

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY
NORTHERN DIVISION
COVINGTON

CRIMINAL ACTION NO.

UNITED STATES OF AMERICA

PLAINTIFF

V.

INFORMATION

NISHIKAWA RUBBER CO., LTD.,

DEFENDANT

* * * * *

The United States charges:

DEFENDANT AND CO-CONSPIRATORS

1. Nishikawa Rubber Co., Ltd. is hereby made a Defendant on the charge contained in this Information.

2. Nishikawa Rubber Co., Ltd. ("the Defendant") is a corporation organized and existing under the laws of Japan with its principal place of business in Hiroshima, Japan, and subsidiaries in Topeka, Indiana, and Novi, Michigan. During the period covered by this Information, the Defendant was engaged in the business of manufacturing and selling automotive body sealing products to Honda Motor Company, Ltd. ("Honda"), Toyota Motor Corporation ("Toyota"), Fuji Heavy Industries, Ltd. ("Subaru"), and certain of their subsidiaries and affiliates for installation in vehicles manufactured and sold in the United States and elsewhere.

3. Other corporations and individuals, not made defendants in this Information, participated as co-conspirators in the offense charged in this Information and performed acts and made statements in furtherance of it.

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

BACKGROUND

5. During the period covered by this Information, the Defendant and its co-conspirators supplied automotive body sealing products to Honda, Toyota, and Subaru for installation in vehicles manufactured and sold in the United States and elsewhere. During the period covered by this Information, the Defendant and its co-conspirators manufactured automotive body sealing products: (a) in the United States for installation in vehicles manufactured and sold in the United States; (b) in the United States for installation in vehicles manufactured in Canada and Mexico, some of which were then delivered to and sold in the United States; and (c) in Japan for installation in vehicles manufactured in Japan, some of which were then delivered to and sold in the United States. During the period covered by this Information, Toyota had a U.S. subsidiary located in Erlanger, Kentucky that was responsible for purchasing automotive body sealing products to be installed into Toyota vehicles.

6. Automotive body sealing products consist of body-side opening seals, door-side weather-stripping, glass-run channels, trunk lids, and other smaller seals. Automotive body sealing products are installed into automobiles to keep the interior dry from rain and free from wind and exterior noises.

7. When purchasing automotive body sealing products, Honda, Toyota, and Subaru typically issued Requests for Quotation (“RFQs”) to suppliers on a model-by-model basis for model-specific parts. Automotive body sealing product suppliers submitted quotations, or bids,

to Honda, Toyota, and Subaru in response to the RFQs, and Honda, Toyota, and Subaru awarded the contract to the selected supplier for the lifespan of the model, usually four to six years. Typically, the bidding process began approximately three years prior to the start of production of the model that is the subject of the RFQ.

CONSPIRACY TO RESTRAIN TRADE

8. From at least as early as January 2000 and continuing until at least September 2012, the exact dates being unknown to the United States, in the Eastern District of Kentucky, and elsewhere, the Defendant and its co-conspirators knowingly entered into and engaged in a combination and conspiracy to suppress and eliminate competition in the automotive parts industry, in unreasonable restraint of interstate and import trade and commerce in violation of Section 1 of the Sherman Antitrust Act (15 U.S.C. § 1).

9. The charged combination and conspiracy consisted of a continuing agreement, understanding, and concert of action among the Defendant and its co-conspirators, the substantial terms of which were to allocate sales of, to rig bids for, and to fix, stabilize, and maintain prices of automotive body sealing products sold to Honda, Toyota, and Subaru (for the Subaru Legacy) in the United States and elsewhere.

MANNER AND MEANS OF THE CONSPIRACY

10. For the purpose of forming and carrying out the charged combination and conspiracy, the Defendant and its co-conspirators did those things that they combined and conspired to do, including, among other things,

(a) participating in meetings, conversations, and communications with employees of competitor companies in the United States and elsewhere to discuss the allocation of sales of automotive body sealing products among the competitor companies,

and the bids and price quotations to be submitted to Honda, Toyota, and Subaru in the United States and elsewhere;

(b) in such meetings, conversations, and communications with employees of competitor companies, agreeing on, and exchanging information on, bids, price quotations, and price adjustments to be submitted to Honda, Toyota, and Subaru in the United States and elsewhere;

(c) in such meetings, conversations, and communications with employees of competitor companies, agreeing to allocate sales of automotive body sealing products sold to Honda, Toyota, and Subaru in the United States and elsewhere;

(d) submitting, directing and authorizing the submission of, and declining to submit, bids, price quotations, and price adjustments to Honda, Toyota, and Subaru in the United States and elsewhere, in accordance with their agreements with competitor companies;

(e) selling automotive body sealing products to Honda, Toyota, and Subaru in the United States and elsewhere at collusive and noncompetitive prices;

(f) accepting payment for automotive body sealing products sold to Honda, Toyota, and Subaru in the United States and elsewhere at collusive and noncompetitive prices; and

(g) employing measures to conceal their conduct, including, but not limited to, using code in e-mails and instructing co-conspirators to delete documents referencing coordination with competitors.

TRADE AND COMMERCE

11. During the period covered by this Information, the Defendant and its co-conspirators sold to Honda, Toyota, and Subaru in the United States and elsewhere substantial quantities of automotive body sealing products manufactured in the United States and shipped across state lines, and manufactured outside the United States and assembled in vehicles imported into the United States, all in a continuous and uninterrupted flow of interstate and import trade and commerce. In addition, substantial quantities of equipment and supplies necessary to the production and distribution of automotive body sealing products by the Defendant and its co-conspirators, as well as payments for automotive body sealing products sold by the Defendant and its co-conspirators, traveled in interstate and import trade and commerce. The business activities of the Defendant and its co-conspirators in connection with the production and sale of automotive body sealing products that were the subject of the charged conspiracy were within the flow of, and substantially affected, interstate and import trade and commerce.

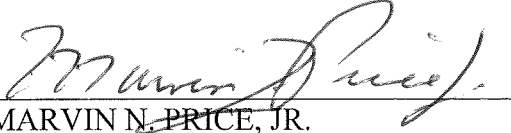
ALL IN VIOLATION OF TITLE 15, UNITED STATES CODE, SECTION 1.



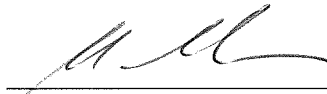
BRENT SNYDER
Acting Assistant Attorney General



FRANK J. VONDRAK
Chief, Chicago Office



MARVIN N. PRICE, JR.
Director of Criminal Enforcement
Antitrust Division
U.S. Department of Justice



ANDRE M. GEVEROLA, IL Bar No. 6281457
Assistant Chief
L. HEIDI MANSCHRECK, NY Bar No. 4537585
MATTHEW MCCROBIE, IL Bar No. 6309644
JESSE REISING, IL Bar No. 6321368
CHESTER CHOI, CA Bar No. 268410
Trial Attorneys
U.S. Department of Justice
Antitrust Division
Chicago Office
209 S. LaSalle St., Suite 600
Chicago, IL 60604
Tel.: (312) 984-7200