



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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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

More Antitrust Extraditions Anticipated

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EXCLUSIVE: DOJ's Baer Promises More Extradition Fights

By Melissa Lipman Share us on: [Twitter](#) [Facebook](#) [LinkedIn](#) [Email](#)

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.

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.

A portrait of Bill Baer, Assistant Attorney General, smiling. He is wearing a dark suit, a light blue shirt, and a yellow patterned tie. An American flag is visible in the background to his left.

Bill Baer

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<http://www.law360.com/articles/656850/exclusive-doj-s-baer-promises-more-extradition-fights>

Four Antitrust Division Extradition Cases

- U.S. v. Piscioti
 - 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. Piscioti (2014)

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

Case 0:10-cr-60232-JIC Document 3 Entered on FLSD Docket 03/28/2011 Page 1 of 7

10-60232

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
CASE NO. CR-10-60232 MAGISTRATE JUDGE
15 U.S.C. § 1

UNITED STATES OF AMERICA
v.
ROMANO PISCIOTTI,
Defendant.

FILED BY
2010 AUG 26 PM 2:13
STEVEN M. LASHBROOK
CLERK, U.S. DISTRICT COURT
S.D. OF FLA.

INDICTMENT

The Grand Jury charges that:

DESCRIPTION OF THE OFFENSE

1. ROMANO PISCIOTTI is hereby indicted and made a defendant on the charge contained in this Indictment.

2. Beginning at least as early as 1999 and continuing until as late as May 2007, the exact dates being unknown to the Grand Jury, in Broward and Monroe Counties in the Southern District of Florida, and elsewhere, co-conspirators of the defendant,
ROMANO PISCIOTTI,
did enter into and engage in a combination and conspiracy to suppress and eliminate competition by rigging bids, fixing prices, and allocating market shares for sales of marine hose in the United States and elsewhere. The combination and conspiracy was in unreasonable restraint of interstate and foreign trade and commerce in violation of Section 1 of the Sherman Act (15 U.S.C. § 1).

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 Piscioti, 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.

11 **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

JUSTICE NEWS

Department of Justice

Office of Public Affairs

FOR IMMEDIATE RELEASE

Friday, December 10, 2010

Former CEO of the Morgan Crucible Co. Sentenced to Serve 18 Months in Prison for Role in Conspiracy to Obstruct Justice

WASHINGTON – The former CEO of The Morgan Crucible Company plc, a United Kingdom corporation, was sentenced to serve 18 months in prison for his role in a conspiracy to obstruct a federal grand jury investigation into price fixing of carbon brushes and other carbon products sold in the United States and elsewhere, the Department of Justice announced.

Ian P. Norris was sentenced today in U.S. District Court in Philadelphia by Judge Eduardo Robreno. Norris was also sentenced to pay a \$25,000 criminal fine. The department said that Norris orchestrated an elaborate conspiracy with his subordinates to obstruct the grand jury's investigation by creating a false script that employees of both Morgan Crucible and its competitor were to follow when questioned during the investigation. The conspiracy also included the formation of a document destruction task force to collect and destroy or conceal documents from the grand jury, the department said.

"The Antitrust Division uncovered and prosecuted an elaborate scheme to obstruct justice," said Christine Varney, Assistant Attorney General in charge of the Department of Justice's Antitrust Division. "The defendant, the CEO of a major international, publicly traded company, enlisted and led his subordinates in a sophisticated conspiracy that was designed to undermine and obstruct the Antitrust Division's grand jury investigation. Today's sentence sends a clear message that those who subvert the integrity of our justice system will face serious consequences."

Carbon products are used to transfer electrical current in automobiles, trains, public transit vehicles and consumer products and are used in pumps and compressors to contain liquids and gases.

Norris has been incarcerated in the federal detention center in Philadelphia since July 27, 2010, the date on which he was convicted by a federal jury of conspiring to obstruct justice. Norris, a citizen of the United Kingdom, was extradited to the United States in March 2010 on the conspiracy charge.

U.S. v. Porath (2012)

- Owner re-insulation service company
- Dual citizen, U.S. and Israel
- Charges
 - 1) 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



Department of Justice

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MONDAY, NOVEMBER 17, 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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Extradition and Antitrust – Where Are We Now?

QUESTIONS