

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

16 CRIM 683
Criminal No.:

v.

RALPH GROEN,
Defendant.

Filed:

Violation:

USDC SDNY
DOCUMENT
18 U.S.C. § 1512(c)(2)
ELECTRONICALLY FILED
DOC #: _____
DATE FILED: 10/14/16

INFORMATION

The United States of America, acting through its attorneys, charges:

RALPH GROEN with obstruction of justice for concealing and attempting to destroy documentary material relevant to an antitrust investigation and litigation brought by the United States and State of New York. RALPH GROEN attempted to conceal and destroy his company's end-of-month backup tapes containing email data relevant to the litigation and conceal certain documents referencing those backup tapes.

THE DEFENDANT

1. The defendant, RALPH E. GROEN ("GROEN"), is a citizen of the United States and resident of the State of North Carolina.
2. At all times relevant GROEN was employed by Coach USA Inc. ("Coach") as the Vice President and Director of Information Technology ("IT").
3. During his tenure at Coach, GROEN was in charge of Coach's IT policy, infrastructure, and personnel.

BACKGROUND OF THE OFFENSE

4. Coach is an entity organized and existing under the laws of Delaware and with its principal place of business in Paramus, New Jersey. Coach operates hop-on/hop-off bus tours

around the United States, including a line operated in New York City as Gray Line New York Tours Inc. (“Gray Line”). These tours allow passengers to “hop off” a bus at attractions that interest them and “hop on” another bus operated by the same provider in order to resume the tour.

5. In March 2009, Coach, through its subsidiary, Gray Line, entered into the Twin America LLC joint venture with its primary competitor offering hop-on, hop-off bus tours in New York City. On December 11, 2012, the United States and the State of New York filed a civil complaint in the United States District Court for the Southern District of New York, challenging the formation of Twin America LLC as a violation of the antitrust laws of the United States and the State of New York (“Twin America LLC litigation”). On August 21, 2009 and again on February 22, 2013 Coach issued preservation notices to its management, including GROEN, requiring retention and preservation of all documents and electronic data potentially relevant to the Twin America LLC investigation and litigation.

6. On or about March 21, 2013, and June 5, 2013, the United States served discovery demands for documents under the Federal Rules of Civil Procedure in connection with the Twin America LLC litigation.

7. On or about August 13, 2013, and December 13, 2013, Coach produced documents to the United States responsive to the March 21, 2013, and June 5, 2013 discovery demands.

DESCRIPTION OF THE OFFENSE

8. During the period beginning on or about May 2013 and continuing until on or about April 2014, in the Southern District of New York and elsewhere, GROEN corruptly obstructed, influenced, and impeded an official proceeding by concealing and attempting to

destroy relevant and responsive documentary materials and by providing false and misleading statements during the Twin America LLC litigation, an official proceeding, all in violation of 18 U.S.C. § 1512(c)(2). GROEN did so by undertaking the following actions:

Concealment of Backup Tapes

(a) In or about June 2013, GROEN directed one or more of his subordinates to recall, conceal, and destroy several end-of-month backup tapes containing relevant and responsive emails and other electronic records, all of which were only available on the backup tapes;

(b) In or about June 2013, subordinates of GROEN did recall the end-of-month backup tapes containing relevant and responsive emails and other electronic records from an offsite storage facility and concealed them;

(c) As a result of GROEN'S concealment and attempted destruction, the records and documents on the end-of-month backup tapes were not produced to the United States before discovery closed in the Twin America LLC litigation; and

(d) The records and documents on the concealed end-of-month backup tapes were relevant and responsive to United States' discovery demands.

False and Misleading Statements to Outside Counsel

(e) During the period beginning on or about May 2013 and continuing until on or about April 2014, GROEN falsely and misleadingly informed Coach's outside counsel that materials relevant and responsive to the Antitrust Division's discovery demands did not exist.

Concealment of Backup Policy Documents

(f) In or about July 2013, GROEN provided one backup procedure document to Coach's counsel for production in response the United States' discovery demands;

(g) On at least two separate occasions, GROEN concealed other versions of the procedure document and falsely confirmed to Coach's counsel that the one document provided was the only document relevant to the United States' discovery demands; and

(h) As a result of GROEN'S concealment, other relevant and responsive practice and procedure documents were not produced to the United States before discovery closed in the Twin America LLC litigation.

False and Misleading Statements at Deposition

(i) On or about September 12, 2013, GROEN testified as a Federal Rule of Civil Procedure 30(b)(6) deponent for Coach, where he took an oath to testify truthfully; and

(j) During the deposition, GROEN provided false and misleading statements regarding Coach's document retention practices and procedures.

[remainder of page intentionally blank]

ALL IN VIOLATION OF TITLE 18 UNITED STATES CODE, SECTION 1512(c)(2).

Dated: September 22, 2016



Renata Hesse
Principal Assistant Attorney General
Antitrust Division
United States Department of Justice



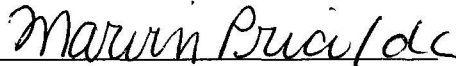
Lisa M. Phelan
Chief, Washington Criminal I Section
Craig Y. Lee
Assistant Chief, Washington Criminal I Section
Antitrust Division
United States Department of Justice



Brent Snyder
Deputy Assistant Attorney General
Antitrust Division
United States Department of Justice



Jay D. Owen
Rebecca D. Ryan
Samson O. Asiyambi
Washington Criminal I Section
Antitrust Division
United States Department of Justice
450 5th St. NW, Suite 11300
Washington, DC 20530
(202) 598-8005
rebecca.ryan@usdoj.gov



Marvin N. Price, Jr.
Director of Criminal Enforcement
Antitrust Division
United States Department of Justice