

DEPARTMENT OF JUSTICE

PRESS CONFERENCE

Thursday, July 14, 1994

Room 3107

Department of Justice

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11:53 a.m.

ATTORNEY GENERAL RENO: I am here today to announce that the Department of Justice's Antitrust Division, in an unprecedented joint effort with the Canadian competition authorities, has broken up an international price fixing conspiracy in the \$120 million fax paper industry today.

A Japanese corporation, two American subsidiaries, and a former president of one of the U.S. subsidiaries raised the price of thermal fax paper used primarily by small businesses and home fax owners by about 10 percent. They have all agreed to plead guilty and pay criminal fines of more than \$6 million.

This sends an important message to foreign firms that want to do business in the United States. They must

1 take our antitrust laws seriously and they must pay by our
2 rules of fair competition when they set prices to be paid
3 by United States consumers.

4 I want to thank and congratulate Anne Bingaman
5 and the Antitrust Division and George Addy of the Canadian
6 Bureau of Competition Policy for their outstanding,
7 cooperative efforts in bringing about this first joint
8 criminal antitrust case, which has resulted in successful
9 prosecutions in both countries. I think this partnership,
10 this cooperation is an example for all of us in the future
11 as to how we must work together to address issues that
12 have international impact and concern.

13 If international businesses engage in
14 conspiracies that victimize consumers in multiple
15 jurisdictions, the United States Government will cooperate
16 with foreign competition authorities to protect consumers
17 here and around the world.

18 Now I would like to ask Anne Bingaman to make a
19 few remarks.

20 MS. BINGAMAN: We are proud of this announcement
21 today. It is historic. It is a first. It is the result
22 of unprecedented shoulder-to-shoulder cooperation
23 throughout this investigation with George Addy and the
24 Canadian Bureau of Competition, that has resulted in fines
25 of over \$6 million, a criminal information of three

1 corporations and an individual, including a Japanese
2 corporation, a subsidiary of that corporation, an American
3 corporation, and another corporation headquartered in
4 Boston.

5 It is the first of what we hope will be many
6 such efforts, and we are extremely proud of this result.
7 I want to tell you it came originally from a tip from the
8 Canadians. We initiated legal process here and, under
9 court order, were able to share the results of our
10 discovery here with the Canadians. They, similarly,
11 obtained documents in Canada which, because of our treaty
12 with them allowing for mutual assistance, they were able
13 to share with us. We interviewed witnesses jointly. We
14 took proffers from witnesses jointly.

15 The Canadians set up a data base of document
16 summaries which we shared with them. They filed an
17 information or indictment yesterday, or two days ago, in
18 Canada. The investigation is ongoing, and it is
19 unprecedented, but critically important, in an era when
20 national boundaries are less and less important that the
21 antitrust authorities be able to work as one, to work as a
22 team, a true team, to work next to each other, to share
23 information, and to not allow criminal price fixing
24 conspiracies to hide behind national borders. That's what
25 this is about and we're very proud of it.

1 It is a great honor to have George Addy, head of
2 the Canadian Bureau of Competition, here from Canada
3 today. I will ask George to speak.

4 MR. ADDY: Thank you.

5 QUESTION: Would you spell your name, sir?

6 MR. ADDY: A-D-D-Y.

7 I'd like to echo the comments that you've heard
8 today. This is a precedent-setting case. It's a case
9 that demonstrates the need for cooperation and the
10 benefits that can directly flow from cooperation to the
11 North American markets. The case itself started with a
12 complaint from a businessman in Toronto, which gave rise
13 to our investigation. We discovered information that we
14 passed on to Anne and her colleagues, which led to greater
15 cooperation and joint efforts in tracking this case down.

16 I don't think that either our case in Canada or
17 the case which Anne and Ms. Reno have just spoken of today
18 in the U.S. could have reached the point that they have
19 reached without cooperation. There was a need on both
20 parts, of both agencies, to secure information and
21 assistance from the other, and I don't think either one of
22 us would be where we are today without that cooperation.

23 I look forward to further cooperation of this
24 type in future cases.

25 Thank you.

1 QUESTION: Could you tell us how the conspiracy
2 worked? How'd they do it?

3 MR. ADDY: It was a conspiracy whereby the
4 manufacturers of the products, of the thermofax paper, met
5 at various locations. As you will see from the
6 documentation that has been filed, there were some
7 meetings in the U.S. And if you can obtain the
8 information which has been filed in the public record in
9 Canada, it will also disclose that there were meetings
10 abroad, in Japan, to discuss the conspiracy and the
11 agreement to fix prices in the market.

12 QUESTION: Could you elaborate?

13 QUESTION: Do you know how much this cost
14 consumers, and is that reflected in the fines?

15 MR. ADDY: The fine, from a Canadian
16 perspective, and Anne will obviously speak for the
17 situation here, but the fine to date, and it is an ongoing
18 matter -- we have indicted and had a plea by one of the
19 conspirators, Kanzaki, on Tuesday in the Federal Court of
20 Canada, in Toronto -- the fine in that case is precedent-
21 setting from the perspective that it's the highest
22 percentage of sales that's been reflected in a fine. The
23 fine was \$950,000 that was imposed by the court on
24 Tuesday, and that accused a share of sales in Canada are
25 such that the fine represents almost 20 percent of what

1 those sales are. So it's a very high percentage.

2 We have had absolute dollar fines of higher
3 levels, but as a percentage, it's higher.

4 Do you know, Anne, for here?

5 QUESTION: Do you know how much it cost
6 consumers in total?

7 MS. BINGAMAN: The market is \$120 million a
8 year. The conspiracy set forth in the information lasted
9 somewhere between half a year and a year, as alleged in
10 the information. The investigation is ongoing as to the
11 duration and other aspects.

12 The total amount of the fines in the United
13 States is almost \$6.5 million, something just under that -
14 - \$6-plus million.

15 QUESTION: If you were dealing with a 10 percent
16 markup and it was a \$120 million a year business, for half
17 a year you come out to roughly \$6 million. For the entire
18 year, it would be \$12 million. So if this conspiracy were
19 going on for a full year, aren't they making a \$6 million
20 profit out of it, even if they do have to pay a fine?

21 MS. BINGAMAN: We are continuing this. There
22 are other possible violators. The case is not over yet.
23 We secured the fines that we did, which are high. \$6-
24 plus million is a large fine by any standard, and the
25 investigation is ongoing. So this is not over yet.

1 QUESTION: Is anybody going to jail?

2 MS. BINGAMAN: We have three corporations of the
3 four named in the information and one individual, who has
4 pled guilty. But we are not recommending jail time for
5 this individual.

6 QUESTION: When you had your joint press
7 conference with Senator Metzenbaum and some others some
8 time ago, you mentioned about 10 price fixing or other
9 conspiracies around the world that you were looking into.
10 Is this the first of those, and what can we be looking for
11 next?

12 MS. BINGAMAN: This is indicative of the kind of
13 thing that goes on. I did not have this specifically in
14 mind, in all honesty. But it is exactly the kind of
15 thing.

16 You have, typically, in these kinds of
17 conspiracies simple products that are fungible, that are
18 not manufactured products. That is, in a sense they are
19 basic inputs, usually, to other processes. There are
20 usually a handful of companies making the product. And
21 so, it's easy for foreign companies and one or two U.S.
22 companies to allocate, and divide, and fix prices in the
23 entire world market, or certainly the part of the market
24 we're concerned with, which is the United States.

25 So this is typical in the sense of the fact

1 pattern involved. And yes, there are other such cases
2 that we're working on.

3 QUESTION: Should we run out and report that
4 consumers should now expect to pay less for fax paper, or
5 am I being naive?

6 MS. BINGAMAN: I think consumers will pay less
7 for fax paper. Exactly how much less, I can't tell you.
8 What we are about is that in the market, competition sets
9 the price for fax paper and not price fixing conspiracies.
10 So the market for fax paper should be left to function as
11 a market does through competition and prices should drop.
12 Yes.

13 QUESTION: Well, wouldn't you expect these
14 companies, which, by your own account, have about half of
15 the market, will build these legal costs into their
16 overhead and charge us more anyway?

17 MS. BINGAMAN: The legal costs are nothing like
18 -- do you mean the \$6 million in fines?

19 QUESTION: Sure.

20 MS. BINGAMAN: The market should take care of
21 that. If competition works and they are competing with
22 each other, they should not be able to build costs in.
23 No. That should not happen.

24 QUESTION: Are consumers going to get any of
25 that money back? I mean, what will happen to the fines?

1 MS. BINGAMAN: Under the U.S. system, the fines
2 go into the Federal Treasury. They are criminal
3 penalties. They went to \$10 million only a couple of
4 years ago. It used to be \$1 million was a maximum. This
5 is a substantial improvement.

6 The money, under the U.S. system, does not go to
7 consumers, ever. The way Congress has set this up, the
8 Justice Department, in criminal cases, which this is,
9 collects fines, as set by the court, ultimately. There is
10 the possibility of private action, if consumers choose to
11 bring that, in which they collect damages if they prove
12 them and follow on private cases, which are not criminal,
13 but civil.

14 Under the U.S. system, the Justice Department
15 has never, and does not now, collect damages directly for
16 consumers. Consumers do that themselves through private
17 actions.

18 QUESTION: Well, on that subject, will you be
19 looking at today's --

20 MS. BINGAMAN: At the what? I can't hear you.

21 QUESTION: Will you be looking at today's
22 Federated-Macy's merger?

23 MS. BINGAMAN: That isn't decided yet, to the
24 best of my knowledge.

25 QUESTION: Whether you'll be looking at it?

1 MS. BINGAMAN: Yes. Right.

2 QUESTION: Of the \$6 million in fines, will
3 about \$5 million go to the U.S.?

4 MS. BINGAMAN: No. We have \$6-plus million to
5 the U.S., plus the additional amount to Canada.

6 MR. ADDY: One should not lose sight of the fact
7 that this is ongoing and there will be further fines on
8 this, as this case advances.

9 QUESTION: So it is a separate \$950,000 to
10 Canada so far?

11 MR. ADDY: That's right. That's right.

12 QUESTION: It's a \$7.5 million total, roughly,
13 so far.

14 MR. ADDY: Yes, so far.

15 I think, just to follow up on one of Anne's
16 comments, the efforts and the cooperation in this case
17 were housed, or took place within an agreement that's
18 called a Mutual Legal Assistance Treaty, which has been in
19 place a relatively short period of time, since 1991, I
20 think. It's directed at criminal activities, as well.
21 But, from our perspective, this is a very good signal of
22 the benefits that can happen and be benefits for both
23 Canadian and U.S. consumers if the agencies are allowed to
24 cooperate fully in pursuing these type of activities.

25 QUESTION: Sir, can you get back to these

1 meetings? Who was there? What did they talk about? How
2 did it work on the ground?

3 MR. ADDY: There is some material that has been
4 filed in --

5 QUESTION: The camera can't read. I'm sorry.
6 I'm barely literate myself.

7 MR. ADDY: Well, I'm sorry. The matter's
8 ongoing and I don't want to go transgress what's on the
9 public record already. So I commend to you the material
10 that has been filed in the Federal Court, and it's public
11 information.

12 MS. BINGAMAN: The Canadians -- let me speak to
13 that -- have a very different procedural system than we
14 do. There is an extensive statement of facts, which was
15 filed in Canada. I had not seen it until this morning,
16 myself. But it was filed in open court in Canada two days
17 ago and, as a convenience to the press, the press in
18 Canada has had this. It is a public document in Canada
19 and I understand it will be available here later. But
20 it's quite comprehensive.

21 It is not the procedure we use in this country.

22 QUESTION: Sir, how did you find out what went
23 on in those meetings?

24 MR. ADDY: Well, we used the powers under the
25 act and we cooperated with Anne's groups. We had search

1 warrants executed. There was a coordination of use of
2 compulsory powers in the U.S. and Canada, simultaneous
3 execution of search warrants. There were discussions
4 between investigative officers in both agencies, joint
5 interviews of informants and potential accused. It was
6 the usual process, if you will, from the enforcement
7 perspective with the unusual and, I think, remarkable
8 additional flavor of the cooperation between the two
9 agencies.

10 QUESTION: So these guys kept minutes?

11 MR. ADDY: Well, there were documents seized in
12 the search warrants, et cetera.

13 QUESTION: Is this the first time the U.S. and
14 Canada have cooperated on a big antitrust case?

15 MR. ADDY: That's why I mentioned the treaty.
16 There is other work ongoing now under that treaty. This
17 is the first case that has resulted in a conviction in
18 Canada.

19 MS. BINGAMAN: We have other cases we're working
20 on them with. But this is historic because, one, in all
21 likelihood we never would have heard of this but for the
22 tip to the Canadian authorities from a complainant in
23 Canada which they then passed on to us. We were then
24 able, on the basis of that tip and the information from
25 that complainant, to open a Grand Jury and subpoena

1 witnesses and documents. The Canadians similarly issued a
2 search warrant in Canada, and we went forward with them
3 together, closely coordinating our document and witness
4 subpoenas and interviews from the very beginning. So we
5 worked as a team. We worked closely, and the case was
6 really possible because the documents and the witnesses
7 were in both places. Both markets were affected.

8 It shows what the ability to exchange
9 confidential information can do. The key point here
10 legally, I think, and I will just take one second, is
11 before this 1991 Mutual Legal Assistance Treaty was
12 ratified by both legislatures, we were not allowed to give
13 them confidential information not could they give us
14 confidential information.

15 Well, you can see, in law enforcement you are
16 immediately into the realm of confidential information.
17 The minute you issue a subpoena of any kind, that's
18 protected by law, as it should be. But the problem is if
19 you also can't share it with law enforcement authorities
20 who also have confidential information very valuable to
21 you, if you're separated by the procedures that had been
22 in place until 1991, you cannot move forward. In effect,
23 the criminal conspirators have a huge advantage over the
24 governments because they can hide documents one place or
25 another, not have witnesses cross borders. You can't get

1 hold of any transcripts because they're confidential, and
2 you're stymied.

3 Someone mentioned here a minute ago that the
4 bill which will be introduced shortly is a bipartisan bill
5 in the Congress, which would authorize the Department of
6 Justice to negotiate similar types of confidentiality
7 agreements, that is, sharing of confidential information,
8 on a country-by-country basis for both civil and criminal
9 cases.

10 This case today is an example of why that bill
11 and the authority it gives us to share confidential
12 information under protected circumstances -- there are a
13 lot of safeguards built into the bill -- but this is an
14 example, and it's the first big example -- we have others
15 ongoing -- of why this is so critically important to law
16 enforcement.

17 QUESTION: Do you have other countries
18 specifically in mind now? When you get the legislation
19 that would allow you to negotiate similar treaties with
20 other countries, do you have other countries particularly
21 in mind -- such as Japan or Russia?

22 MS. BINGAMAN: Well, I would not want to comment
23 on specific countries. We would undertake country-by-
24 country to consider negotiations if they are interested in
25 talking to us.

1 Let me emphasize, if we put such a treaty or an
2 agreement in place, if this legislation passes and another
3 country is added for civil and criminal, we are never
4 required to cooperate, just as the Canadians and we are
5 not required in any particular case to cooperate. Each of
6 us has to determine that, even with this treaty in place,
7 it is in the best interests of both agencies to proceed in
8 a particular case, as it clearly was here. But it does
9 not take away any discretion. It does not mean that we
10 have to do anything.

11 It simply makes it possible, if each of us
12 determines it's in our own country's best interests, to
13 proceed.

14 QUESTION: This is the first case that has
15 resulted in a conviction in Canada under this mutual legal
16 assistance in criminal matters.

17 MR. ADDY: Correct.

18 QUESTION: Have there been other cases in the
19 United States?

20 MS. BINGAMAN: I believe we have had help. I'm
21 going to have to ask Joe Widmar here.

22 Do you know if we've obtained -- I think we
23 have, but I don't know? I should have that information
24 here.

25 MR. WIDMAR: We have obtained other, we have

1 obtained help from Canada on occasion.

2 MS. PHELAN: The plastic forks.

3 MR. WIDMAR: Yes, the plastic forks.

4 QUESTION: The plastic forks. Picnic ware.

5 Also, the \$950,000 fine in Canada, does that go
6 to the Treasury or to the consumer?

7 MR. ADDY: No. It's exactly the same scenario.
8 It goes to the Treasury, the Consolidated Revenue Fund.

9 QUESTION: Mr. Addy, what was the nature of the
10 original tip? Did a businessman have trouble getting
11 competitive bids, or what?

12 MR. ADDY: He complained to the bureau that he
13 was shopping for this. He's what they call a thermal
14 paper converter. He was trying to obtain a supply and
15 came to us with a complaint about the pricing of that
16 supply.

17 QUESTION: And who was that businessman?

18 QUESTION: Can you tell us about the fellow?

19 MR. ADDY: I'm having my office check now
20 whether he's agreed to let us disclose his name. That's
21 not on the public record.

22 QUESTION: Did this person participate in the
23 investigation after he came to you? Did he wear a wire?
24 Did he help you in this?

25 MR. ADDY: No. No. It was, his role in the

1 investigation, primarily, was to provide us the
2 information on his initial complaint. After that, after
3 that period, we took over and worked with Anne's group.

4 QUESTION: Do you expect further fines in Canada
5 or further prosecutions in Canada?

6 MR. ADDY: I expect further developments on this
7 case. Yes.

8 QUESTION: Do you know how much the price fixing
9 cost Canadian consumers?

10 MR. ADDY: I suppose you can do the same type of
11 math that Anne was running through a minute ago. The
12 market in Canada -- and correct me if I misstate it,
13 Martin -- but the market in Canada was in the order of \$18
14 million during, for that year, and there were several
15 players in that market. The company that pleaded guilty
16 on Tuesday was not the only supplier, obviously, in the
17 Canadian market. And that company, Kanzaki, cooperated
18 and assisted us in our investigation in the case as well.

19 QUESTION: Someone mentioned that these
20 companies control about half of the market. I wanted to
21 confirm that and also ask you if you think that they
22 wanted to control so much of the market?

23 MS. BINGAMAN: That is up to the market. We're
24 not in the business of deciding who controls what
25 percentage of the market unless the control is obtained

1 through illegal acts, and in that case we stop the acts
2 and try to restore the market situation. The acts here
3 were price fixing. But they don't go to percentage
4 control of the market.

5 The conduct here that was illegal was blatant,
6 naked price fixing. So that's what's stopped.

7 QUESTION: The Canadian press reports this
8 morning have Rittenhouse and Appleton Papers as co-
9 conspirators. Does Justice Department allege that as
10 well? If not, why not?

11 MS. BINGAMAN: We have an investigation ongoing
12 and that is all I can say on it at this point. You can
13 read our information. We're prohibited by law from going
14 beyond what's on the public record. But the investigation
15 is continuing.

16 QUESTION: I have two other things to clarify.

17 The \$950,000 fine, is that Canadian dollars --

18 MR. ADDY: Yes.

19 QUESTION: -- or U.S. dollars?

20 It's Canadian dollars?

21 MR. ADDY: We levy our fines in Canadian
22 dollars.

23 (General laughter)

24 QUESTION: The market share alleged by these
25 companies, they control half of the market is the U.S. --

1 is that correct?

2 MS. BINGAMAN: You know the truth? I didn't
3 know that fact. I take it as a given if it's correct.
4 But I personally don't -- is that correct?

5 MS. PHELAN: Well, it's 40 percent to 45
6 percent?

7 MS. BINGAMAN: This is Lisa Phelan, who did the
8 case.

9 I was remiss in not mentioning the staff. Lisa
10 killed herself. Bob Kramer is here, too, too, and John
11 Greaney. We have had a tremendous staff on this that has
12 just done a wonderful, wonderful job. I should have said
13 that at the beginning because the truth is I stand up here
14 and act like I'm taking credit, but it goes on very much
15 by the lawyers here, not me personally.

16 QUESTION: Forgive my simplicity, perhaps, but
17 if they controlled only about 40 percent of the market and
18 they were fixing the prices, why couldn't the rest of the
19 market simply have undercut them and driven the price down
20 that way?

21 MS. BINGAMAN: You'd think they would have.
22 We're looking at that also.

23 QUESTION: So this could, in fact, affect,
24 really, the entire market?

25 MS. BINGAMAN: The investigation is ongoing.

1 That's all I can say.

2 Okay. Thank you all very much. We're very
3 proud of this.

4 Thank you.

5 [Whereupon, at 12:23 p.m., the press conference
6 was concluded.]

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