

June 28, 2002

Hon. Harold O. Levy
Chancellor
New York City Public Schools
110 Livingston Street, Room 1010
Brooklyn, NY 11201

Re: Abraham Thomas
Joseph Weiss
Copy World of America, Inc.
Candle Business Systems, Inc.
SCI Case #99-1102

Dear Chancellor Levy:

This office conducted an investigation in conjunction with the Office of the New York State Attorney General into illegal conduct committed by Copy World of America, Inc. ("Copy World") and Candle Business Systems, Inc. ("Candle"), as well as individuals employed by them.¹

The Investigation

The investigation began after Abraham Thomas, a salesman employed by Copy World/Candle, offered District 28 Business Manager Michael Tragale an envelope, to persuade him to make a purchase for the district.² Tragale notified Superintendent Neil Kreinik, who forwarded the information to this office.

¹ Candle bought Copy World and they became one company in March 1999. These companies sell copiers and high speed duplicators.

² Since Tragale refused the envelope, he could not say what was in it, but Thomas admitted to investigators that the envelope contained \$500 in cash.

Investigators from this office set up covert video equipment in the District Office and caught Thomas bribing the superintendent on tape. Several meetings were recorded. Twice, Thomas was captured handing the superintendent an envelope containing \$500.³ Further, to satisfy the Board of Education's ("BOE's") procurement rules, Thomas provided Tragale and Kreinik with all three required bids: from Candle, Copy World, and Savin Corporation. On tape, the salesman explained in detail that Candle and Copy World were now the same company and that he had "arranged" for Candle to win the sale because he did not want any "flags" raised since Copy World had been doing a lot of business with the district. Nevertheless, he offered to switch the quotes so that Copy World was awarded the purchase if the superintendent preferred.⁴

As a result of Thomas's conduct, he was indicted by a Queens County Grand Jury and charged with two counts of Bribery in the Third Degree and three counts of Combination in Restraint of Trade pursuant to General Business Law section 340, which is a Donnelly Act Violation. The case is currently pending in Queens County Supreme Court.

Thomas's conduct led to the discovery of much broader criminal conduct by Candle and its owner, Joseph Weiss. Weiss admitted that he, on behalf of Candle, entered into an arrangement with Larry Weiss, the owner of Atlantic Business Products ("Atlantic"), whereby they agreed not to compete against each other for sales.⁵

The Plea and Civil Settlement

As a result of his illegal arrangement with Atlantic, yesterday, Weiss pleaded guilty to one count of Combination in Restraint of Trade, a class E felony.

Further, Candle has entered into a Settlement Agreement with the Office of the New York State Attorney General, for the company's civil liability arising from its participation in the arrangement not to compete and for the use of fictitious bids.⁶ In the complaint, the Attorney General alleged that:

- Atlantic, by Larry Weiss, and Candle, by Joseph Weiss, agreed not to compete against one another in sales of copiers and duplicators.
- Joseph Weiss and Larry Weiss each instructed his salespeople not to sell to any entity that had already made a purchase from the other company.

³ The superintendent turned the envelope and the cash over to this office which vouchered it as evidence.

⁴ Thomas also suggested another improper way to purchase the equipment. Rather than using bids at all, he would add thirty copiers to a purchase order for an item already under contract with the BOE. The contract number on the purchase order relating to the pre-approved equipment would guarantee that the BOE would pay the supplier and it, in turn, would pay him.

⁵ There is no familial relationship between Larry Weiss and Joseph Weiss.

⁶ While Candle entered into a settlement agreement, the company did not admit to any of the allegations in the civil complaint.

- Atlantic and Candle provided one another with fictitious bids in order to obtain potential business by giving customers the impression that they were getting competitive pricing.

The complaint also alleged that Candle had an anti-competitive arrangement with Copy World by which each company agreed not to sell to existing customers of the other. Moreover, the complaint alleged that after Candle purchased Copy World, Weiss maintained Copy World as a separate corporation in order to allow use of bids from both companies, thus giving customers the impression they were surveying competitor's pricing before buying a piece of equipment.

The use of fictitious bids also extended to sales to the BOE. In fact, Copy World/Candle took advantage of loopholes in the BOE procurement policy. The BOE had pre-approved contracts with copier and duplicator distributors at set prices, which schools and BOE offices used to purchase particular equipment. However, if a school wished to acquire an item that was not set forth in one of these contracts, it followed "off-contract" procedures.⁷ The complaint against Candle alleged that its salespeople encouraged schools to make "off-contract" purchases, which typically carried higher prices and commissions. Candle salespeople then provided schools with bids either prepared by Candle personnel on the stationery of other companies, or created by other companies in collusion with Candle. Copy World salespeople also provided fraudulent and/or collusively obtained bids to the BOE in order to make sales. According to the complaint, although Candle executives were aware of such practices at the time that company purchased Copy World, they did nothing to stop it until after they learned of this investigation. At that point, they directed that the stationery used to prepare the fictitious bids be destroyed.

As a result of the Settlement Agreement, Candle agreed to civil penalties as follows:

- paying New York State the sum of \$360,000 as a civil penalty;
- paying \$20,000 each to the New York State Attorney General's Office and the Special Commissioner's Office for reimbursement of costs expended during the investigation.⁸

The company is also enjoined from:

- entering into any agreement not to compete in the sale of any office equipment;
- allocating, rotating or dividing the sale of any office equipment in New York State;

⁷ These procedures are set forth in the procurement policy section of the BOE's School Purchasing Guide.

⁸ The \$20,000 to the Special Commissioner's Office will be deposited in the New York City General Fund as revenue.

- establishing a plan with any competitor to fix, raise, maintain or stabilize the prices for any office equipment in New York State;
- communicating with any competitor about any intention, decision or plan to bid or refrain from bidding for any particular sale or contract for office equipment, including any intention, decision, or plan regarding any actual or proposed bid, where such communication or inquiry is to any other competitor; or any other person who sells office equipment;
- requesting, suggesting, urging, or advocating that any other person refrain from bidding or competing with Candle for the sale of any office equipment;
- submitting, or asking any other person to submit, fictitious bids for the sale of any office equipment;
- providing anything of value to an employee of a New York City or State Government entity in exchange for that entity's agreement to either purchase any office equipment from Candle or to enable Candle to submit a bid or offer to sell any office equipment;
- making any off-contract sale to any government entity, after: a) representing to any employee or official of any government entity that the price or terms for which the item was sold were those set forth in the government contract; or b) indicating on the documentation for the sale that the sale was in accordance with a government contract; and
- making any off-contract sale to the New York City Board of Education.⁹

By the Settlement Agreement, Candle also is bound, for seven years, to disclose in writing to the Attorney General, any intention to purchase, acquire or merge with another office equipment dealer. It is also required to provide documents responsive to any request made by the Attorney General concerning the transaction within ten days, or an otherwise reasonable time, and must report, in writing, any act prohibited by the injunction within seven days of any Candle officer acquiring knowledge of the act.

Reforms To BOE Procurement Policies

Since this investigation began, the BOE has taken steps to correct problems in the procedures used in the procurement of goods and services. In August 2001, Beverly Donohue, the BOE Chief Financial Officer, distributed a memorandum outlining a "Purchasing Reform Initiative." Modifications to the purchasing practices included that:

1. All goods and services must be purchased from contract vendors. Any request to purchase a non-contracted item for instructional usage needs to be submitted on a requisition form to the Office of Purchasing Management for review and vendor selection.

⁹ As specifically stated in the Settlement Agreement.

2. All orders for contracted items should be processed through the BOE "fastrack" ordering system.¹⁰ This method allows individuals at the school level to purchase items through an established contract between a vendor and the Office of Purchasing Management, using a computer system that links schools with the central BOE's mainframe computer, data files, and operating systems.
3. The use of purchase orders will be available only in limited circumstances when no requirements contract exists.

Further, the BOE has taken steps to centralize purchasing in order to obtain the best deal possible. For example, it has changed the way computers are purchased. After initially placing a moratorium on all technology-related Requests for Proposals ("RFPs") and Requests for Bids (RFBs"), in order to streamline their purchases, the BOE issued a new RFP, and Dell responded with the most cost-effective proposal. The BOE then canceled all existing contracts and awarded Dell the sole computer franchise within the BOE. Therefore, local bids will no longer be accepted and all schools and financial management centers must utilize Dell computers.

According to Alan Friedman, the Director of Contract Management for the BOE, the plan is to have the same "sole source" arrangement in place regarding copiers by July 1, 2002. When implemented, schools and other BOE offices will not be able to make independent purchases or leases of copier equipment.

Recommendations

As a result of information learned during this investigation, the Offices of the Attorney General and the Special Commissioner of Investigation issued recommendations regarding BOE purchasing. "The Report and Recommendations for Improving Procurement by the New York City Board of Education and Other Local Government Purchasers of Copiers and Duplicators," issued in conjunction with today's plea and civil settlement, suggests that the centralized purchasing trend should be continued. According to the report, "Eliminating off-contract purchases altogether would remove the problems...and, would likely allow the BOE to negotiate a more advantageous contract." Other recommendations included in the report are:

- Providing schools with incentives to save money.
- Limiting purchasing authority to trained employees.
- Implementing a system of on-line procurement.
- Scrutinizing leases.
- Taking greater advantage of State contracts.
- Using sanctions more effectively.

¹⁰ Some exceptions apply, including the purchase of professional services, consultants, and Teacher's Choice purchases.

Hopefully, the recommendations made as a result of our investigation which uncovered specific methods used to defraud purchasers, when added to the new measures being implemented by the BOE, will protect the school system from corrupt vendors in the future. Moreover, the BOE will be able to take advantage of the best pricing and save school funds for their intended purpose: to educate children.

Conclusion

Based on the widespread fraud and illegal conduct committed by Joseph Weiss and his company, the BOE should evaluate the restrictions placed on Candle by the settlement agreement, and determine whether any further action should be taken, including permanently barring Candle from doing business with the BOE.

We are forwarding a copy of this letter to the Office of Legal Services. Should you have any inquiries regarding the above, please contact Vicki Multer Diamond, the attorney assigned to the case. She can be reached at (212) 510-1454. Please notify Ms. Multer Diamond within 30 days of receipt of this letter of what, if any, action has been taken or is contemplated regarding the recommendations made here. Thank you for your attention to this matter.

Sincerely,

Regina A. Loughran
Acting Special Commissioner
of Investigation for the
New York City School District

RAL:VMD:rew
c: Chad Vignola, Esq.

June 28, 2002

Hon. Ninfa Segarra
President
New York City Board of Education
110 Livingston Street, Room 1118
Brooklyn, NY 11201

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Joseph Weiss
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RAL:VMD:rew
c: Members of the Board

June 28, 2002

Hon. Rose Gill Hearn
Commissioner
New York City Department of Investigation
80 Maiden Lane, 18th Floor
New York, NY 10038

Re: Abraham Thomas
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