

IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF VIRGINIA

Alexandria Division

UNITED STATES OF AMERICA	)	CRIMINAL NO. 1:06CR91
	)	
v.	)	Violation: 15 U.S.C. § 1
	)	
EXECUTIVE RELOCATION	)	Filed: 3/20/06
INTERNATIONAL, INC.,	)	
	)	
Defendant.	)	

**CRIMINAL INFORMATION**

Executive Relocation International, Inc. ("EXECUTIVE") is made a defendant on the charge herein.

**THE UNITED STATES CHARGES THAT:**

**Defendant and Co-Conspirators**

1. Defendant EXECUTIVE is, and was during the relevant period, a U.S. company, organized under the laws of the Commonwealth of Virginia and headquartered in Woodbridge, Virginia. During the relevant period, defendant EXECUTIVE was a freight forwarder, as described in paragraph 5, and was in the business of transporting the household goods owned by U.S. military and civilian Department of Defense ("DOD") personnel ("military household goods").

2. Various companies, partnerships, and individuals, not made defendants in this Information, participated as co-conspirators in the offense charged herein and performed acts and made statements in furtherance of the conspiracy.

3. Whenever this Information refers to any act, deed, or transaction of any company, it means that the company engaged in the act, deed, or transaction by or through its officers, directors, employees, agents, or other representatives while they were actively engaged in the management, direction, or control of its affairs.

### **Background**

4. DOD administers and coordinates its International Through Government Bill of Lading (“ITGBL”) program for the transportation of military household goods between the United States and other countries through the Military Traffic Management Command (“MTMC”). MTMC, recently renamed Surface Distribution and Deployment Command (“SDDC”), is headquartered in Alexandria, in the Eastern District of Virginia. Shipments of military household goods under the ITGBL program are known as “ITGBL traffic.”

5. “Freight Forwarders,” also known as “forwarders” or “carriers,” are U.S. companies that submit ITGBL rates, contract with MTMC, and ultimately shoulder the responsibility for ITGBL shipments.

6. Each ITGBL move is comprised of five steps. A move from Germany to the United States, for example, requires the following: (1) local German agent services, (2) European port agent services, (3) ocean transport services, (4) U.S. port agent services, and (5) U.S. destination agent services. Freight forwarders generally hire subcontractors to perform some of these steps for them.

7. Under the ITGBL program, freight forwarders file “through rates” with MTMC (now SDDC) twice a year in a two-step bidding process. “Through rates,” expressed in dollars per hundredweight (“\$/cwt”), are the rates bid to DOD by U.S.

freight forwarders and paid by DOD for all the moving and transportation services provided in the door-to-door move between a foreign country and the United States. The through rates are specific to “channels,” or routes, to or from a particular state, or portion of a state, and a foreign country (e.g., Germany-Virginia). Of the channels between Europe and the United States, a majority of military household goods tonnage moves to and from approximately twenty high-volume states, including the Commonwealth of Virginia.

8. Each rate filing covers a six-month period, or “cycle.” The summer cycle runs from April 1 through September 30; the winter cycle runs from October 1 through March 31. The ITGBL cycles are referred to by the abbreviation “IS,” for International Summer, or “IW,” for International Winter, combined with the relevant year. Thus, the “IS-01 cycle” is shorthand for the International Summer cycle that ran from April 1, 2001 through September 30, 2001.

9. In the first step of the rate filing process, the “initial filing,” which occurs about six months before the cycle begins, freight forwarders file rates in each channel, eastbound and westbound. In the initial filing, the forwarders may either file a low rate or an “administrative high” rate in order to preserve their right to bid again in the second phase of the bidding process. After the initial filing, MTMC publishes the lowest five (“low-5”) rates offered in each channel and the identities of the freight forwarders filing those rates. The lowest rate bid for a channel is termed the “prime through rate.” In the second, or “me-too,” phase of the bidding process, every forwarder that filed any rate in the initial filing has the opportunity to match, or “me-too,” the prime through rate or to file any rate higher than the prime through rate in each channel.

10. MTMC requires that each freight forwarder certify or affirm in a Certificate of Independent Pricing, incorporated in the Tender of Service which governs the bidding process, that each bid submitted was derived independently, without communication, agreement, understanding, collusion, or any other action in respect to rates or fares with any carrier, competitor, or agent thereof.

11. The freight forwarder that bids the prime through rate is guaranteed a fixed percentage of the traffic in a given channel. The remaining traffic is then awarded seriatim to each forwarder that matched, or “me-toed,” the prime through rate. In this way, over the course of the cycle, the vast majority of shipments in each channel move at the prime through rate. Thus, a forwarder typically must me-too the prime through rate in order to be awarded shipments.

12. For the IW-00 cycle, U.S. freight forwarders were required to file their initial rates by May 23, 2000. Me-too bids were due by August 1, 2000. For the IS-01 cycle, U.S. freight forwarders were required to file their initial rates by November 28, 2000. Me-too bids were due by January 16, 2001.

### **The Offense**

13. Beginning in or about May 2000 and continuing until in or about September 2001 (“the relevant period”), the exact dates being unknown to the United States, defendant EXECUTIVE and co-conspirators entered into and engaged in a combination and conspiracy to suppress and eliminate competition and restrain trade in the market for the transportation of military household goods, by agreeing on the rates in particular channels that defendant EXECUTIVE and a corporate co-conspirator (“FF-1”), a freight forwarder as defined in paragraph 5, would file with MTMC, with the

understanding that co-conspirator FF-1 would service any ITGBL traffic tendered by MTMC to defendant EXECUTIVE. The charged combination and conspiracy engaged in by defendant EXECUTIVE and co-conspirators in unreasonable restraint of interstate and foreign trade and commerce violated Section 1 of the Sherman Antitrust Act.

14. The charged combination and conspiracy consisted of a continuing agreement, understanding, and concert of action among defendant EXECUTIVE and co-conspirators, the substantial term of which was to suppress and eliminate competition between defendant EXECUTIVE and co-conspirator FF-1 in the transportation of military household goods.

#### **Manner and Means of the Conspiracy**

15. For purposes of forming and carrying out the charged combination and conspiracy, defendant EXECUTIVE and co-conspirators did the following things, among others, with respect to the IW-00 and IS-01 cycles:

- a. agreed that co-conspirator FF-1 would direct defendant EXECUTIVE to file rates for ITGBL traffic at particular levels in specific channels;
- b. agreed that co-conspirator FF-1 would service all ITGBL traffic tendered by MTMC to defendant EXECUTIVE;
- c. agreed that co-conspirator FF-1 would pay all subcontractors for services provided to shipments tendered to defendant EXECUTIVE;
- d. agreed that co-conspirator FF-1 would assume the risk of profit or loss on shipments tendered to defendant EXECUTIVE;
- e. agreed that co-conspirator FF-1 would ultimately receive all payments from DOD for shipments tendered to defendant EXECUTIVE; and

f. agreed that co-conspirator FF-1 would pay defendant EXECUTIVE a flat rate of \$1/cwt to service ITGBL traffic tendered to it by MTMC and serviced by co-conspirator FF-1.

16. For purposes of executing the charged combination and conspiracy, defendant EXECUTIVE and co-conspirators made and carried out each and every agreement and activity described in paragraph 15 for the IW-00 cycle.

17. For the purposes of executing the charged combination and conspiracy, defendant EXECUTIVE and co-conspirators made each and every agreement described in paragraph 15 and took acts in furtherance thereof for the IS-01 cycle.

#### **Interstate and Foreign Trade and Commerce**

18. During the relevant period, rates, proposals, contracts, invoices for payment, payments, and other documents essential to the provision of the transportation of military household goods were transmitted in interstate and foreign trade and commerce between and among offices of defendant EXECUTIVE, co-conspirator FF-1, and MTMC, located in various States and foreign countries.

19. During the relevant period, defendant EXECUTIVE and co-conspirator FF-1 transported, or arranged for the transportation of, substantial quantities of military household goods, in a continuous and uninterrupted flow of interstate and foreign commerce between Europe and the United States, through various U.S. ports and States to final destinations in various States, including a substantial amount of traffic into and out of the Commonwealth of Virginia.

20. During the relevant period, MTMC received bids for the transportation of military household goods by interstate wire and mail from the offices of defendant EXECUTIVE and co-conspirator FF-1.

21. During the relevant period, DOD paid for the transportation of military household goods by check, wire transfer, and other monetary instruments transmitted to the bank accounts of defendant EXECUTIVE and co-conspirator FF-1 in a continuous and uninterrupted flow of interstate commerce.

22. The activities of defendant EXECUTIVE and co-conspirator FF-1 in connection with the transportation of military household goods were within the flow of, and substantially affected, interstate and foreign trade and commerce.

#### **Jurisdiction and Venue**

23. During the relevant period, MTMC received bids to perform the transportation of military household goods by interstate wire and mail at its offices in Alexandria in the Eastern District of Virginia initiated by or originating from defendant EXECUTIVE and co-conspirator FF-1 or those working at their behest.

24. The combination and conspiracy charged in this Information was formed and carried out, in part, within the Eastern District of Virginia within the five years preceding the filing of this Criminal Information.

(In violation of Title 15, United States Code, Section 1).

