

**UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF NEW YORK**

UNITED STATES OF AMERICA,
Plaintiff,

v.

WHITEHEAD BROTHERS COMPANY,
et al.,
Defendants.

1:20-mc-515

(Originally Civil Action No. 17-GG)

DECLARATION OF BARRY L. CREECH

I, Barry L. Creech, do hereby declare and state as follows:

1. I am an attorney admitted to practice in the District of Columbia. I have been a trial attorney with the Antitrust Division of the Department of Justice since 1990.
2. This Declaration is being submitted in support of the United States of America's Motion to Terminate A Legacy Antitrust Judgment in the above-captioned matter.
3. The statements made in this Declaration are based on the knowledge acquired by me in the performance of my official duties and in conjunction with factual research conducted by other attorneys and staff in the Antitrust Division.
4. In early 2018, the Department of Justice Antitrust Division implemented a program to review and, when appropriate, seek termination of older antitrust judgments in which parties were subjected to some type of affirmative obligation or express prohibition that did not have an expiration date. As part of this process, the Division researched the corporate status of entities subject to these older, legacy antitrust judgments.

5. For the judgment in this case, librarians of the Antitrust Division were instructed to research and confirm the corporate status of the corporate defendants. The librarians searched the following public sources to determine corporate status.

- a. A search of the New York Department of State Division of Corporations database. If the final judgment (as submitted to this Court) or other web search (see below) suggested incorporation information for a defendant in another state, the librarians also checked that state for corporate status.
- b. A search of the Encyclopedia of Associations and IRS Tax Exempt Organization Search, where such organizations or associations were subject to a judgment.
- c. A search of web-based resources for the existence (or succession) of the entity. In addition to general web-based searches, the search included research in one or more of the following resources:
 - i. Lexis and/or Westlaw (news, company, and/or litigation search);
 - ii. historical newspapers from Newsbank, ProQuest, and/or Newspapers.com; and
 - iii. historical company directories held by the Antitrust Division Library.

6. Based on the information provided to me by the librarians, I believe that the corporate defendant in this matter is still in business.

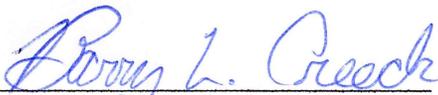
7. The sole corporate defendant in this judgment, Whitehead Brothers Company, now operates under the name Whibco, Inc. The Antitrust Division contacted Whibco regarding this judgment. The company's president stated that Whibco is no longer involved in bentonite production, the product involved in this judgment. Today, the company produces a wide variety

of industrial sands and fine construction aggregates used in such things as grout, roofing shingles, and road and infrastructure construction. Moreover, Whibco, through its president, had no objection to this motion.

8. In addition to Whitehead Brothers Company, there were two individual defendants bound by this final judgment – A.J. Miller and A.Y. Gregory. Given that this final judgment was entered 78 years ago, these defendants are likely deceased. Moreover, it would be highly unlikely for either of the individual defendants to still be actively engaged in the relevant activities from this judgment.

Having reviewed this Declaration, I declare, under penalty of perjury that the foregoing is true and correct.

Dated: November 24, 2020
Washington, D.C.



Barry L. Creech
Trial Attorney
United States Department of Justice
Antitrust Division