

FILED

March 05, 2024

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

BY: SL
DEPUTY

**UNITED STATES OF AMERICA
Plaintiff**

v

**(1) HYUK JIN KWON
(2) HYUN KI SHIN
(3) HYE YEON JO
(4) DESCA CO. LTD**

Defendants

CRIMINAL NO. 22-CR-00049-RP

SUPERSEDING INDICTMENT

**[Ct. 1: 15 U.S.C. § 1 – Conspiracy to
Restrain Trade;
Ct. 2: 18 U.S.C. § 1349 – Conspiracy to
Commit Wire Fraud;
Ct. 3-8: 18 U.S.C. §§ 2, 1343 – Wire Fraud]**

**Notice of Government's Demand for
Forfeiture**

THE GRAND JURY CHARGES:

COUNT ONE

**Conspiracy to Restrain Trade
[15 U.S.C. § 1]**

DESCRIPTION OF THE OFFENSE

1. The following persons are hereby indicted and made Defendants on the charges contained in this Superseding Indictment:

**(1) HYUK JIN KWON,
(2) HYUN KI SHIN,
(3) HYE YEON JO, and
(4) DESCA CO. LTD.**

2. On March 16, 2022, Defendants HYUK JIN KWON and HYUN KI SHIN were previously made defendants in an Indictment returned by a grand jury sitting in the Western District of Texas in *United States v. Kwon*, No. 22-CR-00049 (W.D. Tex.).

3. Beginning at least as early as in or about November 2018, and continuing until at least as late as on or about December 7, 2021, the exact dates being unknown to the Grand Jury, in the Western District of Texas and elsewhere, the Defendants and their co-conspirators entered into and engaged in a combination and conspiracy to suppress and eliminate competition by rigging bids and fixing prices for subcontract work on operation and maintenance support services administered and approved by the United States Army Medical Command (“MEDCOM”), the United States Army Corps of Engineers (“USACE”), and the Defense Logistics Agency. The combination and conspiracy engaged in by the Defendants and their co-conspirators was a *per se* unlawful, and thus unreasonable, restraint of interstate and foreign trade and commerce in violation of Section 1 of the Sherman Act (15 U.S.C. § 1).

4. The charged combination and conspiracy consisted of a continuing agreement, understanding, and concert of action among the Defendants and their co-conspirators, the substantial terms of which were to rig bids and fix prices for subcontract work to contractors providing operation and maintenance support services to agencies of the U.S. Department of Defense.

DEFENDANTS AND THEIR CO-CONSPIRATORS

At all times relevant to this Indictment, unless otherwise indicated:

5. J&J Korea, Inc. was a corporation organized and existing under the laws of the Republic of Korea (“Korea”). J&J Korea was majority owned by J&J Maintenance, Inc., a Texas-based corporation with its headquarters in Austin, that was engaged in the sale of operation and maintenance support services to the United States government, including the sale of such services to United States military hospitals in Korea. J&J Korea’s other owner was HYUK JIN KWON. J&J Korea was engaged primarily in the sale of operation and maintenance

support services to J&J Maintenance with respect to the company's work for United States military hospitals in Korea.

6. Defendant HYUK JIN KWON was a director and partial owner of J&J Korea and was involved in the sale of J&J Korea's services to J&J Maintenance and other contractors servicing agencies of the U.S. Department of Defense, including MEDCOM, the USACE, and the Defense Logistics Agency.

7. Defendant HYUN KI SHIN was a manager of J&J Korea and was involved in the sale of J&J Korea's services to J&J Maintenance and other contractors servicing agencies of the U.S. Department of Defense, including MEDCOM, the USACE, and the Defense Logistics Agency.

8. Defendant DESCA CO. LTD ("DESCA") was a corporation organized and existing under the laws of Korea. DESCA was engaged in the sale of operation and maintenance support services to contractors servicing agencies of the U.S. Department of Defense, including MEDCOM, the USACE, and the Defense Logistics Agency. DESCA provided its services to J&J Maintenance in connection with that company's work for United States military hospitals in Korea. DESCA also provided its services to COMPANY A, an Illinois-based corporation with its headquarters in Rockford, that was engaged in the sale of operation and maintenance support services to the United States government, including the sale of such services to United States military facilities in Korea. The true identity of COMPANY A is known to the Grand Jury.

9. Defendant HYE YEON "RACHEL" JO was a manager of DESCA and was involved in the sale of DESCA's services to J&J Maintenance, COMPANY A, and other contractors servicing agencies of the U.S. Department of Defense, including MEDCOM, the USACE, and the Defense Logistics Agency.

10. J&J Maintenance was the prime contractor to the USACE on an indefinite delivery contract (the “USACE Contract”) to address operation and maintenance needs for U.S. Department of Defense medical facilities, including medical facilities in Korea. The USACE Contract required a competitive process for awarding subcontract work. The USACE Contract was administered by the USACE and MEDCOM. J&J Korea and DESCA were competitors for subcontract work on the USACE Contract and submitted bids for subcontract work under that contract.

11. COMPANY A was the prime contractor to the Defense Logistics Agency on multiple contracts (the “DLA Contracts”) to address operation and maintenance needs for U.S. Department of Defense facilities, including U.S. military facilities in Korea. The DLA Contracts required a competitive process for awarding subcontract work. J&J Korea and DESCA were competitors under the DLA Contracts and submitted bids for subcontract work under those contracts.

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

13. Whenever in this Superseding Indictment reference is made to any act, deed, or transaction of any corporation or company, the allegation means that the corporation or company 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.

MEANS AND METHODS OF THE CONSPIRACY

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

- a. Requested from, and agreed to provide to, each other complementary and rigged bid proposals for subcontract work to contractors servicing agencies of the U.S. Department of Defense, including MEDCOM, the USACE, and the Defense Logistics Agency;
- b. Exchanged pricing information and bid proposals with each other for the purposes of submitting complementary and rigged bid proposals and of fixing prices for subcontract work to contractors servicing agencies of the U.S. Department of Defense, including MEDCOM, the USACE, and the Defense Logistics Agency;
- c. Caused the submission of rigged bids and fixed prices for subcontract work on the USACE Contract and the DLA Contracts, such that J&J Korea would win subcontract work under the USACE Contracts and DESCA would win subcontract work under the DLA Contracts;
- d. Sourced materials from the United States for the purpose of completing the subcontract work; and
- e. Accepted payments for the subcontract work, with payments for the subcontract work originating in the United States.

TRADE AND COMMERCE

15. The charged combination and conspiracy had a direct, substantial, and reasonably foreseeable effect on U.S. interstate, import, and export trade and commerce of a person engaged in such export trade and commerce in the United States, and that effect, in part, gives rise to this charge. The charged combination and conspiracy also had a substantial and intended effect in the United States.

16. For example: (a) the charged combination and conspiracy prevented agencies of the U.S. Department of Defense from receiving true competition for bids on subcontract work for operation and maintenance support services; (b) the charged combination and conspiracy caused agencies of the U.S. Department of Defense to pay non-competitive prices for operation and maintenance support services provided at military facilities in Korea with payments traveling between states and between the United States and Korea; (c) bid proposals, contracts, invoices for payment, payments, and other documents essential to the provision of operation and maintenance support services were transmitted between the Defendants and their co-conspirators located in Korea and agencies of the U.S. Department of Defense located in the United States and elsewhere; and (d) certain materials used to complete the subcontract work affected by the charged combination and conspiracy were manufactured in the United States and sent to Korea.

17. The business activities of J&J Korea, J&J Maintenance, COMPANY A, the Defendants, and their co-conspirators in connection with the operation and maintenance support services that are the subject of this Superseding Indictment were within the flow of, and substantially affected, commerce among the states and with foreign nations.

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

COUNT TWO
Conspiracy to Commit Wire Fraud
[18 U.S.C. § 1349]

DESCRIPTION OF THE OFFENSE

18. The Grand Jury realleges and incorporates by reference Paragraphs 1 through 17 of the Superseding Indictment as if fully set forth herein.

19. Various corporations and individuals, not made defendants in this Superseding Indictment, participated as co-conspirators in the conspiracy charged herein and performed acts and made statements in furtherance of the conspiracy set forth below. These co-conspirators are both known and unknown to the Grand Jury.

20. Beginning at least as early as in or about November 2018, and continuing until at least as late as on or about December 7, 2021, the exact dates being unknown to the Grand Jury, in the Western District of Texas and elsewhere, the Defendants

(1) HYUK JIN KWON,
(2) HYUN KI SHIN,
(3) HYE YEON JO, and
(4) DESCA CO. LTD.

and their co-conspirators conspired and agreed together and with each other to commit wire fraud, in that the Defendants conspired together to knowingly devise a scheme and artifice to defraud the United States of money and property, and to obtain money and property by means of false and fraudulent pretenses, representations, and promises, knowing they were false and fraudulent when made, for the purpose of executing such scheme and artifice and attempting to do so.

OBJECTS OF THE CONSPIRACY

21. The essential objects of the conspiracy were for the Defendants and their co-conspirators, and others known and unknown to the Grand Jury, to unlawfully enrich themselves

and others by obtaining money from the United States, and agencies thereof, by fraudulently submitting rigged bids and fixing prices for subcontract work that ostensibly satisfied the requirements of agencies of the U.S. Department of Defense that subcontract work be awarded through a competitive process.

MANNER AND MEANS

22. The manner and means by which the Defendants and their co-conspirators, together with others, known and unknown to the Grand Jury, sought to accomplish the purpose of the conspiracy included, among other things, the means and methods set forth in Paragraph 14 of the Superseding Indictment.

23. In furtherance of the conspiracy, the Defendants and their co-conspirators, together with others, by interstate and foreign wire, caused to be sent and received items such as e-mails and money transfers.

ALL IN VIOLATION OF TITLE 18, UNITED STATES CODE, SECTION 1349.

COUNTS THREE THROUGH EIGHT

Wire Fraud

[18 U.S.C. §§ 2, 1343]

DESCRIPTION OF THE OFFENSE

24. The Grand Jury realleges and incorporates by reference Paragraphs 1 through 23 of the Superseding Indictment as if fully set forth herein.

25. Various corporations and individuals, not made defendants in this Superseding Indictment, participated as co-schemers in the offense charged herein and performed acts and made statements in furtherance of the scheme and artifice to defraud set forth below. These co-schemers are both known and unknown to the Grand Jury.

26. Beginning at least as early as in or about November 2018, and continuing until at least as late as on or about December 7, 2021, the exact dates being unknown to the Grand Jury, in the Western District of Texas and elsewhere, the Defendants

**(1) HYUK JIN KWON,
(2) HYUN KI SHIN,
(3) HYE YEON JO, and
(4) DESCA CO. LTD.**

and their co-schemers aided and abetted, and knowingly and with intent to defraud, devised and intended to devise a scheme and artifice to defraud the United States of money and property, and to obtain money and property by means of false and fraudulent pretenses, representations, and promises, knowing they were false and fraudulent when made, for the purpose of executing such scheme and artifice and attempting to do so.

OBJECTS OF THE SCHEME

27. The essential objects of the scheme were for the Defendants and their co-schemers, and others known and unknown to the Grand Jury, to unlawfully enrich themselves and others by obtaining money from the United States, and agencies thereof, by fraudulently submitting rigged bids and fixing prices for subcontract work that ostensibly satisfied the requirements of agencies of the U.S. Department of Defense that subcontract work be awarded through a competitive process.

MANNER AND MEANS

28. The manner and means by which the Defendants and their co-schemers, together with others, known and unknown to the Grand Jury, sought to accomplish the purpose of the scheme and artifice to defraud included, among other things, the means and methods set forth in Paragraph 14 of the Superseding Indictment.

29. In furtherance of the scheme, the Defendants and their co-schemers, together with others, by interstate and foreign wire, caused to be sent and received items such as money transfers.

EXECUTION OF THE SCHEME

30. On or about the dates stated below, in the Western District of Texas and elsewhere, the Defendants and their co-schemers, together with others, for the purpose of executing the scheme described above, caused to be transmitted by means of wire communication in interstate and foreign commerce the signals and sounds, including money transfers, described below for each count, each transmission constituting a separate count:

Count	Approximate Date	Description
3	April 17, 2020	International wire payment originating in the United States from J&J Maintenance to J&J Korea for approximately \$45,450.00
4	June 19, 2020	International wire payment originating in the United States from J&J Maintenance to J&J Korea for approximately \$72,022.47
5	July 2, 2020	International wire payment originating in the United States from J&J Maintenance to J&J Korea for approximately \$446,154.00
6	September 10, 2020	International wire payment originating in the United States from J&J Maintenance to J&J Korea for approximately \$744,883.03
7	September 28, 2020	International wire payment originating in the United States from J&J Maintenance to J&J Korea for approximately \$50,281.00
8	October 5, 2020	International wire payment originating in the United States from J&J Maintenance to J&J Korea for approximately \$186,231.00

ALL IN VIOLATION OF TITLE 18, UNITED STATES CODE, SECTION 1343.

NOTICE OF GOVERNMENT'S DEMAND FOR FORFEITURE

[See Fed. R. Crim. P. 32.2]

I.

Wire Fraud Violations and Forfeiture Statutes

[Title 18 U.S.C. § 1343 and § 1349, subject to forfeiture pursuant to Title 18 U.S.C. § 981(a)(1)(C), made applicable to criminal forfeiture by 28 U.S.C. § 2461(c)]

As a result of the foregoing criminal violations set forth in Counts Two through Eight, the United States of America gives notice to the Defendants of its intent to seek the forfeiture of property, upon conviction and as part of sentencing pursuant to FED. R. CRIM. P. 32.2 and 18 U.S.C. § 981(a)(1)(C). Section 981 specifically provides, in pertinent part, the following:

18 U.S.C. § 981. Civil Forfeiture

(a)(1) The following property is subject to forfeiture to the United States . . .

(C) Any property, real or personal, which constitutes or is derived from proceeds traceable to . . . any offense constituting “specific unlawful activity” (as defined in section 1956(c)(7) of this title), or a conspiracy to commit such offense.

II.

Money Judgment

Money Judgment: A sum of money which represents the amount of proceeds the defendants obtained directly or indirectly as a result of the violations set forth above for which the Defendant is liable.

III.

Substitute Property

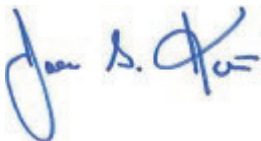
If any property subject to forfeiture for the violations set forth above, as a result of any act or omission of the Defendants:

- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third party;
- c. has been placed beyond the jurisdiction of the court;
- d. has been substantially diminished in value; or
- e. has been commingled with other property which cannot be divided without difficulty;

it is the intent of the United States of America to seek forfeiture of any other property of the Defendant, up to the value of said money judgment, as substitute property pursuant to Title 21 U.S.C. § 853(p) and Fed. R. Crim. P. 32.2(e)(1).

A TRUE BILL

FOREPERSON



JONATHAN KANTER
Assistant Attorney General
Antitrust Division
U.S. Department of Justice



JAMES J. FREDRICKS
Chief, Washington Criminal II Section
Antitrust Division
U.S. Department of Justice



DANIEL E. LIPTON
DANIEL P. CHUNG
Antitrust Division
U.S. Department of Justice
Washington Criminal II Section
450 5th Street, N.W.
Washington, DC 20530
Tel: (202) 598-2438
Email: daniel.lipton@usdoj.gov