

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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UNITED STATES OF AMERICA	:	Criminal No.: 99CR62
v.	:	Filed: January 21, 1999
EDWARD M. LUNDBERG,	:	Violations: 15 U.S.C. § 1
	:	26 U.S.C. § 7201
Defendant.	:	

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INFORMATION

COUNT ONE -- SHERMAN ACT CONSPIRACY
(15 U.S.C. § 1)

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

1. Edward M. Lundberg ("Lundberg") is hereby made a defendant on the charge stated below.

DESCRIPTION OF THE OFFENSE

2. Beginning at least as early as 1987 and continuing until at least February 1994, the exact dates being unknown to the United States, the defendant and co-conspirators engaged in a combination and conspiracy in unreasonable restraint of interstate trade and commerce in violation of Section 1 of the Sherman Act (15 U.S.C. § 1).

3. The aforesaid 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 and allocate contracts for the supply of advertising and display materials awarded by Lorillard Tobacco Co., Inc. ("Lorillard").

4. For the purpose of forming and effectuating the aforesaid combination and conspiracy, the defendant and co-conspirators did those things which they combined and conspired to do, including among other things:

(a) designated which supplier of display materials would be the low bidder on contracts awarded by Lorillard, and arranged for higher, noncompetitive price quotations or bids from other suppliers to be submitted to Lorillard; and

(b) made payments to Lundberg in the form of cash or goods and services, which payments totalled at least \$300,000, for his assistance in controlling Lorillard's program for seeking competitive price quotations or bids for contracts for advertising and display materials.

DEFENDANT AND CO-CONSPIRATORS

5. Lundberg resides in Brooklyn, New York. From 1954 until February 1994, Lundberg was employed in the purchasing department of Lorillard, a producer of tobacco products, at its headquarters in Manhattan. During the period covered by this Information, Lundberg's chief

responsibility was the purchase of advertising and display materials, primarily point-of-purchase display materials. The materials he purchased included printed materials, such as posters, mounted and finished materials, such as case cards and counter displays, and permanent or semi-permanent displays, such as floor displays made from corrugated paper and plastic. Lundberg had responsibility for selecting companies that would be invited to bid for Lorillard's contracts and for evaluating the bids that Lorillard received.

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

TRADE AND COMMERCE

7. Advertising and display materials are used by many manufacturers of consumer products, among them cigarette, consumer health goods, food, liquor, and cosmetic companies, as a means of promoting their products.

8. During the period covered by this Information, Lorillard purchased substantial quantities of advertising and display materials from suppliers located throughout the United States. The materials were usually delivered to a warehouse in New Jersey and from there distributed to retail locations throughout the United States.

9. During the period covered by this Information, Lorillard had a corporate purchasing policy that generally required Lundberg to seek at least three competitive bids for sizable

contracts before he issued a purchase order. Lundberg and his co-conspirators arranged for contracts for advertising and display materials worth a total of approximately \$10 million to be awarded in a manner that violated Lorillard's competitive bidding policy, restrained competition among the suppliers that submitted bids or price quotations to Lorillard, and excluded competition from other, potential suppliers.

10. During the period covered by this Information, the activities of the defendant and co-conspirators with respect to the sale of advertising and display materials to Lorillard were within the flow of, and substantially affected, interstate commerce.

JURISDICTION AND VENUE

11. The aforesaid combination and conspiracy was formed and carried out, in part, within the Southern District of New York within the five years preceding the filing of this Information.

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

COUNT TWO **INCOME TAX EVASION** **(26 U.S.C. § 7201)**

The United States of America further charges:

13. Edward M. Lundberg ("Lundberg") is made a defendant on the charge stated below.

14. From 1954 until February 1994, Lundberg, a resident of Brooklyn, New York, was a purchasing agent employed by Lorillard Tobacco Co., Inc. ("Lorillard") at its headquarters in Manhattan.

15. From at least as early as 1988 through February 1994, Lundberg received kickbacks totalling at least \$300,000 from suppliers of advertising and display materials to Lorillard in exchange for his assistance in helping them to receive contracts from Lorillard. The kickbacks took many forms, including the monthly payment of cash by several suppliers, a single payment of \$50,000 in cash by one supplier, and vacations, airline tickets, and other goods and services from a number of suppliers. At least two of the suppliers that paid kickbacks to Lundberg were located in Manhattan and their payments to Lundberg occurred in Manhattan.

16. On or about March 30, 1989, April 6, 1990, April 13, 1991, August 18, 1992, August 14, 1993, and August 17, 1995, in the Eastern District of New York, Lundberg did unlawfully, wilfully and knowingly attempt to evade and defeat a large part of the income tax due and owing by him and his wife to the United States of America for each of the calendar years 1988 through 1993, by filing and causing to be filed with the Internal Revenue Service Center, false and fraudulent U.S. Individual Income Tax Returns, Forms 1040, wherein he and his wife failed to report as income kickbacks that he had received that totalled approximately \$240,000 from 1988 through 1992 and approximately \$50,000 in 1993; whereas, as he then and there well knew and believed, their true taxable income for those calendar years was substantially in excess of the

specific sums reported, upon which additional taxable income there was owing to the United States of America substantial additional income tax.

IN VIOLATION OF TITLE 26, UNITED STATES CODE, SECTION 7201.

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