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★ JUL 10 2007 ★
LONG ISLAND OFFICE

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

- X

UNITED STATES OF AMERICA

- against -

ROBERT FISCHETTI,

Defendant.

- X

INFORMATION

Cr. No. 07-0456 Bianco
T. 15, U.S.C. § 1
41, U.S.C. § 53

CRIMINAL INFORMATION

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

1. During the periods covered by this Information, Robert Fischetti was the Sales Director of Peck & Hale, LLC (P&H). During the periods covered by this Information, P&H was an entity organized and existing under the laws of New York with its principal place of business in West Sayville, New York. During the period set forth in this Information, P&H was a provider of military tiedown equipment and cargo securing systems to the Department of Defense.

Count I

DESCRIPTION OF THE OFFENSE

1. Beginning at least as early as December of 2002 and continuing until at least 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 submitting 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 (15 U.S.C. § 1).

2. 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 metal sling hoist assemblies.

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

MEANS AND METHODS OF THE CONSPIRACY

4. 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) 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 for 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

(h) accepted payments for metal sling hoist assemblies sold at collusive and noncompetitive prices.

TRADE AND COMMERCE

5. 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. During the period covered by Count I of this Information, P&H and its co-conspirators were engaged in manufacturing and selling metal sling hoist assemblies to the U.S. Navy.

6. During the period covered by Count I of this Information, metal hoist sling assemblies sold by one or more of the 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.

7. During the period covered by Count I of this Information, the business activities of defendant and his co-conspirators in connection with the production and sale of metal sling hoist assemblies that are the subject of Count I of this Information were within the flow of, and substantially affected, interstate and foreign trade and commerce.

JURISDICTION AND VENUE

8. The combination and conspiracy charged in Count I of this Information was carried out, in part, within the Eastern District of New York within the five years preceding the filing

of this Information.

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

Count II

DESCRIPTION OF THE OFFENSE

1. Beginning at least as early as November of 2001 and continuing until as late as January of 2005, 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 submitting non-competitive bids to the United States Department of Defense on contracts for military tiedown equipment and cargo securing systems. 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 (15 U.S.C. § 1).

2. 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 United States Department of Defense contracts for military tiedown equipment and cargo securing systems for the purpose of raising the price paid by the Department of Defense for these parts.

3. Various corporations and individuals, not made defendants in Count II of this Information, participated as co-conspirators

in the offense charged in this Count and performed acts and made statements in furtherance thereof.

MEANS AND METHODS OF THE CONSPIRACY

4. 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) attended meetings and engaged in discussions regarding the sale of various defense parts, including military tiedown equipment and cargo securing systems, to the United States Department of Defense;

(b) agreed during those meetings and discussions not to compete on certain contracts for the United States Department of Defense by not submitting prices or bids on those contracts;

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

(d) sold parts to the United States Department of Defense, including military tiedown equipment and cargo securing systems, pursuant to those agreements at collusive and non-competitive prices; and

(e) accepted payments for those parts sold at

collusive and noncompetitive prices.

TRADE AND COMMERCE

5. Military tiedown equipment and cargo securing systems are used to secure containers and loose cargo on vehicles, vessels, and aircraft. They are purchased by all branches of the United States military services. During the period covered by Count II of this Information, P&H and its co-conspirators were engaged in manufacturing and selling military tiedown equipment and cargo securing systems to the Department of Defense.

6. During the period covered by Count II of this Information, military tiedown equipment and cargo securing systems were sold by one or more of the conspirator firms, and equipment and supplies necessary to the production and distribution of the military tiedown equipment and cargo securing systems, as well as payments for the military tiedown equipment and cargo securing systems traveled in interstate commerce.

7. During the period covered by Count II of this Information, the business activities of the defendant and his co-conspirators in connection with the production and sale of military tiedown equipment and cargo securing systems that are the subject of this Information were within the flow of, and substantially affected, interstate and foreign trade and commerce.

JURISDICTION AND VENUE

8. The combination and conspiracy charged in Count II of this Information was carried out, in part, within the Eastern District of New York within the five years preceding the filing of this Information.

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

Count III

DESCRIPTION OF THE OFFENSE

1. Throughout 2002, within the Eastern District of New York, the defendant, a higher-tiered subcontractor employee, did knowingly and willfully solicit and accept a kickback, as defined in 41 U.S.C. §53, in the form of approximately $1,500 cash, in connection with one or more sub-contracts to paint, silkscreen, or otherwise finish various parts manufactured and sold to the United States Department of Defense, in violation of 41 U.S.C. §53.

2. The defendant collected the kickback knowing that the kickback was provided for the purpose of improperly obtaining and rewarding favorable treatment in connection with a higher-tiered subcontract to a prime contract with the United States Department of Defense.

THE SCHEME

3. During the period set forth in this Information, P&H was a prime contractor and higher-tiered subcontractor for

various products to the United States Department of Defense.

4. As the Sales Director at P&H, the defendant was the highest ranking sales person at P&H. In that position, the defendant was responsible for evaluating pending or open government solicitations and supervising P&H bids submitted to the government. The defendant was also responsible for obtaining higher-tiered government subcontracts for P&H. In addition, the defendant was responsible for ensuring the satisfactory completion of government contracts and higher-tiered subcontracts awarded to P&H. As Sales Director, the defendant occasionally got involved in the selection of subcontractors or vendors for P&H's prime contracts and subcontracts.

5. "Mr. A" is a person known to the United States. During the period covered by Count III of this Information, Mr. A was an executive of an industrial painting and finishing company with its principal place of business in Islip, New York.

6. In early 2002, the defendant and Mr. X, a person known to the United States, approached Mr. A in connection with various prime contracts and subcontracts awarded to P&H that required special finishing to meet defense product specifications. The defendant and Mr. X offered Mr. A potentially lucrative subcontracts in return for cash payments, to be paid in cash directly to the defendant and Mr. X. Mr. A accepted the offer and agreed to pay the defendant and Mr. X a cash kickback in

return for sub-contracting work.

7. Thereafter, P&H began awarding Mr. A and his company sub-contracts to perform finishing work on various defense products, including the Trail Lock Body and Pin, the Hasp, and the Disk.

8. Between January 2002 and December 2002, Mr. A paid the defendant one kickback, in several cash installments, totaling approximately $1,500 for the purpose of improperly obtaining and rewarding favorable treatment by the defendant in connection with prime and higher-tiered sub-contracts to the United States Department of Defense. As a result, Mr. A's company was awarded sub-contracts without having to submit competitive price quotes. This permitted Mr. A to build the cost of the kickback into the price of the sub-contract, which was eventually passed along in the price of the prime contract to the United States Department of Defense.

JURISDICTION AND VENUE

9. The crime charged in Count III of this Information was carried out, in part, within the Eastern District of New York within the five years preceding the filing of this Information. ALL IN VIOLATION OF TITLE 41, UNITED STATES CODE, SECTION 53.

Dated:

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Assistant Attorney General

SCOTT D. HAMMOND
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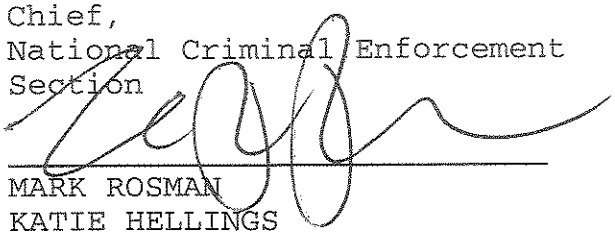

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