

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. John B. Reeves & Son, et al., U.S. District Court, S.D. California, 1950-1951 Trade Cases ¶62,649, (May 29, 1950)

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United States v. John B. Reeves & Son, et al.

1950-1951 Trade Cases ¶62,649. U.S. District Court, S.D. California, Central Division. Civil No. 8769—WM. May 29, 1950.

Sherman Antitrust Act

Plumbing Supplies—Consent Decree—Price Fixing and Statistical Services.—In a consent decree entered by a wholesale plumbing supply association and its members, defendants agree to refrain from price-fixing agreements, including those setting discount and mark-up figures, compilation of data relating to prices, costs and mark-ups, and creating or adhering to any trade association involved in such activities. The association and certain other defendants are prohibited from disseminating price lists and price data in which any attempt is made to determine average or representative prices.

For the plaintiff: William C. Dixon, Special Assistant to the Attorney General, and Philip Kraus, Harry O. Arend, and Alex Denny Fred, Special Attorneys, all of Los Angeles, California.

For the defendants: Harold A. Slane, Los Angeles, for Wholesale Plumbing Institute of Southern California, Herco Pipe & Supply Co., Inc. of South Gate, Griffith Pipe & Supply Co., Inc., Hirsch Pipe & Supply Co., Lord-Babcock Inc., Shinn Bros, Inc., Steel Products Supply Co., Inc., Union Pipe & Supply Co., Lee A. Rose, Sam Smarden, William Smarden, Victor E. Lock, Louis Warschaw, William Spargo, Joseph Hirsch, Harold K. Babcock, Harry Shinn, Lee Sherman, Samuel Rosen, and A. H. Julian; Hampton Hutton, Los Angeles, for John B. Reeves & Son; Morris Bordon (Bordon & Bordon, Los Angeles), for Chester R. Roberts and Ben Irwin; Milton A. Krug, Los Angeles, for Coast Plumbing Supply Co. and W. E. Hermiston; R. Fenton Garfield, San Diego, for Keenan Pipe & Supply Co. and Peter T. Keenan; Vernon M. Brydolf, Pasadena, for Lange Pipe & Supply Co. and Harriet Lange Henebry; Gerrit Pos, Alhambra, for Valley Cities Supply Co. and Lloyd C. Berryman; John J. Irwin, Los Angeles, for George Familian and Isadore Familian.

Final Judgment

WM. C. MATHES, D. J.: Plaintiff, the United States of America, having filed its complaint herein on the 20th day of October, 1948, and each of the defendants having appeared and filed their respective answers to such complaint, denying the substantive allegations thereof and having consented to the entry of this Final Judgment herein without trial or adjudication of any issues of fact or law herein and without admission by the defendants in respect to any such issues;

NOW, THEREFORE, before any testimony has been taken and without trial or adjudication of any issue of fact or law herein and upon consent of the parties hereto, it is hereby

ORDERED, ADJUDGED AND DECREED as follows:

I.

[*Jurisdiction*]

That this Court has jurisdiction of the subject matter hereof and of the parties hereto. The complaint states a cause of action 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, and acts amendatory thereof and supplemental thereto.

II.

[*Definitions*]

As used in this Judgment:

(A) The term “plumbing supplies” shall mean those materials and fixtures utilized in the installation or repairing of water, gas, or waste disposal systems in homes, dwellings, commercial buildings, office buildings and industrial buildings, and includes, among other items, soil, galvanized, black and cast iron pipe, Durham fittings, brass valves and trim, vitreous china lavatories, sinks, bathtubs and water closets.

(B) The term “wholesaler” refers to a person engaged in the purchase of plumbing supplies in large lots and quantities from producers and manufacturers for resale to plumbing contractors, retailers, industrial users and Governmental agencies.

(C) The term “seller” refers to a person engaged in the business of selling or offering for sale plumbing supplies.

(D) The term “purchaser” refers to a person engaged in the business of purchasing plumbing supplies for purposes of resale.

(E) The term “person” means an individual, partnership, firm, association, corporation, or other business of legal entity.

III.

[*Application*]

The provisions of this Judgment applicable to any defendant shall apply to such defendant, its officers, directors, agents, employees, subsidiaries, successors and assigns, and all other persons acting or claiming to act under, through or for such defendant.

IV.

[*Agreements Prohibited*]

The defendants are hereby perpetually enjoined and restrained from entering into, adhering to, maintaining or furthering, directly or indirectly, any contract, agreement, understanding, plan or program, among themselves or with any other person:

(1) To raise, lower, fix, determine, establish, maintain or stabilize the price, discount, mark-up, or profit margin, or other terms and conditions of sale at which any item or class of items of plumbing supplies is sold or offered for sale;

(2) To use any prices, discounts, markups, or profit margins contained in any publication, compilation, or report, or similar document prepared or disseminated by a third person as the prices charged or to be charged by defendant wholesalers for items or classes of items of plumbing supplies;

(3) To gather, compile, compute or disseminate statistics or other information as to prices, costs, margins, mark-ups, profits or losses on any sale or sales, or offering for sale of any item or class of items of plumbing supplies.

V.

[*Statistical Activities Prohibited*]

The defendants are individually and perpetually enjoined and restrained from:

(1) Gathering or compiling statistics or other information as to costs, margins, mark-ups, profits, or losses of any seller or purchaser with respect to any item or class of items of plumbing supplies for the purpose of publishing or otherwise disseminating such information or enabling third persons to use such information.

(2) Quoting, publishing or otherwise disseminating statistics or other information as to costs, margins, markups, profits or losses of any seller or purchaser with respect to any item or class of items of plumbing supplies.

(3) Creating, adhering to, maintaining or otherwise participating in any trade association or similar organization, or other agency which engages in or promotes any activity prohibited by Sections IV, V and VI of this Judgment.

VI.

[*Publication of Price Data Prohibited*]

(1) Defendant Wholesale Plumbing Institute of Southern California is perpetually enjoined and restrained from quoting, publishing or otherwise disseminating any price or price list for any item or class of items of plumbing supplies (including any so-called average, typical, representative or approximate price).

(2) Each defendant wholesaler is individually and perpetually enjoined and restrained from quoting, publishing or otherwise disseminating any price or price list for any item or class of items of plumbing supplies (including any so-called average, typical, representative or approximate price) which is not, or does not contain, the *bona fide* price, independently determined and fixed, by such defendant wholesaler, at which he sells or offers to sell such item or class of items.

(3) Defendant John B. Reeves & Son is perpetually enjoined and restrained from quoting, publishing or otherwise disseminating any price or price list for any item or class of items of plumbing supplies (including any so-called average, typical, representative or approximate price) which is not, or does not contain, the *bona fide* price or price list, independently determined and fixed by an identified seller, at which such seller sells or offers to sell such item or class of items.

Nothing contained in this Judgment shall determine, adjudicate, or affect any transaction or activity of defendant John B. Reeves & Son relating to prices, price lists or other statistical information not specifically covered by the preceding sentence.

VII.

[*Provisions for Compliance*]

For the purpose of securing compliance with this Judgment, and subject to any legally recognized privilege, on written request of the Attorney General or Assistant Attorney General in charge of Anti-trust each defendant shall:

(a) Grant to duly authorized representatives of the Department of Justice during office hours, access to all books, ledgers accounts, correspondence, memoranda and other records and documents in the possession of or under the control of such defendant relating to any of the subject matter of this Judgment.

(b) Subject to the reasonable convenience of any defendant and without restraint or interference from it, permit duly authorized representatives of the Department of Justice to interview officers or employees of such defendant, who may have counsel present, regarding any matters relating to the subject matter of this Judgment.

(c) Make available to the Attorney General or the Assistant Attorney General in charge of the Antitrust Division such written information as to any of the matters contained in this Judgment as may from time to time be necessary for the purpose of enforcement of this Judgment, provided, however, that information obtained by the means permitted in this Section VII 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 to which the United States of America is a party for the purpose of securing compliance with this Judgment, or as otherwise required by law.

[*Jurisdiction Retained*]

Jurisdiction of this cause is retained by this Court for the purpose of enabling any of the parties to this Judgment to apply to the Court at any time for such further orders or directions as may be necessary or appropriate for the construction or carrying out of this Judgment, for the amendment, modification, or termination of any provisions thereof, the enforcement of compliance therewith, and for the punishment of violations thereof.