UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNITED STATES OF AMERICA	)	Filed: January 15, 2004
	)	
v.	)	
	)	Criminal No. 1:04-CR-030
M. WEINGOLD & CO.;	)	
HARRY ROCK & ASSOCIATES, INC.	)	
(FORMERLY KNOWN AS	)	Judge: John R. Adams
HARRY ROCK & COMPANY);	)	
JACK WEINGOLD; and	)	
LOREN MARGOLIS;	)	Violations: 15 U.S.C. § 1;
	)	18 U.S.C. § 1343
Defendants.	)	

INDICTMENT

The Grand Jury charges:

COUNT ONE:
CONSPIRACY TO RESTRAIN TRADE
IN VIOLATION OF THE SHERMAN ANTITRUST ACT
(15 U.S.C. § 1)

I
DESCRIPTION OF THE OFFENSE

1. The following corporations and individuals are hereby indicted and made Defendants on the charge stated below in Count One:

(a) M. WEINGOLD & CO.;

(b) HARRY ROCK & ASSOCIATES, INC.
(FORMERLY KNOWN AS HARRY ROCK & COMPANY);

(c) JACK WEINGOLD; and

(d) LOREN MARGOLIS.

2. Beginning at least as early as December 1993 and continuing at least until October 1999, the exact dates being unknown to the Grand Jury, the Defendants and co-conspirators entered into and engaged in a combination and conspiracy to suppress and restrain competition by allocating scrap metal suppliers and rigging bids for the purchase of scrap metal in Northeast Ohio. The charged combination and conspiracy 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 Defendants and co-conspirators, the substantial terms of which were to allocate scrap metal suppliers and rig bids for the purchase of scrap metal in Northeast Ohio.

II
MEANS AND METHODS OF THE CONSPIRACY

4. For the purpose of forming and carrying out the charged combination and conspiracy, the Defendants and co-conspirators did the following things, among others:

(a) participated in meetings and conversations to discuss allocating (*i.e.*, dividing up) suppliers of scrap metal among themselves;

(b) agreed, during such meetings and discussions, to allocate suppliers and not to compete against each other for the purchase of scrap metal;

(c) allocated, pursuant to such meetings and discussions, scrap metal suppliers, denying such suppliers a competitive price;

(d) participated in meetings and conversations to discuss the submission of prospective bids for the purchase of scrap metal;

(e) agreed, during such meetings and conversations, which designated co-conspirator would purchase scrap metal from particular suppliers;

(f) agreed, during such meetings and conversations, on the prices to be submitted to certain scrap metal suppliers;

(g) refrained from bidding or submitting quotations to certain scrap metal suppliers, pursuant to their meetings and conversations; and

(h) submitted collusive, complementary, noncompetitive and rigged bids or price quotations to scrap metal suppliers.

III
DEFENDANTS AND CO-CONSPIRATORS

5. Defendant M. WEINGOLD & CO. ("M. WEINGOLD") is a corporation organized and existing under the laws of the State of Florida, with its principal place of business in Cleveland, Ohio. At all times relevant to this Count,

M. WEINGOLD was engaged in the purchase and sale of ferrous and nonferrous scrap metal in Northeast Ohio and elsewhere. M. WEINGOLD purchased scrap metal for resale to customers, then sold the scrap metal it purchased to customers such as mills and foundries located inside and outside the State of Ohio.

6. Defendant HARRY ROCK & ASSOCIATES, INC. is a corporation organized under the laws of the State of Florida, with its principal place of business in Cleveland, Ohio. In December 1993, MW Acquisition Corp., an Ohio corporation owned by JACK WEINGOLD, purchased HARRY ROCK & COMPANY, a scrap metal company in Cleveland, Ohio. Thereafter, MW Acquisition Corp. changed the name to HARRY ROCK & CO., an Ohio corporation. In May 1995, HARRY ROCK & CO. changed its name to HARRY ROCK & ASSOCIATES, INC., an Ohio corporation. In July 1998, HARRY ROCK & ASSOCIATES, INC., merged out of existence as an Ohio corporation and into existence as a Florida corporation of the same name.

7. At all times relevant to this Count, HARRY ROCK & ASSOCIATES, INC., purchased and sold scrap metal in Northeast Ohio and elsewhere as HARRY ROCK & CO. or HARRY ROCK & COMPANY. For purposes of this Count, HARRY ROCK & ASSOCIATES, INC., HARRY ROCK & COMPANY, and HARRY ROCK & CO. are referred to collectively as ROCK. Thus, for purposes of this Count, this Defendant will be referred to hereafter as ROCK.

8. At all times relevant to this Count, ROCK was engaged in the purchase and sale of ferrous and nonferrous scrap metal in Northeast Ohio and

elsewhere. ROCK purchased scrap metal for resale to customers, then sold the scrap metal to customers such as mills and foundries. The scrap metal that ROCK purchased was sold to customers located inside and outside the State of Ohio.

9. At all times relevant to this Count, JACK WEINGOLD was the owner of Defendants M. WEINGOLD and ROCK and the direct superior of LOREN MARGOLIS. As the owner and president of M. WEINGOLD, and as the owner of ROCK, JACK WEINGOLD was engaged in the purchase and sale of scrap metal. JACK WEINGOLD supervised the business activities of M. WEINGOLD and ROCK.

10. At all times relevant to this Count, Defendant LOREN MARGOLIS, an employee of M. WEINGOLD, was engaged in the purchase of scrap metal for M. WEINGOLD and ROCK. LOREN MARGOLIS is the son-in-law of JACK WEINGOLD.

11. At all times relevant to this Count, Howard Bahm worked for ROCK. Bahm worked for ROCK from the early 1950s through January 2001. When JACK WEINGOLD's company, MW Acquisition Corp., purchased ROCK in December 1993, Bahm signed an employment contract with MW Acquisition Corp. In or about December 1993, Bahm thus began working for JACK WEINGOLD. From about 1995 through January 2001, Bahm acted as the president of ROCK. At all times relevant to this Count, Bahm was engaged in the purchase of scrap metal.

12. Various individuals and corporations, not made Defendants in this Count, participated as co-conspirators in the offense charged and performed acts and made statements in furtherance of it.

13. Whenever this Count 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, employees, agents, or other representatives while they were actively engaged in the management, direction, control, or transaction of its business or affairs.

IV
TRADE AND COMMERCE

14. Ferrous and nonferrous scrap metal is a residual product that has value. Typically, mills and foundries generate ferrous and nonferrous scrap metal as a by-product. In the scrap metal industry, this type of scrap is generally referred to as industrial scrap. For example, tool and die makers or stamping plants end up with small or odd-shaped pieces of scrap that are a by-product of their manufacturing process. However, this scrap is still valuable if picked up, sorted and sold to mills or foundries that desire scrap metal as part of their manufacturing process. The business of scrap metal companies, such as the Defendants and their co-conspirators, generally involves placing steel collection boxes at manufacturers' sites to collect the scrap metal, then picking up the scrap metal, processing it, and reselling it to customers.

15. At all times relevant to this Count, Defendants M. WEINGOLD, ROCK, JACK WEINGOLD, and LOREN MARGOLIS and co-conspirators, including Howard Bahm: (1) purchased ferrous and nonferrous scrap metal from individuals and companies located inside and outside the State of Ohio; (2) sold or shipped ferrous and nonferrous scrap metal to individuals and companies located inside and outside the State of Ohio; and (3) caused ferrous and nonferrous scrap metal to be purchased from, sold to, or shipped from or to, individuals and companies located inside and outside the State of Ohio.

16. At all times relevant to this Count, substantial quantities of ferrous and nonferrous scrap metal bought and/or sold by the Defendants and co-conspirators were shipped across state lines in a continuous and uninterrupted flow of interstate trade and commerce.

17. The business activities of the Defendants and co-conspirators that are the subject of this Count were within the flow of, and substantially affected, interstate trade and commerce.

V
JURISDICTION AND VENUE

18. The combination and conspiracy charged in this Count was formed and carried out, in part, in the Northern District of Ohio within the five years preceding the return of this Indictment.

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

The Grand Jury further charges:

COUNT TWO:
CONSPIRACY TO RESTRAIN TRADE
IN VIOLATION OF THE SHERMAN ANTITRUST ACT
(15 U.S.C. § 1)

I
DESCRIPTION OF THE OFFENSE

19. The following corporations and individuals are hereby indicted and made Defendants on the charge stated below in Count Two:

(a) M. WEINGOLD & CO.;

(b) HARRY ROCK & ASSOCIATES, INC. (FORMERLY KNOWN AS HARRY ROCK & COMPANY);

(c) JACK WEINGOLD; and

(d) LOREN MARGOLIS.

20. Paragraphs 5 through 16 of this Indictment are repeated, realleged, and incorporated in Count Two as if fully set forth in this Count.

21. Beginning at least as early as December 1993 and continuing at least until November 1999, the exact dates being unknown to the Grand Jury, the Defendants and co-conspirators entered into and engaged in a combination and conspiracy to suppress and restrain competition by allocating scrap metal suppliers and rigging bids for the purchase of scrap metal in Northeast Ohio. The charged combination and conspiracy unreasonably restrained interstate trade and commerce in violation of Section 1 of the Sherman Act (15 U.S.C. § 1).

22. The charged combination and conspiracy consisted of a continuing agreement, understanding, and concert of action among the Defendants and co-conspirators, the substantial terms of which were to allocate scrap metal suppliers and rig bids for the purchase of scrap metal in Northeast Ohio.

II
MEANS AND METHODS OF THE CONSPIRACY

23. For the purpose of forming and carrying out the charged combination and conspiracy, the Defendants and co-conspirators did the following things, among others:

(a) participated in meetings and conversations to discuss allocating (*i.e.*, dividing up) suppliers of scrap metal among themselves;

(b) agreed, during such meetings and discussions, to allocate scrap metal suppliers and not to compete against each other for the purchase of scrap metal;

(c) allocated, pursuant to such meetings and discussions, scrap metal suppliers, denying such suppliers a competitive price;

(d) participated in meetings and conversations to discuss the submission of prospective bids for the purchase of scrap metal;

(e) agreed, during such meetings and conversations, which designated co-conspirator would purchase scrap metal from particular suppliers;

(f) agreed, during such meetings and conversations, on the prices to be submitted to certain scrap metal suppliers;

(g) refrained from bidding or submitting quotations to certain scrap metal suppliers, pursuant to their meetings and conversations; and

(h) submitted collusive, complementary, noncompetitive and rigged bids or price quotations to scrap metal suppliers.

III
TRADE AND COMMERCE

24. The business activities of the Defendants and co-conspirators that are the subject of this Count were within the flow of, and substantially affected, interstate trade and commerce.

IV
JURISDICTION AND VENUE

25. The combination and conspiracy charged in this Count was formed and carried out, in part, in the Northern District of Ohio within the five years preceding the return of this Indictment.

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

The Grand Jury further charges:

COUNT THREE:
WIRE FRAUD
(18 U. S.C. § 1343)

26. HARRY ROCK & ASSOCIATES, INC. (FORMERLY KNOWN AS HARRY ROCK & COMPANY), hereafter referred to as ROCK, is hereby indicted

and made a Defendant on the charge stated below in Count Three.

27. Paragraphs 6, 8, and 13 of this Indictment are repeated, realleged, and incorporated in Count Three as if fully set forth in this Count.

28. Beginning on or about January 19, 2000, and continuing at least until January 24, 2000, the exact dates being unknown to the Grand Jury, ROCK devised and intended to devise a scheme and artifice to defraud Eberhard Manufacturing Company, a Cleveland-area scrap metal supplier, of money and property.

29. It was part of the scheme and artifice to defraud that ROCK and others would submit collusive, rigged and noncompetitive bids and price quotations to Eberhard Manufacturing Company for the purchase of scrap metal.

30. On or about January 24, 2000, for the purpose of executing and carrying out the scheme and artifice to defraud and attempting to do so, Defendant ROCK did knowingly and willfully transmit and cause to be transmitted, by means of wire, radio or television communication in interstate commerce, certain signs, signals or sounds, namely a telephone conversation from an officer of ROCK, located in Boca Raton, Florida, to an officer of a competitor, located in Richfield, Ohio, in the Northern District of Ohio, in which the Defendant, through its officer, requested that the competitor submit a collusive, non-competitive and rigged bid to a scrap

metal supplier by, among other things, providing the bid prices that the competitor was to submit.

ALL IN VIOLATION OF TITLE 18, UNITED STATES CODE, SECTION 1343

DATED:

A TRUE BILL:

"/s/"
FOREMAN

"/s/"
R. HEWITT PATE
Assistant Attorney General

"/s/"
JAMES M. GRIFFIN
Deputy Assistant Attorney General

"/s/"
SCOTT D. HAMMOND
Director of Criminal Enforcement

Antitrust Division
U.S. Department of Justice

"/s/"
GREGORY A. WHITE
United States Attorney
Northern District of Ohio

"/s/"
SCOTT M. WATSON
Chief, Cleveland Field Office

"/s/"
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