

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA : Criminal No. 02 CR.1431
v. : Filed: 11/7/02
STEVEN J. BRIGGIN, : Violations: 15 U.S.C. § 1
Defendant. : 18 U.S.C. § 371

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INFORMATION

COUNT ONE -- SHERMAN ACT CONSPIRACY
(15 U.S.C. § 1)

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

1. Steven J. Briggin ("Briggin") is hereby made a defendant on the charge stated below.

I. THE RELEVANT PARTIES AND ENTITIES

During the period covered by this Count:

2. Briggin, a resident of Lawrenceville, New Jersey, was employed as vice president of sales of Darbert Offset Corp. ("Darbert") on West 25th Street in Manhattan.

3. Darbert was in the business of producing and selling commercial printing, including printed advertising materials. One of its main customers was Impact Communications, Inc. ("Impact"), an advertising agency located in Manhattan that specialized in servicing pharmaceutical companies. Impact's main customers included Pfizer, Inc. and Merck & Co., Inc.

4. Advertising agencies, including Impact, frequently solicit multiple competitive bids before awarding sizable contracts to suppliers of printed advertising materials, and then award those contracts to the lowest responsible bidder. Such a practice allows the agencies to demonstrate to their clients that they have attempted to obtain products and services at a fair market price.

5. "CC-1" was a co-conspirator who was a purchasing official at Impact. CC-1 had primary responsibility for selecting suppliers of printed advertising materials to Impact. In carrying out his responsibilities, CC-1 generally attempted to create the appearance that he was following a competitive bidding policy for contracts for printed advertising materials that were valued at more than \$2500, including contracts that were awarded to Darbert.

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

II. DEFINITION

7. The term "printed advertising materials" includes custom-designed mailings, insets, brochures, workbooks, and similar items.

III. TRADE AND COMMERCE

8. During the period covered by this Count, Impact purchased substantial quantities of printed advertising materials from suppliers who produced those materials outside the State of New York or obtained the goods used to produce those materials from sources located throughout the United States.

9. From approximately mid- to late 1997 until approximately June 2000, as a result of the conspiracy charged herein, Impact awarded contracts for printed advertising materials worth a total of approximately \$1 million to Darbert and approximately \$1 million to other co-conspirators.

10. During the period covered by this Count, the activities of the defendant and co-conspirators with respect to the sale of printed advertising materials to Impact were within the flow of, and substantially affected, interstate trade and commerce.

IV. DESCRIPTION OF THE OFFENSE

11. From approximately mid- to late 1997 until approximately June 2000, the exact dates being unknown to the United States, the defendant and co-conspirators engaged in a combination and conspiracy in unreasonable restraint of interstate trade and commerce in violation of Section 1 of the Sherman Act (Title 15, United States Code, Section 1).

12. The aforesaid 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 rig bids and allocate contracts for the supply of printed advertising materials awarded by Impact.

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

(a) CC-1 discussed and agreed with Briggin and other co-conspirators which co-conspirators -- Darbert or other companies -- would be awarded contracts by Impact

for printed advertising materials;

(b) CC-1, Briggin, and co-conspirators arranged for the company that had been designated to win a particular contract to submit the lowest bid or price quotation to Impact for that contract. In order to create the false appearance that a competitive bidding policy was being followed, CC-1, Briggin, and co-conspirators also arranged for co-conspirators to submit bids or price quotations for the same contract at prices that were intentionally higher (“cover bids”). On some contracts, CC-1 specified which co-conspirators he wanted to submit cover bids and the prices to be quoted in those bids; and

(c) With the knowledge and approval of a senior executive at Darbert, Briggin paid substantial amounts of cash to CC-1 for his assistance in frustrating and subverting the competitive bidding for contracts to supply printed advertising materials, and for ensuring that no potential competitors who were not co-conspirators would be invited to bid on contracts for printed advertising materials.

V. JURISDICTION AND VENUE

14. 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.

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

COUNT TWO -- CONSPIRACY TO COMMIT MAIL FRAUD
(18 U.S.C. § 371)

The United States of America further charges:

15. Paragraphs 1 through 7 of Count One of this Information are repeated, realleged, and incorporated in Count Two as if fully set forth in this Count.

VI. DESCRIPTION OF THE OFFENSE

16. From approximately mid- to late 1997 until approximately June 2000, the exact dates being unknown to the United States, the defendant and co-conspirators did unlawfully, willfully, and knowingly conspire, combine, confederate, and agree to (a) defraud Impact; (b) obtain money and property from Impact by means of false and fraudulent pretenses, representations, and promises; and (c) deprive Impact of its right to the honest services of one of its employees, which scheme and artifice was executed by and through the use of the United States mails, in violation of Title 18, United States Code, Sections 1341 and 1346, all in violation of Title 18, United States Code, Section 371.

VII. THE MANNER AND MEANS BY WHICH THE CONSPIRACY WAS CARRIED OUT

The manner and means by which the conspiracy was sought to be accomplished included, among others, the following:

17. During all or some of the period from approximately mid- to late 1997 until approximately June 2000, Briggin paid cash kickbacks to CC-1 in order to ensure that CC-1 would allocate to Darbert a portion of the total value of contracts for printed advertising materials awarded by Impact. The kickbacks totaled at least \$150,000 during this period. Briggin made the kickback payments with the knowledge and approval of a Darbert executive, who supplied the cash to Briggin for that purpose.

18. The amount of the kickbacks paid by Briggin was determined primarily by CC-1 himself, based on amounts that he caused Briggin to add to the value of contracts awarded by Impact to Darbert on a job-by-job basis. Before determining the price at which each of the contracts affected by the conspiracy would be awarded, CC-1 first asked Briggin to give him a verbal estimate of the price for performing that contract. CC-1 then instructed Briggin to increase that price by a specific amount (the “fraudulent overcharge”), initially with the understanding that he would receive half that amount after Darbert had completed the job and received payment from Impact. Under this arrangement, Briggin in fact paid CC-1 half the fraudulent overcharge and Darbert kept the other half. Later, CC-1 and Briggin reached an understanding that CC-1 would receive 60% of the fraudulent overcharge; thereafter, Briggin in fact paid CC-1 60% of the fraudulent overcharge and Darbert retained only 40%. For each contract affected by the conspiracy, Briggin caused Darbert to submit a written price quotation at the fraudulently inflated price.

19. CC-1's superiors at Impact were not aware of and did not approve of the fraudulent overcharges. In order to make it appear that the prices at which the affected contracts awarded to Darbert were fair and reasonable, CC-1 obtained multiple “cover bids,” i.e., written bids or price quotations that were intentionally higher than the prices that he and Briggin had determined for the contracts to be awarded to Darbert, from other co-conspirators. On other occasions, Briggin provided CC-1 with cover bids for jobs that CC-1 intended to award to companies other than Darbert.

VIII. OVERT ACTS

In furtherance of the conspiracy, and to effect the objects thereof, the following overt acts were committed in the Southern District of New York, and elsewhere:

20. On numerous occasions between 1997 and June 2000, usually every week, Briggin met with CC-1 at various locations, primarily O'Casey's Restaurant in Manhattan, to pay CC-1 some portion of the kickbacks he was owed. These payments usually ranged from \$1000 to \$3000 cash per week and totaled at least \$150,000.

22. Between mid- to late 1997 and June 2000, Briggin and CC-1 caused Impact to pay numerous fraudulently inflated invoices from Darbert, which payments and invoices were sent from or to Impact by and through the United States mails.

IN VIOLATION OF TITLE 18, UNITED STATES CODE, SECTION 371

Dated:

/s/ _____
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Assistant Attorney General

/s/ _____
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Chief, New York Office

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