

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA : Hon. Susan D. Wigenton
v. : Crim. No. 10-
NEW YORK MACHINERY, LLC : 18 U.S.C. §§ 1343 & 2

INFORMATION

The defendant having waived in open court prosecution by Indictment, and the defendant having waived any defenses based upon the statute of limitations, the United States Attorney for the District of New Jersey charges:

THE DEFENDANT AND OTHERS

1. At all times relevant to this Information:

a. Defendant NEW YORK MACHINERY, LLC, a New York limited liability corporation located in Little Falls, New Jersey, was registered as a United States Department of Defense ("DoD") contractor and supplied parts to the DoD. Defendant NEW YORK MACHINERY, LLC provided various spare parts to the DoD, including but not limited to, automotive and ground support tractor-trailer parts for United States military vehicles.

b. The K. Company, which is not named as a defendant herein, had operations in Ankara, Turkey, and manufactured, imported, and exported replacement parts for heavy construction equipment.

c. H.G.D., who is not named as a defendant herein, resided in Teaneck, New Jersey, and was the majority member of defendant NEW YORK MACHINERY, LLC and the principal of the K. Company.

d. Atilla Kan ("Kan"), who is not named as a defendant herein, resided in Ridgefield, New Jersey, and was employed as a procurement and operations manager by defendant NEW YORK MACHINERY, LLC. Among other things, Atilla Kan sold military spare parts to the United States and Turkish governments on behalf of defendant NEW YORK MACHINERY, LLC.

DEPARTMENT OF DEFENSE CONTRACTS

2. The DoD, through the Defense Supply Center located in Columbus, Ohio ("DSCC"), contracted with private company contractors ("Contractors") to supply various items, including but not limited to, replacement parts for the United States military. As part of this process, the DSCC was responsible for electronically requesting and receiving quotes from Contractors for such replacement parts in accordance with the needs of the DoD.

3. The DoD solicitations specified that Contractors were required to supply an "exact product" manufactured by, or under the direction of, a specific manufacturer, called an "original equipment manufacturer" ("OEM"). DoD required the Contractors to obtain the specified parts either directly from the OEM, or from a distributor or manufacturer authorized by the OEM to sell or manufacture the parts. Each OEM-manufactured part

had a unique part number assigned to it. The contracts also specified the part number of the item to be supplied by the Contractors.

4. A DoD-approved part was also assigned a national stock number ("NSN"). An NSN was a thirteen-digit numeric code identifying all standardized material items of supply in the DoD. The NSN was specified in all DoD contracts.

5. The Defense Finance Accounting Service, located in Columbus, Ohio ("DFAS"), was a DoD agency responsible for paying Contractors for goods and services provided to the DoD. In the normal course, once a Contractor provided parts in accordance with the terms of the DoD contract, the Contractor electronically submitted to DFAS an invoice indicating that delivery was made to the DoD and requesting payment. Following receipt of the invoice, DFAS would render payment to the Contractor.

THE SCHEME AND ARTIFICE TO DEFRAUD

6. From on or about September 12, 2001 through in or about March 2005, in the District of New Jersey, and elsewhere, defendant

NEW YORK MACHINERY, LLC

did knowingly devise and intend to devise a scheme and artifice to defraud the DoD and to obtain money and property from the DoD by means of materially false and fraudulent pretenses, representations and promises.

OBJECT OF THE SCHEME AND ARTIFICE TO DEFRAUD

7. It was the principal object of the scheme and artifice to fraudulently obtain money from the DoD by supplying mislabeled parts that were not in accordance with contract and military specifications.

MANNER AND MEANS OF THE SCHEME AND ARTIFICE TO DEFRAUD

8. Among the manner and means used by defendant NEW YORK MACHINERY, LLC to carry out the scheme and artifice are those set forth as follows:

a. Atilla Kan, on behalf of defendant NEW YORK MACHINERY, LLC, would bid on, and be awarded, numerous DoD contracts to supply replacement parts purchased directly from the OEM, or from a distributor or manufacturer authorized by the OEM, to sell or manufacture primarily automotive and tractor-trailer parts for use in military operations.

b. Even though the DoD contracts required defendant NEW YORK MACHINERY, LLC to provide "exact products," also referred to as OEM-manufactured parts, defendant NEW YORK MACHINERY, LLC would purchase similar and less expensive parts from other manufacturers or unauthorized distributors who did not meet the DoD requirements ("Substitute Parts").

c. Defendant NEW YORK MACHINERY, LLC caused the re-labeling of the packaging of the Substitute Parts to reflect the part numbers and NSNs specified in the DoD contracts, thereby making them appear as if they were OEM-manufactured parts, before supplying them to the DoD.

d. Defendant NEW YORK MACHINERY, LLC purchased sample parts from OEMs and provided them to the K. Company, which in turn, manufactured less expensive copies of the parts, or arrange for copies of the parts to be produced by other manufacturers ("Reverse-Engineered Parts").

e. Defendant NEW YORK MACHINERY, LLC would then cause the labelling of the packaging of the Reverse-Engineered Parts to make them appear as if they were OEM-manufactured parts before supplying them to the DoD.

f. Defendant NEW YORK MACHINERY, LLC, upon request by the DSCC to provide traceability documentation, provided invoices for the Reverse-Engineered parts using the OEM part number.

g. Defendant NEW YORK MACHINERY, LLC transmitted, and caused to be transmitted, by means of wire communication in interstate commerce, namely the Internet, invoices of defendant NEW YORK MACHINERY, LLC from New Jersey to Ohio requesting payment in connection with the Substitute Parts and the Reverse-Engineered Parts supplied to the DoD, which were falsely represented as OEM parts. Receipt of these invoices caused DFAS to generate electronic funds transfers from DFAS in Columbus, Ohio to the bank account of defendant NEW YORK MACHINERY, LLC at JP Morgan Chase in New York.

h. For example, on or about November 8, 2004, defendant NEW YORK MACHINERY, LLC contracted with the DoD to supply 15 brake drum parts for tow tractors from either of two

DoD-authorized manufacturers, under their respective part numbers, specified in the contract. On or about December 27, 2004, defendant NEW YORK MACHINERY, LLC supplied non-conforming brake drum parts from the K. Company to the DoD. Defendant NEW YORK MACHINERY, LLC caused the re-labelling of the packaging of the substituted parts to appear as though the parts were purchased from a DoD-authorized manufacturer specified in the contract.

i. On or about December 8, 2004, defendant NEW YORK MACHINERY, LLC transmitted by electronic mail from Little Ferry, New Jersey to DFAS Columbus an invoice in the amount of approximately \$4,875 in connection with the contract described above in Paragraph 8(h).

j. Defendant NEW YORK MACHINERY, LLC operated the scheme in a manner similar to that described above from on or about September 12, 2001 through in or about March 2005, ultimately causing the DoD to sustain losses of approximately \$163,082.

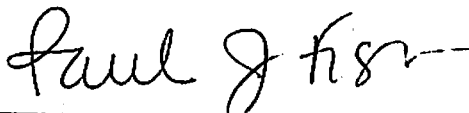
9. On or about December 8, 2004, for the purpose of executing the scheme and artifice described above, in the District of New Jersey and elsewhere, defendant

NEW YORK MACHINERY, LLC

did knowingly and intentionally transmit and cause to be transmitted in interstate commerce, certain writings, signs, signals, pictures, and sounds, namely, invoices sent via the Internet from New Jersey to DFAS in Ohio that requested payments

on contracts for mislabeled parts provided by defendant NEW YORK MACHINERY, LLC that were not in accordance with contract and military specifications.

In violation of Title 18, United States Code, Section 1343 and Section 2.

A handwritten signature in cursive script, reading "Paul J. Fishman". The signature is written in dark ink and is positioned above a horizontal line.

PAUL J. FISHMAN
United States Attorney

CASE NUMBER: _____

**United States District Court
District of New Jersey**

UNITED STATES OF AMERICA

v.

NEW YORK MACHINERY, LLC

INFORMATION FOR

18 U.S.C. §§ 1343 & 2

PAUL J. FISHMAN
UNITED STATES ATTORNEY, NEWARK, NEW JERSEY

LISA ROSE
JOYCE M. MALLIET
ASSISTANT U.S. ATTORNEYS
NEWARK, NEW JERSEY
(973) 645-2700