

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA : **INFORMATION**

- against - : Crim. No.04 191 Cr(TPG)

JAMES BECHAND, :
 : Filed: 2/27/04

Defendant. :

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COUNT ONE
(Conspiracy)

The United States, acting through its attorneys,
charges:

Background

1. At all times relevant to this Information, JAMES BECHAND, the defendant, was an independent sales broker for a printing company in Ronkonkoma, New York.

2. At all times relevant to this Information, a co-conspirator not named as a defendant herein ("CC-1") was an employee of Salomon Smith Barney, Inc., or its predecessor, Smith Barney, Inc. (collectively, "SSB"), an investment bank located in New York, New York. CC-1 was an executive in SSB's graphics department and was responsible for awarding SSB's contracts for commercial printing and related services.

3. From time to time, SSB awarded contracts for commercial printing and related services to a printing company

represented by JAMES BECHAND, the defendant, to perform printing and related work for SSB.

The Kickback Scheme

4. From in or about early 2000 through in or about August 2001, JAMES BECHAND, the defendant, agreed to pay kickbacks to CC-1 in order to maintain and increase the amount of business BECHAND was able to obtain from SSB for the printing company that BECHAND represented. The kickbacks paid by BECHAND to CC-1 took the following forms, among others: payments toward CC-1's home equity line of credit on her residence, payments to the issuer of CC-1's personal credit card, and payments to CC-1's hairdresser. In total, BECHAND paid more than \$35,000 in kickbacks to CC-1.

5. In exchange for the kickbacks, CC-1 ensured that the printing company represented by JAMES BECHAND, the defendant, would receive a portion of the total value of contracts for commercial printing and related services awarded by SSB. In addition, in exchange for kickbacks, CC-1 generally awarded contracts to the printing company represented by BECHAND regardless of whether BECHAND had set his prices above the level that would have resulted from open and honest price competition. As a result, SSB paid higher prices for commercial printing and related services than it would have if CC-1 had aggressively and honestly solicited competitive prices from vendors.

6. In addition, SSB paid higher prices for commercial printing and related services than it would have if CC-1 had demanded that JAMES BECHAND, the defendant, lower his prices or provide a rebate to SSB in place of the kickbacks he paid for the personal benefit of CC-1.

7. At no time did CC-1 disclose to SSB CC-1's receipt of kickbacks from JAMES BECHAND, the defendant. All such payments were made without the knowledge or approval of SSB and in violation of CC-1's fiduciary duties to SSB.

8. At all times relevant to this Information, SSB paid the printing vendors represented by JAMES BECHAND, the defendant, by check. SSB sent these payment checks to the printing vendors by mail.

Statutory Allegations

9. From in or about early 2000 through in or about August 2001, in the Southern District of New York and elsewhere, JAMES BECHAND, the defendant, CC-1, and others known and unknown, unlawfully, willfully, and knowingly did combine, conspire, confederate, and agree together and with each other to commit offenses against the United States of America, to wit, violations of Title 18, United States Code, Sections 1952(a)(3), 1341, and 1346.

Objects of the Conspiracy

10. It was a part and an object of the conspiracy that JAMES BECHAND, the defendant, CC-1, and others known and unknown, unlawfully, willfully, and knowingly would and did travel in interstate commerce and use the mails and facilities in interstate commerce, with intent to promote, manage, establish, carry on, and facilitate the promotion, management, establishment, and carrying on of unlawful activity, specifically, commercial bribery in violation of New York State Penal Law Sections 180.00, 180.03, 180.05, and 180.08, and, thereafter, would and did perform and attempt to perform an act to promote, manage, establish, carry on, and facilitate the promotion, management, establishment, and carrying on of such unlawful activity, in violation of Title 18, United States Code, Section 1952(a)(3)(A).

11. It was further a part and an object of the conspiracy that JAMES BECHAND, the defendant, CC-1, and others known and unknown, having devised and intending to devise a scheme and artifice to defraud, including a scheme and artifice to deprive another of the intangible right of honest services, and for obtaining money and property by means of false and fraudulent pretenses, representations, and promises, unlawfully, willfully, and knowingly, for the purpose of executing such scheme and artifice and attempting so to do, would and did place

in post offices and authorized depositories for mail matter, matters and things to be sent and delivered by the Postal Service, and would and did deposit and cause to be deposited matters and things to be sent and delivered by private and commercial interstate carriers, and would and did take and receive therefrom such matters and things, and would and did knowingly cause to be delivered, by mail and such carriers according to the directions thereon, and at the places at which they were directed to be delivered by the persons to whom they were addressed, such matters and things, in violation of Title 18, United States Code, Sections 1341 and 1346.

Overt Acts

12. In furtherance of the conspiracy and to effect the illegal objects thereof, JAMES BECHAND, the defendant, CC-1, and others known and unknown, committed the following overt acts, among others, in the Southern District of New York and elsewhere:

a. In or about early 2000, in New York, New York, CC-1 informed JAMES BECHAND, the defendant, that his volume of business with SSB would increase from approximately \$1 million annually to approximately \$2 million annually if JAMES BECHAND, the defendant, agreed to pay kickbacks to CC-1.

b. In or about March or April 2000, at the offices of SSB in New York, New York, CC-1 gave JAMES

BECHAND, the defendant, a monthly invoice for CC-1's home equity loan and requested that he pay the bill as a kickback.

c. On or about April 5, 2000, JAMES BECHAND, the defendant, paid \$10,000 toward CC-1's home equity loan as a kickback for CC-1's having awarded SSB's business to a printer represented by JAMES BECHAND, the defendant.

(Title 18, United States Code, Section 371).

COUNT TWO

(Sherman Act Conspiracy in Restraint of Trade)

The United States, acting through its attorneys, further charges:

13. The factual allegations of paragraphs 1-7 are repeated and realleged as if fully set forth herein.

14. To ensure that SSB received the best value on purchases made on its behalf, SSB required its employees to obtain at least three competitive bids before awarding contracts for commercial printing and related services.

15. Various persons and firms, not named as defendants herein, participated as co-conspirators in the offense charged herein and performed acts and made statements in furtherance thereof. They included CC-1.

Description of the Offense

16. Beginning in the 1990s and continuing until approximately mid-2001, JAMES BECHAND, the defendant, and co-conspirators engaged in a combination and conspiracy in unreasonable restraint of trade and commerce in violation of Section 1 of the Sherman Act (15 U.S.C. § 1).

17. This combination and conspiracy consisted of a continuing agreement, understanding, and concert of action among JAMES BECHAND, the defendant, and co-conspirators, the substantial terms of which were to rig bids and to allocate contracts for the supply of commercial printing and related services awarded by SSB.

18. For the purpose of forming and effectuating the aforesaid combination and conspiracy, JAMES BECHAND, the defendant, and co-conspirators did those things which they combined and conspired to do, including, among other things:

a. CC-1, or other co-conspirator employees of SSB, determined in advance which company would be designated the low bidder on contracts for commercial printing and related services awarded by SSB;

b. The conspirators then agreed that the printing company represented by BECHAND, which had not been designated to be the low bidder on particular contracts, would submit higher, noncompetitive price quotations or bids

("cover bids") to SSB to make it appear that there had been competition for those contracts when, in fact, there had not;

c. In 2000, BECHAND prepared and submitted a cover bid that was substantially in excess of \$1 million; and

d. On at least one occasion, employees of SSB provided BECHAND with a copy of the bid from the designated low bidder, and BECHAND then prepared a cover bid, backdating the cover bid so that it would appear to have been prepared at the same time as the bid from the designated low bidder.

Trade and Commerce

19. During the period covered by this Count, as a result of the conspiracy charged herein, SSB purchased substantial quantities of commercial printing and related services from suppliers located in states other than the State of New York or from suppliers in the State of New York who purchased materials needed to complete the commercial printing and related contracts from sources outside of the State of New York.

20. During the period covered by this Count, pursuant to the conspiracy charged herein, the activities of conspirators with respect to the sale of commercial printing and related

services were within the flow of, and substantially affected, interstate trade and commerce.

Jurisdiction and Venue

21. The aforesaid combination and conspiracy was formed and carried out, in part, within the Southern District of New York within the five years preceding the filing of this Information.

(Title 15, United States Code, Section 1.)

/s/ _____
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