

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK

| | |
|-----------------------------------|--------------------------------------|
| _____) | Filed: [5/8/97] |
| UNITED STATES OF AMERICA) | |
|) | |
| v.) | Criminal No.: 94-CR-0017-S(1) |
|) | |
| WASHINGTON MILLS COMPANY, INC.,) | Violations: |
|) | Title 18 U.S.C. § 401(3) |
| Defendant.) | Title 18 U.S.C. § 2(a) |
| _____) | Judge: Skretny |

INFORMATION

The United States of America by its attorneys, charges:

1. Washington Mills Company, Inc. ("Washington Mills") is made a defendant in this Information.

2. During all or part of the period covered by this Information, Washington Mills existed under the laws of the Commonwealth of Massachusetts and had its principal place of business in North Grafton, Massachusetts.

3. During all or part of the period covered by this Information, Exolon-ESK Company ("Exolon"), existed under the laws of Delaware and had its principal place of business in Tonawanda, New York.

4. Whenever in this Information, reference is made 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 actively were engaged in the management, direction, control, or transaction of its business or affairs.

5. During the period covered by this Information, Washington Mills manufactured and sold aluminum oxide and silicon carbide ("artificial abrasive grain") in the United States.

I.

PRIOR JUDGMENT OF THIS COURT

6. On December 15, 1947, the United States filed a complaint in this Court, captioned United States of America v. Abrasive Grain Association, et al., Civil No. 3672, charging various manufacturers of artificial abrasive grain with combining and conspiring to fix, stabilize, and maintain arbitrary and non-competitive prices for artificial abrasive grain in violation of Section 1 of the Sherman Act (15 U.S.C. § 1). On November 16, 1948, a Final Judgment was entered by this Court, upon the consent of all defendants and the United States.

7. Section V of the Final Judgment perpetually enjoins The Exolon Company and each of the other named defendants from "circulating or exchanging, directly or indirectly, any price lists, or price quotations, with or among any manufacturer of artificial abrasive grain in advance of the publication, circulation, or communication of such price lists or price quotations to its purchasers and distributors."

8. The Final Judgment is binding upon Exolon and its officers pursuant to Section III of the Final Judgment which provides: "The provisions of this judgment applicable to the defendants apply to their successors, officers, directors, agents, employees, and to any other persons acting under, through, or for such defendants."

9. With knowledge of the existence of the Final Judgment and the prohibitions contained in Section V of the Final Judgment, Washington Mills aided and abetted Exolon in disobeying this Court's lawful and specific Order when, on or about February 18, 1986, a former sales manager circulated a Washington Mills price quotation to Exolon in advance of the publication, circulation, or communication of such price quotation to its purchaser, in violation of Section V of the Final Judgment.

II.

JURISDICTION

10. This Court has jurisdiction over this matter under Title 18, United States Code, Section 401(3), and Section XII of the Final Judgment entered by this Court which provides:

Jurisdiction of this action is retained for the purpose of enabling any of the parties to this judgment to apply to the Court at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out of this judgment, for the modification or termination of any of

the provisions thereof, for the enforcement
of compliance therewith and punishment of
violations thereof.

ALL IN VIOLATION OF TITLE 18, UNITED STATES CODE, SECTION 401(3)
AND TITLE 18, UNITED STATES CODE, SECTION 2(a).

Dated:

_____/s/_____
Joel I. Klein
Acting Assistant Attorney General

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

_____/s/_____
Anthony V. Nanni
Chief, Litigation I

_____/s/_____
Patrick H. NeMoyer
United States Attorney
Western District of New York

_____/s/_____
David A. Blotner
Assistant Chief, Litigation I
U.S. Department of Justice
Antitrust Division
1401 H Street, N.W.
Washington, DC 20530
(202) 307-6695