

1 ANTHONY E. DESMOND
2 WILLIAM S. FARMER, JR.
3 RICHARD B. COHEN
4 DAVID W. RAUB
5 Department of Justice
6 Antitrust Division
7 450 Golden Gate Avenue - Room 16432
8 Box 36046
9 San Francisco, California 94102
10 Telephone: (415) 556- 6300

11 UNITED STATES DISTRICT COURT
12 FOR THE DISTRICT OF OREGON

13 UNITED STATES OF AMERICA,
14 Plaintiff,

15 v.

16 CHAMPION INTERNATIONAL CORPORATION;
17 YOUNG AND MORGAN, INC.;
18 BUGABOO TIMBER COMPANY;
19 FRERES LUMBER COMPANY, INC.;
20 FRERES VENEER COMPANY; and
21 FRANK LUMBER COMPANY, INC.,

22 Defendants.

)
)
) Civil No. 74-698

)
) Filed: September 6, 1974

)
) COMPLAINT FOR EQUITABLE
23 RELIEF AND MONEY DAMAGES

24 COMPLAINT

25 The United States of America, plaintiff herein, by its
26 attorneys, brings this action against the defendants named herein
27 in three counts. As a first claim, the United States of America
28 brings this suit under Section 4 of the Sherman Act (15 U.S.C.
29 §4) in order to prevent and restrain the continuing violation
30 by the defendants, as hereinafter alleged, of Section 1 of said
31 Act (15 U.S.C. §1) (Count One). As a second claim, the United
32 States of America, in its capacity as seller of National Forest
timber, brings this suit under Section 4A of the Clayton Act
(15 U.S.C. §15A) to recover its actual damages (Count Two). As
a third claim, alternatively, the United States of America
brings this suit under the False Claims Act (31 U.S.C. §§231-233)
for double the amount of damages sustained, plus forfeitures

2
4
0
6

1 (Count Three).

2 COUNT ONE

3 I

4 JURISDICTION AND VENUE

5 1. As a first claim, the United States of America brings
6 this suit under Section 4 of the Act of Congress of July 2, 1890
7 (15 U.S.C. §4), as amended, commonly known as the Sherman Act,
8 in order to prevent and restrain the continuing violation by the
9 defendants, as hereinafter alleged, of Section 1 of the Sherman
10 Act (15 U.S.C. §1).

11 2. Each of the defendants maintains an office, transacts
12 business, and is found within the District of Oregon.

13 II

14 THE DEFENDANTS

15 3. The corporations named below are hereby made defendants
16 herein. Each of the corporations is organized and exists under
17 the laws of the state, and has its principal place of business
18 in the city indicated below. Within the period of time covered
19 by this complaint, each of these defendants engaged in the timber
20 products business in the State of Oregon.

<u>Name Of Corporation</u>	<u>State Of Incorporation</u>	<u>Principal Place Of Business</u>
Champion International Corporation	New York	New York, New York
Young and Morgan, Inc.	Oregon	Mill City, Oregon
Bugaboo Timber Company	Oregon	Mill City, Oregon
Freres Lumber Company, Inc.	Oregon	Lyons, Oregon
Freres Veneer Company	Oregon	Lyons, Oregon
Frank Lumber Company, Inc.	Oregon	Mill City, Oregon

21
22
23
24
25
26
27
28
29
30 4. Freres Veneer Company is a joint venture between Freres
31 Lumber Company, Inc., and Willamette Industries, Inc. It is
32 managed and operated by Freres Lumber Company, Inc. Young and

1 and Morgan, Inc., and Bugaboo Timber Company are affiliated
2 corporations, which are managed jointly with five other corpo-
3 rations and one partnership, all doing business at the same
4 address.

5 III

6 CO-CONSPIRATORS

7 5. Various other individuals and companies, including
8 timber products companies operating in the State of Oregon,
9 not made defendants herein, participated as co-conspirators in
10 the violation hereinafter alleged and performed acts and made
11 statements in furtherance thereof.

12 IV

13 TRADE AND COMMERCE

14 6. The United States Forest Service, an agency of the
15 United States Department of Agriculture, each year offers for
16 sale public timber located on selected tracts of National Forest
17 Lands. Each such timber sale is conducted on an auction basis
18 open to the public. A minimum acceptable bid is set by the
19 Forest Service before the sale. The tract is then sold to the
20 person submitting the highest bid at or above this minimum
21 acceptable bid.

22 7. The Willamette National Forest is divided into ranger
23 districts, one of which, the Detroit Ranger District, is located
24 in the North Santiam area of north-central Oregon. In 1972,
25 the Detroit Ranger District advertised for sale and auctioned
26 114,320,000 board feet of timber.

27 8. The defendant corporations are the largest timber
28 products companies operating in the North Santiam area. In
29 1972, total sales of their North Santiam operations were
30 approximately \$40,000,000. They purchase virtually all of the
31 timber offered for sale by the United States Forest Service in
32

1 the Detroit Ranger District. After said timber is logged, it
2 is either sold as logs for export or for processing by other
3 mills, or is processed by defendant corporations into timber
4 products such as veneer, plywood, dimensional and rough lumber,
5 wood chips, or other wood-based products.

6 9. Substantial quantities of said timber are purchased,
7 logged, processed, sold, and shipped by defendant and co-
8 conspirator corporations in a continuous and uninterrupted flow
9 of interstate commerce to persons located outside the State of
10 Oregon. Other substantial quantities of said timber are purchased,
11 logged, processed, sold and shipped by defendant and co-conspirator
12 corporations in a continuous and uninterrupted flow of inter-
13 state commerce to wholesalers and brokers located in the State
14 of Oregon, who in turn sell and ship said timber products to
15 customers located outside the State of Oregon.

16 V

17 VIOLATION ALLEGED

18 10. Beginning in or about June of 1967, the exact date
19 being to the plaintiff unknown, and continuing thereafter up to
20 the date of the filing of this complaint, the defendants and
21 co-conspirators have engaged in a continuing combination and
22 conspiracy in unreasonable restraint of the aforesaid interstate
23 trade and commerce in violation of Section 1 of the Act of
24 Congress of July 2, 1890, as amended (15 U.S.C. §1), commonly
25 known as the Sherman Act. Said combination and conspiracy may
26 continue unless the relief hereinafter prayed for is granted.

27 11. The aforesaid combination and conspiracy has consisted
28 of a continuing agreement, understanding, and concert of action
29 among the defendants and co-conspirators, the substantial terms
30 of which have been:
31
32

- 1 (a) to eliminate competitive bidding
2 for United States Forest Service
3 timber;
4 (b) to allocate United States Forest
5 Service timber among themselves;
6 (c) to fix, reduce and stabilize the
7 price paid for United States Forest
8 Service timber at or near the
9 minimum acceptable bid set by the
10 United States Forest Service; and
11 (d) to bid up any non-conspirator who
12 attempted to bid on United States
13 Forest Service timber.

14 12. For the purpose of forming and effectuating the aforesaid
15 combination and conspiracy, the defendants and co-conspirators
16 have done those things which they combined and conspired to do.

17 VI

18 EFFECTS

19 13. The aforesaid combination and conspiracy has had the
20 following effects, among others:

- 21 (a) competition for United States Forest
22 Service timber has been restrained and
23 eliminated;
24 (b) prices paid for United States Forest
25 Service timber have been reduced and
26 suppressed at artificial and non-
27 competitive levels;
28 (c) non-members of the conspiracy have
29 been prevented from purchasing United
30 States Forest Service timber; and
31
32

1 (d) the United States Forest Service has
2 been prevented from selling public
3 timber at competitive prices.
4

5 PRAYER

6 14. WHEREFORE, plaintiff prays:

- 7 (a) That the Court adjudge and decree that
8 the defendants, and each of them, have
9 engaged in an unlawful combination and
10 conspiracy in unreasonable restraint of
11 the aforesaid interstate trade and
12 commerce in violation of Section 1 of
13 the Sherman Act.
- 14 (b) That each of the defendants, their
15 successors, assignees, and transferees,
16 and the officers, directors, agents, and
17 employees thereof, and all other persons
18 acting or claiming to act on behalf thereof,
19 be perpetually enjoined and restrained
20 from, in any manner, directly or indirectly,
21 continuing, maintaining, or renewing the
22 aforesaid violation and from engaging in
23 any other combination, conspiracy, contract,
24 agreement, understanding, or concert of
25 action having a similar purpose or effect.
- 26 (c) That the plaintiff have such other and
27 further relief as the nature of the case
28 may require and the Court may deem just
29 and proper.
- 30 (d) That the plaintiff recover the cost of
31 this action.
32

1 (b) Demands judgment against defendants for
2 the damages suffered by it due to
3 defendants' violation of the antitrust
4 laws, as provided for in Section 4A of
5 the Clayton Act (15 U.S.C. §15A), or
6 some lesser amount to the extent that
7 it has recovery under Count Three hereof,
8 together with such interest thereon as
9 is permitted by law and the costs of
10 this suit.

11 (c) Prays that it recover such other amounts
12 as the Court shall deem just.
13

14 COUNT THREE

15 20. As an alternative to the claim alleged in Count Two, the
16 United States of America, in its capacity as seller of National
17 Forest timber, brings this suit under Sections 3490, 3491, 3492, and
18 5438 of the Revised Statutes (31 U.S.C. §§231-233), commonly
19 known as the False Claims Act.

20 21. The allegations contained in paragraphs 2 through 13 are
21 here realleged with the same force and effect as though set forth
22 in full.

23 22. Inasmuch as all defendants are corporations, no defendant
24 is in the military or naval forces of the United States, or in
25 the militia called into or actually employed in the service of
26 the United States.

27 23. Pursuant to said combination and conspiracy, and as a
28 result of the acts done in furtherance thereof, defendants have
29 been awarded contracts for the sale of United States Forest Service
30 timber and have had such timber transferred to them thereunder, on
31 the basis of bids which they submitted and which they falsely or
32

1 fraudulently represented to be bona fide, independent, competitive,
2 and not the product of any collusion or agreement between the
3 defendants, and the prices of such bids they further falsely or
4 fraudulently represented to be normal, reasonable and competitive
5 whereas, in fact known to defendants but unknown to plaintiff, the
6 said bids submitted were sham and collusive and not the result of
7 open competition, and prices therefore were unreasonable, arbitrary
8 and non-competitive.

9 24. With respect to each such contract awarded for the purchase
10 of United States Forest Service timber during the aforesaid period
11 of the conspiracy, the defendants to which such contracts were
12 awarded did present and/or cause to be presented numerous claims
13 to plaintiff for approval by it, knowing such claims to be false,
14 fictitious, or fraudulent in that such claims were based on con-
15 tracts which had been falsely or fraudulently procured by reason
16 of the aforesaid bidding practices.

17 25. As a result of the presentment to it of the aforesaid
18 false or fraudulent claims, and without knowledge of the falsity
19 thereof, plaintiff has transferred Government property to
20 defendants.

21 26. As a result of the illegal combination and conspiracy and
22 the defendants' acts in furtherance thereof, plaintiff has
23 received substantially lower prices for its United States Forest
24 Service timber than it would have received but for the illegal
25 conduct complained of herein, and has been injured and financially
26 damaged by defendants, the amount of which is presently undetermined.

27
28 PRAYER


29 27. WHEREFORE, the United States of America:

- 30 (a) Demands judgment against defendants for
31 two thousand dollars (\$2,000) for each
32

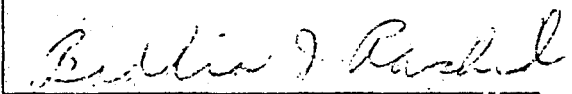
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32

false claim presented or caused to be presented to plaintiff as a result of the said combination and conspiracy, for double the amount of the damages it has sustained, and for such other forfeitures as are allowable by law, as provided in Sections 3490, 3491, 3492, and 5438 of the Revised Statutes (31 U.S.C. §§231-233), together with interest thereon and the costs of this suit; and

(b) Prays that it recover such other amounts and have such other and further relief as the Court shall deem just.


BRUCE B. WILSON
Acting Assistant Attorney
General

WILLIAM S. FARMER, JR.


BADDIA J. RASHID

RICHARD B. COHEN


WILLIAM E. SWOPE

DAVID W. RAUB

Attorneys,
Department of Justice

ANTHONY E. DESMOND
Attorneys,
Department of Justice

SIDNEY I. LEZAK
United States Attorney