

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

----- x

UNITED STATES OF AMERICA	:	Criminal No. 02 Cr. 1308
v.	:	Filed: 10/7/02
LORI MONTGOMERY,	:	Violation: 15 U.S.C. § 1
Defendant.	:	

----- x

INFORMATION

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

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

1. Lori Montgomery ("Montgomery") is hereby made a defendant on the charge stated below.

I. THE RELEVANT PARTIES AND ENTITIES

During the period covered by this Information:

2. Montgomery, a resident of Rivervale, New Jersey, was a minority co-owner and treasurer of a graphic services company ("GS-1"). She was in charge of the billing and estimating departments at GS-1 and was, in part, responsible for servicing one of its clients, Grey Global Group, Inc. or its predecessors or affiliates, including Grey Advertising, Inc. (collectively "Grey").

3. GS-1, a company located in Queens, New York, was a supplier of graphic services, including retouching and separation services to Grey.

4. Grey, headquartered in Manhattan, New York, provided advertising, marketing, public relations, and media services. Grey was one of the largest advertising agencies in the world,

with as many as 12,000 employees and offices in 90 countries. Grey, which had approximately \$8.3 billion in billings in 2000, had a client roster that included major consumer brand companies such as Brown & Williamson Tobacco Corp., The Procter & Gamble Co., GlaxoSmithKline p.l.c., Mars Inc., Hasbro, Inc., Eli Lilly & Co., 3M Co., and Joseph E. Seagram & Sons, Inc.

5. Brown & Williamson Tobacco Corp. (“B&W”) marketed tobacco products. B&W, the third largest cigarette manufacturer and marketer in the United States, was headquartered in Louisville, Kentucky. B&W was a subsidiary of British American Tobacco p.l.c. It had approximately 5,000 employees. B&W’s principal brands were Kool, Lucky Strike, Carlton, Kent, Capri, and Pall Mall.

6. The Color Wheel, Inc., a company located in Manhattan, New York, was a supplier of graphic services, including retouching and separation services, to Grey. The Color Wheel, Inc. was wholly owned by Haluk K. Ergulec. In 1999, The Color Wheel, Inc. merged with two other companies also wholly owned by Haluk K. Ergulec, Manhattan Color Graphics, Inc., and A2, Inc., with The Color Wheel, Inc. being the surviving corporate entity. Manhattan Color Graphics, Inc., A2, Inc., and the pre- and post-merger The Color Wheel, Inc. are hereinafter collectively referred to as “Color Wheel.”

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 included Gabriel Casas, a salesperson representing Color Wheel; a Color Wheel executive; Mitchell Mosallem (“Mosallem”), an executive vice president and director of graphic services at Grey; John F. Steinmetz, a vice president and associate director of graphic services at Grey; John Ghianni (“Ghianni”), an independent salesperson for GS-1; another salesperson for GS-

1; James Rattoballi, a part-owner of a graphic services company and a broker for other graphic services companies; a Grey employee whose primary responsibility was overseeing prepress services and printing; and other individuals representing certain graphics services companies.

## II. DEFINITIONS

8. “Retouching” is the process of editing or otherwise manipulating a photograph or digital image to achieve an aesthetically desired result. The process employs a range of image processing tools which can be used to compose, change, and improve any type of image.

9. “Separation” is the act of decomposing an image or photograph into single-color layers, so that it may be printed with a printing press.

## III. BACKGROUND

10. On approximately July 1, 1994, B&W retained Grey as its agent to provide advertising and marketing services on behalf of its various brands. The agreement between B&W and Grey and all succeeding agreements (hereinafter collectively “the agreement”) stated that Grey owed the highest fiduciary duties to B&W, and obliged Grey to exert its best efforts and apply its highest professional skill on B&W’s behalf.

11. As part of the agreement, Grey, acting on B&W’s behalf, procured various goods and services from third parties. These goods and services included retouching and separation services from graphics companies. To ensure that B&W received the best value on purchases made on its behalf by Grey, the agreement between B&W and Grey required that Grey obtain at least three competitive bids before entering into any single contract for goods or services in excess of \$25,000, and at least once a year to obtain competitive bids for any other goods or services purchased on B&W’s behalf.

#### IV. TRADE AND COMMERCE

12. From approximately late 1994 until approximately 2001, pursuant to contracts that are the subject of this Information, B&W, through its agency Grey, purchased substantial quantities of retouching and separation services from members of the conspiracy. Materials and equipment were transported across state lines for use in performing some of the aforementioned retouching and separation services.

13. During the period covered by this Information, the defendant and certain of the co-conspirators performed retouching or separation services on advertisements, including advertisements completed pursuant to contracts that are the subject of this Information, which were thereafter shipped across state lines in a continuous and uninterrupted flow of interstate commerce for inclusion in magazines and other media manufactured and produced outside the State of New York. These magazines and other media were also shipped across state lines in a continuous and uninterrupted flow of interstate commerce from their places of manufacture to customers located throughout the United States.

14. The activities of the defendant and certain of the co-conspirators with respect to the sale of retouching and separation services to B&W, purchased through its agency Grey, including the sale of retouching and separation services pursuant to contracts that are the subject of this Information, were within the flow of, and substantially affected, interstate trade and commerce.

#### V. DESCRIPTION OF THE OFFENSE

15. From approximately late 1994 until approximately 2001, 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).

16. 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 retouching and separation services to B&W, contracted through its agency Grey.

17. 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) Co-conspirators designated in advance that Color Wheel would be the low bidder, among the co-conspirators, on contracts to supply retouching services, and that another graphic services company would be the low bidder on contracts to supply separation services on behalf of B&W brands;

(b) Defendant and co-conspirators discussed and agreed on the prices that would be bid on contracts to supply retouching and on contracts to supply separation services on behalf of B&W brands; and

(c) Defendant and co-conspirators submitted, or caused to be submitted, intentionally high, noncompetitive bids (i.e., “cover” bids) on contracts to supply retouching and separation services on behalf of B&W brands, with the understanding that certain of these graphics supply companies would be allowed to submit bids for, and under certain circumstances allocated contracts to supply, various graphic services in connection with advertising for other Grey clients. The intentionally high bids relating to work Grey procured for B&W were submitted in order to make it appear to B&W that there had been competition for its contracts when, in fact, there had not.

VI. JURISDICTION AND VENUE

18. 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.

Dated:

/s/ \_\_\_\_\_  
CHARLES A. JAMES  
Assistant Attorney General

/s/ \_\_\_\_\_  
RALPH T. GIORDANO  
Chief, New York Office

/s/ \_\_\_\_\_  
JAMES M. GRIFFIN  
Deputy Assistant Attorney General

/s/ \_\_\_\_\_  
REBECCA MEIKLEJOHN

/s/ \_\_\_\_\_  
SCOTT D. HAMMOND  
Director of Criminal Enforcement

/s/ \_\_\_\_\_  
DOUGLAS M. TWEEN

Antitrust Division  
U.S. Department of Justice

/s/ \_\_\_\_\_  
ELIZABETH B. PREWITT

/s/ \_\_\_\_\_  
JAMES B. COMEY  
United States Attorney  
Southern District of New York

Attorneys, Antitrust Division  
U.S. Department of Justice  
26 Federal Plaza, Room 3630  
New York, New York 10278  
(212) 264-0654