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10
11 UNITED STATES DISTRICT COURT
12 NORTHERN DISTRICT OF CALIFORNIA
13 SAN FRANCISCO DIVISION

FILED

AUG 22 2016

SUSAN Y. SOONG
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

CRB

CR 16 367

15 UNITED STATES OF AMERICA)

No.

16 v.)

VIOLATION: 15 U.S.C. § 1

Price Fixing

17 RUBYCON CORPORATION,)

18 Defendant.)
19)
20)
21)

22 INFORMATION

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

24 I. DESCRIPTION OF THE OFFENSE

25 1. RUBYCON CORPORATION ("defendant") is made a defendant on the charge
26 stated below.
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1 2. From at least as early as September 1997 and continuing until in or about January
2 2014, the exact dates being unknown to the United States, in the Northern District of California
3 and elsewhere, coconspirators of the defendant knowingly entered into and engaged in a
4 combination and conspiracy to suppress and eliminate competition by fixing prices and rigging
5 bids of certain electrolytic capacitors in the United States and elsewhere. The combination and
6 conspiracy engaged in by the defendant and its coconspirators was in unreasonable restraint of
7 interstate and foreign trade and commerce in violation of Section 1 of the Sherman Act (15
8 U.S.C. § 1).

9 3. The defendant knowingly joined and participated in the charged conspiracy from
10 at least as early as August 2002 until in or about January 2014.

11 4. The charged combination and conspiracy consisted of a continuing agreement,
12 understanding, and concert of action among the defendant and coconspirators, the substantial
13 terms of which were to fix prices and rig bids of certain electrolytic capacitors.

14 II. BACKGROUND

15 5. Capacitors, also known as condensers, are a fundamental component of electrical
16 circuits and are used primarily to store and regulate electrical current. Electrolytic capacitors,
17 including aluminum and tantalum types, are a major subcategory of capacitors. Electrolytic
18 capacitors are ubiquitous and are found in many products that use electricity, run on a battery, or
19 plug into a socket. Desktop and notebook computers, flat-screen televisions, DVD players,
20 video and still digital cameras, gaming systems, car engine and airbag systems, home appliances,
21 office equipment, and motherboards and other printed circuit boards are some of the products
22 that contain electrolytic capacitors.

23 III. DEFENDANT AND COCONSPIRATORS

24 6. During the time period identified in paragraph 2, defendant, a corporation
25 organized and existing under the laws of Japan, manufactured electrolytic capacitors sold in the
26 United States and elsewhere.

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1 7. During the time period identified in paragraph 2, defendant's coconspirators
2 included business organizations that manufactured electrolytic capacitors sold in the United
3 States and elsewhere.

4 8. Various business organizations and individuals, not made defendants in this
5 Information, participated as coconspirators in the offense charged in this Information and
6 performed acts and made statements in furtherance of it.

7 9. Whenever in this Information reference is made to any act, deed, or transaction of
8 a business organization, the allegation means that the business organization engaged in the act,
9 deed, or transaction by or through its officers, directors, employees, agents, or other
10 representatives, or by or through the officers, directors, employees, agents, or other
11 representatives of entities in which the organization had a greater than 50% ownership interest
12 and which it controlled, while they were actively engaged in the management, direction, control,
13 or transaction of the business or affairs of the organization or those entities.

14 IV. MEANS AND METHODS OF THE CONSPIRACY

15 10. For the purpose of forming and carrying out the charged combination and
16 conspiracy, the defendant and coconspirators did those things that they combined and conspired
17 to do, including, among other things:

18 a) participated at times in meetings, conversations, and communications with
19 each other in China, Germany, Japan, Singapore, Taiwan, the United States, and
20 elsewhere to discuss prices and bids of certain electrolytic capacitors;

21 b) agreed during various meetings, conversations, and communications to
22 fix, increase, maintain, and stabilize prices and rig bids of certain electrolytic capacitors;

23 c) negotiated prices, submitted bids, and issued price announcements for
24 certain electrolytic capacitors in accordance with the agreements reached;

25 d) sold, distributed, and accepted payments for electrolytic capacitors at
26 collusive, noncompetitive prices and bids in accordance with the agreements reached;

27 e) collected, exchanged, monitored, and discussed information on prices,
28 bids, sales, supply, demand, shipping, and the production of electrolytic capacitors for the

1 purpose of reaching agreements on prices and bids and monitoring and enforcing
2 adherence to the agreements reached;

3 f) authorized, ordered, and consented to the participation of subordinate
4 employees in the conspiracy; and

5 g) took steps to conceal the conspiracy and conspiratorial meetings,
6 conversations, and communications through various means, such as using code names to
7 refer to coconspirators, limiting and discouraging retention and distribution of documents
8 reflecting conspiratorial contacts, and providing misleading justifications for prices and
9 bids provided to customers to cover up their collusive conduct.

10 These means and methods of the conspiracy all involved electrolytic capacitors sold to customers
11 located within the United States and elsewhere, including to customers that manufactured and/or
12 sold in the United States under major United States and other brands significant quantities of
13 electronic goods containing electrolytic capacitors, such as computers, televisions, and gaming
14 systems.

15 V. TRADE AND COMMERCE

16 11. During the time period identified in paragraph 2, defendant and its coconspirators
17 manufactured electrolytic capacitors in Japan, Thailand, China, the United States, and elsewhere
18 and sold them in the United States or for delivery to the United States. The charged combination
19 and conspiracy involved trade or commerce within the United States and U.S. import trade or
20 commerce in electrolytic capacitors.

21 12. During the time period identified in paragraph 2, defendant and its coconspirators
22 also sold foreign-manufactured electrolytic capacitors outside the United States for incorporation
23 into other products, including computers, televisions, and gaming systems, that were sold in or
24 for delivery to the United States. The charged combination and conspiracy had a direct,
25 substantial, and reasonably foreseeable effect on trade or commerce within the United States or
26 U.S. import trade or commerce in these electrolytic capacitor-containing products, and that
27 effect, in part, gives rise to this charge.

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1 13. During the time period identified in paragraph 2, defendant and its coconspirators
2 sold and shipped substantial quantities of electrolytic capacitors in a continuous and
3 uninterrupted flow of interstate and U.S. import trade or commerce from the United States and
4 foreign countries to customers located in various states in the United States, including states
5 other than where the electrolytic capacitors were manufactured. In addition, substantial
6 quantities of equipment and supplies necessary for the manufacture, sale, and distribution of
7 electrolytic capacitors, as well as substantial payments for such electrolytic capacitors sold by
8 defendant and its coconspirators, traveled in interstate and U.S. import trade or commerce.
9 During the time period identified in paragraph 2, the business activities of defendant and its
10 coconspirators that are the subject of this Information were within the flow of, and substantially
11 affected, interstate and U.S. import trade or commerce. During the time period identified in
12 paragraph 2, the charged combination and conspiracy had a substantial and intended effect in the
13 United States, including on trade or commerce within the United States and U.S. import trade or
14 commerce in electrolytic capacitors and products containing electrolytic capacitors.

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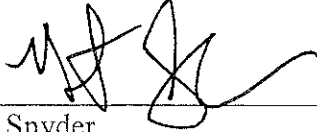
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1 ALL IN VIOLATION OF TITLE 15, UNITED STATES CODE, SECTION 1.

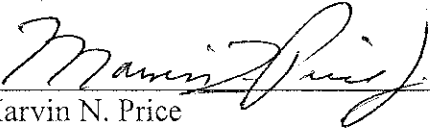
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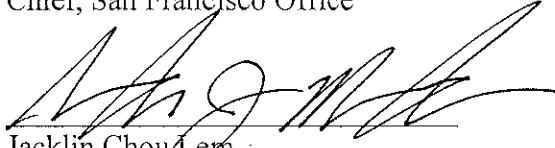
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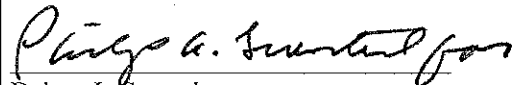
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