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8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 SAN FRANCISCO DIVISION

11 UNITED STATES OF AMERICA,)	No. CR 06-0752 SI
12 Plaintiff,)	INFORMATION
)	
13 v.)	
)	
14 D. JAMES SOGAS,)	VIOLATION:
)	Title 15, United States Code,
15)	Section 1 - Price Fixing and
)	Bid Rigging
16 Defendant.)	
_____)		San Francisco Venue

17
18 The United States of America, acting through its attorneys, charges:

19 I.

20 DESCRIPTION OF THE OFFENSE

- 21 1. D. JAMES SOGAS is made a defendant on the charge stated below.
- 22 2. From on or about April 1, 1999, until on or about June 15, 2002, the defendant's
- 23 corporate employer, Elpida Memory, Inc. ("Elpida"), and coconspirators entered into and
- 24 engaged in a combination and conspiracy in the United States and elsewhere to suppress and
- 25 eliminate competition by fixing the prices of Dynamic Random Access Memory ("DRAM") to
- 26

1 be sold to certain original equipment manufacturers of personal computers and servers
2 (“OEMs”). The combination and conspiracy engaged in by the defendant’s corporate employer
3 and coconspirators was in unreasonable restraint of interstate and foreign trade and commerce in
4 violation of Section 1 of the Sherman Act (15 U.S.C. § 1). The defendant joined and participated
5 in the charged conspiracy at various periods of time from as early as April 1, 2001, until on or
6 about June 15, 2002.

7 3. The charged combination and conspiracy consisted of a continuing agreement,
8 understanding, and concert of action among the defendant, his corporate employers, and
9 coconspirators, the substantial terms of which were to agree to fix the prices for DRAM to be
10 sold to certain OEMs and to coordinate bids offered by Sun Microsystems, Inc. (“Sun”) on a lot
11 of 1 Gigabyte Next-Generation Dual In-Line Memory Modules (“1 Gigabyte Next-Generation
12 Modules”) during Sun auctions on December 5, 2001 and March 26, 2002.

13 4. For the purpose of forming and carrying out the charged combination and
14 conspiracy, the defendant, his corporate employer, and coconspirators did those things that they
15 combined and conspired to do, including, among other things:

- 16 (a) participating in meetings, conversations, and communications in the
17 United States and elsewhere to discuss the prices of DRAM to be sold to
18 certain OEMs;
- 19 (b) agreeing, during those meetings, conversations, and communications, to
20 charge prices of DRAM at certain levels to certain OEMs;
- 21 (c) issuing price quotations in accordance with the agreements reached;
- 22 (d) exchanging information on sales of DRAM to certain OEM customers for
23 the purpose of monitoring and enforcing adherence to the agreed-upon
24 prices;
- 25 (e) authorizing, ordering, and consenting to the participation of subordinate
26 employees in the conspiracy;

- 1 (f) participating in meetings, conversations, and communications in the United
2 States and elsewhere to discuss coordinating (*i.e.*, dividing up) among
3 themselves two bids offered by Sun;
- 4 (g) agreeing, during those meetings, conversations, and communications, to
5 coordinate two bids offered by Sun;
- 6 (h) coordinating among themselves, in accordance with the agreements
7 reached, two bids offered by Sun denying Sun a competitive price;
- 8 (i) participating in meetings, conversations, and communications to discuss
9 the submission of prospective bids on two separate lots of 1 Gigabyte Next-
10 Generation Modules offered by Sun;
- 11 (j) agreeing, during those meetings, conversations, and communications, to
12 submit complementary bids to ensure the success of their agreement; and
- 13 (k) submitting complementary bids for two separate lots of 1 Gigabyte Next-
14 Generation Modules, denying Sun a competitive price.

15 II.

16 DEFENDANT AND COCONSPIRATORS

17 5. During the time period covered by this Information:

18 (a) Elpida was a corporation organized and existing under the laws of Japan; its
19 wholly owned subsidiary Elpida Memory (USA), Inc. was a corporation organized and existing
20 under the laws of California. Elpida and Elpida Memory (USA), Inc. were engaged in the
21 business of producing and selling DRAM to customers in the United States and elsewhere.

22 (b) D. James Sogas was employed as Vice President of Sales for Elpida Memory
23 (USA), Inc.

24 6. Various corporations and individuals, not made defendants in this Information,
25 participated as coconspirators in the offense charged in this Information and performed acts and
26 made statements in furtherance of it.

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

2
3 _____/s/_____
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5 Assistant Attorney General

_____ /s/ by NEL _____
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Chief, San Francisco Office

6 _____/s/_____
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