



Department of Justice

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**INDIANA READY MIXED CONCRETE PRODUCER AND
PRESIDENT AGREE TO PLEAD GUILTY TO PRICE-FIXING CHARGE**

WASHINGTON, D.C. – An Indiana ready mixed concrete producer and its president have agreed to plead guilty and pay criminal fines for fixing the price of ready mixed concrete in the Indianapolis metropolitan area, the Department of Justice announced today.

In a felony case filed in the United States District Court in Indianapolis, Builder's Concrete & Supply Co. Inc. (Builder's) of Fishers, Ind., and Gus B. ("Butch") Nuckols III, were charged with conspiring with their competitors to fix the price of ready mixed concrete sold in the Indianapolis metropolitan area from approximately July 2000 until May 2004.

Including today's charge, two companies and five individuals have been charged and fines totaling more than \$30 million have resulted from the Department's ongoing investigation of the ready mixed concrete industry.

"Price fixing threatens our free market system and robs consumers of the benefit of competitive prices," said Thomas O. Barnett, Assistant Attorney General in charge of the Department's Antitrust Division. "We vigorously investigate and prosecute companies and individuals involved in these conspiracies."

Under the plea agreement, which must be approved by the court, Builder's has agreed to pay a fine of between \$1.5 million and \$11.5 million, with the exact amount to be determined by the court. Similarly, Nuckols has entered into a plea agreement subject to court approval that

requires him to pay a fine of \$50,000 and to serve a term of imprisonment to be determined by the court. In addition, Nuckols has agreed to assist the government in its ongoing investigation.

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. It is purchased by do-it-yourself customers and commercial customers, as well as local, state, and federal governments for use in various construction projects including sidewalks, driveways, bridges, tunnels, and roads.

According to the plea agreement, on at least two occasions, Nuckols hosted meetings among representatives of competing ready mixed concrete producers in a horse barn on his property located adjacent to his home in Fishers, Ind. During those meetings, Nuckols and his co-conspirators discussed and agreed on prices, discounts, and conditions of sale for ready mixed concrete in the Indianapolis metropolitan area. Nuckols also made numerous telephone calls and participated in several meetings among smaller numbers of individuals to ensure compliance with the conspiratorial agreements, the Department said.

Builder's and Nuckols are charged with carrying out the conspiracy with their co-conspirators by:

- Engaging in discussions regarding the prices at which each would sell ready mixed concrete;
- Agreeing during those discussions to specific price increases for ready mixed concrete and to the timing of those price increases;
- Issuing price announcements and/or price quotations in accordance with the agreements reached;
- Selling ready mixed concrete pursuant to those agreements at collusive and noncompetitive prices;

- Accepting payment for ready mixed concrete sold at the agreed-upon collusive and noncompetitive prices; and
- Authorizing or consenting to the participation of subordinate employees in the conspiracy.

Today's charge resulted from the Antitrust Division's ongoing investigation of the ready mixed concrete industry being conducted by its Chicago Field Office in conjunction with the Indianapolis office of the Federal Bureau of Investigation (FBI) and the United States Attorney's Office for the Southern District of Indiana. Builder's is the second ready mixed concrete producer in Indiana to plead guilty to its participation in the Indianapolis metropolitan area price-fixing conspiracy. In June 2005, Irving Materials Inc. pleaded guilty and was sentenced to pay a \$29.2 million fine – the largest fine ever collected by the Department of Justice in a domestic antitrust investigation. In December 2005, four executives from that company were each sentenced to serve five months imprisonment and five months home confinement and to pay fines ranging from \$100,000 to \$200,000 each after pleading guilty to participation in the conspiracy.

Anyone with information concerning price fixing or other anticompetitive conduct in the ready mixed concrete industry should contact the Chicago Field Office of the Antitrust Division at 312-353-7530 or the Indianapolis office of the FBI at 317-639-3301. All press inquiries should be directed to the Office of Public Affairs at the Department of Justice at 202-514-2007.

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