

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.) CIVIL ACTION NO. 70-3102
) FILED: November 10, 1970
 BETHLEHEM STEEL CORPORATION,)
)
 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 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, Bethlehem Steel Corporation, maintains an office, transacts business and is found within the Eastern District of Pennsylvania.

II

THE DEFENDANT

3. The Bethlehem Steel Corporation, hereinafter referred to as Bethlehem, is made a defendant herein. Bethlehem is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business in Bethlehem, Pennsylvania.

III

TRADE AND COMMERCE

4. Bethlehem ranks second among the companies in the iron and steel industry in terms of raw steel production and steel products shipped. It is also second in the industry in both dollar sales and net income.

5. Bethlehem is a fully-integrated steel producer engaged in the production, fabrication and sale of various iron and steel products. It is also an erector of steel structures and a ship builder. In 1969 Bethlehem's total sales of products and services amounted to approximately \$2,927,657,000, while its total purchases of products and services and expenditures for plant and equipment for use in the manufacture of products amounted to approximately \$1,563,500,000. For the same year, total shipments of steel products by Bethlehem amounted to 14,481,000 tons, or 15.4 percent of the total steel shipments by the iron and steel industry.

6. The defendant produces and sells carbon and alloy steel mill products, including the following: hot and cold rolled sheets, galvanized and other coated sheets, hot rolled strip, bar mill

products, structural shapes and piling, plates, tin mill products, pipe, rod and wire products.

7. The defendant also manufactures and sells railroad freight cars, rails and wheels, and fabricates various steel products for the construction industry. It produces and sells industrial fastener products, forgings, castings, ingot molds, pressure vessels, large diameter water pipe and corrugated culvert pipe. Bethlehem also builds ships, barges, offshore oil drilling rigs and special marine products and engages in ship repair work. In addition, Bethlehem erects steel for buildings, bridges, tanks and other structures.

8. Other activities of Bethlehem include the mining and processing of iron ore and coal and the quarrying of limestone, chiefly for its own use in the production of raw steel, and the production and sale of coal chemicals. It operates vessels for the transportation of ore, coal, limestone and steel products on the Great Lakes, of ore from foreign ports to the United States, and of steel products and other cargo between Atlantic, Gulf and Pacific coast ports of the United States. Bethlehem also operates coal barges on waterways and short line railroads which are located in the vicinity of certain of its plants.

9. Bethlehem has twelve steel plants located in Maryland, New York, Pennsylvania, Indiana, California, and Washington. In fourteen States Bethlehem has six structural steel fabricating

works, thirteen reinforcing bar fabricating shops and twelve other manufacturing units. Bethlehem also operates seven shipbuilding or ship repair yards in Massachusetts, Maryland, New Jersey, Texas and California. Sales offices of Bethlehem are located in 41 cities in 25 States and the District of Columbia.

10. Bethlehem purchases substantial quantities of numerous commodities, raw materials, equipment, supplies and services from other companies for use at its plants and offices. Bethlehem makes substantial purchases of these materials from diversified corporations which are purchasers of steel and other products of the kinds produced or sold by defendant or of the type of services rendered by defendant.

11. Commodities, raw materials, equipment and supplies purchased by Bethlehem from other producers are shipped from their points of origin or production in interstate commerce across State lines to their points of use by Bethlehem. Products produced or fabricated by Bethlehem are shipped in a continuous flow in interstate commerce across State lines to jobbers, dealers, service centers, warehouses, construction sites, processors, fabricators, wholesalers, rail and water transportation companies, and other customers.

IV

OFFENSES CHARGED

12. Since at least as early as 1956, and continuing to the date of this complaint, the defendant has violated Section 1 of the Sherman Act by entering into combinations involving reciprocal purchasing arrangements with respect to a substantial amount of interstate commerce whereby the defendant purchased goods and services sold by various suppliers upon the understanding that said suppliers would purchase the goods and services of the defendant, in unreasonable restraint of the aforesaid trade and commerce.

13. Since at least as early as 1956, and continuing to the date of this complaint, the defendant, through the use of its purchasing power, has violated Section 2 of the Sherman Act by attempting to monopolize that part of the above-described interstate trade and commerce consisting of the requirements of actual and potential supplier-customers of the defendant for steel, steel products, and other products sold by defendant.

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

- a. Utilized comparative purchase and sales data and other information to determine from which suppliers purchases would be made and the extent to which they should be

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permitted to participate in supplying defendant's requirements of goods and services;

- b. Discussed with, or communicated to, actual and potential suppliers and customers their sales and purchase positions relative to defendant;
- c. Purchased goods from particular suppliers on the understanding that such suppliers would reciprocate by purchasing goods or services from the defendant;
- d. Refused to buy or reduced purchases from particular suppliers who did not reciprocate by purchasing, or by increasing their purchases, from defendant; and
- e. Used purchases from particular suppliers by one Bethlehem subsidiary or division to promote sales to such suppliers by another Bethlehem subsidiary or division.

V

EFFECTS

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

- a. Competitors of the defendant Bethlehem in the sale of various goods and services

have been foreclosed from selling substantial quantities thereof to firms that are supplier-customers of the defendant; and

- b. Actual and potential suppliers of various goods and services required by the defendant have been foreclosed from selling substantial quantities of such goods and services to defendant.

PRAYER

WHEREFORE, the 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 the defendant Bethlehem 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 actual or potential customer or supplier involving reciprocal purchasing arrangements;
- b. Communicating to actual or potential customers or suppliers that it will

place its purchases with or give preference to suppliers who purchase from the defendant;

- c. Communicating to actual or potential customers or suppliers statistics comparing purchases of goods and services by the defendant from such companies with sales by the defendant to such companies;
- d. Compiling statistics which compare Bethlehem's purchases of goods or services from companies with sales by the defendant to such companies;
- e. Transmitting to personnel with sales responsibilities information concerning purchases by the defendant from particular suppliers, transmitting to personnel with purchasing responsibilities information concerning sales by the defendant to particular companies, or otherwise implementing any program involving reciprocity; and
- f. Utilizing purchases by one Bethlehem subsidiary or division from particular suppliers to promote sales to such suppliers by another Bethlehem subsidiary or division.

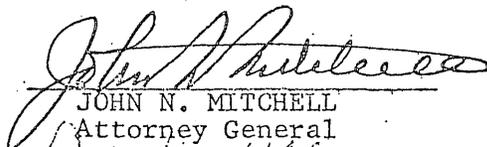
4. That this Court order the defendant to abolish any functions or duties that are assigned to any of its officials or employees which relate to the conduct

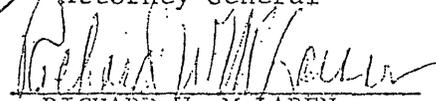
of a program to effectuate reciprocal purchasing arrangements.

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

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 the Plaintiff recover the costs of this action.

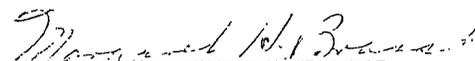

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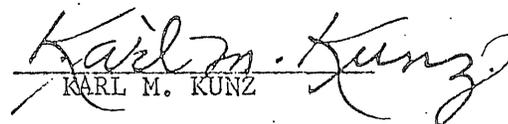

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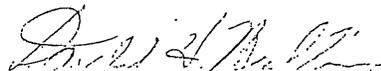

BADDIA J. RASHID

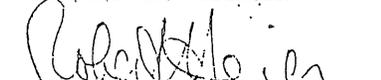

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