

NOW +

NEXT

GOVERNMENT INVESTIGATIONS AND ANTITRUST LAW ALERT | NIXON PEABODY LLP

APRIL 30, 2020



Focus on COVID-19 fraud and price gouging results in federal criminal charges under the Defense Production Act of 1950

By Alycia Ziarno, Ronaldo Rauseo-Ricupero, Gordon Lang, and J. William Codinha

In March, Attorney General William P. Barr created the COVID-19 Hoarding and Price Gouging Task Force, led by Craig Carpenito, United States Attorney for the District of New Jersey, who is coordinating efforts with the Antitrust Division and U.S. Attorneys across the country wherever illegal activity involving protective personal equipment occurs.

On April 28, 2020, in the latest coronavirus-related criminal hoarding and price gouging case to come out of the U.S. Attorney's Office for the Eastern District of New York, prosecutors charged a California attorney, Kent Bulloch, and Arizona businessman William Young, Sr., with conspiracy to violate the Defense Production Act of 1950, Title 50, United States Code, Section 4512 ([50 U.S.C. § 4512](#)).

Under 50 U.S.C. § 4512, “no person shall accumulate (1) in excess of the reasonable demands of business, personal, or home consumption, or (2) for the purpose of resale at prices in excess of prevailing market prices, materials which have been designated by the President as scarce materials or materials the supply of which would be threatened by such accumulation.” In [Executive Order 13909](#), President Trump declared that “health and medical resources needed to respond to the spread of COVID-19, including personal protection equipment and ventilators, meet the criteria specified in the Act. Authority was also delegated to the Secretary of HHS to designate additional specific health and medical resources, which has been done, and includes a variety of health and medical products. Willful performance of any act prohibited by § 4512 is a crime punishable by a fine of not more than \$10,000, or imprisonment for not more than one year. [50 U.S.C. § 4513](#).

Bulloch and Young are alleged to have sought to resell 1 million KN95 face masks, an item deemed scarce and threatened under the Act, in New York City at a 50% mark-up. According to prosecutors, Bulloch and Young solicited investors to sell the KN95 masks for double or triple the regular price and offered a fraudulent brochure with a bogus “compliance certificate” of mask quality. Bulloch is accused of trying to cover up the intended excessive charges by creating and signing an escrow agreement for one of the purported investors/purchasers, who was actually an undercover federal agent, that falsely stated that the resale profits would not exceed 10%.

“As alleged, the defendants conspired to turn a huge profit from the urgent need for surgical masks in New York during the pandemic,” stated United States Attorney Donoghue. “When the Attorney General said that those engaged in price gouging should expect a knock on the door, he meant it and when we knock with one hand, we usually have a warrant in the other.”

Task Force leader Craig Carpenito said, “[t]his is precisely the type of price gouging for which Attorney General Barr created our nationwide task force. The Department of Justice will not allow greedy profiteers to take advantage of the public during this health crisis.”

Two California suppliers, Donald Allen and Manuel Revolorio, allegedly connected to the scheme, were arrested and charged in California on April 27, 2020, with conspiracy to commit wire fraud using their company, International Commerce and Investment Group, Inc.

And capping off a busy start to the week, the first person charged by the Eastern District of New York with violating the Defense Production Act, Long Island businessman Amardeep Singh, (also known as Bobby Singh and Bobby Sidana), made his initial appearance in court. The allegations against Singh include that he intentionally stocked up on various products, including some defined as scarce and threatened material under the Defense Production Act, in excess of reasonable demands of business, personal, or home consumption, with the intention to resell the items at impermissibly large mark-ups ranging from 87% to 1,328%. Singh is alleged to have made sales of the products through both a retail store in Plainview, New York, and an online presence as promoted on social media. Some of the products involved included N95 respirators, a variety of different types of face masks, other PPE, digital thermometers, and hand sanitizers. Prosecutors assert that some of the offending sales were made to uniquely vulnerable populations, including groups serving children and seniors.

Prior to the federal charges, Singh apparently received a number of citations and a cease and desist letter from New York State authorities for alleged violations of New York’s price-gouging statute [N.Y. Gen. Bus. L. § 396-r](#). Nonetheless, despite the cautionary warnings, Singh subsequently received several tons of additional merchandise, including more than a ton of face masks, two tons of surgical gowns, and nearly two tons of hand sanitizer, which are the subject of the pending federal charges.

Singh’s attorney has denied the charges, and called the case “unconscionable and unsustainable in a court of law.”

For more information on the content of this alert, please contact our [Coronavirus Response Team](#), your Nixon Peabody attorney, or:

- Alycia Ziarno at aziarno@nixonpeabody.com or 202-585-8265
 - Ronaldo Rauseo-Ricupero at rraiseoricupero@nixonpeabody.com or 617-345-1071
 - Gordon Lang at glang@nixonpeabody.com or 202-585-8319
 - J. William Codinha at jcodinha@nixonpeabody.com or 617-345-1325
-