MJL:ALB:PE
F. # 2006R01043

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

- X

UNITED STATES OF AMERICA

v.

THOMAS CUNNINGHAM,

Defendant.

- X

INFORMATION

Cr. No. 07-0023
(T. 15, U.S.C., § 1; T. 18, U.S.C., §§ 3551 et seq.)

THE UNITED STATES CHARGES:

INTRODUCTION

At all times relevant to this Information, unless otherwise indicated:

1. The defendant Thomas Cunningham was the vice-president of Total Industrial & Packaging ("TIP").

2. TIP was an entity organized and existing under the laws of Pennsylvania with its principal place of business in McKees Rocks, Pennsylvania. TIP was a provider of metal sling hoist assemblies to the United States Navy.

3. A "metal sling hoist assembly" is a wire rope basket-type sling consisting of swaged legs on both free ends and two tensioning latches, which is used to hold items to be transported, such as bombs and other munitions. Metal sling hoist assemblies are used in some form by all branches of the

military and, in particular, they are frequently used by the Navy onboard aircraft carriers to transport missiles or bombs from where those weapons are stored to the planes or helicopters that will carry them. Cunningham and his co-conspirators were engaged in manufacturing and selling metal sling hoist assemblies to the U.S. Navy.

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

SHERMAN ACT CONSPIRACY

5. Beginning at least as early as August of 2003 and continuing until as late as January of 2004, the exact dates being unknown to the United States, the defendant and co-conspirators entered into and engaged in a combination and conspiracy to suppress and eliminate competition by agreeing to submit non-competitive bids to the United States Navy on contracts for metal sling hoist assemblies. The combination and conspiracy engaged in by the defendant and co-conspirators was in unreasonable restraint of interstate trade and commerce in violation of Section 1 of the Sherman Act (Title 15, U.S.C., § 1).

6. The charged combination and conspiracy consisted of an agreement, understanding and concert of action among the

defendant and co-conspirators, the substantial terms of which were to rig bids on contracts for metal sling hoist assemblies sold to the United States Navy for the purpose of raising the price paid by the Department of Defense for the metal sling hoist assemblies. The combination and conspiracy was carried out, in part, within the Eastern District of New York within the five years preceding the filing of this Information.

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

(a) attended meetings and engaged in discussions regarding the sale of metal sling hoist assemblies to the United States Navy;

(b) agreed during those meetings and discussions not to compete on certain contracts with the United States Navy either by not submitting prices or bids on those contracts, by alternating winning bids on those contracts, or by submitting intentionally high prices or bids on those contracts;

(c) discussed and exchanged prices on certain contracts so as not to undercut one another's prices;

(d) submitted bids in accordance with the agreements reached;

(e) sold metal sling hoist assemblies to the United States Navy pursuant to those agreements at collusive and non-competitive prices; and

(f) accepted payment for metal sling hoist assemblies sold at collusive and noncompetitive prices.

THE CONSPIRACY'S EFFECT ON INTERSTATE COMMERCE

8. During the period covered by this Information, metal hoist sling assemblies sold by one or more of the co-conspirator firms, and equipment and supplies necessary to the production and distribution of metal sling hoist assemblies, as well as payments for metal sling hoist assemblies and necessary supplies, traveled in interstate commerce.

9. During the period covered by this Information, the business activities of Cunningham and his co-conspirators in connection with the production and sale of metal sling hoist

assemblies that are the subject of this Information were within the flow of, and substantially affected, interstate trade and commerce.

(Title 15, United States Code, Section 1; Title 18, United States Code, Sections 3551 et seq.)

THOMAS O. BARNETT
Assistant Attorney General

SCOTT D. HAMMOND
Deputy Assistant Attorney General

MARC SIEGEL
Director of Criminal Enforcement
Antitrust Division
U.S. Department of Justice

LISA PHELAN
Chief
National Criminal Enforcement Section

MARK ROSMAN
KATIE HELLINGS
PATRICK EGAN
Attorneys, Antitrust Division
U.S. Department of Justice
Nat'l Crim. Enforcement Sect.
1401 H Street, NW, Suite 3700
Washington, D.C. 20530
Tel.: (202) 307-6694