

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

UNITED STATES OF AMERICA)
)
 Plaintiff,)
)
 v.)
)
) Civil Action No. C-80-225
) Filed: July 9, 1980
REA CONSTRUCTION COMPANY)
)
) Defendant.)

COMPLAINT

The United States of America, 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 defendant named herein and complains and alleges as follows:

COUNT ONE

I

JURISDICTION AND VENUE

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

2. The defendant transacts business and is found in the Western District of North Carolina.

II

DEFENDANT

3. Rea Construction Company is made a defendant herein. Rea Construction Company is organized and exists under the laws of the State of North Carolina and has its principal place of business in Charlotte, North Carolina. Within the period of time covered by this complaint, said corporation

has engaged in the business of highway construction and airport runway and taxiway construction in the State of North Carolina.

4. Whenever in this complaint reference is made to any act, deed or transaction of the defendant, such allegation shall be deemed to mean that the defendant engaged in such act, deed or transaction by or through its officers, directors, agents, employees or representatives while they were actively engaged in the management, direction, control or transaction of its business or affairs.

III

CO-CONSPIRATORS

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

IV

TRADE AND COMMERCE

6. Douglas Municipal Airport (hereinafter referred to as "Douglas Airport"), Charlotte, North Carolina, is a part of the nationwide system of airports which serve the demands of interstate commerce, the postal service and national defense. Douglas Airport has a system of paved runways and taxiways on which aircraft carrying passengers, cargo and mail in interstate commerce land and take off. In 1979, approximately 1.6 million passengers, 13 million pounds of mail and 56 million pounds of cargo moved through Douglas Airport.

7. From time to time, the City of Charlotte, the public body that operates Douglas Airport, improves and maintains the airport by contracting for the design and construction of new runways and taxiways, or the reconstruction of existing runways and taxiways.

8. On or about August 28, 1979, the City of Charlotte solicited sealed bid proposals from construction contractors for the construction and reconstruction of various runways and taxiways at Douglas Airport, let on September 6, 1979, by the City of Charlotte (hereinafter referred to as Project No. 6-37-0012-15).

9. Pursuant to North Carolina law, the City of Charlotte placed public advertisements and announcements stating the place where prospective bidders for Project No. 6-37-0012-15 could examine the plans and specifications for the project and the time and place where bids for the project would be opened. The City of Charlotte was required by North Carolina law to award Project No. 6-37-0012-15 to the lowest responsible bidder.

10. Under the Airport and Airway Development Act of 1970, Title 49, United States Code, Section 1701 et seq., the United States of America, through its agency, the Federal Aviation Administration, furnishes portions of the funds needed to pay certain allowable airport construction project costs. Project No. 6-37-0012-15 was potentially qualified for partial federal funding and was eventually funded to the extent of 75 percent of costs by the United States of America.

11. Project No. 6-37-0012-15 required construction contractors to submit sealed bids for the furnishing of labor, equipment and materials for the construction and reconstruction of various runways and taxiways at Douglas

Airport. The project specifications required that the successful bidder supply quantities of asphalt, aggregate, cement, concrete, electrical products, pipe, ducts, electrical manholes and other building supplies and materials in performing the subject construction.

12. During the construction of Project No. 6-37-0012-15, such building supplies and materials were shipped regularly and continuously in an uninterrupted flow of interstate commerce for sale and installation in Project No. 6-37-0012-15.

13. The runways and taxiways constructed and reconstructed in Project No. 6-37-0012-15 are a part of the interstate system of airports and are used by aircraft which move in a continuous and uninterrupted flow of interstate commerce.

14. During all times material to this complaint, the activities of the defendant and co-conspirators, as described in part herein, were within the flow of and had a substantial effect upon interstate commerce.

V

VIOLATION ALLEGED

15. Beginning sometime in or about August, 1979, and continuing thereafter, the exact dates being unknown to the United States, the defendant and co-conspirators 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 (15 U.S.C. § 1).

16. The aforesaid combination and conspiracy consisted of an agreement, understanding and concert of action among the defendant and co-conspirators, a substantial term of which was to submit collusive, noncompetitive and rigged bids to the City of Charlotte in connection with Project No. 6-37-0012-15.

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

(a) Discussing the submission of the prospective bids on Project No. 6-37-0012-15;

(b) Agreeing that the defendant would be the low bidder on Project No. 6-37-0012-15; and

(c) Submitting intentionally high or complementary bids on Project No. 6-37-0012-15 on which the defendant had been designated as the low bidder.

VI

EFFECTS

18. The aforesaid combination and conspiracy alleged herein had the following effects, among others:

(a) The price of Project No. 6-37-0012-15 was fixed, maintained and established at an artificial and noncompetitive level; and

(b) The City of Charlotte and the United States of America were denied the benefits of free and open competition for Project No. 6-37-0012-15.

COUNT TWO

I

1. Each and every allegation contained in paragraphs 1 through 5 of Count One of this complaint is here realleged with the same force and effect as though said paragraphs were set forth in full detail.

TRADE AND COMMERCE

2. In the development of a nationwide network of interconnecting highways, the United States of America and the State of North Carolina have cooperated in the financing and construction of highways in the State of North Carolina. Within the period of time covered by this complaint, there was in existence a program financed and administered by the State of North Carolina and the United States of America for the development and improvement of such highways. This program was undertaken in accordance with the terms and conditions of Chapter 1 of Title 23 of the United States Code, Section 101 et seq., commonly known as the Federal-Aid Highway Act. Under this program, the United States of America through its agency, the Federal Highway Administration, furnished in combination with the Department of Transportation of the State of North Carolina, the funds needed to pay the costs of certain highway construction within the State of North Carolina, including a portion of the highway construction which is the subject of Count Two of this complaint.

3. During the period of time covered by this complaint, the North Carolina Department of Transportation invited highway construction contractors to submit sealed competitive bids on highway construction projects. Such invitations are known as highway lettings and occur several times per year in Raleigh, North Carolina. The State of North Carolina awards contracts to the lowest responsible bidder following the opening of the sealed bids by its Department of Transportation.

4. Highways in North Carolina are part of the network of interconnecting highways over which motor vehicles move in a continuous and uninterrupted stream of interstate commerce from and through one state to another. A substantial amount of the nation's goods move in interstate commerce over these highways via truck transportation.

5. During the period of time covered by this complaint, there was a substantial, continuous and uninterrupted flow of steel, cement and other essential materials from suppliers outside of the State of North Carolina to the job sites within the State for use by highway contractors in the construction of highways under the Federal-Aid Highway Act, including the job site of the projects which are the subject of Count Two of this complaint.

6. During all times material to this complaint, the activities of the defendant and co-conspirators, as alleged in part herein, were within the flow of and had a substantial effect upon interstate commerce.

III

VIOLATION ALLEGED

7. Beginning sometime in or about July, 1978, and continuing thereafter, the exact dates being unknown to the United States, the defendant and co-conspirators 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 (15 U.S.C. § 1).

8. The aforesaid combination and conspiracy consisted of an agreement, understanding and concert of action among the defendant and co-conspirators, a substantial term of which was to submit collusive, noncompetitive and rigged

bids in connection with Projects 8.7340005 and 8.7340013 let by the State of North Carolina on July 25, 1978, which involved construction work on highways under the Federal-Aid Highway Act in the State of North Carolina.

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

(a) Discussing the submission of the prospective bids on Projects 8.7340005 and 8.7340013;

(b) Agreeing that the defendant would be the low bidder on Projects 8.7340005 and 8.7340013; and

(c) Submitting intentionally high or complementary bids or withholding bids on Projects 8.7340005 and 8.7340013 on which the defendant had been designated as the successful low bidder.

IV

EFFECTS

10. The aforesaid combination and conspiracy alleged herein had the following effects, among others:

(a) The price of Projects 8.7340005 and 8.7340013 was fixed, maintained and established at an artificial and non-competitive level; and

(b) The State of North Carolina and the United States of America were denied the benefits of free and open competition for Projects 8.7340005 and 8.7340013.

PRAYER

WHEREFORE, plaintiff prays:


1. That the Court adjudge and decree that the defendant and co-conspirators engaged in unlawful combinations and

conspiracies in restraint of the aforesaid interstate trade and commerce in violation of Section 1 of the Sherman Act, as alleged in Counts One and Two of the complaint.

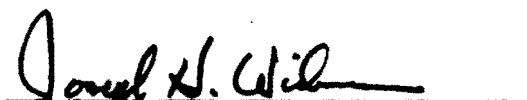
2. That the defendant, its officers, directors, agents, employees, representatives, successors, assigns and all persons acting or claiming to act on defendant's behalf, be perpetually enjoined from continuing, maintaining or renewing the aforesaid combinations and conspiracies as alleged in Counts One and Two of the complaint and from engaging in any other combination, conspiracy, agreement or understanding having similar purposes or effects.

3. 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.

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


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