

FILED  
RICHARD W. NAGEL  
CLERK OF COURT

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

2015 SEP 16 PM 12:55

U.S. DISTRICT COURT  
SOUTHERN DIST. OHIO  
WEST. DIVISION  
**1:15 CR 098**

UNITED STATES OF AMERICA )  
 )  
 )  
 v. )  
 )  
 KAYABA INDUSTRY CO., LTD. d/b/a/ KYB )  
 CORPORATION, )  
 )  
 )  
 Defendant )  
 )  
 )

Criminal No. )  
 Filed: **J. BARRETT** )  
 Violation: 15 U.S.C. § 1 )

**INFORMATION**

**COUNT ONE  
CONSPIRACY TO RESTRAIN TRADE  
(15 U.S.C. § 1)**

THE UNITED STATES, ACTING THROUGH ITS ATTORNEYS, CHARGES:

**Defendant and Co-Conspirators**

1. Kayaba Industry Co., Ltd. d/b/a KYB Corporation ("Defendant") is a corporation organized and existing under the laws of Japan with its principal place of business in Tokyo, Japan. During the period covered by this Information, Defendant and certain of its subsidiaries were engaged in the manufacture and sale of shock absorbers to Fuji Heavy Industries Ltd. (manufacturer of Subaru vehicles), Honda Motor Co., Ltd., Kawasaki Heavy Industries, Ltd., Nissan Motor Company Ltd., Suzuki Motor Corporation, and Toyota Motor Company, and certain of their subsidiaries (collectively "Vehicle Manufacturers") in the United States and elsewhere for installation in vehicles manufactured and sold in the United States and elsewhere.

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

3. Whenever in this Information reference is made to any act, deed, or transaction of any corporation, the allegation means that the corporation engaged in the 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.

### **Background**

4. During the period covered by this Information, Defendant and its co-conspirators, Company A, a corporation headquartered in Japan, and Company B, a corporation headquartered in Japan, manufactured and sold shock absorbers to Vehicle Manufacturers for installation in vehicles manufactured and/or sold in the United States and elsewhere. During the period covered by this Information, Defendant and its co-conspirators, Company A and Company B, manufactured and sold shock absorbers: (a) in the United States for installation in vehicles manufactured and sold in the United States; and (b) in Japan and elsewhere for installation in vehicles manufactured in Japan and elsewhere, some of which were then imported to and sold in the United States.

5. Shock absorbers are part of the suspension system on automobiles and motorcycles. They absorb and dissipate energy to help cushion vehicles on uneven roads leading to improved ride quality and vehicle handling. Shock absorbers are also called dampers and on motorcycles are referred to as front forks and rear cushions. When purchasing shock absorbers, Vehicle Manufacturers typically issue Requests for Quotation ("RFQs") to automotive parts suppliers on a model-by-model basis for model-specific parts. Automotive parts suppliers

submit quotations, or bids, to the Vehicle Manufacturers in response to the RFQs, and the Vehicle Manufacturers award the business to the selected automotive parts supplier for the lifespan of the model, which is usually four to six years for automobiles and two to four years for motorcycles. Typically, the bidding process for a particular model begins more than three years prior to the start of production. Vehicle Manufacturers procure parts for U.S. manufactured vehicles in the United States and elsewhere.

### **Conspiracy to Restrain Trade**

6. From at least as early as the mid-1990s and continuing until as late as December 2012, the exact dates being unknown to the United States, in the Southern District of Ohio and elsewhere, Defendant and its co-conspirators, Company A and Company B, entered into and engaged in a combination and conspiracy to suppress and eliminate competition in the automotive parts industry by agreeing to allocate markets, rig bids for, and to fix, stabilize, and maintain the prices of shock absorbers sold to Vehicle Manufacturers in the United States and elsewhere. The combination and conspiracy engaged in by Defendant and its co-conspirators, Company A and Company B, was an unreasonable restraint of interstate and foreign trade and commerce in violation of Section 1 of the Sherman Act (15 U.S.C. § 1).

7. The charged combination and conspiracy consisted of a continuing agreement, understanding, and concert of action among Defendant and its co-conspirators, Company A and Company B, the substantial terms of which were to allocate markets, rig bids for, and to fix, stabilize, and maintain the prices of shock absorbers sold to Vehicle Manufacturers in the United States and elsewhere.

### **Manner and Means of the Conspiracy**

8. For the purpose of forming and carrying out the charged combination and conspiracy, Defendant and its co-conspirators, Company A and Company B, did those things that they combined and conspired to do, including, among other things:

(a) participating in meetings, conversations, and communications in the United States and elsewhere to discuss the bids and price quotations for the sale of shock absorbers to be submitted to Vehicle Manufacturers in the United States and elsewhere;

(b) agreeing, during those meetings, conversations, and communications, on bids and price quotations for the sale of shock absorbers to be submitted to Vehicle Manufacturers in the United States and elsewhere;

(c) agreeing, during those meetings, conversations, and communications, to allocate the supply of shock absorbers sold to Vehicle Manufacturers in the United States and elsewhere;

(d) agreeing, during those meetings, conversations, and communications, to coordinate price adjustments requested by Vehicle Manufacturers in the United States and elsewhere;

(e) submitting bids, price quotations, and price adjustments to Vehicle Manufacturers in the United States and elsewhere;

(f) selling shock absorbers to Vehicle Manufacturers in the United States and elsewhere at collusive and noncompetitive prices;

(g) accepting payment for shock absorbers sold to Vehicle Manufacturers in the United States and elsewhere at collusive and noncompetitive prices;

(h) engaging in meetings, conversations, and other communications in the United States and elsewhere for the purpose of monitoring and enforcing adherence to the agreed-upon bid-rigging, price-fixing, and market allocation scheme; and

(i) employing measures to keep their conduct secret, including, but not limited to, using code names, meeting at remote locations, and concealing the nature of and participants at conspiratorial meetings.

### **Trade and Commerce**

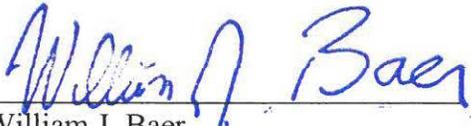
9. During the period covered by this Information, Defendant and its co-conspirators, Company A and Company B, sold substantial quantities of shock absorbers manufactured in the United States and elsewhere in a continuous and uninterrupted flow of interstate and foreign trade and commerce to Vehicle Manufacturers located in various States in the United States and elsewhere outside the place of origin. In addition, substantial quantities of equipment and supplies necessary to the manufacture and sale of shock absorbers sold by Defendant and its co-conspirators, Company A and Company B, as well as substantial payments for shock absorbers sold by Defendant and its co-conspirators, Company A and Company B, traveled in interstate and foreign trade and commerce.

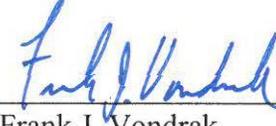
10. During the period covered by this Information, the business activities of Defendant and its co-conspirators, Company A and Company B, in connection with the manufacture and sale of shock absorbers that are the subject of this Information were within the

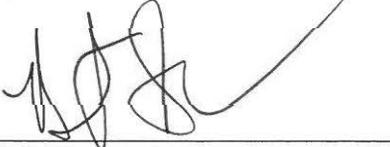
flow of, and substantially affected, interstate and foreign trade and commerce.

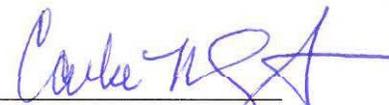
ALL IN VIOLATION OF TITLE 15, UNITED STATES CODE, SECTION 1.

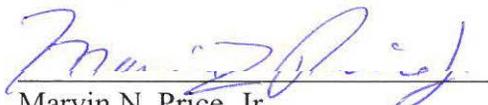
Dated:

  
\_\_\_\_\_  
William J. Baer  
Assistant Attorney General

  
\_\_\_\_\_  
Frank J. Vondrak  
Chief, Chicago Office

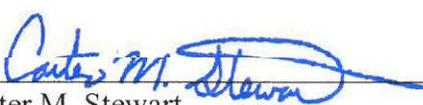
  
\_\_\_\_\_  
Brent Snyder  
Deputy Assistant Attorney General for  
Criminal Enforcement

  
\_\_\_\_\_  
Carla M. Stern  
carla.stern@usdoj.gov  
Daniel W. Glad  
daniel.glad@usdoj.gov

  
\_\_\_\_\_  
Marvin N. Price, Jr.  
Director of Criminal Enforcement

Attorneys, Antitrust Division  
U.S. Department of Justice  
Chicago Office  
209 S. LaSalle Street  
Suite 600  
Chicago, Illinois 60604  
(312) 984-7200

Antitrust Division  
U.S. Department of Justice

  
\_\_\_\_\_  
Carter M. Stewart  
United States Attorney for the  
Southern District of Ohio