

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States of America v. Employing Plasterers' Association of Allegheny County; G. W. Bender Sons Company; Ellsworth W. Bender; Harry M. Bender; Hartlep L. Bender; Louis J. Bender; Floyd R. L. Bender; Dougherty & Jennings; Gerald P. Dougherty; M. J. Jennings; L. & E. T. Plastering Company; John F. Taylor; Wilson Taylor; Charles Taylor; Lail & Strayer; William H. Lail; Elmer J. Strayer; Bellem Plastering Company; A. W. Bellem; Louis DeCecco & Sons; James DeCecco; Joseph A. Evers; Anthony I. Schuchert; Vincent Shonka; George P. Smith; Howard F. Walker; James A. Brennan; I. N. Dunn; John T. Farina; J. Lowry Hovis; John J. Morris; John McKay Smith; Carl J. Thomas; Carl Zadach; McNulty Bros. Company of Pennsylvania; W. B. Laufman, Jr.; J. Ream Evans; Journeymen Plasterers' Local Union No. 31, Operative Plasterers' and Cement Finishers' International Association of Allegheny County, Pa.; Samuel Eagleson; Samuel Elliott; Samuel Gray; Edward J. Leonard; Charles J. McCarthy; Thomas A. Nauman; Richard J. Walker; Local Union No. 33 of the Wood, Wire and Metal Lathers International Union of Pittsburgh, Pa., and Vicinity; F. T. Blaisdell; Joseph H. Duty; Ray Henderson; Joseph McNally; Michael McNulty; James B. Rairich; Ray Roesch; H. F. Thompson, and Nervin Welty., U.S. District Court, W.D. Pennsylvania, 1940-1943 Trade Cases ¶56,025, (Mar. 18, 1940)

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1940-1943 Trade Cases ¶56,025. U.S. District Court, W.D. Pennsylvania, March 18, 1940.

A decree is entered by consent enjoining defendants from engaging in any combination or conspiring to restrain interstate trade in plaster, lath and related materials by creating or operating any association of contractors maintaining a bid depository to fix the price of plaster and lath installation or to limit competition in bidding; from enforcing rules of such association by strikes or threats of strikes; from

enforcing any agreement resulting in uniform bids; from agreeing to limit employment of the members of defendant unions to contractors and others who are members of any association or otherwise discriminating against contractors and others who are not members of such an association and who are in other respects willing to comply with lawful agreements between defendant unions and members of such association; from refusing to enter into labor contracts with any contractor who does not conduct both plastering and lathing business; from restraining the sale and installation of lath and plaster substitutes; and from denying to any contractor who has entered into an agreement with defendant union the privilege of selecting for employment union men who are at the time unemployed.

M. Neil Andrews and Frederic J. Casey, Special Assistants to the Attorney General; George Mashank, Acting United States Attorney for the Western District of Pennsylvania; Counsel for the Plaintiff.

David B. Pittler, Counsel for all the Defendants.

Before N. McVicar, District Judge.

Decree

This cause coming on to be heard on this 18th day of March 1940, the plaintiff being represented by George Mashank, Acting United States Attorney for the Western District of Pennsylvania, and M. Neil Andrews and Frederic J. Casey, Special Assistants to the Attorney General, and the defendants being represented by their counsel, said defendants having appeared voluntarily and generally and having waived service of process;

It appears to the Court that the defendants have consented in writing to the making and entering of this decree;

It further appears to the Court that this decree will provide suitable relief concerning the matters alleged in the complaint, and that by reason of the aforesaid consent of the parties it is unnecessary to proceed with the trial of the cause, or to take testimony therein, or that any adjudication be made of the facts. Now, therefore, without taking any testimony or evidence and in accordance with consent of counsel, it is hereby

ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

1. 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 acts amendatory thereof and supplemental thereto.
2. That the defendants and each of them and each and all of their respective officers, directors, agents, servants, and employees, and all persons acting or claiming to act on behalf of the defendants, or any of them, are hereby perpetually enjoined and restrained from unlawfully engaging in, carrying out, maintaining or extending, any combination or conspiracy to restrain interstate trade or commerce in plaster, gypsum, lath, plywood, beaverboard, wallboard, big panel plasterboard and related materials by any unlawful means and (without limiting the generality of the foregoing) by doing, performing, agreeing upon, entering upon, or carrying out any of the following acts or things:
 - (a) Creating, operating, or participating in the operation of any association of plastering and lathing contractors maintaining a bid depository or any similar plan or device designed to maintain or to fix the price of plaster and lath installation or to limit competition in bidding on plaster and lath installations, or having the effect of limiting the awarding authority in the free choice of plastering or lathing contractors.
 - (b) Enforcing or attempting to enforce compliance with rules and regulations of the defendant association by strikes or threats of strikes.
 - (c) Enforcing or attempting to enforce any rule, regulation, by-law, agreement or understanding which results in the use of uniform cost estimates or contract prices on any particular plastering or lathing job or project.
 - (d) Agreeing to limit or limiting the employment of the members of defendant unions to contractors, builders, or other persons who are members of any association of plastering or lathing contractors, or otherwise discriminating against any contractor, builder, or other person who is not a member of such an association, and

who in all other respects is ready, willing, and able to comply with the terms of all lawful agreements between the defendant labor unions and members of such association and who has not previously violated his agreement with the defendant unions or been suspended or expelled from such defendant unions for violation of any of the lawful rules and regulations of such unions.

(e) Refusing to enter into labor contracts with or to supply union labor to any contractor because such contractor does not conduct both plastering and lathing contracting business but specializes in one or the other.

(f) Restraining, burdening, interfering with or hindering the sale and installation of lath and plaster substitutes, such as plywood, beaverboard, wallboard, and big panel plasterboard, by any unlawful manner or means whatsoever or enforcing any rules, regulations or by-laws of any union or association that have such effect.

(g) Denying to any contractor who has entered into an agreement with the defendant unions the privilege of selecting for employment union workmen in good standing who are at the time unemployed.

3. That all constitutions, by-laws, resolutions, and agreements of the Employing Plasterers' Association of Allegheny County and Journeymen Plasterers' Local Union No. 31, Operative Plasterers' and Cement Finishers' International Association of Allegheny County, Pa., and Local Union No. 33 of the Wood, Wire, and Metal Lathers International Union of Pittsburgh, Pa., and vicinity, insofar as they authorize, provide for, or relate to a bid depository, or authorize, provide for, or relate to any limitations of employment of members of the aforesaid unions to members of the aforesaid association, or insofar as they authorize, provide for, or relate to any of the other matters enjoined in this decree, are hereby declared illegal, void and of no force and affect.

4. 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, firms 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, whether by purchase, merger, consolidation, reorganization, or otherwise.

5. That for the purpose of securing compliance with this decree, authorized representatives of the Department of Justice shall, upon the request of the Attorney General or an Assistant Attorney General, be permitted access, within the office hours of the defendants, to books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or the control of the defendants, or any of them, relating to any of the matters contained in this decree; that any authorized representative of the Department of Justice shall, subject to the reasonable convenience of the defendants, be permitted to interview officers or employees of defendants, without interference, restraint, or limitation by defendants; that defendants, upon the written request of the Attorney General, shall submit such reports with respect to any of the matters contained in this decree as may from time to time be necessary for the proper enforcement of this decree.

6. That jurisdiction of this cause and of the parties hereto is retained for the purpose of giving full effect to this decree and for the enforcement of strict compliance therewith, and for the further purpose of making such other and further orders and judgments or taking such other action as may from time to time be necessary.

7. Provided, however, that nothing herein contained shall, with respect to any act not enjoined by this decree, prohibit, prevent, or curtail the rights of the defendant unions or either of them from picketing or threatening to picket, circularizing or disseminating accurate information or carrying on any other lawful activities against anyone, or with reference to any product when the defendant unions or their members have a strike, grievance, or controversy, nor shall it prevent said defendant unions from giving lawful support to the lawful activities of other labor unions or from lawfully seeking to attain and carry out the legitimate and proper purpose and functions of a labor union.

8. That plaintiff recover its costs.