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Fed BureauOfInvestigation

317 321 6193 P.02/08

FD-302 (Rev. 10-6-95)

- 1 -

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 08/20/2004

Scott Hughey, white male, date of birth ~~REDACTED~~, Place of Birth Indianapolis, Indiana, Social Security Account Number ~~REDACTED~~, was interviewed at the Department of Justice (DOJ), Antitrust Division, Midwest Field Office, 209 South LaSalle Street, Suite 600, Chicago, Illinois. Hughey was represented by his attorney, Scott Shockley. Also present during the interview were DOJ Trial Attorneys Frank Vondrak, Michael Boomgarden, Jonathan Epstein, and Paralegal Specialist Lauren Jankowski. The interview was pursuant to a proffer letter issued by the DOJ, Antitrust Division. After identifying personnel present for the interview and the nature of the interview, Hughey furnished the following information:

Hughey Incorporated, also known as Carmel Concrete (CC), was started by Hughey's grandfather and sons. In the mid to late 60s, CC purchased a pre-cast company in Carmel, Indiana which led to their involvement in the ready-mix industry. CC was primarily a residential supplier of ready-mix concrete, although later expanded into the commercial market as well.

Presently, CC operates approximately 38 ready-mix concrete trucks with an annual revenue between \$11 and \$13 million. CC has five plants at three different locations providing service to Marion and surrounding counties. The plants are located in Carmel, Rock Island, and the Southside of Indianapolis. The company employs 54 union workers and 14 administrative/sales people.

Hughey has been involved in the family business since he was a small boy. He became a full-time employee after graduating from high school. Hughey has held several lower level positions before becoming a manager. Sometime between 1986 and 1988, Hughey became responsible for the company's pricing policies. Hughey became President when his father retired in 1991. Hughey still maintains oversight of the company's pricing policies.

Currently, Virgil Mabry is CC's Sales Manager. Mabry has worked at CC for about eight years. CC did not have a Sales Manager between the time Hughey became President and the hiring of Mabry. Mabry had previously worked for Prairie Materials before working at CC. Mabry is responsible for supervising two company

Investigation on 08/19/2004 at Chicago, Illinois

File # 60-IP-93296

Date dictated 08/20/2004

by SA Steven L. Schlobohm -sls (S:SQ5\233sls01.302)

60-IP-93296

Continuation of FD-302 of Scott Hughey . On 08/19/2004 , Page 2

salesmen, Scott Noel and Jeff Humble. Noel has worked at CC for about eight years while Humble has been employed between six and eight years. Bob Gibson has been the company's controller since December 20, 2003.

CC's competitors are Irving Materials Incorporated (IMI), Prairie Materials, American Concrete, Shelby Materials, Southside Ready-Mix, which is owned by IMI, Beaver Materials, Builders Concrete, and Baja, a minority company operated by Prairie Materials.

CC price increases typically take effect April 1st of each year. This around the same time the Cement and Aggregate suppliers raise their prices. IMI typically announces their price increase first before the other ready-mix companies follow suit.

Even prior to Hughey becoming President, CC engaged in price increase discussions with IMI. Hughey's father regularly discussed price increases with representatives from IMI. After becoming President, Hughey continued to meet and discuss price increases with IMI representatives in particular John Huggins. Huggins and Hughey typically met at the Cracker Barrel restaurant located at I-69 and 96th Street. Hughey also believed he discussed price increases with Pete Irving, although could not be certain. The price increase discussions typically occurred in March of each year.

When Hughey and Huggins met, they typically discussed whether the market could withstand an increase and the amount of the increase. There were times when they agreed upon a specific dollar increase and other times when it would be decided later. Since IMI was the larger producer of ready-mix concrete, Hughey typically deferred the price increase amount to Huggins.

After the meetings, someone from IMI would contact Builders Concrete and inform them of the agreed upon price increase. IMI would issue their price increase announcement first with CC and other competitors following suit. Hughey typically initiated the price increase meetings with Huggins each year. Over time, Hughey became uncomfortable having price increase discussions with Huggins and began to communicate more with Butch Nuckols of Builders Concrete. Huggins retired from IMI prior to the September 11, 2001, terrorist attacks.

OCT-12-2004 13:16

Fed BureauOfInvestigation

317 321 6193 P.04/08

FD-302a (Rev. 10-6-95)

60-IP-93296

Continuation of FD-302 of Scott Hughey . On 08/19/2004 , Page 3

Hughey stated he has been involved in price increase discussions with other ready-mix suppliers since 1991. Even prior to 1991, Hughey felt there were price increase agreements between competitors. He could not provide an exact date for when there was a firm pricing agreement between competitors but added that this "thing," price increase discussions, has been going on forever. Hughey estimated that CC, IMI and Prairie Materials have been discussing price increases since the mid 80s.

While Mabry was employed by Prairie Materials, Hughey and Mabry would meet to discuss price increases. During this time period, Hughey does not recall talking with Gary Matney about price increases, although Mabry had implied Matney knew about their discussions.

While Mabry was still employed at Prairie Materials, Hughey recalled having price increase discussions with him at McDonalds off I-69 & 96th street. Hughey also had price increase discussions with Nuckols at Hardees off Allisonville and 116th street as well as Keystone and 116th street. Hughey also admitted having price increase discussions with Richard Haehl, Shelby Materials, at the Cracker Barrel located off I-69 & 96th street and 38th street & I-465. Hughey recalled having three pricing discussions with Matney. Two were at the Cracker Barrel off 38th street and I-465 and one at Mountain Jacks located near the same intersection. Hughey could not provide exact dates for the above meetings, but indicated he might be able to provide time frames if allowed to review documents previously seized by the Federal Bureau of Investigation.

Hughey recalled meeting with Jason Mann, American Concrete, on the southside of Indianapolis to discuss an issue involving KRV Concrete. The exact date of the meeting was unknown but around the same time Mann's daughter was born. KRV had been a CC customer when Mann under cut CC's price by \$3 per cubic yard. Hughey, upset by the price cut, told Mann that CC would under cut prices on one of Mann's established customers.

Hughey recalled three large meetings involving most of the Indianapolis area ready-mix concrete suppliers. The purpose for the meetings were to discuss pricing at which they sold ready-mix concrete and other additives. Hughey was unsure of the exact dates for the meetings. He added that if he was allowed to review company records then he might be able to better identify a time frame for which the meetings occurred.

OCT-12-2004 13:17

Fed BureauOfInvestigation

317 321 6193 P.05/08

FD-302a (Rev. 10-6-95)

60-IP-93296

Continuation of FD-302 of Scott Hughey, On 08/19/2004, Page 4

The first meeting occurred sometime around May of 2002 at the Signature Inn with subsequent meetings taking place at Nuckols' horse barn. Hughey furnished the following details regarding each of the three meetings:

Signature Inn:

Nuckols called Hughey expressing the need to setup a meeting with area ready-mix suppliers. The purpose for the meeting was to re-establish the maximum discount applied to bid work. During the phone conversation, Nuckols said this thing, implying the setting of discounts, was falling apart. Nuckols and Hughey agreed to have a meeting with area suppliers. Nuckols contacted the other ready-mix suppliers and invited them to the meeting. Hughey believed the meeting took place sometime in May of 2002.

Hughey reserved the conference room and paid all the associated fees. The following people attended the Singnature Inn meeting: Hughey, Nuckols, Rick Beaver, Price Irving, Dan Butler, believe Tim Kuebler, and either one or both of the Haehls. No representatives from American Concrete or Prairie Materials attended this meeting.

The meeting occurred on a workday during the early afternoon and lasted about two hours. Nuckols and Hughey opened the meeting by stating we tried this thing before, referring to the setting of discounts, but people have not been following through on the agreement. There was general pricing discussions among the attendees. At the end of the meeting everyone agreed to set the maximum discount off net price which would be applied to bid work. Hughey believed the agreed upon discount was \$3.50 although was not certain. The review of company sales records would help determine the exact agreed upon discount.

At the conclusion of the meeting, everyone agreed to limit discounts applied to bid work. Hughey believes, although not certain, that everyone agreed to limit discounts to \$3.50 off the net price. No one voiced any objections to the agreement. Hughey and the other attendees left the meeting with the understanding they all had agreed to limit discounts on bid work. After the meeting, Hughey bid work in conformity with the agreement as did the other competitors.

In the fall of 2002, Hughey called and met with Butler at the Burger King off I-69 and 96th street. Hughey told Butler he

OCT-12-2004 13:17

Fed BureauOfInvestigation

317 321 6193 P.06/08

FD-302a (Rev. 10-6-95)

60-IP-93296

Continuation of FD-302 of Scott Hughey . On 08/19/2004 , Page 5

felt people were not abiding by agreement. He also said he would no longer abide by the agreement. Hughey was not certain but believed Pete Irving arrived later. Hughey also met and informed Rick Beaver and Nuckols of his decision. Rick Beaver had told Hughey that he felt Nuckols was the person undermining the agreement.

Hughey believed the pricing agreement was off from the fall of 2002 until sometime in late 2003, when Nuckols hosted a meeting at his horse barn with other area ready-mix suppliers.

First Horse Barn Meeting:

Prior to the first horse barn meeting, Hughey observed competitor bids approaching \$7 to \$8 off net. Hughey called Nuckols and they agreed to get everyone together to discuss pricing. Nuckols suggested having the meeting at his horse barn. Nuckols setup the meeting and contacted the other suppliers.

The meeting was held on a workday in late 2003, exact date not recalled but believed to be a couple of months before Halloween. The following people attended the meeting: Hughey, Nuckols, Price Irving, Butler, think Keubler, one or both of the Haehls, and Chris Beaver or Rick Beaver. Hughey believed Chris Beaver attended the meeting since Chris replaced Rick at the meetings because Rick easily got confused.

Hughey and Nuckols discussed the purpose for the meeting and how crazy pricing was getting with respect to bid work. At the end of the meeting, everyone agreed to limit discounts at either \$5 or \$5.50 off the net price. The Haehls asked about the application of the discount and Hughey recalled it being specifically stated that the discount applied to the net price. Hughey could not recall each person's comments at the meeting, but acknowledged everyone was supportive of the agreement. Everyone left the meeting agreeing to limit discounts on bid work. The discount was to take effect within a couple of weeks of the meeting.

Second Horse Barn Meeting:

The second horse barn meeting was prompted by a conversation Nuckols and Hughey had about the agreement falling apart. Both, Nuckols and Hughey, agreed to have another meeting with the other competitors.

OCT-12-2004 13:17

Fed BureauOfInvestigation

317 321 6193 P.07/08

FD-302a (Rev. 10-6-95)

60-IP-93296

Continuation of FD-302 of Scott Hughey, On 08/19/2004, Page 6

Hughey did not recall the exact date for the second horse barn meeting but stated it was close to Halloween because the barn was decorated with Halloween paraphernalia. The following people attended this meeting: Hughey, Nuckols, Price Irving, Dan Butler, Chris Beaver, John Blaztheim, and both Haehls.

Nuckols opened the meeting by stating people were not abiding by the agreement and the purpose for this meeting was to re-establish the \$5.50 discount and propose going to a \$3.50 discount. Hughey could not recall the time frame for going to the \$3.50 discount but added it was long enough for them to deliver the message to Matney. The group also talked about the need for having Prairie Materials join the agreement. Hughey recalled Butler stating that they were not going to let Prairie ruin the agreement. If Matney refused to join the agreement, then the group would try to find his price and have competitors take turns matching or beating his price. Butler agreed to contact Matney.

During the meeting, the group also discussed raising prices and implementing an environmental or winter service charge. Hughey or Nuckols proposed the need for a price increase. The group also talked further about implementing the winter service charge mentioning that other places around the country were applying the charge.

At the end of the meeting, everyone agreed to re-establish the \$5.50 discount with plans of going to \$3.50 of net. Hughey does not recall the group setting a specific price increase amount or winter service charge. Everyone attending the meeting agreed to the above terms. There were no objections raised by any of the attendees.

Meeting with Matney:

Hughey recalled Butler having problems meeting with Matney, so Hughey attempted to contact him. After exchanging phone calls and voice mails, Hughey met Matney at the Cracker Barrel located off 38th Street and I-465 on the westside. The meeting took place near the wedding date of Matney's daughter which would have been two to three weeks after the second horse barn meeting. The meeting took place during the week and late in the afternoon.

At the meeting, Hughey informed Matney of the agreement by the other ready-mix suppliers to limit discounts. The plan was to limit discounts on bid work to \$5.50 with intentions of going to

OCT-12-2004 13:18

Fed BureauOfInvestigation

317 321 6193 P.08/08

FD-302a (Rev. 10-6-95)

60-IP-93296

Continuation of FD-302 of Scott Hughey, On 08/19/2004, Page 7

\$3.50 off. Matney responded to Hughey's proposal by stating he would see where it goes. Based upon Hughey's dealings with Matney, he felt Matney had agreed to the arrangement. Hughey was not certain but believed he called Nuckols after meeting with Matney.

The interview was terminated at approximately 3:22 pm so Hughey and his attorney could make a return flight back to Indianapolis.