

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

OPERATIVE PLASTERERS AND CEMENT
MASONS INTERNATIONAL ASSOCIATION
OF THE UNITED STATES AND CANADA;
BRICKLAYERS, MASONS AND PLASTERERS
INTERNATIONAL UNION OF AMERICA; and
PLASTERING DEVELOPMENT CENTER, INC.,

Defendants.

CIVIL ACTION

NO. 56 C 1096

At Chicago, Illinois, in said Division and
District on January 21, 1959.

FINAL JUDGMENT

The plaintiff, United States of America, having filed its complaint herein on June 29, 1956, the defendant Plastering Development Center, Inc., formerly E-Z-ON Corporation, having filed its answer denying the substantive allegations thereof, and the plaintiff and said defendant having consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein, and without this Final Judgment constituting evidence or an admission by any party signatory hereto with respect to any such issue;

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

ORDERED, ADJUDGED AND DECREED as follows:

I

This Court has jurisdiction of the subject matter of this action and of the parties signatory hereto. The complaint states claims for relief against the defendant signatory hereto 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, as amended.

II

As used in this Final Judgment:

(A) "Plastering machine" means any mechanical device which is actuated by gas or electricity and sprays a plaster mix on walls or ceilings;

(B) "Person" shall mean any individual, partnership, corporation, association, firm, trustee or other legal entity;

(C) "Defendant Plastering Development Center, Inc." means defendant Plastering Development Center, Inc., and its predecessor E-Z-ON Corporation, with offices located at 1725 West Pershing Road, Chicago, Illinois.

III

The provisions of this Final Judgment shall apply to defendant Plastering Development Center, Inc., and to its subsidiaries, successors, assigns, officers, directors, servants, employees and

agents, and to all persons in active concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise.

IV

Defendant Plastering Development Center, Inc., is enjoined and restrained from entering into, adhering to or enforcing any contract, agreement or understanding with any other person, directly or indirectly:

(A) Preventing, limiting or restricting the lease, sale or other disposition of any plastering machine, except that as a manufacturing licensee defendant may agree with a patent holding licensor to lease only and not to sell plastering machines produced by it under license agreement with said patent holder;

(B) Requiring said defendant to impose any terms or conditions upon a purchaser, lessee or other transferee of any plastering machine;

(C) Requiring a purchaser, lessee or other transferee of any plastering machine to employ any person or class of persons designated by defendant to operate a plastering machine;

(D) Requiring or attempting to require a purchaser, lessee or other transferee to operate a plastering machine acquired from said defendant in compliance with the working rules and regulations of any labor union or association;

(E) Preventing or attempting to prevent a purchaser, lessee or other transferee after payment of the full sale price of a plastering machine from selling, transferring, assigning, subletting,

or otherwise disposing of said plastering machine.

V

(A) Defendant Plastering Development Center, Inc., is ordered and directed, within sixty (60) days after the entry of this Final Judgment, to send by certified mail to each individual and firm listed in the appendix attached hereto except those who to said defendant's knowledge have disposed of plastering machines listed therein, a bill of sale for no additional consideration (a) conveying to said individual or firm all right, title and interest to said plastering machine; and (b) cancelling all prior agreements between said defendant and said individual or firm, regarding said plastering machine.

(B) Said defendant is further ordered and directed within ninety (90) days from the date of the entry of this Final Judgment to send by certified mail a notification to all persons, firms or corporations to whom said defendant, so far as its records show, refused to sell or lease its plastering machines, at any time since January 1, 1950, offering to sell to said persons, firms or corporations on non-discriminatory terms defendant's plastering machines.

(C) Said defendant is further ordered and directed, within one hundred twenty (120) days from the entry of this Final Judgment to furnish plaintiff a carbon copy of each bill of sale mailed pursuant to this Final Judgment and United States Postal receipts indicating delivery, or attempted delivery, of said bills of sale.

VI

Defendant Plastering Development Center, Inc., is further ordered and directed to publish in all plastering trade journals and publications which have carried said defendant's plastering machine advertisements at any time between January 1, 1950 and the date of the entry of this Final Judgment, a summary statement of the Final Judgment entered herein; provided, however, that not less than forty-five (45) days prior to said publication a copy shall be made available to plaintiff herein who shall have the right to make any reasonable changes as to form and additions or deletions to said summary statement prior to publication, and reasonable directions as to position in said publication.

VII

For the purpose of securing compliance with this Final Judgment and subject to any legally recognized privilege, duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to the defendant Plastering Development Center, Inc., made to its principal offices, be permitted:

- (a) Access during the office hours of such defendant to all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of said defendant relating to any matter contained in this Final Judgment; and

(b) Subject to the reasonable convenience of said defendant and without restraint or interference from it, to interview officers or employees of said defendant, who may have counsel present, regarding any such matter.

Upon such written request, defendant Plastering Development Center, Inc., shall submit such reports in writing to the Department of Justice with respect to any of the matters contained in this Final Judgment as may from time to time be necessary to the enforcement of this Final Judgment.

No information obtained by the means provided in this Section VII shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of said Department, except in the course of legal proceedings to which the United States is a party for the purpose of securing compliance with this Final Judgment or as otherwise required by law.

VIII

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

IX

This Final Judgment shall become effective thirty (30) days
after entry herein.

s/ J. S. PERRY
United States District Judge

Dated: January 21, 1959

We hereby consent to the making and entry of this Final Judgment:

For the Plaintiff:

s/ Victor R. Hansen
VICTOR R. HANSEN
Assistant Attorney General

s/ Earl A. Jinkinson
EARL A. JINKINSON

s/ George H. Schueller
GEORGE H. SCHUELLER

s/ Ned Robertson
NED ROBERTSON

Attorneys, Department of Justice

Room 404, United States Courthouse
Chicago 4, Illinois
Harrison 7-4700

s/ W. D. Kilgore, Jr.
WILLIAM D. KILGORE, JR.

Attorneys, Department of Justice

For the Defendant Plastering
Development Center, Inc.:

s/ Thomas L. Marshall
THOMAS L. MARSHALL

Bell, Boyd, Marshall & Lloyd
135 South LaSalle Street
Chicago 3, Illinois
ANDover 3-1131

APPENDIX

	<u>Name of Lessor or Lessee</u>	<u>Serial Number of Machine</u>
1.	Acme Maintenance Eng. Co. 801 Union Street Montebello, California	A-1082
2.	S. F. Anderson 642 Cove Road Weirton, West Virginia	A-1183
3.	Alatex Const. Serv. Co. 4516 D'Hemecourt Street New Orleans, Louisiana	A-1140
4.	B & G Lath & Plasterers Contrs. 916 West 15th Street Grand Island, Nebraska	A-1216
5.	Babka Co. 3441 West 24th Chicago, Illinois	A-1357
6.	Henry Bass 422 East Park Avenue San Antonio, Texas	A-1186
7.	Blanchard Plastering Co. 5 Avon Place Portland, Maine	A-1603
8.	Bolton Plastering Contrs. 1530 Florida Street Baton Rouge, Louisiana	A-1353
9.	Boyd & Crockett Plaster & Tile Co. 1224 Briarwood Garland, Texas	A-1211
10.	R. B. Brunemann & Sons, Inc. 3737 Spaeth Street Cincinnati 23, Ohio	A-1156

<u>Name of Lessor or Lessee</u>	<u>Serial Number of Machine</u>
11. Builders Material & Supply 501 South Pearl Street Albany, New York	--
12. Paul C. Calcaterra 12841 Bloomfield North Hollywood, California	A-1155
13. H. Carr & Sons, Inc. 754 Branch Avenue Providence, Rhode Island	A-1455
14. E. F. Chapman, Plastering Contractor 4917 McRaven Road Jackson, Mississippi	A-1452
15. Chris B. Christians 318 Blum Street San Antonio 2, Texas	A-1290
16. D. Conti & Sons, Inc. 958 Liberty Street Springfield, Massachusetts	A-1513
17. Edward H. Coon Co. 30 Depot Street Watertown, Connecticut	A-1372
18. Fred Cooper & Sons 2604 - 7th Avenue Greeley, Colorado	A-1162
19. John Cortino Baseline and Mile 12 Mercedes, Texas	A-1222
20. Angelo J. Daneri 1433 Fairfax Avenue San Francisco, California	A-1207
21. Daugherty Plastering Co. 4906 Stanford Dallas 9, Texas	A-1253

	<u>Name of Lessor or Lessee</u>	<u>Serial Number of Machine</u>
22.	Di Stefano Contracting Co. 18 Scott Drive Bergenfield, New Jersey	A-1168
23.	Estes & Stout Plastering Contractors 923 North Tatum Street Dallas 11, Texas	A-1268
24.	Gables Plastering Co. (Sentell Supply Co.) 250 N.E. 72nd Street Miami, Florida	A-1167
25.	M. T. Gerton & Son, Contractors 2170 South Delaware Street Denver 23, Colorado	A-1323
26.	David Goldman 5634 Dyer Street Dallas, Texas	A-1208
27.	L. S. Goldman 4209 Park Lane Dallas, Texas	A-1170
28.	A. A. Greer, Inc. 3413 McKinney Avenue Dallas, Texas	A-1354
29.	A. A. Greer Same address	A-1029
30.	A. A. Greer Same address	A-1257
31.	A. A. Greer Same address	A-1355
32.	A. A. Greer Same address	A-1200
33.	A. A. Greer Same address	A-1283

	<u>Name of Lessor or Lessee</u>	<u>Serial Number of Machine</u>
34.	A. A. Greer Same address	A-1271
35.	Halde & Fleer, Inc. Box 285 Rapid City, South Dakota	A-1049
36.	Halde & Fleer, Inc. Same address	A-1202
37.	Hancock Plastering Co. 423 Kimball Mesa, Arizona (Subleased to: Arthur J. Hahn Phoenix, Arizona)	A-1089
38.	J. Tom Harrison Company, Inc. P. O. Box 3342 Shreveport, Louisiana	A-1379
39.	J. Tom Harrison Company, Inc. Same address	A-1463
40.	J. Tom Harrison Company, Inc. Same address	A-1604
41.	Floyd Hartshorn Plastering Co., Inc. 2030 Texas Street El Paso, Texas	A-1366
42.	William T. Harvey 4122 Kostner Avenue Dallas, Texas	A-1296
43.	Roy Hedrick 635 Alma Avenue Pueblo, Colorado	A-1348
44.	Henderson-Johnson Co., Inc. 918 Canal Street Syracuse, New York	A-1174

	<u>Name of Lessor or Lessee</u>	<u>Serial Number of Machine</u>
45.	Henderson-Johnson Co., Inc. Same address	A-1182
46.	J. R. Hevener 3741-1/2 - 34th Street Sacramento, California	A-1508
47.	J. R. Hevener Same address	A-1055
48.	Norman T. Hill 4920 - 15th Avenue Sacramento, California	A-1300
49.	William Huff 309 Kistler San Angelo, Texas	A-1221
50.	Al Iezzi 224 Ceymer Street Reading, Pennsylvania	A-1461
51.	C. Bus Iglehart 1325 - 22nd Avenue Rock Island, Illinois	A-1204
52.	Wayne Keller 2811 West Cucharras Street Colorado Springs, Colorado	A-1338
53.	E. E. La Roche Box 12 Grand Prairie, Texas	A-1068
54.	Larson Bros. P. O. Box 1506 San Diego 10, California	A-1056
55.	M. A. Mackay 4142 Tijon Street Denver 11, Colorado	A-1142
56.	M. A. Mackay 4142 Tijon Street Denver 11, Colorado	A-1301

	<u>Name of Lessor or Lessee</u>	<u>Serial Number of Machine</u>
57.	James McAuley, Inc. 705 Burbank Drive Toledo 7, Ohio	A-1181
58.	Chas. McGarvey Co. 927 East Fowler Street Indianapolis, Indiana	A-1358
59.	National Gypsum Co. 325 Delaware Avenue Buffalo, New York	A-1356
60.	C. B. Neudecker 808 Arch Street Alton, Illinois	A-1227
61.	A. E. Parker, Inc. 965 E. San Carlos San Carlos, California	A-1286
62.	Powers Plastering Co. 411 Rusk Building Houston, Texas	A-1601
63.	Powers Plastering Co. 411 Rusk Building Houston, Texas	A-1269
64.	Fred T. Richards 3912 W. Vickery Street Fort Worth, Texas	A-1297
65.	George F. Robertson Plastering Co. 3508 Atlantic Street St. Louis, Missouri	A-1136
66.	Ross & Son Const. Co. Box 446 Brownwood, Texas	A-1464
67.	Jos. E. Rourke Plastering Contr. P. O. Box 989 - 4618 Avenue O Galveston, Texas	A-1310

	<u>Name of Lessor or Lessee</u>	<u>Serial Number of Machine</u>
68.	Patrick J. Ruane, Inc. 44 San Jose Avenue San Francisco, California	A-1233
69.	Patrick J. Ruane, Inc. 44 San Jose Avenue San Francisco, California	A-1336
70.	Gene Scaperotta 271 Castle Drive Stratford, Connecticut	A-1201
71.	Thos. F. Scollan Co. P. O. Box 2125 Sacramento, California	A-1154
72.	J. V. Sgroi Plastering Co., Inc. 2017 Teall Avenue East Syracuse, New York	A-1602
73.	Charles T. Silagy 14817 Catalina Avenue Gardena, California	A-1084
74.	Arthur Silva 311 A Washington Street, SE Albuquerque, New Mexico	A-1302
75.	John O. Sjogren 112 Railroad Avenue Rawlins, Wyoming	A-1337
76.	Smallwood Plastering Co. 1632 E. 39th Street Cleveland 14, Ohio	A-1062
77.	Frank D. Smith 375 Bay Shore Blvd. San Francisco, California	A-1333
78.	George E. Spicer & Son 800 Leonard Avenue Zanesville, Ohio	A-1172

<u>Name of Lessor or Lessee</u>	<u>Serial Number of Machine</u>
79. Storbeck & Gregory 137 Pittsburgh Street Dallas 22, Texas	A-1294
80. Storbeck & Gregory Same address	A-1270
81. Storbeck & Gregory Same address	A-1099
82. Phil Sutton 1762 S. E. Hamilton Roseburg, Oregon	A-1383
83. Swanson & Kraas Plaster Co. Route 1, Box 522 Edinburg, Texas	A-1047
84. E. L. Thompson 990 Edgewood Avenue, NE Atlanta 7, Georgia	A-1184
85. Tobin & Rooney P. O. Box 6873 Houston 5, Texas	A-1278
86. L. G. Turner 1581 Garther Street Memphis, Tennessee	A-1609
87. Luther M. Warda 375 S. Mayfair Daly City, California	A-1507
88. Luther M. Warda Same address	A-1193
89. J. V. Wilson Plastering Co. 12 - 21st Street Sioux City, Iowa (subleased from Derby Plastering Co., Inc., 3000 Crittenden Drive, Louisville, Kentucky, in February 1954)	A-1105

	<u>Name of Lessor or Lessee</u>	<u>Serial Number of Machine</u>
90.	Earl J. Winter 4400 Grove Street Denver, Colorado	A-1328
91.	John H. Wolf Box 2888 Redding, California	A-1087
92.	Bill Wood & Son 4475 Alum Rook Avenue San Jose, California	A-1344
93.	J. A. Moody 12139 Wilson Avenue Compton, California	A-1030
94.	M. A. Santoro, Inc. 6730 E. McNichols Road Detroit 12, Michigan	A-1611