

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

UNITED STATES OF AMERICA)	Criminal No.: CR-H-00-362
)	
v.)	
)	Filed: May 31, 2000
ROBERT L. SMIGEL,)	
THERM-ALL, INC.,)	Violation:
TULA D. THOMPSON, AND)	15 U.S.C. § 1
SUPREME INSULATION, INC.,)	
)	
Defendants.)	

INDICTMENT

The Grand Jury charges:

CONSPIRACY TO RESTRAIN TRADE

(15 U.S.C. § 1)

I

DESCRIPTION OF THE OFFENSE

1. Robert L. Smigel, Therm-All, Inc., Tula D. Thompson and Supreme Insulation, Inc., are hereby indicted and made defendants on the charge stated below.
2. Beginning as early as January 1994 and continuing at least until June 1995, the exact dates being unknown to the Grand Jury, the defendants and co-conspirators entered into and engaged in a combination and conspiracy to suppress and restrain competition in the sale of metal building insulation sold in certain regions of the United States in unreasonable restraint of interstate trade and commerce in violation of Section One of the Sherman Act (15 U.S.C. § 1).

II

DEFENDANTS AND CO-CONSPIRATORS

3. During the period covered by this Indictment, Robert L. Smigel was the president, chairman of the board of directors, and owner of Therm-All, Inc., and was responsible for supervising the fabrication, pricing, sale and distribution of metal building insulation.

4. Therm-All, Inc., is incorporated and exists under the laws of the State of Ohio and has its principal place of business in North Olmsted, Ohio. During the period covered by this Indictment, Therm-All, Inc., was engaged in the fabrication, sale and distribution of metal building insulation through its facilities in North Olmsted, Ohio; Columbus, Wisconsin; and Lancaster, Pennsylvania.

5. During the period covered by this Indictment, Tula D. Thompson was president of Supreme Insulation, Inc., and was responsible for supervising the fabrication, pricing, sale and distribution of metal building insulation.

6. Supreme Insulation, Inc., is incorporated and exists under the laws of the State of North Carolina and has its principal place of business in Greensboro, North Carolina. During the period covered by this Indictment, Supreme Insulation, Inc., was engaged in the fabrication, sale and distribution of metal building insulation through its facilities in Greensboro, North Carolina; Kansas City, Missouri; Birmingham, Alabama; and Fresno, California.

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

8. 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 its officers, directors, employees, agents, or other representatives while they were actively engaged in the management, direction, control, or transaction of its business or affairs.

III

THE CONSPIRACY

9. 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 raise, fix and maintain prices of metal building insulation sold by the defendants and co-conspirators in certain regions of the United States.

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

- (a) agreed to raise, fix and maintain prices for metal building insulation in certain regions of the United States;
- (b) discussed prices to be charged for metal building insulation in certain regions of the United States;
- (c) raised, fixed and maintained prices for metal building insulation in certain regions of the United States; and
- (d) monitored and enforced compliance with the agreement to raise,

fix and maintain prices for metal building insulation in certain regions of the United States.

IV

INTERSTATE TRADE AND COMMERCE

11. During the period covered by this Indictment, the defendants and/or co-conspirators transported and sold, in furtherance of the conspiracy charged in this Indictment, substantial quantities of metal building insulation across state lines in a continuous and uninterrupted flow of interstate trade and commerce, including the transportation and sale of metal building insulation which had been fabricated in the Southern District of Texas to customers located outside the State of Texas.

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

V

JURISDICTION AND VENUE

13. The combination and conspiracy charged in this Indictment was 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 TITLE 15 U.S.C. § 1.

A TRUE BILL

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FOREPERSON

_____/s/_____
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