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THOMAS G. BRUTON
CLERK, U.S. DISTRICT COURT

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA

v.

MICHAEL P. GANNON

No. 19 CR 302
JUDGE THARP

Judge MAGISTRATE JUDGE GILBERT

Violation: Title 15, United States Code, Section 1

## INFORMATION

The UNITED STATES OF AMERICA charges that:

I.

DEFENDANT AND CO-CONSPIRATORS

1. MICHAEL P. GANNON ("defendant") is hereby made defendant on the charge contained in this Information.

2. During the period covered by this Information, Company A was a corporation organized and existing under the laws of Illinois, with its principal place of business in the Northern District of Illinois. During the period covered by this Information, Company A was a provider of commercial flooring services and products (as defined in Paragraph 9 below) engaged in the sale of commercial flooring services and products in the United States.

3. During most of the period covered by this Information, the defendant was the Vice President of Sales at Company A, whose job responsibilities included the sale of commercial flooring services and products in the United States. During the period covered by this Information, the owners of Company A included

Co-conspirator A1, Co-conspirator A2, and Co-conspirator A3. During portions of the period covered by this Information, employees of Company A included Co-conspirator A4, a sales manager, and Co-conspirator A5, a vice president.

4. During the period covered by this Information, Company B was a corporation organized and existing under the laws of Illinois, with its principal place of business in the Northern District of Illinois. During the period covered by this Information, Company B was a provider of commercial flooring services and products (as defined in Paragraph 9 below) engaged in the sale of commercial flooring services and products in the United States. During the period covered by this Information, the owners of Company B included Co-conspirator B1, Co-conspirator B2, and Co-conspirator B3.

5. During the period covered by this Information, Company C was a corporation organized and existing under the laws of Illinois, with its principal place of business in the Northern District of Illinois. During the period covered by this Information, Company C was a provider of commercial flooring services and products (as defined in Paragraph 9 below) engaged in the sale of commercial flooring services and products in the United States. During portions of the period covered by this Information, Co-conspirator C1 was the president of Company C. During the period covered by this Information, Co-conspirator C2 was an employee, and later the president, of Company C.

6. Various co-conspirators not made defendants in this Information, including Company A, Company B, Company C, and other companies and individuals, participated in the offense charged in this Information and performed acts and made statements in furtherance thereof.

7. Any reference in this Information to any act, deed, or transaction of any corporation 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

8. During the period covered by this Information, the defendant and his co-conspirators sold commercial flooring services and products in the United States, including to customers in the Northern District of Illinois.

9. Providers of commercial flooring services and products remove any preexisting flooring products at the job site, prepare the floor surface for installation, and install new flooring products, including but not limited to carpet, wood, vinyl, tile, and laminate flooring products.

III.

DESCRIPTION OF THE OFFENSE

10. Beginning at least as early as 2009, the exact date being unknown to the United States, and continuing through at least June 22, 2017, in the Northern District of Illinois and elsewhere, the defendant and Company A entered into and engaged in a combination and conspiracy with Company B and Company C and other companies and individuals to suppress and eliminate competition by agreeing to rig bids and fix prices of commercial flooring services and products sold in the United States. The combination and conspiracy engaged in by the defendant and co-conspirators was a *per se* unlawful, and thus unreasonable, restraint of interstate trade and commerce in violation of Section 1 of the Sherman Act, 15 U.S.C. § 1.

11. The charged combination and conspiracy consisted of a continuing agreement, understanding, and concert of action among the defendant and co-conspirators, the substantial terms of which were to rig bids and fix prices of commercial flooring services and products sold in the United States.

IV.

MEANS AND METHODS OF THE CONSPIRACY

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

a. attending meetings and participating in conversations and other communications to discuss methods for rigging bids and fixing the prices of commercial flooring services and products sold in the United States;

b. agreeing, during those meetings, conversations, and other communications, to rig bids and fix the prices of commercial flooring services and products sold in the United States;

c. exchanging pricing-related information to enable co-conspirator companies to submit complementary bids for commercial flooring services and products to potential customers, so that the agreed-upon co-conspirator company would win the business;

d. soliciting complementary bids to provide commercial flooring services and products to potential customers, in accordance with the agreement;

e. submitting complementary bids to provide commercial flooring services and products to potential customers, in accordance with the agreement;

f. selling commercial flooring services and products in the United States at collusive and noncompetitive prices;

g. accepting payment for commercial flooring services and products in the United States at collusive and noncompetitive prices; and

h. engaging in conversations and other communications for the purpose of monitoring and enforcing adherence to the conspiracy.

13. As described above, the defendant solicited higher priced, complementary bids from his co-conspirators so that Company A would be the low bidder and win the contract award for a given flooring project. Examples of this conduct include:

a. **Victim 1**: At the direction of his superior, Co-conspirator A3, the defendant solicited complementary bids from Co-conspirator C1, then the president and owner of Company C, and Co-conspirator C1's assistant, so that Company A could win the business for flooring projects at Victim 1, a nonprofit social service organization that operates residential treatment facilities in this District and elsewhere.

i. **Project 1:** On or about July 15, 2011, Company A submitted a bid to Victim 1 for the price of $11,940.00.

ii. On or before August 5, 2011, Co-conspirator A3 directed the defendant to request a complementary bid from Company C so that Company A would have a lower price and win the business for a flooring project at Victim 1. Co-conspirator A3 also provided the defendant with the higher bid price that Company C should submit: $12,343.00.

iii. On or about August 5, 2011, the defendant emailed a request for a complementary bid to Co-conspirator C1's assistant, consistent with the defendant's understanding that Co-conspirator C1's assistant would communicate the request to Co-conspirator C1, and attached a scanned copy of Company A's

partially completed bid to Victim 1, on which the defendant had handwritten the price "12,343.00" and "T/you!!!"

iv. Later that same day, Company C submitted a complementary bid to Victim 1 for the price of $12,343.00. Co-conspirator C1's assistant subsequently forwarded Company C's emailed bid submission to the defendant to confirm that Company C submitted a complementary bid for Victim 1's flooring project as the defendant requested.

v. On or about August 8, 2011, the defendant forwarded Company C's bid submission to Co-conspirator A3 in order to demonstrate to Co-conspirator A3 that the defendant had followed the direction of Co-conspirator A3 to obtain a complementary bid from Company C for Victim 1's flooring project.

vi. In accordance with the agreement, Company A was the low bidder; however, Victim 1 ultimately cancelled this project.

vii. **Project 2:** In or around May 2012, in connection with a separate flooring project at Victim 1, Co-conspirator A3 directed the defendant to obtain a complementary bid for Victim 1 and provided the defendant with the higher bid price that Company C should submit: $9,890.00.

viii. On or about May 7, 2012, the defendant emailed Co-conspirator C1's assistant to request a complementary bid for the second flooring project for Victim 1, attaching a scanned copy of Company A's partially completed bid to Victim 1, on which the defendant had handwritten the price "9890.00."

ix. On or about May 8, 2012, Company C submitted its complementary bid to Victim 1 for the price of $9,890.00. Later that same day, Co-conspirator C1's assistant emailed the defendant to confirm that Company C submitted a complementary bid for Victim 1's flooring project as the defendant requested.

x. On or about May 14, 2012, the defendant again emailed Co-conspirator C1's assistant regarding a change to the scope of work for Victim 1's flooring project, requesting that Company C submit a revised complementary bid to Victim 1 for $15,345.

xi. On or about May 14, 2012, Company A submitted a revised bid to Victim 1 for the price of $14,643.00.

xii. On or about May 16, 2012, Company C submitted a revised complementary bid to Victim 1 for the price of $15,345.00.

xiii. During this time, Co-conspirator A3 spoke with the defendant and asked for assurances from the defendant that Company C's complementary bid had been submitted to Victim 1 as Co-conspirator A3 had directed.

xiv. On or about May 16, 2012, the defendant sent a follow-up email to Co-conspirator C1's assistant, writing, "Were you able to help me on that last one . . . .?" The next day, Co-conspirator C1's assistant replied to the defendant by email, writing, "[Victim 1] done/sent/fini/end of story."

xv. In accordance with the agreement, Company A was the successful bidder.

b. **Victim 2**: In or around January 2013, the defendant solicited complementary bids from Co-conspirator C1, then the president of Company C, and from Co-conspirator B2, co-owner of Company B, so that Company A could win the business for a flooring project at Victim 2, a nonprofit, acute-care hospital located in this District. More specifically:

i. On or about January 21, 2013, Company A submitted a bid to Victim 2 for the price of $33,350.00.

ii. On or about January 24, 2013, the defendant emailed Co-conspirator B2, attaching a scanned copy of Company A's partially completed bid to Victim 2, on which the defendant had handwritten, "Your numbers → 41,640." That same day, Company B submitted a bid for $41,640.00 to Victim 2, signed by Co-conspirator B2.

iii. On or about January 24, 2013, the defendant also emailed Co-conspirator C1 asking, "can you help me with this[?]," and attaching a scanned copy of Company A's partially completed bid to Victim 2, on which the defendant had handwritten, "Your numbers → 38,612."

iv. On or about January 28, 2013, Company C submitted a bid for $38,612.00 to Victim 2, signed by Co-conspirator C1.

v. In accordance with the agreement, Company A was the successful bidder.

c. **Victim 3:** In or around February 2013, the defendant solicited complementary bids from Co-conspirator C1, then the president of Company C, so that Company A could win the business for multiple flooring projects at Victim 3, a nonprofit, religiously affiliated community hospital in this District. More specifically:

i. On or about February 7, 2013, the defendant emailed Co-conspirator C1 and Co-conspirator C1's assistant, and requested that Company C submit a complementary bid using prices the defendant provided. The defendant also requested that Company C change the formatting and other aspects of the bid he sent in order to conceal the fact that Company C submitted a complementary bid.

ii. Later that same day, the defendant realized that Co-conspirator C1's assistant was out of town, so the defendant emailed Co-conspirator C1 directly, "Is there someone else that can help. I was supposed to have this done a month ago and it slipped by." Co-conspirator C1 replied, "I have another one of our brain surgeons taking care of it."

iii. Shortly after February 7, 2013, Company C submitted complementary bids for two flooring projects to Victim 3, one for the price of $27,870.00 and the second for the price of $59,142.00. Pursuant to the defendant's request, these two bids were also falsely backdated to December 28, 2012.

iv. Previously, on or about December 28, 2012, Company A had submitted to Victim 3 a bid price of $24,910.00 for the first flooring project and a bid price of $55,028.00 for the second flooring project.

v. In accordance with the agreement, Company A was the successful bidder.

d. **Victim 4**: In or around July 2014, based on requests from Co-conspirator A4 and Co-conspirator A3, the defendant solicited complementary bids from Co-conspirator C1, then the president of Company C, so that Company A could win the business for flooring projects at Victim 4, a for-profit university with campuses in this District. More specifically:

i. On or about July 2, 2014, Co-conspirator A4 emailed the defendant and requested his assistance in obtaining a complementary bid for a flooring project for Victim 4. The defendant also spoke with Co-conspirator A3 about requesting a complementary bid from Company C, and Co-conspirator A3 agreed with the defendant's recommendation to solicit a complementary bid from Company C. The defendant then requested a complementary bid from Company C by emailing Co-conspirator C1.

ii. On or about August 6, 2014, Company A submitted a bid to Victim 4 for the price of $469,480.26.

iii. On or about August 8, 2014, Company C submitted a bid to Victim 4 for the price of $513,731.65, a price that Company A provided to Company C to use in its complementary bid.

iv. In accordance with the agreement, Company A was the successful bidder.

e. **Victim 5**: In or around January 2016, the defendant solicited complementary bids from Co-conspirator C1, then the president of Company C, so that Company A could win the business for flooring projects at Victim 5, a nonprofit, religiously affiliated hospital in this District. More specifically:

i. On or about January 5, 2016, the defendant emailed Co-conspirator C1 of Company C, informing Co-conspirator C1 that he would soon receive a request to submit a bid for a flooring project for Victim 5.

ii. Defendant subsequently spoke on the phone with Co-conspirator C1, who agreed to submit a complementary bid to Victim 5 on behalf of Company C.

iii. On or about January 15, 2016, Company A submitted a bid for the price of $88,912.00 to Victim 5.

iv. On or about January 15, 2016, Company C submitted a complementary bid for the price of $101,486.00 to Victim 5.

v. In accordance with the agreement, Company A was the successful bidder.

14. As described above, the defendant also agreed to provide higher priced, complementary bids from Company A so that another company would be the lower priced—and thus successful—bidder. Examples of this conduct where the defendant agreed to provide complementary bids from Company A so that Company B won include:

a. **Victim 6:** In or around January 2010, at the request of Co-conspirator B3, one of the owners of Company B, the defendant provided a higher bid price from Company A for a flooring project at Victim 6, a public post-secondary educational institution located in this District, so that Company B could win the business. More specifically:

i. On or before January 27, 2010, Co-conspirator B3 asked the defendant to submit a complementary bid to Victim 6, and the defendant agreed. Co-conspirator B3 provided the defendant with a bid form with handwritten pricing information filled in.

ii. On or about January 27, 2010, the defendant submitted that bid form, which he had completed and signed on behalf of Company A, to Victim 6 for the price of $3,634,329.00.

iii. On or about January 28, 2010, Company B submitted a bid to Victim 6 for the price of $3,365,120.00.

iv. In accordance with the agreement, Company B was the successful bidder.

b. **Victim 7**: In or around December 2016, at the request of Co-conspirator B3, one of the owners of Company B, the defendant provided a higher bid price from Company A for a flooring project at Victim 7, a public high school located in this District, so that Company B could win the business. More specifically:

i. In or around December 2016, Co-conspirator B3 contacted the defendant by telephone and requested that the defendant submit a complementary bid on behalf of Company A for a flooring project at Victim 7, and the defendant agreed.

ii. The defendant directed a sales person at Company A to travel to the offices of Company B in order to retrieve a package containing the bid that Company A was to submit for Victim 7's flooring project, together with the prices that Co-conspirator B3 wanted Company A to submit.

iii. On or about December 9, 2016, the defendant caused Company A to submit a bid for Victim 7's flooring project for the price of $2,431,608.93.

iv. On or about December 9, 2016, Company B submitted a bid for Victim 7's flooring project for the price of $2,081,611.71.

v. In accordance with the agreement, Company B was the successful bidder.

c. **Victim 8**: In or around December 2016, at the request of Co-conspirator B2, one of the owners of Company B, and with the knowledge of Co-conspirator A5, the defendant provided a higher bid price from Company A so that Company B could win the business for a flooring project at Victim 8, a public school district located in the Central District of Illinois. More specifically:

i. In or around December 2016, Co-conspirator B2 of Company B requested from the defendant that Company A submit a complementary bid for Victim 8's flooring project, and the defendant agreed.

ii. On or about December 7, 2016, Co-conspirator A5 emailed the defendant regarding the flooring project for Victim 8, asking, "Any thoughts on this?" The defendant responded to Co-conspirator A5 by email, "Yes this is a comp bid we are doing for [Company B]."

iii. On or about December 15, 2016, the defendant caused Company A to submit a bid for Victim 8's flooring project for the price of $924,874.00.

iv. On or about December 15, 2016, Company B submitted a bid for Victim 8's flooring project for the price of $878,811.00.

v. In accordance with the agreement, Company B was the successful bidder.

15. As described above, the defendant also agreed to provide higher priced, complementary bids from Company A so that another company would be the lower priced—and thus successful—bidder. Examples of this conduct where the defendant agreed to provide complementary bids from Company A so that Company C won include:

a. **Victim 9**: In or around April 2013, the defendant, at the request of Co-conspirator C1, then the president of Company C, provided a higher bid price from Company A so that Company C could win the business for a flooring project at Victim 9, a consumer electronics and telecommunications company with offices in this District and elsewhere. More specifically:

i. In or around April 2013, Co-conspirator C1 requested from the defendant that Company A submit a complementary bid for Victim 9's flooring project, and the defendant agreed.

ii. On or about April 18, 2013, after the defendant received an email from the general contractor in charge of Victim 9's flooring project, defendant emailed Co-conspirator C1 and asked "[l]et me know what I am doing."

iii. On or about May 13, 2013, Co-conspirator C1's assistant emailed three separate sets of bid numbers to the defendant, one set of numbers for each of the three alternative options that bidders were required to price for Victim 9's flooring project, and directed the defendant, "Please re-word as need be; you probably want to lump it so it doesn't look like [Company C]". The bid prices Company C provided were $1,416,078.00 for the first option; $1,386,694.00 for the second option; and $1,623,088.00 for the third option.

iv. The defendant directed his subordinate at Company A to assist him in preparing the complementary bids Company C had requested, writing in an email, "It is an accom bid," meaning an accommodation, or complementary, bid.

The defendant forwarded to his subordinate the emails and bid prices that Company C requested.

v. On or about May 13, 2013, Company A submitted three bids for Victim 9's flooring project using the exact bid prices that Company C provided: $1,416,078.00 for the first option; $1,386,694.00 for the second option; and $1,623,088.00 for the third option.

vi. On or about May 13, 2013, Company C submitted three bids for Victim 9's flooring project: $1,356,891.35 for the first option; $1,324,294.52 for the second option; and $1,560,195.15 for the third option.

vii. In accordance with the agreement, Company C was the successful bidder.

b. **Victim 10**: In or around September 2015, Co-conspirator C1, through his assistant, requested that the defendant provide a higher bid price from Company A so that Company C could win the business for a flooring project at Victim 10, a professional services firm with offices in this District and elsewhere. More specifically:

i. On or about September 30, 2015, Co-conspirator C1's assistant emailed the defendant, and copied Co-conspirator C1, regarding bids for a flooring project for Victim 10. The assistant wrote, "Use these #'s per attached." and attached two draft bids for the prices of $296,604.00 for the carpet portion and $32,206.60 for the ceramics portion of the flooring project.

ii. Later that same day, the defendant instructed his subordinate at Company A to prepare a complementary bid using the bid prices Company C had provided. The defendant forwarded the email and attachments from Company C to the subordinate, writing, "please copy these 2 quotes verbatim for [Company C] and I will send you the info on where/how to send them."

iii. On or about September 29, 2015, Company C submitted two bids for Victim 10's flooring project: $277,200.99 for the carpet portion and $27,151.96 for the ceramics portion of the flooring project.

iv. On or about September 30, 2015, the defendant caused Company A to submit two bids for Victim 10's flooring project, at the exact prices previously provided by Company C: $296,604.00 for the carpet portion and $32,206.60 for the ceramics portion of the flooring project.

v. In accordance with the agreement, Company C was the successful bidder.

c. **Victim 11**: In or around December 2016, the defendant, at the request of Co-conspirator C2, who is the current president of Company C, provided a higher bid price from Company A so that Company C could win the business for a flooring project at Victim 11, a provider of internet-connection and data-center services with locations in this District and elsewhere. More specifically:

i. On or about December 7, 2016, Co-conspirator C2 emailed the defendant regarding a flooring project for Victim 11, writing, "These are our numbers and quantities. You can just change it around and add whatever you want

to the base bid. Ignore qualifications and put whatever you want." Co-conspirator C2 attached two draft bids to his email: a price of $35,383.16 for carpet portion and a price of $54,811.19 for ceramics portion of the flooring project.

ii. On or about December 8, 2016, the defendant forwarded that email and attachments from Co-conspirator C2 to a subordinate employee at Company A and instructed his subordinate to prepare a comp bid on behalf of Company C and to change the order, format, and quantities of materials to conceal the fact that Company A and Company C were working together.

iii. On or about December 5, 2016, Company C submitted two bids for Victim 11's flooring project: a price of $35,383.16 for the carpet portion and a price of $54,811.19 for the ceramics portion of the flooring project.

iv. On or about December 8, 2016, the defendant caused Company A to submit two bids for Victim 11's flooring project: a price of $35,385.00 for the carpet portion and a price of $54,850.00 for the ceramics portion of the flooring project.

v. In accordance with the agreement, Company C was the successful bidder.

V.

TRADE AND COMMERCE

16. During the period covered by this Information, Company A, Company B, and Company C sold commercial flooring services and products in the United States in a continuous and uninterrupted flow of interstate trade and commerce. In addition, records and documents necessary for the sale and provision of such services

and products by the corporate conspirators, as well as payments and solicitations for those services and products, traveled in interstate commerce.

17. During the period covered by this Information, the business activities of the corporate conspirators in connection with the sale and provision of commercial flooring services and products that are the subject of this Information were within the flow of, and substantially affected, interstate commerce. Acts in furtherance of this conspiracy were carried out within the Northern District of Illinois and elsewhere.

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

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