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Shumaker's Legal Team Secures Acquittal in High-Stakes Bid-Rigging Case

Attorneys successfully argued defendants did not suppress competition or defraud the Army in the sale of customized promotional products.

COLUMBUS, OH (September 20, 2023)—A federal jury in the Middle District of Florida in Tampa handed down a significant legal victory when a Shumaker legal team, led by attorney David F. Axelrod, successfully defended its client, Larry O'Brien, against bid-rigging, price fixing and fraud charges. The case garnered widespread attention due to its implications for antitrust and government procurement practices.

In a jury trial that concluded on Thursday, O'Brien, Bruce LaRoche and Thomas Dailey received across-the-board not guilty verdicts on antitrust charges alleging conspiracies to violate the Sherman Act and to defraud the United States by manipulating bids for promotional items provided to the U.S. Army over a five-year period. Throughout the case, the men maintained their innocence.

Key highlights of the case include:

- Axelrod and the defense team showed the jury there was no intent to engage in a conspiracy of any kind.
- They successfully argued that the prices charged for the promotional items were fair and reasonable and that the Army suffered no harm of any kind.
- They also showed that the defendants voluntarily disclosed information about their companies that the government argued were kept secret. This included registering the companies in the System for Award Management, or SAM.gov, which is the official U.S. government resource for information about government contractors.
- They showed that their sales practices were in response to customer requests and for the customers' convenience.

This verdict has significant implications for the government's Procurement Collusion Strike Force and its approach to criminal prosecutions. "We believe the jury understood that the defendants' actions were at their customers' specific requests and for their customers' convenience, rather than for any nefarious purpose. Furthermore, 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," said David Axelrod. "The government was unable

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to offer any evidence that the defendants' prices for the promotional items were anything other than fair and reasonable, so the Army suffered no loss of any kind. Justice prevailed."

The defense highlighted that the government's evidence was ultimately selective and incomplete, therefore unpersuasive and leading to the defendants' acquittal.

O'Brien was represented by Axelrod and Shumaker attorneys Mark D. Wagoner Jr. and Krystina E. Garabis, with the assistance of Ali Latif and Andrew DeWeese.