

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

UNITED STATES OF AMERICA) Filed: [9/26/96]
)
 v.) Crim. No.: 3-96CR335T
)
 AUSTIN POWDER COMPANY,) 15 U.S.C. § 1
)
 Defendant.)

INFORMATION

The United States of America, acting through its attorneys,
charges:

1. AUSTIN POWDER COMPANY is made a defendant in both Counts
of this Information.

COUNT ONE

I.

DESCRIPTION OF THE OFFENSE

2. Beginning sometime in 1987 and continuing until sometime
in 1992, the exact dates being unknown to the United States, the
defendant and co-conspirators entered into and engaged in a
combination and conspiracy to fix prices on the sale of certain
commercial explosives to certain customers in Michigan. The
combination and conspiracy unreasonably restrained interstate
trade and commerce in violation of Section 1 of the Sherman Act,
15 U.S.C. § 1.

3. The combination and conspiracy consisted of a continuing
agreement, understanding and concert of action among the
defendant and co-conspirators to fix prices and rig bids on the

sale of certain commercial explosives offered for sale to certain customers in Michigan.

4. For the purpose of forming and carrying out the charged combination and conspiracy in Michigan, the defendant and co-conspirators did the following things, among others:

- (a) discussed and agreed to increase prices of certain commercial explosives;
- (b) discussed and agreed not to compete for the business of certain customers;
- (c) discussed and agreed upon bids or price quotes to certain customers for certain commercial explosives; and
- (d) carried out their agreement.

II.

DEFENDANT AND CO-CONSPIRATORS

5. The defendant is an Ohio corporation headquartered in Cleveland, Ohio. The company is engaged in the manufacture, distribution and sale of commercial explosives throughout the United States. At all times relevant to this Information, the defendant did business in Michigan and in western Kentucky, southern Indiana and southern Illinois ("West Kentucky Region").

6. Various persons and firms, not made defendants in this Information, participated as co-conspirators in the charged combination and conspiracy, and performed acts and made statements in furtherance of it.

7. Whenever this Information refers to any act, deed or transaction of any corporation, it 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.

III.

TRADE AND COMMERCE

8. Commercial explosives are chemical products, such as high explosives and blasting agents, initiating devices and accessories that are used in the coal and metal mining, quarry and oil exploration industries.

9. During the period covered by this Information, the defendant and co-conspirators sold and distributed commercial explosives in Michigan and in the West Kentucky Region that were manufactured outside those areas. These commercial explosives were shipped in a continuous and uninterrupted flow of interstate commerce from their places of manufacture to customers located in those areas.

10. The activities of the defendant and co-conspirators that are the subject of this Information were within the flow of, and substantially affected, interstate trade and commerce.

IV.

JURISDICTION AND VENUE

11. The combination and conspiracy charged in Count One of this Information was carried out, in part, within the Northern District of Texas within the five years preceding the filing of this Information.

COUNT TWO

I.

DESCRIPTION OF THE OFFENSE

12. Each and every allegation contained in Paragraphs 1 and 5 through 10 of Count One of this Information are realleged with the same force and effect as if fully set forth in this Count.

13. Beginning sometime in the Fall 1988 and continuing at least into mid-1992, the exact dates being unknown to the United States, the defendant and co-conspirators entered into and engaged in a combination and conspiracy to fix prices on the sale of certain commercial explosives in the West Kentucky Region. The combination and conspiracy unreasonably restrained interstate trade and commerce in violation of Section 1 of the Sherman Act, 15 U.S.C. § 1.

14. The combination and conspiracy consisted of a continuing agreement, understanding and concert of action among the defendant and co-conspirators to fix prices, allocate customers, and rig bids on certain commercial explosives offered for sale in the West Kentucky Region.

15. For the purpose of forming and carrying out the charged combination and conspiracy in the West Kentucky Region, the defendant and co-conspirators did the following things, among others:

- (a) discussed and agreed on increases in certain prices on commercial explosives;

(b) discussed and agreed on allocating certain customers among themselves;

(c) discussed and agreed upon bids or price quotes to certain customers for certain commercial explosives; and

(d) carried out their agreement.

II.

JURISDICTION AND VENUE

16. The combination and conspiracy charged in Count Two of this Information was carried out, in part, within the Northern District of Texas within the five years preceding the filing of this Information.

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

Dated:

_____/s/_____
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