UNITED STATES OF AMERICA v. THE WHEELER-OSGOOD COMPANY ET AL., DEFENDANTS.

IN THE DISTRICT COURT OF THE UNITED STATES,
DISTRICT OF OREGON.

In Equity No. E-8680-34.

THE UNITED STATES OF AMERICA, PLAINTIFF

v.

THE WHEELER-OSGOOD COMPANY ET AL., DEFENDANTS.

FINAL DECREE.

The United States of America having filed its petition herein on the fifth day of May, 1924, and all of the defendants having duly appeared by Joseph N. Teal, William C. McCulloch, Frank C. Neal, John A. Gallagher, and John C. Hogan, their solicitors of record, and having answered, and the cause being now at issue on the petition and answer;

Now comes the United States of America by George Neuner, its attorney for the District of Oregon, and by William J. Donovan, Assistant to the Attorney General of the United States, and James A. Fowler, Henry A. Guiler, and C. Stanley Thompson, Special Assistants to the Attorney General, and come also all of the defendants herein by their solicitors as aforesaid; and it appearing to the court that it has jurisdiction of the subject matter alleged in the petition and that the petition states a cause of action; and the petitioner having moved the court for an injunction against the defendants as hereinafter decreed; and the court having duly considered the statements of counsel for the respective parties; and all of the defendants through their said solicitors now and here consenting to the rendition of the following decree;

Now, therefore, it is ordered, adjudged, and decreed as follows:

I. That the combination and conspiracy in restraint of interstate trade and commerce, the acts, agreements, and understandings in restraint of interstate trade and commerce, as described in the petition herein, and the restraint of such trade and commerce obtained thereby are violative of the act of Congress of July 2, 1890, entitled "An act to protect trade and commerce against unlawful restraints and monopolies" known as the Sherman Antitrust Act.

II. That the defendants, their officers, agents, servants, and employees, and all persons acting under, through, or in behalf of them, or any of them, are hereby perpetually enjoined, restrained, and prohibited from

combining, conspiring, or agreeing to do any of the following acts:

(*a*) To fix in any manner whatsoever or to maintain uniform or noncompetitive prices or base discounts for the doors sold by them, or uniformly to increase or diminish such prices or base discounts, or to do any act or acts having the purpose or effect of establishing or maintaining such uniform or noncompetitive prices or base discounts or of uniformly increasing or diminishing such prices or base discounts.

(*b*) To exchange with each other information or advice as to contemplated or intended changes in prices or base discounts.

(*c*) To do any act or acts having the purpose or necessary effect of causing or of enabling them or any of them to establish or maintain uniform or noncompetitive prices or base discounts, or uniformly to increase or diminish such prices or base discounts, or to maintain uniform policies as to prices and sales.

(*d*) To establish or maintain uniform extra charges to be added to the net prices of doors when finished with moulded panels, with glass beads, with sash sticking, with cut-in lights, with bead and butt panels, with astragals, or uniform extra charges for Dutch doors or for mirror doors of various styles, or for any other kind, style, or size of doors.

(*e*) To establish or maintain the following rules, or any rules similar thereto, for determining and applying extra charges:

(*a*) Irregular and intermediate sizes of doors not indicated as stock size in the Single List to take same list as next larger size listed, and an extra charge of 10 per cent to be made for doors in less than stock quantities (ten or more of one size, style, and quantity);

(*b*) Any new list figure created by the addition or deduction of a given percentage to be made to end in 5 or 0, the figure to be advanced in case of an exact split;

(*c*) Doors wider than listed sizes to take the list of widest listed door of same height, with an addition of 10 per cent for each additional four inches or part thereof; doors longer than listed sizes to take the list of the longest similar door of the same width, with an addition of 10 per cent for each additional six inches or part thereof; and single doors made to represent pairs to add $3.50 to the list;

(*d*) Rabbeting and Beading folding doors made extra width for rabbeting to add $2.50 to proper list for such doors;

(*e*) Styles wider than the width used as stock to take two points shorter discount for each additional inch of width or part thereof, and rails wider than the width used as stock to take one-half point shorter discount for each added inch of each wider rail;

(*f*) Bead and cove sticking to be stock, and all other styles of sticking to take two points shorter than base discounts;

(*g*) An extra charge of $10 to be made for each lot shipped in pooled cars and billed separately, and all delivery charges from car to warehouse to be assumed by consignee;

(*h*) Doors to be crated with a specified number to a bundle and a crating charge of $3.00 for each bundle to be made, the charge to be the same if fewer doors than specified are crated.

(*f*) To adopt or maintain any list or table having the purpose or necessary effect of fixing and establishing the variations between the prices of the several kinds, styles, and grades of doors sold by them, and stating with reference to each said kind, style, and grade whether it takes the base discount or a specified number of points longer or shorter than the base discount, and the extra charge stated in dollars and cents, if any, which each said kind, style, and grade also takes, or in any way to establish and maintain uniform relative prices or uniform spreads between said several kinds, styles, and grades of doors.

(*g*) To establish or maintain uniform terms and conditions applying on sales of doors for the purpose of or having the necessary effect of preventing competition.

Provided, however, that nothing in this decree shall be construed as prescribing the method of pricing and selling his product which any manufacturer individually may adopt and follow, nor as prohibiting any of defendant manufacturers from individually adopting and following any specific method of pricing their products whether by the individual use of a list or other tables of computation, provided such action is not the result of an agreement among the several defendants or any of them.

CHARLES E. WOLVERTON,
United States District Judge.

Entered June 18, 1925.