

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA : Criminal No. 00 Cr. 737 (RCC)

v. : Filed: July 13, 2000

PAMELA MERBERG and : Violations: 15 U.S.C. § 1
JITNEY, LTD., : 18 U.S.C. § 371

Defendants. :

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INFORMATION

COUNT ONE -- SHERMAN ACT CONSPIRACY
(15 U.S.C. § 1)

The United States of America, acting through its attorneys,
charges:

1. Jitney, Ltd. ("Jitney") is hereby made a defendant on
the charge stated below.

I. THE RELEVANT PARTIES AND ENTITIES

During the period covered by this Count:

2. Jitney, a vendor of food and related items, was
headquartered in Richmond Hill, New York.

3. The Department of Citywide Administrative Services of
the City of New York ("DCAS") was the agency that provided
support to various city entities that served the public,
including the entities responsible for overseeing hospitals,
jails, homeless shelters, and other facilities. DCAS became
responsible for providing this support in July 1996 when it
replaced the New York City Department of General Services.

Through its Division of Municipal Supply Services, DCAS conducted competitive bidding for the supply of necessary items, including food, on behalf of several New York City entities, including the Health and Hospitals Corporation, the Department of Juvenile Justice, the Department of Correction, the Department of Homeless Services, the Human Resources Administration, and the Administration for Children's Services.

4. The Newark Public Schools operated the public school system in Newark, New Jersey. That system, the largest in New Jersey, serviced approximately 44,000 students and operated more than 80 facilities. The Newark Public Schools served more than 7 million meals each year, and spent about \$7 million annually on food and milk. The Newark Public Schools' annual budgets were funded by the federal, state, and city governments, including funding pursuant to the National School Lunch Act of 1946. The Newark Public Schools solicited bids from, and awarded contracts to, vendors of food on a regular basis. The primary food contracts awarded by the Newark Public Schools were requirements contracts that obligated the vendors to supply and deliver food at the stated prices for the contract period.

5. The Nassau County Department of General Services was the agency responsible for managing procurement on behalf of the agencies of Nassau County, New York, including the agency that administered the Nassau County correctional facilities.

6. Whenever in this Count reference is made to any act,

deed, or transaction of any corporation, such allegation shall be deemed to mean that the corporation engaged in such 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.

7. Various persons and firms, not made defendants herein, participated as co-conspirators in the offense charged herein and performed acts and made statements in furtherance thereof. They include a senior executive officer and two salespeople at Jitney.

II. TRADE AND COMMERCE

8. During the period covered by this Count, Jitney purchased substantial quantities of food, primarily produce, for resale to DCAS, the Newark Public Schools, and the Nassau County Department of General Services from suppliers located throughout the United States, or from wholesalers who obtained their goods from suppliers located throughout the United States.

9. From approximately 1995 until approximately April 1999, as a result of the conspiracy charged herein, the Newark Public Schools purchased approximately \$900,000 of food from Jitney, the entities serviced by DCAS purchased approximately \$1.5 million of food from Jitney, and the Nassau County Department of General Services awarded contracts to Jitney for which Jitney had bid approximately \$500,000.

10. The activities of the defendant and

co-conspirators with respect to the sale of food, primarily produce, including the sale of food to DCAS, the Newark Public Schools, and the Nassau County Department of General Services, pursuant to contracts that are the subject of this Count, were within the flow of, and substantially affected, interstate trade and commerce.

III. DESCRIPTION OF THE OFFENSE

11. From approximately 1995 until approximately April 1999, the exact dates being unknown to the United States, the defendant and co-conspirators engaged in a combination and conspiracy in unreasonable restraint of interstate trade and commerce in violation of Section 1 of the Sherman Act (Title 15, United States Code, Section 1).

12. The aforesaid 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 allocate contracts for the supply of food, primarily produce, to a number of government entities, including DCAS, the Newark Public Schools, and the Nassau County Department of General Services.

13. For the purpose of forming and effectuating the aforesaid combination and conspiracy, the defendant and co-conspirators did those things which they combined and conspired to do, including, among other things:

(a) Prior to the submission of bids, with the approval

of a senior executive officer at Jitney, certain Jitney salespeople discussed and agreed with a competitor how to divide upcoming bids to supply food to DCAS, and then caused Jitney to bid in accordance with that agreement. In addition, the salespeople gave the competitor money to be distributed to potential competitors for the contracts awarded by DCAS, to induce those competitors not to bid competitively on those contracts. The salespeople obtained the cash he gave to the competitor from a senior executive officer at Jitney;

(b) Prior to the submission of bids, with the approval of a senior executive officer at Jitney, a Jitney salesperson discussed and agreed with a competitor how to divide upcoming bids to supply food to the Newark Public Schools. The salesperson then caused Jitney to bid in accordance with their agreement; and

(c) Prior to the submission of bids, with the approval of a senior executive officer at Jitney, a Jitney salesperson discussed and agreed with a competitor how to divide upcoming bids to supply food to the Nassau County Department of General Services. The salesperson then caused Jitney to bid in accordance with their agreement.

IV. JURISDICTION AND VENUE

14. The aforesaid combination and conspiracy was formed and carried out, in part, within the Southern District of New York within the five years preceding the filing of this

Information.

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

COUNT TWO -- CONSPIRACY
(18 U.S.C. § 371)

The United States of America further charges:

15. Jitney, Ltd. ("Jitney") and Pamela Merberg ("Merberg") are hereby made defendants on the charge stated below.

V. THE RELEVANT PARTIES AND ENTITIES

During the period covered by this Count:

16. Merberg, a resident of Kings Point, New York, was the owner of Jitney.

17. Paragraphs 2 and 6 of Count One of this Information are repeated, realleged, and incorporated in Count Two as if fully set forth in this Count.

18. Odyssey House, Inc. ("Odyssey House") was a not-for-profit residential substance abuse treatment organization located in Manhattan. Odyssey House received a significant portion of its funding from the State of New York Office of Alcoholism and Substance Abuse Services ("OASAS"). As a condition of that funding, OASAS required Odyssey House to solicit at least three competitive bids before it purchased any items which, in the aggregate, totaled at least \$3000 during any 60-day period. Odyssey House solicited bids from potential vendors of most goods and services, including food and related items.

19. Various persons and firms, not made defendants herein, participated as co-conspirators in the offense charged herein and performed acts and made statements in furtherance thereof. They include a senior executive officer at Jitney and Aaron Lugo ("Lugo"), the director of operations at Odyssey House. Lugo had primary responsibility at Odyssey House for purchasing most goods and services, including food and related items.

VI. DESCRIPTION OF THE OFFENSE

20. From at least as early as October 1987 and continuing until approximately April 1998, the exact dates being unknown to the United States, the defendants and co-conspirators did unlawfully, willfully, and knowingly conspire, combine, confederate, and agree to (a) defraud Odyssey House; (b) obtain money and property from Odyssey House by means of false and fraudulent pretenses, representations, and promises; and (c) deprive Odyssey House of its right to the honest services of certain of its employees, which scheme and artifice was executed by and through the use of the United States mails, in violation of Title 18, United States Code, Sections 1341 and 1346, all in violation of Title 18, United States Code, Section 371.

VII. THE MANNER AND MEANS BY WHICH THE CONSPIRACY WAS CARRIED OUT

The manner and means by which the conspiracy was sought to be accomplished included, among others, the following:

21. During all or some of the period from at least October 1987 until at least April 1998, a senior executive

officer at Jitney, with Merberg's knowledge, paid cash kickbacks to Lugo. These kickbacks, which totaled approximately \$196,200, were calculated according to a percentage, usually 4% or 5%, of the total value of orders that Jitney actually delivered to Odyssey House. The kickbacks were paid in order to ensure that Lugo would allocate to Jitney a portion of the contracts for food and related items awarded by Odyssey House.

22. In addition, during all or some of the period from at least as early as 1994 until at least April 1998, Lugo and a senior executive officer at Jitney, with Merberg's knowledge, embezzled approximately \$955,000 from Odyssey House. Lugo caused Odyssey House to issue false and fraudulent purchase orders to Jitney, and then the senior executive officer caused Jitney to issue corresponding false and fraudulent invoices. The purchase orders were false and fraudulent in that they purported to order food and related items that were not intended to be delivered. The invoices issued by Jitney were false and fraudulent in that they billed for goods and services never in fact delivered. Lugo falsely certified that Odyssey House had received all of the goods described in those purchase orders and invoices, and thereby caused Odyssey House to pay the full amount stated in them. In fact, Jitney provided none of the food and related items described in the false and fraudulent purchase orders and invoices. After receiving payment from Odyssey House on the false and fraudulent invoices, the senior executive officer

returned 40% of the face value of those invoices in cash to Lugo. Beginning in approximately late 1994, Lugo shared his proceeds from the embezzlement with another senior executive of Odyssey House.

23. A senior executive officer of Jitney, with the knowledge and approval of Lugo, made arrangements with a competitor to divide among themselves the available contracts to sell food to Odyssey House by rigging the monthly bids that OASAS required to be solicited and received.

VIII. OVERT ACTS

In furtherance of the conspiracy, and to effect the objects thereof, the following overt acts were committed in the Southern District of New York, and elsewhere:

24. Between 1994 and April 1998, a senior executive officer caused Jitney to issue to Odyssey House approximately 502 false and fraudulent invoices. Many of these invoices were sent to Odyssey House through the United States mails.

25. On numerous occasions between October 1987 and April 1998, a senior executive officer gave cash to Lugo at Lugo's office in Manhattan, and at various restaurants in Manhattan.

IN VIOLATION OF TITLE 18, UNITED STATES CODE, SECTION 371

COUNT THREE -- CONSPIRACY (18 U.S.C. § 371)

The United States of America further charges:

26. Jitney, Ltd. ("Jitney") and Pamela Merberg

("Merberg") are hereby made defendants on the charge stated below.

IX. THE RELEVANT PARTIES AND ENTITIES

During the period covered by this Count:

27. Paragraphs 2 and 6 of Count One and paragraph 16 of Count Two of this Information are repeated, realleged, and incorporated in Count Three as if fully set forth in this Count.

28. Various persons and firms, not made defendants herein, participated as co-conspirators in the offense charged herein and performed acts and made statements in furtherance thereof. They include a senior executive officer at Jitney and other Jitney employees.

29. Jitney sold food and related items to numerous customers besides Odyssey House, Inc. (collectively the "Jitney Customers") that were not-for-profit social service organizations located in New York City and the surrounding area. Those organizations received funding from the federal, state, and local governments.

X. DESCRIPTION OF THE OFFENSE

30. From at least as early as June 1984 and continuing until at least early 2000, the exact dates being unknown to the United States, the defendants and co-conspirators did unlawfully, willfully, and knowingly conspire, combine, confederate, and agree to (a) defraud approximately 147 different Jitney Customers; (b) obtain money and property from approximately 147

different Jitney Customers by means of false and fraudulent pretenses, representations, and promises; and (c) deprive approximately 147 different Jitney Customers of their right to the honest services of certain of their employees, which scheme and artifice was executed by and through the use of the United States mails, in violation of Title 18, United States Code, Sections 1341 and 1346, all in violation of Title 18, United States Code, Section 371.

XI. THE MANNER AND MEANS BY WHICH THE CONSPIRACY WAS CARRIED OUT

The manner and means by which the conspiracy was sought to be accomplished included, among others, the following:

31. During all or some of the period from at least April 1984 until at least early 2000, the defendants and co-conspirators paid approximately \$1 million in cash kickbacks to employees of approximately 147 different Jitney Customers. Most of the employees who received kickbacks were purchasing agents, but they also included accounts payable clerks and cooks. The kickbacks were usually calculated according to a percentage, between 1% and 7%, of the total value of orders that Jitney actually delivered to those Jitney Customers. They ranged in size from a single payment of \$20 to regular payments of \$500 or more per month. The defendants and co-conspirators paid kickbacks in order to ensure that those employees would allocate to them a portion of the contracts for food and related items awarded by those approximately 147 different Jitney Customers or

to speed the Jitney Customers' payments to Jitney.

32. In addition, during all or some of the period from at least as early as 1993 until at least April 1998, the defendants and co-conspirators and certain employees of several of the Jitney Customers embezzled a total of approximately \$100,000 from those Jitney Customers by causing Jitney to issue false and fraudulent invoices to those Jitney Customers. The invoices were false and fraudulent in that they billed for goods and services that were never in fact delivered. The employees then caused their employers to pay those invoices. In turn the employees received cash, usually equal to 40% of the face value of those invoices.

33. Merberg was personally responsible for making the payments to certain of the employees of the Jitney Customers. Every month, Merberg received cash from a senior executive officer at Jitney, put the cash into envelopes she had addressed, and then mailed the cash to the homes of those employees.

34. Merberg, a senior executive officer at Jitney, and at least one other employee of Jitney maintained and made entries recording the kickbacks and embezzlement payments in one or more journals or computer programs. A senior executive officer of Jitney destroyed some of these records, and ordered certain Jitney employees to alter or destroy other business records, after Jitney was served with a grand jury subpoena duces tecum demanding their production.

XII. OVERT ACTS

In furtherance of the conspiracy, and to effect the objects thereof, the following overt acts were committed in the Southern District of New York, and elsewhere:

35. Between 1993 and April 1998, Jitney issued numerous false and fraudulent invoices to certain Jitney Customers. Many of these invoices were sent to those Jitney Customers through the United States mails.

36. On numerous occasions between 1984 and early 2000, the defendants and co-conspirators gave cash to employees of certain Jitney Customers, many of whom were located in Manhattan and the Bronx.

IN VIOLATION OF TITLE 18, UNITED STATES CODE, SECTION 371

COUNT FOUR -- CONSPIRACY
(18 U.S.C. § 371)

37. Jitney, Ltd. ("Jitney") and Pamela Merberg ("Merberg") are hereby made defendants on the charge stated below.

XIII. THE RELEVANT PARTIES AND ENTITIES

During the period covered by this Count:

38. Paragraphs 2 and 6 of Count One and Paragraph 16 of Count Two of this Information are repeated, realleged, and incorporated in Count Four as if fully set forth in this Count.

39. Various persons and firms, not made defendants herein, participated as co-conspirators in the offense charged herein and performed acts and made statements in furtherance

thereof. They include a senior executive officer at Jitney, other Jitney employees, and Martin Schwartz ("Schwartz").

XIV. DESCRIPTION OF THE OFFENSE

40. From at least as early as June 1992 and continuing until approximately July 1998, the exact dates being unknown to the United States, the defendants and co-conspirators did unlawfully, willfully, and knowingly conspire, combine, confederate, and agree to defraud the United States of America and the Internal Revenue Service ("IRS") by impeding, impairing, defeating, and obstructing the lawful governmental functions of the IRS in the ascertainment, evaluation, assessment, and collection of federal income taxes, and to commit offenses against the United States, to wit, to violate Sections 7201 and 7206(1) of Title 26, United States Code.

41. It was a part and object of the conspiracy that the defendants and others known and unknown would and did defraud the IRS by impeding, impairing, obstructing, and defeating the lawful government functions of the IRS in ascertaining, evaluating, assessing, and collecting federal income taxes due and owing from Jitney, for tax year 1992 only, and from Merberg by impeding and impairing the IRS's ability to determine accurately the income and expenses of Jitney, by overstating the company's cost of goods sold so as to conceal the raising and accumulation of substantial amounts of cash which were never reflected on Jitney's books and records.

42. It was a further part and object of the conspiracy that the defendants and their co-conspirators would and did attempt to evade and defeat a substantial part of the income tax due and owing to the United States by Jitney, for tax year 1992 only, and Merberg and others, in violation of Title 26, United States Code, Section 7201.

43. It was a further part and object of the conspiracy that Merberg caused Jitney unlawfully, willfully, and knowingly to make and subscribe to a U.S. Corporation Income Tax Return, Form 1120, for the tax year 1992, and to U.S. Income Tax Returns for an S Corporation, Forms 1120S, for the tax years 1993, 1994, 1995, 1996, and 1997, each of which was verified by a written declaration that it was made under penalties of perjury, and which income tax returns she and the company did not believe to be true and correct as to every material matter, insofar as each of them substantially overstated Jitney's true cost of goods sold, and thereby substantially understated Jitney's true total income, in violation of Title 26, United States Code, Section 7206(1). In addition, Merberg unlawfully, willfully, and knowingly did make and subscribe to U.S. Individual Income Tax Returns, Forms 1040, for the tax years 1992, 1993, 1994, 1995, 1996, and 1997, each of which was verified by a written declaration that it was made under penalties of perjury, and which income tax returns Merberg did not believe to be true and correct as to every material matter, insofar as each of them

substantially understated her and her spouse's true total income, in violation of Title 26, United States Code, Section 7206(1).

XV. THE MANNER AND MEANS BY WHICH THE CONSPIRACY WAS CARRIED OUT

The manner and means by which the conspiracy was sought to be accomplished included, among others, the following:

44. A senior executive officer at Jitney, with Merberg's knowledge, caused Jitney to issue checks to certain sham companies, and improperly to deduct the amount of those checks as cost of goods sold on Jitney's corporate income tax returns, as described below:

(a) A senior executive officer at Jitney, with Merberg's knowledge, and Schwartz caused sham companies named AAMM Printing ("AAMM"), K&S Supply ("K&S"), and SOS Printing ("SOS"), which were created and controlled by Schwartz, to issue false and fraudulent invoices to Jitney. Those invoices were false and fraudulent because they purported to represent the sale of goods or services that had never been provided and were not intended to be provided to Jitney;

(b) Between approximately June 1992 and approximately October 1997, the senior executive officer caused Jitney to pay the false and fraudulent invoices issued to it by AAMM, SOS, and K&S by issuing approximately 136 checks totaling approximately \$982,927 to those companies. Schwartz cashed the checks and gave a large percentage, approximately 93%, of the value of the checks in cash to the senior executive officer at Jitney or to a person

he designated; and

(c) The senior executive officer caused Jitney to treat the full value of the checks issued to AAMM, K&S, and SOS as cost of goods sold in its books and records for 1992, 1993, 1994, 1995, 1996, and 1997, despite the fact that there were no actual expenses and that he received approximately 93% of the value of the checks back in cash. The senior executive officer, with Merberg's knowledge, further caused Jitney fraudulently to include the value of those checks as part of cost of goods sold on its U.S. Corporation Income Tax Return, Form 1120, for tax year 1992, and its U.S. Income Tax Returns for an S Corporation, Forms 1120S, for tax years 1993, 1994, 1995, 1996, and 1997.

45. The senior executive officer, with Merberg's knowledge, also caused Jitney to issue checks to certain of its suppliers, and also improperly to include the amount of those checks as cost of goods sold on Jitney's corporate income tax returns, as described below:

(a) Beginning in about November 1996, the senior executive officer instructed certain Jitney employees to seek out suppliers that would cash checks drawn by Jitney. Those employees arranged for four separate companies that were regular suppliers to Jitney (collectively the "Jitney Suppliers") to cash checks. Two of the Jitney Suppliers were located in the Bronx, New York;

(b) On numerous occasions, the senior executive

officer caused Jitney to draw checks payable to the Jitney Suppliers, and received back the full value of the checks in cash; and

(c) The senior executive officer, with Merberg's knowledge, caused Jitney to treat the full value of the checks issued to the Jitney Suppliers as cost of goods sold in its books and records and on its tax returns for tax years 1996 and 1997, despite the fact that he received all of the value of the checks back in cash.

46. Some of the cash received from Schwartz and from the Jitney Suppliers was used to pay kickbacks to employees responsible for purchasing food and related items at certain Jitney customers. Some of the cash received from Schwartz and from the Jitney Suppliers was used to pay employees at certain Jitney customers their share, usually 40%, of funds that had been embezzled from those Jitney customers by arranging for those customers to pay false and fraudulent invoices issued by Jitney. Merberg and her spouse also used some of the cash for personal expenses.

XVI. OVERT ACTS

In furtherance of the conspiracy, and to effect the objects thereof, the following overt acts were committed in the Southern District of New York, and elsewhere:

47. Between approximately June 1992 and approximately October 1997, Jitney issued to AAMM, K&S, and SOS 136 checks with

a face value of approximately \$982,927. A senior executive officer at Jitney then caused these checks to be given to Schwartz, in exchange for cash and false and fraudulent invoices.

48. On numerous occasions from approximately November 1996 to approximately December 1997, Jitney issued 187 checks, with a face value of approximately \$1,336,330, to the Jitney Suppliers, and received that same amount back in cash.

49. On or about March 14, 1997, Jitney filed a U.S. Income Tax Return for an S Corporation, Form 1120S, for tax year 1996 that falsely overstated Jitney's cost of goods sold by approximately \$607,898, by including in that number the value of 87 checks which should not have been included. That return was signed by Merberg.

50. On or about July 15, 1998, Jitney filed a U.S. Income Tax Return for an S Corporation, Form 1120S, for the tax year 1997 that falsely overstated Jitney's cost of goods sold by approximately \$1,428,537, by including in that number the value of 189 checks which should not have been included. That return was signed by Merberg.

51. On or about August 25, 1997, Merberg and her spouse filed a U.S. Individual Income Tax Return, Form 1040, for the tax year 1996 that falsely represented their true total income by failing to report as income some of the cash that had been received from Schwartz and from the Jitney Suppliers.

52. On or about April 10, 1998, Merberg and her

spouse filed a U.S. Individual Income Tax Return, Form 1040, for the tax year 1997 that falsely represented their true total income by failing to report cash that had been received from Schwartz and from the Jitney Suppliers.

IN VIOLATION OF TITLE 18, UNITED STATES CODE, SECTION 371

COUNT FIVE -- CONSPIRACY
(18 U.S.C. § 371)

The United States of America further charges:

53. Jitney, Ltd. ("Jitney") is hereby made a defendant on the charge stated below.

XVII. THE RELEVANT PARTIES AND ENTITIES

During the period covered by this Count:

54. Paragraphs 2 and 6 of Count One of this Information are repeated, realleged, and incorporated in Count Five as if fully set forth in this Count.

55. Various persons and firms, not made defendants herein, participated as co-conspirators in the offense charged herein and performed acts and made statements in furtherance thereof. They include a senior executive officer at Jitney and other Jitney employees.

56. The New York State Office of General Services ("OGS") was the agency that provided support to various state agencies that served the public, including the Office of Mental Retardation and Developmental Disabilities ("OMRDD"). OMRDD ran group homes and other facilities. OGS conducted competitive bidding on behalf of OMRDD and other state agencies. OGS was

obligated to solicit competitive bids on any contracts above a certain dollar threshold.

XVIII. DESCRIPTION OF THE OFFENSE

57. From approximately March 1996 and continuing until approximately July 1998, the exact dates being unknown to the United States, the defendant and co-conspirators did unlawfully, willfully, and knowingly conspire, combine, confederate, and agree to (a) defraud OGS and OMRDD and other state agencies; and (b) obtain money and property from OGS and OMRDD and other state agencies by means of false and fraudulent pretenses, representations, and promises, which scheme and artifice was executed by and through the use of the United States mails, in violation of Title 18, United States Code, Section 1341, all in violation of Title 18, United States Code, Section 371.

XIX. THE MANNER AND MEANS BY WHICH THE CONSPIRACY WAS CARRIED OUT

The manner and means by which the conspiracy was sought to be accomplished included, among others, the following:

58. In approximately May 1995, OGS awarded a contract to Schaffer Food Service Co. for the supply of groceries to facilities operated by OMRDD and other state agencies. In approximately March 1996, after Schaffer Food Service Co. went into bankruptcy, OGS assigned a portion of that contract to Jitney (hereinafter the "March 1996 contract").

59. Between approximately March 1996 and

approximately July 1998, pursuant to the March 1996 contract, Jitney sold approximately \$2.003 million in groceries and related items to OMRDD and other state agencies. Some of the facilities to which Jitney sold food and related items pursuant to the March 1996 contract were located in Manhattan and the Bronx.

60. The sales pursuant to the March 1996 contract were priced on a "cost plus" basis, that is, a percentage over actual cost at which Jitney had bid to supply and deliver groceries to OMRDD and other state agencies. OGS periodically required companies to which it awarded contracts, including Jitney, to demonstrate their actual costs, which they did by providing invoices from their suppliers to OGS.

61. Jitney deliberately overcharged OGS and OMRDD and other state agencies for groceries and related items pursuant to the March 1996 contract by falsely claiming that Jitney had purchased groceries and related items at prices that were substantially higher than the prices it had actually paid. In order to substantiate Jitney's claim, Jitney submitted to OGS false and fraudulent invoices purportedly issued by one of Jitney's suppliers which, in fact, it had caused to be created at that supplier's place of business. Those invoices were backdated and contained prices substantially higher than the prices Jitney had actually paid to the supplier at the stated time.

XX. OVERT ACTS

62. Between approximately March 1996 and approximately July 1998, an employee of Jitney created numerous false and fraudulent invoices purportedly issued to Jitney by one of its suppliers. Some of those invoices were sent to OGS through the United States mails.

IN VIOLATION OF TITLE 18, UNITED STATES CODE, SECTION 371

_____/s/_____/s/_____
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Assistant Attorney General Chief, New York Office

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_____/s/_____
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_____/s/_____
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Director of Criminal Enforcement

Antitrust Division _____/s/_____

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