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7
8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 SAN FRANCISCO DIVISION

11 UNITED STATES OF AMERICA)
12) No. CR 05 00519 PJH
13 v.) INDICTMENT
14) VIOLATION:
GUNTER MONN) Title 15, United States Code,
15 Defendant.) Section 1 (Price Fixing)
16) San Francisco Venue

17 The Grand Jury charges as follows:

18 I.

19 DESCRIPTION OF THE OFFENSE

- 20 1. GUNTER MONN is hereby indicted and made a defendant on the charge stated below.
21 2. Beginning in or about 1995 and continuing into 2001, the exact dates being unknown to
22 the Grand Jury, coconspirators of the defendant entered into and engaged in a combination and
23 conspiracy to suppress and eliminate competition by fixing the prices of rubber chemicals to be sold in
24 the United States and elsewhere. The defendant joined the conspiracy in or about January 1997. The
25 combination and conspiracy engaged in by the defendant and his coconspirators was an unreasonable
26 restraint of interstate and foreign trade and commerce in violation of Section 1 of the Sherman Act (15
27 U.S.C. § 1).
28 3. The charged combination and conspiracy consisted of a continuing agreement,

1 understanding, and concert of action among the defendant and his coconspirators, the substantial terms
2 of which were to agree to fix and maintain prices and to coordinate price increases for rubber chemicals
3 to be sold in the United States and elsewhere.

4 II.

5 MEANS AND METHODS OF THE CONSPIRACY

6 4. For the purpose of forming and carrying out the charged combination and conspiracy, the
7 defendant and his coconspirators did those things that they combined and conspired to do, including,
8 among other things:

- 9 (a) attending and participating in meetings among major rubber chemical producers
10 to discuss the prices of rubber chemicals to be sold in the United States and
11 elsewhere;
- 12 (b) agreeing during those meetings and discussions to increase prices of rubber
13 chemicals to be sold in the United States and elsewhere;
- 14 (c) issuing price announcements and price quotations in accordance with the
15 agreements reached;
- 16 (d) causing rubber chemicals prices to certain customers to be raised or maintained in
17 the United States and elsewhere;
- 18 (e) accepting payment for the supply of rubber chemicals sold at collusive,
19 noncompetitive prices to certain customers in the United States and elsewhere;
- 20 (f) participating in meetings and discussions to discuss the prices of rubber chemicals
21 sold by each corporate conspirator in the United States and elsewhere for the
22 purpose of monitoring and enforcing adherence to the price agreements;
- 23 (g) attempting to conceal the conspiracy and conspiratorial contacts through various
24 means, including agreeing at the meetings to stagger the order and the timing of
25 price announcements to the public.

26 III.

27 DEFENDANT AND COCONSPIRATORS

28 5. Defendant GUNTER MONN is a resident and citizen of German. During part of the

1 period covered by this Indictment, defendant GUNTER MONN was the Head of Marketing for Rubber
2 Products at Bayer AG (“Bayer”). During the period covered by this Indictment, Bayer was a German
3 company that engaged in the business of producing rubber chemicals and selling rubber chemicals to
4 customers in the United States and elsewhere.

5 6. Various corporations and individuals, not made defendants in this Indictment,
6 participated as coconspirators in the offense charged in this Indictment and performed acts and made
7 statements in furtherance of it.

8 7. Whenever in this Indictment reference is made to any act, deed, or transaction of any
9 corporation, the allegation means that the corporation engaged in the act, deed, or transaction by or
10 through its officers, directors, employees, agents, or other representatives while they were actively
11 engaged in the management, direction, control, or transaction of its business or affairs.

12 IV.

13 TRADE AND COMMERCE

14 8. Rubber Chemicals are a group of additives used during the processing of rubber to
15 improve the elasticity, strength, and durability of a variety of rubber products, including automotive
16 tires, hoses and belts, wire and cable insulation, and footwear. Rubber chemicals include accelerators,
17 antidegradants, and antioxidants.

18 9. During the period covered by this Indictment, the defendant and his coconspirators sold
19 and distributed rubber chemicals, and caused the sale and distribution of rubber chemicals, in a
20 continuous and uninterrupted flow of interstate and foreign trade and commerce to customers located in
21 states or countries other than the states or countries in which the defendants and their coconspirators
22 produced rubber chemicals. In addition, quantities of rubber chemicals as well as payments for rubber
23 chemicals traveled in interstate and foreign commerce.

24 10. The business activities of the defendant and his coconspirators that are the subject of this
25 Indictment were within the flow of, and substantially affected, interstate and foreign trade and
26 commerce.

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28 ///

V.

JURISDICTION AND VENUE

11. The combination and conspiracy charged in this Indictment was carried out, in part, in the Northern District of California within the five years preceding the return of this Indictment.

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

A TRUE BILL

Dated: Aug. 10, 2005

_____/s/ Grand Jury Foreperson_____
FOREPERSON

_____/s/_____
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Acting Assistant Attorney General

_____/s/_____
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Chief, San Francisco Office

_____/s/_____
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