

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA, :

Plaintiff, :

v. : Civil Action No. 76 CIV 349

ANDREW CARLSON & SONS, INC.: : Filed: February 24, 1976

W. D. BOCCARD & SONS, INC.; and :

CARBRO INDUSTRIES, INC., :

Defendants. :

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COMPLAINT

The United States of America, plaintiff, by its attorneys, acting under the direction of the Attorney General of the United States, brings this action against the defendants named herein and complains and alleges as follows:

I

JURISDICTION AND VENUE

1. This complaint is filed and this action is 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 continuing violation by the defendants, as hereinafter alleged, of Section 1 of said Act (15 U.S.C. §1).

2. Each of the defendants is found and transacts business within the Eastern District of New York.

II

DEFENDANTS

3. Each of the corporations named below is made a defendant herein. Each of these corporations is incorporated and exists under the laws of the State of New York and has its principal place of business in the location shown below. During all or part of the time covered by this complaint, each of these

defendants has engaged in the business of manufacturing and selling precast concrete products.

<u>Corporation</u>	<u>Principal Place of Business</u>
Andrew Carlson & Sons, Inc.	Kings Park, New York
W. D. Bocard & Sons, Inc.	Huntington Station, New York
Carbro Industries, Inc.	Kings Park, New York

### III

#### CO-CONSPIRATORS

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

### IV

#### DEFINITIONS

5. As used herein:

- (a) "Precast Concrete Products" means the cylindrical structures such as drainage rings, storm water rings, solid rings and their related products such as flat slabs, domes, tops, footings, baffle walls and bottom slabs, all of which are used for the subsurface disposal of storm water and sanitary waste; and
- (b) "Discount" means any percentage or other reduction from the regular or list prices charged by any of the defendant corporations.

### V

#### TRADE AND COMMERCE

6. The defendant corporations are the principal manufacturers of precast concrete products in Nassau and Suffolk Counties, New York. Their total sales in this market in 1974

were approximately \$6 million. Their products are sold to excavating contractors who install them in industrial parks, schools, shopping centers and individual homes.

7. As a group, the defendants account for at least 75 percent of the total sales of precast concrete products made in Nassau and Suffolk Counties.

8. Substantial quantities of the materials used by the defendants in manufacturing precast concrete products moved from suppliers located outside the State of New York to the defendants within the State of New York in a regular, continuous and uninterrupted flow in interstate commerce.

9. The defendants have sold and shipped quantities of precast concrete products in interstate commerce to customers located in states other than New York.

10. During the period covered by this complaint, the manufacture and sale of precast concrete products and the activities of defendants were within the flow of interstate commerce and had an effect upon that commerce.

## VI

### VIOLATION ALLEGED

11. Since the early part of 1963, the exact date being unknown to the plaintiff, and continuing thereafter up to March 1974, the defendants 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 Act of Congress of July 2, 1890, as amended prior to December 21, 1974 (15 U.S.C. §1), commonly known as the Sherman Act. Said combination and conspiracy may recur unless the relief hereinafter prayed for is granted.

12. 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:

- (a) to fix, raise, and maintain the prices of precast concrete products, and
- (b) to fix and maintain maximum discounts given by the defendants to purchasers of precast concrete products.

13. In furtherance of the aforesaid combination and conspiracy, the defendants and co-conspirators have, among other things, done those things which they combined and conspired to do.

## VII

### EFFECTS

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

- (a) price competition among the defendants in the sale of precast concrete products has been restrained;
- (b) prices of precast concrete products have been fixed, raised, and maintained at artificial and noncompetitive levels; and
- (c) customers of the defendants have been deprived of the opportunity to obtain precast concrete products at competitive prices.

### PRAYER

WHEREFORE, the plaintiff prays:

1. That the Court adjudge and decree that the defendants have engaged in an unlawful combination and conspiracy in restraint of the aforesaid interstate trade and commerce, in violation of Section 1 of the Sherman Act.

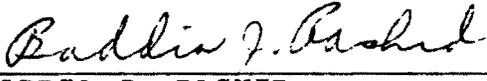
2. That each of the defendants, its subsidiaries, successors, assigns, transferees, and the respective officers, directors, agents, and employees thereof, and all other persons acting or claiming to act on their behalf, be permanently enjoined from continuing, maintaining, or renewing the aforesaid combination and conspiracy, or from engaging in any other combination, conspiracy, agreement, or understanding having a similar purpose or effect.

3. That the plaintiff has 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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