

FEB 17 2016

AT 8:30 _____ M
WILLIAM T. WALSH, CLERK

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

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UNITED STATES OF AMERICA	:	Crim. No. 16-65 (JLL)
v.	:	Filed:
VINCENT J. OPALEWSKI, and	:	Violation: 15 U.S.C. § 1
BRIAN C. STEPPIG,	:	
	:	
Defendants.	:	

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INDICTMENT

The Grand Jury in and for the District of New Jersey, sitting at Newark, charges that:

1. VINCENT J. OPALEWSKI and BRIAN C. STEPPIG are hereby indicted and made defendants on the charge stated below.

SHERMAN ACT CONSPIRACY
(15 U.S.C. § 1)

RELEVANT PARTIES AND ENTITIES

2. At all times relevant to this Indictment, Company 1 was a corporation organized under the laws of Delaware, headquartered in Parsippany, New Jersey. Company 1 is a manufacturer and supplier of water treatment and other chemicals, including liquid aluminum sulfate, for use by municipalities and pulp and paper companies in the District of New Jersey and elsewhere.

3. At all times relevant to this Indictment, Company 2 was a corporation organized under the laws of Ohio, headquartered in Lafayette, Indiana. Company 2 is a manufacturer and

supplier of water treatment and other chemicals, including liquid aluminum sulfate, for use by municipalities and pulp and paper companies in the Southeastern United States.

4. The defendant, VINCENT J. OPALEWSKI ("OPALEWSKI"), is a citizen and resident of United States.

5. During the period relevant to this Indictment, OPALEWSKI was employed by Company 1 and held the following positions in which he was responsible for the sale and marketing of water treatment chemicals, including liquid aluminum sulfate: from approximately 2005 to 2006, he was vice president of sales and marketing; from approximately 2006 to 2009, he was vice president and general manager; and from approximately 2009 to 2011, he was president.

6. The defendant, BRIAN C. STEPPIG ("STEPPIG"), is a citizen and resident of the United States.

7. At all times relevant to this Indictment, STEPPIG was employed by Company 2 and held the following positions in which he was responsible for the sale and marketing of water treatment chemicals, including liquid aluminum sulfate: from approximately 1997 to 2006, he was manager of pulp and paper, water treatment chemicals; and from approximately 2006 to at least 2011, he was director of sales and marketing, water treatment chemicals.

8. Various individuals, not made defendants in this Indictment, participated as co-conspirators in the offense charged and performed acts and made statements in furtherance of it.

9. 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, employees, agents, or other representatives while they were actively engaged in the management, direction, control, or transaction of its business or affairs.

BACKGROUND

10. Liquid aluminum sulfate is a coagulant used to remove impurities and other substances from water. The principal customers for liquid aluminum sulfate are municipalities, which use it in potable water and wastewater treatment, and pulp and paper companies, which use it in their manufacturing processes.

11. Municipalities usually acquire their supplies of liquid aluminum sulfate through a publicly-advertised competitive bidding process. Municipal contracts for liquid aluminum sulfate are usually one year in duration, although some contracts provide for renewal for a period of time. The results of municipal bidding processes are typically made public.

12. Pulp and paper companies usually acquire their supplies of liquid aluminum sulfate pursuant to requests for price issued to suppliers of liquid aluminum sulfate. The terms of the resulting contracts are subject to negotiation between the suppliers who respond to requests for price and the pulp and paper companies. Contracts for supply of liquid aluminum sulfate to pulp and paper companies may last for a year or more. The results of the negotiations between the liquid aluminum sulfate suppliers and the pulp and paper companies are typically not made public.

13. Liquid aluminum sulfate is sold by the ton. Supplies of liquid aluminum sulfate are transported to the customer by rail or truck. The cost of freight is a significant component of the price of liquid aluminum sulfate charged to municipalities and pulp and paper companies.

DESCRIPTION OF THE OFFENSE

14. Beginning at least as early as the dates alleged herein and continuing until approximately February 2011, the exact dates being unknown to the Grand Jury, in the District of New Jersey and elsewhere, OPALEWSKI and STEPPIG (collectively, the "Defendants"), and

their co-conspirators, including Company 1 and Company 2, entered into and engaged in a combination and conspiracy to suppress and eliminate competition in the sale and marketing of liquid aluminum sulfate by agreeing to rig bids and allocate customers for, and to fix, stabilize, and maintain the price of liquid aluminum sulfate sold to municipalities and pulp and paper companies in the United States. Defendant OPALEWSKI knowingly entered into and participated in the conspiracy from at least as early as 2005 and continuing until approximately February 2011. Defendant STEPPIG knowingly entered into and participated in the conspiracy from at least as early as 1998 and continuing until approximately February 2011. The combination and conspiracy engaged in by the Defendants was in unreasonable restraint of interstate trade and commerce in violation of the Sherman Act, 15 U.S.C. § 1.

15. The charged combination and conspiracy consisted of a continuing agreement, understanding, and concert of action among the Defendants and their co-conspirators, the substantial terms of which were to rig bids and allocate customers for, and to fix, stabilize, and maintain the price of liquid aluminum sulfate sold to municipalities and pulp and paper companies in the United States.

MANNER AND MEANS OF THE CONSPIRACY

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

- (a) participating in meetings and conversations in the District of New Jersey and elsewhere to discuss each other's liquid aluminum sulfate business;
- (b) agreeing to "stay away" from each other's "historical" customers by not pursuing the business of those customers;

- (c) tracking bid and pricing histories to determine which accounts were the “historical” customers of each co-conspirator or other supplier of liquid aluminum sulfate, so as to determine whether to pursue a particular contract or to submit an intentionally losing or “throw away” bid or price quotation;
- (d) submitting intentionally losing or “throw away” bids or price quotations to each other’s “historical” liquid aluminum sulfate customers;
- (e) from time to time, in the District of New Jersey and elsewhere, discussing the price to be quoted to a customer by the intended winner to determine the amount of the intended loser’s intentionally losing or “throw away” bid or price quotation;
- (f) from time to time, upon request of a co-conspirator, withdrawing an inadvertently winning bid submitted to that co-conspirator’s “historical” customer;
- (g) where a co-conspirator could not withdraw its inadvertently winning bid, bidding to lose on one of its own customers to compensate for the loss of that “historical” customer; and
- (h) instructing new employees how to determine whether and how to bid on, or quote a price for, the business of liquid aluminum sulfate customers so as to comport with the agreement between the Defendants and their co-conspirators not to compete.

TRADE AND COMMERCE

17. During the relevant period covered by this Indictment, Defendants and their co-conspirators sold to municipalities and pulp and paper companies located in various states in the United States substantial quantities of liquid aluminum sulfate, in a continuous and uninterrupted flow of interstate trade and commerce. In addition, payments for liquid aluminum sulfate sold by Defendants and their co-conspirators traveled in interstate trade and commerce.

18. The business activities of the Defendants and their co-conspirators in connection with the sale of liquid aluminum sulfate, which was the subject of the charged conspiracy, were within the flow of, and substantially affected, interstate trade and commerce.

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

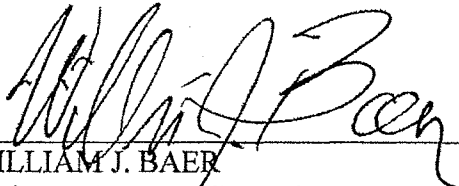
Dated: _____, 2016


A TRUE BILL


[Redacted Signature]


PERSON


Dated: 2/17/16


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