

1 JEANE HAMILTON
BARBARA J. NELSON
2 ANDREW S. HUANG
Antitrust Division
3 U.S. Department of Justice
450 Golden Gate Avenue
4 Box 36046, Room 10-0101
San Francisco, CA 94102
5 Telephone: (415) 436-6660

6 Attorneys for the United States

7
8 UNITED STATES DISTRICT COURT
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA
10

11 UNITED STATES OF AMERICA)	No. CR 99 -20248 JF
)	
12)	
13 v.)	INFORMATION
)	
14 DYWIDAG-SYSTEMS INTERNATIONAL)	VIOLATION:
15 USA, INC., and)	Title 15, United States Code,
)	Section 1 (Price Fixing)
16 ADAM S. ALLAN,)	San Jose Venue
17)	
Defendants.)	
18)	Filed: December 15, 1999

19 The United States of America, acting through its attorneys, charges:
20

21 COUNT ONE

22 I.

23 DESCRIPTION OF THE OFFENSE

24 1. ADAM S. ALLAN and DYWIDAG-SYSTEMS INTERNATIONAL USA,
25 INC. ("DSI") are made defendants on the charge stated below.

26 2. Beginning in or about December 1994 and continuing until in or about

June 1996, the exact dates being unknown to the United States, the defendants and co-conspirators participated in a combination and conspiracy in unreasonable restraint of interstate trade and commerce in violation of Section 1 of the Sherman Act (15 U.S.C. § 1). 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 fix and maintain prices and divide the market through allocating market shares for certain post-tensioning bridge projects in California.

3. 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) participating in conversations to discuss post-tensioning bridge projects in California;
- (b) agreeing, during those conversations, to allocate market shares among the co-conspirators, including allocating a market share to defendant DSI;
- (c) issuing bids and price quotations in accordance with the agreements reached; and
- (d) exchanging information on sales of post-tensioning on bridge projects in California, for the purpose of monitoring and enforcing adherence to the agreed-upon market shares.

II.

DEFENDANT AND CO-CONSPIRATORS

4. ALLAN is a resident of the United States and citizen of Canada. During the period covered by this Information, ALLAN was the Western Division Manager of DSI, stationed in Long Beach, California.

5. DSI is a corporation organized and existing under the laws of the state of

1 New York, with its principal place of business in Bolingbrook, Illinois. During the
2 period covered by this Information, DSI was engaged in the business of producing and
3 selling construction materials and services in the specialty construction industry,
4 including post-tensioning and cable-stayed bridge materials and supplies.

5 6. Various corporations and individuals, not made defendants in this
6 Information, participated as co-conspirators in the offense charged herein and
7 performed acts and made statements in furtherance of it.

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

13 III.

14 TRADE AND COMMERCE

15 8. Post tensioning is a specialty construction system used to reinforce
16 concrete used in bridges or other structures.

17 9. During the period covered by this Information, the defendants and
18 co-conspirators purchased, sold and distributed post-tensioning materials and supplies
19 in a continuous and uninterrupted flow of interstate commerce from the states of
20 manufacture to customers located in California. In addition, some of the post-tensioning
21 bridge projects allocated by defendants and co-conspirators pursuant to the market
22 division scheme were part of the interstate highway system and paid for by federal
23 monies.

24 10. The business activities of the defendants and co-conspirators that are the
25 subject of Count One of this Information were within the flow of, and substantially
26 affected, interstate trade and commerce.

1 //

2

3

IV.

4

JURISDICTION AND VENUE

5

6

7

11. The combination and conspiracy charged in Count One of this Information was carried out, in part, in the Northern District of California, within the five years preceding the filing of this Information.

8

9

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

10

11

COUNT TWO

12

The United States of America further charges:

13

14

12. Paragraphs 5 through 7 of Count One of this Information are repeated, realleged and incorporated in Count Two as if fully set forth in this Count.

15

I.

16

DESCRIPTION OF THE OFFENSE

17

18

13. DYWIDAG-SYSTEMS INTERNATIONAL USA, INC. ("DSI") is made a defendant on the charge stated below.

19

20

21

22

23

24

25

26

14. Beginning in or about June 1996 and continuing until in or about September 1997, the exact dates being unknown to the United States, the defendant and co-conspirators participated in a combination and conspiracy in unreasonable restraint of interstate trade and commerce in violation of Section 1 of the Sherman Act (15 U.S.C. § 1). 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 rig bids and allocate contracts for the sale of materials and supplies used in construction of cable-stayed bridges in the

1 United States.

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

5 (a) participating in conversations to discuss upcoming cable-stayed bridge
6 projects in the United States;

7 (b) agreeing, during one such conversation, to allocate several upcoming
8 cable-stayed bridge projects in the United States among the defendant and
9 co-conspirators; and

10 (c) submitting artificially high, non-competitive bids in accordance with the
11 agreements reached.

12 II.

13 TRADE AND COMMERCE

14 16. Cable-stayed bridges are built using a form of specialty construction. The
15 deck of a cable-stayed bridge is suspended from cables attached to load-bearing towers.

16 17. During the period covered by this Information, the defendant and
17 co-conspirators manufactured, sold and distributed materials and supplies used in the
18 construction of cable-stayed bridges in a continuous and uninterrupted flow of
19 interstate commerce from the states of manufacture to customers located in other states.
20 In addition, some of the cable-stayed bridge projects allocated by defendant and co-
21 conspirators pursuant to the charged scheme were part of the interstate highway
22 system and paid for by federal monies.

23 18. The business activities of the defendant and co-conspirators that are the
24 subject of Count Two of this Information were within the flow of, and substantially
25 affected, interstate trade and commerce.

26 //

1 //

2 //

3

III.

4

JURISDICTION

5

6

19. The combination and conspiracy charged in Count Two of this Information was carried out in part within the five years preceding the filing of this Information.

7

8

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

9

10

_____/s/_____
Joel I. Klein
Assistant Attorney General

12

13

14

_____/s/_____
Gary R. Spratling
Deputy Assistant Attorney General

16

17

_____/s/_____
James M. Griffin
Director of Criminal Enforcement
U.S. Department of Justice
Antitrust Division

21

22

23

_____/s/_____
Robert S. Mueller III
United States Attorney
Northern District of California

26

_____/s/_____
Christopher S Crook
Chief, San Francisco Office

_____/s/_____
Jeane Hamilton
Barbara J. Nelson
Andrew S. Huang

Attorneys

U.S. Department of Justice
Antitrust Division
450 Golden Gate Avenue
Box 36046, Room 10-0101
San Francisco, CA 94102
(415) 436-6660