IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA
Alexandria Division

FILED IN OPEN COURT
OCT 17 2007
CLERK, U.S. DISTRICT COURT
ALEXANDRIA, VA

UNITED STATES OF AMERICA	)	
	)	Criminal No. 1:07CR303
v.	)	
	)	
LIFT FORWARDERS, INC.,	)	Violation: 15 U.S.C. § 1
	)	
Defendant.	)	

INFORMATION

Lift Forwarders, Inc. is made the defendant on the charge herein.

THE UNITED STATES CHARGES THAT:

Defendant and Co-Conspirators

At all relevant times:

1. Defendant Lift Forwarders, Inc. was a corporation, organized under the laws of the State of Oregon and headquartered in that State. Defendant was a freight forwarder as defined in paragraph 5 below and was in the business of providing services to the United States Department of Defense ("DOD") related to the transportation of household goods owned by U.S. military and civilian DOD personnel and their families ("military household goods").

2. Various companies, partnerships, and individuals, not made defendants, participated as co-conspirators in the offense charged herein and performed acts and made statements in the furtherance of the conspiracy.

3. Whenever this Count refers to any act, deed, or transaction of any company, it means that the company 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, or control of its affairs.

Background

4. DOD administers and coordinates its International Through Government Bill of Lading ("ITGBL") program for the transportation of military household goods between the United States and other countries through the Military Traffic Management Command ("MTMC"). MTMC, renamed Surface Distribution and Deployment Command ("SDDC") in 2004, is headquartered in Alexandria, in the Eastern District of Virginia. Shipments of military household goods under the ITGBL program are known as "ITGBL traffic." One ITGBL service, known as "Code 4," requires the freight forwarder to provide the complete door-to-door service for household goods shipments. Code 4 service includes: packing, transportation from residence to the port of embarkation, ocean transportation and transportation to the new residence, all in wooden containers approved by MTMC.

5. "Freight Forwarders," also known as "forwarders" or carriers," are U.S. companies that submit rates, contract with MTMC, and assume responsibility for handling ITGBL traffic.

6. Under the ITGBL program, freight forwarders file "through rates" with MTMC (now SDDC) twice a year in a two-step bidding process. "Through rates," expressed in dollars per hundredweight ("$/cwt"), are the rates bid to DOD by U.S. freight forwarders and paid by DOD for all the moving and transportation services provided in the door-to-door move between a foreign country and the United States.

The through rates are specific to "channels," or routes, to or from a particular State, or portion of a State, and a foreign country (e.g., Germany-Virginia).

7. Each rate filing covers a six-month period, or "cycle." The summer cycle runs from April 1 through September 30; the winter cycle runs from October 1 through March 31. The ITGBL cycles are referred to by the abbreviations "IS," for International Summer, and "IW," for International Winter, combined with the relevant year. Thus, "IS-01" cycle is shorthand for the International Summer cycle that ran from April 1, 2001 through September 30, 2001, whereas "IW-00" is shorthand for the winter cycle that ran from October 2000 through March 2001.

8. In the first step of the rate filing process, the "initial filing," freight forwarders file rates by channel. In the initial filing, forwarders may either file a specific rate or what is called an "administrative high" rate. An "administrative high" rate is a non-specific rate that is considered to be at the highest acceptable level for handling traffic in that channel. By filing a specific rate, or an "administrative high" rate, a forwarder preserves the right to bid again in the second phase of the bidding process. After the initial filing, MTMC publishes the lowest five ("low-5") rates offered, by channel. The lowest rate bid for a channel is declared to be the "prime rate." MTMC guarantees to the freight forwarder that sets the prime rate in a given channel a certain percentage of the shipments in that channel as an incentive to set the prime rate. In the second, or "me-too," phase of the bidding process, eligible forwarders have the opportunity to match, or "me-too,"

the prime rate or to file a rate higher than the prime rate in channels where they filed rates.

9. Once the rate cycle begins, ITGBL traffic that is not awarded to the freight forwarder that set the prime rate in a channel is awarded to other forwarders that filed rates in the channel, in a strict order of priority. Forwarders that have matched, or "me-tooed," the prime rate are next in order of priority to receive shipments. So long as these companies and the company that set the prime rate have the capacity to handle the volume of shipments required to be transported, they will be awarded all the traffic moving in that channel during the cycle. Any remaining traffic is offered to the forwarders that filed or matched the next lowest rate. This process continues at each rate level, by channel, until all the traffic is distributed. Typically, over the course of the cycle, the vast majority of ITGBL traffic moves at the prime rate level. Thus, a forwarder generally must "me-too" the prime rate in order to be awarded any traffic.

10. MTMC requires that each freight forwarder certify or affirm in a Certificate of Independent Pricing ("CIP"), incorporated in its Tender of Service Signature Sheet, that each bid submitted was derived independently, without communication, agreement, understanding, collusion, or any other action in respect to rates or fares with any carrier, competitor, or agent thereof. According to MTMC regulations, a freight forwarder must have on file with MTMC a properly executed CIP before its rate submission may be accepted. Under MTMC rules, by filing rates

to transport military household goods, a carrier certifies that it understands and has complied with its previously executed CIP.

11. For the IW-00 cycle, freight forwarders were required to file initial rates by May 23, 2000; "me-too" rates were due by August 1, 2000. For the IS-01 cycle, freight forwarders were required to file initial rates by November 28, 2000; "me-too" rates were due by January 16, 2001.

Conspiracy to Restrain Trade
(15 U.S.C. § 1)

12. Beginning in or about May 2000 and continuing until in or about September 2001 ("the relevant period"), the exact dates being unknown to the United States, defendant and co-conspirators, including a corporate co-conspirator ("FF-1"), entered into and engaged in a combination and conspiracy to suppress and eliminate competition and to restrain trade in the transportation of military household goods. FF-1 was a U.S. freight forwarder that filed "me-too" rates in multiple channels in which defendant Lift also filed "me-too" rates during the relevant period. The charged combination and conspiracy engaged in by defendant and co-conspirators in unreasonable restraint of interstate and foreign trade and commerce violated Section 1 of the Sherman Antitrust Act, 15 U.S.C. § 1.

13. The charged combination and conspiracy consisted of a continuing agreement, understanding, and concert of action among defendant and co-conspirators, the substantial terms of which were to rig bids and to allocate Code 4 shipments of military household goods.

Manner and Means of the Conspiracy

14. For purposes of forming and carrying out the charged combination and conspiracy, defendant and co-conspirators did the things they combined and conspired to do, including, among other things:

a. agreed that defendant, in the second bidding round, would file rates in certain ITGBL traffic channels identified to it by co-conspirator FF-1, at price levels specified by co-conspirator FF-1;

b. agreed that, in exchange for payments of $1/cwt, defendant would transfer to co-conspirator FF-1 responsibility for handling the ITGBL traffic shipments assigned to it by DOD; and

c. agreed that co-conspirator FF-1 would assume responsibility for handling the ITGBL traffic shipments transferred to it by defendant, along with the risk of profit or loss on such shipments.

15. For the IW-00 cycle, for the purposes of executing the charged combination and conspiracy, defendant and co-conspirators made each and every agreement described in paragraph 14 and took acts in furtherance thereof.

16. For the IS-01 cycle, for the purposes of executing the charged combination and conspiracy, defendant and co-conspirators made each and every agreement described in paragraph 14 and took acts in furtherance thereof.

Interstate and Foreign Trade and Commerce

17. During the relevant period, rates, proposals, contracts, invoices for payment, payments, and other documents essential to the provision of the

transportation of military household goods were transmitted in interstate and foreign trade and commerce between and among offices of defendant, co-conspirator FF-1, and MTMC, located in various States and foreign countries.

18. During the relevant period, defendant and co-conspirator FF-1 transported, or arranged for the transportation of, substantial quantities of military household goods, in a continuous and uninterrupted flow of interstate and foreign commerce between various foreign countries and the United States through various U.S. ports and States to final destinations in various States, including a substantial volume of traffic into and out of the Commonwealth of Virginia.

19. During the relevant period, MTMC received bids to transport military household goods by interstate wire and mail from the offices of defendant and co-conspirator FF-1.

20. During the relevant period, DOD paid for the transportation of military household goods by check, wire transfer, and other monetary instruments transmitted to the bank accounts of defendant and co-conspirator FF-1 in a continuous and uninterrupted flow of interstate commerce.

21. During the relevant period, the activities of defendant and co-conspirator FF-1 in connection with the transportation of military household goods were within the flow of, and substantially affected, interstate and foreign trade and commerce.

Jurisdiction and Venue

22. During the relevant period, MTMC received bids to perform the transportation of military household goods by interstate wire and mail at its offices in Alexandria in the Eastern District of Virginia initiated by or originating from defendant and co-conspirator FF-1 and those working at their behest.

23. The combination and conspiracy charged in this Information was carried out, in part, within the Eastern District of Virginia within the period of the statue of limitations, as extended pursuant to agreement between the defendant and the United States.

(In violation of Title 15, United States Code, Section 1).

THOMAS O. BARNETT
Assistant Attorney General

SCOTT D. HAMMOND
Deputy Assistant Attorney General

MARC SIEGEL
Director of Criminal Enforcement

LISA M. PHELAN
Chief, National Criminal
Enforcement Section

Antitrust Division
U.S. Department of Justice

HAYS GOREY, JR.
MARK W. PLETCHER
Attorneys
U.S. Department of Justice
Antitrust Division
1401 H Street, N.W., Suite 3700
Washington, D.C. 20530
(202) 307-0000

ROBERT C. ERICKSON
Assistant United States Attorney