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REDACTED FOR
PUBLIC DISCLOSURE

UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

United States of America,
Plaintiff,
v.
James Govostes,
Defendant.

CR06-0877 PHX
INDICTMENT
VIO: 15 U.S.C. § 1

THE GRAND JURY CHARGES:

I.

Description of the Offense

1. The following individual is hereby indicted and made a defendant on the charge stated below:

JAMES GOVOSTES.

2. Beginning in or around January 2005 and continuing until May 16, 2005, the exact dates being unknown to the Grand Jury, the defendant and co-conspirators entered into and engaged in a combination and conspiracy to suppress and eliminate competition by rigging bids on contracts for the installation of commercial refrigeration in the Phoenix, Arizona metropolitan area. The combination and conspiracy engaged in by the defendant and co-conspirators was in unreasonable restraint of interstate 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 his co-conspirators, the substantial

1 terms of which were to submit rigged bids to Safeway, Inc. for the installation of commercial
2 refrigeration equipment in grocery stores in the Phoenix, Arizona metropolitan area.

3 II.

4 Means and Methods of the Conspiracy

5 4. For the purpose of forming and carrying out the charged combination and conspiracy, the
6 defendant and his co-conspirators took various actions, including, among other things:

- 7 a. discussing among themselves the submission of bids for commercial refrigeration
8 installation projects at Safeway, Inc. grocery stores in the Phoenix, Arizona
9 metropolitan area;
- 10 b. agreeing to allocate bids for commercial refrigeration installation projects at
11 Safeway, Inc. grocery stores among themselves according to which co-conspirator
12 company had a maintenance agreement in place at the particular Safeway, Inc.
13 grocery stores for which bids were let;
- 14 c. agreeing to raise margins on bids for commercial refrigeration installation projects
15 at Safeway, Inc. grocery stores;
- 16 d. soliciting other individuals to join and facilitate the conspiracy to rig bids for
17 commercial refrigeration installation projects at Safeway, Inc. grocery stores;
- 18 e. designating which co-conspirator would submit the low bid for the commercial
19 refrigeration installation project at Safeway Store #2088;
- 20 f. submitting a rigged bid for the commercial refrigeration installation project at
21 Safeway Store #2088 to Safeway, Inc. as they had agreed upon; and
- 22 g. accepting payment from Safeway, Inc. for work done on the commercial
23 refrigeration installation project at Safeway Store #2088 awarded as a result of
24 a rigged bid submitted in furtherance of the conspiracy.

1 III.

2 Defendant and Co-conspirators

3 5. During the period covered by this Indictment, defendant JAMES GOVOSTES was the
4 regional manager of an unindicted co-conspirator corporation that was engaged in the
5 installation of commercial refrigeration in the western United States, including in the Phoenix,
6 Arizona metropolitan area. JAMES GOVOSTES' managerial territory included the Phoenix,
7 Arizona metropolitan area.

8 6. Various corporations and individuals, who were not made defendants in this Indictment,
9 participated, as co-conspirators, in the offense charged in this Indictment and performed acts and
10 made statements in furtherance of the charged offense.

11 7. Whenever in this Indictment reference is made to any act, deed, or transaction of any
12 corporation, such allegation shall be deemed to mean that the corporation engaged in such act,
13 deed, or transaction by or through its officers, directors, agents, employees, or representatives
14 while they were actively engaged in the management, direction, control, or transaction of its
15 business or affairs.

16 IV.

17 Trade and Commerce

18 8. Commercial refrigeration includes the refrigerated cases in grocery stores such as deli
19 cases, dairy cases, and frozen food cases.

20 9. During the period covered by this Indictment, substantial quantities of refrigeration
21 fixtures, materials, and equipment, necessary for the defendant's company and his co-
22 conspirators to perform commercial refrigeration installation projects in the Phoenix, Arizona
23 metropolitan area, were transported across state lines in a continuous and uninterrupted flow of
24 interstate commerce and in a manner substantially affecting interstate commerce. Namely, a
25 substantial portion of refrigeration equipment installed by the defendant's company and his co-
26 conspirators in the provision of their commercial refrigeration services in Arizona was
27 manufactured outside the State of Arizona.

1 10. During the period covered by this Indictment, both the general business activities of the
2 victim, Safeway, Inc., which is headquartered in California, and the commercial refrigeration
3 installation activities of a co-conspirator, also headquartered in California, were conducted
4 across state lines and had a not insubstantial effect on interstate commerce. The co-conspirator
5 does refrigeration installation business throughout the western United States while Safeway
6 does business throughout the United States.

7 11. During the period covered by this Indictment, the defendant and his co-conspirators
8 communicated in furtherance of the conspiracy across state lines between Utah and Arizona, and
9 both invoices and payments for the provision of the defendant's and his co-conspirators'
10 commercial refrigeration services to Safeway, Inc. were transmitted across state lines.

11 12. During the period covered by this Indictment, the commercial refrigeration installation
12 activities of the defendant and his co-conspirators that are the subject of this Indictment were
13 within the flow of, and had a not insubstantial effect on, interstate trade and commerce.

14 V.

15 Jurisdiction and Venue

16 13. The combination and conspiracy charged in this Indictment was carried out, in part,
17 within the District of Arizona within the five years preceding the return of this Indictment.

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

19 A TRUE BILL

20 /S/

21 FOREPERSON OF THE GRAND JURY
22 Date:

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A TRUE BILL

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FOREPERSON OF THE GRAND JURY
Date:

/S

/S

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