IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action No. CV96-5945
	)	
BRUSH FIBERS, INC.,	)	Filed: August 29, 1996
	)	
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 and other relief against the defendant named herein, and complains and alleges as follows:

Beginning at least in January 1990 and lasting at least until April 1995, certain individuals and companies, including the defendant, agreed to restrain competition in the sale of tampico fiber in the United States. Specifically, the defendant agreed with its co-conspirator supplier to resell tampico fiber at prices set by the supplier. Thereafter, at certain times within the conspiracy period, the defendant charged prices set by its supplier even after learning that the prices were fixed by the supplier and other co-conspirators. The defendant's actions effectuated and enhanced an agreement between its supplier and other co-conspirators to eliminate competition at all levels of tampico production, distribution, and sales.

This action seeks to enjoin the defendant from renewing its unlawful agreement.

I

DEFENDANT

1. Brush Fibers, Inc. ("BFI") is an Illinois corporation with offices in Arcola, Illinois and Salem, Massachusetts. It buys tampico fiber from a Mexican processing company through an intermediary company and sells it to customers throughout the United States. BFI is the exclusive United States distributor for its supplier.

II

JURISDICTION AND VENUE

2. This complaint is filed under Section 4 of the Sherman Act, as amended (15 U.S.C. § 4), in order to prevent and restrain violations, as hereinafter alleged, by the defendant of Section 1 of the Sherman Act (15 U.S.C. § 1).

3. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 1331 and 1337.

4. Venue is properly laid in this district under 28 U.S.C. § 1391(b)(2), because the combination and conspiracy alleged herein has been carried out, in part, within the Eastern District of Pennsylvania through, among other things, sales made by the conspirators.

5. The defendant consents to jurisdiction and waives any objection as to venue.

III

TRADE AND COMMERCE

6. Tampico fiber is a natural vegetable fiber produced by the lechuguilla plant and grown in the deserts of northern Mexico. It is harvested by individual farmers, processed, finished and exported worldwide, where it is used as brush filling material for industrial and consumer brushes. It is available in natural white, bleached white, black, gray, and a wide variety of mixtures.

7. BFI is one of the two largest distributors of processed tampico fiber in the United States.

8. BFI accounted for aggregate United States sales of tampico fiber of approximately $10 million during the period January 1990 through April 1995. During the period covered by this complaint, there has been a continuous and uninterrupted flow in interstate commerce of tampico fiber from BFI's supplier to BFI and from BFI to BFI's customers. There also has been a continuous and uninterrupted flow in interstate commerce of tampico fiber from a co-conspirator Mexican processor and its exclusive United States distributor to customers throughout the United States. The activities of the defendant and its co-conspirators have been within the flow of, and have substantially affected, interstate commerce.

IV

CONCERTED ACTIONS

9. Various firms and individuals, not made defendants in the complaint, participated as co-conspirators with the defendant in the violation alleged in the complaint, and performed acts and made statements in furtherance thereof.

V

VIOLATION

10. The defendant, through its officers and employees, agreed to resell tampico fiber at prices specified by its supplier. This agreement was undertaken with the intent and had the effect of fixing and stabilizing the resale prices of tampico fiber.

11. The defendant, through its officers and employees, continued to adhere to the resale price agreement after learning that it was part of a larger agreement between its supplier and other co-conspirators, including the only other major United States distributor of tampico, to fix prices.

12. In furtherance thereof, the defendant entered into a written resale price maintenance agreement with its supplier. Its supplier and other co-conspirators periodically met, discussed and agreed upon the prices to be charged pursuant to the aforesaid agreement, as well as the resale prices to be charged by the other co-conspirator distributor.

13. That agreement constituted a combination or conspiracy

in unreasonable restraint of trade and commerce in violation of Section 1 of the Sherman Act, 15 U.S.C. § 1.

14. Unless prevented and restrained, the defendant may renew the unlawful agreement alleged herein.

VI

EFFECTS

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

(a) resale prices of United States distributors of tampico fiber have been fixed and maintained; and

(b) competition in the sale of tampico fiber has been restrained, suppressed and eliminated.

VII

PRAYER FOR RELIEF

WHEREFORE, plaintiff respectfully prays for relief as follows:

16. That this Court adjudge and decree that the defendant and co-conspirators have entered into unlawful contracts, combinations, or conspiracies that unreasonably restrain trade in interstate commerce, in violation of Section 1 of the Sherman Act, 15 U.S.C. § 1.

17. That the defendant, its officers, directors, agents, employees, successors and all persons, firms and corporations acting on its behalf and under its direction or control be enjoined from engaging in, carrying out, renewing or attempting to engage in, carry out or renew, the combinations and

conspiracies herein alleged, or from engaging in any other combination or conspiracy having similar purposes or effects.

18. That plaintiff have such other relief that the Court may consider necessary, just, or appropriate to restore competitive conditions in the markets affected by the defendant's unlawful conduct.

19. That plaintiff recover the costs of this action.

Dated:

Respectfully submitted,

JOEL I. KLEIN
Acting Assistant Attorney General

EDWARD S. PANEK

REBECCA P. DICK
Deputy Director of Operations

MICHELLE A. PIONKOWSKI

ROBERT E. CONNOLLY
Chief, Middle Atlantic Office

ROGER L. CURRIER

JOSEPH MUOIO

Attorneys, Antitrust Division
U.S. Department of Justice
Middle Atlantic Office
The Curtis Center, Suite 650W
7th & Walnut Streets
Philadelphia, PA 19106
Tel.: (215) 597-7401