

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA) Criminal No.: 97-CR-60594
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 v.)
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R.P. MYERS, INC.;)
R.C. SIEBERT, INC.;) Filed: 9/30/97
C.P. WARD, INC.;)
XERXES UTILITIES CONTRACTORS, INC.;)
RICHARD A. ASH;)
MICHAEL CIRANNI;)
ROBERT G. HOOPER; and) Violation: 15 U.S.C. §1
RICHARD P. MYERS,)
)
 Defendants.)
-----) Judge Larimer

INDICTMENT

The Grand Jury charges:

1. R.P. Myers, Inc., R.C. Siebert, Inc., C.P. Ward, Inc., Xerxes Utilities Contractors, Inc. (Xerxes), Richard A. Ash, Michael Ciranni, Robert G. Hooper, and Richard P. Myers are hereby indicted and made defendants.

DESCRIPTION OF THE OFFENSE

2. Beginning at least as early as 1987 and continuing until at least May 1993, the exact dates being unknown to the Grand Jury, the defendants and co-conspirators engaged in a combination and conspiracy in unreasonable restraint of interstate trade and commerce in violation of Section 1 of the Sherman Act (15 U.S.C. §1).

3. The aforesaid combination and conspiracy consisted of a continuing agreement, understanding, and concert of action among the defendants and co-conspirators, the substantial terms of which were to allocate and to rig bids on contracts for utility construction awarded by Rochester Gas & Electric (RG&E).

4. For the purpose of forming and effectuating the aforesaid combination and conspiracy, the defendants and co-conspirators did those things which they combined and conspired to do, including among other things:

(a) participating in meetings and conversations to discuss the allocation of, and the prices to be bid on, contracts for utility construction for RG&E;

(b) agreeing on the designated winner and the prices to be bid on contracts for utility construction for RG&E; and

(c) receiving payments from RG&E for performance of utility construction contracts that were awarded on the basis of collusive and rigged bids.

DEFENDANTS AND CO-CONSPIRATORS

5. R.P. Myers, Inc., is a New York corporation with its principal place of business in Rochester, New York. During the period covered by this indictment, R.P. Myers, Inc., was engaged in the business of utility construction.

6. R.C. Siebert, Inc., is a New York corporation with its principal place of business in Rochester, New York. During the period covered by this indictment, R.C. Siebert, Inc., was engaged in the business of utility construction.

7. C.P. Ward, Inc., is a New York corporation with its principal place of business in Scottsville, New York. During the period covered by this indictment, C.P. Ward, Inc., was engaged in the business of utility construction.

8. Xerxes Utilities Contractors, Inc., is a New York corporation with its principal place of business in Farmington, New York. During the period covered by this indictment, Xerxes was engaged in the business of utility construction.

9. During the period covered by this indictment, Richard A. Ash was the president and a principal shareholder of C.P. Ward, Inc.

10. During the period covered by this indictment, Michael Ciranni was the executive vice president of Xerxes.

11. During part of the period covered by this indictment, Robert G. Hooper was a vice president and shareholder of R.C. Siebert, Inc.

12. During the period covered by this indictment, Richard P. Myers was the president and principal shareholder of R.P. Myers, Inc.

13. Whenever in this indictment 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 representatives while they were actively engaged in the management, direction, control, or transaction of its business or affairs.

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

TRADE AND COMMERCE

15. Utility construction involves, among other things, the underground installation, repair and maintenance of facilities, such as gas pipe and electrical conduit, for the transmission of utilities, such as gas and electricity, to customers.

16. During the period covered by this indictment, substantial quantities of equipment used by the defendants and co-conspirators for such utility construction were purchased or otherwise obtained by the defendants and co-conspirators from suppliers located outside the State of New York and shipped across state lines in a continuous and uninterrupted flow of interstate commerce to locations within the State of New York. In addition, substantial amounts of equipment were purchased or otherwise obtained by the defendants and co-conspirators within the State of New York and payments for that equipment were sent directly to a location outside the State of New York.

17. During the period covered by this indictment, substantial quantities of steel pipe and other materials used by the defendants and co-conspirators for RG&E utility construction jobs were produced in plants located outside the State of New York and shipped across state lines to RG&E facilities within the State of New York and then transported to job sites within the State of New York in a continuous and uninterrupted flow of interstate commerce.

18. During the period covered by this indictment, C.P. Ward, Inc., had a branch office located in Largo, Florida. C.P. Ward, Inc., occasionally transferred employees and equipment between its New York and Florida branches.

19. During the period covered by this indictment, the activities of the defendants and co-conspirators with respect to the performance of utility construction contracts for RG&E that are the subject of this indictment were within the flow of, and substantially affected, interstate trade and commerce.

JURISDICTION AND VENUE

20. The aforesaid combination and conspiracy was formed and carried out, in part, within the Western District of New York within the five years preceding the return of this indictment.

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

Dated:

A TRUE BILL

_____/s/_____
FOREPERSON

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

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

_____/s/_____
JOHN T. ORR
Director of Criminal Enforcement

_____/s/_____
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_____/s/_____
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