

Extradition and Antitrust – Where Are We Now?

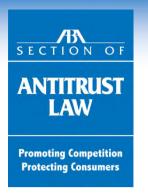
September 22, 2015

Moderator

Katie Hellings, Hogan Lovells LLP

Panelists

Stuart M. Chemtob, Wilson, Sonsini Goodrich & Rosati LLP Mark L. Krotoski, Morgan, Lewis & Bockius LLP Greg DelBigio, Thorsteinssons LLP



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Panel

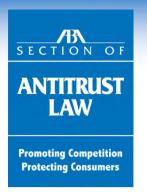
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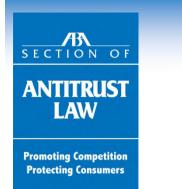






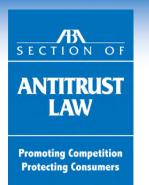
Extradition and Antitrust – Where Are We Now?

- U.S. Extradition Law, Policy and Practice in Antitrust Cases
- Japanese and (to a lesser extent) Korean perspectives on U.S. extradition in Antitrust Cases
- The Canadian Perspective Litigating a U.S. Extradition Battle



Overview of U.S. Extradition Law

- Treaty specific
- Covered charges
 - Criminal antitrust offenses
 - Bid rigging
- Dual criminality principle
- Contesting extradition



Antitrust Division International Enforcement Tools

- Mutual Legal Assistance Treaty (MLAT) requests
- Border watches
- Memorandum of Understanding
 - Safe passage to the U.S.
- Red Notices for fugitives
- Extradition



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EXCLUSIVE: DOJ's Baer Promises More **Extradition Fights**

News, cases, companies, firms

By Melissa Lipman

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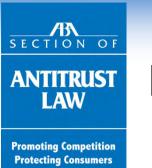
Law360, New York (May 15, 2015, 7:55 PM ET) -- The U.S. Department of Justice may have only successfully extradited one foreign citizen charged with price-fixing so far, but the watchdog has no plans to drop the pressure any time soon, Antitrust Division chief Bill Baer told Law360 in an exclusive interview.

The Antitrust Division only won its first extradition of a foreign national in April 2014, an Italian and a former executive with a marine hose company charged with participating in a cartel in the early 2000s, who was arrested while making a connection at Frankfurt Airport and extradited by Germany.



Bill Baer

But the watchdog is not stopping there, Assistant Attorney General Baer told Law360 Thursday. The DOJ will continue to work with ministries of justice worldwide to seek extradition in antitrust cases, Baer said.



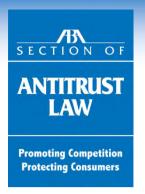
Four Antitrust Division Extradition Cases

- U.S. v. Pisciotti
 - 2014 extradition from Germany
- U.S. v. Norris
 - 2010 extradition from the United Kingdom
- U.S. v. Porath
 - 2012 extradition from Israel
- U.S. v. Bennett
 - 2014 extradition from Canada



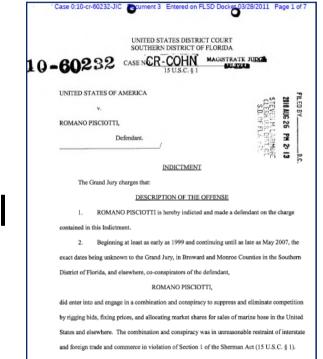


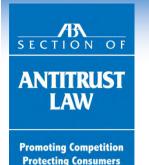




U.S. v. Pisciotti (2014)

- Marine hose investigation
- Italian executive
- Sealed indictment
- Arrested during international travel
- Contested extradition
- In custody since arrest





First Extradition on Antitrust Charge



Department of Justice

FOR IMMEDIATE RELEASE FRIDAY, APRIL 4, 2014 WWW.JUSTICE.GOV

AT (202) 514-2007 TTY (866) 544-5309

FIRST EVER EXTRADITION ON ANTITRUST CHARGE

Former Marine Hose Executive Extradited from Germany to Face Charges of Participating in Worldwide Bid-Rigging Conspiracy

WASHINGTON – Romano Pisciotti, an Italian national, was extradited from Germany on a charge of participating in a conspiracy to suppress and eliminate competition by rigging bids, fixing prices and allocating market shares for sales of marine hose sold in the United States and elsewhere, the Department of Justice announced today. This marks the first successfully litigated extradition on an antitrust charge.



U.S. v. Norris (2010)

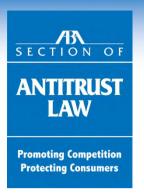
- Carbon graphite investigation
- British executive
- Charges
 - 1) Sherman Act conspiracy to fix prices for carbon brushes and other carbon products;
 - 2) Conspiracy to obstruct justice;
 - 3) Witness tampering; and
 - 4) Persuading a witness to destroy records



U.S. v. Norris

The Antitrust Division will seek to extradite international fugitives to the U.S. to stand trial for antitrust crimes and related offenses. Ian Norris, the former Chairman and CEO of Morgan Crucible, was indicted in 2004 for fixing the price of carbon brushes, carbon current collectors, and mechanical carbon products, and for orchestrating a conspiracy to obstruct justice, tamper with witnesses, and corruptly persuade others to destroy documents. The Division is seeking his extradition from the UK on all counts of his indictment. On June 1. 2005, the Bow Street Magistrates' Court in London ruled that Norris is extraditable on both the price-fixing and obstruction charges and referred the case to the UK's Secretary of State. On September 29, 2005, the Secretary of State approved the extradition request on all counts. Further appeals by the defendant are expected. During the extradition hearing before the magistrate court, Norris argued that the charged price fixing is not an extraditable offense because it was not a criminal offense in the UK during the time alleged in the indictment, and that the obstruction charge should not be extraditable because the alleged obstruction was not obstruction of an investigation into conduct punishable in the UK. The magistrate court rejected these arguments and ruled that the conduct underlying the price-fixing charge would constitute the UK offense of conspiracy to defraud.

Deputy Assistant Attorney General Scott Hammond, "An Update of the Antitrust Division's Criminal
Enforcement Program" 2005, http://www.justice.gov/atr/file/517831/download

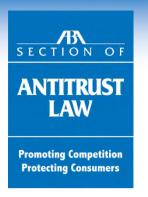


U.S. v. Norris (2010)

- Extradited solely on 3 obstruction-of-justice counts
- Jury trial conviction on one count
- Sentence: 18 months
- Third Circuit affirmed conviction

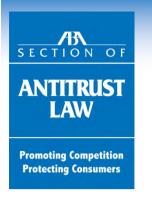
Department of Justice Office of Public Affairs	
Former CEO of the Morgan Crucible Co. S for Role in Conspiracy	
WASHINGTON – The former CEO of The Morgan Crucible Com serve 18 months in prison for his role in a conspiracy to obstruct brushes and other carbon products sold in the United States and	t a federal grand jury investigation into price fixing of carbon
Ian P. Norris was sentenced today in U.S. District Court in Phila sentenced to pay a \$25,000 criminal fine. The department said t subordinates to obstruct the grand jury's investigation by creatin its competitor were to follow when questioned during the invest document destruction task force to collect and destroy or concess	that Norris orchestrated an elaborate conspiracy with his ng a false script that employees of both Morgan Crucible and igation. The conspiracy also included the formation of a
"The Antitrust Division uncovered and prosecuted an elaborate Attorney General in charge of the Department of Justice's Antitr international, publicly traded company, enlisted and led his sub- undermine and obstruct the Antitrust Division's grand jury inve who subvert the integrity of our justice system will face serious of	rust Division. "The defendant, the CEO of a major ordinates in a sophisticated conspiracy that was designed to istigation. Today's sentence sends a clear message that those
Carbon products are used to transfer electrical current in autom and are used in pumps and compressors to contain liquids and g	· · · ·
Norris has been incarcerated in the federal detention center in F convicted by a federal jury of conspiring to obstruct justice. Nor United States in March 2010 on the conspiracy charge.	• • • • • •

12 http://www.justice.gov/opa/pr/former-ceo-morgan-crucible-co-sentenced-serve-18-months-prison-role-conspiracyobstruct



U.S. v. Porath (2012)

- Owner re-insulation service company
- Dual citizen, U.S. and Israel
- Charges
 - Conspiring to rig bids on contracts for re-insulation services to New York Presbyterian Hospital (NYPH) from 2000 through March 2005;
 - 2) Conspiring to defraud the Internal Revenue Service;
 - 3) Filing a false tax return
- Arrested in Israel
- Extradited and pled guilty

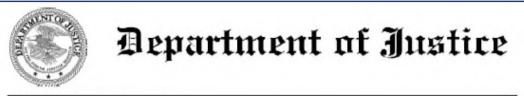


U.S. v. Bennett (2014)

- Kickback and fraud conspiracy involving EPA contracts involving superfund sites
- 2 co-defendants convicted
- Canadian executive
- Contested extradition for more than 5 years



Second Extradition in 2014

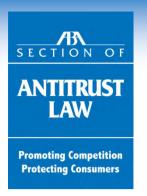


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CANADIAN EXECUTIVE EXTRADITED ON MAJOR FRAUD CHARGES INVOLVING A NEW JERSEY ENVIRONMENTAL PROTECTION AGENCY SUPERFUND SITE

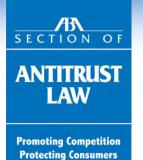
John Bennett, a Canadian national, was extradited Friday from Canada on a charge of participating in a conspiracy to pay kickbacks and commit fraud at the U.S. Environmental Protection Agency (EPA)-designated Superfund site Federal Creosote, located in Manville, New Jersey. He was also charged with a related count for major fraud against the United States related to contracts obtained at the Federal Creosote site, the Department of Justice announced today.

Bennett was the former Chief Executive Officer with Bennett Environmental Inc., a Canadian-based company that treated and disposed of contaminated soil. According to a felony indictment filed in the U.S. District Court for the District of New Jersey on Aug. 31, 2009 Bennett carried out the conspiracy by providing kickbacks to Gordon McDonald, the project manager at the Federal Creosote site, in order to influence the award of sub-contracts at the site and inflate the prices charged to the EPA by the prime contractor. The kickbacks were in the form of money transferred by wire to a co-conspirator's shell company, lavish cruises for senior officials of the prime contractor, and various entertainment tickets. The department said the conspiracy began at least as early as December 2001 and continued until approximately August 2004.



Key Questions

- Which extradition treaty applies?
- What covered offenses?
- Are charges under seal?
- Custody status?



Japanese and Korean Perspectives on U.S. Extradition in Antitrust Cases

- Examination of the Terms of the U.S./Japan Extradition Treaty
- Discussion of Practices Used to Extradite Defendants from Japan
- Brief Overview of Korean Extradition



The Canadian Perspective - Litigating a U.S. Extradition Battle

- Overview of U.S./Canadian Extradition Treaty and Practices and Application to Antitrust
- Case Study: The John Bennett Extradition
 - Background
 - Tactics for Challenging Extradition
 - Lessons Learned



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QUESTIONS