

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. Concrete Form Association of Central New England; Standard Construction Co., Inc.; Schofields, Inc.; Noe A. Brisson; Ernest R. Schofield; Lewis A. Schofield; and Nathaniel S. Schofield., U.S. District Court, D. Massachusetts, 1958 Trade Cases ¶69,043, (May 5, 1958)

United States v. Concrete Form Association of Central New England; Standard Construction Co., Inc.; Schofields, Inc.; Noe A. Brisson; Ernest R. Schofield; Lewis A. Schofield; and Nathaniel S. Schofield.

1958 Trade Cases ¶69,043. U.S. District Court, D. Massachusetts. Civil Action No. 57-216-S. Entered May 5, 1958. Case No. 1324 in the Antitrust Division of the Department of Justice.

Sherman Antitrust Act

Combinations and Conspiracies—Consent Decree—Practices Enjoined—Price Fixing.—A regional trade association of concrete form suppliers and contractors, two contracting firms, and individuals who had been officers, directors, or committee members of the association were prohibited by a consent decree from entering into any agreement with any other contractor or any association or central agency of contractors to (1) fix, maintain, or stabilize prices for performance or sale of concrete form work, (2) adopt or use any designated type of sales, bid or order form for the performance of concrete form work, or (3) urge or suggest to any other concrete form contractor the prices or other terms or conditions for the performance of concrete form work.

Department of Justice Enforcement and Procedure—Consent Decree—Specific Relief —Dissolution of Trade Association.—A regional trade association of concrete form suppliers and contractors was required by a consent decree to dissolve the association, such dissolution to be completed within the minimum period of time permitted by the laws of the state.

For the plaintiff: Victor R. Hansen, Assistant Attorney General; W. D. Kilgore, Jr., Worth Rowley, Charles F. B. McAleer, Richard B. O'Donnell, John J. Galgay, Augustus A. Marchetti, and Philip Bloom, Attorneys, Department of Justice.

For the defendants: Edmund A. Baldi.

Final Judgment

GEORGE C. SWEENEY, District Judge [*In full text*]: The plaintiff, United States of America, having filed its complaint herein on March 1, 1957, and each of the said defendants having appeared herein and the plaintiff and the defendants, by their respective attorneys, having severally consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein, and without this Final Judgment constituting evidence or admission by any defendant in respect of any such issue;

Now, therefore, before any testimony or evidence has been taken herein, and without trial or adjudication of any issue of fact or law herein, and upon the consent of all the parties hereto, it is hereby

Ordered, Adjudged and Decreed as follows:

I

[*Jurisdiction*]

This Court has jurisdiction of the subject matter hereof and all the parties hereto. The complaint states a claim upon which relief may be granted against the defendants and each of them under Section 1 of the Act of Congress of July 2, 1890, entitled "An Act to protect trade and commerce against unlawful restraints and monopolies," commonly known as the Sherman Act, as amended.

II

[*Definitions*]

As used in this Final Judgment:

- (A) "Person" shall mean any individual, partnership, firm, association, corporation or other legal entity;
- (B) "Defendant association" shall mean the defendant Concrete Form Association of Central New England;
- (C) "Concrete form work" shall mean the business of supplying and erecting concrete forms and pouring and spreading the concrete.

III

[Applicability of Decree]

The provisions of this Final Judgment applicable to any defendant shall apply to such defendant and to his or its officers, agents, servants, employees, subsidiaries, successors and assigns, and to all persons in active concert or participation with any defendant who shall have received actual notice of this Final Judgment by persona] service or otherwise.

IV

[Dissolution Ordered]

The defendants are ordered and directed:

- (A) Forthwith to institute such action as may be necessary to dissolve the defendant association under the laws of the State of Massachusetts and to complete such dissolution within the minimum period of time permitted by the laws of the State of Massachusetts;
- (B) Upon the completion of such dissolution of the defendant association, to file an affidavit with this Court and with plaintiff herein setting forth the fact of their compliance with this Section.

V

[Agreements Prohibited]

The defendants are jointly and severally enjoined and restrained from directly or indirectly entering into, adhering to, maintaining or claiming any right under any contract, combination, agreement, understanding, plan or program with any other concrete form contractor or any association or central agency of such contractors,

- (A) To fix, determine, establish, maintain or stabilize prices for performance or sale of concrete form work;
- (B) To adopt, use or adhere to any designated type of sales, bid or order form for the performance of concrete form work.

VI

[Other Practices Prohibited]

The defendants are jointly and severally enjoined and restrained from, directly or indirectly:

- (A) Urging, influencing or suggesting, or attempting to urge, influence or suggest, to any other concrete form contractor the prices or other terms or conditions for the performance of concrete form work;
- (B) Being a member of, contributing any thing of value to, or participating in any of the activities of, any trade association or central agency for concrete form contractors with knowledge that the activities thereof are inconsistent in any manner with any of the provisions of this Final Judgment.

VII

[Notice of Judgment]

The defendant association is ordered and directed, within ten (10) days after the date of entry hereof, to furnish to each of its present members a conformed copy of this Final Judgment and to file with this Court, and with the plaintiff herein, a report setting forth the fact and manner of its compliance with this Section VII, together with the names and addresses of each person to whom a copy of this Final Judgment shall have been furnished in compliance herewith.

VIII

[*Inspection and Compliance*]

For the purpose of securing compliance with this Final Judgment, duly authorized representatives of the Department of Justice shall, on written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to any defendant made to its principal office, be permitted, subject to any legally-recognized privilege, (A) reasonable access, during the office hours of such defendant, to 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 (B) subject to the reasonable convenience of such defendant, and without restraint or interference, to interview officers and employees of such defendant who may have counsel present, regarding any such matters. Upon such written request said defendant shall submit such written reports with respect to any of the matters contained in this Final Judgment as from time to time may be necessary for the purpose of enforcement of this Final Judgment. No information obtained by the means permitted in this Section VIII shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Department except in the course of legal proceedings in which the United States is a party for the purpose of securing compliance with this Final Judgment or as otherwise required by law.

IX

[*Jurisdiction Retained*]

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