

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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:
UNITED STATES OF AMERICA :
 : **Criminal No.:** [97CR:14 (KMW)]
 v. : **Filed:** [1/9/97]
IRWIN ENGLANDER : **Violation:** 18 U.S.C. §371
 a\k\a Buzz, :
 Defendant. : **Judge:** Wood
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INFORMATION

The United States of America, acting through its attorneys, charges:

1. Irwin Englander is hereby made a defendant on the charge stated below.

DEFENDANT AND CO-CONSPIRATORS

2. Irwin Englander ("Englander") is a resident of Fort Lauderdale, Florida. During the period covered by this Information, Englander was employed in the marketing departments of W.A. Taylor, Inc. ("Taylor"), an importer and distributor of alcoholic beverages located in Florida, and its parent company, Hiram Walker & Sons, Inc. ("Hiram Walker"), a manufacturer, importer and distributor of alcoholic beverages located in Southfield, Michigan. At both companies, he had responsibility for selecting and negotiating contracts with suppliers of display materials.

3. Whenever in this Information reference is made to any act, deed, or transaction of any corporation, such allegation shall be deemed to mean that the corporation engaged in such 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.

4. Various persons and firms, not made defendants herein, participated as co-conspirators in the offense charged herein and performed acts and made statements in furtherance thereof.

DEFINITION

5. "Display materials" refers to the manufacture, assembly, or packaging of any point-of-purchase display materials, including but not limited to display stands, posters, banners, counter cards, or sell sheets, used for the advertising or promotion of consumer goods, primarily in retail stores.

JURISDICTION AND VENUE

6. The aforesaid conspiracy was formed and carried out, in part, within the Southern District of New York within the five years preceding the filing of this Information.

DESCRIPTION OF THE OFFENSE

7. From at least as early as July 1988 and continuing until at least February 1994, the exact dates being unknown to the United States, the defendant Englander and co-conspirators did unlawfully, willfully and knowingly conspire, combine, confederate and agree to devise a scheme and artifice to defraud and obtain money from Englander's employers, Taylor and Hiram Walker, and to deprive Taylor and Hiram Walker of the intangible right of his honest services, by means of false and fraudulent

pretenses, representations and promises, which scheme and artifice was executed by and through the use of the United States mails, in violation of 18 U.S.C. §1341 and §1346, all in violation of 18 U.S.C. §371.

GOALS OF THE CONSPIRACY

8. The scheme and artifice to defraud and obtain money from defendant Englander's employers, Taylor and Hiram Walker, resulted in the payment of money ("kickbacks") to Englander by three suppliers of display materials without the knowledge of Englander's employers. The prices charged Taylor and Hiram Walker by these display suppliers were affected by the scheme. The scheme also resulted in the employers being deprived of their intangible right to have their employee Englander perform his job in an honest fashion.

THE MANNER AND MEANS BY WHICH THE CONSPIRACY WAS CARRIED OUT

The manner and means by which the conspiracy was sought to be accomplished included, among others, the following:

9. From July 1988 to January 1992, defendant Englander was responsible for negotiating and contracting with Taylor's suppliers of display materials, and he caused Taylor to enter into contracts with co-conspirators who were suppliers of display materials. One of the co-conspirators, hereinafter referred to as Supplier A, was an individual doing business as a company located in Short Hills, New Jersey; a second co-conspirator, hereinafter referred to as Supplier B, was an individual who represented two companies, Company B and Company B1, both located

in Milwaukee, Wisconsin. Supplier A agreed to pay defendant Englander kickbacks on the contracts Englander caused Taylor to award to Supplier A, and Supplier B agreed to pay defendant Englander kickbacks on the contracts Englander caused Taylor to award to Company B and Company B1.

10. From February 1992 to September 1993, defendant Englander was responsible for negotiating and contracting with Hiram Walker's suppliers of display materials, and he caused Hiram Walker to enter into contracts with Supplier B and a third co-conspirator, also a supplier, hereinafter referred to as Supplier C, a corporation located in North Bergen, New Jersey. Supplier B agreed to pay defendant Englander kickbacks on those contracts Englander caused Hiram Walker to award to Company B and Company B1. Supplier C agreed to pay defendant Englander kickbacks on those contracts Englander caused Hiram Walker to award to Supplier C.

11. In June 1991, at the suggestion of Supplier B, defendant Englander opened a bank account under the fictitious name Galex E Sales & Marketing ("Galex E"). Defendant Englander incorporated Galex E in June 1993.

12. From at least July 1988 through at least December 1991, Supplier A caused approximately thirty-seven checks payable to Irwin Englander and totaling approximately \$467,000 to be mailed or hand-delivered to defendant Englander's home address, which at the time was in Hollywood, Florida. Defendant Englander

deposited the checks in his own bank account and, after May 1991, in the Galex E bank account.

13. From at least May 1991 through at least October 1992, Supplier B caused approximately twenty-four checks payable to Galex E and totaling approximately \$135,000 to be mailed to defendant Englander's home address at the time in Hollywood, Florida and, after December 1991, in Michigan. Defendant Englander deposited the checks in the Galex E bank account.

14. By July 1993, a time when defendant Englander was still employed at Hiram Walker, Supplier C owed him approximately \$209,000 in kickbacks, which it paid to him by using Company B1 as a "middleman" in the following manner. From approximately July 1993 until approximately August 1993, Supplier B caused Company B1 to send five false invoices to Supplier C for what purported to be "consulting" services provided to Supplier C. Supplier C paid those invoices by mailing four checks totaling approximately \$209,000 to Company B1. Then, from September 1993 to February 1994, Company B1 mailed four checks, payable to Galex E and drawn on its account, totaling approximately \$178,000 to defendant Englander's home address, which was at the time in New Jersey; Company B1 kept the difference of approximately \$31,000 for itself. Defendant Englander deposited the checks in the Galex E bank account.

15. From approximately November 1993 until approximately December 1993, defendant Englander sent Supplier C three false invoices that purported to be for "consulting" services performed

by Galex E. Supplier C paid those invoices by mailing or hand-delivering three checks payable to Galex E and totaling approximately \$79,000 to defendant Englander. Defendant Englander deposited the checks in the Galex E bank account.

OVERT ACTS

In furtherance of the conspiracy, and to effect the objects thereof, the following overt acts were committed in the Southern District of New York, and elsewhere:

16. From 1988 through 1991, Supplier A mailed or hand-delivered approximately thirty-seven checks totaling approximately \$467,000 to defendant Englander, which he deposited in either his own account or, after May 1991, in the Galex E account.

17. Defendant Englander opened a bank account in Florida in June 1991 under the fictitious name Galex E Sales & Marketing. He incorporated Galex E in June 1993, also in Florida.

18. In 1991 and 1992, defendant Englander received by mail approximately twenty-four checks totaling approximately \$135,000 from Company B and Company B1, which he deposited in the Galex E account.

19. In the fall of 1992, defendant Englander met with two principals of Supplier C at a hotel room in New York, New York and they agreed that Supplier C would pay defendant Englander kickbacks on those contracts Englander caused Hiram Walker to award to it.

20. In or around July and August 1993, Company B1 sent Supplier C five false invoices that purported to be for "consulting" services. Supplier C then sent Company B1, which it knew was acting as a "middleman" for defendant Englander, four checks totaling approximately \$209,000, this sum being what it owed to defendant Englander for contracts Englander caused to be awarded to Supplier C.

21. In November and December 1993, defendant Englander mailed three false invoices to Supplier C that purported to be for "consulting" services performed by Galex E. Supplier C then mailed or hand-delivered three checks payable to Galex E for approximately \$79,000 to defendant Englander, which he deposited in the Galex E account.

22. From about September 1993 to about February 1994, Company B1 mailed four checks, payable to Galex E, totaling approximately \$178,000 to defendant Englander. Defendant Englander deposited those checks in the Galex E bank account.

IN VIOLATION OF TITLE 18, UNITED STATES CODE, SECTION 371.

Dated:

_____/s/_____
JOEL I. KLEIN
Acting Assistant Attorney General

_____/s/_____
REBECCA MEIKLEJOHN

_____/s/_____
GARY R. SPRATLING
Deputy Assistant Attorney General

_____/s/_____
JEFFREY J. CORRIGAN

_____/s/_____
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