

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. Rockwood Sprinkler Company, Grinncll Corporation, Automatic Sprinkler Corporation of America and Blaw-Knox Company., U.S. District Court, W.D. Pennsylvania, 1958 Trade Cases ¶69,033, (May 9, 1958)

United States v. Rockwood Sprinkler Company, Grinncll Corporation, Automatic Sprinkler Corporation of America and Blaw-Knox Company.

1958 Trade Cases ¶69,033. U.S. District Court, W.D. Pennsylvania. Civil Action No. 16199. Dated May 9, 1958. Case No. 1359 in the Antitrust Division of the Department of Justice.

Sherman Antitrust Act

Combinations and Conspiracies—Consent Decree—Practices Enjoined—Allocation of Customers.—Four companies engaged in the sale and installation of special hazard sprinkler systems were prohibited by a consent decree from entering into any agreement with any industry person to allocate customers or to refrain from the solicitation of prospective customers.

Combinations and Conspiracies—Consent Decree—Practices Enjoined—Price Fixing —Bidding Practices—Information Exchange.—Four companies engaged in the sale and installation of special hazard sprinkler systems were prohibited by a consent decree from entering into any agreement with any industry person to (1) fix prices or bids for the sale or installation, to or for third persons, of special hazard systems or equipment, (2) exchange any list of or information relating to special hazard prospects, or (3) refrain from submitting a bid for the sale or installation of any special hazard system or equipment or to submit a bid higher than or identical with a bid submitted by any other industry person for the sale or installation of special hazard systems or equipment. Also, each of the companies were prohibited from transmitting to any other industry person any prices to be charged, to third persons, for the sale or installation of special hazard systems or equipment prior to the time that such prices are announced to the trade generally, and from sending to any other industry person any list or names of special hazard prospects.

Combinations and Conspiracies—Consent Decree—Practices Enjoined—Trade Association Membership.—Four companies engaged in the sale and installation of special hazard sprinkler systems were prohibited by a consent decree from belonging to, or contributing anything of value to or participating in the activities of, any trade association or other central agency of or for industry persons knowing that the activities or purposes of such association or agency are contrary to, or inconsistent with, any provisions of the decree.

Department of Justice Enforcement and Procedure—Consent Decree—Specific Relief—Bidding Procedure.—Four companies engaged in the sale and distribution of special hazard sprinkler systems were each required by a consent decree to include as a part of any bid for the sale or installation of any special hazard system in any building (1) submitted to any United States agency, or (2) submitted in response to any invitation to bid where it appears from the face of the invitation that the United States has a financial interest in such building, or, (3) submitted in response to any invitation to bid where such company has reasonable grounds to believe that the United States has such a financial interest, an affidavit of the person responsible for the submission of the bid certifying that such bid is submitted without collusion with any other industry person. Also, the decree provides that in the event that one defendant enters into any bona fide subcontract or submits a bona fide joint bid with any other defendant for the sale or installation of any special hazard system, as permitted in a proviso to the decree, then such defendants were directed, at the time of entering into such subcontract or of submitting such joint bid, to submit to the Attorney General a full report of such subcontract or joint bid together with the reasons therefor.

For the plaintiff: Victor R. Hansen, Assistant Attorney General; and Earl A. Jinkinson, William D. Kilgore, Jr., Bertram M. Long, Harry N. Burgess, Charles F. B. McAleer, Ralph M. McCareins, and Ned Robertson, Attorneys, Department of Justice; and Hubert I. Teitelbaum, United States Attorney.

For the defendants: Goodwin, Procter & Hoar, and Reed, Smith, Shaw & McClay, by Frank B. Wallis and Paul J. Winschel, for Rockwood Sprinkler Co.; Baker, Botts, Andrews & Shepherd, and Dickie, McCamey, Chilcote & Robinson, by Denman Moody, C. Brien Dillon, and Sanford M. Chilcote, for Grinnell Corp.; Trenkamp & Coakley, by Joseph C. Coakley and John E. Laughlin, Jr., for Automatic Sprinkler Corp. of America; and Thorp, Reed & Armstrong, by William C. O'Neil and T. Herbert Hamilton, for Blaw-Knox Co.

Final Judgment

JOHN W. MCLVAINE, District Judge [*In full text*]: Plaintiff, United States of America, having filed its complaint herein on September 10, 1957, and defendants, Rockwood Sprinkler Company, Grinnell Corporation, Automatic Sprinkler Corporation of America and Blaw-Knox Company (hereinafter sometimes referred to as "Defendants"), having appeared herein, and plaintiff and 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's constituting any evidence or admission by any party in respect to any such issue;

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:

[*Sherman Act*]

This Court has jurisdiction of the subject matter hereof and of each party 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

[*Definitions*]

As used in this Final Judgment:

(A) "Sprinkler system" shall mean any fabrication of pipes, valves, controls, and releases designed as a means of protection against damage by fire, and which operates by automatically releasing water, foam, fog, carbon dioxide or other substance from a piping system over the area sought to be protected;

(B) "Special hazard system" shall mean any sprinkler system especially designed or engineered to meet the requirements of some unusual fire hazard or condition and which may employ fire extinguishing or control media, techniques or devices not customarily used in an ordinary or basic sprinkler system. Without limiting the generality of the foregoing, the term "special hazard system" is intended to mean and refer to that type of system, the sale or installation of which has heretofore customarily been handled by the special hazard department of each of the defendants;

(C) "Special hazard prospect" shall mean any person interested in the purchase or installation of any special hazard system or equipment at a specific location;

(D) "Equipment" means any part, apparatus or accessory used in or with a special hazard system;

(E) "Person" shall mean any individual, partnership, corporation, association, firm or other legal entity;

(F) "Industry person" shall mean any person who sells or installs sprinkler systems or special hazard systems.

III

[*Applicability of Decree*]

The provisions of this Final Judgment applicable to any defendant shall apply to such defendant, its officers, directors, agents, employees, successors and assigns, and to all other persons in active concert or participation with such defendant who receive actual notice of this Final Judgment by personal service or otherwise. For the purposes of this Final Judgment a defendant and its wholly-owned subsidiary shall be deemed to be one person

IV

[*Bidding Practices— Information Exchange*]

Defendants are jointly and severally enjoined and restrained from, directly or indirectly, entering into, adhering to, maintaining, enforcing or claiming any rights under any contract, agreement, understanding, plan or program with any industry person to:

- (A) Allocate special hazard prospects;
- (B) Fix, determine, maintain, adopt or increase prices or bids for the sale or installation, to or for third persons, of special hazard systems or equipment;
- (C) Keep, maintain or exchange any list of or information relating to special hazard prospects;
- (D) Refrain from the solicitation of any special hazard prospect;
- (E) Refrain from submitting a bid for the sale or installation of any special hazard system or equipment or to submit a bid higher than or identical with a bid submitted by any other industry person for the sale or installation of special hazard systems or equipment.

V

[*Trade Association Membership*]

Each of the defendants is enjoined and restrained from:

- (A) Transmitting or otherwise making available to any other industry person any prices to be charged, to third persons, for the sale or installation of special hazard systems or equipment prior to the time that such prices are announced to the trade generally;
- (B) Sending to any other industry person any list or names of special hazard prospects;
- (C) Belonging to, contributing anything of value to or participating in the activities of, any trade association or other central agency of or for industry persons knowing that the activities or purposes of such association or agency are contrary to, or inconsistent with, any of the provisions of this Final Judgment.

Provided that nothing in this Final Judgment shall prevent any defendant from entering into a bona fide subcontract or submitting a bona fide joint bid with another industry person.

VI

[*Specific Relief*]

Each of the defendants is ordered and directed to include as a part of any bid for the sale or installation of any special hazard system in any building, facility, or project (1) submitted to any agency of the United States of America, or, (2) submitted in response to any invitation to bid where it appears from the face of the invitation to bid that the United States has a financial interest in such building, facility or project, or, (3) submitted in response to any invitation to bid where such defendant has reasonable grounds to believe that the United States has such a financial interest, an affidavit of the person responsible for the submission of the bid certifying that such bid is submitted without collusion with any other industry person.

VII

[*Reports to Attorney General*]

In the event that one defendant enters into any subcontract or submits a joint bid with any other defendant for the sale or installation of any special hazard system as permitted in the proviso to Section V of this Final Judgment, then such defendants are ordered and directed, at the time of entering into such subcontract or of submitting such joint bid, to submit to the Attorney General a full report of such subcontract or joint bid together with the reasons therefor.

VIII

[*Notice of Judgment*]

Each of the defendants is ordered and directed:

(A) Within sixty (60) days from the effective date of this Final Judgment to furnish a true and complete copy of this Final Judgment to each of its corporate officers and directors and to each of its department heads and principal sales personnel concerned with the sale or installation of special hazard systems or equipment;

(B) Within ninety (90) days from the date of entry of this Final Judgment to file with the Clerk of this Court, with a copy to the Attorney General, an affidavit setting forth the fact and manner of compliance with subsection (A) of this Section VIII which affidavit shall include the names and titles of each person to whom a copy of this Final Judgment was furnished.

IX

[*Inspection and Compliance*]

For the purpose of securing compliance with this Final Judgment and subject to any legally recognized privilege, 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 offices, be permitted:

(1) access during the office hours of such defendant to, and the right to copy and reproduce, 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

(2) subject to the reasonable convenience of such defendant and without restraint or interference from it, to interview officers or employees of such defendant, who may have counsel present, regarding any such matter.

Upon the written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division said defendants shall submit such reports in writing to the Department of Justice with respect to any of the matters contained in this Final Judgment as may from time to time be necessary to the enforcement of this Final Judgment.

No information obtained by the means provided in this Section IX shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of such Department, 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.

X

[*Jurisdiction Retained*]

Jurisdiction of this cause 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 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 for the punishment of violations thereof.