

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS

JUN - 4 2003

DALLAS DIVISION

UNITED STATES OF AMERICA

v.

DANIEL T. ROSE,

Defendant.

) **3-03CR-189-D**
) Criminal No.
)
) Filed:
)
) Violation: 15 U.S.C. § 1
)
) Judge

INDICTMENT

The Grand Jury charges:

I

DESCRIPTION OF THE OFFENSE

1. Daniel T. Rose is hereby made a defendant on the charge stated below.
2. In or about August, 1997 and continuing until at least September 29, 1998, the exact dates being unknown to the Grand Jury, the defendant entered into and participated in a combination and conspiracy to suppress and eliminate competition by fixing the price, rigging bids, and allocating customers for choline chloride sold in the United States. The combination and conspiracy engaged in by the defendant and co-conspirators was in unreasonable restraint of interstate trade and commerce in violation of 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 co-conspirators, the substantial terms of which were:

- (a) to agree to fix, increase, and maintain prices and to coordinate price increases for the sale of choline chloride in the United States;
- (b) to agree to allocate among the corporate conspirators the volume of sales of choline chloride in the United States;
- (c) to agree to allocate among the corporate conspirators customers of choline chloride in the United States;
- (d) to allocate among the corporate conspirators all or part of certain contracts to supply choline chloride to various customers located throughout the United States;
- (e) to refrain from submitting bids, or to submit collusive, non-competitive, and rigged bids to supply choline chloride to various customers located in the United States; and
- (f) to supply choline chloride to various customers located throughout the United States at non-competitive prices and receive compensation therefor.

4. 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) participating in meetings and conversations in the United States to discuss the prices and volume of choline chloride sold in the United States;
- (b) agreeing, during those meetings and conversations, to charge prices at specified levels and otherwise to fix, increase, and maintain prices of choline chloride sold in the United States;
- (c) agreeing, during those meetings and conversations, to allocate among the corporate conspirators the approximate volume of choline chloride to be sold by each corporate conspirator in the United States;
- (d) agreeing, during those meetings and conversations, to allocate among the corporate conspirators customers of choline chloride in the United States;
- (e) exchanging sales and customer information for the purpose of monitoring and enforcing adherence to the above-described agreement;
- (f) issuing price announcements and price quotations in accordance with the agreements reached;
- (g) discussing among co-conspirators the submission of prospective bids to supply choline chloride to customers located throughout the United States;

- (h) designating which corporate conspirator would be the designated low bidder for contracts to supply choline chloride to customers located throughout the United States;
- (i) discussing and agreeing upon prices to be contained within the bids for contracts to supply choline chloride to customers in the United States;
- (j) refraining from bidding or submitting intentionally high, complementary bids for the contracts to supply choline chloride to customers in the United States; and
- (k) supplying choline chloride to various customers in the United States at non-competitive prices and receiving compensation therefor.

II

BACKGROUND

5. Choline chloride is a vitamin of the B-complex group. Choline chloride, also known as vitamin B4, is sold by manufacturers and resellers to customers in the animal nutrition industry. Choline chloride is an ingredient necessary for the proper growth and development of animals.

III

DEFENDANT AND CO-CONSPIRATORS

6. Beginning as early as August, 1997, Daniel T. Rose was employed as the President of DuCoa, L.P., a limited partnership existing under the laws of Delaware with its principal place of business in Highland, Illinois. DuCoa, L.P. was engaged in the manufacture and sale of choline chloride to customers in the United States and elsewhere. In his role as

President of DuCoa, L.P., Daniel T. Rose was engaged in the manufacture and sale of choline chloride to customers in the United States and elsewhere.

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

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

IV

TRADE AND COMMERCE

9. During the period covered by this Indictment, the defendant and co-conspirators sold and distributed a substantial quantity of choline chloride in a continuous and uninterrupted flow of interstate commerce to customers located in states other than the states in which the choline chloride was produced.

10. During the period covered by this Indictment, the activities of the defendant and co-conspirators that are the subject of this Indictment were within the flow of, and substantially affected, interstate trade and commerce.

V

JURISDICTION AND VENUE

11. The combination and conspiracy charged in this Indictment was carried out, in

