

SUPERIOR COURT OF JUSTICE
COUR SUPÉRIEURE DE JUSTICE

C A N A D A

PROVINCE OF/DE L' ONTARIO

TORONTO REGION
RÉGION de TORONTO

BETWEEN

HER MAJESTY THE QUEEN
SA MAJESTÉ LA REINE

- AGAINST -
- CONTRE -

MORGANITE CANADA CORPORATION

STATEMENT OF ADMISSIONS
(*pursuant to s. 655 of the Criminal Code*)

I THE ACCUSED

1. Morganite Canada Corp., also operating under the trade style National Electrical Carbon Canada (hereinafter "Morganite Canada") is incorporated under the laws of Ontario. Morganite is an affiliate of Morganite Electrical Carbon Limited (hereinafter "MECL") a corporation organized and existing under the laws of the United Kingdom of Great Britain and Northern Ireland with its place of business located at Swansea, Wales. MECL is engaged in the manufacture and marketing of components used in current transfer applications. Morganite Canada is a supplier of carbon transit brushes and current collectors in Canada, among other products.

II OTHER CORPORATIONS

2. Other significant participants in the manufacture, production, distribution, sale and supply of carbon brushes and current collectors included Carbone Lorraine SA of France, Schunk GmbH of Germany and Hoffman & Co Elektrokohle of Austria, and their respective global subsidiaries.

III THE RELEVANT PRODUCTS

3. Carbon brushes and current collectors are used to transfer electrical current from wires or rails to vehicles that are not independently powered, such as trams and trolley cars.
4. The relevant products are carbon transit brushes and current collectors used in municipal transit vehicles such as subways, trolley cars and elevated rail systems in Canada (the "relevant products"). Between 1995 and 1998 (the "relevant period"), Morganite Canada sold approximately (Cdn) \$2 million of the relevant products to certain transit authorities in Canada.

IV THE AGREEMENT

5. In 1995 and continuing until 1998, executives of MECL and its affiliates met together and otherwise communicated with certain representatives of certain other major producers of carbon transit brushes and current collectors used in municipal transit vehicles in Canada. During such meetings and communications, these executives conspired, combined, agreed, or arranged with the representatives of the other producers to prevent or lessen unduly competition in the supply and sale of the relevant products in Canada through the implementation of a price fixing and market sharing agreement (the "Agreement").
6. The substantial terms of the Agreement were to freeze market shares and coordinate pricing for the sale of the relevant products sold in Canada. For the purpose of carrying out the Agreement, MECL and its co-conspirators:
 - a) participated in meetings and conversations in Canada, Europe, and Mexico and discussed the prices of relevant products sold in Canada,
 - b) agreed, during those meetings and subsequent conversations, to charge prices at certain levels and otherwise increase or maintain prices of the relevant products sold in Canada, and

c) discussed and exchanged price quotations of the relevant products sold in Canada through designated intermediaries within each of the competing companies so as not to undercut the price of a competitor.

7. The meetings and discussions as aforesaid were kept confidential by the participants and limited to certain senior executives, and further efforts to conceal the Agreement were employed.

V FOREIGN DIRECTIVES

8. For the purpose of implementing the Agreement in Canada, during the relevant period MECL issued to Morganite Canada pricing directives, instructions or intimations of policy concerning carbon transit brushes and current collectors sold to certain municipal transit authorities in Canada that were arrived at by agreement with certain of its competitors, and Morganite Canada did implement such directives, instructions or intimations of policy, without knowledge of the Agreement.

VI OTHER CONSIDERATIONS

9. Morganite Canada has agreed to cooperate and plead guilty to the offence of implementing foreign directives contrary to section 46 of the *Competition Act*, thereby saving the costs of further investigation and trial, which would otherwise have been incurred by the Government of Canada.

VII CONCLUSION

10. Morganite admits the foregoing pursuant to section 655 of the *Criminal Code*.

11. Morganite acknowledges, on the basis of the admissions set out herein with respect to the Agreement, that all constituent elements of an indictable offence under section 46 (1) of the *Competition Act* have been established.

Morganite Canada Corporation
By its duly authorized officer

Dated at Toronto

this 16th day of July, 2004.

Per: Ch. A. Baker

CANADA

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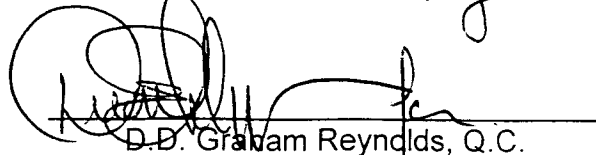
AGAINST
CONTRE

MORGANITE CANADA CORPORATION

THE ACCUSED STANDS CHARGED:
L'ACCUSATION SUIVANTE EST PORTÉE:

THAT it did, between approximately 1995 and continuing until at least 1998, contrary to subsection 46(1) of the *Competition Act* R.S., 1985, c. C-34 as amended, implement an instruction, intimation of policy or other communication from Morganite Electrical Carbon Limited, a person in a country other than Canada that was in a position to direct or influence the policies of Morganite Canada Corporation, which communications were for the purpose of giving effect to a conspiracy, combination, agreement or arrangement entered into outside of Canada between Morganite Electrical Carbon Limited, Carbone Lorraine SA, Schunk GmbH and Hoffman & Co Elektrokohle to unlawfully conspire, combine, agree or arrange with, the one with the other or others of them, to prevent or lessen unduly, competition in the production, manufacture, sale or supply of a product, namely carbon transit brushes and current collectors used in municipal transit vehicles in Canada and elsewhere contrary to paragraph 45(1)(c) of the *Competition Act* R.S., 1985, c. C-34 as amended, without knowledge of the conspiracy, combination, agreement, or arrangement.

DATED at Ottawa, Ontario, this 26th day of May, 2004.



D.D. Graham Reynolds, Q.C.
For the Attorney General of Canada

I hereby consent to the preferring of this indictment pursuant to section 577 of the *Criminal Code*.

DATED at Ottawa, Ontario this 27th day of May 2004.

Morris Rosenberg

Morris Rosenberg
Deputy Attorney General of Canada