

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA : INFORMATION
 :
 -v- : 07 Cr.
 GERALD JONES, :
 Defendant. :
 :
 - - - - -x

COUNT ONE

(Conspiracy To Obstruct An Agency Proceeding)

_____ The United States Attorney charges:

Background

1. At all times relevant to this Information, Collins & Aikman ("C&A") provided to businesses around the world a broad range of automotive supply parts, including, among other things, instrument panels and almost all other parts of an automobile interior, carpets, acoustics, fabrics, and convertible tops. C&A owned and operated factories in North America, South America, and Europe, and supplied parts to both domestic and foreign auto manufacturers, such as Ford Motor Company, General Motors, DaimlerChrysler, Nissan, and others.

2. At all times relevant to this Information, in order to produce automobile interiors and parts, C&A purchased either raw materials or certain component parts from Joan Fabrics.

3. At all times relevant to this Information, JONES was in charge of the Fabrics manufacturing operations at C&A.

The Scheme To Defraud

4. From at least as early as in or about 2001 through in or about April 2005, JONES and his co-conspirators engaged in an illegal scheme to obstruct an investigation by C&A's audit committee, the results of which were communicated to the Securities and Exchange Commission ("SEC"). JONES was aware that for the purpose of disguising C&A's true operating performance and financial results, JONES's co-conspirators caused C&A's reported figures for EBITDA, operating income, and other financial metrics to be falsely and fraudulently inflated by improperly recognizing cost reductions related to supplier rebates provided by Joan Fabrics. As JONES and his co-conspirators knew, the "rebates" from Joan Fabrics were not true cost reductions; rather, C&A had agreed to repay Joan Fabrics for the lump sum payments provided to C&A. As JONES and his co-conspirators knew, the aggregate effect of these "rebate" transactions, which involved immediate income recognition of up-front payments which were later reimbursed by C&A, was to present a materially false and misleading picture of C&A's true operating performance and financial results.

5. In order to improve results for certain reporting periods, between 2001 and 2003 C&A demanded lump sum payments from Joan Fabrics, referred to as "rebates." Afterwards, C&A reimbursed Joan Fabrics, or its CEO, in various ways. In or

about August 2003, the audit committee for C&A began an investigation into these rebate transactions, among other topics. As part of its investigation, the audit committee hired a law firm, based in New York, New York, to conduct interviews and gather documents. After the audit committee began its inquiry, the SEC also opened an investigation into, among other things, the "rebate" transactions with Joan Fabrics. Knowing that the true facts and circumstances of the arrangements with Joan would not have permitted income recognition under generally accepted accounting principles, JONES and others engaged in a scheme to obstruct justice by providing false and misleading information to C&A's audit committee. JONES and others also withheld information from C&A's audit committee that would have provided the true picture of the "rebate" scheme and would have caused the audit committee to further question the appropriateness of these transactions. JONES and others knew that the false and misleading information they provided to the audit committee, which was used to justify income recognition of the "rebates" from Joan Fabrics on C&A's books and records, would be passed along to the SEC in connection with its investigation into C&A.

6. In furtherance of the scheme, in or about 2003 and 2004, JONES worked with other C&A executives to justify the improperly booked "rebates" as reductions to material costs, thereby causing figures for C&A's publicly reported EBITDA and

net income to be false and materially misleading.

The Conspiracy

7. From in or about 2001 through in or about April 2005, in the Southern District of New York and elsewhere, GERALD JONES, the defendant, and others known and unknown, unlawfully, willfully, and knowingly did combine, conspire, confederate, and agree together and with each other to commit an offense against the United States, namely to obstruct justice, in violation of Title 18, United States Code, Section 1505.

8. It was a part and an object of the conspiracy that GERALD JONES, the defendant, unlawfully, willfully and knowingly would and did corruptly impede and endeavor to influence, obstruct, and impede the due administration of the law under which a pending proceeding was being had before the SEC, in violation of Title 18, United States Code, Section 1505.

Overt Acts

9. In furtherance of the conspiracy and to effect its illegal objects, GERALD JONES and his co-conspirators committed the following overt act, among others, in the Southern District of New York and elsewhere:

a. In or about 2003, JONES made false statements to and withheld information from attorneys hired by C&A's audit committee to investigate, among other things, "rebate" transactions between C&A and Joan Fabrics.

(Title 18, United States Code, Section 371.)

MICHAEL J. GARCIA
United States Attorney