

COPY

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

FILED IN CLERK'S OFFICE
U.S.D.C. - Atlanta

JUN 20 2007

UNITED STATES OF AMERICA)
)
 v.)
)
 DENNY'S PAY-LESS GROCERY, INC.,)
)
 Defendant.)

JAMES N. HATTEN, Clerk
By: *[Signature]* Deputy Clerk

Criminal No.

Filed: 1:07 CR 213

Violation: 15 U.S.C. § 1

INFORMATION

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

I.

DESCRIPTION OF THE OFFENSE

1. DENNY'S PAY-LESS GROCERY, INC. is made a defendant on the charge stated below.
2. Beginning in or about August 2002 and continuing up to and including October 2002, the exact dates being unknown to the United States, in the Northern District of Georgia and elsewhere, the defendant and its co-conspirators entered into and engaged in a combination and conspiracy to suppress and eliminate competition by rigging bids on certain lots of merchandise being offered for bid at auction by the United States Postal Service in Atlanta, Georgia. The combination and conspiracy engaged in by

the defendant and its 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 its co-conspirators, the substantial terms of which were to rig bids on certain lots of merchandise being offered for bid at auction by the United States Postal Service at its mail recovery center in Atlanta, Georgia.

II.

MEANS AND METHODS OF THE CONSPIRACY

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

- (a) discussing among themselves how to decrease the amount of money they were paying for lots of a certain type of merchandise being auctioned by the United States Postal Service;

- (b) discussing among themselves collusive bidding on lots of a certain type of merchandise being auctioned by the United States Postal Service;
- (c) agreeing that they would seek to divide up by collusive bidding lots of a certain type of merchandise being auctioned by the United States Postal Service; and
- (d) successfully dividing up lots of a certain type of merchandise being auctioned by the United States Postal Service by engaging in collusive bidding designed to minimize the price they would pay for lots of the desired type of merchandise.

III.

DEFENDANT AND CO-CONSPIRATORS

5. During the period covered by this Information, the defendant was a corporation organized and existing under the laws of the State of Florida with its principal place of business in Jacksonville, Florida and was engaged in the business of buying and selling closeout, salvage and surplus merchandise.

6. Various corporations 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 thereof.

7. Whenever in this Information reference is made to any act, deed or transaction of any corporation, the allegation means that the corporation engaged in the 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.

IV.

TRADE AND COMMERCE

8. During the period covered by this Information, the defendant and its co-conspirators: traveled into the State of Georgia from other states of the United States to participate in United States Postal Service auctions at the mail recovery center in Atlanta, Georgia; bid on lots of merchandise brought into the State of Georgia by the United States Postal Service from other states of the United States for said auctions; brought checks and credit cards into the State of Georgia from other states of the United States to pay for merchandise bought at said auctions; and took merchandise purchased at said auctions outside of the State of Georgia for resale in other states of the United States.

9. During the period covered by this Information, the business activities of the defendant and its co-conspirators that are the subject of this Information were with the flow of, and substantially affected, interstate trade and commerce.

V.

JURISDICTION AND VENUE

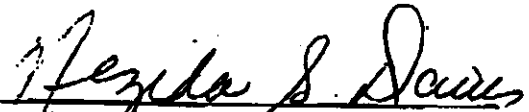
10. The combination and conspiracy charged in this Information was carried out, in part, within the Northern District of Georgia, Atlanta Division, within the five years preceding the filing of this Information.

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

Dated: 6.26.2007



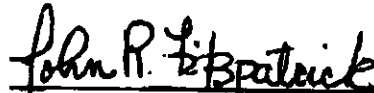
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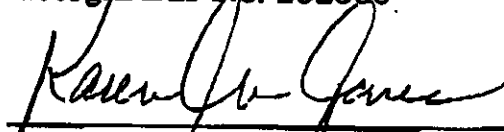
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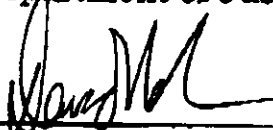
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