

U. S. vs. ST LOUIS TILE CONTRS.' ASS'N, ET AL.
IN THE DISTRICT COURT OF THE UNITED STATES OF
AMERICA FOR THE EASTERN DISTRICT OF MISSOURI,
EASTERN DIVISION.

Civil No. 521-2.

UNITED STATES OF AMERICA, PLAINTIFF

VS.

ST. LOUIS TILE CONTRACTORS' ASSOCIATION; CERAMIC,
MOSAIC AND ENCAUSTIC TILE LAYERS' LOCAL UNION
No. 18 OF MISSOURI OF THE BRICKLAYERS, MASONS AND
PLASTERERS' INTERNATIONAL UNION OF AMERICA;
WEIS & JENNETT MARBLE AND TILE COMPANY; IN-
TERSTATE STONE & MARBLE WORKS, INC.; CENTRAL
TERRAZZO & TILE COMPANY; FRANK BUCHANAN; CARL
J. WEIS; HERMAN F. ZISKE; JOSEPH F. BARZEN;
ALBERT G. GRUETZEMACHER; WILLIAM T. CHRISTY;
WILLIAM L. GRUETZEMACHER, JR.; FRED E. KARSTEN.

FINAL DECREE.

1. This cause came on to be heard on this 1st day of July 1940, the complainant being represented by Thurman Arnold, Assistant Attorney General, and Roscoe T. Steffen, Special Assistant to the Attorney General, and the defendants being represented by their counsel, said defendants having appeared voluntarily and generally and waived service of process.

2. It appears to the Court that the defendants have consented in writing to the making and entering of this decree, without any findings of fact, upon condition that neither such consent nor this decree shall be considered an admission or adjudication that said defendants have violated any law.

3. It further appears to the Court that the Tile Contractors' Association of America, Inc., and its Secretary, H. Richardson Cole, have heretofore consented to the entry of a decree against them on June 10, 1940, in the District Court of the United States for the Northern District of Illinois, Eastern Division, in the case entitled *United States of America v. The Tile Contractors' Association of America, Inc., et al.*, Civil Action No. 1761; that said decree heretofore entered grants all the relief sought against the defendants named in this action; that no further injunction against the aforesaid Tile Contractors Association of America, Inc., and H. Richardson Cole is necessary and therefore in the best interests of the orderly administration of justice, this injunction will not extend to the aforesaid association and individual.

4. It further appears to the Court that this decree will provide suitable relief concerning the matters alleged in the complaint and 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, upon motion of complainant and in accordance with said consent it is hereby

5. That the Court has jurisdiction of the subject matter set forth in the complaint and of all parties hereto with full power and authority to enter this decree, 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 the acts amendatory thereof and supplemental thereto, and 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 maintaining, or extending, directly or indirectly, any combination or conspiracy to restrain interstate trade or commerce as alleged in the complaint by doing, performing, agreeing upon, entering upon, or carrying out any of the acts or things hereinafter prohibited.

6. That the defendant association and defendant tile contractors be and they are hereby perpetually enjoined and restrained from agreeing, combining, and conspiring among themselves or any of them or with any labor union or officer, agent, or employee thereof or with any of them, or with a manufacturer of tile or officer, agent, representative, or employee thereof or with any of them:

(a) To refuse to do business with, or to threaten to refuse to do business with, any manufacturer, jobber, other local distributor, general contractor, or any other person;

(b) To prevent any person, firm, or corporation who is not a member either of the Tile Contractors' Association of America, Inc. (hereinafter sometimes called the Tile Association) or any local association (hereinafter sometimes called subordinate tile association) of tile contractors affiliated with and subordinate to said Tile Association from securing union labor, or to require him to agree to higher wages, shorter hours, or better

working conditions than are required of tile contractors who are members of such association;

(c) To create, operate, or participate in the operation of any bid depository;

(d) To create, operate, or participate in the operation of any device similar to a bid depository, any central estimating bureau, any cost formula system or any other method, which device, estimating bureau, cost formula system, or other method is designed to maintain or to fix the price of tile and tile installation, or of any other building material or building material installation, or to limit competition in bidding on tile or tile installation or on any other building material or building material installation, or which has the effect of limiting the awarding authority in its free choice of the successful tile contractor on a given project;

(e) To prevent any person, partnership, or corporation from employing union labor;

(f) To prevent the defendant Union, or any officer or agent of said defendant union, including defendant union officers, from negotiating a labor agreement directly with a tile contractor who is not a member of the Tile Association, or of the defendant tile association, *provided, however*, that nothing in this decree shall prohibit the Tile Association, or any subordinate tile association from insisting upon providing in its labor agreement with any union that the union shall grant to the members of such association terms as favorable to the members of such association as are granted by such union to any nonmember of such association;

(g) To fine or otherwise penalize any member of said Tile Association or subordinate tile association for selling tile unset to any person, partnership, or corporation not a member of said Tile Association or subordinate tile association;

(h) To prevent any person, partnership, or corporation from selling tile unset; *Provided however*, that nothing herein shall be deemed to prevent the advance-

ment or promotion by publicity or advertisement of the use of skilled tile setters for the installation of tiles;

(i) To refuse to install or threaten to refuse to install the material of any manufacturer because he sells or has sold tile to any particular person, partnership, or corporation;

(j) To report to or otherwise notify directly or indirectly for the purposes of accomplishing any objective, end, or act enjoined or prohibited by this decree, any member, officer, or agent of defendant Local Union No. 18 of the Bricklayers, Masons, and Plasterers' International Union of America (hereinafter sometimes called the International Union), or any person acting for or on behalf of them that:

1. A particular manufacturer, jobber, local distributor, general contractor, tile contractor, or any other person is doing or has done business with any individual, partnership, association, or corporation not a member of said Tile Association or subordinate tile association;

2. Any individual, partnership, association, or corporation not a member of said Tile Association or subordinate tile association has contracted for or is engaged in the installation of tile generally or on a particular job;

(k) To aid or assist the defendant Local Union No. 18 of the International Union, its officers or agents, or any of them in the imposition of fines or penalties against any person, partnership, or corporation not a member of said Tile Association or subordinate tile association;

(l) To restrict the sale of tile to any person, partnership, or corporation whatsoever.

7. That the defendant union, its officers, agents, and employees, be, and it is hereby perpetually enjoined, restrained, and prohibited from agreeing, combining, and conspiring with the Tile Association or any subordinate tile association, their officers or agents, including defendant contractors and defendant associations, or

with any of them, or with any manufacturer, jobber, or local distributor, or the officers, representatives, or agents thereof, or any of them:

(a) To restrain, restrict, or prevent the sale of tile to any person, partnership, or corporation;

(b) To circulate or distribute to manufacturers, manufacturers' representatives, jobbers, or distributors of tile a list or lists containing the names of contractors under agreement with said International Union or with unions (hereinafter called subordinate unions) affiliated with and subordinate to said International Union, for the purpose of influencing such manufacturers, manufacturers' representatives, jobbers, or distributors to do business only with contractors whose names are included on said list or lists;

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

(d) To intimidate or threaten any general contractor or awarding authority from dealing with any person, partnership, or corporation;

(e) To blacklist any person, partnership, or corporation;

(f) To require conditions and terms of any person, partnership, or corporation, which conditions and terms are not required of other contractors in the same branch of the building industry in the same locality;

(g) To impose fines or otherwise assess penalties against any person, partnership, or corporation, other than a member of the Tile Association or of a subordinate tile association.

8. That the defendant union, its officers, agents, or employees, shall not—

(a) withhold or threaten to withhold labor from, or

(b) intimidate any general contractor or awarding authority from dealing with, or

(c) blacklist, or

(d) require conditions and terms not required of other contractors in the same branch of the building in-

dustry in the same locality save as otherwise in the decree permitted in the case of, or

(e) impose fines or otherwise assess penalties against,

any individual, partnership, or corporation who is willing and able to execute a written agreement to comply, and to comply, in respects other than those hereinafter specified in paragraphs (a) to (k), inclusive, with the International Union's and the defendant union's requirements for wages, hours, and working conditions (including requirements with respect to the closed shop) required by said unions of all contractors doing similar work in the same locality;

(a) Because the wages, hours, and working conditions (including requirements with respect to the closed shop) required of such person, partnership, or corporation in the locality where such person, partnership, or corporation wishes to hire union labor are less favorable to the union members than the union requirements in some other locality where such person, partnership, or corporation also does business, *provided*, the union may require contractors to pay for the transportation, room, and board of employees ordered from one locality to another by contractors and to pay to such employees the wages, and to adhere to the conditions, obtaining in the locality from which the employees are ordered;

(b) Because the manufacturer of the building materials to be installed by members of the said union for said person, partnership, or corporation either sells directly to jobbers, general contractors, or builders, or to subcontractors who carry on more than one kind of contracting business, or sells to other persons, firms, or corporations not members of the Tile Association or any subordinate tile association;

(c) Because the material to be installed by members of the said union for such complying contractor was manufactured by employees whose wages, hours, and working conditions were less favorable to the employees than the wages, hours, and working conditions of

the employees of other manufacturers of the same or of a substitute building material, or because said material was manufactured by another union; *provided, however*, that nothing in this decree shall prevent the members of the said union from refusing, either alone or in concert, to install any building material that is prison made or that is made by a manufacturer who maintains an open shop or a company union or with whom the International Union or a subordinate union is having at the time a labor dispute with respect to wages, hours, or working conditions, or whom the union is attempting to organize;

(d) Because such contractor has broken a rule or regulation of the Tile Association or of any subordinate tile association, *provided, however*, that nothing in this decree shall prohibit or prevent the unions and the tile associations from disciplining any member of said association for a breach by such member of the provisions relating to wages, hours, working conditions, or the closed shop of the labor agreement between said associations or either of them and the International Union or a subordinate union; and *provided further*, that nothing in this decree shall prohibit or prevent the unions from disciplining any contractor for a breach by such contractor of the provisions relating to wages, hours, working conditions, or closed shop of the labor agreement under which he operates;

(e) Because such complying contractor is not a member either of the Tile Association, of a subordinate tile association, or of any other association of contractors;

(f) Because such complying contractor carries no stock of tile or of any other building material, or carries an insufficient quantity of tile or of other building material; or because he does business from his residence, or because he maintains no show room; or because he carries on more than one kind of contracting business; or because he is a general contractor;

(g) Because such person, partnership, or corporation has refused to make payments to any officer, agent,

member, or employee of the International Union or subordinate union other than payments due under the contract made or to be made between said parties;

(h) Because such person, partnership, or corporation has refused to deposit with the International Union or a subordinate union, or any officer or agent thereof, an unreasonable wage bond. For the purposes of this decree, it is agreed that a reasonable wage bond shall be one conditioned upon the employer's meeting his payroll obligation on the particular job;

(i) Because said person, partnership, or corporation, after having made a bona fide request for the privilege of hiring men from the subordinate local, and having been refused, has used the tools or has hired persons not in good standing with the International Union;

(j) Because such person, partnership, or corporation sells, has sold, or contemplates selling tile unset to any individual, partnership, or corporation;

(k) Because such person, partnership, or corporation had, in the past, worked with the tools, provided that henceforth, only one contractor member of any firm shall work with the tools.

9. That the defendant union be and it is hereby perpetually enjoined and restrained from agreeing, combining, and conspiring with any other person, firm, corporation, or association, or any officer or employee thereof, or any of them:

(a) To deny to any contractor who has entered into, and who is fully performing, an agreement with the defendant union, the privilege of selection for employment any union workman in good standing who is at the time unemployed and who is willing to work for such contractor, *provided, however*, that nothing in this decree shall prevent the International Union or a subordinate union from insisting upon, or any union and any tile association from mutually agreeing to, a "spread the work" plan and applying the same without discrimination among tile association members and

tile contractors who are not members of the Tile Association; or

(b) To threaten to impose upon any general contractor who is and has been fully performing a written agreement with the International Union or any subordinate union; restrictions or requirements not imposed upon his competitors because he does business with a subcontractor who is not a member either of the Tile Association or a subordinate tile association, or of any other association of subcontractors; *provided, however*, that nothing in this decree shall prevent such unions or any of them, either alone or in concert, from imposing such conditions as they or it may wish upon the supplying of union labor to a general contractor who does business with a subcontractor who does not have, or who has failed fully to comply with, a labor agreement with such unions or any of them;

(c) To deny to any bona fide member in good standing of the International Union or of any subordinate union the right to transfer bona fide his membership from one subordinate union to another, or to work in the jurisdiction of another subordinate union, in accordance with the provisions of Article XV of the Constitution of the International Union, Revised and Adopted September 1938;

(d) To violate any provisions contained in the Constitution of the International Union;

(e) To limit the amount of work a tile layer may perform, or to limit the use of machinery or tools, or to determine the number of tile layers to be employed on any specific job; *provided, however*, that no member of a subordinate union shall be required to bargain or contract to lay or to lay a designated number of feet of tile or do a certain piece of work in a designated time.

10. That all constitutions, bylaws, resolutions, and agreements of the St. Louis Tile Association, the defendant union, and the arbitration board whose membership consists of representatives of the local associa-

tion and defendant union, insofar as said constitutions, bylaws, resolutions, and agreements authorize, provide, or permit any activity prohibited by this decree, are hereby declared unlawful and of no force and effect.

11. 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, 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.

12. That for the purpose of securing compliance with this decree, and for no other purpose, duly authorized representatives of the Department of Justice shall, on the written request of the Attorney General or an Assistant Attorney General, and on reasonable notice to the defendants made to the principal office of the defendants, be permitted (a) reasonable 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 of the matters contained in this decree, (b) subject to the reasonable convenience of the defendants and without restraint or interference from them, to interview officers or employees of the defendants, who may have counsel present, regarding any such matters; and 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 in which the United States is a party or as otherwise required by law.

13. That it is *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 union 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 union or its members have a strike, grievance, or controversy, or from lawfully seeking to attain and carry out the legitimate and proper purpose and functions of a labor union.

14. That jurisdiction of this cause is retained for the purpose of enabling any of the parties to this decree to make application to the Court at any time for such further orders and directions as may be necessary or appropriate in relation to the construction of or carrying out of this decree, for the modification hereof upon any ground (including any modification upon application of the defendants or any of them required in order to conform this decree to any Act of Congress enacted after the date of entry of this decree), for the enforcement of compliance herewith and the punishment of violations hereof. Jurisdiction of this cause is retained for the purpose of granting or denying such applications as justice may require and the right of the defendants to make such applications and to obtain such relief is expressly granted.

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

Dated July 1, 1940.

(Signed) GEO. H. MOORE,
United States District Judge.