

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA	:	Criminal No.: 00 CR 597 (TPG)
v.	:	
ALAN SCHNEIDER;	:	Filed: June 1, 2000
PAUL SCHNEIDER; and	:	
FOOD SERVICE PURCHASING AGENCY, INC.	:	Violations: 15 U.S.C. § 1
d/b/a PENNCO,	:	26 U.S.C. § 7201
	:	
Defendants.	:	

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INFORMATION

COUNT ONE -- SHERMAN ACT CONSPIRACY  
(15 U.S.C. § 1)

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

1. Alan Schneider, Paul Schneider, and Food Service Purchasing Agency, Inc. d/b/a Pennco ("Pennco") are hereby made defendants on the charge stated below.

I. THE RELEVANT PARTIES AND ENTITIES

During the period covered by this Count:

2. Alan Schneider resided in New City, New York. Alan Schneider was the president and a co-owner of Pennco.

3. Paul Schneider resided in Pomona, New York. Paul Schneider was the vice president and a co-owner of Pennco.

4. Pennco was a New York State corporation located in the Bronx, New

York. Pennco was a vendor of food, primarily frozen foods and fresh meats and poultry.

5. The Board of Education of the City of New York ("NYCBOE") was the entity responsible for operating New York City's public school system, the largest in the United States. Its annual budgets, which approached \$10 billion, were funded by the federal, state, and city governments. It serviced a student population of nearly 1.1 million and operated more than 1,500 facilities. It served approximately 640,000 lunches and 150,000 breakfasts every school day, the majority of which were subsidized by various government programs, primarily those programs established pursuant to the National School Lunch Act of 1946 and administered by the United States Department of Agriculture.

6. The NYCBOE solicited bids from, and awarded contracts to, vendors of food on a regular basis. The primary food contracts awarded by the NYCBOE were requirements contracts that obligated the vendors to supply and deliver food at the stated prices for the contract period. Both public and non-public schools received food pursuant to these contracts. Individual schools placed orders as needed, usually once or twice a week.

7. The NYCBOE sought separate bids, and awarded separate contracts, for the supply of a number of categories of food, including frozen food, produce, and groceries. Each of these bids and contracts was divided into

parts, usually geographically by borough. The company bidding the lowest price for a particular part of a contract usually received an award for that part. The term of most of these contracts varied from three to six months. Toward the expiration of the contract period, the NYCBOE again solicited bids for the supply of food.

8. In addition to the contracts described in Paragraphs 6 and 7, the NYCBOE occasionally sought bids and awarded contracts for furnishing and delivering specified quantities of grocery and frozen food items to be warehoused.

9. The NYCBOE required bidders to certify, under penalty of perjury, that, among other things, the prices in their bids had been arrived at independently without collusion, consultation, communication, or agreement for the purpose of restricting competition as to any matter relating to such prices, with any other bidder or with any competitor.

10. Whenever in this Count 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.

11. 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.

## II. TRADE AND COMMERCE

12. During the period covered by this Count, Pennco purchased substantial quantities of food, including frozen food, for resale to the NYCBOE from brokers, who ordered their goods on behalf of Pennco from suppliers located throughout the United States. These suppliers commonly shipped the goods ordered by the brokers directly to Pennco.

13. From approximately May 1996 until approximately April 1999, pursuant to contracts that are the subject of this Count, the NYCBOE purchased approximately \$126 million of frozen food from members of the conspiracy, including approximately \$12 million of frozen food from Pennco.

14. The activities of the defendants and co-conspirators with respect to the sale of food to the NYCBOE, including the sale of frozen food pursuant to contracts that are the subject of this Count, were within the flow of, and substantially affected, interstate trade and commerce.

## III. DESCRIPTION OF THE OFFENSE

15. From approximately May 1996 until approximately April 1999, the

exact dates being unknown to the United States, 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 (Title 15, United States Code, Section 1).

16. 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 rig bids and allocate contracts for the supply of frozen food to the NYCBOE.

17. 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) Prior to the submission of bids, they participated in meetings and conversations where they discussed and agreed how to bid so as to divide upcoming contracts to supply frozen food to the NYCBOE. These meetings were held at different sites in or near New York City, including the Crowne Plaza LaGuardia Hotel in Queens; the Ramada Inn or Courtyard by Marriott at LaGuardia in Queens; the offices of one of the co-conspirators at the Bronx Terminal Market; a meeting room available to the businesses operating at the Hunts Point Food Distribution Center in the Bronx; and a food trade show at the Meadowlands in East Rutherford, New Jersey;

(b) They designated which co-conspirators would be the low bidders, among the co-conspirators, on specified parts of contracts to supply frozen food to the NYCBOE;

(c) They discussed and agreed on the prices or price levels they would bid on specified parts of contracts to supply frozen food to the NYCBOE, and then bid accordingly;

(d) They refrained from bidding or submitted intentionally high, complementary bids on specified parts of contracts to supply frozen food to the NYCBOE;

(e) They gave substantial amounts of cash to a co-conspirator, with the understanding that he would use the cash to pay other potential bidders not to bid competitively on particular contracts to supply food to the NYCBOE;

(f) They shared the net profits earned on contracts to furnish and deliver specified quantities of frozen food items to be warehoused by giving each other money or free merchandise;

(g) Alan Schneider and Paul Schneider agreed to receive and, in fact, did receive substantial amounts of money from their co-conspirators, in exchange for which Pennco did not bid competitively on particular contracts awarded by the NYCBOE for frozen food to be warehoused; and

(h) They falsely certified, under penalty of perjury, that, among other

things, the prices in their bids had been arrived at independently without collusion, consultation, communication, or agreement for the purpose of restricting competition as to any matter relating to such prices, with any other bidder or competitor.

#### IV. JURISDICTION AND VENUE

18. The aforesaid combination and 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.

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

#### COUNT TWO -- INCOME TAX EVASION (26 U.S.C. § 7201)

The United States of America further charges:

19. Alan Schneider is hereby made a defendant on the charge stated below.

20. Paragraph 2 and Paragraphs 4 through 11 of Count One of this Information are repeated, realleged, and incorporated in Count Two as if fully set forth in this Count.

21. From approximately May 1996 until approximately April 1999, Alan Schneider participated in a conspiracy pursuant to which the co-conspirators agreed, among other things, to rig the bids for and thereby divide certain

contracts awarded by the Board of Education of the City of New York for frozen food items to be warehoused. The co-conspirators also agreed to share among themselves the net profits earned from those contracts. As a result of this agreement, two checks totaling \$92,077 were issued by co-conspirators to Food Service Purchasing Agency, Inc. The checks were not deposited into any bank account operated by Food Service Purchasing Agency, Inc., nor were they recorded as cash receipts in Food Service Purchasing Agency, Inc.'s books and records. Rather, Alan Schneider and his brother Paul Schneider divided the money, and each deposited his share into a private investment account.

22. On or about April 15, 1997 and April 15, 1998, in the Southern District of New York and elsewhere, Alan Schneider did unlawfully, willfully, and knowingly attempt to evade and defeat a large part of the income tax due and owing by him and his spouse to the United States of America for each of the tax years 1996 and 1997, by filing and causing to be filed with the Internal Revenue Service Center, false and fraudulent U.S. Individual Income Tax Returns, Forms 1040, wherein he and his spouse failed to report as income \$22,503 in 1996 and \$23,535 in 1997, those amounts representing Alan Schneider's share of the net profits earned from certain contracts awarded by the NYCBOE for which the bids had been rigged; whereas, as he then and there well knew and believed, their true taxable income for those calendar years was substantially in excess of the specific sums reported, upon which additional taxable income there was owing



to the United States of America substantial additional income tax.

IN VIOLATION OF TITLE 26, UNITED STATES CODE, SECTION 7201

COUNT THREE -- INCOME TAX EVASION  
(26 U.S.C. § 7201)

The United States of America further charges:

23. Paul Schneider is hereby made a defendant on the charge stated below.

24. Paragraphs 3 through 11 of Count One of this Information are repeated, realleged, and incorporated in Count Three as if fully set forth in this Count.

25. From approximately May 1996 until approximately April 1999, Paul Schneider participated in a conspiracy pursuant to which the co-conspirators agreed, among other things, to rig the bids for and thereby divide certain contracts awarded by the NYCBOE for frozen food items to be warehoused. The co-conspirators also agreed to share among themselves the net profits earned from those contracts. As a result of this agreement, two checks totaling \$92,077 were issued by co-conspirators to Food Service Purchasing Agency, Inc. The checks were not deposited into any bank account operated by Food Service Purchasing Agency, Inc., nor were they recorded as cash receipts in Food Service Purchasing Agency, Inc.'s books and records. Rather, Paul Schneider and his brother Alan Schneider divided the money, and each deposited his share into

a private investment account.

26. On or about April 15, 1997 and April 15, 1998, in the Southern District of New York and elsewhere, Paul Schneider did unlawfully, willfully, and knowingly attempt to evade and defeat a large part of the income tax due and owing by him and his spouse to the United States of America for each of the calendar years 1996 and 1997, by filing and causing to be filed with the Internal Revenue Service Center, false and fraudulent U.S. Individual Income Tax Returns, Forms 1040, wherein he and his spouse failed to report as income \$22,503 in 1996 and \$23,536 in 1997, those amounts representing Paul Schneider's share of the net profits earned from certain contracts awarded by the NYCBOE for which the bids had been rigged; whereas, as he then and there well knew and believed, their true taxable income for those calendar years was substantially in excess of the specific sums reported, upon which additional taxable income there was owing to the United States of America substantial additional income tax.

IN VIOLATION OF TITLE 26, UNITED STATES CODE, SECTION 7201

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