

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

UNITED STATES OF AMERICA)	
Plaintiff,)	FILED:
)	
)	APRIL 11, 2006
)	
v.)	Cause No. IP 06- 61 -CR-01 M/F
)	-02
MA-RI-AL CORPORATION, d/b/a BEAVER)	-03
MATERIALS, CORP.;)	-04
CHRIS A. BEAVER;)	
RICKY J. BEAVER a/k/a RICK BEAVER; and)	
JOHN J. BLATZHEIM,)	
Defendants.)	

INDICTMENT

COUNT ONE – SHERMAN ACT CONSPIRACY
(15 U.S.C. § 1)

The Grand Jury charges that:

I.

DESCRIPTION OF THE OFFENSE

1. The following corporations and individuals are hereby indicted and made defendants on the charge stated below:
 - A. MA-RI-AL CORPORATION, d/b/a BEAVER MATERIALS, CORP.;
 - B. CHRIS A. BEAVER;
 - C. RICKY J. BEAVER a/k/a RICK BEAVER; and
 - D. JOHN J. BLATZHEIM.
2. Beginning at least as early as July, 2000 and continuing until May 25, 2004, the exact dates being unknown to the Grand Jury, the defendants and co-conspirators Irving Materials, Inc., Builder's Concrete and Supply Co., Inc. and other corporations and individuals entered into

and engaged in a combination and conspiracy to suppress and eliminate competition by fixing the prices at which ready mixed concrete was sold in the Indianapolis, Indiana metropolitan area. Defendant JOHN J. BLATZHEIM joined the conspiracy in or about April, 2003. The combination and conspiracy engaged in by the defendants and their co-conspirators was in unreasonable restraint of interstate trade and commerce in violation of Section 1 of the Sherman Act (15 U.S.C. § 1).

3. The charged combination and conspiracy consisted of a continuing agreement, understanding, and concert of action among the defendants and their co-conspirators, the substantial terms of which were to fix and maintain the prices at which ready mixed concrete was sold in the Indianapolis, Indiana metropolitan area.

II.

MEANS AND METHODS OF THE CONSPIRACY

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

- A. attending and participating in meetings among competing ready mixed concrete producers to discuss the prices at which ready mixed concrete was sold in the Indianapolis, Indiana, metropolitan market. These meetings were held at various locations, including, but not limited to, a horse barn owned by a co-conspirator, Gus B. Nuckols III a/k/a Butch Nuckols, president of Builder's Concrete and Supply Co., Inc.;
- B. agreeing during those meetings and discussions to increase prices of ready mixed

- concrete to be sold in the Indianapolis, Indiana, metropolitan market;
- C. agreeing during those meetings and discussions to limit or eliminate discounts and implement surcharges applied to ready mixed concrete sold in the Indianapolis, Indiana, metropolitan market;
 - D. issuing price announcements and prices quotations in accordance with the agreements reached;
 - E. selling ready mixed concrete pursuant to those agreements at collusive and noncompetitive prices;
 - F. accepting payment for ready mixed concrete sold at the agreed upon collusive and noncompetitive prices;
 - G. contacting co-conspirators to discuss the price of ready mixed concrete sold by co-conspirators for the purpose of monitoring and enforcing adherence to the price agreements;
 - H. attempting to conceal the conspiracy and conspiratorial contacts through various means.

III.

DEFENDANTS AND CO-CONSPIRATORS

5. MA-RI-AL CORPORATION, d/b/a BEAVER MATERIALS, Corp. (“BEAVER”), is an Indiana corporation with its headquarters in Noblesville, Indiana. During the period covered by this Count, BEAVER was engaged in the manufacture and sale of ready mixed concrete in the Indianapolis, Indiana, metropolitan area and elsewhere.
6. During the period covered by this Count, defendant CHRIS A. BEAVER was the Operations Manager for defendant BEAVER.

7. During the period covered by this Count, defendant RICKY J. BEAVER a/k/a RICK BEAVER was the Commercial Sales Manager for defendant BEAVER.

8. Beginning in or about April, 2003, through the end of the period covered by this Count, defendant JOHN J. BLATZHEIM was the Executive Vice-President of Builder's Concrete and Supply Co., Inc., a corporate co-conspirator.

9. Various co-conspirators, not made defendants in this Count, participated in the offense charged in this Count and performed acts and made statements in furtherance of the charged offense.

10. Whenever in this Count reference is made to any act, deed, or transaction of any corporation, such allegation shall be deemed to mean that the corporation engaged in such act, deed, or transaction by or through its officers, directors, agents, employees, or representatives while they were actively engaged in the management, direction, control, or transaction of its business or affairs.

IV.

TRADE AND COMMERCE

11. Ready mixed concrete is a product whose ingredients include cement, aggregate (sand and gravel), water, and, at times, other additives. Ready mixed concrete is made on demand and, if necessary, is shipped to work sites by concrete mixer trucks. Ready mixed concrete is purchased by do-it yourself and commercial customers, as well as local, state, and federal governments for use in various construction projects, including, but not limited to, sidewalks, driveways, bridges, tunnels, and roads.

12. During the time period covered by this Count, the corporate conspirators purchased substantial quantities of equipment and supplies necessary to the production and distribution of

ready mixed concrete, which equipment and supplies were shipped into Indiana from points of origin outside Indiana.

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

V.

JURISDICTION AND VENUE

14. The combination and conspiracy charged in this Count was carried out, in part, in the Southern District of Indiana within the five years preceding the return of this Count.

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

COUNT TWO – FALSE STATEMENT
(18 U.S.C. § 1001)

The Grand Jury charges that:

1. JOHN J. BLATZHEIM is hereby indicted and made a defendant on the charge stated below.
2. Beginning in or about April, 2003, through at least May 25, 2004, defendant JOHN J. BLATZHEIM was the Executive Vice-President of Builder's Concrete and Supply Co., Inc.
3. In October, 2003, JOHN J. BLATZHEIM attended a meeting at a horse barn which was owned by Gus B. Nuckols III a/k/a Butch Nuckols, president of Builder's Concrete and Supply Co., Inc. That meeting was attended by representatives of Irving Materials, Inc., Builder's Concrete and Supply Co., Inc. and other corporate co-conspirators in the conspiracy which is the subject of Count One of this Indictment. During that meeting, and while JOHN J. BLATZHEIM was present, the coconspirators agreed to fix the price of ready mixed concrete sold in the Indianapolis, Indiana metropolitan area. At various other times between April, 2003 and May

25, 2004, JOHN J. BLATZHEIM participated in discussions about prices or discount amounts of ready mixed concrete with representatives of other corporate co-conspirators in the conspiracy which is the subject of Count One of this Indictment.

4. On May 25, 2004, in the Southern District of Indiana, defendant JOHN J. BLATZHEIM knowingly and willfully made a false statement which was material to a matter within the jurisdiction of the executive branch of the Government of the United States. Specifically, in connection with an investigation by the Midwest Field Office of the Antitrust Division, United States Department of Justice (“Antitrust Division”), JOHN J. BLATZHEIM was interviewed by agents of the Antitrust Division and the Federal Bureau of Investigation. During that interview, JOHN J. BLATZHEIM falsely stated that he was unaware of any representative of a ready mixed concrete company being involved in pricing discussions with competitors.

ALL IN VIOLATION OF TITLE 18, UNITED STATES CODE, SECTION 1001.

COUNT THREE – FALSE STATEMENT
(18 U.S.C. § 1001)

The Grand Jury charges that:

1. CHRIS A. BEAVER is hereby indicted and made a defendant on the charge stated below.
2. From at least as early as July, 2000 through at least May 25, 2004, defendant CHRIS A. BEAVER was the Operations Manager for MA-RI-AL CORPORATION, d/b/a BEAVER MATERIALS, Corp.
3. In October, 2003, CHRIS A. BEAVER attended a meeting at a horse barn which was owned by Gus B. Nuckols III a/k/a Butch Nuckols, president of Builder’s Concrete and Supply Co., Inc. That meeting was attended by representatives of Irving Materials, Inc., Builder’s

Concrete and Supply Co., Inc. and other corporate co-conspirators in the conspiracy which is the subject of Count One of this Indictment. During that meeting, and while CHRIS A. BEAVER was present, the coconspirators agreed to fix the price of ready mixed concrete sold in the Indianapolis, Indiana metropolitan area. At various other times between July, 2000 and May 25, 2004, CHRIS A. BEAVER participated in discussions about prices or discount amounts of ready mixed concrete with representatives of other corporate co-conspirators in the conspiracy which is the subject of Count One of this Indictment.

4. On May 25, 2004, in the Southern District of Indiana, defendant CHRIS A. BEAVER knowingly and willfully made a false statement which was material to a matter within the jurisdiction of the executive branch of the Government of the United States. Specifically, in connection with an investigation by the Midwest Field Office of the Antitrust Division, United States Department of Justice, CHRIS A. BEAVER was interviewed by agents of the Federal Bureau of Investigation and the Indiana State Police. During that interview, CHRIS A. BEAVER falsely stated that he was unaware of any representative of a ready mixed concrete company being involved in pricing discussions with competitors.

ALL IN VIOLATION OF TITLE 18, UNITED STATES CODE, SECTION 1001.

COUNT FOUR – FALSE STATEMENT
(18 U.S.C. § 1001)

The Grand Jury charges that:

1. RICKY J. BEAVER a/k/a RICK BEAVER is hereby indicted and made a defendant on the charge stated below.
2. From at least as early as July, 2000 through at least May 25, 2004, defendant RICKY J.

BEAVER a/k/a RICK BEAVER was the Commercial Sales Manager for MA-RI-AL CORPORATION, d/b/a BEAVER MATERIALS, Corp.

3. Between late 2002 and early 2003, RICKY J. BEAVER a/k/a RICK BEAVER attended a meeting at an Indianapolis-area hotel. That meeting was attended by representatives of Irving Materials, Inc., Builder's Concrete and Supply Co., Inc., and other corporate co-conspirators in the conspiracy which is the subject of Count One of this Indictment. During that meeting, and while RICKY J. BEAVER a/k/a RICK BEAVER was present, the coconspirators agreed to fix the price of ready mixed concrete sold in the Indianapolis, Indiana metropolitan area. At various other times between July, 2000 and May 25, 2004, RICKY J. BEAVER a/k/a RICK BEAVER participated in discussions about prices or discount amounts of ready mixed concrete with representatives of other corporate co-conspirators in the conspiracy which is the subject of Count One of this Indictment.

4. On May 25, 2004, in the Southern District of Indiana, defendant RICKY J. BEAVER a/k/a RICK BEAVER knowingly and willfully made a false statement which was material to a matter within the jurisdiction of the executive branch of the Government of the United States. Specifically, in connection with an investigation by the Midwest Field Office of the Antitrust Division, United States Department of Justice, RICKY J. BEAVER a/k/a RICK BEAVER was interviewed by agents of the Federal Bureau of Investigation and the Indiana State Police. During that interview, RICKY J. BEAVER a/k/a RICK BEAVER falsely stated that he was unaware of any representative of a ready mixed concrete company being involved in pricing discussions with competitors.

ALL IN VIOLATION OF TITLE 18, UNITED STATES CODE, SECTION 1001.

Dated: April 11, 2006

A TRUE BILL

/s/
FOREPERSON

/s/
THOMAS O. BARNETT
Assistant Attorney General

/s/
SCOTT D. HAMMOND
Deputy Assistant Attorney General

/s/
MARC SIEGEL
Director of Criminal Enforcement

United States Department of Justice
Antitrust Division
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530

/s/
MARVIN N. PRICE, JR.
Chief, Midwest Field Office

/s/
FRANK J. VONDRAK
Assistant Chief, Midwest Field Office

/s/
JONATHAN A. EPSTEIN

/s/
MICHAEL W. BOOMGARDEN

/s/
ERIC L. SCHLEEF
Attorneys
United States Department of Justice
Antitrust Division
209 S. LaSalle St., Suite 600
Chicago, IL 60604
Telephone: (312) 353-7530
Facsimile: (312) 353-1046