

UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

|                          |   |                                  |
|--------------------------|---|----------------------------------|
| UNITED STATES OF AMERICA | ) |                                  |
|                          | ) | <b>Criminal No.: CR-H-96-119</b> |
|                          | ) |                                  |
|                          | ) | <b>Filed: [6/25/96]</b>          |
| v.                       | ) |                                  |
|                          | ) | <b>Judge: Atlas</b>              |
| HUBER WALLY RHODES, JR., | ) |                                  |
|                          | ) | <b>Violation:</b>                |
| Defendant.               | ) | <b>15 U.S.C. § 1</b>             |

INFORMATION

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

I

DESCRIPTION OF THE OFFENSE

1. Huber Wally Rhodes, Jr., is hereby made a defendant on the charge stated below.
2. Beginning at least as early as January 1994 and continuing thereafter until at least June 1995, the exact dates being unknown to the United States, defendant and others entered into and participated in a combination and conspiracy to suppress and restrain competition by raising, fixing, and maintaining prices for the sale of metal building insulation sold nationwide. The combination and conspiracy engaged in by the defendant and co-conspirators in unreasonable restraint of interstate trade and commerce, was 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 raise, fix, and maintain prices of metal building insulation sold to customers nationwide.

4. For the purpose 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) participated in discussions about raising, fixing, and maintaining prices of metal building insulation;
- (b) agreed to raise, fix, and maintain prices established for metal building insulation;
- (c) raised, fixed, and maintained prices for metal building insulation; and
- (d) monitored and enforced compliance with the agreement to raise, fix, and maintain prices for metal building insulation.

## II

### DEFENDANT AND CO-CONSPIRATORS

5. During the period covered by this Information, the defendant was National Sales Manager and Vice President of Sales of Mizell Bros. Co., in Atlanta, Georgia, and was engaged in the sale and distribution of metal building insulation nationwide. The defendant's duties included establishing the prices of metal building insulation sold by Mizell Bros. Co. to customers nationwide.

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

7. Whenever in 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 other representatives while they were actively engaged in the management, direction, control or transaction of its business or affairs.

III

TRADE AND COMMERCE

8. The business activities of the defendant and co-conspirators that are the subject of this information were within the flow of, and substantially affected, interstate trade and commerce.

IV

JURISDICTION AND VENUE

9. The combination and conspiracy charged in this information was carried out, in part, within the Southern District of Texas, within the five years preceding the filing of this information.

ALL IN VIOLATION OF TITLE 15 U.S.C. § 1.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 1996.

\_\_\_\_\_/s/\_\_\_\_\_  
ANNE K. BINGAMAN  
Assistant Attorney General

\_\_\_\_\_/s/\_\_\_\_\_  
MARK R. ROSMAN

\_\_\_\_\_/s/\_\_\_\_\_  
GARY R. SPRATLING  
Deputy Assistant Attorney General

\_\_\_\_\_/s/\_\_\_\_\_  
KAREN J. SHARP

\_\_\_\_\_/s/\_\_\_\_\_  
ALAN A. PASON  
Chief, Antitrust Division  
U.S. Department of Justice

\_\_\_\_\_/s/\_\_\_\_\_  
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