

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

UNITED STATES OF AMERICA)	Criminal No.: H-98-430
)	
v.)	Filed: 10/21/98
)	
DANNY TWO-SHENG FONG,)	
)	
Defendant.)	Violations:
)	15 U.S.C. § 1
)	18 U.S.C. § 1001
)	
)	

INDICTMENT

The Grand Jury charges:

COUNT ONE
CONSPIRACY TO RESTRAIN TRADE
15 U.S.C. § 1

I

DESCRIPTION OF THE OFFENSE

1. Danny Two-Sheng Fong is hereby indicted and made a defendant in this Count.
2. Beginning at least as early as January 1994 and continuing at least until June 1995, the exact dates being unknown to the Grand Jury, the above-named defendant and others entered into and engaged in a combination and conspiracy to suppress and restrain competition in the sale of metal building insulation sold to customers in Texas and Louisiana, in unreasonable

restraint of interstate trade and commerce in violation of Section One of the Sherman Act (15 U.S.C. § 1).

II

DEFENDANT AND CO-CONSPIRATORS

3. During the period covered by this Count, Danny Two-Sheng Fong was President and an owner of Hiplax International Corp. d/b/a Brite Insulation and the supervisor of Jerrold Warren Killingsworth and Yun Lung Yueh a/k/a Peter Yueh, Vice Presidents of Brite Insulation. During the period covered by this Count, Danny Two-Sheng Fong was responsible for supervising the fabrication, pricing, sale, and distribution of metal building insulation to customers in Texas and Louisiana from Brite Insulation's facility in Houston, Texas.

4. Various individuals and corporations not made defendants in this Count participated as co-conspirators in the offense charged and performed acts and made statements in furtherance of it.

III

THE CONSPIRACY

5. 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 fix and maintain prices and to coordinate price increases for the sale of metal building insulation sold by the defendant and co-conspirators to customers in Texas and Louisiana.

6. For the purpose of forming and carrying out the charged combination and conspiracy, the defendant and co-conspirators performed the following acts, among others:

(a) agreed to fix and maintain prices for metal building insulation sold by the defendant and co-conspirators to customers in Texas and Louisiana;

(b) increased, fixed, and maintained prices for metal building insulation sold by the defendant and co-conspirators to customers in Texas and Louisiana;

(c) carried out the above-described agreement by issuing price sheets containing agreed-upon prices and price increases for metal building insulation sold by the defendant and co-conspirators to customers in Texas and Louisiana; and

(d) monitored and enforced compliance with the above-described agreement.

IV

INTERSTATE TRADE AND COMMERCE

7. During the period covered by this Count, the defendant and co-conspirators transported and sold, in furtherance of the conspiracy charged in this Count, metal building insulation fabricated in the State of Texas to customers located in the State of Louisiana.

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

JURISDICTION AND VENUE

9. The combination and conspiracy charged in this Count was formed and carried out, in part, within the Southern District of Texas, Houston Division, within the five years preceding the return of this Indictment.

ALL IN VIOLATION OF 15 U.S.C. § 1.

The Grand Jury further charges:

COUNT TWO

FALSE STATEMENTS

18 U.S.C. § 1001

10. Each and every allegation contained in paragraphs 1 and 3 of Count One of this Indictment is realleged with the same force and effect as if fully set forth in this Count.

11. On or about June 21, 1995, in the Houston Division of the Southern District of Texas, and within the jurisdiction of this Court, the defendant Fong did knowingly and willfully make and cause to be made false, fictitious, and fraudulent statements and representations as to material facts to Special Agents James Hawkins and Frank I. Eldredge of the Federal Bureau of Investigation in a matter within the jurisdiction of the United States Department of Justice, a department of the United States.

12. On or about June 21, 1995, the defendant stated and represented to Special Agents Hawkins and Eldredge that: there was no conspiracy among the metal building insulation wholesalers to set prices; no employees of Brite Insulation had communicated with Huber Wallace

Rhodes, a competitor, about the conspiracy; and no employees of Brite Insulation had communications with any competitor concerning prices prior to issuing price sheets.

13. In truth and in fact, the defendant then and there knew that employees of Brite Insulation, including the defendant: had agreed with competitors to fix and maintain the prices of metal building insulation; had spoken with Huber Wallace Rhodes to fix prices and to monitor and enforce compliance with the conspiracy; and had exchanged pricing information with a competitor prior to issuing price sheets to carry out the conspiracy.

ALL IN VIOLATION OF 18 U.S.C. § 1001.

DATED: October 21, 1998

A TRUE BILL:

“/s/”
FOREPERSON

“/s/”
JOEL I. KLEIN
Assistant Attorney General

“/s/”
ALAN A. PASON
Chief, Dallas Field Office

“/s/”
GARY R. SPRATLING
Deputy Assistant Attorney General

“/s/”
MARK R. ROSMAN

“/s/”

JOHN T. ORR
Director of Criminal Enforcement

Antitrust Division
U.S. Department of Justice

“/s/”

United States Attorney
Southern District of Texas

“/s/”

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