

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA : Criminal No. 06-
 :
 v. : 18 U.S.C. §§ 1001(a)(2) and 2
 :
 MICHAEL S. DORFMAN : I N F O R M A T I O N

The defendant having waived in open court prosecution by indictment, the United States Attorney for the District of New Jersey charges:

1. At all times relevant to this Information:

(a) State Metals Industries ("SMI"), located in Camden, New Jersey, was a smelting facility specializing in the purchase of scrap metal and the production and sale of aluminum ingots, or bars, from that scrap metal.

(b) Defendant MICHAEL S. DORFMAN was Vice President of SMI.

(c) Sparrow missiles were medium-range, radar-guided, all-weather, all-aspect, semi-active guided missiles designed by Raytheon and General Dynamics in the United States for the United States military and its NATO allies, including Taiwan. Sparrow missiles had highly explosive warheads and were used in a variety of roles on both fighter aircraft and naval vessels. (In the Persian Gulf war, the radar-guided AIM-7 Sparrow missile, discussed below, was found to be the most potent air-to-air weapon used by Air Force fighter pilots.)

(d) Under the U.S. Arms Export Control Act (Title 22, United States Code, Section 2778), and its corresponding regulations, the International Traffic in Arms Regulations ("ITAR"), Sparrow missiles and any of their individual components could not be exported without an export license from the U.S. Department of State.

2. In or about April 2003, the Department of Defense ("DoD") issued an Invitation to Bid for the purchase of certain military surplus items, including Sparrow missile components. In the Invitation for Bid, the DoD described the items in pertinent part as: "aluminum scrap, including residue of demilitarized control sections, missile bodies, shipping cradles and containers, which have been rendered inert." Although rendered inert, these military surplus items were still of notable intelligence value to other countries, and prohibited from export without a license from the U.S. Department of State. Accordingly, DoD would only sell these military surplus items to United States purchasers for an approved use (or approved disposition) within the United States.

3. In the Invitation to Bid, the DoD informed potential purchasers that the military surplus items were "dangerous property" and "Military Munitions List items" which were subject to stringent export controls under ITAR. The DoD's Invitation to Bid further warned that: "The use, disposition, export and

reexport of this property is subject to all applicable U.S. laws and regulations . . . which, among other things, prohibit[] . . . [t]he making of false statements and concealment of any material information regarding the use or disposition, export or reexport of the property"

4. On or about April 22, 2003, defendant MICHAEL S. DORFMAN submitted a bid on behalf of SMI to the DoD to purchase the military surplus items in the Invitation to Bid, including export-controlled Sparrow missile components. In support of SMI's bid, defendant MICHAEL S. DORFMAN sent the DoD an end-user certificate as required by the DOD, to ensure that the items would be properly disposed of and would not be exported from the United States.

5. In the end-user certificate, defendant MICHAEL S. DORFMAN expressly certified that: (a) SMI would not resell the military components in the form received from the DoD; (b) SMI would not sell or otherwise dispose of the military components for use outside of the United States; (c) SMI would smelt these military components on-site, turning them into aluminum ingots; and (d) SMI would resell the aluminum ingots only within the United States.

6. The end-user certificate, which defendant MICHAEL S. DORFMAN signed, warned that "the submission of false or misleading information and/or concealment of any facts regarding

the use, disposition or export of this property" may constitute a violation of U.S. law, including, among other statutes, Title 18, United States Code, Section 1001.

7. On or about June 16, 2003, after approving SMI's end-user certificate, and in reliance on defendant MICHAEL S. DORFMAN's certified statements therein, the DoD awarded SMI the bid for the military surplus items discussed above.

8. In or about July 2003, SMI received the military surplus items. These items included parts of the AIM-7 Sparrow missile, including the antennae section of the missile's guidance system.

9. Contrary to SMI's end-user certificate, which defendant MICHAEL S. DORFMAN certified and submitted to the DoD, SMI (a) did not smelt the Sparrow missile components into aluminum ingots for exclusive use inside the United States and, instead, (b) sold them, intact, for export outside of the United States, without obtaining or even applying for the requisite export license from the Department of State.

10. On or about February 13, 2004, approximately seven months after receiving the items from the DoD, SMI sold the Sparrow missile components - in the same form in which SMI received them from the DoD - to an entity owned in part by the government of the People's Republic of China ("PRC"), for export to the PRC.

11. At defendant MICHAEL S. DORFMAN's direction, SMI employees loaded the Sparrow missile components into a forty-foot shipping container (the "Sparrow Missile Container") destined for the People's Republic of China ("PRC") in a manner designed to conceal the nature of the cargo. Specifically, the Sparrow missile components were concealed in the nose of the Sparrow Missile Container (at the furthest point from the doors), behind and underneath scrap metal.

12. On or about March 24, 2004, the Sparrow Missile Container was delivered to the Maher Terminal at Port Elizabeth, Elizabeth, Union County, New Jersey, for export to the PRC.

13. On or about March 25, 2004, U.S. Customs and Border Protection inspectors opened the Sparrow Missile Container, inspected its contents and discovered approximately 192 pieces of what was later identified as part of the guidance system of the AIM-7 Sparrow missile, which appear to be in the same form as when the DoD sold them to SMI.

14. From in or about April 2003, to in or about April 2004, in Union and Camden Counties, in the District of New Jersey, and elsewhere, the defendant

MICHAEL S. DORFMAN,

in a matter within the jurisdiction of the executive branch of the Government of the United States, namely, the United States Department of Defense, did knowingly and willfully make and cause to be made materially false, fictitious and fraudulent statements and representations.

In violation of Title 18, United States Code, Sections 1001(a)(2) and 2.

CHRISTOPHER J. CHRISTIE
United States Attorney