



# Department of Justice

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## **TWO GERMAN FIRMS AND TWO U.S. CORPORATIONS AGREE TO PLEAD GUILTY TO PARTICIPATING IN INTERNATIONAL VITAMIN CARTELS**

### **Two U.S. Executives Also Agree to Plead Guilty For Their Participation**

WASHINGTON, D.C. -- Two German pharmaceutical manufacturers--Merck KGaA and Degussa-Huls AG--and two U.S. pharmaceutical companies--Nepera Inc. and Reilly Industries Inc.-- today agreed to plead guilty and pay criminal antitrust fines totaling \$33 million for participating in two separate worldwide conspiracies to suppress and eliminate competition in the vitamin industry, the Department of Justice announced. In addition, two former executives of Nepera have agreed to plead guilty, pay criminal antitrust fine totaling \$150,000, and to serve time in prison for their roles in the conspiracy.

Including today's cases, 24 prosecutions have resulted from the Antitrust Division's ongoing investigation of the worldwide vitamin industry.

In a one-count criminal case filed today in U.S. District Court in Dallas, the Department of Justice charged Merck with conspiring to raise, fix, maintain prices and allocate sales volumes of vitamin C sold by it and other unnamed co-conspirators in the United States and elsewhere. In five separate criminal cases, also filed today in U.S. District Court in Dallas, the Department charged Degussa-Hüls, Nepera, Reilly Industries, and individuals Roger Noack and David Purpi, with conspiring to raise, fix, maintain prices and allocate the sales volumes of niacin and

niacinamide (vitamin B3) sold by them and other unnamed co-conspirators in the U.S. and elsewhere.

“These prosecutions reinforce our determination to prosecute and eliminate international cartels,” said Joel I. Klein, Assistant Attorney General in charge of the Department’s Antitrust Division. “We will continue to vigorously pursue convictions and significant sentences against corporations and business executives who violate U.S. antitrust laws to the detriment of American consumers.”

Merck, headquartered in Darmstadt, Germany, is the fourth company to be charged in the global vitamin C cartel. Merck has agreed to pay a \$14 million criminal fine for participating in the vitamin C conspiracy from early 1991 until the Fall of 1995. Previously, F. Hoffmann-La Roche Ltd., BASF AG, and Takeda Chemical Industries Ltd., pleaded guilty and have been sentenced for their participation in the vitamin C conspiracy.

According to the charge, Merck joined and participated with other unnamed co-conspirators in the vitamin C conspiracy to suppress and eliminate competition in the U.S. and elsewhere by:

- participating in meetings and conversations to discuss the prices and volumes of vitamin C sold in the U.S. and elsewhere;
- agreeing, during such meetings and conversations regarding vitamin C, to fix, increase, and maintain prices at certain levels in the U.S. and elsewhere;
- agreeing, during such meetings and conversations regarding vitamin C, to allocate among the corporate conspirators the approximate volume of vitamin C to be sold by them in the U.S. and elsewhere;
- exchanging sales and customer information for the purpose of monitoring and enforcing adherence to the above-described agreements;
- issuing price announcements and price quotations in accordance with the above-described agreements; and
- selling vitamin C at the agreed-upon prices and in accordance with the agreed-upon sales volume allocations in the U.S. and elsewhere.

Degussa-Hüls, headquartered in Frankfurt am Main, Germany, participated in the vitamin B3 conspiracy from as early as January 1992 until March 1998. Degussa-Hüls has agreed to pay a \$13 million criminal fine for its role in the conspiracy. Nepera, headquartered in Harriman, New York, participated in the vitamin B3 conspiracy from January 1992 until July 1995, and has agreed to pay a \$4 million criminal fine for its participation. Reilly Industries, located in Indianapolis, Indiana, joined the vitamin B3 conspiracy in September 1994 and remained a participant until the conspiracy ended in March 1998. Reilly has agreed to pay a \$2 million criminal fine.

David Purpi, former Vice President for Sales and Marketing and Vice President for Sales for Nepera, participated in the vitamin B3 cartel from January 1992 until June 1995. Purpi has agreed to serve one year and one day in prison and to pay a criminal fine of \$100,000 for his role in the conspiracy. Roger Noack, former President of Nepera, joined the vitamin B3 conspiracy in July 1992 and continued his participation until July 1995. Noack has agreed to serve eight months in prison and to pay a criminal fine of \$50,000.

According to today's charges, each of the defendants participated with unnamed co-conspirators in the vitamin B3 conspiracy to suppress and eliminate competition in the U.S. and elsewhere by:

- participating in meetings and conversations in the U.S. and Europe to discuss the prices and volume of vitamin B3 sold in the U.S. and elsewhere;
- agreeing, during those meetings and conversations, to charge prices at certain levels and otherwise to increase and maintain prices of vitamin B3 sold in the U.S. and elsewhere;
- agreeing, during those meetings and conversations, to allocate among the corporate conspirators the approximate volume of vitamin B3 to be sold by each corporate conspirator in the U.S. and elsewhere;
- agreeing, during those meetings and conversations, to allocate among the corporate conspirators customers of vitamin B3 in the U.S. and elsewhere;

- exchanging sales and customer information for the purpose of monitoring and enforcing adherence to the above-described agreement; and,
- issuing price announcements and price quotations in accordance with the agreements reached.

Each of the defendants is charged with violating Section 1 of the Sherman Act, which carries a maximum fine of \$10 million for corporations, and a maximum penalty of three years imprisonment and a \$350,000 fine for individuals. The maximum fine for both corporations and individuals may be increased to twice the gain derived from the crime or twice the loss suffered by the victims of the crime, if either of those amounts is greater than the statutory maximum fine.

The investigation is being conducted by the Antitrust Division's Dallas Field Office and the Federal Bureau of Investigation in Dallas.

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