UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Cause No. IP 03181-CR
	)	
DENNIS L. SANER and	)	
HAROLD E. VOGEL,	)	Filed: November 13, 2003
	)	
Defendants.	)	

INDICTMENT

The SPECIAL SEPTEMBER 2003 Grand Jury charges that:

I.

DESCRIPTION OF THE OFFENSE

1. The following individuals are hereby indicted and made defendants on the charge stated below:

(a) DENNIS L. SANER and

(b) HAROLD E. VOGEL.

2. Beginning in or about April 2001 and continuing until approximately November 2002, 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 eliminate competition by eliminating discounts on medical textbooks and fixing the margins at which new textbooks were offered for sale to customers at competing book stores on and near the Indiana University Purdue University at Indianapolis ("IUPUI") campus. The combination and conspiracy, engaged in by the defendants and co-conspirators, was an unreasonable restraint of 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:

(a) eliminate discounts for the sale of medical textbooks; and

(b) fix margins and maintain prices for the sale of new textbooks.

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 those things that they combined and conspired to do, including, among other things:

(a) Meeting Between Competitors

(1) communicating in the Spring of 2001 to organize a meeting to discuss competition between their book stores on and near the IUPUI campus, including discounting practices for medical textbooks sold to customers on and near the IUPUI campus; and

(2) meeting at the MCL Cafeteria in Indianapolis, Indiana on April 23, 2001 (the "Meeting") and discussing their discounting practices for medical textbooks as well as their profit margins for new textbooks sold to customers on and near the IUPUI campus.

(b) Agreement To Eliminate Discounts

(1) agreeing during the Meeting to eliminate discounts on medical textbooks;

(2) pricing medical textbooks without discounts and ceasing to offer discounts on medical textbooks;

(3) supplying medical textbooks to retail customers at collusive, noncompetitive prices; and

(4) accepting payment for medical textbooks sold to retail customers at collusive, noncompetitive prices.

(c) Agreement To Increase Profit Margins

(1) agreeing during the Meeting to increase profit margins for new textbooks from 25% to 27%;

(2) pricing new textbooks with a profit margin of 27% after the Meeting, thereby increasing the prices paid by customers for new textbooks;

(3) supplying new textbooks to retail customers at collusive, noncompetitive prices; and

(4) accepting payment for new textbooks sold to retail customers at collusive, noncompetitive prices.

III.

DEFENDANTS AND CO-CONSPIRATORS

5. During the period covered by this Indictment, defendant DENNIS L. SANER was the Manager of a textbook store owned and operated by a nationwide textbook retailer ("Nationwide Retailer") located in Indianapolis, Indiana, near the IUPUI campus. As Manager, DENNIS L. SANER directed all aspects of the stores' operations. During the period covered by this Indictment, his responsibilities included, but were not limited to: supervising textbook ordering; analyzing the stores' financials; deciding markdowns and write-offs; coordinating sales promotions; and preparing budgets.

6. During the period covered by this Indictment, HARRY E. VOGEL was the Director of Bookstores for all textbook stores operated by IUPUI. As Director of Bookstores, Mr. Vogel supervised the operations of four textbook stores operated by IUPUI; his responsibilities included, but were not limited to, ordering textbooks, making textbook pricing decisions, and determining textbook discounting policies. IUPUI, which is one of several campuses that comprise the Indiana University educational system, is a public university whose operations are overseen by the Trustees of Indiana University.

7. Various co-conspirators, not made defendants in this Indictment, participated in the offense charged herein and performed acts and made statements in furtherance of it.

IV.

TRADE AND COMMERCE

8. Textbooks are books published by textbook publishing companies and distributed for sale to customers through various channels, including textbook stores located on or near college and university campuses. Textbooks are typically, though not exclusively, purchased by undergraduate and graduate students at colleges, universities, and other institutions of higher learning for use in conjunction with specific class requirements. Medical textbooks are textbooks that are primarily published for, and sold to, students whose studies focus on medicine, health sciences, and related fields.

9. During the period covered by this Indictment, the Nationwide Retailer and IUPUI textbook stores purchased substantial quantities of textbooks from publishers located outside Indiana and caused substantial quantities of textbooks to be shipped into Indiana. In addition, during the period covered by this Indictment, money, contracts, bills and other forms of business communications were transmitted between locations in Indiana and locations outside Indiana, in connection with the purchase and sale of textbooks. During the period covered by this Indictment, the Nationwide Retailer and IUPUI textbook stores were the primary sources from which students taking classes at IUPUI purchased textbooks and medical textbooks.

10. During the period covered by this Indictment, the defendants and co-conspirators purchased textbooks and medical textbooks in a continuous and uninterrupted flow of interstate commerce from publishers located in states other than Indiana.

11. The business activities of the defendants and co-conspirators that are the subject of this Indictment were within the flow of, and substantially affected, interstate trade or commerce.

V.

JURISDICTION AND VENUE

12. The combination and conspiracy charged in this Indictment was carried out, in part, in the Southern District of Indiana, within the five years preceding the return of this Indictment.

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

Dated: 11/13/03

A TRUE BILL

/s/
FOREPERSON

/s/
R. HEWITT PATE
Assistant Attorney General
Antitrust Division

/s/
Marvin N. Price, Jr., Chief
Midwest Field Office
Antitrust Division

/s/
James M. Griffin
Deputy Assistant Attorney General

/s/
Frank J. Vondrak

/s/
Scott D. Hammond
Director of Criminal Enforcement

/s/
Jonathan A. Epstein

Attorneys
Antitrust Division
U.S. Department of Justice
Antitrust Division
209 S. LaSalle Street, Suite 600
Chicago, IL 60604
Telephone: 312.353.7530