

1 E. KATE PATCHEN (NYRN 4104634)
2 JACKLIN CHOU LEM (CABN 255293)
3 U.S. Department of Justice
4 Antitrust Division
5 450 Golden Gate Avenue
6 Box 36046, Room 10-0101
7 San Francisco, CA 94102
8 Telephone: (415) 934-5300
9 jacklin.lem@usdoj.gov

10 Attorneys for the United States

FILED

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SUSAN Y. SOONG
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA



11 UNITED STATES DISTRICT COURT
12 NORTHERN DISTRICT OF CALIFORNIA
13 SAN FRANCISCO DIVISION

14 UNITED STATES OF AMERICA
15 v.
16 NIPPON CHEMI-CON CORPORATION,
17 Defendant.

CR 17 540 MMC

VIOLATION: 15 U.S.C. § 1
Price Fixing

18
19
20 INDICTMENT

21 The Grand Jury charges that:

22 I. DESCRIPTION OF THE OFFENSE

23 1. NIPPON CHEMI-CON CORPORATION ("defendant") is made a defendant on
24 the charge stated below.

25 2. From at least as early as September 1997 and continuing until in or about
26 January 2014, the exact dates being unknown to the Grand Jury, in the Northern District of
27 California and elsewhere, the defendant and co-conspirators knowingly entered into and
28

1 engaged in a combination and conspiracy to suppress and eliminate competition by fixing
2 prices and rigging bids for electrolytic capacitors in the United States and elsewhere.

3 3. The charged combination and conspiracy consisted of a continuing agreement,
4 understanding, and concert of action among the defendant and co-conspirators, the substantial
5 terms of which were to fix prices and rig bids for electrolytic capacitors. The combination and
6 conspiracy engaged in by the defendant and co-conspirators was in unreasonable restraint of
7 interstate and foreign trade and commerce in violation of Section 1 of the Sherman Act (15
8 U.S.C. § 1).

9 II. BACKGROUND

10 4. Capacitors, also known as condensers, are a fundamental component of
11 electrical circuits and are used primarily to store and regulate electrical current. Electrolytic
12 capacitors, including aluminum and tantalum types, are a major subcategory of capacitors.
13 Electrolytic capacitors are found in many products that use electricity, run on a battery, or plug
14 into a socket. Desktop and notebook computers, flat-screen televisions, DVD players, video
15 and still digital cameras, gaming systems, car engine and airbag systems, home appliances,
16 office equipment, and motherboards and other printed circuit boards are some of the products
17 that contain electrolytic capacitors.

18 III. DEFENDANT AND CO-CONSPIRATORS

19 5. During the time period covered by this Indictment, defendant, a corporation
20 organized and existing under the laws of Japan, manufactured electrolytic capacitors sold in the
21 United States and elsewhere.

22 6. Various business organizations and individuals, not made defendants in this
23 Indictment, participated as co-conspirators in the offense charged in this Indictment and
24 performed acts and made statements in furtherance of it. During the time period covered by
25 this Indictment, defendant's co-conspirators included business organizations that manufactured
26 electrolytic capacitors sold in the United States and elsewhere.

27 7. Whenever in this Indictment reference is made to any act, deed, or transaction
28 of any business organization, the allegation means that the business organization engaged in

1 the act, deed, or transaction by or through its officers, directors, agents, employees, or other
2 representatives, or by or through the officers, directors, agents, employees, or other
3 representatives of its majority-owned and controlled subsidiaries, while they were actively
4 engaged in the management, direction, control, or transaction of its business or affairs.

5 IV. MEANS AND METHODS OF THE CONSPIRACY

6 8. For the purpose of forming and carrying out the charged combination and
7 conspiracy, the defendant and co-conspirators did those things that they combined and
8 conspired to do, including, among other things:

9 a) defendant and co-conspirators participated in meetings, conversations,
10 and communications with each other in various locations, including in the United
11 States, to discuss prices and bids for electrolytic capacitors;

12 b) defendant and co-conspirators agreed during various meetings,
13 conversations, and communications to fix, increase, maintain, and stabilize prices and
14 rig bids of electrolytic capacitors;

15 c) defendant and co-conspirators collected, exchanged, monitored, and
16 discussed information on prices, bids, sales, supply, demand, shipping, and the
17 production of electrolytic capacitors for the purpose of reaching agreements on prices
18 and bids and monitoring and enforcing adherence to the collusive agreements reached;

19 d) defendant and co-conspirators authorized, ordered, and consented to the
20 participation of subordinate employees in the conspiracy;

21 e) defendant and co-conspirators negotiated prices, submitted bids, and
22 issued price announcements for electrolytic capacitors in accordance with the collusive
23 agreements reached;

24 f) defendant, as well as co-conspirators, issued price announcements and
25 instructions to sales offices in the United States and elsewhere for electrolytic
26 capacitors in accordance with the collusive agreements reached;

27 g) defendant and co-conspirators manufactured electrolytic capacitors in
28 accordance with the collusive agreements reached;

1 h) defendant and co-conspirators sold, distributed, and accepted payments
2 for electrolytic capacitors at collusive, noncompetitive prices and bids in accordance
3 with the collusive agreements reached; and

4 i) defendant and co-conspirators took steps to conceal the conspiracy and
5 conspiratorial meetings, conversations, and communications through various means,
6 such as using code names to refer to co-conspirators, limiting and discouraging
7 retention and distribution of documents reflecting conspiratorial contacts, and providing
8 misleading justifications for prices and bids provided to customers to cover up their
9 collusive conduct.

10 These means and methods of the conspiracy all involved electrolytic capacitors sold to
11 customers located within the United States and elsewhere, including to customers that
12 manufactured and/or sold in the United States, under major United States and other brands,
13 significant quantities of electronic goods containing electrolytic capacitors, such as computers,
14 televisions, and gaming systems.

15 V. TRADE AND COMMERCE

16 9. During the time period covered by this Indictment, defendant and co-
17 conspirators manufactured electrolytic capacitors in the United States and elsewhere and sold
18 them in the United States and for delivery to the United States. The charged combination and
19 conspiracy involved trade or commerce within the United States and U.S. import trade or
20 commerce in electrolytic capacitors.

21 10. During the time period covered by this Indictment, defendant and co-
22 conspirators also sold foreign-manufactured electrolytic capacitors outside the United States
23 for incorporation into other products, including computers, televisions, and gaming systems,
24 that were sold in and for delivery to the United States. The charged combination and
25 conspiracy had a direct, substantial, and reasonably foreseeable effect on trade or commerce
26 within the United States or U.S. import trade or commerce in these electrolytic capacitor-
27 containing products, and that effect, in part, gives rise to this charge.
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1 11. During the time period covered by this Indictment, defendant and co-
2 conspirators sold and shipped for delivery to customers substantial quantities of electrolytic
3 capacitors in a continuous and uninterrupted flow of interstate and U.S. import trade or
4 commerce from locations in the United States and foreign countries to locations in various
5 states in the United States, including states other than where the electrolytic capacitors were
6 manufactured.


7 12. During the time period covered by this Indictment, the business activities of
8 defendant and co-conspirators that are the subject of this Indictment were within the flow of,
9 and substantially affected, interstate and U.S. import trade or commerce. During the time
10 period covered by this Indictment, the charged combination and conspiracy had a substantial
11 and intended effect in the United States, including on trade or commerce within the United
12 States and U.S. import trade or commerce in electrolytic capacitors and products containing
13 electrolytic capacitors.

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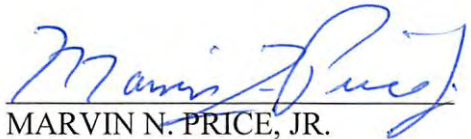
1 ALL IN VIOLATION OF TITLE 15, UNITED STATES CODE, SECTION 1.


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3 Dated: 10-18, 2017. A TRUE BILL.

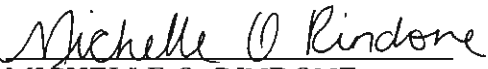


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9 MAKAN DELRAHIM
Assistant Attorney General

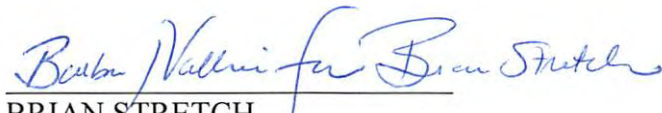

E. KATE PATCHEN
Chief, San Francisco Office

10
11 
12 MARVIN N. PRICE, JR.
13 Acting Deputy Assistant Attorney General


JACKLIN CHOU LEM
ALEXANDRA J. SHEPARD
HOWARD J. PARKER
PARADI JAVANDEL
MIKAL J. CONDON
CHRISTOPHER J. CARLBERG
Trial Attorneys

14
15 
16 MICHELLE O. RINDONE
Acting Director of Criminal Enforcement

17
18 Antitrust Division
19 U.S. Department of Justice

20
21 
22 BRIAN STRETCH
23 United States Attorney
Northern District of California