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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,)	
)	Civil No. 80-2067
Plaintiff,)	
)	Filed: August 15, 1980
v.)	
)	15 U.S.C. § 1 (Antitrust Vio-
AMERICAN CONSULTING)	lation Alleged)
ENGINEERS COUNCIL,)	
)	15 U.S.C. § 4 (Equitable
Defendant.)	Relief Sought)

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 Sherman Act (15 U.S.C. § 4), 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 American Consulting Engineers Council (hereinafter referred to as "ACEC") maintains offices, transacts business and is found within the District of Columbia.

II

DEFENDANT

3. ACEC is made the defendant herein. ACEC is a non-profit membership corporation organized and existing under the laws of the State of New York with its principal place

of business located in Washington, D. C. ACEC's membership consists of and is restricted to consulting engineering and land surveying firms.

III

CO-CONSPIRATORS

4. Various individuals, firms, organizations and corporations, not made defendants herein, have participated as co-conspirators 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 made statements in furtherance thereof. Such co-conspirators include, but are not limited to, the members of ACEC.

IV

TRADE AND COMMERCE

5. ACEC is a federation of 49 state, area and regional member organizations. Membership in ACEC is restricted to consulting engineering and land surveying firms. Individual consulting engineers are members of ACEC either by virtue of their firm's membership in one or more of the ACEC member organizations or, in those states not served by a member organization, by virtue of their firm's status as a member-at-large of ACEC. ACEC has approximately 3,550 member firms, ranging in size from sole practitioners to large corporations. As a prerequisite to membership in ACEC applicants must agree to abide by the Code of Ethics and Professional Conduct Guidelines of ACEC and to reaffirm this agreement annually.

6. The members of ACEC provide a wide variety of consulting engineering services to architects, other engineers, private industry and governmental agencies under contract for a fee. These services include all fields of engineering,

from civil, electrical, mechanical, structural, industrial, chemical, mining and agricultural to various services in the field of energy production and conservation. The members of ACEC render these services in connection with the study, design and construction of roads, bridges, buildings, water and sewage systems, industrial plants and other structures throughout the United States and abroad. Individual engineers employed by the member firms are often licensed to perform engineering services in several states, and the member firms regularly perform services in states other than the state in which they maintain their principal place of business.

7. There is a regular, continuous and substantial flow in interstate commerce of the services of the members of ACEC and of the equipment and materials used by them in the design and construction of projects under their supervision. The activities of ACEC and its members, as described herein, are within the flow of interstate commerce and also have a substantial effect on that commerce.

V

VIOLATION ALLEGED

8. Beginning at least as early as 1974 and continuing up to and including the date of the filing of this complaint, the defendant and 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 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 co-conspirators to restrain competition among the members of ACEC.

10. In formulating 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, the following:

(a) Adopting, publishing and distributing a Code of Ethics and Professional Conduct Guidelines containing provisions which prohibit the members of ACEC from:

(1) entering competitions for designs without reasonable compensation;

(2) providing engineering services on a free basis, except for civic, charitable or religious organizations; and

(3) providing professional services on a contingent basis; and

(b) Requiring that the members of ACEC abide by said provisions of the Code of Ethics and Professional Conduct Guidelines.

VI

EFFECTS

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

(a) Design competitions among the members of ACEC have been restrained, suppressed and eliminated;

(b) The offering of consulting engineering services on a free basis to other than civic, charitable or religious organizations by the members of ACEC has been restrained, suppressed and eliminated;

(c) The providing of consulting engineering services by the members of ACEC on a contingent basis has been restrained, suppressed and eliminated;

- (d) Price and other forms of competition among the members of ACEC in the sale of their services have been curtailed and suppressed; and
- (e) Customers requiring the services provided by the members of ACEC have been deprived of the benefits of free and open competition in the sale of such services.

PRAYER

WHEREFORE, the plaintiff prays:

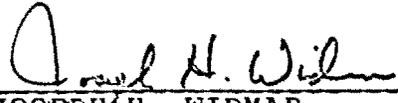
1. That the alleged combination and conspiracy in unreasonable restraint of interstate trade and commerce be adjudged and decreed to be in violation of Section 1 of the Sherman Act.
2. That the defendant and each of its officers, directors, agents, employees, successors and assigns, and all persons acting under, through or for the defendant, including all state, regional and area member organizations of ACEC, be perpetually enjoined from continuing, maintaining or renewing the aforesaid combination and conspiracy, and from entering into, maintaining or participating in any contract, agreement, plan, program or other arrangement having the purpose or effect of continuing, maintaining or renewing such combination and conspiracy.
3. That the defendant and each of its present and future state, regional and area member organizations be required to cancel any provisions of their Codes of Ethics and Professional Conduct Guidelines, and every other rule, bylaw, resolution or statement of policy, which have as their purpose or effect the suppression or elimination of competition among the members of ACEC.
4. 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.

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


SANFORD M. LITVACK
Assistant Attorney General

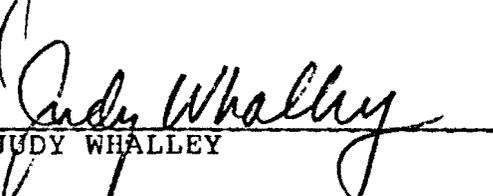

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