

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.)
)
 THE GOFF-KIRBY COMPANY,)
 THE CLIFTON COAL & SUPPLY COMPANY,)
 THE COLLINWOOD SHALE BRICK &)
 SUPPLY COMPANY,)
 THE ZONE COAL & SUPPLY COMPANY,)
 ST. CLAIR COAL & SUPPLY COMPANY,)
 THE GEIST COAL & SUPPLY COMPANY,)
 THE IDEAL BUILDERS SUPPLY & FUEL)
 COMPANY,)
 THE QUEISSER BUILDERS SUPPLY)
 COMPANY, INC.,)
 SOUTH EUCLID CONCRETE COMPANY,)
 THE MAYFIELD BUILDERS SUPPLY COMPANY,)
 CITY MATERIAL & COAL, INC.,)
 THE PACIFIC BUILDERS SUPPLY COMPANY,)
 CUYAHOGA-DUNHAM SUPPLY COMPANY, and)
 ARNOLD BRECKLING, doing business as)
 THE BRECKLING COAL & SUPPLY COMPANY,)
)
 Defendants.)

CIVIL ACTION NO. 26537

Filed: October 5, 1953

FINAL JUDGMENT

Plaintiff, United States of America, having filed its complaint herein on May 31, 1949, and the defendants having appeared and filed their respective answers to such complaint denying the substantive allegations thereof, and all parties hereto by their attorneys herein having severally consented to the entry of this final judgment 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 and without 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

The Court has jurisdiction of the subject matter hereof and the parties hereto, and the complaint states a cause of action against defendants and each of them under Section 1 of the Act of Congress of July 2, 1890, as amended, commonly known as the Sherman Act (15 U.S.C. §1).

II

As used in this final judgment:

(A) The term "Cleveland area" includes the counties of Cuyahoga, Lake, Geauga and Medina, in the State of Ohio.

(B) The term "hard building material" refers to those materials supplies and fixtures, other than lumber and lumber mill products, utilized in the construction, alteration or repair of homes, dwellings, residential apartments, industrial buildings, institutional buildings and commercial buildings, and includes, among other items, sand, stone, gravel, slag, cement, lime, gypsum, plaster, brick, lath, and insulation.

(C) The term "building material dealer" refers to a corporation, partnership, or individual engaged in the purchase of hard building material in large lots or quantities from producers or manufacturers thereof for resale to building contractors, private builders, home owners and industrial users.

III

The provisions of this Final Judgment applicable to any defendant shall apply to such defendant, its subsidiaries, officers, agents, directors, servants and employees and to those persons in active concert or participation with them who receive actual notice of this Final Judgment by personal service or otherwise.

IV

The defendants are jointly and severally enjoined and restrained from entering into, adhering to, maintaining or furthering any contract, combination, conspiracy, agreement, understanding, plan or program with

any other defendant or with any other building material dealer, trade association, or central agency of or for building material dealers, to fix, determine, establish or maintain prices, pricing systems, discounts or other terms or conditions of sale to third parties for hard building materials in the Cleveland area, whether by means of the utilization of the prices, pricing systems, discounts or other terms or conditions of sale contained in any publication or other document designated by the said defendants or any of them, or by any other means.

V

The defendants are jointly and severally enjoined and restrained from contributing to or participating in any plan, scheme or project to foster, promote or support financially or otherwise, the preparation, publication, distribution, use or circulation of any publication or other document which:

- (A) Sets forth or purports to set forth standard, group, average or approximate prices, pricing systems, discounts or other terms or conditions of sale for hard building materials in the Cleveland area; or
- (B) Reports or purports to report prices, discounts or other terms or conditions of sale for hard building materials of any building material dealer in the Cleveland area in advance of same being made generally available to the customers of said dealer.

VI

Each defendant is hereby enjoined from communicating in any manner to any other defendant or any other building material dealer, or to any trade association or central agency in the Cleveland area of or for building material dealers, its own prices or price lists for hard building materials in advance of the same being made generally available to the customers of said defendant.

VII

For the purpose of securing compliance with this judgment, and for no other purpose, 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, made to its principal office, 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 matters contained in this judgment, and (b) subject to the reasonable convenience of such defendant, and without restraint or interference from it, to interview officers and employees of such defendant, who may have counsel present, regarding any such matters. For the sole purpose of securing compliance with this judgment any defendant upon the written request of the Attorney General, or the Assistant Attorney General in charge of the Antitrust Division, shall submit such reports with respect to any of the matters contained in this judgment as from time to time may be necessary for the purpose of enforcement of this judgment. No information obtained by the means permitted in this paragraph shall 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 to which the United States is a party for the purpose of securing compliance with this Judgment or as otherwise required by law.

VIII

Jurisdiction of this action is retained for the purpose of enabling any of the parties to this 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 judgment, for the

modification or termination of any of the provisions thereof, for the enforcement of compliance therewith and the punishment of violations thereof.

/s/ Emerich B. Freed
United States District Judge

We hereby consent to the entry of the foregoing Final Judgment:

For plaintiff:

/s/ Stanley N. Barnes
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Attorney for the United States

/s/ John J. Kane, Jr.
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District Attorney

/s/ Harry N. Burgess
Attorney for the United States

/s/ Robert B. Hummel
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/s/ Lester P. Kauffmann
Attorney for the United States

For Defendants:

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Attorney for the United States

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/s/ Elsie R. Tarcai for Cuyahoga Dunham Supply Company

Attorneys for Cuyahoga-Dunham
Supply Company, and Arnold
Breckling, doing business as
The Breckling Coal & Supply
Company