

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA)	
)	
Plaintiff,)	
v:)	Civil No 73-2500
)	
COMBUSTION ENGINEERING, INC.)	Filed: November 2, 1973
and AMERICAN COLLOID COMPANY,)	
)	
Defendants..)	

COMPLAINT

The United States of America, plaintiff, by its attorneys, acting under the direction of the Acting Attorney General of the United States, brings this civil 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 the continuing violation by the defendants, as hereinafter alleged, of Section 1 of said Act, as amended (15 U.S.C. § 1).

2. Defendant Combustion Engineering, Inc. maintains offices, transacts business, and is found within the Eastern District of Pennsylvania and defendant American Colloid Company transacts business within the Eastern District of Pennsylvania.

II

DEFINITION

3. As used herein the term "chromite sand" means a naturally occurring sand derived from chrome ore deposits which, after processing, is primarily used as a molding medium or a core-making medium in the production of steel and iron castings.

III

DEFENDANTS

4. Combustion Engineering, Inc. (hereinafter referred to as "Combustion") is made a defendant herein. Combustion is a corporation organized and existing under the laws of the State of Delaware and maintains its corporate headquarters in Stamford, Connecticut. Combustion is engaged in the importation, processing, distribution and sale of chromite sand through its CE Minerals unit located in King of Prussia, Pennsylvania. Combustion engaged in the conspiracy alleged herein in part through its subsidiaries, Frank Samuel & Company, Inc. (formerly Howmet Mineral Division) and Sands, Incorporated (formerly part of G. E. Smith, Inc.). Whenever hereinafter used, the term Combustion shall also include these subsidiaries during the period of their existence.

5. American Colloid Company (hereinafter referred to as "Colloid") is made a defendant herein. Colloid is a corporation organized and existing under the laws of the State of Delaware with its principal place of business in Skokie, Illinois. Colloid is engaged in the importation, processing, distribution and sale of chromite sand.

IV

CO-CONSPIRATORS

6. Various corporations, firms and individuals, not made defendants herein, have participated as co-conspirators in the violation alleged herein and have performed acts and made statements in furtherance thereof.

V

TRADE AND COMMERCE

7. Chromite sand is imported into the United States primarily from South Africa. The South African chrome

fields are generally regarded as the most suitable for the supply of chromite sand for foundry applications because of the physical and chemical nature of their ore. Chromite sand is processed in the country of origin and undergoes further processing in the United States.

8. Chromite sand first became established in North America as a foundry material in the early 1960's. In about 1963, Howmet Corporation (known as Howe Sound Co. until November 1965) entered the business of importing and processing chromite sand in the United States. Colloid was Howmet Corporation's only customer for processed chromite sand until 1967 when Howmet also began selling this product to G. E. Smith, Inc., a foundry supply company located in Pittsburgh, Pennsylvania.

9. In January 1968, Combustion, which had become a competitor of Colloid in the distribution and sale of chromite sand by virtue of its acquisition of G. E. Smith, Inc. in 1967, formed Frank Samuel & Company, Inc. and acquired the assets of Howmet Corporation's mineral division. Combustion had thus become an importer, processor and distributor of chromite sand.

10. Commencing sometime in 1968, Colloid began construction of its own plant, acquiring chromite sand from South Africa through Combustion and other sources for processing and resale. Colloid also continued to purchase processed chromite sand from Combustion for resale.

11. During at least part of the period covered by this complaint, Combustion processed chromite sand at plants in Camden, New Jersey; Conshohocken, Pennsylvania; Wilmington, Delaware and Brownsville, Texas and sold such sand to Colloid, other distributors and users, primarily

foundries, throughout the United States and in Canada. Combustion furnished Colloid with a large portion of its requirements for processed chromite sand for sale to customers located in the eastern part of the United States and in Canada. Chromite sand is generally sold f.o.b. the processing plant.

12. During at least part of the period covered by this complaint, Colloid processed chromite sand at plants in Granite City, Illinois and Columbus, Ohio and sold such sand to distributors and users, primarily foundries, throughout the United States and Canada. Colloid also produced some of Combustion's requirements for processed chromite sand for sale to customers in the Midwest.

13. Colloid's sales of chromite sand in 1971 to customers in the United States and Canada were approximately \$1.7 million. Combustion's sales of chromite sand in 1971 were in excess of \$1 million. Combustion and Colloid, either directly or through distributors, supply over 90 percent of foundry requirements for chromite sand in the United States.

VI

VIOLATION ALLEGED

14. Beginning at least as early as 1967 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 to eliminate and suppress competition in the processing, distribution and sale of chromite sand in unreasonable restraint of the aforesaid interstate and foreign 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. This combination and conspiracy will continue unless the relief hereinafter prayed for is granted.

15. 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 to:

- (a) Raise, fix, stabilize, and maintain prices for selling chromite sand; and
- (b) Allocate customers for chromite sand, and refrain from competing for the customers so allocated.

16. For the purpose of forming and effectuating the aforesaid combination and conspiracy, the defendants and co-conspirators did those things which, as hereinabove alleged, they combined and conspired to do.

VII

EFFECTS

17. The aforesaid combination and conspiracy has had the following effects, among others:

- (a) The prices at which chromite sand have been sold to purchasers have been raised, fixed, stabilized, and maintained at artificial and non-competitive levels;
- (b) Purchasers of chromite sand have been deprived of the opportunity to purchase such product in a free and open market; and
- (c) Competition between the defendants in the processing, distribution and sale of chromite sand has been suppressed and eliminated.

PRAYER

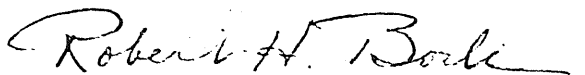
WHEREFORE, plaintiff prays:

1. That the Court adjudge and decree that the defendants and co-conspirators have engaged in an unlawful combination and conspiracy in restraint of the aforesaid trade and commerce in violation of Section 1 of the Sherman Act.

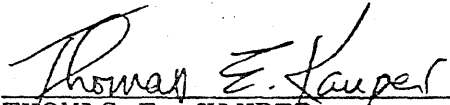
2. That the defendants, their officers, directors and agents and all other persons acting or claiming to act on their behalf, be enjoined and restrained from, in any manner, directly or indirectly, continuing, maintaining or renewing the combination and conspiracy hereinbefore alleged, or from engaging in any other combination or conspiracy 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, further, general and different relief as the case may require and the Court may deem just and proper under the circumstances.

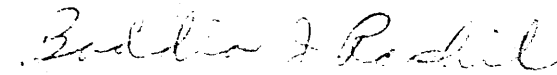
4. That the plaintiff recover its taxable costs.



ROBERT H. BORK
Acting Attorney General



THOMAS E. KAUPER
Assistant Attorney General



BADDIA J. RASHID

JOHN J. HUGHES

Attorneys,
Department of Justice

ROBERT E. J. CURRAN
United States Attorney

WARREN MARCUS

WILLIAM A. DeSTEFANO

STEWART J. MILLER

Attorneys,
Department of Justice

Antitrust Division
Department of Justice
501 U. S. Custom House
Philadelphia, Pennsylvania
19106