

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA

v.

**AMCEL CORP.,
DISPOZ-O PLASTICS, INC.,
LLOYD GORDON, and
PETER IACOVELLI,

Defendants.**

Crim. No.: 96-40013NMG

Violations:

15 U.S.C. § 1

18 U.S.C. § 2

Filed: [6/26/96]

Judge: Brody

INDICTMENT

The Grand Jury charges:

1. AMCEL CORP., DISPOZ-O PLASTICS, INC., LLOYD GORDON, and PETER IACOVELLI are indicted and made defendants on the charge stated below.

DESCRIPTION OF THE OFFENSE

2. Beginning at least as early as November 1991 and continuing at least until April, 1992, the exact dates being unknown to the Grand Jury, the defendants and co-conspirators entered into and engaged in a combination and conspiracy to fix prices of certain disposable plastic cutlery products sold throughout the United States. The combination and conspiracy unreasonably restrained interstate trade and commerce in violation of Title 15, United States Code, Section 1, commonly known as the Sherman Antitrust Act.

3. The charged conspiracy consisted of a continuing agreement, understanding, and concert of action among the defendants and co-conspirators, the substantial term of which was to fix the price of certain disposable plastic cutlery products by establishing and implementing price increases for those products.

DEFENDANTS AND CO-CONSPIRATORS

4. Defendant AMCEL CORP. ("AMCEL") is a corporation organized and existing under the laws of the Commonwealth of Massachusetts with its principle place of business in Watertown, Massachusetts. During the period covered by this Indictment, defendant AMCEL manufactured and sold disposable plastic cutlery throughout the United States.

5. During the period covered by this Indictment, defendant LLOYD GORDON ("GORDON") was the president and owner of defendant AMCEL.

6. Defendant DISPOZ-O PLASTICS, INC. ("DISPOZO") is a corporation organized and existing under the laws of the State of South Carolina with its principle place of business in Fountain Inn, South Carolina. During the period covered by this Indictment, defendant DISPOZO manufactured and sold disposable plastic cutlery throughout the United States.

7. During the period covered by this Indictment, defendant PETER IACOVELLI ("IACOVELLI") was the president and owner of defendant DISPOZO.

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

THE PLASTIC CUTLERY INDUSTRY

9. Defendants AMCEL and DISPOZO manufacture, among other things, plastic cutlery, including knives, forks, spoons and sporks. Plastic cutlery is manufactured using either polypropylene or polystyrene resin purchased from petrochemical companies. Polypropylene cutlery is flexible and generally less expensive than polystyrene cutlery, which is rigid and considered a more upscale product. In addition, plastic cutlery is sold in different weights (e.g., light-, medium- and heavy-weight). Medium-weight polypropylene cutlery is one of the most popular and best selling types of plastic cutlery.

10. The defendant corporations sell plastic cutlery nationwide to distributors and end-users in the food service industry, however, defendants AMCEL's and DISPOZO's sales are strongest in the eastern part of the United States. Each of the defendant corporations sells medium-weight polypropylene cutlery. Sales of plastic cutlery may be at list prices or, much more frequently, on the basis of some negotiated discount off of list prices.

BACKGROUND OF THE CONSPIRACY

11. Since at least 1990 defendants GORDON and IACOVELLI have discussed cutlery pricing with various individuals employed by competing cutlery manufacturers. These discussions often occurred around the time of industry-wide plastic cutlery price increases.

12. Most of the major cutlery manufacturers in the U.S. announced price increases in October and November 1990, and again in May 1991. Before both price increases, defendant GORDON had contacts with Andrew Liebmann ("Liebmann"), an executive of Polar Plastics ("Polar"), during which defendant GORDON asked Liebmann to agree to increase Polar's prices on certain cutlery items. In addition, around the time of the May 1991 price increase announcement, defendant GORDON called defendant IACOVELLI to discuss pricing of plastic cutlery.

MEANS AND METHODS OF THE CONSPIRACY

13. For the purpose of forming and carrying out the charged conspiracy, the defendants and co-conspirators, among other things:

- a.met at an industry trade show in October 1991 to discuss the need for a price increase;
- b.held a secret meeting at the LaGuardia Airport in New York on November 25, 1991 to discuss and agree upon price increases for certain plastic cutlery products;

- c.reached agreements during the LaGuardia Airport meeting to raise prices of certain plastic cutlery products;
- d.agreed to implement the price-fixing scheme by announcing floor prices for certain plastic cutlery products;
- e.discussed and agreed during the LaGuardia Airport meeting that Polar would be the first conspirator to announce the agreed upon floor prices to its customers;
- f.issued price increase announcements establishing floor prices consistent with the price-fixing agreement reached during the LaGuardia Airport meeting;
- g.contacted each other by telephone or otherwise to implement, monitor and police the agreement; and
- h.attempted to conceal the conspiracy by, among other things, taking steps to leave no record of their attendance at the LaGuardia Airport meeting.

TRADE AND COMMERCE

14. During the period covered by this Indictment, the defendants and co-conspirators sold and shipped plastic cutlery in a continuous and uninterrupted flow of interstate commerce to customers located in states other than the states in which the defendants and co-conspirators produced the plastic cutlery.

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

JURISDICTION AND VENUE

16. The combination and conspiracy charged in this Indictment was carried out, in part, within the Eastern District of Pennsylvania within the five years preceding the return of this Indictment.

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

TITLE 18, UNITED STATES CODE, SECTION 2.

A TRUE BILL

Dated:

_____/s/_____
FOREPERSON

_____/s/_____
Anne K. Bingaman
Assistant Attorney General

_____/s/_____
J. Brady Dugan

_____/s/_____
Gary R. Spratling
Deputy Assistant Attorney General

_____/s/_____
Scott D. Hammond

_____/s/_____
Anthony Nanni

_____/s/_____
Peter J. Levitas

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_____/s/_____
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