

UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

UNITED STATES OF AMERICA)	
)	Criminal No.: CR-H-00-361
)	
v.)	Filed: May 31, 2000
)	
)	
BAY INDUSTRIES INC.,)	
)	
)	Violation:
Defendant.)	15 U.S.C. § 1

INFORMATION

I

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

DESCRIPTION OF THE OFFENSE

1. Bay Industries Inc., a corporation organized and existing under the laws of the State of Wisconsin, is hereby made a defendant on the charge stated below.

2. Beginning at least as early as January 1994 and continuing thereafter until at least June 1995, the exact dates being unknown to the United States, the defendant, and co-conspirators, entered into and participated in a combination and conspiracy to suppress and restrain competition by raising, fixing, and maintaining prices for the sale of metal building insulation sold from its facilities in the southern United States. The combination and conspiracy engaged in by the defendant and co-conspirators in unreasonable restraint of interstate trade and commerce, was in violation of

Section 1 of the Sherman Act (15 U.S.C. § 1).

3. The charged combination and conspiracy consisted of a continuing agreement, understanding and concert of action among the defendant and co-conspirators, the substantial terms of which were to raise, fix, and maintain prices of metal building insulation sold to customers from facilities in the southern United States.

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

- (a) participated in discussions about raising, fixing, and maintaining prices of metal building insulation;
- (b) agreed to raise, fix, and maintain prices established for metal building insulation;
- (c) raised, fixed, and maintained prices for metal building insulation; and
- (d) monitored and enforced compliance with the agreement to raise, fix, and maintain prices for metal building insulation.

II

DEFENDANT AND CO-CONSPIRATORS

5. During the period covered by this Information, the defendant was a Wisconsin corporation, headquartered in Green Bay,

Wisconsin, and was engaged in the sale and distribution of metal building insulation throughout the United States.

6. Various individuals and corporations, not made defendants herein, participated as co-conspirators in the offense charged and performed acts and made statements in furtherance thereof.

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

III

TRADE AND COMMERCE

8. During the period covered by this Information, the defendant and its co-conspirators sold and distributed a substantial quantity of metal building insulation that was subject to the charged conspiracy in a continuous and uninterrupted flow of interstate commerce to customers located in states other than those in which the metal building insulation was produced.

9. The business 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

10. The combination and conspiracy charged in this Information was carried out, in part, within the Southern District of Texas, within the five years preceding the filing of this Information.

ALL IN VIOLATION OF TITLE 15 U.S.C. § 1.

"/s/"
JOEL I. KLEIN
Assistant Attorney General

"/s/"
ALAN A. PASON
Chief, Dallas Field Office
Antitrust Division

"/s/"
JAMES M. GRIFFIN
Deputy Assistant
Attorney General

"/s/"
MARK R. ROSMAN

"/s/"
SCOTT D. HAMMOND
Director of Criminal
Enforcement
Antitrust Division
U.S. Department of Justice

"/s/"
KAREN J. SHARP

"/s/"
MERVYN M. MOSBACKER
United States Attorney
Southern District of Texas

"/s/"
SCOTT M. GARELICK
Attorneys, Antitrust Division
United States Department of Justice
Dallas Field Office
Thanksgiving Tower
1601 Elm Street, Suite 4950
Dallas, TX 75201-4717
Tel. (214) 880-9401