

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA

Norfolk Division

UNITED STATES OF AMERICA	)	
	)	
v.	)	CRIMINAL NO. 2:09cr <u>54</u>
	)	
VIRGINIA HARBOR SERVICES, INC.,	)	
formerly doing business as	)	
Trelleborg Engineered Products, Inc.	)	Conspiracy to Restrain Trade
	)	15 U.S.C. § 1
Defendant.	)	(Counts 1-2)

CRIMINAL INFORMATION

COUNT ONE

THE UNITED STATES OF AMERICA, THROUGH ITS ATTORNEYS, CHARGES THAT:

DESCRIPTION OF THE OFFENSE

1. Beginning at least as early as December 2002 and continuing until as late as August 2005, the exact dates being unknown to the United States, the defendant and co-conspirators entered into and engaged in a combination and conspiracy to suppress and eliminate competition by allocating customers and rigging bids for contracts of foam-filled marine fenders and buoys in the United States and elsewhere. The combination and conspiracy engaged in by the defendant and co-conspirators was in unreasonable restraint of interstate and foreign trade and commerce in violation of Section 1 of the Sherman Act (15 U.S.C. § 1).

2. 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 allocate customers and rig bids for contracts of foam-filled marine fenders and buoys in the United States and elsewhere. The victims of this conspiracy included the U.S. Coast Guard and elements of the Department of Defense, including the U.S. Navy, as well as private companies.

**MEANS AND METHODS OF THE CONSPIRACY**

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

- (a) attended meetings and engaged in discussions by telephone, facsimile and electronic mail, regarding the sale of foam-filled marine fenders and buoys sold in the United States and elsewhere;
- (b) agreed during those meetings and discussions to allocate jobs and to create and exchange order logs in order to implement and monitor this agreement;
- (c) agreed during those meetings and discussions not to compete for one another's customers either by not submitting prices or bids to certain customers, or by submitting intentionally high prices or bids to certain customers;
- (d) submitted bids in accordance with the agreements reached;
- (e) sold foam-filled marine fenders and buoys to the U.S. Coast Guard, the U.S. Navy, and others pursuant to those agreements at collusive and noncompetitive prices;

- (f) accepted payment for foam-filled marine fender and buoys sold at the collusive and noncompetitive prices; and
- (g) authorized or consented to the participation of subordinate employees and/or distributors in the conspiracy.

DEFENDANT AND CO-CONSPIRATORS

4. During the period covered by this Count, the defendant was a corporation organized and existing under the laws of Delaware, with its principal place of business in Frederick County, Virginia. During the relevant period, the defendant was engaged in the manufacture and sale of a number of products, including: foam-filled marine fenders and buoys; and plastic marine pilings.

5. Various corporations and individuals, not made defendants in this Count, participated as co-conspirators in the offense charged herein and performed acts and made statements in furtherance thereof.

6. Whenever in this Count 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.

TRADE AND COMMERCE

7. Foam-filled marine fenders are used as a cushion between ships and either fixed structures such as docks or piers, or floating structures such as other ships. Foam-filled buoys are used in a variety of applications, including as channel markers and navigational aids. Foam-filled marine fenders and buoys are constructed of an elastomer shell filled with closed-cell

polyethylene foam. During the period covered by this Count, the defendant manufactured and sold foam-filled marine fenders and buoys in the United States and elsewhere.

8. During the period covered by this Count, foam-filled marine fenders and buoys sold by one or more of the conspirator firms, and equipment and supplies necessary to the production and distribution of foam-filled marine fenders and buoys, as well as payments for foam-filled marine fenders and buoys, traveled in interstate and foreign commerce.

9. During the period covered by this Count, the business activities of defendant and its co-conspirators in connection with the production and sale of foam-filled marine fenders and buoys that are the subject of this Count were within the flow of, and substantially affected, interstate and foreign trade and commerce.

#### JURISDICTION AND VENUE

10. The combination and conspiracy charged in Count One of this Information was carried out, in part, within the Eastern District of Virginia within the five years preceding the filing of this Information.

(All in violation of Title 15, United States Code, Section 1).

COUNT TWO

THE UNITED STATES OF AMERICA, THROUGH ITS ATTORNEYS, FURTHER CHARGES THAT:

DESCRIPTION OF THE OFFENSE

1. Beginning at least as early as December 2002 and continuing until as late as May 2003, the exact dates being unknown to the United States, the defendant and co-conspirators entered into and engaged in a combination and conspiracy to suppress and eliminate competition by allocating customers and rigging bids for contracts of plastic marine pilings in the United States and elsewhere. The combination and conspiracy engaged in by the defendant and co-conspirators was in unreasonable restraint of interstate and foreign trade and commerce in violation of Section 1 of the Sherman Act (15 U.S.C. § 1).

2. 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 allocate customers and rig bids for contracts of plastic marine pilings in the United States and elsewhere. The victims of this conspiracy included elements of the Department of Defense, including the U.S. Navy, as well as private companies.

MEANS AND METHODS OF THE CONSPIRACY

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

- (a) attended meetings and engaged in discussions by telephone, facsimile and electronic mail, regarding the sale of plastic marine pilings sold in the United States and elsewhere;
- (b) agreed during those meetings and discussions to allocate jobs and to create and exchange order logs in order to implement and monitor this agreement;
- (c) agreed during those meetings and discussions not to compete for one another's customers either by not submitting prices or bids to certain customers, or by submitting intentionally high prices or bids to certain customers;
- (d) submitted bids in accordance with the agreements reached;
- (e) sold plastic marine pilings to the U.S. Navy and others pursuant to those agreements at collusive and noncompetitive prices;
- (f) accepted payment for plastic marine pilings sold at the collusive and noncompetitive prices; and
- (g) authorized or consented to the participation of subordinate employees and/or distributors in the conspiracy.

DEFENDANT AND CO-CONSPIRATORS

4. Each and every allegation contained in Paragraphs 4-6 of Count One of this Information is here realleged as if fully set forth in this Count.

TRADE AND COMMERCE

5. Plastic marine pilings are reinforced synthetic pilings, resembling telephone poles, used in commercial dock and pier construction. Plastic marine pilings are substitutes for traditional wood timber pilings. They are often used in port and pier construction projects with foam-filled fenders, which are used as cushions between ships and either fixed structures, such as docks or piers, or floating structures, such as other ships. During the relevant period, the defendant manufactured and sold plastic marine pilings in the United States and elsewhere.

6. During the relevant period, plastic marine pilings sold by one or more of the conspirator firms, and equipment and supplies necessary to the production and distribution of plastic marine pilings, as well as payments for plastic marine pilings, traveled in interstate and foreign commerce.

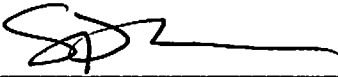
7. During the relevant period, the business activities of defendant and its co-conspirators in connection with the production and sale of plastic marine pilings that are the subject of this Count were within the flow of, and substantially affected, interstate and foreign trade and commerce.

JURISDICTION AND VENUE

8. The combination and conspiracy charged in Count Two of this Information was carried out, in part, within the Eastern District of Virginia within the five years preceding the filing of this Information, excluding the period during which the running of the statute of limitations was suspended pursuant to agreement with the Defendant.

(All in violation of Title 15, United States Code, Section 1).

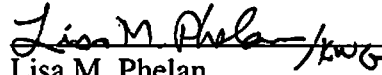
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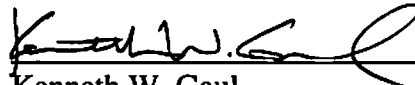
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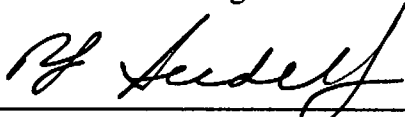


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