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7
8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 SAN FRANCISCO DIVISION

11 UNITED STATES OF AMERICA)	No. CR 04-0318 VRW
)	
12 v.)	INFORMATION
)	
13 BAYER CORPORATION,)	VIOLATION:
)	Title 15, United States Code,
14 Defendant.)	Section 1 (Price Fixing)
)	
15 _____)	San Francisco Venue

16
17 The United States of America, acting through its attorneys, charges:

18 I.

19 DESCRIPTION OF THE OFFENSE

20 1. BAYER CORPORATION is made a defendant on the charge stated below.

21 2. Beginning in or about February 1998 and continuing until in or about December
22 2002 defendant and co-conspirators participated in a combination and conspiracy to suppress and
23 eliminate competition by maintaining and increasing the price of aliphatic polyester polyols
24 made from adipic acid sold in the United States and elsewhere. The combination and conspiracy
25 engaged in by the defendant and co-conspirators was in unreasonable restraint of interstate and
26 foreign trade and commerce in violation of Section 1 of the Sherman Act (15 U.S.C. § 1).

27 3. The charged combination and conspiracy consisted of a continuing agreement,
28 understanding, and concert of action among the defendant and co-conspirators, the substantial

1 term of which was to suppress and eliminate competition by maintaining and increasing the price
2 of aliphatic polyester polyols made from adipic acid in the United States and elsewhere.

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

6 (a) participating in conversations and meetings to discuss prices of aliphatic polyester
7 polyols made from adipic acid to be sold in the United States and elsewhere;

8 (b) agreeing, during those conversations and meetings, to raise and maintain prices of
9 aliphatic polyester polyols made from adipic acid to be sold in the United States
10 and elsewhere;

11 (c) participating in conversations and attending meetings concerning implementation
12 of and adherence to the agreements reached;

13 (d) issuing price announcements and price quotations in accordance with the
14 agreements reached; and

15 (e) exchanging information on the sale of aliphatic polyester polyols made from
16 adipic acid in the United States and elsewhere.

17 II.

18 DEFENDANT AND CO-CONSPIRATORS

19 5. The defendant is an entity organized and existing under the laws of the state of
20 Indiana, with its principal place of business in Pittsburgh, Pennsylvania. During the period
21 covered by this Information, the defendant or its subsidiaries engaged in the business of
22 producing and selling aliphatic polyester polyols made from adipic acid in the United States and
23 elsewhere.

24 6. A corporation and various individuals, not made defendants in this Information,
25 participated as co-conspirators in the offense charged herein and performed acts and made
26 statements in furtherance of it.

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

1 transaction by or through its officers, directors, employees, agents, or other representatives while
2 they were actively engaged in the management, direction, control, or transaction of its business
3 or affairs.

4 III.

5 TRADE AND COMMERCE

6 8. Aliphatic polyester polyols made from adipic acid are used to improve tensile
7 strength and resistance to abrasion in a number of products, including flexible foams, synthetic
8 leather and other coatings, adhesives, and rigid plastics. These polyols are used primarily in
9 shoe soles, belts, seals and gaskets, and coatings on plastic grocery bags to prevent sticking.

10 9. During the period covered by this Information, the defendant and co-conspirators
11 manufactured, sold, and distributed aliphatic polyester polyols made from adipic acid in a
12 continuous and uninterrupted flow of interstate and foreign trade and commerce to customers
13 located in states or countries other than the states or countries in which the defendant and co-
14 conspirators produced aliphatic polyester polyols made from adipic acid.

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

18 IV.

19 JURISDICTION

20 11. The combination and conspiracy charged in this Information was carried out
21 within the five years preceding the filing of this Information.

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

2 Dated: Sept. 29, 2004

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4
5 /s/
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Assistant Attorney General

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8 /s/
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