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FILED
U.S. DISTRICT COURT

2016 AUG 17 9 1:

DISTRICT OF UTAH

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DEPUTY CLERK

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IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

KEMP & ASSOCIATES, INC. and
DANIEL J. MANNIX

Defendants.

INDICTMENT

15 U.S.C. § 1 (Antitrust)(Count 1)

Case: 2:16-cr-00403
Assigned To : Sam, David
Assign. Date : 8/17/2016
Description: USA v.

The Grand Jury charges that:

I.

DEFENDANTS AND CO-CONSPIRATORS

At times relevant to this Indictment:

1. Defendant KEMP & ASSOCIATES, INC. was a corporation organized and existing under the laws of Utah, with its principal place of business in Salt Lake City, Utah. KEMP & ASSOCIATES, INC. was a provider of Heir Location Services (as defined in Paragraph 6) in the United States.

2. Defendant DANIEL J. MANNIX was a resident of Draper, Utah. At various times, MANNIX was employed by KEMP & ASSOCIATES, INC. as Director of Operations, Estate Researcher, and Vice President/COO.

3. Another corporation and other individuals, not made defendants in this Indictment, participated as co-conspirators in the offense charged in this Indictment and performed acts and made statements in furtherance thereof.

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

II.

BACKGROUND

5. During the period covered by this Indictment, the Defendants and their co-conspirators sold Heir Location Services in the United States.

6. Providers of Heir Location Services identify heirs to estates of intestate decedents and, in exchange for a contingency fee, develop evidence and prove heirs' claims to an inheritance in probate court.

7. Potential heirs who have yet to contract with, and thus become the customer of, an Heir Location Services provider may receive offers from one or more such providers. Providers may distinguish their offers from those of competitors by offering more attractive contingency fee rates. The complexity of the estate, the determinability and number of heirs to the estate, and the law that governs the estate are factors that affect when heirs receive their final distribution, which can take up to five or more years.

III.

DESCRIPTION OF THE OFFENSE

**Count 1
15 U.S.C. § 1
(Antitrust)**

8. The allegations set forth in paragraphs 1 through 7 above are incorporated herein by reference and realleged as though fully set forth herein.

9. Beginning as early as September 1999 and continuing as late as January 29, 2014, the exact dates being unknown to the Grand Jury, in the District of Utah and elsewhere, Defendants knowingly entered into and engaged in a combination and conspiracy with Richard A. Blake, Jr., and other unindicted co-conspirators to suppress and eliminate competition by agreeing to allocate customers of Heir Location Services sold in the United States. 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).

10. 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 allocate customers of Heir Location Services sold in the United States.

IV.

MEANS AND METHODS OF THE CONSPIRACY

11. For the purpose of forming and carrying out the combination and conspiracy alleged in this Indictment, the Defendants and their co-conspirators did those things that they combined and conspired to do, including, among other things:

- (a) participated in conversations and other communications to discuss

methods for allocating heirs of estates in the United States;

- (b) agreed, during those conversations and other communications, that when both co-conspirator companies contacted the same unsigned heir to an estate, the co-conspirator company that first contacted that heir would be allocated certain remaining heirs to that estate who had yet to sign a contract with an Heir Location Services provider;
- (c) agreed that the co-conspirator company to which heirs were allocated would pay to the other co-conspirator company a portion of the contingency fees ultimately collected from those allocated heirs;
- (d) provided notice to the co-conspirator company that first contacted the unsigned heir that the other co-conspirator company had subsequently contacted that heir, in order to effectuate the agreement;
- (e) memorialized on an estate-by-estate basis the terms of the heir allocation and contingency fee split agreement between the co-conspirators as these terms applied to the specific estate;
- (f) made payments to the co-conspirator company, and received payments from the co-conspirator company, in order to effectuate the agreement;
- (g) submitted offers to provide Heir Location Services, which included contingency fee rate quotations, to potential heirs, and refrained from submitting offers and quotations to potential heirs, in accordance with the agreement;
- (h) sold Heir Location Services in the United States at collusive and noncompetitive contingency fee rates;

- (i) accepted payment for Heir Location Services sold to heirs in the United States at collusive and noncompetitive contingency fee rates; and
- (j) engaged in conversations and other communications for the purpose of monitoring and enforcing adherence to the conspiracy.

V.

TRADE AND COMMERCE

12. During the period covered by this Indictment, the Defendants and their co-conspirators sold Heir Location Services that were subject to the charged conspiracy to heirs in the United States in a continuous and uninterrupted flow of interstate trade and commerce. Defendants and their co-conspirators solicited, and sold such services to, heirs located in states other than where the Defendant and co-conspirators were located and other than where the probate courts administering the affected estates were located. Substantial payments for the Heir Location Services and distributions of substantial proceeds from affected estates as well as contracts, invoices, and other forms of business, financial, and legal records and documents related to the Heir Location Services traveled in interstate commerce.

13. During the period covered by this Indictment, the business activities of the Defendants and their co-conspirators in connection with the sale and provision of Heir Location Services that are the subject of this Indictment were within the flow of, and substantially affected, interstate commerce.

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

Dated: Aug 17, 2016

A TRUE BILL:

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Foreperson of the Grand Jury

JOHN W. HUBER
United States Attorney



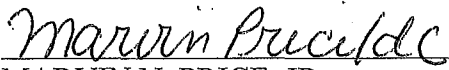
JACOB J. STRAIN
Assistant United States Attorney



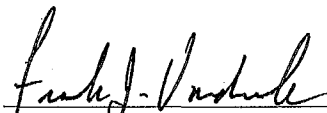
RENATA B. HESSE
Acting Assistant Attorney General



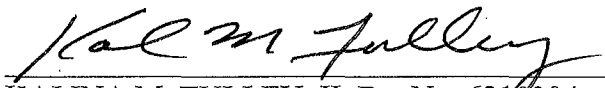
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