not-for-profit social service organizations. During the same period, Cohen and a co-conspirator ("CC-1") who was also a co-owner of Leonard Martin Office Products, Inc., caused Leonard Martin Office Products, Inc. to obtain contracts for office supplies and printed materials worth a total of approximately \$377,645, from three not-for-profit social service organizations.

15. During the period covered by this Count, the activities of the defendant and co-conspirators with respect to the sale of printed materials and

office supplies to three not-for-profit social service organizations were within the flow of, and substantially affected, interstate commerce.

V. JURISDICTION AND VENUE

16. 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 DEFRAUD THE UNITED STATES (18 U.S.C. § 371)

The United States of America further charges:

17. Paragraphs 1 and 5 through 11 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

18. From at least as early as February 1994 and continuing until at least late 1997, the exact dates being unknown to the United States, the defendant and co-conspirators did unlawfully, willfully, and knowingly conspire, combine, confederate, and agree to defraud the United States of America and the Internal Revenue Service ("IRS") by impeding, impairing, defeating, and

obstructing the lawful governmental functions of the IRS in the ascertainment, evaluation, assessment, and collection of income taxes, and to commit offenses against the United States of America, to wit, to violate Title 26, United States Code, Sections 7201 and 7206.

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:

19. Cohen, CC-1, and another co-conspirator ("CC-2") caused sham companies created and controlled by CC-2 named AAMM Printing ("AAMM"), K&S Supply ("K&S"), and SOS Printing ("SOS") to issue false and fraudulent invoices to Leonard Martin Business Systems, Inc. and to Leonard Martin Office Products, Inc. These invoices were false and fraudulent because they purported to represent the sale of goods and/or services that had never been provided and were not intended to be provided to Leonard Martin Business Systems, Inc. or to Leonard Martin Office Products, Inc.

20. Cohen caused Leonard Martin Business Systems, Inc. to draw approximately 31 checks totalling approximately \$24,882, and Cohen and CC-1 caused Leonard Martin Office Products, Inc. to draw approximately 157 checks totalling approximately \$368,017.16, payable to AAMM, SOS, and K&S in response to the false invoices. CC-2 then cashed the checks and returned a

large percentage, approximately 96%, of the value of the checks in cash to Cohen or to CC-1.

21. Cohen and CC-1 caused Leonard Martin Office Products, Inc. to treat the full value of the checks issued to AAMM, K&S, and SOS as business expenses in its books and records for 1994, 1995, and 1996, despite the fact that there were no actual expenses and they received approximately 96% of the value of the checks back in cash. Cohen and CC-1 further caused Leonard Martin Office Products, Inc. to fraudulently deduct the value of these checks on its U.S. Income Tax Returns for a Corporation, Forms 1120 for tax years 1994, 1995, and 1996.

22. Cohen further caused Leonard Martin Business Systems, Inc. to treat the full value of the checks issued to AAMM, K&S, and SOS as business expenses in its books and records for 1995 and 1996, despite the fact that there were no actual expenses and he received a large percentage of the value of the checks back in cash. Cohen further caused Leonard Martin Business Systems, Inc. to fraudulently deduct the value of these checks on its U.S. Income Tax Returns for an S Corporation, Forms 1120S, for tax years 1995 and 1996.

23. Cohen also introduced other co-conspirators to CC-2, and received in cash a small percentage of their total business from CC-2 as a finder's fee. Cohen did not declare this cash, which amounted to at least \$41,000, as income

on his and his spouse's U.S. Individual Income Tax Returns, Forms 1040, for tax years 1994, 1995, and 1996.

24. Cohen and CC-1 used some of the cash they received from CC-2 to pay kickbacks to employees responsible for purchasing printed materials and office supplies at certain customers of Leonard Martin Office Products, Inc. and Leonard Martin Business Systems, Inc.

25. Cohen and CC-1 also used approximately \$28,000 of the cash they received from CC-2 to pay a co-conspirator, who was a purchasing agent at one not-for-profit social service organization. This cash represented approximately one-half of the total value of a series of false and fraudulent purchase orders and corresponding invoices between the not-for-profit organization and Leonard Martin Office Products, Inc. and Leonard Martin Business Systems, Inc. The not-for-profit organization never actually received the goods or services described in the purchase orders and invoices. Rather, the co-conspirator falsely certified that the not-for-profit organization had received the goods and services described, thus causing the not-for-profit organization to pay Leonard Martin Office Products, Inc. and Leonard Martin Business Systems, Inc.

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:

26. Between at least as early as 1994 and early 1997, Cohen or CC-1 caused Leonard Martin Office Products, Inc. and Leonard Martin Business Systems, Inc. to issue at least 188 checks to AAMM, K&S, and SOS, with a face value of approximately \$392,899.16. Cohen then caused these checks to be given to CC-2, in exchange for cash and false and fraudulent invoices. Many of these exchanges took place at Leonard Martin Business Systems, Inc.'s place of business in Manhattan, New York.

27. On or about March 15, 1996 and February 24, 1997, Cohen caused Leonard Martin Business Systems, Inc. to file U.S. Income Tax Returns for an S Corporation, Forms 1120S, with the IRS that falsely represented the checks issued to AAMM, K&S, and SOS as deductible business expenses, despite the fact that Cohen received a large percentage of the value of the checks back in cash.

28. On or about April 24, 1995, January 9, 1997, and July 28, 1997, Cohen or CC-1 caused Leonard Martin Office Products, Inc. to file U.S. Income Tax Returns for a Corporation, Forms 1120, with the IRS that falsely represented the checks issued to AAMM, K&S, and SOS as deductible business expenses, despite the fact that Cohen or CC-1 received a large percentage of the value of the checks back in cash.

29. On or about April 15, 1995, April 13, 1996, and April 14, 1997, Cohen and his spouse filed U.S. Individual Income Tax Returns, Forms 1040, with the IRS that falsely represented their true total income by failing to report cash that Cohen had received from CC-1 and other co-conspirators that he and his spouse used for their personal benefit.

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

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