

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

2287

UNITED STATES OF AMERICA,
Plaintiff,
v.
NATIONAL SOCIETY OF
PROFESSIONAL ENGINEERS,
Defendant.

Civil No. 2412-72
Filed: December 5, 1972
FOR INJUNCTIVE RELIEF

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 violation by the defendant, as hereinafter alleged, of Section 1 of said Act (15 U.S.C. § 1).

2. The defendant, National Society of Professional Engineers, maintains offices, transacts business, and is found within the District of Columbia.

II

DEFENDANT

3. The National Society of Professional Engineers (hereinafter referred to as "NSPE") is made the defendant herein. NSPE is a non-profit membership corporation organized and existing under the laws of the State of South

Carolina with its principal place of business located in Washington, D. C. The NSPE's membership consists of engineers.

III

CO-CONSPIRATORS

4. Various other persons, firms, organizations and corporations, not made defendants herein, have participated as co-conspirators and are parties with the defendant in the combination and conspiracy in violation of Section 1 of the Sherman Act as hereinafter alleged, and have performed acts and have made statements in furtherance thereof. Such co-conspirators include, but are not limited to, the members of defendant NSPE.

IV

TRADE AND COMMERCE

5. The NSPE has approximately 67,000 members located throughout the United States. These engineers design and supervise the construction of roads, bridges, dams, industrial plants and other structures located throughout the United States and in foreign countries. Members of the NSPE may be, and often are, licensed to perform engineering services in several states, and members regularly perform services in states other than the state in which they maintain their principal place of business.

6. There is a regular, continuous and substantial flow in interstate commerce of the services of the members of the NSPE, and of the materials used in the design and construction of projects designed by them and constructed under their supervision. The activities of the NSPE and

its members, as described herein, are within the flow of interstate commerce and have an effect upon that commerce.

7. Persons seeking engineering services may and often do invite one or more engineers to submit proposals for specific projects. These invitations describe the engineering services required and request that engineers submit a statement of qualifications for the project and a statement of the fee that will be charged for performing the requested services.

V

OFFENSE ALLEGED

8. For many years past, and continuing up to and including the date of the filing of this complaint, the defendant and the co-conspirators have been engaged in a combination and conspiracy in unreasonable restraint of the aforesaid interstate trade and commerce in violation of Section 1 of the Sherman Act. Said offense is continuing and will continue unless the relief hereinafter prayed for is granted.

9. The unlawful combination and conspiracy has consisted of a continuing agreement, understanding and concert of action among the defendant and the co-conspirators, the substantial terms of which have been and are:

(a) That defendant adopt, publish and distribute a Code of Ethics containing a provision prohibiting members of the NSPE from submitting competitive bids for engineering services;

(b) That the members of the NSPE abide by said provision of the Code of Ethics;

(c) That defendant and the co-conspirators police said provision of the Code of Ethics.

10. For the purpose of effectuating the aforesaid combination and conspiracy, the defendant and the co-conspirators have done those things which, as hereinbefore alleged, they agreed to do.

VI

EFFECTS

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

(a) Price competition among the members of the NSPE in the sale of their services has been suppressed and eliminated;

(b) Customers requiring the services offered by members of the NSPE have been deprived of the benefits of free and open competition in the sale of such services.

PRAYER

WHEREFORE, plaintiff prays:

1. That the aforesaid combination and conspiracy in unreasonable restraint of interstate trade and commerce be adjudged and decreed to be in violation of Section 1 of the Sherman Act.

2. That defendant and each of its officers, directors, agents, employees, and successors and assigns, and all persons acting under, through or for defendant, including State societies and chapters chartered by defendant, be perpetually enjoined from continuing, maintaining or renewing the aforesaid combination and conspiracy, and from entering into, maintaining or participating in any contract, agreement, understanding, plan, program or other arrangement having the purpose or effect of continuing,

maintaining or renewing such combination and conspiracy.

3. That the defendant be required to cancel those provisions of its Code of Ethics, and every other rule, bylaw, resolution or statement of policy, which has as its purpose or effect the suppression or elimination of price competition among defendant's members.

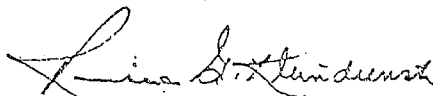
4. That the defendant be directed to cause the publication of the text of any final judgment entered in this case and to furnish a copy of such final judgment to:


(a) Each of its members, and to each individual, organization, firm or corporation which hereafter becomes a member;

(b) Each State society and local chapter chartered by defendant.

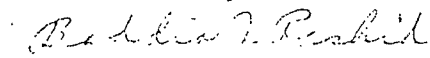
5. That the plaintiff have such other and further relief as the nature of the case may require and the Court may deem just and proper.

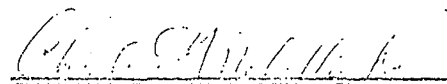
6. That the plaintiff recover the costs of this suit.


RICHARD G. KLEINDIENST
Attorney General

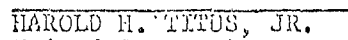

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