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8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA
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11 UNITED STATES OF AMERICA,)
12 Plaintiff,)
13 v.) Civil No.
14 UNITED STATES STEEL CORPORATION;) 64-836-MP
15 SMITH-SCOTT CO., INC.; and)
16 U. S. INDUSTRIES, INC.,) Entered: Dec. 8, 1967
17 Defendants.)

18 PARTIAL FINAL JUDGMENT

19 Plaintiff, United States of America, having filed its
20 complaint herein on June 23, 1964, its first amended com-
21 plaint on October 28, 1964 and its second amended complaint
22 on December 2, 1965, and each of the defendants United
23 States Steel Corporation, Smith-Scott Co., Inc. and U. S.
24 Industries, Inc., having appeared by its attorneys and
25 each having filed its answer to such complaint denying
26 the substantive allegations thereof; and plaintiff and
27 defendants, by their respective attorneys, having severally
28 consented to the making and entry of this Partial Final
29 Judgment pursuant to a stipulation entered into on
30 September 28, 1967, without trial or adjudication of or
31 finding on any issue of fact or law herein, and without
32 this Partial Final Judgment constituting any evidence or

1 admission by any party to said stipulation with respect to
2 any such issue, and the Court having considered the matter
3 and being duly advised,

4 NOW, THEREFORE, before the taking of any testimony
5 and without trial or adjudication of any issue of fact or
6 law herein, and upon the consent of the parties as aforesaid,

7 IT IS HEREBY ORDERED, ADJUDGED AND DECREED as follows:

8 I

9 This Court has jurisdiction of the subject matter hereof
10 and of each party consenting hereto. The second amended
11 complaint herein having presented more than one claim for
12 relief and dismissal being sought as to Counts I and II,
13 based on a partial price adjustment, the Court hereby deter-
14 mines that there is no just reason for delay and directs entry
15 of this Partial Final Judgment as to the claim made in Count
16 III.

17 The second amended complaint in Count III states a
18 claim upon which relief may be granted under Section 1 of
19 the Act of Congress of July 2, 1890 entitled "An Act to
20 protect trade and commerce against unlawful restraints and
21 monopolies," commonly known as the Sherman Act, as amended.

22 II

23 As used in this Partial Final Judgment:

24 A. "pipe" means "steel small diameter pressure
25 pipe," which is thin walled welded steel pipe which is
26 manufactured in diameters of 4 inches to 48 inches and
27 sold for the conveyance of water or sewage under internal
28 pressures exceeding 115 feet of head or 50 pounds per
29 square inch;

30 B. "Western Area" means California, Oregon,
31 Washington, Arizona, New Mexico, Utah, Wyoming, Nevada,
32 Idaho and Hawaii; and

C. "person" means an individual, partnership, firm,

1 association, corporation or other legal or business entity.

2 III

3 The provisions of this Partial Final Judgment appli-
4 cable to any defendant shall also apply to each of its
5 subsidiaries, successors, assigns, officers, directors,
6 agents and employees, and to all other persons in active
7 concert or participation with such defendant who shall
8 have received actual notice of this Partial Final Judgment
9 by personal service or otherwise, but shall not apply to
10 transactions solely between any defendant and its officers,
11 directors or employees when acting in such capacity, or
12 between any defendant and its parent company, or between
13 any defendant and any of its subsidiaries or any subsidiary
14 of its parent. This Partial Final Judgment shall not
15 apply to conduct outside of the United States unless such
16 conduct substantially affects the foreign or domestic
17 commerce of the United States, but shall apply to sales
18 by any defendant to, or for the known use of, the plaintiff
19 or any instrumentality or agency thereof.

20 IV

21 Each of the defendants is enjoined and restrained
22 from directly or indirectly in any manner entering into,
23 adhering to, or claiming any right under, any contract,
24 agreement, arrangement, understanding, plan or program
25 with any other manufacturer or seller of pipe, or with
26 any association of said manufacturers, or with any
27 company providing the services of lining or coating of
28 pipe, in relation to pipe, to:

29 A. Fix or adopt prices, terms or conditions of sale;

30 B. Maintain or adhere to agreed upon prices;

31 C. Submit noncompetitive, collusive or rigged bids
32 or quotations to any customer;

1 D. Allocate or divide orders, territories or
2 customers;

3 E. Communicate with any manufacturer or seller of
4 pipe or with any company providing the services of lining
5 or coating pipe, information about any specific job con-
6 cerning bids, prices, terms or conditions applicable to
7 the sale of pipe to third persons before the bid opening
8 of any such specific job or, in the absence of such bid
9 opening, until after the release of such information
10 publicly or to the trade generally; or

11 F. Restrict production to certain types or sizes of
12 pipe or restrict sales of pipe to any specified territory.

13 V

14 Each of the defendants is enjoined and restrained
15 from:

16 A. Communicating with any other manufacturer of pipe
17 for the purpose of attempting to coerce or force such
18 manufacturer to restrict its sales of pipe to any territory
19 or to restrict its production of pipe to certain sizes
20 or types;

21 B. Communicating with any manufacturer or seller of
22 pipe or with any company providing the services of lining
23 or coating pipe, information about any specific job con-
24 cerning bids, prices, terms or conditions applicable to
25 the sale of pipe to third persons before the bid opening
26 of any such specific job, or, in the absence of such bid
27 opening, until after the release of such information
28 publicly or to the trade generally.

29 VI

30 Each of the defendants is ordered and directed for
31 a period of five years from the date of entry of this
32 Partial Final Judgment:

A. In connection with any sealed bid submitted by it to any Federal, State or local governmental authority, agency, or instrumentality for the sale of pipe, to supply, concurrently or within a reasonable time thereafter, a written certification by an officer or employee of such defendant regularly having the authority to determine the price for the type of bid involved, in substantially the form of Appendix A hereto or containing the substance thereof;

B. In connection with any formal written quotation for the sale of pipe in excess of \$25,000 to annex to such written quotation or include therein a written certification by an officer or employee of such defendant regularly having the authority to determine the price for the type of quotation involved, in substantially the form of Appendix B hereto or containing the substance thereof;

C. To certify in writing through one of its officers or an employee of such defendant regularly having the authority to determine published prices, at the time of every generally published revision of its published prices, terms or conditions of sale of pipe, that the decision to make such change was independently arrived at by such defendant and not as the result of any agreement or understanding with any competitor, and further to retain in its files the aforesaid certifications for a period of five years from the date thereof, which certifications shall be made available to plaintiff for inspection upon reasonable written demand.

VII

Nothing contained in this Partial Final Judgment shall be deemed to prohibit any of the defendants from:

A. Communicating to any other person, including any

1 of the defendants in this action, information concerning
2 bids, prices, terms or conditions applicable to the sale of
3 pipe in connection with any proposed or actual bona fide
4 purchase or sale or subcontract between them, or entering
5 into or performing any such transaction.

6 B. Furnishing to distributors of its pipe suggested
7 prices, terms or conditions relating to the resale of such
8 pipe, or prescribing such prices, terms or conditions where
9 it is otherwise lawful to do so;

10 C. Communicating to any other person providing the
11 services of lining or coating pipe, including any of the
12 defendants in this action, information concerning bids,
13 prices, terms or conditions applicable to the lining or
14 coating of pipe in connection with any proposed or actual
15 bona fide transaction between them for the lining or for
16 coating of pipe, or entering into or performing any such
17 transaction; and

18 D. Communicating to any other person, including any
19 of the defendants in this action, information concerning
20 bids, prices, terms or conditions applicable to the sale
21 of pipe in connection with any proposed or actual bona
22 fide joint bid, quotation or joint venture by or between
23 a defendant and any other defendant in this action or
24 any other person, where the job is of such size or
25 nature, or performable at such time, that in good faith
26 such defendant believes that it is undesirable to handle
27 the entire job alone and the transaction is denominated
28 as or is known to the purchaser to be a joint bid,
29 quotation or joint venture, or entering into or performing
30 any such transaction.

31 VIII

32 Each of the defendants is ordered and directed

1 within 60 days from the date of entry of this Partial Final
2 Judgment to furnish a copy of this Partial Final Judgment
3 to each of its officers, plant managers, sales managers
4 and assistant sales managers in the Western Area who are
5 directly involved in the production or sale of pipe, and
6 to their successors within 30 days after hiring or appoint-
7 ment, and to retain in its files for a period of five years
8 from the date of this Partial Final Judgment a written
9 statement signed within 60 days after receipt thereof by
10 each such employee setting forth the date he received a
11 copy of this Partial Final Judgment, his title, his place
12 of employment and the name of his immediate superior.

13 IX

14 For the purpose of determining or securing compliance
15 with this Partial Final Judgment, duly authorized repre-
16 sentatives of the Department of Justice shall, on written
17 request of the Attorney General or the Assistant Attorney
18 General in charge of the Antitrust Division, and on reason-
19 able notice to any defendant made to its principal office,
20 be permitted, subject to any legally recognized privilege:

21 A. Reasonable access, during office hours of such
22 defendant, to all books, ledgers, accounts, correspondence,
23 memoranda, and other records and documents in the
24 possession or under the control of such defendant,
25 relating to any matters contained in this Partial Final
26 Judgment; and

27 B. Subject to the reasonable convenience of such
28 defendant and without restraint or interference from it,
29 to interview officers or employees of such defendant, who
30 may have counsel present, regarding any such matters.

31 Upon such written request such defendant shall
32 submit such reports in writing with respect to any of the

1 matters contained in this Partial Final Judgment as may
2 from time to time be requested for the enforcement of this
3 Partial Final Judgment.

4 No information obtained by the means provided in this
5 Section IX shall be divulged by any representative of the
6 Department of Justice to anyone other than a duly authorized
7 representative of the executive branch of the plaintiff
8 except in the course of legal proceedings to which the
9 United States is a party for the purpose of securing com-
10 pliance with this Partial Final Judgment or as otherwise
11 required by law.

12 X

13 Jurisdiction is retained by this Court for the pur-
14 pose of enabling any of the parties to this Partial Final
15 Judgment to apply to this Court at any time for such
16 further orders and directions as may be necessary or
17 appropriate for the construction or carrying out of this
18 Partial Final Judgment, for the modification or termination
19 of any of the provisions hereof, for the enforcement of
20 compliance herewith and for the punishment of violations
21 hereof.
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25 Dated: December 8, 1967
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29 /s/ MARTIN PENCE

30 United States District Judge
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APPENDIX A

By submitting this bid the undersigned hereby certifies that said bid has not been made or prepared in collusion with any other manufacturer of pipe and that the prices, terms or conditions applicable to the sale thereof have not been communicated by or on behalf of the bidder to any such manufacturer and will not be so communicated to any such manufacturer prior to the official opening of said bid, in violation of any decree entered against bidder by the United States District Court for the Central District of California which may be applicable to said bid.

Dated:

Signature of Officer or Employee
of the Corporation

APPENDIX B

By issuing this quotation or any changes thereof,
the undersigned certifies that this quotation and any such
changes have not been made or prepared in collusion with
any other manufacturer of pipe in violation of any decree
entered against seller by the United States District Court
for the Central District of California which may be
applicable to said quotation.

Dated:

Signature of Officer or Employee
of the Corporation