

U. S. vs. ASSOCIATED MARBLE COMPANIES, ET AL.
IN THE DISTRICT COURT OF THE UNITED STATES FOR
THE NORTHERN DISTRICT OF CALIFORNIA,

SOUTHERN DIVISION.

Civil Action No. 21848L

UNITED STATES OF AMERICA, PLAINTIFF,

VS.

ASSOCIATED MARBLE COMPANIES; VERMONT MARBLE
COMPANY; JOSEPH MUSTO SONS-KEENAN CO.; AMERI-
CAN MARBLE COMPANY; J. E. BACK CO., INC.; EISELE
& DONDERO MARBLE Co. (THE); T. M. HOWARD; H. C.
FASSETT; JOSEPH B. KEENAN; A. F. EDWARDS; J. E.
BACK; A. G. DONDERO; HERBERT E. MILLER; JOHN
CLERVI; RAY COOK; DEFENDANTS.

DECREE

The United States of America filed its complaint here-
in on April 28, 1941, and each of the defendants above
named having duly appeared generally by its or his
respective counsel, the United States of America, by its

counsel, moved this Court for an injunction as prayed in the said complaint. Each of the defendants consented in writing to the entry of this decree without contest and before any testimony or evidence had been taken, offered or received.

Wherefore, it is Ordered, Adjudged and Decreed:

1. The consent of the respective defendants herein to the entry of this decree is not, nor is the decree, evidence or admission that the defendants, or any of them, have violated any law or statute of the United States.

2. Because of said consents of said defendants and the acceptance thereof by the United States of America, it is not necessary to institute nor proceed with the trial of the within action or to take or receive any testimony or evidence therein or to make findings of fact (such findings being expressly waived by the parties) or to adjudicate any issue presented therein.

3. The Court has jurisdiction of the subject matter of this action and of all the parties hereto for the purposes only of this decree and of proceedings for the enforcement thereof. The complaint herein states a cause of action against defendants under the Act of Congress of July 2, 1890, commonly called "The Sherman Anti-trust Act", and acts amending or supplementing said Act.

4. As used in this decree, the following terms have the following meanings:

(a) "Northern California" means so much of the State of California as lies north of an imaginary straight line drawn from the easterly boundary line to the westerly boundary line of said State and passing through the most northerly point on the boundary line of the City of Bakersfield and the most northerly point on the boundary line of the City of Santa Barbara, in said State;

(b) "Marble business" shall mean the purchasing, importing, selling, cutting, polishing,

sizing and installing of marble or any one or more of said activities;

(c) "Marble dealer" shall mean any person, firm or corporation engaged in the marble business.

5. The defendants, and each of them, and all of their respective officers, directors, agents, servants, employees, and all persons acting or authorized to act on behalf of the defendants, or any of them, be, and they hereby are, perpetually enjoined and restrained from carrying out or continuing, directly or indirectly, expressly or impliedly, any combination or conspiracy to restrain interstate trade and commerce in violation of the aforesaid Act of Congress in marble, as alleged in the complaint herein, and from entering into or carrying out, by any means whatsoever, any combination or conspiracy of like character or effect, and more particularly, (but the enumeration following shall not detract from the inclusiveness of the foregoing) from conspiring or agreeing among themselves or with other marble dealers to engage in any of the following specified acts and practices, or from doing, performing, or agreeing upon, entering upon, or carrying out among themselves or in conjunction with others any of the following acts or things:

(a) Curtailing, limiting, restricting, or otherwise controlling the amount of marble business which any marble dealer may obtain or perform in Northern California;

(b) Fixing, controlling, or affecting the price to be charged for the polishing, cutting, sizing, sale and installation of marble in Northern California;

(c) Formulating, promoting, or taking part in any plan, the object or effect of which is to prorate the available marble business in Northern

California among the defendants or among any of them and other marble dealers in said area;

(d) Collecting, compiling, or comparing data respecting sales, orders, purchases, or deliveries of marble for the purpose of enabling or compelling marble dealers to adhere to any pro rationing or division of available business among marble dealers in Northern California;

(e) Distributing purchase, sale, installation or price data in such form as to indicate the relationship of the sales or installation of any individual marble dealer to the total sales and installation of marble in Northern California during any period of time;

(f) Sponsoring, calling, holding, or participating in any meeting or conference held for the purpose of raising, lowering, fixing, establishing, maintaining, or stabilizing prices for the sale and installation of marble in Northern California;

(g) Creating, operating, or participating in the operation of any bid depository or of any scheme, plan, or device designed to maintain or to fix the price of marble or marble installation or to limit competition in bidding for marble or marble installations, or having the effect of limiting the free choice of the awarding authority in securing a bona fide competitive bid on any given project;

(h) Exchanging or disseminating information concerning or relating to future prices to be charged for the sale or installation of marble in Northern California;

(i) Recommending, advising, or suggesting the raising, lowering, fixing, establishing, maintaining, or stabilizing of prices to be charged for the sale and installation of marble in Northern California;

(j) Persuading, influencing, or coercing any marble dealer to refuse to accept work involving the polishing, cutting, sizing and preparation of

marble for use in Northern California from any other marble dealer;

(k) Discriminating in the price or other conditions of sale of marble for use in Northern California to any marble dealer;

(l) Persuading or influencing, by threats or otherwise, any marble producer, jobber, or distributor, or their agents, or representatives, to discriminate against any marble dealer with regard to the terms or conditions of sale of marble in Northern California;

(m) Attempting to prevent contractors from dealing with individual marble dealers or to prevent individual marble dealers from engaging in the marble business in Northern California.

6. Nothing herein contained shall restrain or prohibit, or be construed to restrain or prohibit, any defendant from doing any act or entering into any agreement not providing for the purchasing, importing, selling, cutting, polishing, sizing, and installing of marble for use in the United States, which is entirely completed outside the United States; nor shall anything contained herein be construed to prohibit any act or arrangement authorized by the Act of April 10, 1918, commonly known as the "Webb Export Trade Act."

7. Nothing contained in this decree shall prevent the defendants, or any of them, or their respective officers, managers, agents, servants, or employees, or any person authorized to act for or on behalf of them, from establishing or compiling by concerted action or otherwise, among themselves or with any other marble dealers, standards for marble with respect to sizes, dimensions, colors, quality, or statistical data pertaining to the conditions or operation of the industry, provided that the compiling, or use of such information and statistics does not discriminate against any competitor or have the effect of restraining or preventing the sale or installation of marble in Northern California; and provided no such

standard for marble shall forbid the production or sale of nonstandard marble which is identified as such.

8. That nothing in this decree shall apply to arrangements or agreements authorized by any applicable legislation of the United States.

9. Within 60 days after the entry of this decree, there shall be filed with the Clerk of this Court a copy, certified by the Secretary of Associated Marble Companies, of a resolution or resolutions evidencing the voluntary dissolution of said Associated Marble Companies.

10. That jurisdiction of this cause may be, and it is hereby, retained for the purpose of enforcing, construing, and modifying the terms of this decree upon the application of the plaintiff or any of the defendants.

11. That for the purpose of securing compliance with this decree, but for no other purpose, duly authorized representatives of the Department of Justice shall, upon the written request of the Attorney General or an Assistant Attorney General, be permitted access within the office hours of the defendants to all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or control of defendants 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 the defendants without interference, restraint, or limitation by defendants, relating to any of the matters contained in this decree, provided that such officers and agents may have counsel present if they so desire.

Any information obtained by the means permitted in this paragraph shall not be divulged by any representatives 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.

(s) HAROLD LOUDERBACK,
U. S. District Judge.

Dated This 28th day of April, 1941.