

**FILED**

AUG 27 2020 <sup>PM</sup>

**19CR**

**917**

THOMAS G. BRUTON  
CLERK, U.S. DISTRICT COURT

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

UNITED STATES OF AMERICA

No. 19-CR-917

v.

Judge Andrea R. Wood

**MAGISTRATE JUDGE WEISMAN**

DELMAR E. CHURCH, JR;  
ROBERT A. PATREY, JR;  
KENNETH R. SMITH; and  
VORTEX COMMERCIAL FLOORING,  
INC.

Violation: Title 15, United States Code,  
Section 1

**Superseding Information**

The UNITED STATES OF AMERICA charges that:

I.

DEFENDANTS AND CO-CONSPIRATORS

1. DELMAR E. CHURCH, JR; ROBERT A. PATREY, JR; KENNETH R. SMITH; and VORTEX COMMERCIAL FLOORING, INC., are hereby made defendants on the charge contained in this Superseding Information.

2. During times material to this Superseding Information:

a. VORTEX COMMERCIAL FLOORING, INC. was a corporation organized and existing under the laws of Illinois, with its principal place of business in the Northern District of Illinois. VORTEX COMMERCIAL FLOORING, INC. was a provider of commercial flooring services and products (as defined in Paragraph 6 below) engaged in the sale of commercial flooring services and products in the United States.

b. Defendant DELMAR E. CHURCH, JR was an individual residing in the Northern District of Illinois. DELMAR E. CHURCH, JR was a principal owner and president of VORTEX COMMERCIAL FLOORING, INC.

c. Defendant ROBERT A. PATREY, JR was an individual residing in the Northern District of Illinois. ROBERT A. PATREY, JR was a principal owner and executive vice president of VORTEX COMMERCIAL FLOORING, INC.

d. Defendant KENNETH R. SMITH was an individual residing in the Northern District of Illinois. KENNETH R. SMITH was a principal owner and executive vice president of VORTEX COMMERCIAL FLOORING, INC.

3. Various corporations and individuals not made defendants in this Superseding Information participated in the offense charged in this Superseding Information and performed acts and made statements in furtherance thereof, including Michael P. Gannon, Company A, Company C, PCI Flortech, Inc., Company E, Company G, and Company H. During the period covered by this Superseding Information, Company A, Company C, PCI Flortech, Inc., Company E, Company G, and Company H were corporations organized and existing under the laws of Illinois, with principal places of business in the Northern District of Illinois, and were providers of commercial flooring services and products (as defined in Paragraph 6 below) engaged in the sale of commercial flooring services and products in the United States.

4. Any reference in this Superseding Information to any act, deed, or transaction of any corporation 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 Superseding Information, DELMAR E. CHURCH, JR; ROBERT A. PATREY, JR; KENNETH R. SMITH; VORTEX COMMERCIAL FLOORING, INC.; and their co-conspirators sold commercial flooring services and products in the United States, including to customers in the Northern District of Illinois.

6. Providers of commercial flooring services and products remove any preexisting flooring products at the job site, prepare the floor surface for installation, and install new flooring products, including but not limited to carpet, wood, vinyl, tile, and laminate flooring products.

III.

DESCRIPTION OF THE OFFENSE

7. Beginning at least as early as 2009, the exact date being unknown to the United States, and continuing through at least June 22, 2017, in the Northern District of Illinois and elsewhere,

DELMAR E. CHURCH, JR;  
ROBERT A. PATREY, JR;  
KENNETH R. SMITH; and  
VORTEX COMMERCIAL FLOORING, INC.;

defendants herein, entered into and engaged in a combination and conspiracy with Michael P. Gannon, Company A, Company C, PCI Flortech, Inc., Company E, Company G, Company H, and other companies and individuals to suppress and eliminate competition by agreeing to rig bids and to fix prices of commercial flooring services and products sold in the United States. The combination and conspiracy engaged in by the defendants and co-conspirators was a *per se* unlawful, and thus unreasonable, restraint of interstate trade and commerce in violation of Section 1 of the Sherman Act, 15 U.S.C. § 1.

8. The charged combination and conspiracy consisted of a continuing agreement, understanding, and concert of action among the defendants and co-conspirators, the substantial terms of which were to rig bids and to fix prices of commercial flooring services and products sold in the United States.

#### IV.

##### MEANS AND METHODS OF THE CONSPIRACY

9. For the purpose of forming and carrying out the charged combination and conspiracy, VORTEX COMMERCIAL FLOORING, INC., DELMAR E. CHURCH, JR; ROBERT A. PATREY, JR; KENNETH R. SMITH; and their co-conspirators did those things that they combined and conspired to do, including, among other things:

a. attending meetings and participating in conversations and other communications to discuss methods for rigging bids and fixing the prices of commercial flooring services and products sold in the United States;



b. agreeing, during those meetings, conversations, and other communications, to rig bids and to fix the prices of commercial flooring services and products sold in the United States;

c. exchanging pricing-related information to enable co-conspirator companies to submit complementary bids for commercial flooring services and products to potential customers, so that the agreed-upon co-conspirator company would win the business;

d. soliciting complementary bids to provide commercial flooring services and products to potential customers, in accordance with the agreement;

e. submitting complementary bids to provide commercial flooring services and products to potential customers, in accordance with the agreement;

f. selling commercial flooring services and products in the United States at collusive and noncompetitive prices;

g. accepting payment for commercial flooring services and products in the United States at collusive and noncompetitive prices; and

h. engaging in conversations and other communications for the purpose of monitoring and ensuring submission of complementary bids.

V.

#### TRADE AND COMMERCE

10. During the period covered by this Superseding Information, DELMAR E. CHURCH, JR; ROBERT A. PATREY, JR; KENNETH R. SMITH; VORTEX COMMERCIAL FLOORING, INC.; and their co-conspirators sold commercial flooring services and products in the United States in a continuous and uninterrupted

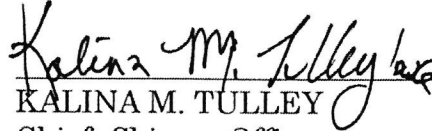
flow of interstate trade and commerce. In addition, records and documents necessary for the sale and provision of such services and products, as well as payments and solicitations for those services and products, traveled in interstate commerce.

11. During the period covered by this Superseding Information, the business activities of DELMAR E. CHURCH, JR; ROBERT A. PATREY, JR; KENNETH R. SMITH; VORTEX COMMERCIAL FLOORING, INC.; and their co-conspirators in connection with the sale and provision of commercial flooring services and products that are the subject of this Superseding Information, were within the flow of, and substantially affected, interstate commerce. Acts in furtherance of this conspiracy were carried out within the Northern District of Illinois and elsewhere.

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



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Assistant Attorney General



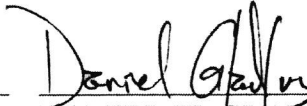
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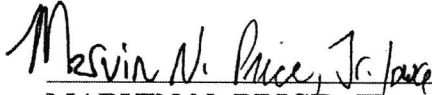
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