

CASE STUDY: READY MIXED CONCRETE

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THE MARKET

- Ready Mixed Concrete
 - Used in various construction projects, including buildings, sidewalks, driveways, bridges, tunnels and roads
 - Ingredients include cement, aggregate (sand & gravel), water and often other additives
 - Made on demand and, if necessary, shipped to construction site
 - Delivery range limited to 45 minutes from plant

THE MARKET

- Indianapolis, Indiana Metropolitan Area
 - Population over 1 million
 - Rapid growth resulting in a lot of construction

THE MARKET

Competitors

- American Concrete
- Beaver Materials
- Builder's Concrete
- Carmel Concrete
- Irving Materials, Inc.
- Prairie Materials
- Shelby Gravel
- Others

THE CONSPIRACY

Conspirators

- American Concrete
- Beaver Materials
- Builder's Concrete
- Carmel Concrete
- Irving Materials, Inc.
- Prairie Materials
- Shelby Gravel
- Others

THE CONSPIRACY

- Beginning in July 2000
- Continuing until May 25, 2004
- Conspiracy to fix the price of ready mixed concrete

THE CONSPIRACY

- First Meeting – July 12, 2000
 - The Horse Barn
 - Beaver
 - Builder's
 - Carmel
 - IMI
 - Shelby
- Agree to Limit Discounts

THE CONSPIRACY

- Second Meeting – May, 2002
 - Hotel Conference Room
 - Beaver
 - Builder's
 - Carmel
 - IMI
 - Shelby
- Agree to Limit Discounts

THE CONSPIRACY

- Third Meeting – October 22, 2003
 - The Horse Barn
 - Beaver
 - Builder's
 - Carmel
 - IMI
 - Shelby
- Agree to Limit Discounts, Contact Others

THE INVESTIGATION

November, 2003

- Employee of Prairie contacts DOJ
- Initial concern not related to conspiracy
- During conversation, mentions approaches by competitors
- Agrees to record future conversations with competitors

THE INVESTIGATION

November '03 – February '04

- Several conversations recorded
 - President of Carmel Concrete
 - Talks about specific pricing agreements reached
 - Identifies other companies involved
 - Encourages Prairie to go along with agreements

THE INVESTIGATION

May 25, 2004

- FBI executes search warrants
 - American
 - Beaver
 - Builder's
 - Carmel
 - IMI
 - Shelby

THE INVESTIGATION

May 25, 2004

- FBI & DOJ attorneys conduct drop-in interviews of current and former executives and employees
 - American
 - Beaver
 - Builder's
 - Carmel
 - IMI
 - Shelby

THE INVESTIGATION

May, 2004

- Shelby
 - IMI
 - Builder's
 - Carmel
- Applies for conditional amnesty
 - 2nd in; \$29.2 million; 4 execs plead guilty
 - 3rd in; \$4 million; 2 execs plead guilty
 - Last in; \$225k fine; pres. pleads guilty

THE INVESTIGATION

May '04 – April '06

- **Beaver**
 - Denies culpability
 - No offer to cooperate
 - Company and 2 execs indicted by grand jury April 11, 2006

THE TRIAL

The Charges

- Company and Two Executives
 - Price Fixing – 15 U.S.C. 1
 - July, 2000 through May 25, 2004
 - Ready mixed concrete sold in Indianapolis metro.
- The Two Executives
 - False Statements – 18 U.S.C. 1001
 - Each denied knowledge of or participation in conspiracy when interviewed by FBI on May 25, 2004

THE TRIAL

Our Witnesses

- Coconspirators
 - Builder's
 - Shelby
 - IMI
 - Carmel
- FBI Agents
 - Testified about false statements

THE TRIAL

Their Witnesses

- Company's former attorney
- Former salesman
 - Denied knowledge of price fixing
 - Contradicted his May 25, 2004 interview
- Company president
 - Denied authorizing price fixing
 - Admitted knowledge of execs attending meetings
- Local politician

THE TRIAL

The Verdict

- **BEAVER** Price Fixing *Guilty*
- **TWO EXECS** Price Fixing *Guilty*
- **TWO EXECS** False Stmts. *Guilty*

THE TRIAL

The Sentences

- **BEAVER**
 - \$1.75 million fine
 - 5 years probation
- **TWO EXECS**
 - 27 months incarceration
 - \$5,000 fine

THE RESULTS

- COMPANIES PAY FINES OVER \$35 MILLION
 - Includes IMI's fine of \$29.2 million
 - Largest single fine ever in domestic antitrust case
- 9 EXECES GET 5 – 27 MONTHS IN PRISON
 - Early cooperators got best deals