

U. S. v. IMPERIAL WOOD STICK CO., INC., ET AL.
IN THE DISTRICT COURT OF THE UNITED STATES FOR
THE SOUTHERN DISTRICT OF NEW YORK

Civil Action No. 4-122.

UNITED STATES OF AMERICA, PLAINTIFF

VS.

IMPERIAL WOOD STICK COMPANY, INC., HARDWOOD PRODUCTS COMPANY, SETTER BROTHERS, INC., MORGAN-HITCHCOCK COMPANY, C. B. CUMMINGS & SONS COMPANY, SAUNDERS BROTHERS, MAINE SKEWER & DOWEL COMPANY, L. B. HANAFEE, WILLIAM F. ROBBINS, FRED B. CHADBOURNE, PHILIP H. CHADBOURNE, E. S. CUMMINGS, CLIFFORD P. SETTER. WARREN SAUNDERS, A. L. SAUNDERS, EDGAR D. CARTWRIGHT, AND METTA CARTWRIGHT, DEFENDANTS

DECREE

This cause coming on to be heard on the 6th day of June 1939, and the defendants having accepted service of process and having appeared and filed their answers herein,

And counsel for the petitioner and the defendants having consented to the making and entering of this decree,

Now, therefore, without taking any testimony or evidence and in accordance with said consent of counsel, it is hereby

ORDERED, ADJUDGED, AND DECREED as follows:

I. That the Court has jurisdiction of the subject matter and of all the parties hereto; that the petition 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.

II. That the corporate defendants, their officers, directors, agents, servants, employees, and representatives,

as well as their successors and the individual defendants be, and they hereby are, perpetually enjoined and restrained from in any way engaging in, continuing, or reviving, either directly or indirectly, in whole or in part, by any means whatsoever, the combination and conspiracy in restraint of trade and commerce in candy sticks, described in the petition herein, as follows:

10. Defendants Hardwood Products Company, C. B. Cummings & Sons, Maine Skewer & Dowel Company, Setter Brothers, Inc., and Morgan-Hitchcock Company (referred to together with Saunders Brothers in the petition as the manufacturing defendants) caused the organization of Imperial Wood Stick Company and incorporated it under the laws of the State of New York on or about January 1, 1933. The stock of Imperial was prorated among each of aforesaid defendants, the percentage of each being determined by the amount of his sales of candy sticks as compared to the total sales of all of said defendants.

11. At the same time, that is, on or about January 1, 1933, each of the manufacturing defendants entered into an agreement with Imperial, whereby Imperial was to act as sales agent for such defendant as well as for the other manufacturing defendants in the sale of candy sticks. Each of said defendants agreed to limit his production to a stated percentage of the total production, the percentage being the same as the percentage of stock held by the particular defendant in Imperial. The agreements further provided that the price to be charged for candy sticks was to be determined from time to time by Imperial. In the event one of the manufacturing defendants sold candy sticks to others than Imperial for more than the price fixed by Imperial, it paid the difference to Imperial and if it sold for less to meet competition, it was reimbursed the difference by Imperial. It was further agreed that the officials of Imperial should have access at all times to such records of the other defendant companies as might be necessary to check quantities, inventories, shipments, sales, and payments.

12. On January 1, 1935, Saunders Brothers joined said conspiracy by executing a contract with Imperial containing all of the provisions of Paragraph 2 above, and the quotas of the other manufacturing defendants were reallocated so as to provide for the quota of Saunders Brothers.

III. That Imperial Wood Stick Company, Inc., be dissolved forthwith and that the corporate defendants, their officers, directors, agents, servants, employees, and representatives, as well as their successors and the individual defendants be, and they hereby are, perpetually enjoined and restrained from acting in concert in the employment of any person, firm, or corporation to act as a common selling agent in the sale of candy sticks.

IV. That the corporate defendants, their officers, directors, agents, servants, employees, and representatives, as well as their successors and the individual defendants be, and they hereby are, perpetually enjoined and restrained from in any way engaging in, either directly or indirectly, in whole or in part, by any means whatsoever, any combination, conspiracy, or restraint similar to the combination, conspiracy, and restraint described in Paragraph II above, and from hereafter entering into, or participating in, any agreement, arrangement, or understanding, express or implied, to fix or to maintain prices, to limit or to control production, or otherwise to eliminate or prevent free and unrestricted competition in the sale of candy sticks.

V. That for the purpose of securing compliance with the 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 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.

VI. That jurisdiction of this cause and of the parties hereto is retained for the purpose of giving full effect to this decree and for the enforcement of strict compliance therewith, and for the further purpose of making such other and further orders and decrees or taking such other action as may from time to time be necessary.

Dated: JUNE 6, 1939.

(s) JOHN CLANCY,
United States District Judge.