

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

CRIMINAL NO. 00-80278

Plaintiff,

VIOLATION: 15 U.S.C. § 1
18 U.S.C. § 371

v.

FILED: 03/29/2000 Under Seal
Seal Lifted 01/10/2001

D-1 SAUGER INDUSTRIES, INC., and
D-2 JOHN A. BAKER,

Defendants.

INDICTMENT

THE GRAND JURY CHARGES THAT:

GENERAL ALLEGATIONS

I

DEFENDANTS AND CO-CONSPIRATORS

1. Defendant SAUGER INDUSTRIES, INC., (hereinafter referred to as "SAUGER") is a corporation organized and existing under the laws of the State of Michigan with its principal place of business in Troy, Michigan. At all times relevant herein, SAUGER created and shipped tools and other related devices in Michigan and elsewhere. At all times relevant herein, defendant JOHN A. BAKER was the president of SAUGER. SAUGER and JOHN A. BAKER participated as co-conspirators in the offenses charged and performed acts and made statements in furtherance thereof.

2. Motorama Engineering, Inc., (hereinafter referred to as “Motorama”), not named as a defendant herein, is a corporation organized and existing under the laws of the State of Michigan with its principal place of business in Farmington, Michigan. At all times relevant herein, Motorama created and shipped tools and other related devices in Michigan and elsewhere. At all times relevant herein, Frederick L. Watson, Jr., not named as a defendant herein, was the president of Motorama. Motorama and Frederick L. Watson, Jr. participated as co-conspirators in the offenses charged and performed acts and made statements in furtherance thereof.

3. SA-GO Industries, Inc., (hereinafter referred to as “SA-GO”), not named as a defendant herein, is a corporation organized and existing under the laws of the State of Michigan with its principal place of business in Fraser, Michigan. At all times relevant herein, SA-GO created and shipped tools and other related devices in Michigan and elsewhere. At all times relevant herein, Theodore Sawchuk, not named as a defendant herein, was the president of SA-GO. SA-GO and Theodore Sawchuk participated as co-conspirators in the offenses charged and performed acts and made statements in furtherance thereof.

4. Clearr Industries, Inc., (hereinafter referred to as “Clearr”), not named as a defendant herein, is a corporation organized and existing under the laws of the State of Michigan with its principal place of business in Pontiac, Michigan. At all times relevant herein, Clearr created and shipped tools and other related devices in

Michigan and elsewhere. At all times relevant herein, Charles G. Long, not named as a defendant herein, was the president of Clearr. Clearr and Charles G. Long participated as co-conspirators in the offenses charged and performed acts and made statements in furtherance thereof.

5. Jedav Industries, Inc. (hereinafter referred to as "Jedav"), not named as a defendant herein, is a corporation organized and existing under the laws of the State of Michigan with its principal place of business in Utica, Michigan. At all times relevant herein, Jedav created and shipped tools and other related devices in Michigan. At all times relevant herein, Rick C. Bellestri, not named as a defendant herein, was president of Jedav. Jedav and Rick C. Bellestri participated as co-conspirators in the offenses charged and performed acts and made statements in furtherance thereof.

6. At all times relevant herein, Albert Joseph Charles, not named as a defendant herein, was an employee of General Motors Corporation (hereinafter referred to as "General Motors") in charge of purchasing new machine tools for the redesign of certain automobile assembly lines. Albert Joseph Charles participated as a co-conspirator in the offenses charged and performed acts and made statements in furtherance thereof.

7. Various individuals and corporations, not made defendants in this Indictment, participated as co-conspirators in the offenses charged and performed acts and made statements in furtherance thereof.

8. Whenever this Indictment refers to any act, deed or transaction of any corporation, it 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 engaged actively in the management, direction, control, or transaction of its business or affairs.

II

DESCRIPTION OF THE BIDDING PROCESS

9. General Motors designs, manufactures and markets automobiles, trucks and related parts in the Eastern District of Michigan and elsewhere.

10. General Motors Truck Group (formerly known as GM Truck & Bus Group) is a division of General Motors, and its principal place of business is located in Pontiac, Michigan, within the Eastern District of Michigan.

11. Beginning in the early 1990s and continuing into early 1993, General Motors Truck Group was involved in, among other concerns, the Suburban truck project. This project was budgeted at approximately \$100 million and involved about 100 individual projects.

12. General Motors Truck Group utilized dual systems of authority for large projects. Engineering created the specifications and in-house estimates of the bid amounts, qualified prospective bidders, reviewed the bids, monitored the work, and supervised the installation of the tools in the auto assembly plants. Purchasing reviewed the bidders list, reviewed the bids for financial and cost issues, approved changes, and approved payments to the vendors.

13. General Motors Truck Group required a minimum of five bidders on every tool. An engineer would determine who would be allowed to bid on a particular tool. Purchasing could alter up to two of the five suppliers who would bid on the project, but as a matter of practice, it was the engineer who decided on the bidder's list.

14. After the bidders were qualified, engineering let the individual contracts out for bid through a sealed bidding process. As such, all bids were returned to purchasing in a sealed envelope by a date and time certain. Purchasing then opened the bids, which were then evaluated by both engineering and purchasing, for compliance with the bid specifications. Purchasing then notified the winners and issued work orders, usually to the low-bidder.

15. At all times relevant herein, collusive, non-competitive bidding was prohibited under General Motors Truck Group's rules and procedures.

COUNT ONE

(15 U.S.C. § 1 -- Sherman Act Conspiracy)

D-1 SAUGER INDUSTRIES, INC., and
D-2 JOHN A. BAKER.

1. The general allegations are incorporated by reference as if set forth in full herein.

I

DESCRIPTION OF THE OFFENSE

2. Beginning at least as early as March 1989, and continuing at least into April 1995, the exact dates being unknown to the Grand Jury, in the Eastern

District of Michigan, the defendants, SAUGER and JOHN A. BAKER, and co-conspirators engaged in a combination and conspiracy to suppress and eliminate competition by allocating and rigging tooling contracts at General Motors. The charged combination and conspiracy unreasonably restrained interstate trade and commerce in violation of Section 1 of the Sherman Act (15 U.S.C. § 1).

3. It was a part of the conspiracy that the defendants and co-conspirators reached an agreement, understanding, and concert of action to:

- (a) allocate among themselves contracts for tooling on automotive projects at General Motors;
- (b) submit collusive, noncompetitive and rigged bids for tooling contracts at General Motors; and
- (c) provide tooling and receive payment therefor from General Motors as a result of the allocations and collusive bidding.

4. For the purpose of forming and carrying out the charged conspiracy, the defendants and co-conspirators did the following things, among others:

- (a) agreed that defendants and co-conspirators would be the only vendors allowed to bid on certain tooling contracts at General Motors;
- (b) discussed the submission of prospective bids for various tooling contracts at General Motors;
- (c) designated a particular defendant or co-conspirator to be the low, winning bidder for tooling contracts at General Motors;

- (d) designated which conspirators would submit intentionally high, complementary bids for tooling contracts at General Motors;
- (e) exchanged bid prices among defendants and co-conspirators before submitting them to General Motors;
- (f) submitted sealed bids for tooling contracts at General Motors;
- (g) provided tooling and received payment from General Motors for tooling contracts issued as a result of the allocations and collusive bidding; and
- (h) paid Albert Joseph Charles, then an employee of General Motors, for his assistance in facilitating the allocations and collusive bidding.

II

TRADE AND COMMERCE

5. During the period covered by this Count of the Indictment, the conspirators created and shipped tooling and related devices used for automobile and truck manufacturing in the State of Michigan and elsewhere.

6. During the period covered by this Count of the Indictment, the conspirators purchased raw materials, equipment, and other supplies used in the fabrication and installation of the tooling and related devices that are the subject of this Indictment. These raw materials, equipment, and other supplies were shipped in substantial amounts from manufacturers or other suppliers outside of the State

of Michigan to the conspirators in the State of Michigan in a continuous and uninterrupted flow of interstate commerce.

7. The activities of defendants and co-conspirators that are the subject of this Count of the Indictment were within the flow of, and substantially affected, interstate trade and commerce.

III

JURISDICTION AND VENUE

8. The combination and conspiracy charged in this Count was carried out, in part, within the Eastern District of Michigan and within the five years preceding the filing of this Indictment.

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

COUNT TWO

(18 U.S.C. § 371 -- Conspiracy)

D-1 SAUGER INDUSTRIES, INC., and

D-2 JOHN A. BAKER.

1. The general allegations are incorporated by reference as if set forth in full herein.

I

DESCRIPTION OF THE OFFENSE

2. That from in or about March 1989 through in or about April 1995, the exact dates being unknown to the Grand Jury, in the Eastern District of Michigan,

the defendants, SAUGER and JOHN A. BAKER, did unlawfully, knowingly, and willfully combine, conspire, confederate, and agree with others known and unknown to the Grand Jury to commit offenses against the United States, to wit, violations of Title 18, United States Code, Sections 1341 and 1346 (mail fraud), and 1956 (money laundering).

3. The allegations in paragraphs three (3) and four (4) of Count One are incorporated by reference as if set forth in full herein.

4. It was also a part of the conspiracy that the defendants and co-conspirators reached an agreement, understanding, and concert of action to:

- (a) cause to be delivered by the United States Postal Service matters and things for the purpose of executing a scheme and artifice to defraud General Motors of money, property, and its right to honest services by means of false and fraudulent pretenses and representations, in violation of Title 18, United States Code, Sections 1341 and 1346; and
- (b) conduct and cause to be conducted, a series of financial transactions, knowing that the property involved therein represented the proceeds of some form of unlawful activity, and which in fact, involved the proceeds of specified unlawful activity, to wit mail fraud, in violation of Title 18, United States Code, Sections 1341 and 1346; as more particularly described in paragraph 4(a) above:
 - (i) with the intent to promote the carrying on of specified unlawful activity; and

- (ii) knowing that the transactions were designed, in whole or in part, to conceal or disguise the nature, location, source, ownership, or control of the proceeds of specified unlawful activity, in violation of Title 18, United States Code, Sections 1956 (a)(1)(A)(i) and 1956 (a)(1)(B)(i).

5. For the purpose of forming and carrying out the conspiracy, the defendants and co-conspirators did the following things, among others:

- (a) created fictitious invoices and shippers, for real or fictitious companies, for the purpose of hiding payments to Rick C. Bellestri and Albert Joseph Charles;
- (b) completed these fictitious invoices for non-existent work on the allocated tooling contracts awarded by General Motors;
- (c) delivered these fictitious invoices to the designated winning contractors for payment as if for work actually performed on the allocated contracts;
- (d) caused the designated winning contractors to make out checks in the amounts designated on these fictitious invoices;
- (e) delivered these payment checks, along with the fictitious invoices, to Rick C. Bellestri and Jedav;
- (f) caused these payment checks, made out to the real or fictitious companies pursuant to the fictitious invoices, to be endorsed in the names of those companies;

- (g) caused some of these payment checks, endorsed in the names of the companies listed on the fictitious invoices, to be cashed;
- (h) paid Rick C. Bellestri from the proceeds of the payment checks for his participation in the conspiracy; and
- (i) paid Albert Joseph Charles, then an employee of General Motors, through a variety of means, from the proceeds of the payment checks for his participation in the conspiracy.

II

OVERT ACTS

In furtherance of the conspiracy and to effect the object of the conspiracy, the following overt acts, among others, were committed in the Eastern District of Michigan and elsewhere:

1. In 1989, JOHN A. BAKER had a telephone conversation with Rick C. Bellestri concerning a proposed allocation and bid rigging scheme at General Motors.
2. In 1989 or early 1990, Frederick L. Watson, Jr. had a telephone conversation with Rick C. Bellestri concerning a proposed allocation and bid rigging scheme at General Motors.
3. In 1989 or early 1990, within several days of Rick C. Bellestri's phone call to Frederick L. Watson, Jr. proposing the allocation and bid rigging scheme, Frederick L. Watson, Jr. spoke to JOHN A. BAKER concerning their possible participation in the allocation and bid rigging scheme at General Motors.

4. On or about August 24, 1990, Charles G. Long of Clearr caused to be faxed to Rick C. Bellestri certain bid figures for submission to General Motors.

5. On or about August 24, 1990, Rick C. Bellestri received a fax from SA-GO of bid figures for submission to General Motors.

6. On or about August 27, 1990, Rick C. Bellestri caused to be faxed to Ralph Deittrick at SA-GO certain bid figures for SA-GO's bid submission to General Motors.

7. On or about August 27, 1990, Theodore Sawchuk caused a bid to be submitted to General Motors on behalf of SA-GO.

8. On or about August 27, 1990, Rick C. Bellestri caused to be faxed to JOHN A. BAKER certain bid figures for SAUGER's bid submission to General Motors.

9. On or about August 27, 1990, JOHN A. BAKER caused a bid to be submitted to General Motors on behalf of SAUGER.

10. On or about September 4, 1990, Rick C. Bellestri caused to be faxed to Charles G. Long at Clearr certain bid figures for Clearr's bid submission to General Motors.

11. On or about September 4, 1990, a bid was submitted to General Motors by Clearr.

12. On or about September 4, 1990, Rick C. Bellestri caused to be faxed to Theodore Sawchuk (under the name "Ted Schultz") at SA-GO certain bid figures for SA-GO's bid submission to General Motors.

13. On or about September 4, 1990, Theodore Sawchuk caused a bid to be submitted to General Motors by SA-GO.

14. On or about September 21, 1990, Rick C. Bellestri caused to be faxed to JOHN A. BAKER certain bid figures for SAUGER's bid submission to General Motors.

15. On or about September 21, 1990, Rick C. Bellestri caused to be faxed to Clearr certain bid figures for Clearr's bid submission to General Motors.

16. On or about September 21, 1990 Rick C. Bellestri caused to be faxed to SA-GO certain bid figures for SA-GO's bid submission to General Motors.

17. On or about September 28, 1990, Rick C. Bellestri caused to be faxed to Ralph Deittrick at SA-GO certain bid figures for SA-GO's bid submission to General Motors.

18. On or about October 1, 1990, Theodore Sawchuk caused a bid to be submitted to General Motors by SA-GO.

19. On or about November 9, 1990, Rick C. Bellestri caused to be sent a document purporting to be an invoice, number 5484, to Motorama for \$35,000, from a company named Rathsburg Associates, Inc., using the United States Postal Service.

20. On or about November 20, 1990, Rick C. Bellestri caused to be sent a document purporting to be an invoice, number 5474, to Motorama for \$33,000, from a company named Kill & Beshke Associates, Inc., using the United States Postal Service.

21. On or about November 20, 1990, Rick C. Bellestri caused to be sent a document purporting to be an invoice, number 5488, to Motorama for \$33,000, from a company named Rathsburg Associates, Inc., using the United States Postal Service.

22. On or about November 21, 1990, Rick C. Bellestri caused to be sent a document purporting to be an invoice, number 2856, to SA-GO for \$140,500, from a company named Niagara Engineering Inc., using the United States Postal Service.

23. On or about December 12, 1990, Theodore Sawchuk caused General Motors, through the United States Postal Service, to mail a statement reflecting payment of \$789,740 to SA-GO for work done on job TKS72021.

24. On or about December 14, 1990, Theodore Sawchuk caused a check to be drawn and executed from SA-GO's corporate account, check number 20196, made out to Niagara Engineering Inc., in the amount of \$140,500.

25. On or about December 14, 1990, Frederick L. Watson, Jr. caused a check to be drawn and executed from Motorama's corporate account, check number 14156, made out to Kill & Beshke Associates, Inc. in the amount of \$33,000, and used the United States Postal Service to deliver it.

26. On or about December 14, 1990, Theodore Sawchuk caused General Motors, through the United States Postal Service, to mail a statement reflecting payment of \$274,010 to SA-GO for work done on job TKS73665.

27. On or about December 19, 1990, Frederick L. Watson, Jr. caused payment to be stopped on Motorama check number 14156 when it was accidentally

delivered to Kill & Beshke Associates, Inc. instead of to Jedav and Rick C. Bellestri.

28. On or about December 20, 1990, Frederick L. Watson, Jr. caused a check to be drawn and executed from Motorama's corporate account, check number 14200, to Rathsburg in the amount of \$35,000.

29. On or about December 20, 1990, Frederick L. Watson, Jr. caused a check to be drawn and executed from Motorama's corporate account, check number 14191, to Rathsburg in the amount of \$33,000.

30. In late December 1990, Frederick L. Watson, Jr. spoke to a representative of Kill & Beshke concerning a check that Frederick L. Watson, Jr. caused to be sent from Motorama to Kill & Beshke, but in reality intended it to be sent to Rick C. Bellestri.

31. In late December 1990, Frederick L. Watson, Jr. spoke to Rick C. Bellestri concerning the accidental mailing of the check to Kill & Beshke.

32. In 1990 or 1991, Rick C. Bellestri and Albert Joseph Charles discussed the bid rigging scheme's progress to date, monies "owed" to Albert Joseph Charles, and the projected jobs that were yet to be rigged at General Motors.

33. On or about January 18, 1991, Rick C. Bellestri caused to be sent a document purporting to be an invoice, number 6138, to SAUGER for \$30,800, from a fictitious company named Ambrose Russell Associates, using the United States Postal Service.

34. On or about February 13, 1991, Rick C. Bellestri caused to be sent a document purporting to be an invoice, number 6360, to SAUGER for \$27,550, from

a fictitious company named Ambrose Russell Associates, using the United States Postal Service.

35. On or about February 14, 1991, Frederick L. Watson, Jr. caused General Motors, through the United States Postal Service, to mail a statement reflecting payment of \$949,945 to Motorama for work done on job TKS73694.

36. On or about March 1, 1991, Rick C. Bellestri caused to be sent a document purporting to be an invoice, number 6379, to SAUGER for \$23,250, from a fictitious company named Ambrose Russell Associates, using the United States Postal Service.

37. On or about April 25, 1991, JOHN A. BAKER caused General Motors, through the United States Postal Service, to mail a statement reflecting payment of \$295,562 to SAUGER for work done on job TKS74020.

38. On or about May 22, 1991, JOHN A. BAKER caused a check to be drawn and executed from SAUGER's corporate account, check number 3419, to Ambrose Russell Associates in the amount of \$30,800.

39. On or about June 13, 1991, JOHN A. BAKER caused a check to be drawn and executed from SAUGER's corporate account, check number 3502, to Ambrose Russell Associates in the amount of \$27,550.

40. On or about June 24, 1991, JOHN A. BAKER caused a check to be drawn and executed from SAUGER's corporate account, check number 3518, to Ambrose Russell Associates in the amount of \$23,250.

41. On or about October 8, 1991, Rick C. Bellestri caused a check to be sent that was drawn and executed from Jedav's corporate account in the State of Michigan, check number 4006 for \$20,000, to M.C.C., a motorcycle vendor in the State of Illinois, using the United States Postal Service.

42. On or about December 1, 1991, Albert Joseph Charles sent a check drawn from his personal checking account, check number 1562, made out to D & M Investments in the amount of \$1827.00, using the United States Postal Service.

43. On or about March 10, 1992, Albert Joseph Charles sent a check drawn from his personal checking account, check number 1644, made out to D & M Investments, in the amount of \$3393.36, using the United States Postal Service.

44. On or about March 10, 1993, Albert Joseph Charles sent a check drawn from his personal checking account, check number 1976, made out to D & M Investments, in the amount of \$3393.36, using the United States Postal Service.

45. On or about July 26, 1993, Rick C. Bellestri caused a check to be sent that was drawn and executed from Jedav's corporate account in the State of Michigan, check number 9777 for \$20,000, to M.C.C., a motorcycle vendor in the State of Illinois, using the United States Postal Service.

46. On or about November 23, 1993, Rick C. Bellestri caused a check to be sent that was drawn and executed from Jedav's corporate account in the State of Michigan, check number 010821 for \$15,000, to M.C.C., a motorcycle vendor in the State of Illinois, using the United States Postal Service.

47. On or about March 1, 1994, Albert Joseph Charles sent a check drawn from his personal checking account, check number 2233, made out to D & M Investments, in the amount of \$3915.48, using the United States Postal Service.

48. On or about January 4, 1995, Albert Joseph Charles sent a check drawn from his personal checking account, check number 2434, made out to D & M Investments in the amount of \$3937.00, using the United States Postal Service.

49. On or about February 1, 1995, Albert Joseph Charles sent a check drawn from his personal checking account, check number 2452, made out to D & M Investments in the amount of \$3937.00, using the United States Postal Service.

50. On or about February 28, 1995, Albert Joseph Charles sent a check drawn from his personal checking account, check number 2468, made out to D & M Investments in the amount of \$3937.00, using the United States Postal Service.

51. On or about April 7, 1995, Albert Joseph Charles sent a check drawn from his personal checking account, check number 2499, made out to D & M Investments, in the amount of \$1741.92, using the United States Postal Service.

All in violation of Title 18, United States Code, Section 371.

A TRUE BILL

_____/s/_____
FOREPERSON

_____/s/_____
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