

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

v.

DWAYNE A. JOHNSON,

Defendant.

Criminal No. 23-cr-00088

Filed:

Violation: 15 U.S.C. § 1

INFORMATION

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

SHERMAN ACT CONSPIRACY
(15 U.S.C. §1)

I.

DEFENDANT AND CO-CONSPIRATORS

1. During the period covered by this Information, Dwayne A. Johnson (“Defendant”) resided in Islandia, New York, and was employed consecutively as a sales representative at two companies that sold digital interactive whiteboards (“interactive whiteboards”), Company A and Company B.
2. During the period covered by this Information, Company A was a corporation organized and existing under the laws of Pennsylvania, with its principal place of business in Radnor, Pennsylvania. During the period set forth in this Information, Company A was the exclusive United States distributor of a particular brand of interactive whiteboards. Company A purchased these interactive whiteboards and then sold them directly to end users or companies known as value-added resellers (“VARs”), which in turn resold the interactive whiteboards to end users. Defendant was employed by Company A as a national sales representative from

August 2014 to December 13, 2018. Defendant's job duties included communicating with New York City ("NYC") public schools purchasing officials and VARs and installers of the interactive whiteboards sold to the schools.

3. During the period covered by this Information, Company B was a corporation organized and existing under the laws of Taiwan, with its principal place of business in Taipei City, Taipei, Taiwan. During the period set forth in this Information, Company B manufactured and was the exclusive United States distributor of the interactive whiteboards they manufactured. Company B sold its boards directly to end users or VARS. Defendant was employed by Company B as a key partner manager from approximately December 17, 2018, until September 2021, and had similar job duties and responsibilities as when he worked at Company A.

4. 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.

5. 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.

II. **BACKGROUND**

6. Interactive whiteboards are large interactive display boards commonly used by schools and businesses. In the school setting, the boards are used by teachers to present lessons and conduct various classroom exercises.

7. In 2015, a VAR of Company A entered into a contract with the New York State Office of General Services, which allowed Company A's interactive whiteboards to be sold to

New York City public schools via the NYC Department of Education (“DOE”)’s Financial Accounting Management Information System (“FAMIS”) website. From 2015 to September 2018, NYC public schools wishing to purchase interactive whiteboards sold by Company A could do so by simply purchasing them from the FAMIS website without needing to seek competitive bids.

8. In September 2018, Company A’s VAR lost its contract to sell on the FAMIS website. Because the interactive whiteboards were no longer listed on FAMIS, DOE regulations required schools wishing to purchase Company A’s interactive whiteboards to obtain three competitive bids for the purchase and installation of the interactive whiteboards and accessories.

9. During the period covered by this Information, Company B’s boards were not available for sale on FAMIS and thus DOE regulations required schools wishing to purchase Company B’s interactive whiteboards to obtain three competitive bids for the purchase and installation of the interactive whiteboards and accessories.

III. **DESCRIPTION OF THE OFFENSE**

10. From approximately September 2018 and continuing until approximately October 2020, in the Southern District of New York and elsewhere, Defendant and his co-conspirators, and others known and unknown, knowingly entered into and engaged in a combination and conspiracy to rig bids for sales of interactive whiteboards and accessories made to NYC DOE public schools. The combination and conspiracy engaged in by the Defendant and his co-conspirators was a *per se* unlawful, and thus unreasonable restraint of interstate and foreign trade and commerce in violation of Section 1 of the Sherman Act (15 U.S.C. §1).

IV.
MANNER AND MEANS BY WHICH
THE CONSPIRACY WAS CARRIED OUT

11. For the purposes of forming and carrying out the charged combination and conspiracy, Defendant and his co-conspirators, and others known and unknown did those things which they combined and conspired to do, including, among other things:

(a) discussing, agreeing and determining in advance, the specific bid prices for digital interactive whiteboards and accessories that were submitted to New York City public schools;

(b) discussing, agreeing and pre-determining in advance, which companies would be the winning and losing bidders for sales of digital interactive whiteboards and accessories that were made to New York City public schools;

(c) submitting artificially high bid prices intended to lose for sales of digital interactive whiteboards and accessories that were made to New York City public schools;

(d) engaging in the bid rigging activity described in subparagraphs (a) - (c) above, by communicating through phone calls, emails, and in-person meetings within the Southern District of New York and elsewhere; and

(e) submitting invoices to the DOE and accepting payments from the DOE in connection with the bid rigging activity described in subparagraphs (a) - (d) above.

V.
TRADE AND COMMERCE

12. During the time period covered by this Information, the business activities of Defendant and his co-conspirators that are the subject of this Information were within the flow of, and substantially affected interstate and foreign trade and commerce. Defendant and his co-

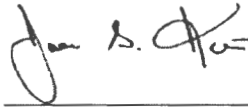
conspirators sold substantial quantities of interactive whiteboards to schools located in New York State that were distributed by companies located in other states, and manufactured in foreign countries, in a continuous and uninterrupted flow of interstate and foreign commerce.

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

Dated: February 15th, 2023



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