IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA	)
	) Criminal No.: 02-733
v.	)
	) Violation: 15 U.S.C. § 1
MORGANITE, INC.; and	) 18 U.S.C. § 1512(b)(1)
THE MORGAN CRUCIBLE	) 18 U.S.C. § 1512(b)(2)(B)
COMPANY PLC	)
	) Filed: 11-4-02
Defendants.	)

INFORMATION

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

I

COUNT ONE

1. Morganite, Inc. (hereinafter "Morganite") is made a defendant on the charges contained in Count One of this Information.

2. Beginning at least as early as January 1990 and continuing until at least May 2000, the exact dates being unknown to the United States, the defendant and co-conspirators engaged in a combination and conspiracy to suppress and eliminate competition by fixing the prices of (a) current collectors sold to certain transit authorities and private customers; (b) carbon brushes sold to certain original equipment manufacturers for automotive applications; (c) carbon brushes sold to certain original equipment manufacturers for battery electric vehicle applications; and (d) carbon brushes sold to certain transit authorities (hereinafter collectively "relevant carbon products") sold in the United States and elsewhere. The combination and conspiracy engaged in by the defendant and co-conspirators was carried out in the United States for periods that varied by product market segment as set forth below:

(a) as to current collectors, the price-fixing conspiracy was carried out in the United States beginning at least as early as January 1990 and continued until at least May 2000;

(b) as to carbon brushes sold to original equipment manufacturers for automotive applications, the price-fixing conspiracy was carried out in the United States beginning at least as early as December 1993 and continued until at least September 1998;

(c) as to carbon brushes sold to original equipment manufacturers for battery electric vehicle applications, the price-fixing conspiracy was carried out in the United States beginning at least as early as February 1995 and continued until at least September 1998; and

(d) as to carbon brushes sold to transit authorities, the price-fixing conspiracy was carried out in the United States beginning at least as early as February 1995 and continued until at least September 1998.

The combination and conspiracy engaged in by the defendant and co-conspirators was in unreasonable restraint of interstate and foreign 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 agree to fix and maintain prices and to coordinate pricing for the sale of relevant carbon products sold in the United States and elsewhere.

4. For purposes of forming and carrying out the charged combination and

conspiracy, the defendant and co-conspirators did those things that they combined and conspired to do, including, among other things:

(a) participating in meetings and conversations in Europe, Mexico and Canada to discuss the prices of relevant carbon products sold in the United States and elsewhere;

(b) agreeing, during those meetings and conversations, to charge prices at certain levels and otherwise increase or maintain prices of relevant carbon products sold in the United States and elsewhere; and

(c) discussing and exchanging price quotations to certain customers so as not to undercut the price of a competitor.

II

BACKGROUND

5. Carbon brushes are used to transfer electrical current in direct current motors by acting as the rubbing contacts for electrical connectors in the motors. Direct current motors are used in a variety of products including automobiles, battery electric vehicles, and public transit vehicles. Carbon collectors are used to transfer electrical current from wires or rails for use in vehicles that are not independently powered.

III

DEFENDANT AND CO-CONSPIRATORS

6. During the period covered by this Information, defendant, Morganite, was a corporation organized and existing under the laws of the State of North Carolina with its principal place of business in Dunn, North Carolina. During the period set forth in Count One of this Information, the defendant, Morganite, was engaged in the sale and manufacture of relevant carbon products to customers in the United States.

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

8. Whenever in this Count reference is made 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.

IV

TRADE AND COMMERCE

9. During the period covered by Count One of this Information, the defendant, Morganite, and co-conspirators sold a substantial quantity of relevant carbon products in a continuous and uninterrupted flow of interstate and foreign trade and commerce to customers located in states or countries other than the states or countries in which the relevant carbon products were produced.

10. During the period covered by this Information, the activities of the defendant,

Morganite, and co-conspirators that are the subject of Count One of this Information were within the flow of, and substantially affected, interstate and foreign trade and commerce.

V

JURISDICTION AND VENUE

11. The combination and conspiracy charged in Count One of this Information was carried out, in part, within the Eastern District of Pennsylvania within the five years preceding the filing of this Information.

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

COUNT TWO

12. The Morgan Crucible Company plc, (hereinafter "Morgan Crucible") is made a defendant on the charge stated in Count Two of this Information.

13. During the period covered by Count Two of this Information, defendant, Morgan Crucible, was a corporation organized and existing under the laws of the United Kingdom with its principal place of business in Windsor, England.

14. Whenever in Count Two of this Information reference is made to any act, deed, or transaction of a corporation, the allegation means that the corporation engaged in the 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.

15. In or about April 1999, a federal grand jury sitting in the Eastern District of Pennsylvania and investigating a conspiracy to fix the price of various carbon products sold in

the United States and elsewhere issued a subpoena duces tecum to Morganite Industries, Inc., a subsidiary of the defendant, Morgan Crucible.

16. Beginning in or about November 2000 and continuing thereafter until in or about February 2001, Morgan Crucible knowingly attempted to corruptly persuade persons, whose identities are known to the United States Department of Justice, Antitrust Division (hereinafter "Antitrust Division"), with intent to influence their testimony in official proceedings before the grand jury sitting in the Eastern District of Pennsylvania in that:

(a) In or around November 2000, a representative of the defendant, Morgan Crucible, (hereinafter "the representative") met with an officer of a co-conspirator company, whose identity is known to the Antitrust Division, (hereinafter "CC-1") and discussed, among other things, the grand jury investigation taking place in the United States.

(b) During that meeting, the representative disclosed to CC-1 the false information Morgan Crucible had provided to the authorities who were conducting the grand jury investigation in order to convince the authorities that the price-fixing meetings between and among the co-conspirators were legitimate business meetings rather than conspiratorial meetings.

(c) During that meeting, the representative said he would send to CC-1 a document containing Morgan Crucible's statements to the authorities (hereinafter "script") and instructed him to (i) distribute the script to potential witnesses whom the representative identified as having attended and participated in the conspiratorial meetings and whose names Morgan

Crucible had already disclosed to authorities; and (ii) treat the script confidentially and to destroy it after having read and distributed it. The representative told CC-1 that it would be in their companies' mutual and beneficial interests if the potential witnesses the representative identified all gave the same false information to the authorities conducting the grand jury investigation as Morgan Crucible had given and which was contained in the script.

(d) Sometime in or around November 2000, the representative mailed to CC-1 the script containing false statements regarding events that had occurred at certain conspiratorial meetings.

(e) Sometime in or around December 2000, the representative caused CC-1 to distribute copies of the script to those persons the representative had identified to CC-1 at the November 2000 meeting, to tell them that the script was Morgan Crucible's version of events and to instruct them to destroy the script after reading and noting its contents.

(f) Sometime in or around February 2001, the representative and a high-level executive of Morgan Crucible (hereinafter collectively "the representatives") met again with CC-1. At this meeting the representatives again attempted to influence the co-conspirators to give the same false information when questioned by the authorities as Morgan Crucible had given, with the intent to convince the authorities to conclude their investigation without bringing formal charges against Morgan

Crucible or the co-conspirators.

(g) During the February 2001 meeting with CC-1, the representatives, in order to convince the co-conspirators to repeat Morgan Crucible's false statements given to the authorities conducting the grand jury investigation in the United States, told CC-1 that if the United States grand jury were allowed to go forward, the price-fixing investigation would spread to the European Union, which had become more aggressive in its investigations, and where CC-1 was a much larger competitor and would face more serious economic consequences than it would face in the United States.

ALL IN VIOLATION OF TITLE 18, UNITED STATES CODE, SECTION 1512(b)(1).

COUNT THREE

17. Each and every allegation contained in Paragraphs 12 through 14 of Count Two of this Information is here re-alleged with the same force and effect as though said paragraphs were set forth in full detail.

18. In or about April 1999 and in or about August 2001, a federal grand jury sitting in the Eastern District of Pennsylvania and investigating a conspiracy to fix the price of various carbon products sold in the United States and elsewhere issued subpoenas duces tecum to Morganite Industries, Inc., a subsidiary of the defendant, Morgan Crucible. The scope of the subpoenas included all divisions and affiliates of Morganite Industries, Inc. that were located in the United States.

19. Beginning in or about April 1999 and continuing thereafter to in or about August 2001, the defendant, Morgan Crucible, knowingly corruptly persuaded an employee of one of its United States subsidiaries, whose identity is known to the Antitrust Division, (hereinafter "CC-2") with intent to cause or induce that employee to destroy or conceal certain documents located within the United States in the custody and control of the defendant's subsidiary and with intent to impair the availability of those documents for use in official proceedings before the grand jury sitting in the Eastern District of Pennsylvania in that:

(a) In or around April 1999, the defendant telephoned CC-2 and instructed CC-2 to remove, conceal, or destroy any documents that related to or reflected any contacts with competitors.

(b) In or around August 1999, the defendant met with CC-2 and discussed, among other things, the grand jury's investigation into price fixing in the carbon industry and instructed CC-2 to remove, conceal or destroy any documents that reflected any contacts with competitors.

(c) In or around July 2001, the defendant met with CC-2 and again discussed the grand jury's investigation into price fixing in the carbon industry.

(d) In or around August 2001, the defendant caused CC-2 to destroy documents relevant to the grand jury's investigation.

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

Dated:

/s/

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/s/

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