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Jury Acquits Army Swag Contractors Of Bid-Rigging

By **Carolina Bolado**

Law360 (September 15, 2023, 7:20 PM EDT) -- A Florida jury on Thursday acquitted three men of antitrust charges that they rigged bids for customized promotional products sold to the U.S. Army.

A federal jury in Tampa handed down an across-the-board not guilty verdict for defendants Lawrence O'Brien, Bruce LaRoche and Thomas Dailey, who were accused of conspiring to rig bids for the promotional items over a five-year period starting in 2014.

O'Brien also beat a count for defrauding the government for allegedly setting up shell companies to submit sham bids.

"This acquittal allows Mr. O'Brien to get back to his life and business, and to put these unfounded charges — plus the resulting four years of unnecessary stress and reputational harm — behind him," O'Brien's attorney Mark D. Wagoner said. "This was a tough and hard fought three-week trial, but justice ultimately prevailed."

David Axelrod, who also represents O'Brien, says the jury understood that the defendants' actions were at their customers' specific requests and for their customers' convenience.

"As the government's lead agent acknowledged, the defendants had voluntarily disclosed the allegedly secret information in a government database that is supposed to be the primary resource for information about government contractors," Axelrod said. "The government was unable to offer any evidence that the defendants' prices for the promotion items were anything other than fair and reasonable, so the Army suffered no loss of any kind."

A Florida grand jury **indicted the three defendants** in April 2022 on charges of conspiring to eliminate competition among their companies by coordinating bids for promotional products supplied to the Army.

The indictment alleged that O'Brien, along with LaRoche and Dailey, conspired from at least July 2014 until as late as December 2019 to suppress and eliminate competition by rigging bids for the products.

According to the indictment, the Army has purchased millions of dollars in customized promotional products including backpacks, water bottles, hats and knives, many of which feature logos and insignias of military units. The indictment said the Army considers these purchases to be important to its recruitment and retention of service members.

O'Brien owns several companies that operate in the space, including MP USA Marketing Group, while LaRoche owns several companies that provide similar products, including Allegiance Tactical LLC, according to court documents. Dailey owns and operates Mission Quest Advertising LLC, another supplier of the products, according to prosecutors.

Erik Matheney, who represents Dailey, said the three defendants never intended to do what they were charged with doing and always maintained their innocence.

"I think the defense team as a whole did a very good job of showing that the evidence was lacking to prove our clients' guilt," Matheney said.

He added that his client feels vindicated and is "thrilled with the jury's verdict."

Wagoner said that from the beginning of the three-week trial, the defense emphasized to jurors that they "were not getting a complete picture of how purchases in the RPI market were really handled."

"Through the course of the trial, we worked hard to get the entire story in front of the jury," Wagoner said. "By the end, the jury realized that the prosecution's case was built on such a shaky foundation of unsupported assumptions and unanswered questions that the case ultimately collapsed under its own weight."

LaRoche's attorney Kevin Napper thanked the jury and said his client is "most appreciative of their attention to the evidence, or lack of evidence in this case, and their just verdict."

A representative for the U.S. Department of Justice did not respond to a request for comment.

O'Brien is represented by David F. Axelrod, Mark D. Wagoner Jr., Krystina E. Garabis and Hunter G. Norton of Shumaker Loop & Kendrick LLP.

LaRoche is represented by Kevin Jon Napper of the Law Offices of Kevin J. Napper PA.

Dailey is represented by Erik R. Matheney of Shutts & Bowen LLP.

The government is represented by Elizabeth French, Zachary Trotter, Mona Haar, Christian Neumeister and April Ayers-Perez of the U.S. Department of Justice's Antitrust Division.

The case is U.S. v. O'Brien et al., case number 8:22-cr-00130, in the U.S. District Court for the Middle District of Florida.

--Additional reporting by Matthew Perlman. Editing by Jeremy Abrams.

Update: This story has been updated to include additional comment from counsel.