

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

MICHITAKA SAKUMA,

Defendant.

Case:5:15-cr-20290

Judge: O'Meara, John Corbett

MJ: Stafford, Elizabeth A.

Filed: 05-14-2015 At 10:22 AM

INDI USA v Sakuma (SCB)

Count 1: 15 U.S.C. § 1

(Conspiracy to Restrain Trade)

INDICTMENT

The Grand Jury charges:

The Defendant and Co-conspirators

At all times relevant to this Indictment:

1. The defendant, MICHITAKA SAKUMA, was a citizen of Japan.
2. SAKUMA was employed by T.RAD Co., Ltd. ("T.RAD") as the general manager in charge of Toyota sales at least as early as October 2003. In 2005, SAKUMA became Executive Managing Director in charge of sales at T.RAD and a member of its board of directors until at least February 2010.
3. T.RAD was a Japanese company, with its principal place of business in Tokyo, Japan.
4. T.RAD was engaged in the business of manufacturing and selling automotive parts, including radiators, to Honda Motor Company, Ltd. ("Honda") and Toyota Motor

Corporation (“Toyota”), and certain of their subsidiaries, for installation in vehicles manufactured and sold in the United States and elsewhere.

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

6. Whenever in this Indictment reference is made to any act, deed, or transaction of any company, it means that the company engaged in the act, deed, or transaction by or through its officers, directors, employees, agents, or other representatives while they were actively engaged in the management, direction, control, or transaction of its business or affairs.

Background of the Offense

7. During the period covered by this Indictment, T.RAD and its co-conspirators supplied radiators to Honda and Toyota for installation in vehicles manufactured and sold in the United States and elsewhere.

8. T.RAD and its co-conspirators manufactured and supplied radiators (a) in the United States and elsewhere for installation in vehicles manufactured and sold in the United States; (b) in Japan and elsewhere for import into the United States and installation in vehicles manufactured and sold in the United States; and (c) in Japan for installation in vehicles manufactured in Japan and elsewhere for import into and sale in the United States.

9. Radiators are devices located in the engine compartment of a vehicle that cool the engine.

10. When purchasing radiators, Honda and Toyota issue “Requests for Quotation” (“RFQs”) to automotive parts suppliers on either a model-by-model basis or on a multiple-year basis for standard, interchangeable radiators that are supplied across platforms of vehicles.

Automotive parts suppliers submit quotations, or bids, in response to RFQs. Typically, the bidding process for a particular model or platform begins at least two years prior to the start of production. Honda and Toyota award the business to the selected automotive parts supplier for the time period specified in the RFQ or for the lifespan of the model or platform, which is usually four to six years. Honda and Toyota procure parts for U.S.-manufactured vehicles in the United States and elsewhere.

Conspiracy to Restrain Trade

11. From at least as early as October 2003 and continuing until at least February 2010, the exact dates being unknown to the Grand Jury, in the Eastern District of Michigan and elsewhere, SAKUMA and his co-conspirators participated in a combination and conspiracy to suppress and eliminate competition in the automotive parts industry by agreeing to rig bids for, and to fix, stabilize, and maintain the prices of, radiators sold to Honda and Toyota in the United States and elsewhere. The combination and conspiracy engaged in by SAKUMA and his co-conspirators was in unreasonable restraint of interstate and foreign trade and commerce in violation of the Sherman Antitrust Act, 15 U.S.C. § 1.

12. The charged combination and conspiracy consisted of a continuing agreement, understanding, and concert of action among SAKUMA and his co-conspirators, the substantial terms of which were to rig bids for, and to fix, stabilize, and maintain the prices of, radiators sold to Honda and Toyota in the United States and elsewhere.

Manner and Means of the Conspiracy

13. For purposes of forming and carrying out the charged combination and conspiracy, SAKUMA and his co-conspirators did those things that they combined and conspired to do, including, among other things:

a. participating in, and directing, authorizing, or consenting to the participation of subordinate employees in meetings, conversations, and communications to discuss the bids and price quotations to be submitted to Honda and Toyota in the United States and elsewhere;

b. agreeing, and directing, authorizing, or consenting to subordinate employees agreeing, during those meetings, conversations, and communications, on bids and price quotations to be submitted to Honda and Toyota in the United States and elsewhere;

c. agreeing, and directing, authorizing, or consenting to subordinate employees agreeing, during those meetings, conversations, and communications, to allocate the supply of radiators sold to Honda and Toyota in the United States and elsewhere on a model-by-model or platform basis;

d. approving collusive and noncompetitive prices agreed upon by subordinates during those meetings, conversations, and communications in the United States and elsewhere;

e. submitting bids and price quotations to Honda and Toyota in the United States and elsewhere in accordance with the agreements reached;

f. selling radiators to Honda and Toyota in the United States and elsewhere at collusive and noncompetitive prices;

- g. accepting payment for radiators sold to Honda and Toyota in the United States and elsewhere at collusive and noncompetitive prices;
- h. engaging in meetings, conversations, and communications for the purpose of monitoring and enforcing adherence to the agreed-upon bid-rigging and price-fixing scheme; and
- i. employing measures to keep their conduct secret, including but not limited to, using code names.

Trade and Commerce

14. During the period covered by this Indictment, T.RAD and its co-conspirators sold to Honda and Toyota, located in various states in the United States, substantial quantities of radiators shipped from outside the United States and from other states in a continuous and uninterrupted flow of interstate and import trade and commerce. In addition, substantial quantities of equipment and supplies necessary to the production and distribution of radiators by T.RAD and its co-conspirators, as well as payments for radiators sold by T.RAD and its co-conspirators, traveled in interstate and foreign trade and commerce. The business activities of T.RAD and its co-conspirators in connection with the production and sale of radiators that were the subject of the charged conspiracy were within the flow of, and substantially affected, interstate and import trade and commerce.

Jurisdiction and Venue

14. The combination and conspiracy charge in this Count was carried out, at least in part, within the Eastern District of Michigan. The statute of limitations for the charged offense was tolled from February 10, 2015 to May 29, 2015, pursuant to an agreement between SAKUMA and the United States.

All in violation of Title 15, United States Code, Section 1.

A TRUE BILL.

s/ Grand Jury Foreperson

Dated: May 14, 2015

s/ Brent c. Snyder

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