

U. S. v. THE MOSIAC TILE COMPANY, ET AL.
IN THE DISTRICT COURT OF THE UNITED STATES FOR
THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION.

June Term, 1940.

Civil No. 1788.

UNITED STATES OF AMERICA, PLAINTIFF

VS.

THE MOSAIC TILE COMPANY, ROBIN K. SILVEY, JAMES
A. FALCONER, A. T. FALCONER, OWEN WATKINS,
FRANK BURT, THE NATIONAL TILE COMPANY, C. G.
STEINBICKER, EMILE FRANCOIS, DUNCAN MILLETT,
THE WHEELING TILE COMPANY, WALTER SULLIVAN,
J. B. YOUNGSON, IRA PRESTON, ROBERTSON ART TILE
COMPANY, EDWARD DERBACHER, D. P. FORST, THE
STANDARD TILE COMPANY, H. W. RHEAD, JOHN MOR-
TON, SUPERIOR CERAMIC CORPORATION, DEFENDANTS.

FINAL DECREE.

1. This cause came on to be heard on this 17th day of June 1940, the complainant being represented by Thurman Arnold, Assistant Attorney General, and William J. Campbell, United States Attorney for the Northern District of Illinois, and Leo F. Tierney, Lyle L. Jones, Jr., and Robert A. Nitschke, Special Assistants 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 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

ORDERED, ADJUDGED, AND DECREED

4. 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.

5. That the defendants, their officers, agents, and employees be and they hereby are perpetually enjoined and restrained from agreeing, combining, and conspiring among themselves, or with the Bricklayers, Masons & Plasterers International Union of America or any

subordinate union, their officers, agents, or members, or the Tile Contractors' Association of America, Inc., or any subordinate association, their officers, agents, or members:

(a) To refuse to sell tile to any person, partnership, or corporation;

(b) To refuse to sell tile to any tile contractor because such tile contractor is or is not a member of any association or because such tile contractor does or does not hire union tile setters;

(c) To refuse to sell tile to any jobber or local distributor of tile because such jobber or local distributor sells to a tile contractor who is or is not a member of any association or who does or does not hire union tile setters;

(d) To create, operate, or participate in the operation of any device or method to maintain or to fix the price of tile, or to limit competition in the sale of tile; provided that nothing in paragraph 5 contained shall be construed to enjoin the officers, agents, or employees of a single corporation from agreeing among themselves with respect to the sales policy of such corporation.

6. That the defendants, their officers, agents, and employees be and they hereby are perpetually enjoined and restrained from doing individually any of the acts named in paragraphs 5 (a), (b), (c), and (d) above, for the purpose of accomplishing any objective, end or action enjoined by this decree.

7. This decree is in favor of the United States of America and against the defendant tile manufacturers, their officers, agents, and employees, and nothing herein contained shall be considered or construed as an agreement between the defendant tile manufacturers, their officers, agents, or employees, or any of them, and the other defendants or any of them. Nothing in this decree shall be construed to limit the right of each defendant tile manufacturer to deal individually with customers of its own selection, except as specified in paragraph 6 hereof.

8. 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.

9. 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, and subject to any legally recognized privilege, 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.

10. 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 fur-

ther 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.

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

Dated June 17, 1940.

MICHAEL L. IGOE,
United States District Judge.