

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.) Civil No. 72-1185
)
 ATOMIC FIRE EQUIPMENT COMPANY;)
 FIRE EQUIPMENT ASSOCIATES, INC.;)
 FIRE SAFETY COMPANY, INC.;) Filed: 11/2/72
 L & L FIRE FIGHTING EQUIPMENT CO.;)
 S. R. SMITH COMPANY, INC.;)
 JOSEPH V. RATTAY dba CLEVELAND)
 FIRE EQUIPMENT CO.; and)
 MAXINE S. SIEBERT dba FIRE)
 EQUIPMENT SERVICE AND SALES,)
)
 Defendants.)

COMPLAINT

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

I

JURISDICTION AND VENUE

1. This complaint is filed and these proceedings are 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 continuing violations by the defendants, as hereinafter alleged, of Section 1 of the Sherman Act, as amended (15 U.S.C. §1).

2. Each defendant maintains an office and transacts business within the Northern District of Ohio, Eastern Division.

II

DEFINITIONS

3. As used herein, the term:

- (a) "fire extinguishers" means portable, hand-operated fire extinguishing equipment;
- (b) "service" means installation, inspection, testing, maintenance or recharging of fire extinguishers;
- (c) "distributors" means those companies that are engaged in the business of selling and servicing fire extinguishers manufactured by some other company; and
- (d) "Cleveland area" means the territory encompassed by the County of Cuyahoga, State of Ohio.

III

DEFENDANTS

4. Atomic Fire Equipment Company; Fire Equipment Associates, Inc.; Fire Safety Company, Inc.; L & L Fire Fighting Equipment Co., and S. R. Smith Company, Inc. are named defendants herein. Each of the above-named defendants is incorporated and exists under the laws of the State of Ohio and has its principal place of business in Cleveland, Ohio. During the time period covered by this complaint, each of these defendants has engaged in the business of selling and servicing fire extinguishers in the Cleveland area.

5. Maxine S. Siebert, dba Fire Equipment Service and Sales, and Joseph V. Rattay, dba Cleveland Fire Equipment Company are named defendants herein. Maxine S. Siebert and Joseph V. Rattay, have their principal places of business

in Cleveland, Ohio. During the time period covered by this complaint, each of these defendants has engaged in the business of selling and servicing fire extinguishers in the Cleveland area.

IV

CO-CONSPIRATORS

6. Corporations and individuals engaged in the business of selling and servicing fire extinguishers in the Cleveland area, not made defendants in this complaint, participated as co-conspirators in the violation alleged herein and performed acts and made statements in furtherance thereof.

V

TRADE AND COMMERCE

7. During the time period covered by this complaint, the defendant distributors have been engaged in the distribution, sale, installation, and servicing of fire control equipment, including fire extinguishers in the Cleveland area. Fire extinguishers are generally used to control and extinguish small, localized fires.

8. Fire extinguishers require periodic servicing to maintain functional efficiency. Servicing is frequently performed on an annual basis.

9. The primary trade area of each of the defendants is the Cleveland area.

10. During the period of time covered by this complaint, total 1971 revenues derived from the sales and servicing of fire extinguishers by the defendants in the Cleveland area exceeded \$1,900,000. The combined sales of fire extinguishers by the defendants amounted to approximately \$1,100,000 and the

combined revenues derived by the defendants from services performed on fire extinguishers amounted to approximately \$760,000 in 1971.

11. During the period of time covered by this complaint, the defendants have sold substantial quantities of fire extinguishers and services to commercial, industrial, and governmental customers located in the Cleveland area. Substantial amounts of these fire extinguishers and the supplies used to service them have been manufactured in states outside of Ohio, purchased by the defendants, and shipped regularly and continuously in interstate commerce from such other states for sale and service by the defendants in the Cleveland area.

VI

VIOLATION ALLEGED

12. Beginning as early as 1962, the exact date being unknown, and continuing thereafter up to and including the date of the filing of this complaint, the defendants and co-conspirators have engaged in a combination and conspiracy in unreasonable restraint of the above-described interstate trade and commerce, 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. Said combination and conspiracy is continuing and will continue unless the relief hereinafter prayed for is granted.

13. The aforesaid combination and conspiracy has consisted of a continuing agreement, understanding and concert of action among the defendants and co-conspirators, the substantial terms of which have been:

- (a) to fix, raise, and maintain the price of fire extinguishers sold to commercial,

industrial and governmental customers
in the Cleveland area;

- (b) to fix, raise and maintain the price for
service of fire extinguishers owned by
commercial, industrial and governmental
customers in the Cleveland area; and
- (c) to allocate customers for service of fire
extinguishers in the Cleveland area among
themselves.

14. For the purposes of forming and effectuating the
aforesaid combination and conspiracy, the defendants and
co-conspirators have done those things which, as herein-
before alleged, they have combined and conspired to do.

VII

EFFECTS

15. The combination and conspiracy alleged herein has
had the following effects, among others:

- (a) price competition in the sale and service
of fire extinguishers in the Cleveland area
has been restrained and eliminated;
- (b) prices for the sale and service of fire
extinguishers in the Cleveland area have
been fixed at artificial and non-competitive
levels; and
- (c) purchasers in the Cleveland area have been
deprived of the benefits of free and open
competition in the sale and service of fire
equipment.

PRAYER

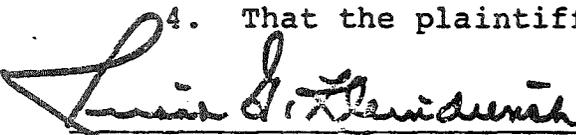
WHEREFORE, the plaintiff prays:

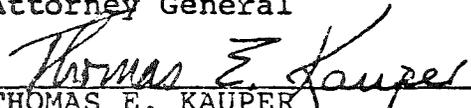
1. That the Court adjudge and decree that the defendants have engaged in a combination and conspiracy in unreasonable restraint of the above-described interstate trade and commerce in violation of Section 1 of the Sherman Act.

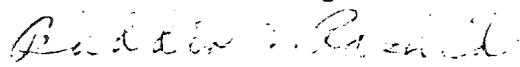
2. That each defendant, including any subsidiaries, all officers, directors, employees, and agents thereof, any successors and all persons acting or claiming to act on behalf of each defendant, be perpetually enjoined and restrained from participating, either directly or indirectly in any combination and conspiracy, agreement, understanding, plan or program to raise, fix or maintain prices, allocate customers, or otherwise eliminate competition in the sale or service of fire extinguishers in the Cleveland area or elsewhere in the United States.

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

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


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