

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

<b>UNITED STATES OF AMERICA</b>	<b>:</b>	<b>CRIMINAL NO.</b> _____
<b>v.</b>	<b>:</b>	<b>DATE FILED:</b> _____
<b>JOEL D. UDELL</b>	<b>:</b>	<b>VIOLATIONS:</b>
<b>PYRAMID CHEMICAL SALES</b>	<b>:</b>	<b>42 U.S.C. § 6928(d)(2) (storage of</b>
<b>CO., INC.</b>	<b>:</b>	<b>hazardous waste without a permit - 1</b>
<b>NITTANY WAREHOUSE LP</b>	<b>:</b>	<b>count)</b>
	<b>:</b>	<b>42 U.S.C. § 6928(d)(6) (exportation of</b>
	<b>:</b>	<b>hazardous waste - 4 counts)</b>
	<b>:</b>	<b>42 U.S.C. § 6928(d)(5) (transportation of</b>
	<b>:</b>	<b>hazardous waste without manifest - 5</b>
	<b>:</b>	<b>counts)</b>
	<b>:</b>	<b>42 U.S.C. § 6928(d)(1) (transportation of</b>
	<b>:</b>	<b>hazardous waste to unpermitted facility -</b>
	<b>:</b>	<b>5 counts)</b>
	<b>:</b>	<b>18 U.S.C. § 2 (aiding, abetting, and willfully</b>
	<b>:</b>	<b>causing)</b>

**INFORMATION**

**COUNT ONE**

**STORING HAZARDOUS WASTE WITHOUT A PERMIT  
42 U.S.C. § 6928(d)(2)(A)**

**THE UNITED STATES ATTORNEY CHARGES THAT:**

At all times material to this information:

**The Defendants**

1. Defendant JOEL D. UDELL was the president and owner of defendant PYRAMID CHEMICAL SALES CO., INC. (“PYRAMID”), a company that purchased and sold surplus

chemicals using the slogan “Your Surplus Is Our Inventory.”

2. Defendant PYRAMID was the general partner of defendant NITTANY WAREHOUSE LP (“NITTANY”), a partnership formed in 1988 in Pennsylvania by defendant JOEL D. UDELL and another person.

3. Defendant JOEL D. UDELL controlled and directed all of the day-to-day activities of defendants PYRAMID and NITTANY.

4. Defendant NITTANY owned a business located in two buildings and a parking lot, all on High Street, in downtown Pottstown, Pennsylvania. The two buildings were a two-story building at 22 High Street, and a two-story building, with a basement, at 2-16 High Street. (These two buildings are collectively referred to here as the “warehouse.”) In addition, defendant NITTANY owned the paved parking lot next to 2 High Street.

5. Starting in the mid-1980s, defendants JOEL D. UDELL and PYRAMID used the warehouse to store chemicals belonging to PYRAMID. Until in or about January 2001, defendants JOEL D. UDELL and NITTANY maintained the warehouse in deplorable condition. Defendants UDELL and PYRAMID stored thousands of containers of chemicals throughout the warehouse, some stacked on top of each other, with incompatible chemicals, including flammable and poisonous chemicals, stored together. Some of the containers were rusted and corroded metal drums, and others were damaged, crushed or torn. Most of the chemicals were old and unusable; many could not even be identified.

The Resource Conservation And Recovery Act

6. Pursuant to the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901 et

seq. (“RCRA”), EPA and the states regulated various types of solid wastes classified as hazardous wastes. In general, RCRA regulated hazardous waste from its generation, through storage and treatment, to disposal. This program is often referred to as the RCRA “cradle to grave” regulatory system.

7. Under RCRA, a waste qualified as “hazardous” if it met either of two conditions: first, if it exhibited one or more of the following physical characteristics: ignitability, corrosivity, reactivity or toxicity; or second, if it was specifically listed in the federal RCRA regulations as a hazardous waste. 40 C.F.R. §§ 261.21-.24, .31-.33.

8. A “generator” of hazardous waste was any person who produced or created hazardous waste. 40 C.F.R. § 260.10.

9. RCRA required a generator of solid waste to determine if that waste qualified as a hazardous waste, and if so, to provide for its proper storage, transportation, treatment, and disposal. 40 C.F.R. § 262.11.

10. RCRA made it a crime for a person knowingly to treat, store or dispose of hazardous waste without a permit. 42 U.S.C. §§ 6925, 6928(d)(2).

11. RCRA required a generator of hazardous waste to manifest such waste during transportation to an off-site location. 40 C.F.R. § 262.20(a). A hazardous waste manifest was a shipping document or form signed by the generator which identified the quantity, composition, origin, routing, and destination of the hazardous waste during its transportation, from the point of generation to the point of off-site treatment, storage or disposal. 40 C.F.R. § 260.10; 42 U.S.C. § 6903(12).

12. RCRA made it a crime for a person knowingly to transport a hazardous waste

without a manifest, or to an unpermitted facility, that is, a facility which did not have a proper storage, treatment or disposal permit under RCRA. 42 U.S.C. § 6928(d)(1) and (5).

13. RCRA further made it a crime knowingly to export hazardous waste to another country, without first obtaining the consent of the receiving country. 42 U.S.C. § 6928(d)(6).

#### Defendants' Conduct

14. Defendants JOEL D. UDELL, PYRAMID and NITTANY knew that their warehouse contained quantities of hazardous waste.

15. From in or about May 1998 through in or about June 2000, the Fire Marshal for the Borough of Pottstown, the Borough itself, and the Pennsylvania Department of Environmental Protection attempted to have defendants JOEL D. UDELL, PYRAMID and NITTANY address the many building code, fire code, safety and environmental violations and issues that these regulatory authorities found at the warehouse.

16. Despite repeated promises and a state court order, defendants JOEL D. UDELL, PYRAMID and NITTANY failed to clean up the warehouse and correct the many violations of law and regulations found by the authorities.

17. Beginning in or about April 2000, the Borough of Pottstown asked the United States Environmental Protection Agency ("EPA") to investigate conditions at the warehouse pursuant to its authority under the Comprehensive Environmental Response, Compensation and Liability Act (often called the "Superfund" law). After defendants UDELL and NITTANY failed to comply with a state court order, EPA determined in or about June 2000, that the warehouse constituted an imminent and substantial endangerment from an actual or threatened release of hazardous substances into the

environment. This finding of serious danger to the public health and safety, and to the environment, qualified the warehouse as a Superfund cleanup site, requiring immediate cleanup either by the defendants, or by EPA using Superfund monies.

18. From in or about January 2000 through January 2001, however, defendants JOEL D. UDELL, PYRAMID and NITTANY employed several improper and illegal strategies to remove chemicals, including hazardous waste and hazardous substances, stored in the warehouse. These strategies included the following: 1) shipping hundreds of thousands of pounds of chemicals to the Netherlands, in Europe, without any buyer, and without the consent of that country as required by RCRA for export of hazardous waste; 2) transporting chemicals, including hazardous waste, to facilities in the United States and the Netherlands that lacked hazardous waste permits required by RCRA; 3) in violation of EPA's cleanup requirements, selling or giving away unusable chemicals, including hazardous substances, to supposed buyers, who then had to dispose of them at their own expense or at the expense of other companies; and 4) taking other actions to avoid EPA's requirements and orders governing the cleanup.

19. From approximately May 1998 through in or about January 2001, in Pottstown, in the Eastern District of Pennsylvania and elsewhere, defendants

**JOEL D. UDELL,  
PYRAMID CHEMICAL SALES CO., INC., and  
NITTANY WAREHOUSE LP**

knowingly stored, and aided, abetted, and willfully caused the storage of, hazardous waste at defendants' warehouse, without a permit as required by RCRA.

In violation of Title 42, United States Code, Section 6928(d)(2)(A), and Title 18,

United States Code, Section 2.

**COUNTS TWO THROUGH FIVE**

**EXPORT OF HAZARDOUS WASTE  
42 U.S.C. § 6928(d)(6)**

**THE UNITED STATES ATTORNEY CHARGES THAT:**

At all times material to this information:

1. Paragraphs 1 through 18 of Count One are incorporated here.

2. From in or about July through in or about November 2000, in an effort to avoid EPA's requirements for the cleanup of the warehouse, defendants JOEL D. UDELL and PYRAMID arranged for the shipment of hundreds of thousands of pounds of chemicals to the Port of Rotterdam, in the Netherlands. The defendants had their chemicals packed in 29 forty-foot sea containers, trucked from Pottstown to the Port of New York, and then shipped via freighters to Rotterdam. The chemicals were stored poorly, in deteriorated drums and crushed boxes, and without identification of all of their contents. As the defendants knew, these containers included hazardous waste.

3. In international shipping documents, defendant JOEL D. UDELL listed a company as the consignee, or recipient, when, in fact, the listed company had not agreed to receive the shipments. Defendants UDELL and PYRAMID also failed to seek or obtain the consent of the Netherlands to receive these shipments.

4. As early as about August 2000, Dutch authorities in Rotterdam discovered corrosive fluid leaking from one of the defendants' containers.

5. In or about December 2000, defendant JOEL D. UDELL sent a phony invoice to the Netherlands Environment Ministry, purporting to show that a Nigerian company was buying 26 of

the containers that defendants UDELL and PYRAMID had shipped to Rotterdam. As defendant UDELL knew, that Nigerian company was a fiction, and defendant UDELL did not seek or obtain the consent of Nigeria for these shipments.

6. The Netherlands Environment Ministry ordered defendant PYRAMID in or about June 2001, and again in 2003, to return the 29 containers to the United States, dispose of the materials in an environmentally responsible manner in the Netherlands, or arrange for a buyer of the chemicals. The defendants did not comply with either order.

7. On or about June 6, 2003, EPA ordered defendant PYRAMID to arrange the return of the chemicals to the United States. The defendants did not comply with this order.

8. The Dutch government disposed of the chemicals in or about the fall of 2003, at a cost of approximately one million Euros.

9. On or about the dates listed below, in Pottstown, in the Eastern District of Pennsylvania, and elsewhere, defendants

**JOEL D. UDELL,  
PYRAMID CHEMICAL SALES CO., INC., and  
NITTANY WAREHOUSE LP**

knowingly exported, and aided, abetted, and willfully caused the export of, hazardous waste from their warehouse to Rotterdam, the Netherlands, without having received the consent of the Netherlands for these exports of hazardous waste, each date of export constituting a separate count:

<b>COUNT</b>	<b>DATE OF EXPORT TO THE NETHERLANDS</b>
2	August 21, 2000
3	September 1, 2000
4	September 8, 2000
5	November 3, 2000

In violation of Title 42, United States Code, Section 6928(d)(6), and Title 18, United States Code, Section 2.

**COUNTS SIX THROUGH TEN**

**TRANSPORTING HAZARDOUS WASTE WITHOUT A MANIFEST  
42 U.S.C. § 6928(d)(5)**

**THE UNITED STATES ATTORNEY CHARGES THAT:**

At all times material to this information:

1. Paragraphs 1 through 18 of Count One are incorporated here.
2. Between in or about April 2000 and January 2001, defendants JOEL D. UDELL and PYRAMID “sold” thousands of pounds of chemicals to various buyers in the United States, including Chroma Corporation in McHenry, Illinois, HyTek Coatings, Inc., in Middletown, Ohio, and Continental Industrial Coatings, Inc., in Belle Chasse, Louisiana. These “sales” included unusable chemicals, and these customers and other companies ended up having to dispose of them as hazardous waste under regulatory processes at great cost.
3. The defendants knew that the chemicals shipped to these buyers contained hazardous waste.
4. The defendants failed to complete any hazardous waste manifest for these shipments.
5. The defendants also failed to complete any hazardous waste manifest for their shipments of chemicals, including hazardous waste, to the Netherlands in approximately July through November 2000.

6. On or about the dates listed below, in Pottstown, in the Eastern District of Pennsylvania and elsewhere, defendants

**JOEL D. UDELL,  
PYRAMID CHEMICAL SALES CO., INC., and  
NITTANY WAREHOUSE LP**

knowingly transported, and aided, abetted, and willfully caused the transport of, hazardous waste from their warehouse in Pottstown, Pennsylvania, without a hazardous waste manifest, each transport constituting a separate count:

<b>COUNT</b>	<b>DATE OF TRANSPORT</b>	<b>DESTINATION</b>
6	July 20, 2000	Port of Rotterdam, the Netherlands
7	July 21, 2000	Port of Rotterdam, the Netherlands
8	July 26, 2000	Port of Rotterdam, the Netherlands
9	October 26, 2000	Port of Rotterdam, the Netherlands
10	December 15, 2000	Continental Industrial Coatings, Bell Chasse, La.

In violation of Title 42, United States Code, Section 6928(d)(5), and Title 18, United States Code, Section 2.

**COUNTS ELEVEN THROUGH FIFTEEN**

**TRANSPORTING HAZARDOUS WASTE TO AN UNPERMITTED FACILITY  
42 U.S.C. § 6928(d)(1)**

**THE UNITED STATES ATTORNEY CHARGES THAT:**

At all times material to this information:

1. Paragraphs 1 through 18 of Count One are incorporated here.
2. The defendants had chemicals, including hazardous waste, transported from their warehouse to various facilities, including Continental Industrial Coatings, Inc., in Belle Chasse, La., and the Port of Rotterdam, in the Netherlands, knowing that these facilities did not have a permit under RCRA to store, treat or dispose of defendants' hazardous waste.
3. On or about the following dates, in Pottstown, in the Eastern District of Pennsylvania and elsewhere, defendants

**JOEL D. UDELL,  
PYRAMID CHEMICAL SALES CO., INC., and  
NITTANY WAREHOUSE LP**

knowingly transported, and aided, abetted, and willfully caused the transport of, hazardous waste from their warehouse in Pottstown, Pennsylvania, to facilities which did not have a permit to store, treat or dispose of hazardous waste generated off-site, each transport constituting a separate count:

<b>COUNT</b>	<b>DATE OF TRANSPORT</b>	<b>RECEIVING FACILITY</b>
11	July 20, 2000	Port of Rotterdam
12	July 21, 2000	Port of Rotterdam
13	July 26, 2000	Port of Rotterdam
14	October 26, 2000	Port of Rotterdam
15	December 15, 2000	Continental Industrial Coatings, Belle Chasse, La.

In violation of Title 42, United States Code, Section 6928(d)(1), and Title 18, United States Code, Section 2.

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**PATRICK L. MEEHAN**  
**UNITED STATES ATTORNEY**