

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

UNITED STATES OF AMERICA)	
)	
v.)	Criminal No. CR-01-N-135-S
)	
ABB MIDDLE EAST & AFRICA)	Filed: April 11, 2001
PARTICIPATIONS AG,)	
)	Violation: 15 U.S.C. § 1
Defendant.)	
)	

INFORMATION

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

I

DESCRIPTION OF THE OFFENSE

1. ABB MIDDLE EAST & AFRICA PARTICIPATIONS AG ("ABB MEA")
is made a defendant on the charge stated below.
2. Beginning at least as early as June 1989 and continuing until at least September 20, 1996, the defendant and co-conspirators entered into and participated in a combination and conspiracy to suppress and eliminate competition by rigging the bids on Contract 29, a wastewater construction contract funded by the United States Agency for International Development ("USAID") and performed in the Arab Republic of Egypt. The combination and conspiracy engaged in by the

defendant and co-conspirators was in unreasonable restraint of interstate and foreign trade and commerce in violation of Section 1 of the Sherman Act, 15 U.S.C. § 1.

3. The charged combination and conspiracy consisted of a continuing agreement, understanding, and concert of action among the defendant and co-conspirators, the substantial terms of which were to rig the bids on Contract 29.

4. For the purpose of forming and carrying out the charged combination and conspiracy, the defendant and co-conspirators did those things that they combined and conspired to do, including, among other things:

- (a) participating in meetings and conversations to discuss rigging the bids on Contract 29;
- (b) agreeing, during those meetings and conversations, to bid at certain levels and otherwise to increase the price level of bids on Contract 29;
- (c) agreeing, during those meetings and conversations, to suppress or eliminate competition on Contract 29;
- (d) agreeing, during those meetings and conversations, that co-conspirators would be compensated \$3.4 million by the defendant in exchange for their commitments to suppress or eliminate competition on Contract 29;

- (e) issuing bid tenders on Contract 29 in accordance with the agreement reached; and
- (f) receiving payments on Contract 29 from USAID.

II

BACKGROUND

5. As a result of the Camp David Peace Accords in the late 1970s, the United States and other Western countries committed to fund extensive rehabilitation work on the water treatment and disposal facilities in the Arab Republic of Egypt. Pursuant to this commitment, USAID, acting on behalf of the United States, funded nearly a billion dollars in work by U.S. construction companies in the late 1980s and early 1990s.

6. The USAID-funded contracts were designed to be awarded to prequalified United States contractors on the basis of competitive sealed bids.

III

DEFENDANT AND CO-CONSPIRATORS

7. During the period covered by this Information, SAE Sadelmi USA, Inc., was a corporation organized and existing under the laws of New York with its principal place of business in North Brunswick, New Jersey. During the relevant period, Elettrofin Societa Anonima Finanziaria Holding (“Elettrofin”), with its principal place of business at Lugano, Switzerland (and later Milan, Italy and subsequently Zurich, Switzerland), was responsible for the direction of its affiliate,

SAE Sadelmi USA, Inc. In February, 1995, Elettrofin was sold to a third party, and prior to the sale, Elettrofin's ownership in other companies was transferred to a successor corporation, which is now known as ABB MIDDLE EAST & AFRICA PARTICIPATIONS AG. SAE Sadelmi USA, Inc. and ABB MEA were, at all times during the relevant period, ultimately one hundred percent subsidiaries of ABB Asea Brown Boveri, Limited, headquartered in Zurich, Switzerland. ABB MEA, under its prior name, engaged in coordinating the bidding efforts of SAE Sadelmi USA, Inc. with its competitors on Contract 29.

8. Various corporations and individuals not made defendants herein participated as co-conspirators in the offense charged and performed acts and made statements in furtherance thereof.

9. Wherever in this Information reference is made to any act, deed, or transaction of a corporation, the reference means that the corporation engaged in the act, deed, or transaction by or through its officers, directors, employees, or representatives while they were actively engaged in the management, direction, control, or transaction of its business or affairs.

IV

TRADE AND COMMERCE

10. During the period covered by this Information, conspirators purchased substantial quantities of supplies, materials, and equipment in anticipation of bidding on and performing Contract 29. The supplies, materials, and equipment

were shipped from the United States to the Arab Republic of Egypt in a continuous and uninterrupted flow of interstate and foreign trade and commerce.

11. During the period covered by this Information, the activities of the defendant and co-conspirators that are the subject of this Information were within the flow of, and substantially affected, interstate and foreign trade and commerce.

V

JURISDICTION AND VENUE

12. The combination and conspiracy charged in this Information was carried out, in part, within the Northern District of Alabama.

13. The combination and conspiracy charged in this Information was carried out, in part, within the five years preceding the filing of this Information.

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

Dated:

/S/

JOHN M. NANNES
Acting Assistant Attorney General

/S/

JOHN T. ORR
Chief, Atlanta Office

/S/

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