EC:TYH
F.# 2001R02127
SHAW.wpd

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

- - - - - - - - - - - - - - - -X

UNITED STATES OF AMERICA

v.

EDWARD SHAW,

Defendant.

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I N F O R M A T I O N

Cr. No. 02-0118(ADS)
(T. 15, U.S.C., § 1; and T. 18, U.S.C., § 3551 et seq.)

Filed 4/30/02

THE UNITED STATES CHARGES:

INTRODUCTION

At all times relevant to this Information, unless otherwise indicated:

The Defendant

1. The defendant EDWARD SHAW resided in Brooklyn, New York, and regularly attended sheriffs' auctions in Nassau and Suffolk Counties, New York.

Sheriffs' Auctions

2. In Nassau and Suffolk Counties, the legal process which led to sheriffs' auctions being held were initiated by a creditor suing a debtor for defaulting on a debt.

3. Once a creditor obtained a judgment, in order to

enforce it, he could pursue any property interest the judgment debtor owned, real or personal, tangible or intangible. One of the most common enforcement devices was the "property execution." The property execution was issued from the supreme court, county court, or family court in which the judgment was first docketed, addressed to the sheriffs of one or more counties of the state, directing them to satisfy the judgment out of the personal property of the judgment debtor. The property execution included, among other things, the date that the judgment or order was entered, the court in which it was entered, the amount of the judgment or order and the amount due thereon, and the names of the parties in whose favor and against whom the judgment or order was entered.

4. Once a sheriff received a property execution, he was able to levy upon any interest of the judgment debtor in personal property capable of delivery by seizing the property and taking it into custody.

5. The sheriff then sold the judgment debtor's interest in the personal property at public auction after providing for notice as required by New York state law. The public auctions were usually held at a business location when a business's equipment or inventory was being sold; at a towing company when an automobile was being sold; or at the sheriffs' offices on other occasions. Typically all property was sold subject to any liens.

6. At the public auction, the sheriff sought the

highest price possible for the property by soliciting open and competitive bidding from potential purchasers and selecting the highest bid as the price at which to sell the property.

7. Immediately after the public auction, the highest bidder and the sheriff executed a bill of sale for the property, with the highest bidder paying his winning bid plus fees and expenses, in cash.

8. The sheriff was responsible for distributing the proceeds of the auction to the judgment creditor in total or partial satisfaction of the judgment. Any money paid for the property above the amount owed to the judgment creditor represented a surplus, which the sheriff returned to the judgment debtor.

The Conspiracy's Effect on Interstate Commerce

9. The defendant EDWARD SHAW and his co-conspirators regularly participated in sheriffs' auctions and bought automobiles, business equipment and business inventories at sheriffs' auctions held in Nassau and Suffolk Counties, New York.

10. Many judgment creditors involved in the sheriffs' auctions in Nassau and Suffolk Counties were from out-of-state, and a large portion of the property sold at the sheriffs' auctions was encumbered by liens held by out-of-state lienholders. Consequently, in connection with much of the property purchased at sheriffs' auctions by the defendant and his co-conspirators pursuant to the conspiracy charged below, money and documents moved across state lines as part of those

transactions. Those business activities were within the flow of, and substantially affected, interstate trade and commerce.

SHERMAN ACT CONSPIRACY

11. In or about and between August 1996 and January 2001, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendant EDWARD SHAW and others entered into and engaged in a combination and conspiracy that illegally restrained interstate trade and commerce in violation of Section 1 of the Sherman Act. The charged combination and conspiracy consisted of a continuing agreement, understanding, and concert of action among the defendant and co-conspirators, the substantial term of which was to suppress competition by refraining from full competitive bidding at sheriffs' auctions held in Nassau and Suffolk Counties.

12. It was part of the conspiracy that the defendant EDWARD SHAW and his co-conspirators agreed not to bid against each other at the sheriffs' auctions. The co-conspirators agreed that one of them would bid for and win the auctioned property within an agreed-upon price range. As a result, the co-conspirators purchased auctioned property at prices lower than those which would have resulted from a fully competitive auction, thereby depriving judgment creditors and judgment debtors of the full value of the auctioned property.

13. It was further part of the conspiracy that after each sheriff's auction, the defendant EDWARD SHAW and his co-

conspirators would hold a second, private auction, open only to the co-conspirators, in which the co-conspirators would bid for the right to acquire the auctioned property. In this auction, a co-conspirator's bid represented the amount of money he was willing to pay to each of the other co-conspirators in order to acquire the right to the property.

14. It was further part of the conspiracy that the defendant EDWARD SHAW and his co-conspirators would award the property to the co-conspirator with the highest bid at the second, private auction. The co-conspirator who was the highest bidder at the second, private auction would then pay his co-conspirators the amount due them as a result of the private auction and reimburse the designated bidder from the sheriff's auction.

15. It was further part of the conspiracy that following the private auction, the co-conspirator who was the highest bidder at the sheriff's public auction would transfer title to the property to the co-conspirator who was the highest bidder at the second, private auction.

16. It was further part of the conspiracy that the defendant EDWARD SHAW and his co-conspirators would, at times, negotiate deals with potential third-party competitors at the public auctions, prior to the public auction, whereby the defendant EDWARD SHAW and his co-conspirators would agree not to bid at the public auction in return for a cash payoff.

(Title 15, United States Code, Section 1; Title 18

United States Code, Section 3551 et seq.)

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