

MAR 16 2022

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

Clerk, U. S. District Court
Eastern District of Tennessee
At Knoxville

UNITED STATES OF AMERICA

v.

VICTOR BTESH;
BRUCE FISH;
BDF ENTERPRISES, INC.
d/b/a "The Big Lebowski";
MICHELLE'S DVD FUNHOUSE INC.
d/b/a "The Amazing Express";
MJR PRIME, LLC
d/b/a "Ready 2 Go";
PRIME BROOKLYN, LLC
d/b/a "Super Super Fast"

No. 3:22-cr- 24
Crytzer/Poplin

Filed:

Violation: 15 U.S.C. § 1

INDICTMENT

The Grand Jury charges that:

I.

DESCRIPTION OF THE OFFENSE

1. VICTOR BTESH, of Brooklyn, New York, is hereby indicted and made a defendant on the charge contained in this Indictment.

2. BRUCE FISH, of Hayfield, Minnesota, is hereby indicted and made a defendant on the charge contained in this Indictment.

3. BDF ENTERPRISES, INC., a Minnesota corporation with its principal place of business in Hayfield, Minnesota, is hereby indicted and made a defendant on the charge contained in this Indictment.

4. MICHELLE'S DVD FUNHOUSE INC., a New York corporation with its principal place of business in Brooklyn, New York, is hereby indicted and made a defendant on the charge contained in this Indictment.

5. MJR PRIME, LLC, a New York corporation with its principal place of business in Brooklyn, New York, is hereby indicted and made a defendant on the charge contained in this Indictment.

6. PRIME BROOKLYN, LLC, a New York corporation with its principal place of business in Brooklyn, New York, is hereby indicted and made a defendant on the charge contained in this Indictment.

7. Beginning in at least October 2016 and continuing until at least October 29, 2019, the exact dates being unknown to the Grand Jury, in the Eastern District of Tennessee and elsewhere, the Defendants and their co-conspirators—other persons and entities engaged in the sale and distribution of video media contained on digital video discs and Blu-Ray discs (hereinafter, collectively, “DVDs and Blu-Ray Discs”) through the Amazon Marketplace platform—knowingly entered into and engaged in a combination and conspiracy to suppress and eliminate competition by fixing prices for DVDs and Blu-Ray Discs sold through the Amazon Marketplace platform to customers located throughout the United States. The combination and conspiracy engaged in by the Defendants and co-conspirators was a *per se* unlawful, and thus unreasonable, restraint of interstate and foreign trade and commerce in violation of Section 1 of the Sherman Act (15 U.S.C. § 1).

8. The charged combination and conspiracy consisted of a continuing agreement, understanding, and concert of action among the Defendants and co-conspirators, the substantial terms of which were to fix and maintain prices, and coordinate price increases, of DVDs and Blu-Ray Discs sold through the Amazon Marketplace platform to customers located throughout the United States.

II.

MEANS AND METHODS OF THE CONSPIRACY

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

- a. engaged in discussions in the United States, including from within the Eastern District of Tennessee, concerning prices for DVDs and Blu-Ray Discs sold through the Amazon Marketplace platform to customers located throughout the United States;
- b. agreed during those discussions to raise and maintain prices for DVDs and Blu-Ray Discs sold through the Amazon Marketplace platform to customers located throughout the United States, using various words of agreement including “done,” “ok,” and “I will raise;”
- c. agreed during those discussions to exchange pricing for DVDs and Blu-Ray Discs sold through the Amazon Marketplace platform to customers located throughout the United States in order to implement and enforce this agreement;
- d. agreed during those discussions to monitor pricing of DVDs and Blu-Ray Discs offered by one another and by other sellers on the Amazon Marketplace platform to customers located throughout the United States in order to implement and enforce this agreement;
- e. agreed during those discussions to establish floor pricing for DVDs and Blu-Ray Discs sold through the Amazon Marketplace platform to customers located throughout the United States;

- f. exchanged pricing information for DVDs and Blu-Ray Discs sold through the Amazon Marketplace platform to customers located throughout the United States;
- g. monitored pricing of DVDs and Blu-Ray Discs offered by one another and by other sellers on the Amazon Marketplace platform to customers located throughout the United States;
- h. established floor pricing for DVDs and Blu-Ray discs sold through the Amazon Marketplace platform to customers located throughout the United States, at or near agreed-to pricing levels;
- i. communicated with one another regarding pricing of DVDs and Blu-Ray Discs sold through the Amazon Marketplace platform to customers located throughout the United States, through the use of interstate wire transmissions including email, text message, and phone calls;
- j. sold DVDs and Blu-Ray Discs through the Amazon Marketplace platform to customers located throughout the United States at collusive and noncompetitive prices; and
- k. accepted payment for sales of DVDs and Blu-Ray Discs sold through the Amazon Marketplace platform to customers located throughout the United States at collusive and noncompetitive prices.

III.

BACKGROUND

10. DVDs and Blu-Ray Discs are forms of optical disc storage that are sold on the Amazon Marketplace platform. The Amazon Marketplace platform is an e-commerce platform

owned and operated by Amazon.com, Inc. (“Amazon”) in the United States that enables third-party vendors to list their products and pricing in order to compete with one another and, at times, with Amazon, for the sale of new or used products to customers on Amazon’s website. The Amazon Marketplace platform is itself a component of the Amazon.com website.

IV.

DEFENDANTS AND CO-CONSPIRATORS

During the period covered by the Indictment:

11. BRUCE FISH owned and operated BDF ENTERPRISES, INC., which operated a virtual storefront on the Amazon Marketplace platform known as “The Big Lebowski” that distributed and sold DVDs and Blu-Ray Discs.

12. VICTOR BTESH owned and operated MICHELLE’S DVD FUNHOUSE INC., which operated a virtual storefront on the Amazon Marketplace platform known as “The Amazing Express” that distributed and sold DVDs and Blu-Ray Discs.

13. VICTOR BTESH partially owned, and oversaw and operated, MJR PRIME, LLC, which operated a virtual storefront on the Amazon Marketplace platform known as “Ready 2 Go” that distributed and sold DVDs and Blu-Ray Discs.

14. VICTOR BTESH partially owned, and oversaw and operated, PRIME BROOKLYN, LLC, which operated a virtual storefront on the Amazon Marketplace platform known as “Super Super Fast” that distributed and sold DVDs and Blu-Ray Discs.

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

16. Whenever in this Indictment reference is made to any act, deed, or transaction of

any corporation, the allegation means that the corporation engaged in the act, deed, or transaction by or through his officers, directors, agents, employees, or other representatives while they were actively engaged in the management, direction, control, or transaction of his business or affairs.

V.

TRADE AND COMMERCE

17. During the period covered by this Indictment, the Defendants and their co-conspirators delivered DVDs and Blu-Ray Discs from locations around the United States, including from within the Eastern District of Tennessee, to Amazon locations throughout the United States for further distribution to purchasers located throughout the United States.

18. During the period covered by this Indictment, the business activities of the Defendants and their co-conspirators in connection with the sale of DVDs and Blu-Ray Discs sold through the Amazon Marketplace platform to customers located throughout the United States that are the subject of this Indictment were within the flow of, and substantially affected, interstate commerce.

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

A TRUE BILL:

SIGNATURE REDACTED

GRAND JURY FOREPERSON

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



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