

FILED
8/19/2021

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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.

MR. DAVID'S FLOORING
INTERNATIONAL, LLC

No. **1:21-cr-00517**

Judge **Judge Sharon Johnson Coleman**
Magistrate Judge Gabriel A. Fuentes

Violations: Title 15, United States
Code, Section 1;
Title 18 United States Code, Section
1956(h)

INFORMATION

COUNT ONE

The UNITED STATES OF AMERICA charges:

DEFENDANT AND CO-CONSPIRATORS

1. MR. DAVID'S FLOORING INTERNATIONAL, LLC, is hereby made defendant on the charges contained in this Information.

2. During the period covered by Count One of this Information:

a. MR. DAVID'S FLOORING INTERNATIONAL, LLC was a corporation organized and existing under the laws of Delaware, with its principal place of business in the Northern District of Illinois. MR. DAVID'S FLOORING INTERNATIONAL, LLC was a provider of commercial flooring services and products (as defined in Paragraph 6 below) engaged in the sale of commercial flooring services and products in the United States.

b. Co-conspirator A3 was the President of MR. DAVID'S FLOORING INTERNATIONAL, LLC.

c. Michael P. Gannon was the Vice President of Sales of MR. DAVID'S FLOORING INTERNATIONAL, LLC.

3. Various corporations and individuals not made defendants in this Information participated in the offense charged in this Count One and performed acts and made statements in furtherance thereof, including Vortex Commercial Flooring, Inc., Delmar E. Church, Jr., Robert A. Patrey, Jr., Kenneth R. Smith, Company C, Company E, and Carter Brett. During the period covered by this Information, Vortex Commercial Flooring, Inc., Company C, and Company E were corporations organized and existing under the laws of Illinois, with principal places of business in the Northern District of Illinois, and were providers of commercial flooring services and products (as defined in Paragraph 6 below) in the United States.

4. 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.

BACKGROUND

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

6. 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.

DESCRIPTION OF THE OFFENSE

7. 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, through its personnel, including its high-level personnel, entered into and engaged in a combination and conspiracy with Vortex Commercial Flooring, Inc., Delmar E. Church, Jr., Robert A. Patrey, Jr., Kenneth R. Smith, Company C, Company E, and Carter Brett, and other companies and individuals to suppress and eliminate competition by agreeing to rig bids and to 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.

8. 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 to fix prices of commercial flooring services and products sold in the United States.

MEANS AND METHODS OF THE CONSPIRACY

9. For the purpose of forming and carrying out the charged combination and conspiracy, the defendant and its 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 to 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 ensuring submission of complementary bids.

TRADE AND COMMERCE

10. During the period covered by this Information, the defendant and its co-conspirators 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, as well as payments and solicitations for those services and products, traveled in interstate trade and commerce.

11. During the period covered by this Information, the business activities of the defendant and its co-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 trade and commerce. Acts in furtherance of this conspiracy were carried out within the Northern District of Illinois and elsewhere. Commercial flooring services and products that were the subject of this conspiracy were sold by one or more of the conspirators to customers in this District and elsewhere.

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

COUNT TWO

The UNITED STATES OF AMERICA further charges:

BACKGROUND

12. The allegations contained in paragraphs 1 to 6 of Count One are repeated and realleged here.

13. During the period covered by Count Two of this Information, Manufacturer A was a corporation organized and existing under the laws of Georgia, with its principal place of business in Georgia. During the period covered by Count Two, Manufacturer A manufactured flooring products, including carpet, tile, hardwood, laminate, and vinyl products, and sold these products in the Northern District of Illinois and elsewhere.

14. During most of the period covered by Count Two, Carter Brett was an account executive at Manufacturer A, whose job responsibilities included the promotion and sale of Manufacturer A's commercial flooring products to providers of commercial flooring services and products (as defined in Paragraph 6) in this District. Brett sold Manufacturer A's products by offering prices within a set range established and authorized by Manufacturer A in a pricing matrix. As an account executive for Manufacturer A, Brett owed a duty of honest services to Manufacturer A regarding decisions made relating to the prices at which he offered and sold his employer's products.

15. Beginning at least as early as 2013, and continuing through at least June 13, 2018, in the Northern District of Illinois, Eastern Division, and elsewhere,

MR. DAVID'S FLOORING INTERNATIONAL, LLC, through its personnel, and together with its co-conspirator Brett, knowingly and with intent to defraud, devised and participated in a scheme to defraud and to deprive Manufacturer A of its right to Brett's honest services through the offer and payment of kickbacks.

16. It was part of the scheme that Brett solicited and the defendant agreed to pay kickbacks in the form of cash, checks, or cash equivalents so that Brett would offer low pricing to the defendant, a material fact not disclosed to Manufacturer A. As the defendant intended, Brett materially deceived and defrauded Manufacturer A by not disclosing to his employer that he was being paid personally to offer low prices.

17. It was further part of the scheme that the defendant paid the kickback to Brett from payments it received from its customers for providing commercial flooring products from Manufacturer A at the low prices that Brett offered.

18. As a result of the scheme, the defendant intended and caused tangible monetary harm to Manufacturer A in the form of lower revenue derived from the low prices that Brett offered to the defendant in exchange for the defendant's agreement to provide kickback payments to Brett that were not disclosed to Manufacturer A.

DESCRIPTION OF THE OFFENSE

19. Beginning in or about 2013, and continuing through at least June 13, 2018, in the Northern District of Illinois, Eastern Division, and elsewhere, MR. DAVID'S FLOORING INTERNATIONAL, LLC, defendant herein, through its personnel, including its high-level personnel, including but not limited to Co-conspirator A3, did knowingly conspire with Brett and other co-conspirators to

conduct financial transactions affecting interstate commerce in violation of Title 18, United States Code, Section 1956(a)(1)(B)(i), which transactions involved the proceeds of specified unlawful activities, namely, honest services wire fraud in violation of Title 18, United States Code, Sections 1343 and 1346,

a. Knowing, while conducting and attempting to conduct such financial transactions, that the property involved in the financial transactions represented the proceeds of some form of unlawful activity, and

b. Knowing that the transactions were designed in whole and in part to conceal and disguise the nature, location, source, ownership, and control of the proceeds of said specified unlawful activities.

MEANS AND METHODS OF THE CONSPIRACY

20. The principal object of the conspiracy was to cause the kickback payments received by Brett, in the forms of checks from the defendant and other co-conspirators, which represented the proceeds of specified unlawful activities in violation of Title 18, United States Code, Sections 1343 and 1346, described above in Paragraphs 15-18, to be made payable to shell corporation MGAB13 Consulting, Inc. (“MGAB13”), and deposited into a bank account opened in the name of MGAB13, for the purpose of concealing and disguising the nature, location, source, ownership, and control of those criminal proceeds.

21. In early-to-mid 2013, Co-conspirator A3 suggested Brett create a shell company to receive kickback payments from the defendant, in order to conceal the unlawful payments from Manufacturer A, Brett’s employer.

22. It was further part of the conspiracy that on or about July 10, 2013, co-conspirator Brett then caused to be established a corporation, MGAB13, organized and existing under the laws of Illinois, with its purported principal place of business in the Northern District of Illinois, and under the nominal ownership of Brett's family member. Brett hid the true purpose of MGAB13—namely, to conceal and disguise the nature, location, source, ownership, and control of the proceeds of specified unlawful activities—by causing the corporation to open bank accounts with the signatory authority of his family member and by falsely indicating that his family member was a flooring consultant who provided services to the defendant. As the defendant and its co-conspirators knew, Brett's family member had no experience in the commercial flooring industry and did not perform any consulting services for the defendant. The sole purpose of MGAB13 was to conceal and disguise the nature, location, source, ownership, and control of the kickback payments paid by the defendant.

23. The defendant issued the following kickback payments during the conspiracy period, made payable to MGAB13 to conceal and disguise the nature, location, source, ownership, and control of the proceeds of the specified unlawful activity described above in Paragraphs 15-18, and signed by Co-conspirator A3 or other personnel, which co-conspirator Brett subsequently caused to be deposited in an account number ending in 1940 at Roselle Bank & Trust, an FDIC-insured financial institution operating in interstate commerce in Roselle, Illinois, in the name of MGAB13:

Date of Check	Check No.	Date of Deposit	Deposit Amount
09/24/2013	7704	10/07/2013	\$ 15,828.00
01/31/2014	500105	02/19/2014	\$ 4,705.00
02/07/2014	500195	02/19/2014	\$ 3,184.00
08/12/2015	508228	08/14/2015	\$ 11,630.00
12/25/2015	510800	12/30/2015	\$ 4,002.45
09/30/2016	517025	10/03/2016	\$ 912.00
TOTAL			\$ 40,261.45

ALL IN VIOLATION OF TITLE 18, UNITED STATES CODE, SECTION 1956(h).



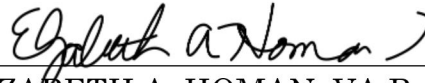
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