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8
9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA
11

12 UNITED STATES OF AMERICA)	No. CR 03 0368 PJH
)	FILED: December 17, 2003
)	INFORMATION
13 v.)	
)	
14)	
15 ALFRED P. CENSULLO,)	VIOLATION:
)	Title 18, United States Code,
)	Section 1503 (Obstruction
16)	of Justice)
17 Defendant.)	San Francisco Venue

18
19 The United States of America, acting through its attorneys, charges:

20 I.

21 DESCRIPTION OF THE OFFENSE

22 1. ALFRED P. CENSULLO is made a defendant on the charge stated below.

23 2. During the period in or about June 1999 until the present, defendant ALFRED P.
24 CENSULLO was the Regional Sales Manager (RSM) for upstate New York for Micron
25 Technology, Inc. (Micron), a company located and headquartered in Boise, Idaho. During the
26 period that the defendant was an RSM for Micron, he was responsible for sales of dynamic
27 random access memory devices and modules (DRAM) to the customers in his geographic region,
28 including the server division of International Business Machines, Inc. During the period set

1 forth in this Information, Micron and its subsidiaries were engaged in the manufacture and sale
2 of certain DRAM products sold to customers in the United States and elsewhere. DRAM is the
3 most commonly used semiconductor memory product. DRAM provides high-speed storage and
4 retrieval of electronic information in personal computers, servers and other devices.

5 3. From in or about June 2002 to the present, a federal grand jury sitting in the
6 Northern District of California has been investigating, among other things, possible federal
7 antitrust offenses in the DRAM industry.

8 4. In or about June 2002, the federal grand jury sitting in the Northern District of
9 California investigating possible violations of the federal antitrust laws in the DRAM industry
10 issued a subpoena *duces tecum* to Micron.

11 5. Between in or about June 2002 and in or about November 2002, the defendant

12 ALFRED P. CENSULLO

13 knowingly corruptly influenced, obstructed and impeded, and endeavored to influence, obstruct
14 and impede, the due administration of justice, in that:

15 (a) On or about June 17, 2002, a grand jury sitting in the Northern District of
16 California caused a subpoena *duces tecum* to be served on Micron relating
17 to an investigation into criminal antitrust violations in the DRAM
18 industry, and, among other things, the grand jury subpoena called for the
19 production of documents relating to any contacts and communications
20 between DRAM competitors relating to the pricing and sale of DRAM.

21 (b) In the course of his employment at Micron, the defendant was invited and
22 encouraged to attend weekly RSM telephone conferences with other
23 Micron RSMs responsible for major computer original equipment
24 manufacturer (OEM) customers, also known as core accounts. During
25 these phone calls, the Micron RSMs stated their price recommendations
26 for DRAM sales to the major OEMs and also discussed the prices at which
27 competing DRAM suppliers would sell their products to major OEMs in
28 upcoming price negotiations. During the period covered by the grand jury

1 subpoena, the defendant from time to time recorded in his notebooks
2 handwritten information concerning competing DRAM suppliers' pricing
3 which he obtained during these RSM telephone conferences.

4 Additionally, during the period covered by the grand jury subpoena, from
5 time to time the defendant received competing DRAM suppliers' pricing
6 from other sources. The defendant also recorded this information by hand
7 in his notebooks.

8 (c) Sometime shortly after the grand jury subpoena was served on Micron,
9 Micron notified many of its employees, including the defendant, of the
10 grand jury investigation into criminal antitrust violations in the DRAM
11 industry. After being notified of the grand jury investigation and
12 subpoena, the defendant, with an intent to influence, obstruct, and impede
13 the grand jury investigation, altered his handwritten notations in his
14 notebooks by inserting additional words, phrases, and symbols into his
15 notebooks in an effort to materially change the meaning of the original
16 notes. Many of the entries that were altered by the defendant relate to
17 competitor pricing information, which was responsive to the subpoena.
18 Additionally, the defendant removed and initially withheld 14 pages from
19 his notebooks that contained competitor pricing information and obvious
20 alterations that could be detected by the naked eye, and which, if
21 produced, would have alerted the United States that these documents had
22 been altered.

23 (d) The alterations to the defendant's handwritten notations were material to
24 the grand jury investigation. The alterations by the defendant were an
25 attempt to disguise the nature, source, and accuracy of information
26 responsive to the grand jury subpoena concerning contacts and
27 communications between DRAM suppliers relating to the pricing and sale
28 of DRAM, evidence central to any criminal antitrust investigation.

1 ALL IN VIOLATION OF TITLE 18, UNITED STATES CODE, SECTION 1503.

2 Dated:

3 /s/

4 _____
5 R. Hewitt Pate
6 Assistant Attorney General

/s/

Phillip H. Warren
Chief, San Francisco Office

7 /s/

8 _____
9 James M. Griffin
10 Deputy Assistant Attorney General

/s/

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11 /s/

12 _____
13 Scott D. Hammond
14 Director of Criminal Enforcement
15 United States Department of Justice

16 /s/

17 _____
18 Kevin V. Ryan
19 United States Attorney
20 Northern District of California