UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY
OWENSBORO DIVISION

UNITED STATES OF AMERICA	)	Filed: 11/5/97
	)	
v.	)	Crim. No.: 4:97CR-16-M
	)	
JOSEPH Y. LONGMIRE,	)	Violation: 15 U.S.C. § 1
	)	
Defendant.	)	Judge McKinley

INDICTMENT

SHERMAN ACT CONSPIRACY TO RESTRAIN TRADE
(15 U.S.C. § 1)

The Grand Jury charges:

I.

DEFENDANT

1. JOSEPH Y. LONGMIRE is indicted and made a Defendant in this Indictment. From July 1988 to March 1993, the Defendant was employed by ICI Explosives USA Inc. ("ICI"), a manufacturer of commercial explosives. Defendant was president of its Southeast Subsidiary Group and then vice president of ICI. He had responsibility for sales of commercial explosives in western Kentucky, southern Indiana and southern Illinois (the "West Kentucky Region"). The general manager of West Kentucky Explosives, Inc., an ICI wholly owned distributor of explosives in the West Kentucky Region, reported to Defendant.

II.

OFFENSE CHARGED

2. Beginning sometime in the Fall 1988 and continuing at least until sometime in 1993, the exact dates being unknown to the Grand Jury, the Defendant and co-conspirators entered into and engaged in a combination and conspiracy that unreasonably restrained interstate trade and commerce in violation of Section 1 of the Sherman Act, 15 U.S.C. § 1.

3. 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 prices, allocate customers, and rig bids on certain commercial explosives offered for sale to certain purchasers in the West Kentucky Region and to receive payments for those sales.

III.

MEANS AND METHODS OF THE CONSPIRACY

4. For the purpose of forming and carrying out the charged combination and conspiracy in the West Kentucky Region, the Defendant and co-conspirators did the following things, among others:

(a) in late 1988, discussed and agreed on the bids they would submit and prices they would charge to certain purchasers to take effect in early 1989;

(b) created a handwritten summary of some of the terms of the late-1988 agreement setting forth specific prices to be quoted to certain purchasers, including Jim Smith Coal and Dravo Basic Materials;

(c) in late 1989, introduced West Kentucky's new general manager to other co-conspirators, and discussed and agreed to continue the conspiracy;

(d) in late 1989, to take effect in early 1990, discussed and agreed to increase a so-called hazardous operations insurance surcharge from 3 percent to 4.5 percent to certain purchasers of "shot service" for whom the co-conspirators provided drilling, loading and blasting services;

(e) periodically discussed and agreed not to compete on price for the business of certain purchasers, by agreeing on bids or price quotes, by refraining from submitting competitive bids or price quotes, and by exchanging price information in order to stabilize and maintain prices to the purchasers;

(f) created and maintained notes of certain communications with co-conspirators concerning carrying out the agreements reached;

(g) instructed, encouraged, and permitted subordinate employees and others to discuss and agree upon price announcements, price quotes, bids and invoices to certain customers;

(h) carried out their agreements by issuing price announcements, price quotes, bids and invoices to certain purchasers in accordance with the agreements reached;

(i) took steps to disguise and conceal the existence of the conspiracy; and

(j) supplied commercial explosives to, and received payments from, certain purchasers, at the agreed-upon prices and with the agreed-upon surcharges.

IV.

CO-CONSPIRATORS

5. Various persons and firms, not made defendants in this Indictment, participated as co-conspirators in the charged combination and conspiracy, and performed acts and made statements in furtherance of it.

6. Whenever this Indictment refers to any act, deed or transaction of any corporation, it means that the corporation engaged in the act, deed or transaction by or through its officers, directors, agents, employees or other representatives while they were actively engaged in the management, direction, control or transaction of its business or affairs.

V.

TRADE AND COMMERCE

7. Commercial explosives are chemical products, such as high explosives and blasting agents, initiating devices and accessories that are used in the coal mining and quarry industries. Among the high explosives and blasting agents commonly sold by ICI and its distributors in the West Kentucky Region are dynamites, ANFO (ammonium nitrate mixed with fuel oil), and emulsions. Initiating devices, used to detonate the explosives, include blasting caps or detonators.

8. During the period covered by this Indictment, the Defendant and co-conspirators sold and distributed commercial explosives in the West Kentucky Region that were manufactured outside that area. These commercial explosives were shipped in a continuous and uninterrupted flow of interstate commerce from

their places of manufacture to local suppliers and purchasers in the West Kentucky Region.

9. The activities of the Defendant and co-conspirators that are the subject of this Indictment were within the flow of, and substantially affected, interstate trade and commerce.

VI.

JURISDICTION AND VENUE

10. The combination and conspiracy charged in this Indictment was carried out, in part, within the Western District of Kentucky within the five yearspreceding the return of this Indictment.

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

A TRUE BILL

Dated:

"/s/"
FOREPERSON

"/s/"
JOEL I. KLEIN
Assistant Attorney General

"/s/"
NANCY H. McMILLEN
Rhode Island Bar No. 1094

"/s/"
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"/s/"
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"/s/"
JOHN T. ORR
Director of Criminal Enforcement

"/s/"
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"/s/"
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