

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States of America v. Wholesale Waste Paper Company, et al., U.S. District Court, E.D. Michigan, 1940-1943 Trade Cases ¶56,212, (Feb. 20, 1942)

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United States of America v. Wholesale Waste Paper Company, et al.

1940-1943 Trade Cases ¶56,212. U.S. District Court, E.D. Michigan, Southern Division. Civil Action No. 3234. February 20, 1942.

In a proceeding under the Sherman Anti-Trust Act, a consent decree was entered under which various wholesalers and a labor union were restrained from combining and conspiring to restrain trade in waste paper. Among the activities prohibited were price fixing and allocating contracts; buying and selling through a common agent restricting sales, purchases and shipments; fixing terms and conditions of purchases; preventing the procurement of union labor; precluding labor agreements; discriminating as to the terms and conditions on which business could be transacted; spying on waste paper dealers to find out business affiliations; circulating lists of union employers; blacklisting mills and wholesalers, withholding union labor; and intimidating and coercing producers and wholesalers from dealing with any person, partnership or corporation.

Thurman Arnold, Assistant Attorney General, John C. Lehr, U. S. Attorney, Detroit, Mich., Daniel Britt, Special Assistant to the Attorney General, Lyle L. Jones, Jr., and Richard B. O'Donnel, Special Attorneys, for plaintiff.

George S. Fitzgerald and David A. Wolff, both of Detroit, Mich., for defendants.

Before O'Brien, District Judge.

Final Decree

The complainant, United States of America, having filed its complaint on Feb. 19, 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 in respect of any such issue;

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

ORDERED, ADJUDGED AND DECREED, as follows :

[*Jurisdiction*]

1. That the Court has jurisdiction of the subject matter and of all parties hereto, and 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 acts amendatory thereof and supplemental thereto.

[*Activities of Wholesalers Enjoined*]

2. That each of the defendant wholesalers, their directors, officers, employees and agents, and all persons acting under, through, or for them, or any of them, be and they hereby are perpetually enjoined and restrained from agreeing, combining, or conspiring among themselves or with others, including any mill, wholesalers, dealer, peddler, labor union and officer or agent thereof:

[*Fixing Prices*]

(a) To establish, fix, or maintain prices for waste paper or for any other commodity;

[*Allocating Contracts*]

(b) To allocate among themselves or any one, contracts for the purchase or sale of waste paper or orders, sales, customers, or trade areas;

[*Restraining Bales and Purchases*]

(c) To restrain mills, wholesalers, dealers, peddlers, or any one from buying or selling waste paper;

[*Purchasing and Selling Through Common Agent*]

(d) To use or establish any organization as a common agent for any two or more wholesalers for the purpose of buying or selling waste paper;

[*Discrimination*]

(e) To refuse to do business with or threaten to refuse to do business with any mill wholesaler, dealer, or peddler or to otherwise discriminate against or to threaten to discriminate against any mill, wholesaler, dealer or peddler;

[*Coercion*]

(f) To restrain, restrict, or prevent, or to threaten to restrain, restrict, or prevent the purchase or sale of waste paper by, from, or to any mill or wholesaler, or otherwise to coerce any mill or wholesaler ;

[*Restraining Procurement of Union Labor*]

(g) To prevent any person, partnership, or corporation from securing union labor, or to discriminate against any person, partnership or corporation in any of the terms of employment of labor, or to prescribe the terms upon which any competitor, mill, dealer or peddler may secure union labor.

[*Preventing Labor Agreements*]

(h) To prevent any labor union from negotiating a labor agreement directly with any one;

[*Espionage*]

(i) To follow the equipment of any person, partnership, or corporation for the purpose of ascertaining with whom such person, partnership, or Corporation is doing business, or to use any other methods designed to police or coerce such person, partnership, or corporation:

[*Fixing Terms and Conditions of Purchase*]

(j) To fix the terms or conditions of purchase or sale of waste paper.

[*Other Activities of Wholesalers Prohibited*]

3. That defendant wholesalers, their directors, officers, employees and agents, and each of them, be and they hereby are, perpetually enjoined and restrained from:

[*Restraining Purchases, Sales and Shipments*]

(a) Restraining, restricting, or preventing, or threatening to restrain, restrict, or prevent the purchase, sale, or shipment of waste paper by from, or to any mill or wholesaler, or otherwise coercing any mill or wholesaler;

[*Preventing Labor Agreements*]

(b) Preventing or attempting to prevent any labor union from negotiating a labor agreement with any one;

[*Restraining Procurement of Union Labor*]

(c) Preventing any person, partnership, or corporation from securing union labor;

[*Discriminating as to Business Transactions*]

(d) Refusing to do business with any mill, dealer, peddler or other person or discriminating as to terms on which business will be transacted with such mill, dealer, peddler or other person where the purpose

or effect of such refusal or discrimination is to cause such mill, dealer, peddler or other person not to do business with any other wholesaler or wholesalers.

[*Espionage*]

(e) Following the equipment of any person, partnership, or corporation for the purpose of ascertaining with whom such person, partnership, or corporation is doing business, or using any other methods designed to police or coerce such person, partnership, or corporation.

[*Activities of Labor Union Enjoined*]

4. That the defendant union, its officers, agents, and (employees, including the defendant union officers, and each of them, be and they hereby are, perpetually enjoined and restrained from agreeing, combining, or conspiring with any mill, wholesaler, dealer, or peddler;

[*Distributing Union Lists*]

(a) To circulate or distribute to mills, wholesalers dealers, or peddlers, a list or lists containing names of mills or wholesalers under agreement with said union for the purpose of influencing such mills, wholesalers, dealers, or peddlers to do business only with mills or wholesalers whose names are included on such list or lists, or to give preference to such mills or wholesalers;

[*Withholding Union Labor*]

(b) To withhold or threaten to withhold labor from any person, partnership, or corporation;

[*Intimidation*]

(c) To intimidate or threaten to intimidate any mill or wholesaler from dealing with any person, partnership, or corporation;

[*Blacklisting*]

(d) To blacklist any mill or wholesaler;

[*Prescribing Terms and Conditions*]

(e) To require conditions and terms of any other wholesaler, mill, dealer, or peddler;

[*Restricting Sales Purchases and Shipments*]

(f) To restrict, restrain, or prevent the sale, purchase, or shipment of waste paper, by, from, or to any person, partnership, or corporation;

[*Espionage*]

(g) To follow the equipment of any person, partnership, or corporation for the purpose of ascertaining with whom such person, partnership, or corporation is doing business.

[*Other Union Activities Prohibited*]

5. That the defendant union, its officers, agents, and employees, including defendant union officers, be, and they hereby are, perpetually enjoined and restrained from:

[*Restricting Trade in Waste Paper*]

(a) Formulating, participating in, furthering, or maintaining any plan, program, or scheme for the purpose of restricting trade and commerce in waste paper, or any portion thereof, to any predetermined mill, wholesaler, dealer or peddler, or to any predetermined group of mills, wholesalers, dealers or peddlers, or for the purpose of creating or maintaining any monopoly of such trade and commerce, or any portion thereof, by any predetermined mill, wholesaler, dealer or peddler or any predetermined group of mills, wholesalers, dealers, or peddlers;

(b) Restricting, interfering with, or preventing directly or indirectly, the commerce of any person, partnership, or corporation, which is willing and able to execute a written agreement with defendant union and to comply with defendant union's requirements;

(c) Imposing discriminatory terms or refusing to offer terms, for the purpose of restricting, interfering with, or preventing the operation of any person, partnership, or corporation;

[*Price Fixing and Allocating Trade*]

(d) Establishing, fixing, or maintaining prices for waste paper, or allocating trade and commerce in waste paper, or orders, sales customers or trade areas for waste paper.

[*Dissolution of Company Ordered*]

6. That the defendant wholesalers, their directors, officers, employees and agents, and each of them, and all persons acting under, through, or for them, or any of them, be, and they hereby are ordered to divest themselves of all right, title, and interest in Wholesale Waste Paper Company and forthwith to take such steps as may be necessary to dissolve said Wholesale Waste Paper Company.

[*Parties Bound by Decree*]

7. That the terms of this decree shall be binding upon, and shall extend to each and every one of the successors in interest of any and all of the defendants herein, and to any and all corporations, partnerships, associations, and individuals who may acquire the ownership or control, directly or indirectly, of the property, business, and assets of the defendants, or any of them, or of the Union, whether by purchase, merger, consolidation, reorganization, or otherwise.

[*Examination of Records to Secure Compliance*]

8. For the purpose of securing compliance with this decree, duly authorized representatives of the Department of Justice shall, on written request of the Attorney General or an Assistant Attorney General and on reasonable notice to the defendants be permitted (1) access, during the office hours of the defendants, to all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of the defendants, relating to any matters contained in this decree, (2) without restraint or interference from the defendants, to interview officers or employees of the defendants, who may have counsel present, regarding any such matters, and (3) the defendants, on such request, shall submit such reports in respect of any such matters as may from time to time be reasonably necessary for the proper enforcement of this decree; *provided, however*, that information obtained by the means permitted in this paragraph shall not be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Department of Justice except in the course of legal proceedings for the purpose of securing compliance with this decree in which the United States is a party or as otherwise required by law.

[*Retention of Jurisdiction*]

9. 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.

[*Effective Date of Decree*]

10. That this decree shall become effective upon date of entry hereof.