

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

UNITED STATES OF AMERICA,
Plaintiff,

v.

RICHTER CONCRETE CORPORATION; and
HILLTOP CONCRETE CORPORATION,
Defendants.

Civil Action No. 7755
Equitable Relief Sought
Filed: November 16, 1970

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 against the above-named defendants, and complains and alleges as follows:

I

DEFINITIONS

1. As used herein, the term:
 - (a) "Ready mix concrete" means a mixture of cement and other materials, such as sand, stone, and water and, at times, additives, which mixture is widely used in the construction and improvement of various types of structures and their appurtenances.
 - (b) "Ready mix concrete supplier" means a person who is engaged in the business of producing and selling ready mix concrete.
 - (c) "Cincinnati area" means the four county area of Hamilton, Butler, Clermont, and Warren counties in the State of Ohio.

II

JURISDICTION AND VENUE

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

3. Each of the defendants transacts business and is found within the Southern District of Ohio, Western Division.

III

DEFENDANTS

4. Richter Concrete Corporation (hereinafter referred to as "Richter") is made a defendant herein. Richter is organized and exists under the laws of the State of Ohio and has its principal place of business in Cincinnati, Ohio. Richter is a ready mix concrete supplier.

5. Hilltop Concrete Corporation (hereinafter referred to as "Hilltop") is made a defendant herein. Hilltop is organized and exists under the laws of the State of Ohio and has its principal place of business in Cincinnati, Ohio. Hilltop is a ready mix concrete supplier.

IV

CO-CONSPIRATORS

6. Various individuals and companies not made defendants in this complaint have participated as co-conspirators in the offense charged herein and have performed acts and made statements in furtherance thereof.

V

TRADE AND COMMERCE

7. The defendants are engaged in the production of ready mix concrete in the Cincinnati area and the sale of such concrete in that area to general contractors, home builders, owners of homes and buildings, and others on the basis of written or oral price quotations rendered to such customers. Said customers use ready mix concrete in the construction, repair, alteration, and improvement of highways and governmental, institutional, commercial, and residential structures.

8. The defendants' aggregate gross sales of ready mix concrete in the Cincinnati area in 1968 were approximately \$9.6 million. In 1968 the defendants represented about 65 percent of the total gross sales by ready mix concrete suppliers doing business in the Cincinnati area.

9. Cement, the basic ingredient in the production of ready mix concrete, represents approximately 50 percent of the total cost of materials used to produce such concrete. Ready mix concrete suppliers order and purchase cement on the basis of existing orders and anticipated demand for ready mix concrete. A substantial part of the cement purchased by the defendants for use in the production of their ready mix concrete is produced in states other than the State of Ohio and is delivered by suppliers thereof to the defendants in response to specific orders placed by these defendants.

10. The defendants, therefore, act as conduits through which cement flows in a continuous uninterrupted stream in interstate commerce from the states in which it

is produced to ready mix concrete production facilities maintained by the defendants in the Cincinnati area where it is incorporated into ready mix concrete and from there delivered to job sites.

VI

OFFENSE CHARGED

11. Beginning in or about 1967, the exact date being unknown to the plaintiff, and continuing thereafter up to the date of this complaint, the defendants and co-conspirators entered into and engaged in a combination and conspiracy in unreasonable restraint of the aforesaid interstate trade and commerce in the sale of ready mix concrete in the Cincinnati area, in violation of Section 1 of the Act of Congress of July 2, 1890, as amended (15 U.S.C. § 1), commonly known as the Sherman Act.

12. Said combination and conspiracy consisted of a continuing agreement, understanding, and concert of action among the defendants and co-conspirators to raise and stabilize the price of ready mix concrete in the Cincinnati area.

VII

EFFECTS

13. The combination and conspiracy had the following effects, among others:

- (a) price competition in the sale of ready mix concrete in the Cincinnati area has been restrained;

- (b) customers of the defendants and co-conspirators in the Cincinnati area have been deprived of the opportunity to purchase ready mix concrete in an open and competitive market; and
- (c) prices of ready mix concrete have been increased and the market stabilized in the Cincinnati area.

PRAYER

WHEREFORE, plaintiff prays:

1. That the Court adjudge and decree that each of the defendants has engaged in a combination and conspiracy, as charged herein, in unreasonable restraint of the aforesaid interstate trade and commerce in the sale of ready mix concrete in the Cincinnati area, in violation of Section 1 of the Sherman Act.
2. That each of the defendants, its successors, assignees, transferees, directors, officers, agents, employees, representatives, and all other persons or corporations acting or claiming to act for or on its behalf, be perpetually enjoined and restrained from continuing, maintaining, or renewing, directly or indirectly, the combination and conspiracy hereinbefore alleged, and from engaging in any other combination, conspiracy, contract, agreement, understanding, or concert of action having a similar purpose or effect, and from adopting or following any practice, plan, program, or device having a similar purpose or effect.

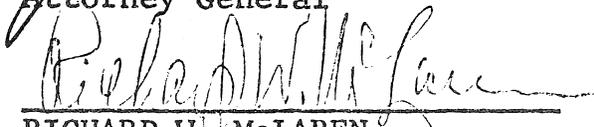
3. That the plaintiff have such other and further relief as the Court may deem just and proper.

4. That the plaintiff recover the costs of this suit.



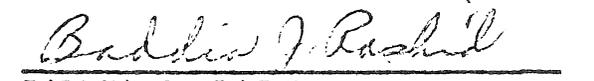
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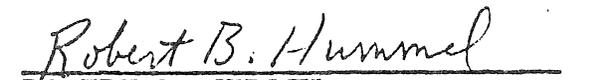
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