

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA, :
 :
 Plaintiff, :
 :
 v. : 78 Civ. 683
 :
 BLACK MILLWORK CO., INC.; :
 HUSSEY-WILLIAMS CO., INC.; : STIPULATION
 STURTEVANT MILLWORK CORP.: and :
 WHITTIER-RUHLE MILLWORK CO., :
 :
 Defendants. :
 :
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Filed: August 31, 1979
Entered: 12/12/79

It is stipulated by and between the undersigned parties by their respective attorneys, that:

1. A Final Judgment in the form hereto attached may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. § 16), and without further notice to any party or other proceedings, provided that Plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on Defendants and by filing that notice with the Court.
2. In the event Plaintiff withdraws its consent or if the proposed Final Judgment is not entered pursuant to this stipulation, this stipulation shall be of no effect whatever

Dated: August 31, 1979

For Plaintiff:

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JOHN H. SHENEFIELD
Assistant Attorney General

/s/ Robert A. McNew
ROBERT A. McNEW

Joseph H. Widmar
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/s/ Charles V. Reilly
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/s/ Edwin Weiss
EDWIN WEISS

/s/ Ralph T. Giordano

/s/ Stuart Grabois

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For Defendant Black Millwork Co.
and Sturtevant Millwork Corp.

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For Defendant Hussey-Williams Co., Inc.

Seymour Lewis
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For Defendant Whittier-Ruhle Millwork Co.

Joel Miller
JOEL MILLER

Ullman Miller & Wrubel, P.C.

respectively, whether or not sold with Andersen brand products, and is engaged in the sale of such products and accessories and wood grilles to architects, housing contractors, lumberyards or retail home centers.

B. "Person" shall mean any individual, association, cooperative, partnership, corporation or other business or legal entity.

C. Andersen brand products and accessories means windows, gliding doors and shutters and miscellaneous parts and accessories manufactured and sold by the Andersen Corporation.

D. Coffman wood grilles means wooden light dividers designed or sold to be placed on Andersen brand products and manufactured by Coffman Window Grilles, a division of Vinador Co.

E. Webb wood grilles means wooden light dividers designed or sold to be placed on Andersen brand products and manufactured by Webb Manufacturing, Inc.

III

The provisions of this Final Judgment are applicable to the defendants herein and shall also apply to each of said defendants' officers, directors, agents, employees, subsidiaries, successors and assigns, and in addition, to all other persons in active concert or participation with any of them who shall have received actual notice of this Final Judgment by personal service or otherwise, provided, however, that nothing contained herein shall apply to any transaction or communication solely between or among a defendant and its subsidiaries, affiliated companies, or parent company.

IV

A. Each of the defendants is enjoined and restrained from adhering to, maintaining, furthering, enforcing or entering into directly or indirectly any agreement, understanding, plan or program with any other wholesale distributor to raise, fix,

brand products and accessories, Coffman wood grilles or Webb wood grilles are offered for sale.

B. Each of the defendants is enjoined and restrained from acting, either unilaterally or in concert with any other person, directly or indirectly to induce, coerce or attempt to influence any other wholesale distributor to adhere to any suggested list price or discount off list price in the sale of Andersen brand products and accessories, Coffman wood grilles or Webb wood grilles.

C. Each defendant is enjoined and restrained from communicating directly or indirectly to any wholesale distributor information concerning:

- (1) the actual or proposed changes in price or discount for Andersen brand products and accessories, Coffman wood grilles or Webb wood grilles; and
- (2) the actual or proposed dates for any changes in the price or discount for Andersen brand products and accessories, Coffman wood grilles or Webb wood grilles.

Provided, however, that nothing contained in this paragraph shall restrict the communication of information necessary to the bona fide purchase or sale of Andersen brand products and accessories and Webb wood grilles or Coffman wood grilles between and among wholesale distributors.

D. Each defendant is enjoined and restrained from:

- (1) reviewing, comparing or discussing with any other wholesale distributor a proposed Andersen Suggested List Price Catalog or discount sheet;
- (2) joining or participating with any other wholesale distributor in sending or submitting a Suggested List Price Catalog

print or publish an Andersen Suggested List Price Catalog or discount sheet by referring such person, in whole or in part, to another wholesale distributor's Andersen Suggested List Price Catalog or discount sheet.

V

Each defendant is ordered and directed:

A. To establish a program for dissemination of information as to, and compliance with this Final Judgment involving each corporate officer, director, employee and agent having responsibilities in connection with or authority over the establishment of the wholesale prices at which Andersen brand products and accessories and wood grilles are sold, advising them of its and their obligations under this Final Judgment. This program shall include, but is not necessarily limited to, the inclusion, in an appropriate company manual or internal memorandum, of this Final Judgment in whole or in part or an explanation thereof, and a statement of corporate compliance policy thereunder; and

B. To furnish to plaintiff within one hundred and twenty (120) days of the entry of this Final Judgment, and thereafter upon request by plaintiff, on or about the anniversary date of this Final Judgment for a period of five (5) consecutive years from the date of its entry, an account of all steps the defendant has taken during the preceding year to discharge its obligations under subparagraph (A) of this Section V and to include with said account copies of all written directives issued during the prior year with respect to compliance with the terms of this Final Judgment.

VI

For the purpose of determining or securing compliance with this Final Judgment and subject to any legally recognized privilege, from time to time:

of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to any defendant made to its principal office, be permitted:

- (1) Access during office hours of such defendant, which may have counsel present, to inspect and copy all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of such defendant relating to any of the matters contained in this Final Judgment; and
- (2) Subject to the reasonable convenience of such defendant, and without restraint or interference from it, to interview officers, directors, employees and agents of such defendant, each of whom may have counsel present, regarding any such matters.

B. Upon written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division made to any defendant's principal office, such defendant shall submit such written reports, with respect to any of the matters contained in the Final Judgment as may be requested.

No information or documents obtained by the means provided in this Section VI shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

If at the time information or documents are furnished by any defendant to plaintiff, and such defendant represents and identifies in writing the material in any such information or documents to which a claim of protection may be asserted under

to claim of protection under the Federal Rules of Civil Procedure," then ten (10) days notice shall be given by plaintiff to such defendant prior to divulging such material in any legal proceeding (other than a grand jury proceeding) to which that defendant is not a party.

VII

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the amendment or modification of any of the provisions thereof, for the enforcement of compliance therewith, and for the punishment of violations thereof.

VIII

This Final Judgment will expire on the tenth anniversary of the date of its entry and with respect to any particular provision on any earlier date specified.

IX

Entry of this Final Judgment is in the public interest.

Dated: December 12, 1979

/s/ Jacob Mischler

UNITED STATES DISTRICT JUDGE