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FILED

AUG 22 2016

SUSAN Y. SOONG
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

11 UNITED STATES DISTRICT COURT
12 NORTHERN DISTRICT OF CALIFORNIA
13 SAN FRANCISCO DIVISION

EMC

14 UNITED STATES OF AMERICA

CR. 16 365

15 v.

) VIOLATION: 15 U.S.C. § 1
) Price Fixing

16 ELNA CO., LTD.,

17 Defendant.

18 INFORMATION

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

20 I. DESCRIPTION OF THE OFFENSE

- 21 1. ELNA CO., LTD. ("defendant") is made a defendant on the charge stated below.
22 2. From at least as early as September 1997 and continuing until in or about January
23 2014, the exact dates being unknown to the United States, in the Northern District of California

1 and elsewhere, coconspirators of the defendant knowingly entered into and engaged in a
2 combination and conspiracy to suppress and eliminate competition by fixing prices and rigging
3 bids of certain electrolytic capacitors in the United States and elsewhere. The combination and
4 conspiracy engaged in by the defendant and its coconspirators was in unreasonable restraint of
5 interstate and foreign trade and commerce in violation of Section 1 of the Sherman Act (15
6 U.S.C. § 1).

7 3. The defendant knowingly joined and participated in the charged conspiracy from
8 at least as early as August 2002 until in or about January 2014.

9 4. The charged combination and conspiracy consisted of a continuing agreement,
10 understanding, and concert of action among the defendant and coconspirators, the substantial
11 terms of which were to fix prices and rig bids of certain electrolytic capacitors.

12 II. BACKGROUND

13 5. Capacitors, also known as condensers, are a fundamental component of electrical
14 circuits and are used primarily to store and regulate electrical current. Electrolytic capacitors,
15 including aluminum and tantalum types, are a major sub-category of capacitors. Electrolytic
16 capacitors are ubiquitous and are found in many products that use electricity, run on a battery, or
17 plug into a socket. Desktop and notebook computers, flat-screen televisions, DVD players,
18 video and still digital cameras, gaming systems, car engine and airbag systems, home appliances,
19 office equipment, and motherboards and other printed circuit boards are some of the products
20 that contain electrolytic capacitors.

21 III. DEFENDANT AND COCONSPIRATORS

22 6. During the time period identified in paragraph 2, defendant, a corporation
23 organized and existing under the laws of Japan, manufactured electrolytic capacitors sold in the
24 United States and elsewhere.

25 7. During the time period identified in paragraph 2, defendant's coconspirators
26 included business organizations that manufactured electrolytic capacitors sold in the United
27 States and elsewhere.

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1 8. Various business organizations and individuals, not made defendants in this
2 Information, participated as coconspirators in the offense charged in this Information and
3 performed acts and made statements in furtherance of it.

4 9. Whenever in this Information reference is made to any act, deed, or transaction of
5 a business organization, the allegation means that the business organization engaged in the act,
6 deed, or transaction by or through its officers, directors, employees, agents, or other
7 representatives, or by or through the officers, directors, employees, agents, or other
8 representatives of entities in which the organization had a greater than 50% ownership interest
9 and which it controlled, while they were actively engaged in the management, direction, control,
10 or transaction of the business or affairs of the organization or those entities.

11 IV. MEANS AND METHODS OF THE CONSPIRACY

12 10. For the purpose of forming and carrying out the charged combination and
13 conspiracy, the defendant and its coconspirators did those things that they combined and
14 conspired to do, including, among other things:

15 a) participated at times in meetings, conversations, and communications with
16 each other in China, Germany, Japan, Singapore, Taiwan, the United States, and
17 elsewhere to discuss prices and bids of certain electrolytic capacitors;

18 b) agreed during various meetings, conversations, and communications to
19 fix, increase, maintain, and stabilize prices and rig bids of certain electrolytic capacitors;

20 c) negotiated prices, submitted bids, and issued price announcements for
21 certain electrolytic capacitors in accordance with the agreements reached;

22 d) sold, distributed, and accepted payments for electrolytic capacitors at
23 collusive, noncompetitive prices and bids in accordance with the agreements reached;

24 e) collected, exchanged, monitored, and discussed information on prices,
25 bids, sales, supply, demand, shipping, and the production of electrolytic capacitors for the
26 purpose of reaching agreements on prices and bids and monitoring and enforcing
27 adherence to the agreements reached;

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1 f) authorized, ordered, and consented to the participation of subordinate
2 employees in the conspiracy; and

3 g) took steps to conceal the conspiracy and conspiratorial meetings,
4 conversations, and communications through various means, such as using code names to
5 refer to coconspirators, limiting and discouraging retention and distribution of documents
6 reflecting conspiratorial contacts, and providing misleading justifications for prices and
7 bids provided to customers to cover up their collusive conduct.

8 These means and methods of the conspiracy all involved electrolytic capacitors sold to customers
9 located within the United States and elsewhere, including to customers that manufactured and/or
10 sold in the United States under major United States and other brands significant quantities of
11 electronic goods containing electrolytic capacitors, such as computers, televisions, and gaming
12 systems.

13 V. TRADE AND COMMERCE

14 11. During the time period identified in paragraph 2, defendant and its coconspirators
15 manufactured electrolytic capacitors in Japan, Thailand, China, the United States, and elsewhere
16 and sold them in the United States or for delivery to the United States. The charged combination
17 and conspiracy involved trade or commerce within the United States and U.S. import trade or
18 commerce in electrolytic capacitors.

19 12. During the time period identified in paragraph 2, defendant and its coconspirators
20 also sold foreign-manufactured electrolytic capacitors outside the United States for incorporation
21 into other products, including computers, televisions, and gaming systems, that were sold in or
22 for delivery to the United States. The charged combination and conspiracy had a direct,
23 substantial, and reasonably foreseeable effect on trade or commerce within the United States or
24 U.S. import trade or commerce in these electrolytic capacitor-containing products, and that
25 effect, in part, gives rise to this charge.

26 13. During the time period identified in paragraph 2, defendant and its coconspirators
27 sold and shipped substantial quantities of electrolytic capacitors in a continuous and
28 uninterrupted flow of interstate and U.S. import trade or commerce from the United States and

1 foreign countries to customers located in various states in the United States, including states
2 other than where the electrolytic capacitors were manufactured. In addition, substantial
3 quantities of equipment and supplies necessary for the manufacture, sale, and distribution of
4 electrolytic capacitors, as well as substantial payments for such electrolytic capacitors sold by
5 defendant and its coconspirators, traveled in interstate and U.S. import trade or commerce.
6 During the time period identified in paragraph 2, the business activities of defendant and its
7 coconspirators that are the subject of this Information were within the flow of, and substantially
8 affected, interstate and U.S. import trade or commerce. During the time period identified in
9 paragraph 2, the charged combination and conspiracy had a substantial and intended effect in the
10 United States, including on trade or commerce within the United States and U.S. import trade or
11 commerce in electrolytic capacitors and products containing electrolytic capacitors.

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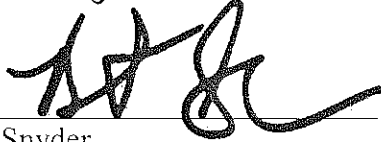
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1 ALL IN VIOLATION OF TITLE 15, UNITED STATES CODE, SECTION 1.

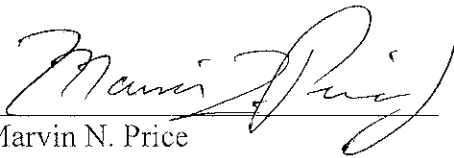
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3 Dated: August 22, 2016

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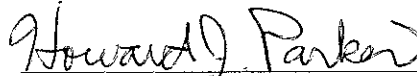
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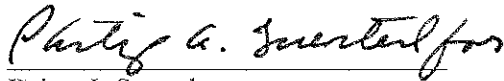
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