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UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

CR 92-10369-Z

ZOBEL, D. J.

UNITED STATES OF AMERICA

v.

ALFRED TRENKLER

Fourth Day of Trial

APPEARANCES:

For the Government:

Paul V. Kelly, Esq., and Frank A. Libby, Jr., Esq.,  
Assistant United States Attorneys, Federal Courthouse,  
Boston MA 02109.

For the Defendant:

Terry Philip Segal, Esq., Scott Lopez, Esq.,  
and Brenda R. Sharton, Esq., SEGAL & FEINBERG,  
210 Commercial Street, Boston, MA. 02109.

Courtroom 3  
Federal Courthouse  
Boston, Massachusetts

October 28, 1993

P R O C E E D I N G S

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[Whereupon, the jury entered the courtroom.]

THE COURT: Good morning, please be seated.

Who is the next witness, please?

MR. LIBBY: Your Honor, the Government calls  
Mr. Stephen Adams.

STEPHEN ADAMS, Sworn

THE CLERK: Please be seated and state your full  
name.

THE WITNESS: Stephen Adams, S T E P H E N.

THE COURT: You may proceed.

MR. KELLY: Thank you, your Honor.

Direct Examination by Mr. Libby

Q. Good morning, Mr. Adams.

A. Good morning.

Q. Are you employed?

A. Yes.

Q. By whom are you employed?

A. Austin Powder Company.

Q. How do you spell Austin?

A. A U S T I N.

Q. And where do you work?

A. I work out of Kingston, New Hampshire.

Q. And in what capacity are you employed, sir?

A. I'm a New England area regional sales manager.

1 Q. What does Austin Powder do or manufacture, sir?

2 A. We manufacture commercial explosives and detonators.

3 Q. And primarily, sir, who are Austin Powder's customers?

4 A. Drilling and blasting the contractors, sewer contractors,  
5 and rock quarries.

6 Q. How long have you been with Austin?

7 A. Since December of 1986.

8 Q. How long have you been in Kingston as a distributorship  
9 or regional office?

10 A. Yes, it is a storage facility and a regional office.

11 Q. How long have you been there?

12 A. Since January of '92.

13 Q. As a New England regional manager you oversee some  
14 people?

15 A. Yes.

16 Q. Could you briefly describe that to the jury, please.

17 A. We have storage facilities and offices in Vermont, Maine,  
18 Massachusetts and New Hampshire. And I am responsible for the  
19 operations and the people that operate the operations in  
20 there.

21 Q. And due to the nature of its business, sir, Austin is  
22 licensed by the Bureau of Alcohol, Tobacco & Firearms?

23 A. Yes, we are.

24 Q. Licensed in what way, sir?

25 A. As far as storage and inventory control.

1 Q. Are you inspected by the Alcohol, Tobacco & Firearms?

2 A. Yes, we are.

3 Q. Periodic basis?

4 A. Yes.

5 Q. You're appearing here today pursuant to a subpoena issued  
6 by the United States Attorney?

7 A. That's right.

8 Q. Now, where, sir, is Austin Powder's corporate  
9 headquarters?

10 A. Cleveland, Ohio.

11 Q. How long has Austin Powder been in existence?

12 A. Since 1833.

13 Q. So you're one of the larger manufacturing outfits in the  
14 business, sir?

15 A. Yes, we are.

16 Q. As of October 1991, sir, can you tell us, please, where  
17 Austin Powder's detonators caps had been manufactured?

18 A. In Austria.

19 Q. Explain how that process works.

20 THE COURT: What process?

21 Q. The manufacturing, how your relationship rather with the  
22 manufacturer in Austria?

23 A. The detonators are manufactured and assembled in Austria,  
24 and they are shipped, or they were shipped to MacArthur, Ohio;  
25 and then from MacArthur, Ohio they were distributed to

1 Austin's storage facilities to distribute to our customers.

2 Q. Now, was there a time, sir, when Austin's detonators caps  
3 were simply manufactured in Austria and shipped out in  
4 component fashion?

5 A. Yes.

6 Q. Up until what time did that take place?

7 A. October of '91.

8 Q. And at that time, sir, where were Austin's detonator caps  
9 assembled?

10 A. They were assembled in MacArthur, Ohio, and also  
11 Brownsville, Texas.

12 THE COURT: I'm sorry. What is manufactured in  
13 Austria?

14 THE WITNESS: The components of the detonators.

15 THE COURT: And the assembly is done in the United  
16 States and Texas and --

17 THE WITNESS: That's correct.

18 THE COURT: What was the other place?

19 A. In MacArthur, Ohio.

20 Q. So up to October and through October of 1991 all  
21 manufacturing components of the detonator caps took place  
22 overseas in Austria?

23 A. That's correct.

24 Q. And the components were then shipped for assembly to  
25 MacArthur, Ohio?

1 A. That's right.

2 Q. Would you describe to the Court and jury, please, the New  
3 England regional sales, just detonators caps, typical annual  
4 sales?

5 A. Approximately 600,000.

6 Q. Would you describe for us, please, the physical -- give  
7 us a physical description of the detonator cap what it looks  
8 like?

9 A. It is basically an aluminum shell with copper wires  
10 extruding from the end of it which come in different lengths.

11 Q. When you say lengths?

12 A. Lengths of copper wire. The minimum is eight foot length  
13 and the maximum could up to 250 feet.

14 Q. How are you familiar with the physical description of  
15 these detonators?

16 A. Through the use and sale of detonators.

17 Q. What do they sell for retail on the marketplace?

18 A. Average cost is probably around \$3 each.

19 Q. Do they come packaged in any particular form?

20 A. Yes, they do.

21 Q. What form is that?

22 A. They come packaged in a box, depending upon the length of  
23 the leg wires length, like the eight foot detonators they come  
24 in 50 to a box; and the longer they get, the less there is to  
25 a box.

1 Q. When in the hands of a customer, sir, does the customer  
2 typically tailor the length of the leg wires to fit the  
3 customers' needs?

4 A. Yes, they do.

5 Q. Nothing unusual about that?

6 A. It is very common.

7 Q. Cut the ends of the wire and crimp them, and so forth?

8 A. Yes.

9 Q. Now, let me show you, please, if I may, your Honor,  
10 approach the witness, a photograph marked for the record, your  
11 Honor, 17 C, Government's Exhibit 17 C-1 and ask you --

12 MR. KELLY: Offered by agreement of counsel. Part of  
13 17 C, entire 17 C will come in by agreement.

14 THE COURT: Why don't you have him tell us and then  
15 take it jury, because otherwise the reporter moving is always  
16 a problem.

17 Q. First --

18 THE COURT: Is 17 in evidence as of now. Okay. The  
19 record will reflect that 17 and all of the subparts are in  
20 evidence.

21 MR. LIBBY: 17-C.

22 THE COURT: Only 17-C?

23 MR. LIBBY: Which has three subparts.

24 [Government's Exhibit 17-C entered in evidence.]

25 THE CLERK: Mr. Libby, I don't have three subparts

1 marked on the Government's list?

2 MR. LIBBY: That's right. For our purposes here this  
3 is one of those three.

4 Q. Directing your attention to the left side portion of 17 C  
5 here, do you recognize what is depicted there, sir?

6 A. Yes, I do.

7 Q. Could you brief tell the jury what that is?

8 A. That is a Rock Star electric detonator.

9 Q. Would show us, if you can point, and just tell us the  
10 basic function of each of these components or major  
11 components?

12 A. An electrical charge is transmitted down the leg wires.  
13 It goes into the insulating clip, and then the fuse head which  
14 then a fuse head lights, which then lights the delay tube,  
15 which proceeds down the delay and then after the delay the  
16 ignition charge basically explodes, and then the base charge  
17 explodes into the primer or piece of explosives that it is  
18 inserted into.

19 Q. So this ignition charge is the first to go; is that  
20 right?

21 A. Yes.

22 Q. And it explodes the base charge which initiates whatever  
23 main charge this is inserted into?

24 A. That's correct.

25 Q. Okay.

1 THE COURT: Excuse me one second, why don't you show  
2 it to the jury by drawing it in front of them and pass it  
3 along to them so they can study it.

4 MR. LIBBY: I'll use it one more time, your Honor.

5 THE COURT: The witness was referring to the matter  
6 along the left-hand side of the picture.

7 (Whereupon, the exhibit was displayed to the jury.)

8 Q. Mr. Adams, is there anything distinctive about Austin  
9 Rock Star electric detonators?

10 A. Yes, sir, there is.

11 Q. How many competitors do you have on the market?

12 A. In this area, approximately three.

13 Q. What is distinctive about Austin Rock Star detonator  
14 caps, please?

15 A. There are two things, one of them is the color of the leg  
16 wires.

17 Q. And what is that?

18 A. They are red and yellow. And also, the delay timing  
19 sequence is stamped at the base of the aluminum shell of the  
20 detonator.

21 Q. When you say time and device sequence, is that a letter  
22 or number?

23 A. It is a number.

24 Q. What does that number stand for, please?

25 A. The number stands for the actual time in milliseconds

1 that it takes for the delay to activate the detonator.

2 Q. For example, if there's a number 6 on the base embossed  
3 in the base of the cap itself?

4 A. Yes.

5 Q. What does that tell you?

6 A. The number 6 stands for 150 millisecond delay.

7 Q. So the standard delay is what?

8 A. 25 milliseconds.

9 Q. And that is used, if you could briefly for the jury, for  
10 what purpose? Why don't you want to have a delay?

11 A. To initiate a blast, it's necessary that each hole that  
12 is drilled into the ground or the rock, is initiated  
13 separately so that if you have 20 holes, all 20 holes don't go  
14 at once we can delay it so it can go all separately.

15 Q. Now, directing your attention again to 17 C-1 Mr. Adams  
16 the right-hand side of the photograph here, sir, directing  
17 your attention specifically to these two items that I'm  
18 pointing to in the middle, can you identify those items for  
19 us, sir?

20 A. Yes, I can.

21 Q. What are they?

22 A. I see red and yellow leg wires extending from the end of  
23 one of the detonators. And also, here I can make out a delay  
24 time stamp at the base of the fragment.

25 Q. Can you see the actual number?

1 A. Yes.

2 Q. And with that information in mind, sir, do you have a  
3 conclusion as to the manufacturer of those items there, of  
4 those detonator caps?

5 A. In my opinion, based upon the color of the leg wires and  
6 the delay time stamped at the base of the fragment it is a  
7 Rock Star electric detonator.

8 Q. And finally, Mr. Adams, correcting your attention to  
9 Exhibit 12-1, in this -- looking in this can if you would,  
10 please -- can you see what's in there?

11 A. Yes.

12 Q. Can you identify for the jury what's in the can, please?

13 A. It is a Rock Star electric detonator.

14 Q. Manufactured by Austin Powder?

15 A. Yes.

16 MR. LIBBY: Thank you, I have nothing further, if I  
17 may.

18 THE COURT: Yes.

19 Ms. Sharton, any questions?

20 MS. SHARTON: Yes, your Honor.

21 MR. LIBBY: I beg your pardon. If I may have one  
22 final question.

23 Q. At any time, Mr. Adams, has Austin Powder manufacturing  
24 ever had any facilities in the Commonwealth of Massachusetts,  
25 at any time?

1 A. Not the manufacture.

2 THE COURT: You may proceed.

3 Cross-examination by Ms. Sharton

4 Q. Good morning, Mr. Adams.

5 A. Good morning.

6 Q. Keeping Exhibit 12-1 in mind which is being passed along  
7 to the jurors now, can you tell me where someone purchased  
8 that particular detonator?

9 A. No, I can't.

10 Q. And can you tell me when someone might have purchased  
11 this particular detonator?

12 A. No, I can't.

13 Q. Can you tell me what year it was purchased?

14 A. No.

15 Q. And you certainly can't tell me by whom it was purchased,  
16 right?

17 A. I cannot.

18 Q. And in fact, you cannot say whether it was purchased by  
19 anyone; is that right?

20 MR. LIBBY: Objection, your Honor.

21 THE COURT: It is irrelevant. The objection is  
22 sustained.

23 Q. There are no identifying marks or serial numbers or  
24 anything like that on the Austin Rock Star electric detonator;  
25 is that right?

1 MR. LIBBY: Objection, your Honor.

2 THE COURT: I don't know what the relevance of that  
3 is.

4 MS. SHARTON: I'm asking whether he can link up this  
5 particular detonator with anything. Whether he can give us  
6 any information whatsoever about a particular detonator.

7 THE COURT: But what's the relevance of that?

8 MS. SHARTON: Perhaps if we can be heard at the side  
9 bar.

10 THE COURT: Explain to me what the relevance is.

11 MS. SHARTON: Well, your Honor, I'm just trying to  
12 point out that all Mr. Adams can say is this is an Austin Rock  
13 Star detonator, and that's it.

14 THE COURT: Right. And it was manufactured somewhere  
15 other than Massachusetts. That's the sole purpose of his  
16 testimony, as I understand it.

17 MR. LIBBY: That's correct, your Honor.

18 MS. SHARTON: I think I'm entitled to inquire what he  
19 can't tell us as well, your Honor.

20 THE COURT: I don't understand what the relevance of  
21 what he can not tell us. The purpose of his testimony is to  
22 show that, as I understand it, that this detonator was  
23 manufactured outside of Massachusetts and it somehow exploded  
24 within Massachusetts, right?

25 MS. SHARTON: That's right.

1 THE COURT: Well, what's the relevance of showing  
2 that it doesn't have a serial number and he can't tell us that  
3 anybody in particular bought it?

4 MS. SHARTON: I want to make it clear that he has no  
5 knowledge beyond that.

6 THE COURT: I think that's probably agreed, right?

7 MS. SHARTON: Nothing further.

8 MR. LIBBY: I have nothing.

9 THE COURT: Let me explain to the jury, in particular  
10 count 2 of this indictment requires that the Government prove  
11 that the defendant received explosives in interstate  
12 commerce. That's the language of the indictment, and I this  
13 the statute has similar language. What that means is, that  
14 the Government has to prove that some component of the  
15 explosive traveled from one state into Massachusetts from some  
16 state outside Massachusetts, into Massachusetts in order to  
17 show this interstate commerce element. It is a necessary  
18 element the Government has to prove it.

19 The Constitution has allocated certain jurisdiction  
20 over certain things to the states and over certain other  
21 things to the federal Government. One of the powers left to  
22 the federal Government is to regulate interstate commerce.  
23 And it is under that power that Congress has passed this  
24 statute that makes it an offense to use explosives that have  
25 traveled in interstate commerce, and it is for that reason

1 that the interstate commerce is a necessary element to prove,  
2 particularly with respect to count 2; count 3 has another  
3 different interstate element that we will come to in due  
4 course. So it is on that issue that this evidence is being  
5 offered.

6 Thank you, Mr. Adams, you are excused.

7 MR. KELLY: Your Honor, our next witness will be  
8 Ms. Cynthia Wallace. Before we call her, I want to clarify  
9 the record to streamline in terms the counsel's agreement for  
10 the use of exhibits. During the course of this next witness's  
11 testimony, the following exhibits will be used, and most of  
12 them are agreed as being available for admissibility:

13 Exhibit 12, in its entirety, has already been  
14 admitted and will be used by this witness.

15 Exhibits 13 A and 13 B are offered for identification  
16 purposes only as exemplars or samples. They will not be  
17 offered.

18 By agreement, the parties agree to the admissibility  
19 of Exhibits 14, 15, 16, 17; Exhibit 18 in its entirety, which  
20 is three parts, A, B, and C, offered for identification only  
21 again, as exemplars, samples, not for admissibility; Exhibit  
22 21 A, B and C by agreement of the offer.

23 THE COURT: In evidence?

24 MR. KELLY: In evidence.

25 MR. KELLY: Exhibit 36 A through F, in its entirety,

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CERTIFICATE

We certify that the foregoing is a correct transcription of our computer-aided stenographic notes of the proceedings in the above-entitled matter.

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\_\_\_\_\_  
James E. McLaughlin

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Laura K. S. Walker