

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

Norfolk Division

UNITED STATES OF AMERICA)	
)	
v.)	CRIMINAL NO. 2:09cr <u>76</u>
)	
FRANK A. MARCH,)	15 U.S.C. § 1
)	Conspiracy to Restrain Trade
)	
Defendant.)	

CRIMINAL INFORMATION

THE UNITED STATES OF AMERICA, THROUGH ITS ATTORNEYS, CHARGES THAT:

DESCRIPTION OF THE OFFENSE

1. Beginning in or about June 2001 and continuing until in or about December 2002, the exact dates being unknown to the United States, the defendant participated in an ongoing combination and conspiracy to suppress and eliminate competition by allocating customers and rigging bids for contracts of foam-filled marine fenders and buoys in the United States and elsewhere. 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).

2. 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 allocate customers and rig bids for contracts of foam-filled marine fenders and buoys in the United States and elsewhere. The victims of this conspiracy included the U.S. Coast

Guard and elements of the Department of Defense, including the U.S. Navy, as well as private companies.

MEANS AND METHODS OF THE CONSPIRACY

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

- (a) attended meetings and engaged in discussions by telephone, facsimile and electronic mail, regarding the sale of foam-filled marine fenders and buoys sold in the United States and elsewhere;
- (b) agreed during those meetings and discussions to allocate jobs and to create and exchange order logs in order to implement and monitor this agreement;
- (c) agreed during those meetings and discussions not to compete for one another's customers either by not submitting prices or bids to certain customers, or by submitting intentionally high prices or bids to certain customers;
- (d) submitted bids in accordance with the agreements reached;
- (e) sold foam-filled marine fenders and buoys to the U.S. Coast Guard, the U.S. Navy, and others pursuant to those agreements at collusive and noncompetitive prices;
- (f) accepted payment for foam-filled marine fender and buoys sold at the collusive and noncompetitive prices;

- (g) created and exchanged order logs, in accordance with the agreements reached, reflecting the sales made by both companies in order to track the success of the market allocation and bid-rigging scheme; and
- (h) authorized or consented to the participation of subordinate employees and/or distributors in the conspiracy.

DEFENDANT AND CO-CONSPIRATORS

4. During the entire period covered by this Information, the defendant was the Chief Executive Officer of a firm located in Clearbrook, Virginia that engaged in the manufacture and sale of marine products, including foam-filled marine fenders and buoys. In December 2002, that firm was purchased by a corporation whose ultimate parent entity is located in Trelleborg, Sweden.

5. 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.

6. 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.

TRADE AND COMMERCE

7. Foam-filled marine fenders are used as a cushion between ships and either fixed structures such as docks or piers, or floating structures such as other ships. Foam-filled buoys are used in a variety of applications including as channel markers and navigational aids. Foam-filled marine fenders and buoys are constructed of an elastomer shell filled with closed-cell polyethylene

foam. During the period covered by this Information, the defendant's firm manufactured and sold foam-filled marine fenders and buoys in the United States and elsewhere.

8. During the period covered by this Information, foam-filled marine fenders and buoys sold by one or more of the conspirator firms, and equipment and supplies necessary to the production and distribution of foam-filled marine fenders and buoys, as well as payments for foam-filled marine fenders and buoys, traveled in interstate and foreign commerce.

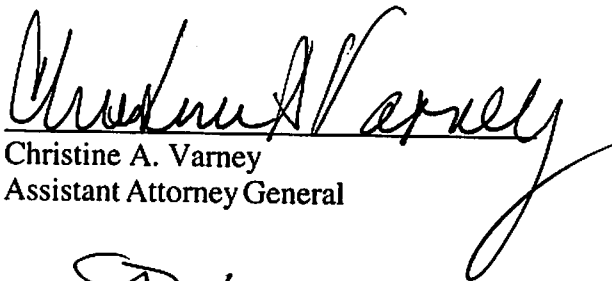
9. During the period covered by this Information, the business activities of defendant and his co-conspirators in connection with the production and sale of foam-filled marine fenders and buoys that are the subject of this Information were within the flow of, and substantially affected, interstate and foreign trade and commerce.

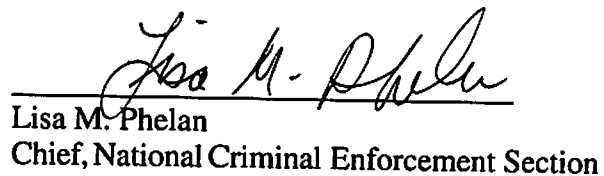
JURISDICTION AND VENUE

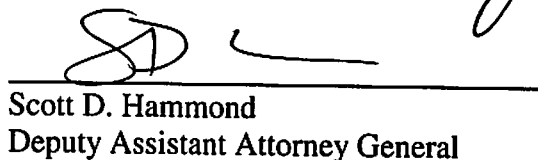
10. The combination and conspiracy charged in this Information was carried out, in part, within the Eastern District of Virginia within the five years preceding the filing of this Information, excluding the period during which the statute of limitations has been suspended pursuant to agreements with the defendant.

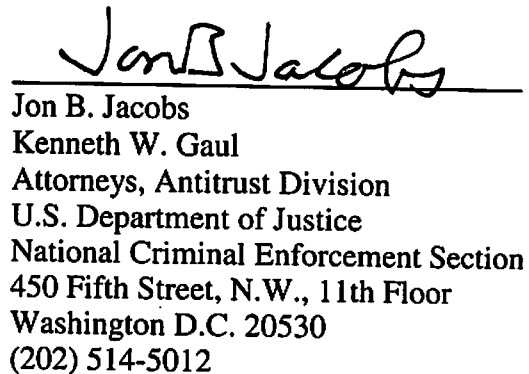
(All in violation of Title 15, United States Code, Section 1).

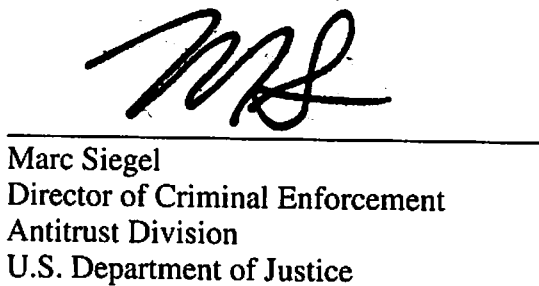
Dated:


Christine A. Varney
Assistant Attorney General

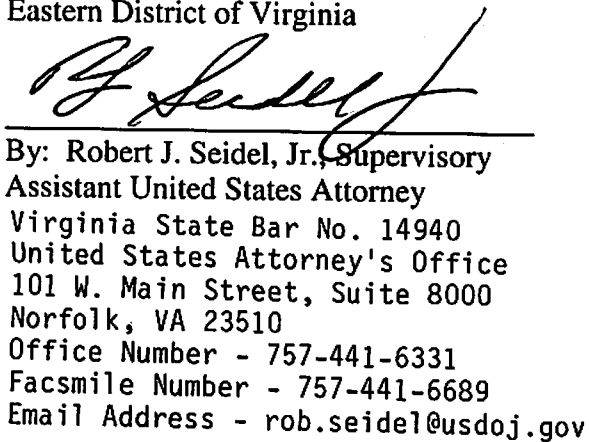

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