

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF IOWA

UNITED STATES OF AMERICA)
)
 v.)
)
 STEVEN KEITH VANDEBRAKE,)
 a/k/a STEVE VANDEBRAKE)
)
 Defendant.)
 _____)

Criminal No.: **CR 10-4025MWB**

Filed:

Violation: 15 U.S.C. § 1

INFORMATION

The United States of America charges:

COUNT ONE

I. DESCRIPTION OF THE OFFENSE

1. Beginning at least as early as June 2008 and continuing until as late as March 2009, the exact dates being unknown to the United States, the defendant and co-conspirators entered into and engaged in a combination and conspiracy to suppress and eliminate competition by fixing prices and rigging bids for sales of ready-mix concrete in the Northern District of Iowa. The combination and conspiracy engaged in by the defendant and 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).

2. 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 prices and rig bids for sales of ready-mix concrete in the Northern District of Iowa.

II. MEANS AND METHODS OF THE CONSPIRACY

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

- (a) engaging in discussions in the Northern District of Iowa concerning price increases for the conspirators' annual price lists for ready-mix concrete sold in the Northern District of Iowa;
- (b) agreeing during those discussions to raise prices on their respective price lists for ready-mix concrete sold in the Northern District of Iowa;
- (c) engaging in discussions in the Northern District of Iowa concerning project bids for sales of ready-mix concrete in the Northern District of Iowa;
- (d) agreeing during those discussions to submit rigged bids at collusive and noncompetitive prices to customers in the Northern District of Iowa;
- (e) submitting bids and selling ready-mix concrete at collusive and noncompetitive prices in the Northern District of Iowa; and
- (f) accepting payment for sales of ready-mix concrete at collusive and noncompetitive prices in the Northern District of Iowa.

III. DEFENDANT AND CO-CONSPIRATORS

4. During the period covered by Count One, Steven Keith VandeBrake was the Sales Manager of a ready-mix concrete company ("Company A") and managed business operations, including pricing decisions. During the period set forth in Count One, Company A was a corporation organized and existing in the State of Iowa with its principal place of business in

Orange City, IA. During the period set forth in Count One, Company A was a producer and seller of ready-mix concrete in the Northern District of Iowa.

5. Another corporation ("Company B") and one or more individuals, not made defendants in this Information, participated as co-conspirators in the offense charged in this Count and performed acts and made statements in furtherance thereof.

6. Whenever in this Count 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, agents, employees, or other representatives while they were actively engaged in the management, direction, control or transaction of its business or affairs.

IV. TRADE AND COMMERCE

7. Ready-mix concrete is a product whose ingredients include cement, aggregate (sand and gravel), water, and, at times, other additives. Ready-mix concrete is used in various types of construction projects, including buildings and roads. Ready-mix concrete generally is produced in a concrete plant and is transported to work sites by concrete-mixer trucks.

8. During the period covered by Count One, substantial quantities of equipment and materials necessary to produce ready-mix concrete, deliveries of ready-mix concrete, and/or payments for ready-mix concrete, traveled in interstate commerce.

9. During the period covered by Count One, the business activities of the defendant and his co-conspirators in connection with sales of ready-mix concrete that are the subject of Count One were within the flow of, and substantially affected, interstate commerce.

V. JURISDICTION AND VENUE

10. The combination and conspiracy charged in Count One was carried out within the

Northern District of Iowa within the five years preceding the date of this Information.

COUNT TWO

I. DESCRIPTION OF THE OFFENSE

11. The United States realleges and incorporates paragraphs 6 and 7 of the Information as if set forth in full herein.

12. Beginning at least as early as January 2008 and continuing until as late as August 2009, the exact dates being unknown to the United States, the defendant and co-conspirators entered into and engaged in a combination and conspiracy to suppress and eliminate competition by fixing prices and rigging bids for sales of ready-mix concrete in the Northern District of Iowa. The combination and conspiracy engaged in by the defendant and 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).

13. 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 prices and rig bids for sales of ready-mix concrete in the Northern District of Iowa.

II. MEANS AND METHODS OF THE CONSPIRACY

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

- (a) engaging in discussions in the Northern District of Iowa concerning project bids for sales of ready-mix concrete in the Northern District of Iowa;

- (b) agreeing during those discussions to submit rigged bids at collusive and noncompetitive prices to customers in the Northern District of Iowa;
- (c) submitting bids and selling ready-mix concrete at collusive and noncompetitive prices in the Northern District of Iowa; and
- (d) accepting payment for sales of ready-mix concrete at collusive and noncompetitive prices in the Northern District of Iowa.

III. DEFENDANT AND CO-CONSPIRATORS

15. During the period covered by Count Two, Steven Keith VandeBrake was the Sales Manager of Company A and managed business operations, including pricing decisions. During the period set forth in Count Two, Company A was a corporation organized and existing in the State of Iowa with its principal place of business in Orange City, IA. During the period set forth in Count Two, Company A was a producer and seller of ready-mix concrete in the Northern District of Iowa.

16. Another corporation ("Company C") and one or more individuals, not made defendants in this Information, participated as co-conspirators in the offense charged in this Count and performed acts and made statements in furtherance thereof.

IV. TRADE AND COMMERCE

17. During the period covered by Count Two, substantial quantities of equipment and materials necessary to produce ready-mix concrete, deliveries of ready-mix concrete, and/or payments for ready-mix concrete, traveled in interstate commerce.

18. During the period covered by Count Two, the business activities of the defendant and his co-conspirators in connection with sales of ready-mix concrete that are the subject of

Count Two were within the flow of, and substantially affected, interstate commerce.

V. JURISDICTION AND VENUE

19. The combination and conspiracy charged in Count Two was carried out within the Northern District of Iowa within the five years preceding the date of this Information.

COUNT THREE

I. DESCRIPTION OF THE OFFENSE

20. The United States realleges and incorporates paragraphs 6 and 7 of the Information as if set forth in full herein.

21. Beginning at least as early as January 2006 and continuing until as late as August 2009, the exact dates being unknown to the United States, the defendant and co-conspirators entered into and engaged in a combination and conspiracy to suppress and eliminate competition by fixing prices for sales of ready-mix concrete in the Northern District of Iowa. The combination and conspiracy engaged in by the defendant and 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).

22. 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 prices for sales of ready-mix concrete in the Northern District of Iowa.

II. MEANS AND METHODS OF THE CONSPIRACY

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

- (a) engaging in discussions in the Northern District of Iowa concerning the

conspirators' annual price lists for ready-mix concrete sold in the Northern District of Iowa;

- (b) agreeing during those discussions to set certain prices on their respective annual price lists for ready-mix concrete sold in the Northern District of Iowa; and
- (c) accepting payment for sales of ready-mix concrete at collusive and noncompetitive prices in the Northern District of Iowa.

III. DEFENDANT AND CO-CONSPIRATORS

24. During the period covered by Count Three, Steven Keith VandeBrake initially was the President of the predecessor to Company A, and subsequently the Sales Manager of Company A; for both positions he managed business operations, including pricing decisions. During the period set forth in Count Three, both Company A and the predecessor to Company A were corporations organized and existing in the State of Iowa with their principal place of business in Orange City, IA. During the period set forth in Count Three, Company A and the predecessor of Company A were producers and sellers of ready-mix concrete in the Northern District of Iowa.

25. Another corporation ("Company D") and one or more individuals, not made defendants in this Information, participated as co-conspirators in the offense charged in this Count and performed acts and made statements in furtherance thereof.

V. TRADE AND COMMERCE

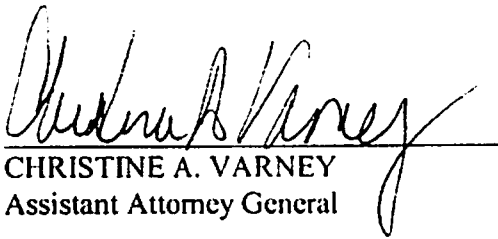
26. During the period covered by Count Three, substantial quantities of equipment and materials necessary to produce ready-mix concrete, deliveries of ready-mix concrete, and/or payments for ready-mix concrete, traveled in interstate commerce.

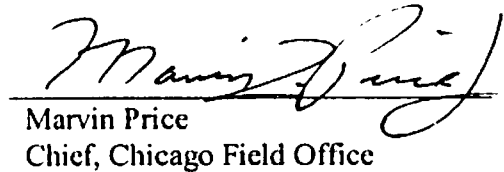
27. During the period covered by Count Three, the business activities of the defendant and his co-conspirators in connection with sales of ready-mix concrete that are the subject of Count Three were within the flow of, and substantially affected, interstate commerce.

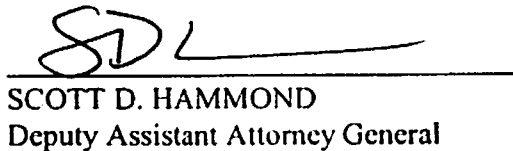
VI. JURISDICTION AND VENUE

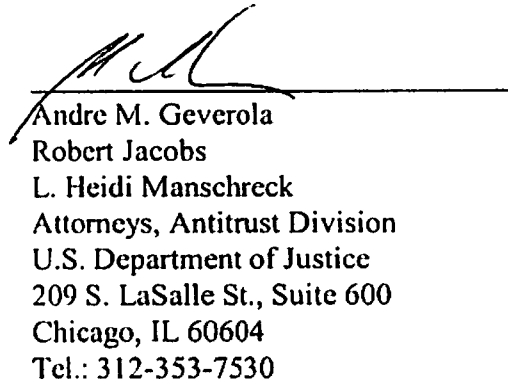
28. The combination and conspiracy charged in Count Three was carried out within the Northern District of Iowa within the five years preceding the date of this Information.

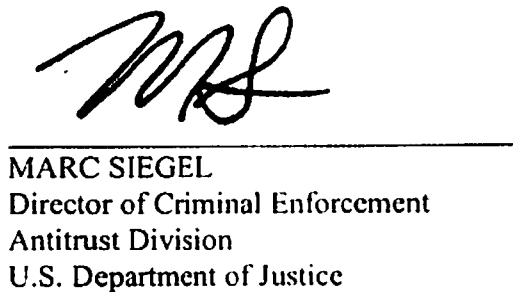
ALL IN VIOLATION OF TITLE 15, UNITED STATES CODE, SECTION 1.


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