

CORRECTED COPY

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	64 Civil Action No. 3090
	)	
BURLINGTON INDUSTRIES, INC., ET AL.,	)	
	)	ENTERED: <u>July 11, 1966</u>
Defendants.	)	
	)	

FINAL JUDGMENT AS TO DEFENDANTS
EXETER MANUFACTURING COMPANY, INC., AND ROBERT E. SPOERL

Plaintiff, United States of America, having filed its complaint herein on October 9, 1964, and the defendants, Exeter Manufacturing Company, Inc. and Robert E. Spoerl, by their attorney, having consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein, without this Final Judgment constituting evidence or an admission by plaintiff or such defendants with respect to any such issue, and this Court, pursuant to Rule 54(b) of the Federal Rules of Civil Procedure, having determined that there is no just reason for delay in entering a Final Judgment as to all of plaintiff's claims asserted in said complaint against such defendants and having directed the entry of such a Final Judgment;

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 hereto, it is hereby

ORDERED, ADJUDGED and DECREED as follows:

I

This Court has jurisdiction of the subject matter hereof and of the parties consenting hereto. The complaint states a claim for

relief against the consenting 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, as amended. The making and entering of this Final Judgment shall not prejudice or estop plaintiff obtaining other, further and different relief against the remaining defendants in this action.

II

As used in this Final Judgment:

(A) "Person" shall mean an individual, partnership, firm, association, corporation or other legal or business entity;

(B) "Glass fiber industrial fabrics" shall mean fabrics woven from glass fiber yarns and sold for industrial application or use, and includes woven roving and tape.

III

The provisions of this Final Judgment applicable to the consenting corporate defendant shall also apply to each of its subsidiaries, successors, assigns, officers, directors, agents, and employees, and to all other persons in active concert or participation with the consenting defendants who receive actual notice of this Final Judgment by personal service or otherwise.

IV

Each of the consenting defendants is jointly and severally enjoined and restrained from combining or conspiring, or entering into, enforcing or claiming any rights under, any agreement, arrangement, or understanding with any other weaver of glass fiber industrial fabrics, to:

(A) Eliminate or suppress unreasonably competition in the manufacture, distribution or sale of glass fiber industrial fabrics;

(B) Fix, establish, or maintain, stabilize, adhere to, or adopt prices, pricing methods, discounts, terms or conditions for the

sale of glass fiber industrial fabrics to any third person;

(C) Exchange information concerning prices, pricing methods or other terms and conditions of sale for the sale of glass fiber industrial fabrics to any third person (other than information released to the trade generally); or

(D) Submit non-competitive, collusive or rigged bids or quotations for supplying any glass fiber industrial fabrics.

V

The corporate defendant is ordered and directed, for a period of five (5) years from the date of entry of this Final Judgment, to submit, with each sealed bid for glass fiber industrial fabrics submitted to the plaintiff, or any department or agency thereof, a certification of non-collusion in the form required by the purchasing department or agency, or, if no such certification is otherwise required, in substantially the form set forth in the Appendix hereto.

VI

The corporate defendant is enjoined and restrained from:

(A) Utilizing, as a means of determining, in whole or in part, the price or prices at which it will sell glass fiber industrial fabrics, any cost or pricing formula, or part thereof, which has not been independently arrived at by such corporate defendant on the basis of its individual business judgment;

(B) Communicating, directly or indirectly, to any weaver of glass fiber industrial fabrics information relating to prices, terms or conditions of sale at or upon which such fabrics are being sold or will be sold to any third person, other than such information which has been previously or is simultaneously released to the trade generally.

VII

Each of the consenting defendants is enjoined and restrained from belonging to or participating in any of the activities of any trade association or other organization, with knowledge that the activities or objectives

of such trade association or other organization are inconsistent with any of the terms of this Final Judgment if it were binding on such association or organization.

VIII

For the purpose of securing compliance with this Final Judgment, and for no other purposes, duly authorized representatives of the Department of Justice shall, on written request of the Attorney General, or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to the corporate defendant made to its principal office, be permitted, subject to any legally recognized privilege:

(A) Access, during the office hours of said defendant, who may have counsel present, to those books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of said defendant regarding any subject matter contained in this Final Judgment;

(B) Subject to the reasonable convenience of said defendant and without restraint or interference from it, to interview officers or employees of the defendant, including defendant Robert E. Spoorl, in that capacity, who may have counsel present, regarding any such matters.

Upon such written request of the Attorney General, or the Assistant Attorney General in charge of the Antitrust Division, said defendant shall submit such reports in writing with respect to the matters contained in this Final Judgment. No information obtained by the means provided in this Section shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the United States 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.

IX

The corporate defendant is ordered and directed, for a period of five (5) years from the date of entry of this Final Judgment, or

until such time as all cases consolidated into 64 Civil No. 3090 are disposed of, to retain and preserve its records and documents relating to the subject matter of the aforesaid consolidated cases. Upon approval of the Court, the corporate defendant may alter, remove, or destroy, any of such records and documents.

X

Jurisdiction is retained for the purpose of enabling any of the parties consenting to this Final 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 Final Judgment, for the modification of any of the provisions thereof, and for the enforcement of compliance therewith and the punishment of violations thereof.

Dated: July 11, 1966

/s/ SYLVESTER J. RYAN
United States District Judge

APPENDIX

The undersigned hereby certifies that, to his best knowledge and belief, the annexed bid has not been prepared in collusion with any other manufacturer or seller of glass fiber industrial fabrics and that the prices, terms or conditions thereof have not been communicated by or on behalf of the bidder to any such person and will not be communicated to any such person prior to the official opening of said bid.

Dated: _____

(Signature of Person Preparing the Bid)