

JUDGE FRANK MONTALVO

IN THE UNITED STATES DISTRICT COURT

WESTERN DISTRICT OF TEXAS

EL PASO DIVISION

FILED
2006 SEP 10 PM 4:19
CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY Fm
DEPUTY

UNITED STATES OF AMERICA)

v.)

ARCHITECTURAL PRODUCTS)
CO., INC.;)

EL PASO STEEL DOORS AND)
FRAMES, INC.;)

LINDSAY B. HOLT, SR.; AND)
HUMBERTO LOPEZ,)
a.k.a. BETO LOPEZ)

Defendants.)

Criminal No. EP-08-CR-_____

Violations: 15 U.S.C. § 1
18 U.S.C. § 1503

Filed:

EP08CR2540

INDICTMENT

The Grand Jury charges that:

COUNT ONE

CONSPIRACY TO RESTRAIN TRADE
IN VIOLATION OF THE SHERMAN ANTITRUST ACT
(15 U.S.C. § 1)

DESCRIPTION OF THE OFFENSE

1. ARCHITECTURAL PRODUCTS CO., INC.; EL PASO STEEL DOORS
AND FRAMES, INC.; LINDSAY B. HOLT, SR.; and HUMBERTO LOPEZ, also
known as BETO LOPEZ, are hereby indicted and made defendants on the charge
stated below.

2. Beginning in the early 1990's, and continuing thereafter until at least
May 2006, the exact dates being unknown to the Grand Jury, the defendants and

co-conspirators entered into and engaged in a combination and conspiracy to suppress and eliminate competition by rigging bids and allocating customers for certain contracts to supply and install doors and hardware for construction projects in the El Paso, Texas, area. The combination and conspiracy engaged in by the defendants and co-conspirators was in unreasonable restraint of interstate trade and commerce in violation of Section 1 of the Sherman Act (15 U.S.C. § 1).

3. The charged 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 customers for certain contracts to supply and install doors and hardware for construction projects in the El Paso, Texas, area.

MEANS AND METHODS OF THE CONSPIRACY

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

- (a) participated in meetings and engaged in discussions concerning upcoming quotes or bids for certain contracts to supply and install doors and hardware for construction projects in the El Paso, Texas, area;
- (b) agreed during those meetings and discussions not to compete on quotes or bids for certain contracts to supply and install doors and hardware for construction projects in the El Paso, Texas,

area;

- (c) agreed during those meetings and discussions on which corporate co-conspirator would be designated the low bidder for particular contracts to supply and install doors and hardware for construction projects in the El Paso, Texas area;
- (d) agreed during those meetings and discussions to allocate particular customers to designated corporate co-conspirators, and to refrain from bidding or submitting competitive quotes or bids to a customer allocated to another corporate co-conspirator;
- (e) gave to and obtained from co-conspirators information that was used to prepare and submit intentionally high, complementary and noncompetitive quotes or bids for certain contracts to supply and install doors and hardware for construction projects in the El Paso, Texas, area;
- (f) refrained from bidding or submitted intentionally high, complementary and noncompetitive quotes or bids for certain contracts to supply and install doors and hardware for construction projects in the El Paso, Texas, area; and
- (g) supplied and installed doors and hardware on construction projects pursuant to certain contracts awarded at collusive and noncompetitive prices, and received compensation therefor.

BACKGROUND

5. Door and hardware companies supply and install doors and hardware for new construction and renovation projects. In most instances, they submit quotes or bids to general contractors who, in turn, submit an overall bid to the contracting authority responsible for the project. The successful door and hardware supplier enters into a contract with the general contractor to provide and install the necessary doors and hardware for the project, and receives payment from the general contractor for the goods and services provided. In other instances, door and hardware companies submit quotes or bids directly to the contracting authority responsible for the project, and if selected, provide and install the necessary doors and hardware for the project, and receive payment from the contracting authority for the goods and services provided.

DEFENDANT AND CO-CONSPIRATORS

6. During the period set forth in this Indictment, ARCHITECTURAL PRODUCTS CO., INC. was a corporation organized and existing under the laws of the State of Texas with its principal place of business in El Paso, Texas. Also during this same period, ARCHITECTURAL PRODUCTS CO., INC. was engaged in the business of supplying doors and hardware in the El Paso, Texas, area.

7. During the period set forth in this Indictment, EL PASO STEEL DOORS AND FRAMES, INC. was a corporation organized and existing under the laws of the State of Texas with its principal place of business in El Paso, Texas. Also during this same period, EL PASO STEEL DOORS AND FRAMES, INC. was a

supplier of doors and hardware and was engaged in supplying doors and hardware in the El Paso, Texas, area.

8. During the period set forth in this Indictment, LINDSAY B. HOLT, SR. was president and a director of ARCHITECTURAL PRODUCTS CO., INC.

9. During the period set forth in this Indictment, HUMBERTO LOPEZ, also known as BETO LOPEZ, was vice president and a director of EL PASO STEEL DOORS AND FRAMES, INC.

10. 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 thereof.

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

TRADE AND COMMERCE

12. During the period set forth in this Indictment, the corporate defendants and their co-conspirators purchased door and hardware products from manufacturers outside of the State of Texas and resold them to customers located within the state of Texas in a continuous and uninterrupted flow of interstate commerce. In addition, substantial quantities of door and hardware products, as well as payments for those products, traveled in interstate commerce.

13. During the period set forth in this Indictment, the business activities of the defendants and their co-conspirators that are the subject of this Indictment were within the flow of, and substantially affected, interstate trade and commerce.

JURISDICTION AND VENUE

14. The combination and conspiracy charged in this Indictment was carried out, in part, within the Western District of Texas within the five years preceding the return of this Indictment.

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

COUNT TWO

OBSTRUCTION OF JUSTICE

(18 U.S.C. § 1503)

The Grand Jury further charges:

15. Each and every allegation contained in paragraphs 6 and 8 of Count One of this Indictment is realleged with the same force and effect as if fully set forth in this Count.

THE DEFENDANT

16. LINDSAY B. HOLT, SR. is hereby indicted and made a defendant on the charge stated below.

BACKGROUND

17. From in or about November 2005 to the present, a federal Grand Jury sitting in the Western District of Texas has been investigating, among other things, whether any company or individual engaged in the business of selling and installing

doors and hardware for construction projects had violated or were violating any federal criminal laws, including engaging in bid rigging or customer allocation activity in violation of Section I of the Sherman Antitrust Act (15 U.S.C.

§ 1). This investigation has included the Defendants ARCHITECTURAL PRODUCTS CO., INC. and LINDSAY B. HOLT as well as others in the door and hardware industry.

DESCRIPTION OF THE OFFENSE

18. In furtherance of the aforesaid Grand Jury investigation, a Grand Jury subpoena for documents addressed to ARCHITECTURAL PRODUCTS CO., INC. was served on LINDSAY B. HOLT, SR. on May 3, 2006. The subpoena required ARCHITECTURAL PRODUCTS CO. INC. to produce, for the period January 1, 2000, through September 26, 2006, documents reflecting or relating to contacts and agreements with representatives of other companies that sell doors and hardware; bids or quotes submitted by the company under subpoena; matters discussed by or communications between members of any door and hardware trade association; and other documents that could reveal the existence of a bid-rigging or customer-allocation conspiracy.

19. Also in furtherance of the aforesaid Grand Jury investigation, a Grand Jury subpoena for documents addressed to the Association of Door and Hardware Installers (ADHI), a local door and hardware trade association based in El Paso, Texas, was served on Thomas M. Buck, on May 3, 2006, in the presence of LINDSAY B. HOLT, SR. Among other things, the subpoena required ADHI to

produce, for the period January 1, 2000, through May 3, 2006, documents constituting minutes and agendas relating to meetings of the Association. At the time the subpoena was served, and for several years prior to that date, LINDSAY B. HOLT, SR. was President of ADHI and documents responsive to the ADHI subpoena were located in the custody and control of ARCHITECTURAL PRODUCTS CO., INC.

20. On May 4, 2006, LINDSAY B. HOLT, SR. willfully, knowingly and corruptly endeavored to influence, obstruct and impede the due administration of justice, namely, the aforesaid Grand Jury investigation, by meeting with his co-conspirators in his vehicle in a commercial parking lot on Woodrow Bean Transmountain Drive in El Paso, and instructing them to conceal the existence of the bid-rigging and customer-allocation conspiracy that is the subject of Count One, by denying it, lying about it, or otherwise refusing to acknowledge its existence or provide information about it to anyone, including law enforcement officials.

21. Between May 3, 2006, and September 26, 2006, the exact dates being unknown to the Grand Jury, LINDSAY B. HOLT, SR. willfully, knowingly and corruptly endeavored to influence, obstruct and impede the due administration of justice, namely, the aforesaid Grand Jury investigation, by instructing an APCO employee, who was also an officer and director of the company, to destroy any records responsive to the Grand Jury's subpoena that might reveal the bid-rigging and customer-allocation conspiracy that is the subject of Count One, rather than produce such records to the Grand Jury.

22. It was also part of the corrupt endeavor that LINDSAY B. HOLT, SR. instructed an APCO employee, who was also an officer and director of the company and a director of ADHI, not to produce to the Grand Jury the minutes of an ADHI meeting held on October 28, 2003, that the defendant HOLT knew were called for by the Grand Jury's subpoena, and to deny the existence of such minutes if asked.

23. It was further part of the corrupt endeavor that LINDSAY B. HOLT, SR. instructed an employee, who was also an officer and director of the company and director of ADHI, to create false and fictitious minutes of ADHI meetings for production to the Grand Jury.

24. The aforesaid corrupt endeavor to influence, obstruct and impede the due administration of justice was carried out by the Defendant LINDSAY B. HOLT, SR. within the Western District of Texas within the five years preceding the return of this Indictment.

ALL IN VIOLATION OF TITLE 18, UNITED STATES CODE, SECTION 1503.

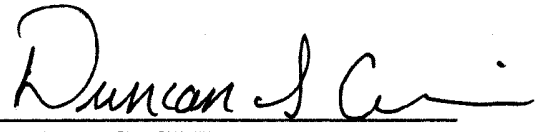
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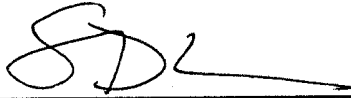
Dated: _____



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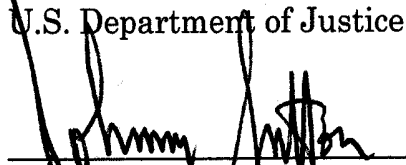
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