

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

UNITED STATES OF AMERICA

v.

D-1, FUTOSHI HIGASHIDA and
D-2, MIKIO KATSUMARU,

Defendants.

CRIMINAL I

Case:2:16-cr-20641
Judge: Drain, Gershwin A.
MJ: Patti, Anthony P.
Filed: 09-21-2016 At 01:39 PM
INDI USA v. HIGASHIDA ET AL. (SO)

COUNT I: 18 U.S.C. §§ 371, 1519
COUNT II: 18 U.S.C. § 1512(b)(2)(B)

INDICTMENT

The Grand Jury charges:

General Allegations

At times relevant to this Indictment:

1. Defendant FUTOSHI HIGASHIDA was a citizen of Japan and resided in Japan and the United States. From at least as early as June 2008 until in or about July 2011, HIGASHIDA was employed by COMPANY A as a manager in the Business Administration and Marketing Department. During this period, HIGASHIDA reported to defendant MIKIO KATSUMARU. From in or about August 2011 until in or about September 2011, HIGASHIDA was employed by COMPANY B as Vice President. From in or about October 2011 until at least September 2012, HIGASHIDA was employed by COMPANY B as President. While working at COMPANY B, HIGASHIDA's office was located in Novi, Michigan.

2. Defendant MIKIO KATSUMARU was a citizen and resident of Japan. From at least as early as June 2008 until at least September 2012, KATSUMARU was employed by COMPANY A in Japan as the head of the Sales and Marketing Division.

3. COMPANY A was a corporation based in Japan. COMPANY B was a joint venture owned by COMPANY A and another company. COMPANY B had an office in Novi, Michigan. COMPANY A and COMPANY B manufactured and sold automotive parts to automobile manufacturers in the United States and elsewhere.

4. INDIVIDUAL A was a citizen and resident of Japan. From at least as early as June 2008 until at least September 2012, INDIVIDUAL A was employed by COMPANY A in Japan as a manager in the Sales and Marketing Division. From at least as early as June 2008 until in or about March 2012, INDIVIDUAL A reported to INDIVIDUAL C.

5. INDIVIDUAL B was a citizen of Japan and resided in Japan and the United States. From at least as early as June 2008 until in or about March 2011, INDIVIDUAL B was employed by COMPANY B in Novi, Michigan, as a sales manager. From in or about April 2011 until at least September 2012, INDIVIDUAL B was employed by COMPANY A in Japan as a junior manager in the Sales and Marketing Division. From in or about April 2011 until in or about March 2012, INDIVIDUAL B reported to INDIVIDUAL A.

6. INDIVIDUAL C was a citizen and resident of Japan. From at least as early as June 2008 until at least September 2012, INDIVIDUAL C was employed by COMPANY A in Japan as a manager in the Sales and Marketing Division. During this period, INDIVIDUAL C reported to defendant KATSUMARU.

7. INDIVIDUAL D was a citizen of Japan and resided in Japan and the United States. From at least as early as June 2008 until in or about January 2009, INDIVIDUAL D was employed by COMPANY A as a manager in the Sales and Marketing Division. From in or about February 2009 until at least September 2012, INDIVIDUAL D was employed by

COMPANY B in Novi, Michigan, as a sales director. From in or about October 2011 until at least September 2012, INDIVIDUAL D reported to defendant HIGASHIDA.

8. Under the Sherman Antitrust Act, Title 15, United States Code, Section 1, it was a crime for employees of competitor companies to conspire with each other to suppress and eliminate competition in unreasonable restraint of interstate and foreign trade and commerce. A criminal violation of the Sherman Antitrust Act (“antitrust crime”) by a corporation was punishable by a fine of up to \$100 million, and an antitrust crime by an individual was punishable by imprisonment of up to ten years and a fine of up to \$1 million.

9. The Federal Bureau of Investigation (“FBI”) was an agency of the United States with jurisdiction to investigate violations of federal criminal laws, including antitrust crimes. The United States Department of Justice was a department of the United States with jurisdiction to investigate and prosecute violations of federal criminal laws, including antitrust crimes.

10. In or about May 2007, defendant HIGASHIDA and other employees of COMPANY A learned that an employee of a Japanese company was arrested in the United States for an alleged antitrust crime.

11. In or about January 2012, defendant HIGASHIDA learned that other automotive parts companies and their employees had been prosecuted in the United States for antitrust crimes.

12. On October 8, 2015, three employees of COMPANY A were charged in the Eastern District of Kentucky with an antitrust crime, for knowingly participating in a conspiracy to suppress and eliminate competition for automotive parts sold to certain automobile manufacturers in the United States and elsewhere from at least as early as September 2003 and continuing until at least October 2011.

13. On September 1, 2016, COMPANY A was charged in the Eastern District of Kentucky with an antitrust crime, for knowingly participating in a conspiracy to suppress and eliminate competition for automotive parts sold to certain automobile manufacturers in the United States and elsewhere from at least as early as January 2000 until at least September 2012.

COUNT ONE

(18 U.S.C. §§ 371 and 1519 – Conspiracy to Obstruct an Investigation
of a Matter within U.S. Jurisdiction)

1. The allegations in Paragraphs 1 - 13 of the General Allegations are realleged and incorporated here.

2. From at least as early as June 2008 until at least September 2012, the exact dates being unknown to the grand jury, in the Eastern District of Michigan and elsewhere,

D-1 FUTOSHI HIGASHIDA and
D-2 MIKIO KATSUMARU,

defendants herein, along with others known and unknown to the grand jury, knowingly conspired to commit an offense against the United States, namely, obstruction of an investigation of a matter within the jurisdiction of a department and agency of the United States, in violation of Title 18, United States Code, Section 1519, all in violation of Title 18, United States Code, Section 371.

3. The substantial terms of the conspiracy were to destroy, conceal, and cover up records and documents, with the intent to impede, obstruct, and influence an investigation of a matter within the jurisdiction of the FBI and the United States Department of Justice, namely, an investigation of an antitrust crime committed by COMPANY A, COMPANY B, and their employees, and in relation to and in contemplation of such matter, in violation of Title 18, United States Code, Section 1519.

4. Other individuals, not made defendants in this Count, participated as co-conspirators in the offense charged in this Count and performed acts and made statements in furtherance of it.

Means and Methods

5. For the purpose of forming and carrying out the conspiracy alleged in this Count, the defendants and co-conspirators did those things that they conspired to do, including the following actions intended to impede, obstruct, and influence an investigation of a matter within the jurisdiction of the FBI and the United States Department of Justice:

- a. Instructed employees of COMPANY A and COMPANY B to delete emails and electronic records referring to communications with competitor companies;
- b. Instructed employees of COMPANY A and COMPANY B to destroy hard copy documents referring to communications with competitor companies;
- c. Deleted emails and electronic records referring to communications with competitor companies; and
- d. Destroyed hard-copy documents referring to communications with competitor companies.

Overt Acts

6. In furtherance of the conspiracy and to effect the object of the conspiracy, the defendants and co-conspirators committed and caused to be committed the following overt acts, among others, in the Eastern District of Michigan and elsewhere:

- a. On or about March 9, 2009, defendant HIGASHIDA instructed INDIVIDUAL A to delete an email discussing competitor prices, and informed INDIVIDUAL A

that if someone were arrested in the United States, it would result in imprisonment and a fine of at least 10 billion Yen.

- b. On or about March 13, 2009, based on the previous instruction from defendant HIGASHIDA, INDIVIDUAL A instructed employees of COMPANY A and COMPANY B, including INDIVIDUAL B, to delete information reflecting competitor communications.
- c. On or about February 24, 2010, defendant KATSUMARU sent an email to employees of COMPANY A and COMPANY B instructing them not to maintain records of communications with competitors, after receiving an email from defendant HIGASHIDA that contained a copy of a Japanese newspaper article. The article reported an investigation and raid of automobile parts suppliers for antitrust violations in Japan.
- d. At a meeting in 2012, defendant KATSUMARU instructed employees of COMPANY A, including INDIVIDUAL A, to destroy documents that would show competitor communications.
- e. On or about January 24, 2012, defendant HIGASHIDA instructed INDIVIDUAL D to delete an email in which INDIVIDUAL D discussed competitor communications, and to delete past emails reflecting competitor communications.
- f. On or about July 23, 2012, defendant HIGASHIDA instructed INDIVIDUAL D to make sure that no email or cell phone records remained that would show competitor communications.
- g. On or about September 25, 2012, defendant HIGASHIDA instructed INDIVIDUAL D to ensure that no phone numbers or call records remained on his

cellular telephone and no data remained on his computer that would reflect competitor communications. HIGASHIDA also informed INDIVIDUAL D that the FBI could visit without warning to collect the data, and that if INDIVIDUAL D attempted to delete the data at that time, he would be arrested.

COUNT TWO

(18 U.S.C. § 1512 – Attempted Obstruction of Justice)

1. The allegations in Paragraphs 1, 3, and 7 – 13 of the General Allegations are realleged and incorporated here.

2. On or about September 25, 2012, in the Eastern District of Michigan,

D-1 FUTOSHI HIGASHIDA,

defendant herein, did knowingly attempt to corruptly persuade INDIVIDUAL D, with the intent to cause and induce INDIVIDUAL D to alter objects, namely INDIVIDUAL D's cellular telephone and computer, with the intent to impair those objects' integrity and availability for use in an official proceeding, namely, a prosecution of COMPANY B and its employees for an antitrust crime before a court of the United States, in violation of Title 18, United States Code, Section 1512(b)(2)(B).

A TRUE BILL

s/ Grand Jury Foreperson
FOREPERSON

Dated: September 21, 2016

s/ Brent Snyder
BRENT SNYDER
Deputy Assistant Attorney General

s/ Frank J. Vondrak
FRANK J. VONDRAK
Chief, Chicago Office

s/ Marvin N. Price, Jr.
MARVIN N. PRICE, JR.
Director of Criminal Enforcement

Antitrust Division
U.S. Department of Justice

s/ Andre M. Geverola
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