UNITED STATES DISTRICT COURT
DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA	)	Criminal No.
	)	
	)	Filed:
v.	)	
	)	Count I: 15 U.S.C. § 1
EGL, INC.,	)	Count II: 15 U.S.C. § 1
	)	
Defendant.	)	
	)	
	)	

INFORMATION

THE UNITED STATES OF AMERICA, ACTING THROUGH ITS ATTORNEYS, CHARGES:

I.

COUNT ONE – CONSPIRACY TO RESTRAIN TRADE – AAMS
(15 U.S.C. § 1)

Defendant and Co-Conspirators

1. EGL, Inc. ("defendant") is a corporation organized and existing under the laws of the state of Texas with its registered office in Houston, Texas. During the period covered by this Information, defendant was engaged in the business of providing freight forwarding services in the United States and elsewhere.

2. Various corporations and individuals, not charged with the defendant in this Information, participated as co-conspirators in the offenses charged in this Information and performed acts and made statements in furtherance of them.

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

Background of the Offense

4. Freight forwarders arrange for and manage the shipment of goods from one point to another. Freight forwarders provide international freight forwarding services by receiving, delivering, packaging and preparing cargo freight destined for air shipment to or from the United States; by arranging transportation incidental to an air freight shipment to or from the United States, such as ground service to an airport at which the defendant offers international air freight shipment services and warehousing prior to international shipment; and by preparing documents to accompany an air freight shipment to or from the United States. To provide these services, freight forwarders generally enter into contracts or other arrangements with transportation providers, such as air carriers and steamship lines, to transport the goods, with the forwarders themselves providing packaging, tracking, incidental handling and other ancillary services associated with the transportation of goods, both internationally and domestically.

5. Beginning in or about August 2004, the Government of the United States, through its Bureau of Customs and Border Protection("CBP"), a branch of the Department of Homeland Security, mandated that CBP be notified of the contents and certain other information pertaining to goods being shipped to the United States by air as many as four hours prior to the arrival of the shipment in the United States. The notification was required to be made via an electronic data interchange system approved by CBP, known as the Air Automated Manifest System ("AAMS").

Freight forwarders were required to collect the necessary information regarding their shipments, then either to file that information directly with CBP or to file it indirectly with CBP through the air carrier transporting the shipment.

6. Beginning in or about August 2004, certain freight forwarders imposed an "AAMS fee" on their customers for shipments to the United States, purportedly as a charge for complying with AAMS requirements.

Description of the Offense

7. Beginning in or about May 2004 and continuing until in or about October 2007, the exact dates being unknown to the government, defendant and its co-conspirators entered into and engaged in a combination and conspiracy to suppress and eliminate competition by agreeing to impose an "AAMS fee" on customers that purchased international freight forwarding services related to the shipment of cargo by air to the United States. The combination and conspiracy engaged in by defendant and its co-conspirators was in unreasonable restraint of interstate and foreign trade and commerce, in violation of Section 1 of the Sherman Act (15 U.S.C. § 1).

8. The charged combination and conspiracy consisted of a continuing agreement, understanding and concert of action among defendant and its co-conspirators, the substantial term of which was to impose an "AAMS fee" on shipments of cargo by air to the United States.

Means and Methods of the Conspiracy

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

(a) held meetings and engaged in discussions regarding the AAMS;

(b) agreed during those meetings and discussions to charge their customers a separate fee to make the filing required under the AAMS;

(c) agreed during those meetings and discussions on the approximate level of the fee to charge their customers to make the filing required under the AAMS;

(d) agreed during those meetings and discussions to accept payment for their AAMS fees at collusive and non-competitive prices;

(e) issued price announcements in accordance with the agreements reached;

(f) provided international air freight forwarding services to the United States and elsewhere pursuant to air waybills and invoices containing the collusive and non-competitive fees; and

(g) accepted payments for international air freight forwarding services pursuant to air waybills and invoices containing collusive and non-competitive fees.

Trade and Commerce

10. During the period covered by this Count, defendant and its co-conspirators provided freight forwarding services in a continuous and uninterrupted flow of interstate and foreign commerce into the United States. In addition, the cargo and payments for which the defendant and its co-conspirators provided international air freight forwarding services moved in interstate and foreign commerce.

11. During the period covered by this Count, the business activities of defendant and its co-conspirators in connection with the freight forwarding services that are the subject of this

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

Jurisdiction and Venue

12. The combination and conspiracy charged in this Count was carried out within the United States during the five years preceding the filing of this Information.

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

II.

COUNT TWO – CONSPIRACY TO RESTRAIN TRADE – NES
(15 U.S.C. § 1)

THE UNITED STATES FURTHER CHARGES THAT:

Defendant and Co-Conspirators

13. Each and every allegation contained in paragraphs 1 to 4 of Count One of this Information is realleged and reasserted here as if fully set forth in this Count.

Background of the Offense

14. In or about 2002, the government of the United Kingdom initiated new procedures related to the export of goods from the United Kingdom by implementing its New Export System ("NES"). NES allowed exporters and their agents to make electronic declarations regarding the contents, value, destination and other information related to exports to Her Majesty's Revenue & Customs (U.K.) for tax collection and other purposes. Such declarations were required for all exports from the United Kingdom to non-European Community countries, including the United States.

15. Beginning in or about October 2002, certain freight forwarders imposed an "NES fee" on their customers, purportedly as a charge for complying with NES requirements.

Description of the Offense

16. Beginning in or about October 2002 and continuing until in or about October 2007, the exact dates being unknown to the government, defendant and its co-conspirators entered into and engaged in a combination and conspiracy to suppress and eliminate competition by imposing an "NES fee" on freight forwarding customers for the shipment of cargo by air from the United Kingdom to the United States. The combination and conspiracy engaged in by defendant and its co-conspirators was in unreasonable restraint of interstate and foreign trade and commerce in violation of Section 1 of the Sherman Act (15 U.S.C. § 1).

17. The charged combination and conspiracy consisted of a continuing agreement, understanding and concert of action among defendant and its co-conspirators, the substantial term of which was to impose an NES fee on shipments of cargo by air to the United States from the United Kingdom.

Means and Methods of the Conspiracy

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

(a) held meetings and engaged in discussions regarding the NES;

(b) agreed during those meetings and discussions to charge their customers a separate fee to make the filing required under the NES;

(c) agreed during those meetings and discussions on the approximate level of the fee to charge their customers to make the filing required under the NES;

(d) agreed during those meetings and discussions to accept payment for the NES fee at collusive and non-competitive prices;

(e) notified customers of the charges in accordance with the agreements reached;

(f) provided international air freight forwarding services to the United States and elsewhere pursuant to air waybills containing the collusive and non-competitive fees; and

(g) accepted payments for international air freight forwarding services pursuant to air waybills and invoices containing collusive and non-competitive fees.

Trade and Commerce

19. During the period covered by this Count, defendant and its co-conspirators provided freight forwarding services in a continuous and uninterrupted flow of interstate and foreign commerce. In addition, the cargo and payments for which the defendant and its co-conspirators provided international air freight forwarding services moved in interstate and foreign commerce.

20. During the period covered by this Count, the business activities of defendant and its co-conspirators in connection with the provision of freight forwarding services that are the

subject of this Count were within the flow of, and substantially affected, interstate and foreign trade and commerce.

Jurisdiction and Venue

21. The combination and conspiracy charged in this Count was carried out within the United States during the five years preceding the filing of this Information.

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

Dated: September 30, 2010

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