

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA,)

Plaintiff,)

v.)

ALTON BOX BOARD COMPANY;)
AMERICAN CAN COMPANY;)
BROWN COMPANY;)
BURD & FLETCHER COMPANY;)
F.N. BURT COMPANY, INC.;)
CHAMPION INTERNATIONAL CORPORATION;)
CONSOLIDATED PACKAGING CORPORATION;)
CONTAINER CORPORATION OF AMERICA;)
DIAMOND INTERNATIONAL CORPORATION;)
EASTEX PACKAGING, INC.;)
FEDERAL PAPER BOARD COMPANY, INC.;)
FIBREBOARD CORPORATION;)
THE A.L. GARBER COMPANY, INC.;)
HOERNER WALDORF CORPORATION;)
INTERNATIONAL PAPER COMPANY;)
INTERSTATE FOLDING BOX COMPANY;)
THE MEAD CORPORATION;)
PACKAGING CORPORATION OF AMERICA;)
POTLATCH CORPORATION;)
REXHAM CORPORATION;)
ST. REGIS PAPER COMPANY;)
WEYERHAEUSER COMPANY,)

Defendants.)

Civil Action
No. 76 C 597

Filed

2/18/76

COMPLAINT

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

2. Alton Box Board Company, American Can Company, Brown Company, F.N. Burt Company, Inc., Champion International Corporation, Consolidated Packaging Corporation, Container Corporation of America, Diamond International Corporation, Eastex Packaging, Inc., Federal Paper Board Company, Inc., Fibreboard Corporation, Hoerner Waldorf Corporation, International Paper Company, Interstate Folding Box Company, The Mead Corporation, Packaging Corporation of America, Potlatch Corporation, Rexham Corporation, St. Regis Paper Company, and Weyerhaeuser Company maintain offices and/or plants, transact business and are found within the Northern District of Illinois.

II
THE DEFENDANTS

3. Each of the corporations named below in this paragraph is made a defendant herein. Each of said defendants is incorporated and exists under the laws of the State listed opposite its name, with its principal place of business at the city listed. During all or part of the period of time covered by this complaint each of said corporations engaged in the business of manufacturing and selling folding cartons in the United States:

<u>Name of Corporation</u>	<u>State of Incorporation</u>	<u>Principal Place of Business</u>
Alton Box Board Company	Delaware	Alton, Illinois
American Can Company	New Jersey	Greenwich, Connecticut
Brown Company	Delaware	Pasadena, California
Burd & Fletcher Company	Missouri	Kansas City, Missouri
F.N. Burt Company, Inc.	New York	Buffalo, New York

<u>Name of Corporation</u>	<u>State of Incorporation</u>	<u>Principal Place of Business</u>
Champion International Corporation	New York	Stamford, Connecticut
Consolidated Packaging Corporation	Michigan	Chicago, Illinois
Container Corporation of America	Delaware	Chicago, Illinois
Diamond International Corporation	Delaware	New York, New York
Eastex Packaging, Inc.	Delaware	Silsbee, Texas
Federal Paper Board Company, Inc.	New York	Montvale, New Jersey
Fibreboard Corporation	Delaware	San Francisco, California
The A.L. Garber Company, Inc.	Delaware	Cleveland, Ohio
Hoerner Waldorf Corporation	Delaware	St. Paul, Minnesota
International Paper Company	New York	New York, New York
Interstate Folding Box Company	Ohio	Middletown, Ohio
The Mead Corporation	Ohio	Dayton, Ohio
Packaging Corporation of America	Delaware	Evanston, Illinois

<u>Name of Corporation</u>	<u>State of Incorporation</u>	<u>Principal Place of Business</u>
Potlatch Corporation	Delaware	San Francisco, California
Rexham Corporation	Delaware	Charlotte, North Carolina
St. Regis Paper Company	New York	New York, New York
Weyerhaeuser Company	Washington	Tacoma, Washington

III

CO-CONSPIRATORS

4. Various corporations and individuals not made defendants in this complaint participated as co-conspirators with the defendants in the violation alleged herein, and performed acts and made statements in furtherance thereof.

IV

TRADE AND COMMERCE

5. Folding cartons are made principally from that category of paperboards referred to as bending box board. It is made both from virgin and reworked cellulose fibers.

The chief characteristic of bending box board is its ability to be bent or folded without breaking or serious damage at the crease lines which form the limits of the sides or ends of the carton. Folding cartons are made in a variety of styles according to the needs of the customers. Folding cartons are normally shipped to the user in a flat or knocked down form for easy shipment and then are erected at the user's plant. Most folding cartons have printed cover designs though some are shipped as plain shells to be covered with a printed outerwrap.

6. Folding cartons are used for a wide variety of products. Buyers of folding cartons include, among others, processors of food products, such as cereal, crackers, candy, flour, baking and other prepared mixes, fresh meats, butter, fruit and vegetables; manufacturers of drugs, cosmetics, household supplies, textiles, toys, sporting goods, hardware and detergents; distillers; breweries; and beverage bottlers.

7. The defendants have accounted for a substantial portion of total domestic sales of folding cartons, with sales among them of approximately \$1,000,000,000 in 1973.

8. During the period of time covered by this complaint:

(a) The defendants sold and shipped substantial quantities of folding cartons in a continuous and uninterrupted flow of interstate commerce to customers located in states other than the states in which said folding cartons were manufactured;

(b) Substantial quantities of the materials used by the defendants in manufacturing folding cartons were shipped in a continuous and uninterrupted flow of interstate commerce into the states where the folding cartons were manufactured.

V

VIOLATION ALLEGED

9. Beginning at least as early as 1960, the exact date being unknown to the plaintiff, and continuing thereafter at least until November, 1974, the defendants and co-conspirators have engaged in a continuing combination and conspiracy in unreasonable restraint of the aforesaid interstate 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. Said combination and conspiracy will continue or recur unless the relief hereinafter prayed for is granted.

10. The aforesaid combination and conspiracy consisted of a continuing agreement, understanding and concert of action among the defendants and co-conspirators, the substantial terms of which were to fix, raise, maintain and stabilize the prices of folding cartons.

11. For the purpose of forming and effectuating the aforesaid combination and conspiracy, the defendants and co-conspirators have done those things which they combined and conspired to do including, among other things:

(a) determined from the member of the conspiracy who was then supplying a particular folding carton to a buyer the price being charged or to be charged to that buyer by that member, and then submitted a non-competitive bid, or no bid on that folding carton to that buyer;

(b) disclosed to other members of the conspiracy the price being charged or to be charged for a particular folding carton to the buyer of that folding carton, with the understanding that the other members of the conspiracy would submit a non-competitive bid, or no bid, on that folding carton to that buyer;

(c) agreed with other members of the conspiracy who were supplying the same folding carton to a buyer on the price to be charged to that buyer; and

(d) agreed with other members of the conspiracy on increases in list prices of certain folding cartons.

VI

EFFECTS

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

(a) prices of folding cartons have been raised to and maintained and stabilized at artificial and non-competitive levels;

(b) buyers of folding cartons have been deprived of free and open competition in the purchase of folding cartons; and,

(c) competition in the sale of folding cartons among the defendants and co-conspirators has been restrained.

PRAYER

WHEREFORE, the plaintiff prays:

1. That, pursuant to Section 5 of the Sherman Act (15 U.S.C. §5), the Court order summonses to be issued to those defendants not found within the Northern District of Illinois, commanding them to appear and answer the allegations contained in the complaint, and to abide by and perform such orders and decrees as this Court may make in the premises.

2. That the Court adjudge, and decree that the defendants named in this complaint 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.

3. That each of the defendants named in this complaint, its successors, assignees, and transferees, and the respective officers, directors, agents, and employees thereof and all persons acting or claiming to act on behalf thereof, be perpetually enjoined and restrained from continuing, maintaining or renewing, directly or indirectly, the combination and conspiracy hereinbefore alleged, or from engaging in any other combination or conspiracy having a similar purpose or effect, or from adopting or following any practice, plan, program, or device having a similar purpose or effect.

4. That each of the defendants named in this complaint, its successors, assignees, and transferees, and the respective officers, directors, agents, and employees thereof, and all persons acting or claiming to act on behalf thereof, be perpetually enjoined and restrained from communicating any information concerning prices, terms or conditions of sale, of any product it manufactures or sells to any other person also engaged in the manufacture or sale of a similar product, except to the extent necessary in connection with a bona fide purchase or sales transaction between the parties to such communications.

5. That the Court order each defendant named in this complaint to maintain for a period of years records showing any meetings with or communications to or from any other person engaged in the manufacture or sale of any product that it also manufactures or sells, and to file with the plaintiff periodically an affidavit setting forth the records of all such meetings or communications, such affidavits to include the purpose of each of those meetings or communications, and the names, addresses and titles of all who participated in such meetings or communications.

6. That the Court enter an order requiring each defendant named in this complaint at intervals specified by the Court individually and independently to review each of its folding carton accounts as to prices and other terms and conditions of sale, to put into effect those prices, terms and conditions so determined, and to file with this Court and with plaintiff affidavits certifying that these requirements have been fulfilled.

7. That the Court order each defendant periodically to advise each of its officers, directors and employees of the provisions of any judgment entered by this Court, and of its and their duties and obligations under that judgment and under the antitrust laws, and to file with the Court and with plaintiff reports setting forth the steps each defendant has taken to comply with that order.

8. That the plaintiff have such other, further and different relief as the Court may deem just and proper.

9. That the plaintiff recover the cost of this
suit.

Thomas E. Rauper

THOMAS E. RAUPER
Assistant Attorney General

BABBIA J. RASHID

Bruce Pereski

D. BRUCE PERESKI

Gerald A. Connell

GERALD A. CONNELL

Attorneys, United States
Department of Justice

MICHAEL M. MILNER

Elliot R. Warren

ELLIOT R. WARREN

SAMUEL R. SKINNER
United States Attorney

BARBARA A. MCANINCH

Attorneys, United States
Department of Justice
Antitrust Division
Washington, D.C. 20350
Telephone (202) 739-3069