

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA : **Criminal No.: 95CR823**

v. : **Filed: [9/14/95]**

RICHARD RITUNO and : **Violations:**
CONSUMER DISPLAYS, INC., :
 : **15 U.S.C. §1**
Defendants. : **18 U.S.C. §371**
 : **Judge Cedarbaum**
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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. Richard Rituno ("Rituno") and Consumer Displays, Inc. ("CDI") are hereby made defendants on the charge stated below.

DESCRIPTION OF THE OFFENSE

2. Beginning in approximately 1989 and continuing until mid-1991, the exact dates being unknown to the United States, the defendants 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 a continuing agreement, understanding, and concert of action among the defendants and

co-conspirators, the substantial terms of which were to rig bids and allocate contracts for the supply of display materials awarded by Heublein, Inc.

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

(a) designating which supplier of display materials

would be the low bidder on contracts awarded by Heublein, Inc. and arranging for one or more higher, noncompetitive price quotations or bids from other suppliers to be submitted to Heublein, Inc.; and

(b) paying money to a purchasing agent at Heublein, Inc.

for his assistance in controlling Heublein's program for seeking competitive bids for contracts for display materials.

DEFENDANTS AND CO-CONSPIRATORS

5. Rituno resides in Rye, New York. During the period covered by this Information, Rituno was the owner and president of CDI.

6. CDI is incorporated in New York and has its principal place of business in Purchase, New York. CDI is a broker of point-of-purchase display materials. During the period covered by this Information, CDI's major customer was Heublein, Inc. and Rituno was the company's principal sales representative to Heublein, Inc.

7. Whenever in this Information reference is made to any act, deed, or transaction of any corporation, such allegation shall be deemed to mean that the corporation engaged in such 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.

8. Various persons and firms, 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

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

10. During the period covered by this Count, Heublein, Inc., a liquor company headquartered in Farmington, Connecticut, purchased substantial quantities of display materials from suppliers located throughout the United States. These purchases were often made by issuing a contract to a supplier after the supplier had submitted a written price quotation or bid pursuant to Heublein's practice to seek at least three competitive bids for sizable contracts.

11. Between 1989 and mid-1991, the defendants and co-conspirators obtained a substantial number of contracts for display materials from Heublein, Inc. as a result of the conspiracy charged herein. In that same period and as a result of the conspiracy charged herein, CDI obtained contracts for display materials from Heublein, Inc. worth approximately \$1 million.

12. During the period covered by this Count, the activities of the defendants and co-conspirators with respect to the sale of display materials to Heublein, Inc. were within the flow of, and substantially affected, interstate commerce.

DEFINITION

13. "Display materials" means the manufacture, assembly, or packaging of any printed point-of-purchase display materials, including but not limited to display stands, posters, banners, counter cards, or sell sheets, used for the advertising or promotion of consumer goods, primarily in retail stores.

JURISDICTION AND VENUE

14. 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 - CONSPIRACY TO DEFRAUD THE UNITED STATES
(18 U.S.C. §371)

The United States of America further charges:

15. Paragraphs 1 and 5 through 8 of Count One of this Information are repeated, realleged and incorporated in Count Two as if fully set forth in this Count.

DESCRIPTION OF THE OFFENSE

16. From late 1990 until June 1992, the exact dates being unknown to the United States, the defendants and co-conspirators did unlawfully, willfully and knowingly conspire, combine, confederate and agree to defraud the United States of America and the Internal Revenue Service ("IRS") by impeding, impairing, defeating and obstructing the lawful governmental functions of the IRS in the ascertainment, evaluation, assessment and collection of income taxes.

THE MANNER AND MEANS BY WHICH THE
CONSPIRACY WAS CARRIED OUT

The manner and means by which the conspiracy was sought to be accomplished included, among others, the following:

17. The defendants and a co-conspirator, Robert Berger ("Berger"), caused Van Dyke Color Litho ("Van Dyke"), a sham company created and controlled by Berger, to issue false invoices to CDI. These invoices were false and fraudulent because they purported to represent the sale of goods and/or services that had never been provided and were not intended to be provided to CDI.

18. The defendants caused CDI to draw checks payable to Van Dyke in response to the false invoices it received. Berger then cashed the checks and returned a large percentage, approximately 88%, of the value of the checks in cash to Rituno.

19. Rituno caused CDI to treat the full value of the checks issued to Van Dyke as business expenses in its books and records and on its tax returns for 1990 and 1991 despite the fact that he received a large percentage of the value of the checks back in cash. Rituno further caused CDI to fraudulently deduct these checks on its Subchapter S returns for 1990 and 1991, and Rituno's personal returns for 1990 and 1991 incorporated these fraudulent deductions, thereby understating Rituno's taxable income in the amount of the fraudulent invoices.

OVERT ACTS

In furtherance of the conspiracy, and to effect the objects thereof, the following overt acts were committed in the Southern District of New York, and elsewhere:

20. On at least nine occasions in 1990 and 1991, the defendants and Berger arranged for the exchange of false invoices worth a total of about \$134,660 for about \$118,500 in cash at CDI's place of business in Purchase, New York.

21. On or about June 25, 1991 and April 28, 1992, the defendant CDI filed tax returns with the IRS that falsely represented its true total income, among other things, by overstating its expenses, in particular the expenses it claimed to have incurred as a result of the transactions with Van Dyke.

22. On or about July 1, 1991 and June 16, 1992, the defendant Rituno filed personal tax returns with the IRS that falsely represented his true total income by failing to include the cash he had received from Berger.

IN VIOLATION OF TITLE 18, UNITED STATES CODE, SECTION 371

Dated:

"/s/"
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Assistant Attorney General

"/s/"
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"/s/"
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