



# Department of Justice

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**DEPARTMENT OF JUSTICE CHARGES DAIRY EXECUTIVES WITH  
BID RIGGING ON SCHOOL MILK AND DAIRY PRODUCTS CONTRACTS**

WASHINGTON, D.C. -- The Department of Justice said a federal grand jury indicted three dairy executives for antitrust violations today, charging that they participated in a milk and dairy products bid rigging conspiracy involving North Carolina public schools. They also were charged with four counts of mail fraud.

A grand jury in U.S. District Court in Greensboro, North Carolina, returned a five-count indictment against Hugh P. Bowman and Joe C. McMillan of Flav-O-Rich Inc. and Paul W. Tucker, formerly of Land-O-Sun Dairies Inc. The three were charged with conspiring to rig bids to supply milk and dairy products to designated schools in North Carolina and using the mail to further their scheme.

In 1991, Flav-O-Rich, headquartered in Louisville, Kentucky, was charged with rigging bids of milk contracts for public schools and military installations and paid a total of \$5 million to settle all criminal and civil liabilities in Florida, Puerto Rico and Kings Bay Naval Base in Georgia. In 1989, Land-O-Sun, headquartered in Johnson City, Tennessee, pleaded guilty to

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charges of rigging bids on public school milk contracts in Florida and was fined \$325,000.

Count one of today's indictment charged that from at least as early as the spring of 1982 until the end of the 1987-88 school year the three dairy executives and others conspired to submit collusive, noncompetitive and rigged bids for certain school milk and dairy products contracts in violation of Section 1 of the Sherman Act.

According to the indictment, the affected school systems included Alamance, Alexander, Buncombe, Gaston, Guilford, Iredell, Lincoln, Randolph, Rowan, Stanly, Transylvania, Watauga and Yadkin counties; the cities of Asheboro, Asheville, Burlington, Chapel Hill-Carrboro, Greensboro, Mt. Airy, Reidsville and Thomasville; Charlotte City/Mecklenburg County; and Western Carolina University.

Counts two and three charged the defendants with mail fraud for causing the Alamance County schools to mail checks to Land-O-Sun to pay for contracts rigged as part of the conspiracy.

Counts four and five charged the defendants with mail fraud for causing the Rowan County schools to mail checks to Flav-O-Rich to pay for contracts rigged as part of the conspiracy. The indictment charged that these mailings were in furtherance of the fraudulent bid rigging scheme.

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Charles A. James, Acting Assistant Attorney General in charge of the Antitrust Division, said the charges resulted from a federal grand jury investigation into collusion among suppliers of dairy products to public schools in North Carolina.

The investigation, conducted by the Antitrust Division's Litigation I section, continues in North Carolina, James said. James also noted that, to the extent permitted under federal rules, the federal investigators are coordinating their efforts with the North Carolina Attorney General's office which is conducting a separate investigation.

The maximum penalty for an individual convicted under the Sherman Act for a violation occurring prior to November 16, 1990, is three years imprisonment and a fine that is the greatest of \$250,000, twice the pecuniary gain derived from the crime, or twice the pecuniary loss caused to the victims of the crime.

The maximum penalty for an individual convicted under the mail fraud statute is five years imprisonment and a fine that is the greatest of \$250,000, twice the pecuniary gain derived from the crime, or twice the pecuniary loss caused to the victims of the crime.

Including today's indictment, the Antitrust Division has filed 53 criminal cases against 26 corporations and 41 individuals involving bid rigging on milk and other dairy products contracts. Cases have been brought in Florida, Georgia,

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North Carolina, South Carolina, Virginia, Kentucky, Illinois and Texas.

Twenty-three corporations and 28 individuals have been convicted and paid total fines of approximately \$20.7 million. Total civil damages are more than \$6.2 million. Thirty-two grand juries in 21 states continue to investigate the milk industry.

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