

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

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UNITED STATES OF AMERICA,

Plaintiff,

v.

JOSEPH P. CUDDIGAN, INC.; COUPE &
ASSOCIATES, INC.; L. PROCACCINI
PLUMBING & HEATING CO., INC.; ZARRELLA
PLUMBING & HEATING CO., INC.; D. DIXON
DONOVAN, INC.; BOOKBINDER PLUMBING &
HEATING CO., INC.; BASSETT & COMPANY, INC.,
GEORGE E. REINSANT & SONS, INC.; WARREN H.
ALLSOP PLBG. & HTG. CO., INC.; MAX FISH
PLUMBING CO. INC.; ELHATTON PLUMBING AND
HEATING COMPANY, INC.; JOHN MARANDOLA
PLUMBING & HEATING COMPANY; ANTHONY OLEAN
PLUMBING & HEATING CO., INC.; INDUSTRIAL
HEATING & PLUMBING CORPORATION; PAUL J.
CONNOR; AMADEO D'AMARIO; and JOHN F.
O'BRIEN,

Defendants.
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Civil Action

No. 3843

Entered: June 15, 1970

FINAL JUDGMENT

Plaintiff, United States of America, having filed its complaint herein on September 12, 1967, and the defendants having filed their several answers to said complaint, denying the substantive allegations thereof, and the plaintiff and the said 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 any evidence or admission by any party in respect to any issue of fact or law herein;

NOW THEREFORE, before the taking of any testimony and without trial or adjudication of any issue of fact or law herein, and upon consent of all the parties hereto, it is hereby

ORDERED, ADJUDGED AND DECREED, as follows:

I.

This Court has jurisdiction of the subject matters hereof and of each party hereto. The complaint states claims for relief against defendants 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.

As used in this Final Judgment:

(A) "Awarding authority" shall mean any governmental agency, corporation, firm or individual that undertakes the erection of a commercial, industrial, institutional, or high rise residential building located in the State of Rhode Island;

(B) "Plumbing contractor" shall mean any corporation, firm or individual engaged in the business of performing plumbing jobs in the State of Rhode Island;

(C) "Plumbing job" shall mean the sale and installation of plumbing supplies by a plumbing contractor in a commercial, industrial, institutional, or high rise residential building located in the State of Rhode Island for which competitive bids are solicited;

(D) "Plumbing supplies" shall mean those materials and fixtures customarily used in the plumbing industry in the installation or repairing of water, gas, or waste disposal systems in commercial, industrial, institutional, or high rise residential buildings, and includes, among other items, steel, soil galvanized, black and cast iron pipe, fittings, valves and trim, vitreous china lavatories, sinks, bathtubs, water closets, copper tubing and water heaters.

III.

The provisions of this Final Judgment applicable to any consenting defendant shall also apply to each of its respective subsidiaries, successors, assigns, officers, directors, agents and employees, and to all other persons in active concert or participation with any consenting defendant who shall have received actual notice of this Final Judgment by personal service or otherwise.

IV.

Each of the consenting defendants is enjoined and restrained from directly or indirectly combining or conspiring, or entering into, enforcing or claiming any rights under any agreement, arrangement, plan or understanding with any other plumbing contractor, to:

- (A) Divide or allocate plumbing jobs;
- (B) Submit to any awarding authority, general contractor or any other person collusive or rigged bids or quotations for plumbing jobs;

(C) Fix, establish, stabilize or maintain prices, pricing methods, discounts or any terms or conditions relating to plumbing jobs;

(D) Exchange information relating to an intention to bid or refrain from bidding or the price or other terms or conditions to be bid on any plumbing job;

(E) Suggest, recommend, threaten, intimidate, coerce or compel any plumbing contractor to refrain from competitively soliciting, seeking or negotiating for any plumbing job.

V.

Each of the consenting defendants is enjoined and restrained from directly or indirectly:

(A) Communicating to or receiving from any other plumbing contractor information concerning bids, prices or terms or conditions of sale on any plumbing job prior to the final award of the bid on the plumbing job, and thereafter from directly or indirectly communicating any such information if such communication would in any way constitute, lead to, or tend to enable a violation of any of the provisions of this Final Judgment;

(B) Advising any other plumbing contractor of, or making any inquiry of any other plumbing contractor as to an intention to bid or refrain from bidding on any plumbing job;

(C) Requesting, recommending, threatening or coercing any other plumbing contractor to bid or refrain from bidding on any plumbing job.

VI.

Each of the consenting defendants is enjoined and restrained from directly or indirectly participating in the activities of any trade association or other organization with knowledge that any of the activities of such association or such other organization are being carried on in a manner which if such association or such other organization were a consenting defendant herein would be inconsistent with any of the provisions of this Final Judgment.

VII.

For a period of five (5) years following the effective date of this Final Judgment, each consenting defendant shall, in connection with any written bid submitted by it to any awarding authority or general contractor on a plumbing job, supply to such awarding authority or general contractor an affidavit containing a statement that the bid submitted by the defendant is not collusive or rigged and that such affidavit is in compliance with the provisions of this Final Judgment.

VIII.

For the purpose of determining or securing compliance with this Final Judgment, duly authorized representatives of the Department of Justice shall, upon 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 and with the right of any such defendant to have counsel present:

(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 matter contained in this Final Judgment; and

(B) Subject to the reasonable convenience of such defendant, and without restraint or interference from it, to interview such defendants or their officers or employees, who may have counsel present, regarding any such matters.

Each defendant, upon the written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and upon reasonable notice made to its principal office, shall submit such written reports, under oath if that is requested, with respect to any of the matters contained in this Final Judgment as from time to time may be requested. No information obtained by the means provided in this section shall be divulged by any representative of the Department of Justice to any person except 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 for the purpose of securing compliance with this Final Judgment or as otherwise required by law.

IX.

Jurisdiction is retained 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 of or carrying out of this Final Judgment or for the modification or termination of any of the provisions thereof and for the enforcement of compliance therewith and for the punishment of violations thereof.

/s/ EDWARD WILLIAM DAY
United States District Judge

Dated: June 15, 1970