

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNITED STATES OF AMERICA)	Filed: August 20, 2001
)	
v.)	Criminal No. 1:01 CR 393
)	
HOWARD B. BAHM,)	Judge O'Malley
)	
Defendant,)	Violations: 15 U.S.C. § 1

INFORMATION

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

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

I

DESCRIPTION OF THE OFFENSE

1. HOWARD B. BAHM is hereby made a defendant on the charge stated below.
2. Beginning at least as early as December 1993, and continuing until at least October 1999, 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 suppliers and rigging bids in the purchase of ferrous and nonferrous scrap metal in Northeast Ohio. The charged combination and conspiracy unreasonably restrained interstate trade and commerce in violation of Section 1 of the Sherman Antitrust Act (15 U.S.C. § 1).

3. The 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 suppliers and rig bids in the purchase of ferrous and nonferrous scrap metal in Northeast Ohio.

II
MEANS AND METHODS OF THE CONSPIRACY

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

- (a) participated in meetings and conversations to discuss allocating (*i.e.*, dividing up) suppliers of ferrous and/or nonferrous scrap metal among themselves;
- (b) agreed, during such meetings and conversations, to allocate suppliers and not to compete against each other in the purchase of ferrous and/or nonferrous scrap metal;
- (c) allocated, pursuant to such meetings and conversations, suppliers of ferrous and/or nonferrous scrap metal among themselves, denying such suppliers a competitive price;
- (d) participated in meetings and conversations to discuss the submission of prospective bids for contracts to purchase ferrous and/or nonferrous scrap metal from particular suppliers;
- (e) agreed, during such meetings and conversations, which

designated co-conspirator would purchase ferrous and/or nonferrous scrap metal from particular suppliers;

- (f) agreed, during such meetings and conversations, on the prices to be submitted for contracts to purchase ferrous and/or nonferrous scrap metal from particular suppliers; and
- (g) refrained from bidding, or submitted intentionally low, complementary and non-competitive bids, or submitted bids with the agreed-upon prices, for certain contracts to purchase ferrous and/or nonferrous scrap metal, denying such suppliers a competitive price.

III DEFENDANT AND CO-CONSPIRATORS

5. At all times relevant to this Information, HOWARD B. BAHM worked for a scrap metal company which did business in Northeast Ohio and elsewhere as Harry Rock & Company, with its headquarters and principal place of business in Cleveland, Ohio. In December 1993, the company was purchased by MW Acquisition Corp., an Ohio corporation, and HOWARD B. BAHM entered into a long-term employment contract with MW Acquisition Corp. In December 1993, the MW Acquisition Corp. changed its name to Harry Rock & Company, an Ohio corporation. In May 1995, Harry Rock & Company changed its name to Harry Rock & Associates, Inc., an Ohio corporation. In July 1998, Harry Rock & Associates, Inc., merged out of existence as an Ohio corporation and into existence as a Florida

corporation of the same name. At all times relevant to this Information, HOWARD B. BAHM purchased and sold scrap metal on behalf of MW Acquisition Corp., which later became Harry Rock & Company, which later became Harry Rock & Associates, Inc. Collectively, these entities are referred to in this Information as "Rock." HOWARD B. BAHM was the president and long-time employee of Rock, having begun working for the company in approximately 1951.

6. At all times relevant to this Information, Rock was engaged in the purchase and sale of ferrous and nonferrous scrap metal, both inside and outside the State of Ohio, including in Northeast Ohio. At all times relevant to this Information, Rock purchased scrap metal for resale to customers such as mills and foundries, sometimes processing or re-manufacturing the scrap to fit a particular customer's specifications. Rock sold the scrap that it purchased to customers located both inside and outside the State of Ohio. At all times relevant to this Information, HOWARD B. BAHM, on behalf of Rock, purchased ferrous and nonferrous scrap metal, and caused such scrap metal to be sold, in Northeast Ohio and elsewhere.

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

8. Whenever this Information refers to any act, deed or transaction of any corporation, it 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.

IV
TRADE AND COMMERCE

9. Ferrous and nonferrous scrap metal is a residual product that has value. Typically, mills and foundries generate ferrous and nonferrous scrap metal as a by-product. In the scrap metal industry, this type of scrap is generally referred to as industrial scrap. For example, tool and die makers or stamping plants end up with small or odd-shaped pieces of scrap that are a by-product of their manufacturing process. However, this scrap is still valuable if picked up, sorted and sold to mills or foundries that desire scrap metal as part of their manufacturing process. The business in which Rock was engaged generally involves placing collection boxes at manufacturers' sites to collect residual scrap, picking up the residual scrap, processing the residual scrap and reselling the scrap to customers.

10. During the period covered by this Information, HOWARD B. BAHM and his co-conspirators: (1) purchased ferrous and nonferrous scrap metal from individuals and companies located inside and outside the State of Ohio; (2) sold or shipped ferrous and nonferrous scrap metal to individuals and companies located inside and outside the State of Ohio; and (3) caused ferrous and nonferrous scrap metal to be purchased from, or to be sold to, or to be shipped from or to, individuals and companies located inside and outside the State of Ohio. Substantial quantities

of ferrous and nonferrous scrap metal bought and/or sold by the defendant and his co-conspirators were shipped across state lines in a continuous and uninterrupted flow of interstate commerce from its places of manufacture to locations inside and outside the State of Ohio.

11. The activities of the defendant and his co-conspirators that are the subject of Count I of this Information were within the flow of, and substantially affected, interstate trade and commerce.

V
JURISDICTION AND VENUE

12. The aforesaid combination and conspiracy charged in Count I of this Information was formed and carried out, in part, within the Northern District of Ohio within the five years preceding the filing of this Information.

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

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

The United States of America further charges:

13. Paragraphs 1 and 5 through 10 of Count I are repeated, realleged and incorporated in Count II as if fully set forth in this Count.

VI
DESCRIPTION OF THE OFFENSE

14. Beginning at least as early as December 1993, and continuing until at least November 1999, 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 suppliers and rigging bids in the purchase of ferrous and nonferrous scrap metal in Northeast Ohio. The charged combination and conspiracy unreasonably restrained interstate trade and commerce in violation of Section 1 of the Sherman Antitrust Act (15 U.S.C. § 1).

15. The 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 suppliers and rig bids in the purchase of ferrous and nonferrous scrap metal in Northeast Ohio.

VII
MEANS AND METHODS OF THE CONSPIRACY

16. For the purpose of forming and carrying out the charged combination and conspiracy, the defendant and co-conspirators did those things which they

combined and conspired to do, including, among others:

- (a) participated in meetings and conversations to discuss allocating (*i.e.*, dividing up) suppliers of ferrous and/or nonferrous scrap metal among themselves;
- (b) agreed, during such meetings and conversations, to allocate suppliers and not to compete against each other in the purchase of ferrous and/or nonferrous scrap metal;
- (c) allocated, pursuant to such meetings and conversations, suppliers of ferrous and/or nonferrous scrap metal among themselves, denying such suppliers a competitive price;
- (d) participated in meetings and conversations to discuss the submission of prospective bids for contracts to purchase ferrous and/or nonferrous scrap metal from particular suppliers;
- (e) agreed, during such meetings and conversations, which designated co-conspirator would purchase ferrous and/or nonferrous scrap metal from particular suppliers;
- (f) agreed, during such meetings and conversations, on the prices to be submitted for contracts to purchase ferrous and/or nonferrous scrap metal from particular suppliers; and
- (g) refrained from bidding, or submitted intentionally low, complementary and non-competitive bids, or submitted bids

with the agreed-upon prices, for certain contracts to purchase ferrous and/or nonferrous scrap metal, denying such suppliers a competitive price.

VIII
TRADE AND COMMERCE

17. The activities of the defendant and his co-conspirators that are the subject of Count II of this Information were within the flow of, and substantially affected, interstate trade and commerce.

IX
JURISDICTION AND VENUE

18. The aforesaid combination and conspiracy charged in Count II of this Information was formed and carried out, in part, within the Northern District of Ohio within the five years preceding the filing of this Information.

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

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

The United States of America further charges:

19. Paragraphs 1 and 5 through 10 of Count I are repeated, realleged and incorporated in Count III as if fully set forth in this Count.

X
DESCRIPTION OF THE OFFENSE

20. Beginning at least as early as April 1997, and continuing until at least March 2000, 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 suppliers and rigging bids in the purchase of ferrous and nonferrous scrap metal in Northeast Ohio. The charged combination and conspiracy unreasonably restrained interstate trade and commerce in violation of Section 1 of the Sherman Antitrust Act (15 U.S.C. § 1).

21. The 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 suppliers and rig bids in the purchase of ferrous and nonferrous scrap metal in Northeast Ohio.

XI
MEANS AND METHODS OF THE CONSPIRACY

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

- (a) participated in meetings and conversations to discuss allocating (*i.e.*, dividing up) suppliers of ferrous and/or nonferrous scrap metal among themselves;
- (b) agreed, during such meetings and conversations, to allocate suppliers and not to compete against each other in the purchase of ferrous and/or nonferrous scrap metal;
- (c) allocated, pursuant to such meetings and conversations, suppliers of ferrous and/or nonferrous scrap metal among

- themselves, denying such suppliers a competitive price;
- (d) participated in meetings and conversations to discuss the submission of prospective bids for contracts to purchase ferrous and/or nonferrous scrap metal from particular suppliers;
 - (e) agreed, during such meetings and conversations, which designated co-conspirator would purchase ferrous and/or nonferrous scrap metal from particular suppliers;
 - (f) agreed, during such meetings and conversations, on the prices to be submitted for contracts to purchase ferrous and/or nonferrous scrap metal from particular suppliers; and
 - (g) refrained from bidding, or submitted intentionally low, complementary and non-competitive bids, or submitted the agreed-upon prices for certain contracts to purchase ferrous and/or nonferrous scrap metal, denying such suppliers a competitive price.

XII
TRADE AND COMMERCE

23. The activities of the defendant and his co-conspirators that are the subject of Count III of this Information were within the flow of, and substantially affected, interstate trade and commerce.

XIII
JURISDICTION AND VENUE

24. The aforesaid combination and conspiracy charged in Count III of this Information was formed and carried out, in part, within the Northern District of Ohio within the five years preceding the filing of this Information.

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

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

The United States of America further charges:

25. Paragraphs 1 and 5 through 10 of Count I are repeated, realleged and incorporated in Count IV as if fully set forth in this Count.

XIV
DESCRIPTION OF THE OFFENSE

26. Beginning at least as early as March 1995, and continuing until at least May 1997, 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 rigging a bid for the purchase of ferrous and nonferrous scrap metal from a prominent scrap metal supplier in Northeast Ohio. The charged combination and conspiracy unreasonably restrained interstate trade and commerce in violation of Section 1 of the Sherman Antitrust Act (15 U.S.C. § 1).

27. The combination and conspiracy consisted of a continuing agreement, understanding and concert of action among the defendant and his co-conspirators,

the substantial term of which was to rig a bid for the purchase of ferrous and nonferrous scrap metal from a prominent scrap metal supplier in Northeast Ohio.

XV
MEANS AND METHODS OF THE CONSPIRACY

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

- (a) participated in meetings and conversations to discuss the submission of a prospective bid for a contract to purchase ferrous and nonferrous scrap metal from a prominent scrap metal supplier in Northeast Ohio;
- (b) agreed, during such meetings and conversations, to rig this bid and decided among themselves which designated co-conspirator would “win” this bid;
- (c) agreed which co-conspirator would submit an intentionally low, complementary and non-competitive bid, denying such scrap metal supplier a competitive price; and
- (d) participated in a *quid pro quo* agreement whereby the “winning” bidder and the defendant agreed to sell to the “losing” bidder a certain volume of scrap metal (*i.e.*, 2000 tons) in return for the “losing” bidder submitting the rigged bid.

XVI
TRADE AND COMMERCE

29. The activities of the defendant and his co-conspirators that are the subject of Count IV of this Information were within the flow of, and substantially affected, interstate trade and commerce.

XVII
JURISDICTION AND VENUE

30. The aforesaid combination and conspiracy charged in Count IV of this Information was formed and carried out, in part, within the Northern District of Ohio 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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Acting Assistant Attorney General

"/s/"
SCOTT D. HAMMOND
Director of Criminal Enforcement

Antitrust Division
U.S. Department of Justice

"/s/"
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