

UNITED STATES DISTRICT COURT  
DISTRICT OF MARYLAND  
BALTIMORE DIVISION

FILED  
U.S. DISTRICT COURT  
DISTRICT OF MARYLAND

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CLERK'S OFFICE  
AT BALTIMORE

UNITED STATES OF AMERICA )  
 )  
 v. )  
 )  
 YOSHIYUKI AOKI, )  
 MASAHIRO KATO, and )  
 SHUNICHI KUSUNOSE )  
 )  
 Defendants. )  
 \_\_\_\_\_ )

Criminal No.:

BY K DEPUTY

Date:

GLR-15-0524

Violation: 15 U.S.C. § 1 (Sherman Act)

**INDICTMENT**

THE GRAND JURY CHARGES:

**Description of the Offense**

1. From at least as early as the dates alleged herein until at least September 2012, the exact dates being unknown to the Grand Jury, in the District of Maryland and elsewhere, Defendants and their co-conspirators participated in a conspiracy among ocean carriers of roll-on, roll-off cargo, to suppress and eliminate competition by allocating customers and routes, rigging bids, and fixing prices for international ocean shipping services for roll-on, roll-off cargo, such as cars and trucks, to and from the United States and elsewhere, in violation of the Sherman Antitrust Act, 15 U.S.C. § 1.

2. The charged combination and conspiracy consisted of a continuing agreement, understanding, and concert of action among Defendants and their co-conspirators, the substantial terms of which were to allocate customers and routes, rig bids, and to fix, stabilize, and maintain prices for international ocean shipping services for roll-on, roll-off cargo, such as cars and trucks, to and from the United States and elsewhere.

**Defendants and Co-Conspirators**

3. Defendant Yoshiyuki Aoki ("Aoki") is a resident of Japan. From at least as early as April 2001, the exact date being unknown to the Grand Jury, Aoki was employed by Kawasaki Kisen Kaisha, Ltd. ("K-Line"). K-Line is a corporation organized and existing under the laws of Japan, with its principal place of business in Tokyo, Japan. In 2001, Aoki became general manager of K-Line's Car Carrier Division, the corporate unit responsible for K-Line's roll-on, roll-off cargo business. He continued to hold senior management positions in K-Line's car carrier business through September 2012. Aoki knowingly joined and participated in the conspiracy from at least as early as April 2001 and continuing at least until September 2012.

4. Defendant Masahiro Kato ("Kato") is a resident of Japan. From at least as early as April 2002, the exact date being unknown to the Grand Jury, Kato was employed by Nippon Yusen Kabushiki Kaisha, Ltd. ("NYK"). NYK is a corporation organized and existing under the laws of Japan, with its principal place of business in Tokyo, Japan. In April 2002, Kato became general manager of NYK's Car Carrier Division, the corporate unit responsible for NYK's roll-on, roll-off cargo business. He continued to hold senior management positions in the Car Carrier Division through September 2012. Kato knowingly joined and participated in the conspiracy from at least as early as April 2002 and continuing at least until September 2012.

5. Defendant Shunichi Kusunose ("Kusunose") is a resident of Japan. From at least as early as April 2004, the exact date being unknown to the Grand Jury, Kusunose was employed by NYK. In April 2004, Kusunose became general manager of NYK's Car Carrier Division. He continued to hold senior management positions in the Car Carrier Division through September 2012. Kusunose knowingly joined and participated in the conspiracy from at least as early as April 2004 and continuing at least until September 2012.

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

7. Whenever in this Indictment 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, employees, agents, or other representatives while they were actively engaged in the management, direction, control, or transaction of its business or affairs.

**Means and Methods of the Conspiracy**

8. For purposes of forming and carrying out the charged combination and conspiracy, Defendants or their co-conspirators did those things that they combined and conspired to do, in the United States and elsewhere, including, among other things:

- (a) attended meetings and engaged in communications during which they agreed to allocate customers and routes among corporate conspirators, including customers in the United States and routes to and from the United States, for international ocean shipping services for roll-on, roll-off cargo;
- (b) attended meetings and engaged in communications during which they agreed not to compete against each other, by refraining from bidding or by agreeing on the prices they would bid, including for customers located in the United States and routes to and from the United States;
- (c) attended meetings and engaged in communications during which they agreed to fix, stabilize, and maintain rates charged to customers of international ocean shipping services, including customers located in the United States and for routes to and from the United States;

- (d) to carry out such agreements, discussed and exchanged prices for bids and tenders, including for customers located in the United States and for routes to and from the United States;
- (e) submitted price quotations and bids in accordance with the agreements reached, including to customers in the United States and for routes to and from the United States;
- (f) submitted invoices and received payments for international ocean shipping services sold at collusive, noncompetitive prices to customers in the United States and elsewhere; and
- (g) provided international ocean shipping services to customers in the United States and elsewhere, on routes to and from the United States and elsewhere, at collusive and noncompetitive prices.

#### **Trade and Commerce**

9. Roll-on, roll-off cargo is non-containerized cargo that can be both rolled onto and rolled off of an ocean-going vessel. Examples of such cargo include new and used cars and trucks and construction and agricultural equipment. The international ocean shipment of roll-on, roll-off cargo as used herein is defined as deep-sea or trans-ocean transportation and does not include short-sea or coastal water freight transportation between the contiguous and non-contiguous states and territories of the United States.

10. During the time period covered by this Indictment, Defendants' companies and their co-conspirators sold international ocean shipping services for roll-on, roll-off cargo to customers in the United States. The charged combination and conspiracy involved trade or

commerce among the several states and U.S. import trade or commerce in ocean shipping services for roll-on, roll-off cargo.

11. During the time period covered by this Indictment, Defendants' companies and their co-conspirators sold international ocean shipping services for roll-on, roll-off cargo imported into the United States. The charged combination and conspiracy had a direct, substantial, and reasonably foreseeable effect on U.S. import trade or commerce in roll-on, roll-off cargo shipped from foreign nations to the United States, and that effect, in part, gives rise to this charge.

12. During the time period covered by this Indictment, Defendants' companies and their co-conspirators sold international ocean shipping services for roll-on, roll-off cargo exported from the United States. For example, during this time period, K-Line had a U.S. subsidiary headquartered in Richmond, Virginia, that sold international ocean shipping services to customers in the United States for the export of roll-on, roll-off cargo to Europe, South America, and elsewhere. Similarly, NYK had a U.S. subsidiary headquartered in Secaucus, New Jersey, that sold international ocean shipping services to customers in the United States for the export of roll-on, roll-off cargo to the Middle East, South America, and elsewhere. The charged combination and conspiracy had a direct, substantial, and reasonably foreseeable effect on U.S. export trade or commerce in roll-on, roll-off cargo shipped from the United States to foreign nations of a person engaged in such trade or commerce in the United States, and that effect, in part, gives rise to this charge.

13. During the time period covered by this Indictment, the business activities of Defendants' companies and their co-conspirators in connection with the international ocean

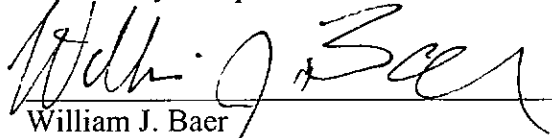
shipment of roll-on, roll-off cargo to and from the United States were within the flow of, and substantially affected, commerce among the states and with foreign nations.

14. During the time period covered by this Indictment, the charged combination and conspiracy had a substantial and intended effect in the United States, including on trade or commerce among the several states and with foreign nations in international ocean shipping services for roll-on, roll-off cargo. For example, the charged combination and conspiracy had a substantial and intended effect on the price of shipping roll-on, roll-off cargo to and from the United States.

A TRUE BILL.

**SIGNATURE REDACTED**

Grand Jury Foreperson



William J. Baer  
Assistant Attorney General  
Antitrust Division  
United States Department of Justice




Brent Snyder  
Deputy Assistant Attorney General  
Antitrust Division  
United States Department of Justice

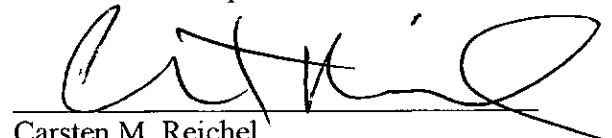


Marvin N. Price  
Director of Criminal Enforcement  
Antitrust Division  
United States Department of Justice

Dated: 10/6/15



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