

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
10-20864-CR-UNGARO/SIMONTON

CASE NO. _____

15 U.S.C. § 1

UNITED STATES OF AMERICA

v.

FLORIDA WEST INTERNATIONAL AIRWAYS, INC.,
LUIS AUGUSTO AFANADOR,
RODRIGO HERNAN HIDALGO, and
JAIME LARA RUEDA, SR.,

Defendants.

INDICTMENT

The Grand Jury in and for the Southern District of Florida, charges:

COUNT ONE

(Conspiracy to Restrain Trade)

DEFENDANTS AND CO-CONSPIRATORS

1. FLORIDA WEST INTERNATIONAL AIRWAYS, INC. ("FLORIDA WEST") is hereby indicted and made a defendant on the charge in this Indictment. FLORIDA WEST is a corporation organized and existing under the laws of Delaware with its principal place of business in Miami, Florida. During part of the period covered by this Indictment, FLORIDA WEST was engaged in the business of providing air transportation services for cargo in the United States and elsewhere.

2. LUIS AUGUSTO AFANADOR ("AFANADOR") is hereby indicted and made a defendant on the charge in this Indictment. During the period covered by this Indictment,

AFANADOR was the general manager of Company A, a corporation organized and existing under the laws Colombia with its principal place of business in Bogota, Colombia, where AFANADOR was based. During the period covered by the Indictment, AFANADOR, on behalf of Company A, was engaged in the business of providing air transportation services for cargo from Colombia to the United States.

3. RODRIGO HERNAN HIDALGO ("HIDALGO") is hereby indicted and made a defendant on the charge in this Indictment. During part of the period covered by the Indictment, HIDALGO was Vice President of Sales and Marketing for FLORIDA WEST based in Miami. Prior to his employment with FLORIDA WEST, HIDALGO was an executive of Company B, a corporation with its principal place of business in Miami, Florida. During the period covered by this Indictment, HIDALGO, on behalf of Company B and of FLORIDA WEST, was engaged in the business of providing air transportation services for cargo between Colombia and the United States and elsewhere.

4. JAIME LARA RUEDA, SR. ("LARA") is hereby indicted and made a defendant on the charge in this Indictment. During the period covered by this Indictment, LARA was a commercial adviser with Company A and was based in Bogota, Colombia. During the period covered by this Indictment, LARA, on behalf of Company A, was engaged in the business of providing air transportation services for cargo from Colombia to the United States.

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

6. Whenever in this Indictment 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.

BACKGROUND OF THE OFFENSE

7. During some or all of the period covered by this Indictment, the corporate co-conspirators, including FLORIDA WEST, provided international air transportation services for cargo ("air cargo services") between Miami, Florida and Colombia and elsewhere. The corporate co-conspirators transported a variety of cargo, including fresh flowers, consumer goods, and electronics, on scheduled flights internationally, including between Miami, Florida and Colombia. For air cargo services, the corporate co-conspirators charged customers a rate that consisted of both a base rate and various fees, such as surcharges for fuel, post-September 11 security, and peak seasons before Valentine's and Mother's Days. The amount of the base rate charged by the corporate co-conspirators could vary based on the time of year, the type and weight of the shipment, the origin and/or destination of the shipment, and the nature of the goods or products being shipped. Similarly, the amount of certain surcharges levied could vary based on the origin and/or destination of the shipment. The base rate and surcharges charged to customers by the corporate co-conspirators for air cargo services are collectively referred to herein as "cargo rates."

DESCRIPTION OF THE OFFENSE

8. Beginning at least as early as January 2002, and continuing until at least February 14, 2006, the exact dates being unknown to the Grand Jury, in the Southern District of Florida, and elsewhere, defendants AFANADOR, HIDALGO, LARA and their co-conspirators entered into and

participated in a conspiracy to suppress and eliminate competition by fixing and coordinating certain components of cargo rates, including peak season, security, and fuel surcharges, for international air shipments from Colombia to Miami, Florida. Defendant FLORIDA WEST joined and participated in the conspiracy from at least as early as August 2002 and continuing until at least February 14, 2006.

9. The combination and conspiracy engaged in by defendants and their co-conspirators was an unreasonable restraint of interstate and foreign trade and commerce in violation of Section 1 of the Sherman Act (15 U.S.C. § 1).

10. The charged combination and conspiracy consisted of a continuing agreement, understanding, and concert of action among defendants and their co-conspirators, the substantial terms of which were to suppress and eliminate competition by fixing and coordinating certain components of cargo rates for air cargo shipments from Colombia to Miami, Florida.

MANNER AND MEANS OF THE CONSPIRACY

11. For purposes of forming and carrying out the charged combination and conspiracy, defendants and their co-conspirators did those things that they conspired to do, including, among other things:

- (a) participated in meetings, conversations, and communications to discuss certain components of cargo rates to be charged for shipments from Bogota, Colombia to Miami, Florida;
- (b) agreed during those meetings, conversations, and communications, on certain components of cargo rates, including specifically peak season and other surcharges from Bogota, Colombia to Miami, Florida;

- (c) agreed during those meetings, conversations, and communications, to eliminate the practice of charging customers based on a per-box negotiated weight rather than the actual weight of the shipment in an effort to eliminate discounts from agreed-upon components of cargo rates from Bogota, Colombia to Miami, Florida;
- (d) in order to facilitate the agreements reached during those meetings, conversations and communications, beginning at least as early as 2003, discussed encouraging southbound air cargo providers to maintain and increase certain components of cargo rates from Miami, Florida to Bogota, Colombia;
- (e) in order to expand the agreements reached during those meetings, conversations and communications, beginning in the summer of 2005, agreed not to compete for certain of one another's customers from Medellin, Colombia to Miami, Florida;
- (f) issued announcements and notifications to customers of increases on certain components of cargo rates from Colombia to Miami, Florida in accordance with the agreements and understandings reached;
- (g) charged certain components of cargo rates from Colombia to Miami, Florida in accordance with the agreements and understandings reached;
- (h) engaged in meetings, conversations, and communications in Colombia and elsewhere for the purpose of implementing and monitoring the agreements and understandings; and

- (i) accepted payment for shipments from Colombia to Miami, Florida at collusive and noncompetitive rates.

TRADE AND COMMERCE

12. During the period covered by this Indictment, proposals, contracts, invoices for payment, payments, and other documents essential to the provision of air cargo services were transmitted in interstate and foreign trade and commerce between and among the offices of defendants and their corporate co-conspirators and their customers located in various States and foreign countries.

13. During the period covered by this Indictment, defendants and their corporate co-conspirators transported substantial quantities of cargo, in a continuous and uninterrupted flow of interstate and foreign commerce, from Colombia to the United States.

14. During the period covered by this Indictment, the business activities of defendants and their corporate co-conspirators in connection with the air cargo services that are the subject of this Indictment involved import commerce and were otherwise within the flow of, and substantially affected, interstate and foreign trade and commerce.

JURISDICTION AND VENUE

15. The offense charged in this Indictment was carried out, in part, in the Southern District of Florida within the five years preceding the return of this Indictment.

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

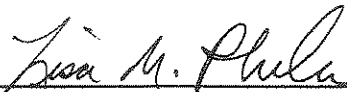
Dated: 12/2/2010

A TRUE BILL

~~FOR~~ PERSON _____



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