

**Trade Regulation Reporter - Trade Cases (1932 - 1992), United States of America v. Ideal Cement Company, Colorado Portland Cement Company, Monolith Portland Midwest Company, Colorado Builders Supply Company, Denver Mortar and Materials Company, Francis J. Fisher, Incorporated, Rig Grande Fuel Company, Spratlen-Brannan, Inc., Merle R. Jones, Sr., Frank F. Wagner George S. Yates, Lloyd S. Brannan, Frank P. Spratlen, Jr., G. R. Joslyn, C. L. Good: Elmer H. Peterson, Harry O. Warner and Stanley W. Russell., U.S. District Court, D. Colorado, 1940-1943 Trade Cases ¶56,199, (Feb. 12, 1942)**

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United States of America v. Ideal Cement Company, Colorado Portland Cement Company, Monolith Portland Midwest Company, Colorado Builders Supply Company, Denver Mortar and Materials Company, Francis J. Fisher, Incorporated, Rig Grande Fuel Company, Spratlen-Brannan, Inc., Merle R. Jones, Sr., Frank F. Wagner George S. Yates, Lloyd S. Brannan, Frank P. Spratlen, Jr., G. R. Joslyn, C. L. Good: Elmer H. Peterson, Harry O. Warner and Stanley W. Russell.

1940-1943 Trade Cases ¶56,199. U.S. District Court, D. Colorado. No. 415. November Term, 1941. February 12, 1942.

**In a civil proceeding under the Sherman Anti-Trust Act, a consent decree was entered directing defendant cement dealers to revoke and rescind contracts and agreement between them, the purpose of which was to establish a minimum resale price for Portland cement within the State of Colorado. The contracts were purportedly made and entered into under authority of the Colorado Fair Trade Act. The cement dealers were further enjoined and restrained for a period of two years from the date of entry of the decree from making or entering into contracts or agreements under the Colorado Fair Trade Act or otherwise establishing a minimum resale price for cement.**

Thurman Arnold, Assistant Attorney General, Washington, D. C., James C. Wilson James Mcl. Henderson and John W. Porter, Special Assistants to the Attorney General Denver, Colo., for plaintiff.

James D. Benedict, George A. Crowder, Terrell C. Drinkwater, Francis Kidneigl Harry H. Rubenstein, Wilbur M. Alter, Rodney J. Bardwell, Jr., and Clarence L. Barthe lie, all of Denver, Colo., for defendants.

Before Symes, District Judge.

**Final Judgment**

The complainant, United States of America, having filed its complaint herein on February 12, 1942; all the defendants having appeared and severally filed their answers to such complaint denying the substantive allegations thereof; all parties hereto by their respective attorneys herein having severally consented to the entry of this final decree herein without trial or adjudication of any issue of fact or law herein and without admission by any party respect of any such issue; and the con plainant having moved the Court for the decree;

NOW, THEREFORE, before any testimonial has been taken herein, and without trial adjudication of Rany issue of fact or la herein, and upon consent of all parties hereto, it is hereby

ORDERED, ADJUDGED, and DECREED as follows:

I

[ Jurisdiction]

That the Court has jurisdiction of the subject-matter and of all the parties hereto; that the complaint states a cause of action against the defendants under the Act of Congress of July 2, 1890, entitled "An Act to Protect Trade and Commerce Against Unlawful Restraints and Monopolies" and the acts amendatory thereof and supplemental thereto.

## II

### [ *Revocation of State Fair Trade Contracts* ]

(A) That the defendants Ideal Cement Company, The Colorado Portland Cement Company, and Harry O. Warner, on or before ten days from the date of entry of this decree, rescind and revoke each and all of the several contracts and agreements now in effect between the said defendant The Colorado Portland Cement Company, by the defendant Harry O. Warner, and dealers in the Denver area, purportedly made and entered into under the authority of the Colorado Fair Trade Act (Colorado Session Laws 1937, Chapter 146, pp. 559-562).

(B) That the defendants Denver Mortar and Materials Company, Spratlen-Brannan, Inc., Colorado Builders Supply Company, Francis J. Fisher, Inc., Rio Grande Fuel Company, Frank F. Wagner, Lloyd S. Brannan, Frank P. Spratlen, Jr., George R. Joslyn, C. L. Goody, Elmer H. Peterson, George S. Yates, and Merle R. Jones, on or before ten days from date of entry of this decree, rescind and revoke each several contract and agreement now in effect between each of the aforesaid defendants and the defendant The Colorado Portland Cement Company, purportedly made and entered into under the authority of the Colorado Fair Trade Act (Colorado Session Laws 1937, Chapter 146, pp. 559-562).

(C) That the defendants Ideal Cement Company, The Colorado Portland Cement Company, Harry O. Warner, Colorado Builders Supply Company, Denver Mortar & Materials Company, Francis J. Fisher, Inc., Rio Grande Fuel Company, Spratlen-Brannan, Inc., Merle R. Jones, Frank F. Wagner, George S. Yates, Elmer H. Peterson, C. L. Goody, G. R. Joslyn, Frank P. Spratlen, Jr., and Lloyd S. Brannan, be and they hereby are permanently, perpetually enjoined and restrained from observing, enforcing, or otherwise in any manner giving effect to the several contracts and agreements, purportedly made and entered into under the authority of the Colorado Fair Trade Act (Colorado Session Laws 1937, Chapter 146, pp. 559-562), now in effect between the said defendant The Colorado Portland Cement Company, by the defendant Harry O. Warner, and the said defendants Colorado Builders Supply Company, Denver Mortar & Materials Company, Francis J. Fisher, Inc., Rio Grande Fuel Company, Spratlen-Brannan, Inc., Merle R. Jones, Frank F. Wagner, George S. Yates, Elmer H. Peterson, C. L. Goody, G. R. Joslyn, Frank P. Spratlen, Jr., and Lloyd S. Brannan.

## III

(A) That the defendants Ideal Cement Company, The Colorado Portland Cement Company, and Harry O. Warner be and they hereby are enjoined and restrained for a period of two years from the date of entry of this decree from proposing, making, or entering into contracts or agreements under the authority of the Colorado Fair Trade Act (Colorado Session Laws 1937, Chapter 146, pp. 559-562), or otherwise, establishing a minimum resale price for Portland cement produced by the defendant Ideal Cement Company and sold by the defendant The Colorado Portland Cement Company to dealers within the State of Colorado for resale to builders, contractors, and other users.

(B) That the defendants Ideal Cement Company, The Colorado Portland Cement Company, Harry O. Warner, Colorado Builders Supply Company, Denver Mortar & Materials Company, Francis J. Fisher, Inc., Rio Grande Fuel Company, Spratlen-Brannan, Inc., Merle R. Jones, Frank F. Wagner, George S. Yates, Elmer H. Peterson, C. L. Goody, G. R. Joslyn, Frank P. Spratlen, Jr., and Lloyd S. Brannan be and they hereby are enjoined and restrained for a period of two years from the date of entry of this decree from proposing, making, or entering into contracts or agreements, purporting to be made or entered into under the authority of the Colorado Fair Trade Act (Colorado Session Laws 1937, Chapter 146, pp. 559-562), or otherwise, establishing a minimum resale price for Portland cement produced by the defendant Ideal Cement Company and sold by the defendant The Colorado

Portland Cement Company to dealers within the State of Colorado for resale to builders, contractors, and other users.

#### IV

(A) That the defendants Monolith Portland Midwest Company and Stanley W. Russell, on or before ten days from the date of entry of this decree, rescind and revoke each and all of the several contracts and agreements now in effect between the said defendant Monolith, by the defendant Stanley W. Russell, and dealers in the Denver area, purportedly made and entered into under the authority of the Colorado Fair Trade Act (Colorado Session Laws 1937, Chapter 146, pp. 559-562).

(B) That the defendants Francis J. Fisher, Inc., Rio Grande Fuel Company, C. L. Goody, Elmer H. Peterson, George S. Yates, and Merle R. Jones, on or before ten days from date of entry of this decree, rescind and revoke each several contract and agreement now in effect between each of the aforesaid defendants and the defendant Monolith Portland Midwest Company, purportedly made and entered into under the authority of the Colorado Fair Trade Act (Colorado Session Laws 1937, Chapter 146, pp. 559-562).

(C) That the defendants Monolith Portland Midwest Company, Stanley W. Russell, Francis J. Fisher, Inc., Rio Grande Fuel Company, Merle R. Jones, George S. Yates, Elmer H. Peterson, and C. L. Goody, be and they hereby are permanently and perpetually enjoined and restrained from observing, enforcing, or otherwise in any manner giving effect to the several contracts and agreements, purportedly made and entered into under the authority of the Colorado Fair Trade Act (Colorado Session Laws 1937, Chapter 146, pp. 559-562), now in effect between the said defendant Monolith, by the defendant Stanley W. Russell, and the said defendants Francis J. Fisher, Inc., Rio Grande Fuel Company, Merle R. Jones, George S. Yates, Elmer H. Peterson, and C. L. Goody.

#### V

(A) That the defendants Monolith Portland Midwest Company and Stanley W. Russell be and they hereby are enjoined and restrained for a period of two years from the date of entry of this decree from proposing, making, or entering into contracts or agreements, under the authority of the Colorado Fair Trade Act (Colorado Session Laws 1937, Chapter 146, pp. 559-562) or otherwise, establishing a minimum resale price for Portland cement produced and sold by the said defendant Monolith to dealers within the State of Colorado for resale to builders, contractors, and other users.

(B) That the defendants Colorado Builders Supply Company, Denver Mortar & Materials Company, Francis J. Fisher, Inc., Rio Grande Fuel Company, Spratlen-Bran-nan, Inc., Merle R. Jones, Frank F. Wagner, George S. Yates, Elmer H. Peterson, C. L. Goody, G. R. Joslyn, Frank P. Spratlen, Jr., and Lloyd S. Brannan be and they hereby are enjoined and restrained for a period of two years from the date of entry of this decree from proposing, making, or entering into contracts or agreements, under the authority of the Colorado Fair Trade Act (Colorado Session Laws 1937, Chapter 146, pp. 559-562) or otherwise, establishing a minimum resale price for Portland cement produced and sold by the said defendant Monolith to dealers within the State of Colorado for resale to builders, contractors, and other users.

#### VI

##### *[ Retention of Jurisdiction ]*

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