

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA	:	
	:	<b>Criminal No.: 96CR428</b>
v.	:	<b>Filed: [6/10/96]</b>
AMY WINIKOFF;	:	
WINKO NEW JERSEY INC.; and	:	<b>Violation:</b>
REPUBLIC CONTAINER CORPORATION,	:	<b>15 U.S.C. §1</b>
	:	
Defendants.	:	
- - - - -	-x	

INDICTMENT

The Grand Jury charges:

1. Amy Winikoff ("Winikoff") is hereby made a defendant on the charge stated below.
2. Winko New Jersey Inc. ("Winko") is hereby made a defendant on the charge stated below.
3. Republic Container Corporation ("Republic") is hereby made a defendant on the charge stated below.

DESCRIPTION OF THE OFFENSE

4. Beginning as early as October 1987 and continuing until at least July 1991, the exact dates being unknown to the Grand Jury, 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).

5. 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 made of corrugated paper awarded by Philip Morris, Inc.

6. 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 made of corrugated paper would be the low bidder on contracts awarded by Philip Morris, Inc. and arranging for one or more higher, noncompetitive price quotations or bids from other suppliers to be submitted to Philip Morris, Inc.; and

(b) making substantial payments of money or arranging for substantial payments of money to be made to purchasing agents at Philip Morris, Inc. for their assistance in controlling Philip Morris, Inc.'s program for seeking competitive price quotations or bids for contracts for display materials made of corrugated paper.

DEFENDANTS AND CO-CONSPIRATORS

7. Winikoff resides in New York City. During the period October 1987 through December 1990, Winikoff was an employee and sales representative of Republic Container Corporation, the predecessor of Winko. During the period January 1991 through July 1991, Winikoff was an employee and sales representative of Republic.

8. Winko is incorporated in New Jersey and has its principal place of business in Englewood Cliffs, New Jersey. In about December 1990, Republic Container Corporation, a now defunct New York corporation engaged in the manufacture of corrugated paper, boxes, and displays, changed its name to Winko Packaging Inc. and sold its assets to Amboy Holdings Inc. Winko Packaging merged with Winko New Jersey Inc., with Winko New Jersey Inc. as the surviving corporation.

9. Republic is incorporated in New Jersey and has its principal place of business in Jersey City, New Jersey. Originally incorporated under the name Amboy Holdings Inc., it purchased the assets of Republic Container Corporation, a now defunct New York corporation engaged in the manufacture of corrugated paper, boxes and displays, in about December 1990. It changed its name to Republic Container Corporation in about January 1991 and continued in the same line of business and

operated out of the same premises as the now defunct Republic Container Corporation.

10. Whenever in this Indictment 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.

11. 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

12. 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.

13. During the period covered by this Indictment, Philip Morris, Inc., purchased substantial quantities of display materials made of corrugated paper from suppliers that were co-conspirators located in different states including New York and New Jersey. These purchases were often made by issuing a contract to a supplier that was a co-conspirator in the conspiracy charged herein after the supplier had submitted a

written price quotation or bid pursuant to Philip Morris, Inc.'s practice to seek at least three competitive bids for sizable contracts. These bids and quotes were submitted to Philip Morris, Inc. at its headquarters in New York. The supplier then produced the display materials and delivered the finished products to warehouses from which they were distributed to retail stores throughout the United States.

14. During the period covered by this Indictment, the activities of the defendants and co-conspirators with respect to the sale of display materials made of corrugated paper to Philip Morris, Inc. were within the flow of, and substantially affected, interstate commerce.

#### DEFINITION

15. "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

16. 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 return of this Indictment or within the period extended and agreed to by the defendant Winko.

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

Dated:

A True Bill

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

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

\_\_\_\_\_/s/\_\_\_\_\_  
REBECCA MEIKLEJOHN

\_\_\_\_\_/s/\_\_\_\_\_  
GARY R. SPRATLING

\_\_\_\_\_/s/\_\_\_\_\_  
STEVEN TUGANDER

\_\_\_\_\_/s/\_\_\_\_\_  
RALPH T. GIORDANO

\_\_\_\_\_/s/\_\_\_\_\_  
JULIETTE P. TUGANDER

Attorneys, Antitrust Division  
U.S. Department of Justice

\_\_\_\_\_/s/\_\_\_\_\_  
MICHAEL E. COLE

\_\_\_\_\_/s/\_\_\_\_\_  
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SOUTHERN DISTRICT OF NEW YORK, 1996.  
Returned into the District Court by the Grand Jurors and filed.