

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

_____)	
UNITED STATES OF AMERICA)	
)	Criminal No.: CR00-N-285-S
v.)	
)	Filed: August 11, 2000 (Under Seal)
PHILIPP HOLZMANN)	Seal Lifted: August 18, 2000
AKTIENGESELLSCHAFT,)	
)	Violation: 15 U.S.C. § 1
Defendant.)	Judge Nelson
_____)	

INFORMATION

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

I

DESCRIPTION OF THE OFFENSE

1. Philipp Holzmann Aktiengesellschaft (“Philipp Holzmann AG”) is made a defendant on the charge stated below.
2. Beginning at least as early as June 1988 and continuing until at least January 18, 1995, the defendant and co-conspirators entered into and participated in a combination and conspiracy to suppress and eliminate competition by rigging the bids on certain wastewater construction contracts funded by the United States Agency for International Development (“USAID”) and performed in the Arab Republic of Egypt.

The combination and conspiracy engaged in by the defendant and co-conspirators was in unreasonable restraint of interstate and foreign trade and commerce in violation of Section 1 of the Sherman Act, 15 U.S.C. § 1.

3. 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 the bids on certain USAID-funded wastewater construction contracts in Egypt.

4. For the purpose of forming and carrying out the charged combination and conspiracy, the defendant and co-conspirators did those things that they combined and conspired to do, including, among other things:

- (a) participating in meetings and conversations to discuss rigging the bids on Contract 20A and Contract 07, two USAID-funded construction contracts in Egypt;
- (b) agreeing, during those meetings and conversations, to bid at certain levels and otherwise to increase the price level of bids on Contract 20A and Contract 07;
- (c) agreeing, during those meetings and conversations, to reduce or eliminate competition on Contract 20A and Contract 07;
- (d) agreeing, during those meetings and conversations, that the co-conspirators would be compensated by the defendant in exchange for their commitments to reduce or eliminate competition on Contract 20A and Contract 07; and

- (e) issuing bid tenders and making submissions on Contract 20A and Contract 07 in accordance with the agreements reached.

II

BACKGROUND

5. As a result of the Camp David Peace Accords in the late 1970s, the United States and other Western countries committed to fund extensive rehabilitation work on the water treatment and disposal facilities in the Arab Republic of Egypt. Pursuant to this commitment, USAID, acting on behalf of the United States, funded nearly a billion dollars in work by U.S. construction companies in the late 1980s and early 1990s.

6. The USAID-funded contracts were designed to be awarded to prequalified United States contractors on the basis of competitive sealed bids.

III

DEFENDANT AND CO-CONSPIRATORS

7. During the period covered by this Information, Philipp Holzmann AG was a corporation organized and existing under the laws of Germany with its principal place of business in Frankfurt, Germany. During the relevant period, Philipp Holzmann AG owned J.A. Jones Construction Company, a Charlotte, North Carolina-based construction company eligible to bid on USAID-funded contracts in Egypt. During the relevant period, Philipp Holzmann AG was engaged in coordinating the bidding efforts of J.A. Jones Construction Company and some of its competitors for certain USAID-funded contracts in Egypt.

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

9. Wherever in this Information reference is made to any act, deed, or transaction of a corporation, the reference means that the corporation engaged in the act, deed, or transaction by or through its officers, directors, agents, employees, or representatives while they were actively engaged in the management, direction, control, or transaction of its business or affairs.

IV

TRADE AND COMMERCE

10. During the period covered by this Information, conspirators purchased substantial quantities of supplies, materials, and equipment in anticipation of bidding on and performing Contracts 20A and 07. The supplies, materials, and equipment were shipped from the United States to the Arab Republic of Egypt in a continuous and uninterrupted flow of interstate and foreign trade and commerce.

11. During the period covered by this Information, the activities of the defendant and co-conspirators that are the subject of this Information were within the flow of, and substantially affected, interstate and foreign trade and commerce.

V

JURISDICTION AND VENUE

12. The combination and conspiracy charged in this Information was carried out, in part, within the Northern District of Alabama within the five years preceding the filing of this Information, excluding the period during which the running of the statute of limitations period was suspended to permit the United States to obtain evidence in a foreign country pursuant to 18 U.S.C. § 3292.

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

"/s/"
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Assistant Attorney General

"/s/"
JOHN T. ORR
Chief, Atlanta Office

"/s/"
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"/s/"
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