

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND

UNITED STATES OF AMERICA, )  
 )  
Plaintiff, )  
 )  
v. ) Civil Action No. 72-210 M  
 )  
MARTIN MARIETTA CORPORATION, ) Filed: 2/28/72  
 )  
Defendant. )

COMPLAINT

The United States of America, plaintiff, by its attorneys, acting under the direction of the Attorney General of the United States, brings this civil action to obtain equitable relief against the above-named defendant, and complains and alleges as follows:

I

JURISDICTION AND VENUE

1. This complaint is filed and this action is instituted against the defendant under Section 4 of the Act of Congress of July 2, 1890 (15 U.S.C. § 4), as amended, commonly known as the Sherman Act, in order to prevent and restrain the continuing violations by the defendant, as hereinafter alleged, of Sections 1 and 2 of said Act (15 U.S.C. §§ 1 and 2).

2. The defendant Martin Marietta Corporation maintains offices, transacts business, and is found within the District of Maryland.

## II

### THE DEFENDANT

3. Martin Marietta Corporation (hereinafter referred to as "Martin") is made a defendant herein. Martin is a corporation organized and existing under the laws of the State of Maryland, with its principal place of business in Baltimore, Maryland.

## III

### TRADE AND COMMERCE

4. Martin is a large, diversified corporation engaged in the production and sale of cement and lime, rock products which are used in construction, chemicals, aluminum products, and aerospace products. In 1970, it ranked as the 130th largest industrial corporation in the United States with sales in excess of \$940 million. It operates production and sales facilities in 38 states, in Canada, and in 17 other foreign countries.

5. Martin's cement and lime division operates 10 producing plants, which manufacture various types of cement, located at various points between the Rocky Mountains and the Atlantic seaboard and having an annual capacity of 28 million barrels. In 1969, sales of cement and lime accounted for approximately 10 percent of Martin's total sales.

6. Martin's rock products division, which produces construction stone, sand, gravel, and aggregates, operates 68 permanent plants and more than 100 portable plants throughout the United States. Martin's rock products division markets its products in about 16 states and, in 1969, its sales accounted for approximately 8 percent of Martin's total sales.

7. Martin's chemical division produces printing inks, dyestuffs, colorants for use in the manufacture of plastics, textile dyes and various additives used in the production of concrete and glass. In 1969, the sales of this division accounted for approximately 10 percent of Martin's total sales and its products were marketed on a world-wide basis.

8. Martin's aluminum division, operated and controlled through Martin's 82 percent interest in Harvey Aluminum, Inc., produces aluminum and aluminum products which are sold throughout the United States. In 1969, sales of aluminum products accounted for approximately 20 percent of Martin's total sales.

9. Martin's aerospace division operates production plants in three states and is engaged in the design, research and development of high technology systems, including spacecraft, electronics and communications systems for the National Aeronautics and Space Administration and the United States Department of Defense. In 1969, sales of this division accounted for between 50 percent and 60 percent of Martin's total sales.

10. Martin purchases substantial quantities of raw materials, equipment, supplies, commodities and services from other companies for use in its own operations. Many of Martin's suppliers are also substantial customers and users of the types of products manufactured and sold by Martin.

11. Martin's purchases of raw materials, equipment, supplies, commodities and services are made in a continuous flow of interstate commerce. Conversely, shipments of Martin's products to its suppliers and other customers are

made in a continuous flow of interstate commerce.

IV

OFFENSES ALLEGED

12. Since at least 1960, and continuing until the date of this complaint, defendant has violated Section 1 of the Sherman Act (15 U.S.C. § 1) by entering into combinations involving reciprocal purchasing arrangements with respect to a substantial amount of interstate commerce whereby defendant purchased goods and services from various suppliers upon the understanding that those suppliers would purchase the goods and services of the defendant, in unreasonable restraint of the aforesaid trade and commerce.

13. Since at least 1960, and continuing until the date of this complaint, defendant, through the use of its purchasing power, has violated Section 2 of the Sherman Act (15 U.S.C. § 2) by attempting to monopolize that part of the aforementioned interstate trade and commerce consisting of the requirements of actual and potential suppliers of defendant for the products manufactured and sold by defendant.

14. Pursuant to the aforesaid combinations and attempt to monopolize, defendant has done, among other things, the following:

- (a) Designated an officer within the corporation with specific responsibility of coordinating "trade relations" to facilitate and promote the practice of reciprocal dealings;
- (b) Adopted a policy of using its purchases from suppliers as a lever to promote a program of reciprocal selling to said suppliers;

- (c) Maintained comparative purchase and sales records to measure the balance of purchases from, and sales to, suppliers;
- (d) Communicated to its suppliers and potential suppliers, either expressly or by inference, that Martin favors as suppliers those corporations which are also Martin customers;
- (e) Caused the purchasing personnel of its various subsidiaries to favor as suppliers those corporations which are also Martin customers;
- (f) Purchased goods and services from certain of its suppliers upon the understanding that these suppliers would purchase the goods and services of defendant.

V

EFFECTS

15. The aforesaid violations by defendant have had the following effects, among others:

- (a) Competitors of the defendant in the sale of various goods and services have been foreclosed from selling substantial quantities thereof to firms that are actual and potential suppliers of the defendant; and
- (b) Suppliers and potential suppliers of various goods and services required by defendant have been foreclosed from selling substantial quantities of goods and services to defendant.

PRAYER

WHEREFORE, plaintiff prays:

1. That the aforesaid combinations between defendant and its suppliers involving reciprocal purchasing

arrangements be adjudged and decreed to be in violation of Section 1 of the Sherman Act (15 U.S.C. § 1).

2. That the aforesaid attempt to monopolize be adjudged and decreed to be in violation of Section 2 of the Sherman Act (15 U.S.C. § 2).

3. That defendant Martin and its officers, directors, agents, and all other persons acting on behalf of said defendant, be perpetually enjoined from:

- (a) Entering into or adhering to any contract, agreement or understanding with any supplier involving reciprocal purchasing arrangements;
- (b) Communicating to suppliers that it will place its purchases with or give preference to suppliers who purchase from defendant;
- (c) Engaging in the practice of compiling statistics which compare Martin's purchases of goods or services from companies with sales by defendant to such companies;
- (d) Discussing with suppliers comparative purchase and sales data of such companies relative to defendant;
- (e) Transmitting to personnel with sales responsibilities information concerning purchases by defendant from particular suppliers, transmitting to personnel with purchasing responsibilities information concerning sales by defendant to particular companies, or otherwise implementing any program involving trade relations or reciprocity;
- (f) Utilizing purchases by Martin or one of its subsidiaries, affiliated companies or divisions

from particular suppliers to promote sales to such suppliers by Martin or one of its subsidiaries, affiliated companies or divisions; and

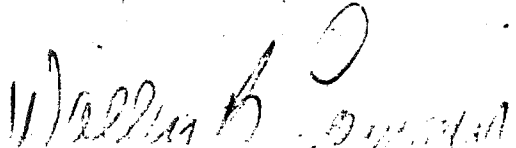
- (g) Excluding from approved supplier and bidder lists any company because that company does not purchase from Martin or because it purchases less than other suppliers.


4. That this Court order defendant to abolish any duties that are assigned to any of its officers or employees which relate to the conduct or effectuation of a trade relations or reciprocity program.



5. That this Court order defendant to advise all of its suppliers by written notice that defendant's trade relations and reciprocity program has been terminated and furnish a copy of the Final Order of this Court to such suppliers.

6. That plaintiff have such other relief as the nature of the case may require and the Court may deem just and proper.

7. That plaintiff recover the costs of this action.

  
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