

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA,)
)
) Plaintiff,)
)
) vs.)
)
) NATIONAL ELECTRICAL CONTRACTORS)
) ASSOCIATION, N. J. CHAPTER, INC.,)
) P. JOSEPH QUINN, MEL DOWNS)
) ELECTRICAL CONSTRUCTION COMPANY,)
) MELVIN M. DOWNS, GERALD ELECTRICAL)
) CONSTRUCTION COMPANY, J. C. FITZ-)
) GERALD, JOHN F. MEADE, FRED PHRAMPUS,)
) HARRY R. COMPTON, CALVI ELECTRIC)
) COMPANY. FRANCIS CALVI. McADAM)
) ELECTRIC COMPANY. THOMAS J. McADAM,)
) WILLIAM E. SNELL, and ROLAND E.)
) McMAHON, JR.,)
)
) Defendants.)

Civil Action 575-56
Filed: July 13, 1956

FINAL JUDGMENT

The plaintiff, United States of America, having filed its complaint herein on July 13, 1956, and each of the defendants having appeared herein and having filed its answer in which it denies the offenses charged in such complaint, and having asserted the truth of their answer and innocence of any violation of the law; and no testimony having been taken, and the plaintiff and said defendants by their respective attorneys having 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 the defendants in respect to any such issue;

NOW, THEREFORE, upon the consent of the parties hereto, it is hereby

ORDERED, ADJUDGED, AND DECREED as follows:

I

The Court has jurisdiction of the subject matter of this action and of the parties hereto. The complaint states a claim

for relief against the 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) "Electrical contractors" means corporations, firms, and persons engaged in the sale and installation of electrical equipment;
- (b) "Electrical equipment" means and includes all types and kinds of electrical equipment and materials which are customarily affixed or permanently installed by skilled labor in commercial, residential, industrial, public, and other buildings and structures, such as electrical wiring, cable and conduits, switches and switch boxes, outlets and outlet boxes and covers, fuses and fuse boxes, circuit breakers, panels and panel boards, control equipment, insulators, lighting fixtures, and other devices and material used in electrical lighting and power systems in said buildings and structures; and
- (c) "Awarding authority" means all persons (including, but not limited to, general contractors, architects, engineers, government bodies, school boards, and representatives of private, public or charitable organizations) designating and selecting electrical contractors to sell or install electrical equipment in structures and buildings.

III

The provisions of this Final Judgment applicable to any defendant shall apply to each 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 personal service or otherwise.

IV

The defendants are jointly and severally enjoined and restrained from entering into, participating in, or maintaining any contract, combination, agreement, undertaking, plan or program with each other or with any other electrical contractor or anyone acting for or on behalf of any electrical contractor to:

- (a) Fix prices or terms for the sale or installation of electrical equipment;
- (b) Exchange future bid prices or terms for the sale or installation of electrical equipment;
- (c) Allocate contracts for the sale or installation of electrical equipment among electrical contractors;
- (d) Restrict the sale or installation of electrical equipment by electrical contractors to a prescribed area, territory, customer or class of customers, or to contracts above or below a prescribed valuation;
- (e) Submit fictitious, fraudulent, or complementary bids to awarding authorities requesting bids for the sale or installation of electrical equipment;
- (f) Restrict or prohibit any electrical contractor from obtaining contract plans, specifications, bid proposal forms, or other bidding information from awarding authorities requesting bids for the sale or installation of electrical equipment;
- (g) Restrict or prohibit any electrical contractor from obtaining supplies of electrical equipment from wholesale suppliers or manufacturers of such equipment.

The defendants are jointly and severally enjoined and restrained from entering into, participating in or maintaining any contract, combination, agreement, undertaking, plan, or program with any labor union, association, brotherhood, or other labor organization to:

- (a) Restrict, curtail, or prevent the supply of labor to any electrical contractor who is willing and able to comply with and abide by union requirements concerning wages, hours, working conditions, and collective bargaining;
- (b) Supply inadequate, incompetent, or supernumerary labor and otherwise discriminate in furnishing labor to electrical contractors who are able and willing to comply with and abide by union requirements concerning wages, hours, working conditions, and collective bargaining;
- (c) Induce or coerce any electrical contractor to employ labor under terms and conditions of employment different than required of or imposed upon other electrical contractors; or
- (d) Induce or bring about strikes, walk-outs, picketing, slowdowns, or other labor difficulties between any electrical contractor and any union labor organization which do not arise out of efforts by such labor organization to exercise its lawful rights with respect to such contractor or contractors.

PROVIDED, HOWEVER, that nothing in this Final Judgment shall be deemed to enjoin any defendant from bargaining collectively and entering into and carrying out the terms of any agreement with duly organized labor unions which is incident and appropriate to the exercise of any or all rights, privileges, immunities,

duties and obligations accruing to and devolving upon a duly organized labor union and its officers, agents and members.

VI

Defendant Association is ordered and directed:

- (a) To cancel and revoke any provision of its by-laws, rules or regulations excluding any person from being, or preventing any person from becoming a member, save for failure or refusal of any person to comply with said Association's reasonable and nondiscriminatory requirements for membership, not otherwise inconsistent with the provisions of this Final Judgment;
- (b) To expel promptly from membership any member of the defendant association who shall be found guilty of violating the provisions of this Judgment when the said defendant association shall have knowledge of such violation.

VII

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, 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 any defendant, and without restraint or interference, to interview officers and employees of

such defendant who may have counsel present, regarding any such matters. For the purpose of securing compliance with this Final Judgment, any defendant, upon the written request of the Attorney General or the Assistant Attorney General in charge of the Anti-trust Division, 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 VII 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 for the purpose of securing compliance with this Final Judgment in which the United States is a party or as otherwise required by law.

VIII

Jurisdiction of this cause is retained 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 or 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. It is represented to the court that all defendants appear voluntarily and waived service by filing answer. T.M.M
Dated: July 13, 1956

/s/ Thomas M. Madden
United States District Judge

We consent to the entry of the foregoing Final Judgment:

For the Plaintiff:

/s/ Edward A. Foote
EDWARD A. FOOTE
First Assistant, Antitrust Division

/s/ William L. Maher

/s/ Donald G. Balthis
Attorneys, Department of Justice

/s/ Wilford L. Whitley, Jr.
Attorney, Department of Justice

/s/ George F. Schueller
Attorney, Department of Justice

For the Defendants:

/s/ James T. Owens
Attorney for
National Electrical Contractors
Association, New Jersey Chapter, Inc.
and P. Joseph Quinn

/s/ Murray Fredericks
Attorney for
Calvi Electric Company and
Francis Calvi
McAdam Electric Company and
Thomas J. McAdam

/s/ Joshua V. Davidow
Attorney for
Mel Downs Electrical Construction Co.
and Melvin M. Downs

/s/ Raymond J. Osborn
Attorney for
Gerald Electric Construction Company, Inc.
and J. C. Fitzgerald

/s/ William T. Cahill
Attorney for
Harry R. Compton

/s/ E. Milton Hannold
Attorney for
Roland E. McMahon, Jr.

/s/ S. Thurman Lovitt
Attorney for
John F. Meade

/s/ Charles E. Gant
Attorney for
Fred Phrampus

/s/ Samuel P. Orlando
Attorney for
William E. Snell