

FILED by **CF** D.C.
OCT 28 2010
STEVEN D. LANTIERE
CLERK U.S. DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
10-20790-CR-UNGARO/SIMONTON
CASE NO.

15 U.S.C. § 1

UNITED STATES OF AMERICA

v.

GUILLERMO CABEZA, a/k/a WILLY CABEZA;
GEORGE GONZALEZ;
RODRIGO HERNAN HIDALGO; and
LUIS JUAN SOTO

Defendants.

INDICTMENT

The Grand Jury in and for the Southern District of Florida, charges:

COUNT ONE
(Conspiracy to Restrain Trade)

DEFENDANTS AND CO-CONSPIRATORS

1. GUILLERMO CABEZA, a/k/a WILLY CABEZA ("CABEZA") is hereby indicted and made a defendant on the charge in this Indictment. During the period covered by this Indictment, CABEZA was the President of Company A, a corporation organized and existing under the laws of Florida with its principal place of business in Miami, Florida, where CABEZA was based. During the period covered by this Indictment, CABEZA, on behalf of Company A, was engaged in the business of providing air transportation services for cargo in the United States and elsewhere.

2. GEORGE GONZALEZ ("GONZALEZ") is hereby indicted and made a defendant

on the charge in this Indictment. During the period covered by this Indictment, GONZALEZ was the Chief Commercial Officer of Company B, a corporation organized and existing under the laws of Peru with its principal place of business in Lima, Peru. Company B's United States headquarters was located in Miami, Florida, where GONZALEZ was based. During the period covered by this Indictment, GONZALEZ, on behalf of Company B, was engaged in the business of providing air transportation services for cargo in the United States and elsewhere.

3. RODRIGO HERNAN HIDALGO ("HIDALGO") is hereby indicted and made a defendant on the charge in this Indictment. During the period covered by this Indictment, HIDALGO was Vice President of Sales and Marketing for Company C, a corporation organized and existing under the laws of Delaware with its principal place of business in Miami, Florida, where HIDALGO was based. During the period covered by this Indictment, HIDALGO, on behalf of Company C, was engaged in the business of providing air transportation services for cargo in the United States and elsewhere.

4. LUIS JUAN SOTO ("SOTO") is hereby indicted and made a defendant on the charge in this Indictment. During the period covered by this Indictment, SOTO was the President of Company D, a corporation organized and existing under the laws of Florida with its principal place of business in Miami, Florida, where SOTO was based. During the period covered by this Indictment, SOTO, on behalf of Company D, was engaged in the business of providing air transportation services for cargo in the United States and elsewhere.

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

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

BACKGROUND OF THE OFFENSE

7. During the period covered by this Indictment, the corporate co-conspirators provided international air transportation services for cargo (“air cargo services”) between the United States and locations in South and Central America. The corporate co-conspirators transported a variety of cargo, such as fresh flowers, consumer goods, and electronics, on scheduled flights internationally, including between the United States and South and Central America. For air cargo services southbound from the United States to South and Central America, the corporate co-conspirators charged customers a rate that consisted of a base rate and surcharges, such as surcharges for fuel. The base rate and surcharges charged to customers by the corporate co-conspirators for air cargo services are collectively referred to herein as “cargo rates.”

DESCRIPTION OF THE OFFENSE

8. Beginning in or around late September 2005, and continuing through at least November 2005, the exact dates being unknown to the Grand Jury, in the Southern District of Florida, defendants and their co-conspirators entered into and participated in a conspiracy to suppress and eliminate competition by agreeing to impose an increase to their fuel surcharges on air cargo shipped from the United States to locations in South and Central America following Hurricanes Katrina and Rita (“emergency fuel surcharge”).

9. The combination and conspiracy engaged in by defendants and their co-conspirators was an unreasonable restraint of interstate and foreign trade and commerce in violation of Section 1 of the Sherman Act (15 U.S.C. § 1).

10. The charged combination and conspiracy consisted of a continuing agreement, understanding, and concert of action among defendants and their co-conspirators, the substantial term of which was to agree to impose an emergency fuel surcharge on air cargo shipments from the United States to South and Central America following Hurricanes Katrina and Rita.

MANNER AND MEANS OF THE CONSPIRACY

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

- (a) participated in discussions, conversations, and communications, including a meeting in an office suite in the area of the Kendall-Tamiami Executive Airport (“Tamiami Airport”) in Miami, Florida, to discuss the emergency fuel surcharge to be charged on air cargo shipments from the United States to South and Central America;
- (b) reached an agreement and understanding in those discussions, conversations, and communications on an emergency fuel surcharge to be imposed as a component of cargo rates from the United States to South and Central America;
- (c) issued announcements and notifications to customers of the imposition of the emergency fuel surcharge and resulting increases in cargo rates from

the United States to South and Central America in accordance with the agreement and understanding reached;

- (d) charged the emergency fuel surcharge as a component of cargo rates from the United States to South and Central America in accordance with the agreement and understanding reached;
- (e) engaged in discussions, conversations, and communications for the purpose of implementing and monitoring the agreement and understanding; and
- (f) accepted payment for air cargo shipments from the United States to South and Central America at collusive and noncompetitive rates.

TRADE AND COMMERCE

12. During the period covered by this Indictment, proposals, contracts, invoices for payment, payments, and other documents essential to the provision of air cargo services were transmitted in interstate and foreign trade and commerce between and among the offices of defendants and their corporate co-conspirators and their customers located in various States and foreign countries.

13. During the period covered by this Indictment, defendants and their corporate co-conspirators transported substantial quantities of cargo, in a continuous and uninterrupted flow of interstate and foreign commerce, between various foreign countries and the United States.

14. During the period covered by this Indictment, the business activities of defendants and their corporate co-conspirators in connection with the air cargo services that are the subject of this Indictment were within the flow of, and substantially affected, interstate and foreign trade

and commerce.

JURISDICTION AND VENUE

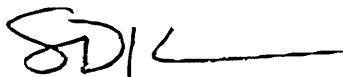
15. The offense charged in this Indictment was carried out, in part, in the Southern District of Florida within the five years preceding the return of this Indictment.

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

Dated:

A TRUE BILL

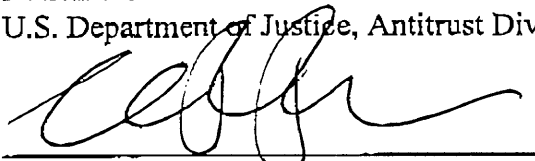
FOR PERSON



SCOTT D. HAMMOND
Acting Assistant Attorney General
U.S. Department of Justice, Antitrust Division



LISA M. PHELAN, CHIEF
National Criminal Enforcement Section
U.S. Department of Justice, Antitrust Division



MARK R. ROSMAN
CARSTEN M. REICHEL
MEAGAN D. JOHNSON
FRANK J. VONDRAK
NANCY H. MCMILLEN
U.S. Department of Justice, Antitrust Division
450 5th Street, N.W., Suite 11300
Washington, DC 20530
Tel.: (202) 307-6694