

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JUDGE GARDEPHE

UNITED STATES OF AMERICA

v.

BERNARD GROBART and
TENEYCK, INC. f/k/a NEILL SUPPLY
CO., INC.,

Defendants.

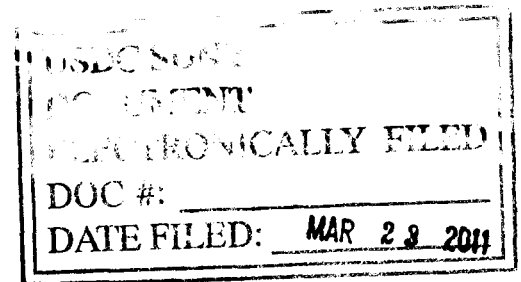
CRIM 269

Filed:

Violations:

18 U.S.C. § 371

18 U.S.C. § 1512(b)(2)(B)



INFORMATION

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

1. BERNARD GROBART ("GROBART") and NEILL SUPPLY CO., INC.

("NEILL SUPPLY") are hereby made defendants on the charges stated below.

COUNT ONE - CONSPIRACY
(18 U.S.C. § 371)

I. RELEVANT PARTIES AND ENTITIES

During the period covered by this Count:

2. GROBART resided in Manhattan, New York and was an owner of NEILL
SUPPLY.

3. NEILL SUPPLY was an industrial pipe supply company located in
Lyndhurst, New Jersey that provided industrial pipes, bends and sleeves, among other
things, as a contractor to Consolidated Edison of New York ("Con Edison").

4. James M. Woodason (“Woodason”) was a co-conspirator who was a Department Manager in the Purchasing Department in Con Edison’s headquarters in Manhattan, New York. Woodason was responsible for purchasing millions of dollars in goods and services, and managing inventory on behalf of Con Edison. During the relevant period, Woodason had final approval authority for purchases up to \$2.5 million from any one source.

5. Robert D. Rosenberg (“Rosenberg”) was a sales broker specializing in selling industrial pipe materials such as steel pipes, bends and sleeves to customers such as Con Edison throughout the relevant period.

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

7. Various other persons, not made defendants herein, participated as co-conspirators in the offense charged herein and performed acts and made statements in furtherance thereof.

II. BACKGROUND

8. Con Edison, which is headquartered in Manhattan, is a regulated utility that provides electric and natural gas service to areas throughout New York City and Westchester County. It is a subsidiary of Consolidated Edison, Inc., which is the nation’s

largest investor-owned energy company. Con Edison provides electric service to approximately 3.2 million customers and gas service to approximately 1.1 million customers in New York City and Westchester County. Con Edison received federal funding in excess of \$10,000 in each year between 2003 through 2010.

9. Con Edison had a competitive bidding policy that required its purchasing departments and their employees to obtain competitive bids in the procurement of materials and supplies for Con Edison. The purpose of the bidding policy was to ensure that Con Edison obtained products and services at competitive, fair market prices.

10. Con Edison maintained a “Code of Ethics” that stated that Con Edison employees could not engage in conduct that created a conflict of interest, such as when the employee and/or a member of his/her family “receive[d] improper personal benefits as a result of [the employee’s] position with Con Edison.” Additionally, Con Edison had a “Standard of Business Conduct” that stated that “[n]either employees nor members of their families or households may accept or give gifts or benefits ... when they are offered on the basis of a current or potential business relationship with Con Edison.” Both documents created an ongoing obligation for Woodason to disclose any compensation from any supplier to Con Edison.

11. As a Department Manager of Purchasing at Con Edison, Woodason was responsible for purchasing millions of dollars in goods and services annually for Con Edison, all in accordance with Con Edison’s policies and procedures, including adhering

to Con Edison's competitive bidding policy, Code of Ethics and Standard of Business Conduct.

III. DESCRIPTION OF THE OFFENSE

12. From approximately November 2003 to approximately August 2008, within the Southern District of New York, and elsewhere, defendant GROBART, defendant NEILL SUPPLY and their co-conspirators, and others known and unknown, did unlawfully, willfully and knowingly combine, conspire, confederate, and agree, together and with each other, to commit offenses against the United States of America, to wit, to violate Title 18, United States Code, Sections 666(a)(2), 1343 and 1346, in violation of Title 18, United States Code, Section 371.

13. It was a part and an object of the conspiracy that defendant GROBART, defendant NEILL SUPPLY, and their co-conspirators, and others known and unknown, would and did unlawfully, willfully and knowingly combine, conspire, confederate, and agree, together and with each other, to corruptly give, offer, and agree to give anything of value to Woodason, with the intent to influence and reward Woodason, an agent of an organization, Con Edison, that received benefits in excess of \$10,000 in any one-year period, under a Federal program involving a grant, contract, subsidy, loan, guarantee, insurance, and other form of Federal assistance, in connection with any business, transaction, and series of transactions of Con Edison involving anything of value of \$5,000 or more, in violation of Title 18, United States Code, Section 666(a)(2); and

14. It was a part and an object of the conspiracy that defendant GROBART, defendant NEILL SUPPLY, and their co-conspirators, and others known and unknown, unlawfully, willfully, and knowingly, having devised and intending to devise a scheme and artifice to defraud Con Edison, including a scheme to deprive Con Edison of its right to the honest and faithful services of Woodason through bribery and the concealment of material information, and for obtaining money and property from Con Edison by means of false and fraudulent pretenses, representations, and promises, for the purpose of executing such scheme and artifice, and attempting to do so, would and did transmit and cause to be transmitted by means of wire communication in interstate commerce, writings, signs, signals and sounds, in violation of Title 18, United States Code, Sections 1343 and 1346.

IV. PURPOSE OF THE SCHEME

15. The purpose of the scheme and artifice was for defendants GROBART and NEILL SUPPLY to enrich themselves by secretly obtaining favorable official action for NEILL SUPPLY through corrupt means and for Woodason to secretly use his official position to enrich himself by soliciting and accepting gifts, payments, and other things of value from GROBART and NEILL SUPPLY in exchange for official action.

V. THE MANNER AND MEANS BY WHICH THE CONSPIRACY WAS CARRIED OUT

The manner and means by which the conspiracy was sought to be accomplished included, among others, the following:

16. During some or all of the period between approximately November 2003 and

approximately August 2008, defendant GROBART, Rosenberg and others, known and unknown, provided approximately \$297,000 in cash bribes to Woodason in exchange for which Woodason steered Con Edison industrial pipe supply contracts to defendant NEILL SUPPLY.

17. Woodason was able to steer a Con Edison industrial pipe supply contract to defendant NEILL SUPPLY by secretly providing Rosenberg with confidential competitor bid information so that NEILL SUPPLY could revise its bid prices. As a result, Con Edison did not receive competitive bid prices from NEILL SUPPLY since NEILL SUPPLY submitted its final bid based on its knowledge of the lowest bidder's prices, rather than based on its own independent competitive bid pricing which could have contained lower prices. Con Edison therefore paid higher prices for the materials it purchased than it would have if Woodason had aggressively and honestly solicited competitive prices from other vendors.

18. In exchange for Woodason's efforts to provide favorable official action by steering this and other industrial pipe supply contracts to NEILL SUPPLY, defendant GROBART and Rosenberg agreed to provide Woodason with a regular cash bribe payment of approximately one percent of the orders shipped to and paid for by Con Edison on a monthly basis.

19. Defendant GROBART prepared the cash bribe payments that Rosenberg provided to Woodason, on behalf of defendant NEILL SUPPLY, at regular dinner meetings between Woodason and Rosenberg. GROBART calculated the cash bribe due to

Woodason based on the agreed upon payout of approximately one percent of Con Edison orders shipped. After preparing the cash, GROBART would call Rosenberg to confirm that the cash was ready to deliver to Woodason. Rosenberg would then call Woodason at Woodason's office in Manhattan to schedule a dinner meeting with Woodason at a restaurant in New Jersey. GROBART provided the cash bribe payment in an envelope to Rosenberg. During dinner, Rosenberg provided, and Woodason accepted, the envelope containing the cash bribe payment that was prepared by GROBART.

20. Woodason took steps to hide, conceal, and cover up his activity and the nature and scope of his dealings with GROBART and NEILL SUPPLY. At no time did defendant GROBART, defendant NEILL SUPPLY, or their co-conspirators disclose to Con Edison Woodason's receipt of the bribe payments from GROBART and NEILL SUPPLY, or that Woodason was steering contracts to NEILL SUPPLY. All such payments were made without the knowledge or approval of Con Edison, and in violation of Woodason's duty of loyalty to Con Edison and his obligations under Con Edison's Code of Ethics and Standard of Business Conduct.

21. As a result of this scheme, Con Edison was deprived of its right to the honest and faithful services of Woodason and paid higher prices for the materials it purchased than it would have if Woodason had aggressively and honestly solicited competitive prices from other vendors.

VI. OVERT ACTS

22. In furtherance of the conspiracy and to effect the illegal objects thereof, defendant GROBART, defendant NEILL SUPPLY and their co-conspirators, and others known and unknown, committed the following overt acts, among others, in the Southern District of New York and elsewhere:

(a) On numerous occasions between approximately November 2003 and approximately August 2008, Woodason caused Con Edison to issue purchase orders, and GROBART caused defendant NEILL SUPPLY to issue invoices, relating to the industrial pipe supply contracts with Con Edison. Many of these invoices and purchase orders were sent via facsimile or e-mail. Many of these invoices were sent to Con Edison's offices in Manhattan from NEILL SUPPLY's offices in New Jersey, and many of these purchase orders were sent from Con Edison's offices in Manhattan to NEILL SUPPLY's offices in New Jersey;

(b) On numerous occasions between approximately November 2003 to approximately August 2008, Rosenberg met with Woodason at restaurants in New Jersey and provided Woodason with cash bribe payments prepared by defendant GROBART on behalf of NEILL SUPPLY;

(c) On or about June 15, 2004, an employee of NEILL SUPPLY sent an e-mail with NEILL SUPPLY's revised bid for the five-year industrial pipe supply contract to a Con Edison employee;

(d) On or about July 16, 2004, Woodason signed a Request for

Authorization to Purchase, dated July 9, 2004, recommending that Con Edison enter into a five-year industrial pipe supply contract with defendant NEILL SUPPLY valued at \$18,000,000;

(e) On or about July 29, 2004, Woodason caused the July 9, 2004 Request for Authorization to Purchase to be e-mailed to another Con Edison employee for approval; and

(f) On or about March 15, 2007, Woodason caused Con Edison to e-mail a modification of the industrial pipe supply contract with defendant NEILL SUPPLY to increase its value from \$18,000,000 to \$22,500,000 to another Con Edison employee in Manhattan.

ALL IN VIOLATION OF TITLE 18, UNITED STATES CODE, SECTION 371.

COUNT TWO - OBSTRUCTING AN OFFICIAL PROCEEDING
(18 U.S.C. § 1512(b)(2)(B))

The United States of America, acting through its attorneys, further charges
GROBART:

23. Paragraphs Two and Three of Count One of this Information are hereby repeated, realleged and incorporated in Count Two as if fully set forth in this Count.

I. DESCRIPTION OF THE OFFENSE

24. Beginning at least as early as June 29, 2009 and continuing until at least until August 2010, a federal grand jury sitting in the Eastern District of New York (“EDNY”) and then a federal grand jury sitting in the Southern District of New York (“SDNY”), with

the assistance of the United States Department of Justice, Antitrust Division, were investigating, among other things, possible federal antitrust, fraud and tax offenses in the industrial pipe industry.

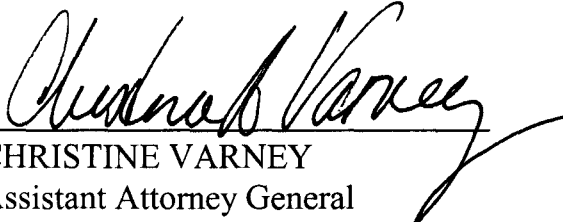
25. On or about June 29, 2009, the federal grand jury sitting in the EDNY issued a subpoena duces tecum to defendant Neill Supply demanding the production of any documents reflecting payments to any Con Edison employee. The investigation was subsequently transferred to a grand jury sitting in the SDNY.

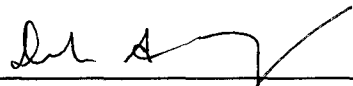
26. In or about August 2009, defendant GROBART unlawfully, willfully, knowingly and corruptly persuaded another Neill Supply employee to alter, destroy, mutilate and conceal a document with the intent to impair the document's integrity and availability for use in an official proceeding, to wit, defendant GROBART instructed a subordinate employee at Neill Supply to delete an electronic document that tallied the bribe payments due and paid to Woodason, as described in Count One, with the intent to prevent the production of the document to the federal grand jury sitting in the Southern

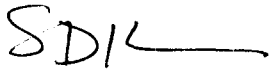
District of New York, as requested in the subpoena duces tecum issued to Neill Supply by the federal grand jury in the Eastern District of New York on or about June 29, 2009.

IN VIOLATION OF TITLE 18, UNITED STATES CODE, SECTION 1512(b)(2)(B).

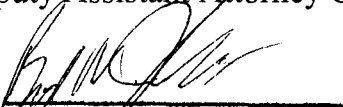
Dated: 02/01/2011


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