

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States of America v. Harbor District Chapter, National Electrical Contractors Association; San Pedro Unit, Local Union No. B-83. International Brotherhood of Electrical Workers; McWhinnie Electrical Corporation; T. Battersby; George J. Haddix; Craig Ritter; Jack Williams; Harry G. White; A. J. Koontz; R. C. Gatlin; Kenneth Lewis; B. J. Scott; William J. McWhinnie; Harry Olson; R. R. McCall; D. C. White; A. C. Harrison; J. C. Spradley; and Duane Wallsworth., U.S. District Court, S.D. California, 1940-1943 Trade Cases ¶56,159, (Aug. 4, 1941)

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United States of America v. Harbor District Chapter, National Electrical Contractors Association; San Pedro Unit, Local Union No. B-83. International Brotherhood of Electrical Workers; McWhinnie Electrical Corporation; T. Battersby; George J. Haddix; Craig Ritter; Jack Williams; Harry G. White; A. J. Koontz; R. C. Gatlin; Kenneth Lewis; B. J. Scott; William J. McWhinnie; Harry Olson; R. R. McCall; D. C. White; A. C. Harrison; J. C. Spradley; and Duane Wallsworth.

1940-1943 Trade Cases ¶56,159. U.S. District Court, S.D. California, Central Division. Civil Action No. 1677-RJ. August 4, 1941.

Upon consent of all parties, a decree is entered in proceedings under the Sherman Anti-Trust Act, perpetually enjoining defendants from carrying out or continuing a combination and conspiracy to restrain interstate trade and commerce in electrical equipment and materials used in the electrical contracting business. Among the practices forbidden by the decree are: fixing, maintaining and increasing prices for the sale, installation and repair of electrical systems and electric equipment and materials; exchanging information for the accomplishment of such purpose; operating or participating in an association of electrical contractors maintaining a bid depository; interfering with competitive bidding; agreeing with labor unions to prevent procurement of union labor by competitors; discriminating against union members who work or have worked for a non-complying competitor; and furnishing false, misleading statements to wholesalers, jobbers, general contractors and building owners concerning non-complying competitors with intent to prevent their procurement of business and to compel their membership in the unlawful association. The defendant labor union is enjoined from agreeing with an employer's association to withhold union labor from contractors complying with union requirements and from threatening to withhold union labor from non-complying contractors in order to compel compliance with the policies of the unlawful association. Jurisdiction is retained for the enforcement of the provisions of the decree.

Wm. Fleet Palmer, U. S. Attorney, Los Angeles, Cal., Thurman Arnold, Assistant Attorney General, Tom C. Clark, Alfred C. Ackerson and James E. Harrington, Special Assistants to the Attorney General, for plaintiff.

Vernon Cruickshank, Otto J. Emme and John J. Irwin, all of Los Angeles, Cal., for defendants.

Before Yankwich, District Judge.

Consent Decree

This cause coming on to be heard on the 4th day of August, 1941, and the defendants having waived process and service and having appeared herein.

And counsel for the defendants and said defendants and each of them having consented to the making and entering of this Decree upon condition that neither such consent nor this Decree shall constitute nor be considered an adjudication nor even an admission that the defendants, or any of them, have in fact violated any statute of the United States of America, or of the State of California,

Now, THEREFORE, before any testimony has been taken, and in accordance with said consent of counsel and of said defendants and each of them, it is hereby

ORDERED, ADJUDGED, AND DECREED AS FOLLOWS:

[*Jurisdiction*]

(1) That the Court has jurisdiction of the subject matter hereof and of all the parties hereto, and 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 supplementary thereto.

[*Activities Enjoined*]

(2) That the defendants, and each of them (except the defendant union, its officers, agents, members and their successors), 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, the combination or conspiracy to restrain interstate trade and commerce in violation of the afore said act of Congress in electrical equipment and materials used in the electrical contracting business, 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 doing, performing, or agreeing upon, entering upon, or carrying out any of the following acts or things:

[*Fixing Prices*]

(a) Agreeing to establish, fix, maintain, or increase the prices to be charged for the sale, installation, or repair of electrical systems and electrical equipment and materials, or establishing, fixing, maintaining, or increasing the prices to be charged for the sale, installation, or repair of electrical systems and electrical equipment and materials;

[*Exchanging Information*]

(b) exchanging with each other information regarding the quantities of materials and labor and the cost thereof necessary for the performance of contracts calling for the sale, installation, or repair of electrical equipment and materials as defined in the Complaint herein;

[*Maintaining an Unlawful Association*]

(c) creating, operating, or participating in the operation of any association of electrical contractors maintaining a bid depository or similar common agency for the deposit of bids, or similar device;

[*Unlawful Activities with Labor Unions*]

(d) from entering into any agreement with any electrical workers' union or association, the purpose or effect of which is to prevent any electrical contractor from procuring union labor;

[*Discrimination against Certain Labor*]

(e) acting concertedly, or agreeing, to discriminate against any member of a labor union because such member works or has worked for any competitor engaged in the electrical contracting business;

[*Interfering with Competitive Bidding*]

(f) interfering or agreeing to interfere in any way with free and open competitive bidding on any and all construction projects in the San Pedro area;

[*Concertive Activities*]

(g) aiding, abetting, inducing, or assisting, individually or collectively, others to do any of the things which the defendants are herein restrained from doing.

(3) Defendants, their officers, directors, and agents, their successors, and all persons acting under them, through or for defendants or their successors, or any of them, be, and they are hereby, individually and perpetually enjoined and restrained from engaging in any of the following specific acts and practices:

[Dissemination of False Statements about Competitors]

(a) Making, collectively or individually, false and misleading statements to wholesalers, jobbers, or other suppliers of electrical equipment and materials concerning any competitor engaged in the electrical contracting business, with the intent and purpose of inducing such wholesaler, jobber, or supplier to refuse to furnish electrical equipment and materials to such competitor;

(b) making, collectively or individually, false and misleading statements to general contractors, owners, or builders concerning the credit of any competitor engaged in the electrical contracting business or his ability to obtain electrical contracting business or his ability to obtain electrical equipment and materials, or his ability to obtain union labor, or any similar statement, with the intent and for the purpose of inducing such general contractors, owners, and builders to refrain from awarding contracts for the sale, installation, or repair of electrical systems and electrical equipment and materials to such competitor;

[Coercing Association Membership]

(c) performing any act, or attempting, individually or collectively, to coerce or compel any competitor engaged in the electrical contracting business, by threats or otherwise, to join the defendant association or similar organization.

[Injunctive Provisions against Labor Union]

(4) That the defendant union, its members, officers, agents, and all persons acting, or authorized to act, on behalf of said defendant, are hereby perpetually enjoined from doing, performing, or agreeing upon, entering upon, or carrying out any of the following acts or things:

[Withholding Union Labor]

(a) entering into or carrying out any agreement with any employers' association or group of employers to withhold union labor or to otherwise discriminate in the furnishing of union labor to any contractors or sub-contractors who are able and willing to comply with and abide by union requirements concerning wages, hours, working conditions and collective bargaining. Any existing agreement or understanding shall be null and void to the extent that it conflicts with the provisions of this Decree;

(b) threatening to withhold, or withholding, union labor from any contractor or sub-contractor, or otherwise discriminating, or threatening to discriminate, in the furnishing of union labor, for the purpose of inducing such contractor or sub-contractor to carry out the policies of, or cooperate with, or join any association or group of contractors or sub-contractors:

(c) threatening to withhold, or withholding, union labor from any contractor or sub-contractor, or otherwise discriminating, or threatening to discriminate, in the furnishing of union labor, for the purpose of giving any group of contractors or sub-contractors an unfair competitive advantage over such contractor or subcontractor;

(d) aiding, abetting, inducing, or assisting others to do any of the things which any of these defendants are herein restrained from doing.

[Examination of Records to Secure Compliance]

(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 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; 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.

[*Retention of Jurisdiction for Compliance*]

(6) That jurisdiction of this case be, and it hereby is, retained for the purpose of enforcing, enlarging, or modifying the terms of this Decree upon application of the plaintiff or any of the defendants.