UNITED STATES DISTRICT COURT
DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA	)	Criminal No.
	)	
	)	Filed:
v.	)	
	)	Count I: 15 U.S.C. § 1
PANALPINA WORLDWIDE TRANSPORT	)	Count II: 15 U.S.C. § 1
(HOLDING) LTD.,	)	Count III: 15 U.S.C. § 1
Defendant.	)	
	)	
	)	

INFORMATION

THE UNITED STATES OF AMERICA, ACTING THROUGH ITS ATTORNEYS, CHARGES:

I.

COUNT ONE – CONSPIRACY TO RESTRAIN TRADE – AAMS
(15 U.S.C. § 1)

Defendant and Co-Conspirators

1. Panalpina Worldwide Transport (Holding) Ltd.("defendant") is a corporation organized and existing under the laws of Switzerland with headquarters in Basel, Switzerland. During the period covered by this Information, defendant was engaged in the business of providing freight forwarding services in the United States and elsewhere.

2. Various corporations and individuals, not charged with the defendant in this Information, participated as co-conspirators in the offenses charged in this Information and performed acts and made statements in furtherance of them.

3. Whenever in this Information reference is made to any act, deed or transaction of any corporation, the allegation 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.

Background of the Offense

4. Freight forwarders arrange for and manage the shipment of goods from one point to another. Freight forwarders provide international freight forwarding services by receiving, delivering, packaging and preparing cargo freight destined for air shipment to or from the United States; by arranging transportation incidental to an air freight shipment to or from the United States, such as ground service to an airport at which the defendant offers international air freight shipment services and warehousing prior to international shipment; and by preparing documents to accompany an air freight shipment to or from the United States. To provide these services, freight forwarders generally enter into contracts or other arrangements with transportation providers, such as air carriers and steamship lines, to transport the goods, with the forwarders themselves providing packaging, tracking, incidental handling and other ancillary services associated with the transportation of goods, both internationally and domestically.

5. Beginning in or about August 2004, the Government of the United States, through its Bureau of Customs and Border Protection ("CBP"), a branch of the Department of Homeland Security, mandated that CBP be notified of the contents and certain other information pertaining to goods being shipped to the United States by air as many as four hours prior to the arrival of the shipment in the United States. The notification was required to be made via an electronic data interchange system approved by CBP, known as the Air Automated Manifest System ("AAMS").

Freight forwarders were required to collect the necessary information regarding their shipments, then either to file that information directly with CBP or to file it indirectly with CBP through the air carrier transporting the shipment.

6. Beginning in or about August 2004, certain freight forwarders imposed an "AAMS fee" on their customers for shipments to the United States, purportedly as a charge for complying with AAMS requirements.

Description of the Offense

7. Beginning in or about March 2003 and continuing until in or about October 2007, the exact dates being unknown to the government, defendant and its co-conspirators entered into and engaged in a combination and conspiracy to suppress and eliminate competition by agreeing to impose an "AAMS fee" on customers that purchased international freight forwarding services related to shipment of cargo by air to the United States. The combination and conspiracy engaged in by defendant and its 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).

8. The charged combination and conspiracy consisted of a continuing agreement, understanding and concert of action among defendant and its co-conspirators, the substantial term of which was to impose an "AAMS fee" on shipments of cargo by air to the United States.

Means and Methods of the Conspiracy

9. For the purpose of forming and carrying out the charged combination and conspiracy, defendant and its co-conspirators did those things that they combined and conspired to do, including, among other things:

(a) held meetings and engaged in discussions regarding the AAMS;

(b) agreed during those meetings and discussions to charge their customers a separate fee to make the filing required under the AAMS;

(c) agreed during those meetings and discussions to coordinate on the level of the fee to charge their customers to make the filing required under the AAMS;

(d) agreed during those meetings and discussions to accept payment for their AAMS charges at collusive and non-competitive prices;

(e) issued price announcements in accordance with the agreements reached;

(f) provided international air freight forwarding services to the United States and elsewhere pursuant to air waybills and invoices containing the collusive and non-competitive fees; and

(g) accepted payments for international air freight forwarding services pursuant to air waybills and invoices containing collusive and non-competitive fees.

Trade and Commerce

10. During the period covered by this Count, defendant and its co-conspirators provided freight forwarding services in a continuous and uninterrupted flow of interstate and foreign commerce into the United States. In addition, the cargo and payments for which the defendant and its co-conspirators provided international air freight forwarding services moved in interstate and foreign commerce.

11. During the period covered by this Count, the business activities of defendant and its co-conspirators in connection with the freight forwarding services that are the subject of this

Count were within the flow of, and substantially affected, interstate and foreign trade and commerce.

Jurisdiction and Venue

12. The combination and conspiracy charged in this Count was carried out within the United States during the five years preceding the filing of this Information.

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

II.

COUNT TWO – CONSPIRACY TO RESTRAIN TRADE – CHINA CAF
(15 U.S.C. § 1)

THE UNITED STATES FURTHER CHARGES THAT:

Defendant and Co-Conspirators

13. Each and every allegation contained in paragraphs 1 to 4 of Count One of this Information is realleged and reasserted here as if fully set forth in this Count.

Background of the Offense

14. In or about July 2005, the Government of People's Republic of China removed the "peg" (fixed exchange rate) between its currency, the renminbi ("RMB"), and the U.S. dollar, allowing the RMB to float within a limited range against the U.S. dollar and several other currencies. As a result, the value of the RMB immediately appreciated by about 2.1 percent relative to the U.S. dollar.

Description of the Offense

15. Beginning in or about July 2005 and continuing until in or about June 2006, the exact dates being unknown to the government, defendant and its co-conspirators entered into and

engaged in a combination and conspiracy to suppress and eliminate competition for the shipment of cargo from China to the United States. The combination and conspiracy engaged in by defendant and its 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).

16. The charged combination and conspiracy consisted of a continuing agreement, understanding and concert of action among defendant and its co-conspirators, the substantial terms of which were to demand that existing customers for freight forwarding services on exports from China to the United States either (1) pay for local services, including outbound air transportation, in RMB or (2) pay a surcharge, or currency adjustment factor ("CAF"), on charges if they wished to continue paying in U.S. dollars. It was also a part of the continuing agreement, understanding and concert of action among defendant and its co-conspirators to demand that new customers pay all charges in RMB.

Means and Methods of the Conspiracy

17. For the purpose of forming and carrying out the charged combination and conspiracy, defendant and its co-conspirators did those things that they combined and conspired to do, including, among other things:

(a) held meetings and engaged in discussions regarding how they as a group might respond to the revaluation of the RMB;

(b) agreed during those meetings and discussions to demand that customers shipping cargo from China to the United States pursuant to U.S.-dollar-denominated contracts pay for local services, including outbound air transportation, in RMB;

(c) agreed during those meetings and discussions to demand that customers shipping cargo from China to the United States that did not wish to pay for local services in RMB pay a surcharge, or CAF, on charges;

(d) agreed during those meetings and discussions on the initial level of the CAF to charge customers;

(e) agreed during those meetings and discussions to demand that new customers pay all charges in RMB;

(f) agreed during those meetings and discussions to accept payment for freight forwarding services at collusive and non-competitive prices;

(g) notified customers of the CAF, or the requirement to pay charges in RMB, in accordance with the agreements reached; and

(h) provided international air freight forwarding services to the United States and elsewhere pursuant to air waybills and invoices containing the collusive and non-competitive fees.

Trade and Commerce

18. During the period covered by this Count, defendant and its co-conspirators provided freight forwarding services in a continuous and uninterrupted flow of interstate and foreign commerce into the United States. In addition, the cargo and payments for which the defendant and its co-conspirators provided international air freight forwarding services moved in interstate and foreign commerce.

19. During the period covered by this Count, the business activities of defendant and its co-conspirators in connection with the provision of freight forwarding services that are the

subject of this Count were within the flow of, and substantially affected, interstate and foreign trade and commerce.

Jurisdiction and Venue

20. The combination and conspiracy charged in this Count was carried out within the United States during the five years preceding the filing of this Information.

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

III.

COUNT THREE – CONSPIRACY TO RESTRAIN TRADE – PSS
(15 U.S.C. § 1)

THE UNITED STATES FURTHER CHARGES THAT:

Defendant and Co-Conspirators

21. Each and every allegation contained in paragraphs 1 to 4 of Count One of this Information is realleged and reasserted here as if fully set forth in this Count.

Background of the Offense

22. Prior to 2005, international air freight forwarders operating in Hong Kong, including the defendant, routinely made upward seasonal adjustments in their charges for handling international air freight shipments during the busy period for air cargo shipments that precedes the Christmas holiday shopping season in the United States. The timing and amount of these price increases varied from year to year. While, technically, these higher charges amounted to temporary rate increases, they became commonly known in the freight forwarding industry as "peak season surcharges."

Description of the Offense

23. Beginning in or about August 2005 and continuing until in or about December 2007, the exact dates being unknown to the government, defendant and its co-conspirators entered into and engaged in a combination and conspiracy to suppress and eliminate competition for the shipment of cargo by air from Hong Kong to the United States. The combination and conspiracy engaged in by defendant and its 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).

24. The charged combination and conspiracy consisted of a continuing agreement, understanding and concert of action among defendant and its co-conspirators, the substantial terms of which were to: (a) agree annually to impose peak season surcharges on their customers exporting goods from Hong Kong to the United States; (b) agree on date, or approximate date, on which they would implement their peak season surcharges; (c) agree on date, or approximate date, on which they would end their peak season surcharges; (d) agree on the approximate amount to increase their charges during the peak season; and (e) agree to announce broadly to their customers the timing and amount of their peak season surcharges.

Means and Methods of the Conspiracy

25. For the purpose of forming and carrying out the charged combination and conspiracy, defendant and its co-conspirators did those things that they combined and conspired to do, including, among other things:

(a) held meetings and engaged in discussions regarding how they as a group might increase their charges for freight forwarding services on shipments of cargo from Hong Kong to the United States during peak seasons;

(b) agreed during those meetings and discussions to demand that customers shipping cargo from Hong Kong to the United States pay a peak season surcharge;

(c) agreed during those meetings and discussions on the dates, or approximate dates, on which they would impose peak season surcharges;

(d) agreed during those meetings and discussions on the dates, or approximate dates, on which they would end peak season surcharges;

(e) agreed during those meetings and discussions on the approximate amount of the peak season surcharge;

(f) agreed during those meetings and discussions to announce broadly to customers the timing and amount of their peak season surcharges;

(g) notified customers of the peak season surcharge in accordance with the agreement reached;

(h) agreed during those meetings and discussions to accept payment for freight forwarding services at collusive and non-competitive prices; and

(i) provided international air freight forwarding services to the United States and elsewhere pursuant to air waybills and invoices containing the collusive and non-competitive charge.

Trade and Commerce

26. During the period covered by this Count, defendant and its co-conspirators provided freight forwarding services in a continuous and uninterrupted flow of interstate and foreign commerce into the United States. In addition, the cargo and payments for which the defendant and its co-conspirators provided international air freight forwarding services moved in interstate and foreign commerce.

27. During the period covered by this Count, the business activities of defendant and its co-conspirators in connection with the provision of freight forwarding services that are the subject of this Count were within the flow of, and substantially affected, interstate and foreign trade and commerce.

Jurisdiction and Venue

28. The combination and conspiracy charged in this Count was carried out within the United States during the five years preceding the filing of this Information.

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

Dated: September 30, 2010

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