

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

BEATRICE FOODS CO.;
OLSONITE CORPORATION;
BEMIS MANUFACTURING COMPANY; and
STANDARD TANK & SEAT CO.,

Defendants.

Civil No. 4-71922

Filed: *June 19, 1974*

COMPLAINT

The United States of America, plaintiff, by its attorneys, acting under the direction of the Attorney General of the United States, brings this civil action to obtain equitable relief against the above-named defendants and complains and alleges as follows:

I

JURISDICTION AND VENUE

1. This complaint is filed under Section 4 of the Act of Congress of July 2, 1890 (15 U.S.C. § 4), as amended, commonly known as the Sherman Act, in order to prevent and restrain the continuing violation by defendants, as hereinafter alleged, of Section 1 of said Act (15 U.S.C. § 1).

2. Each of the defendant corporations transacts business within the Eastern District of Michigan, Southern Division.

II

DEFINITIONS

3. As used herein:

(a) "wood flour toilet seat" means the toilet seat which is manufactured from wood shavings, finely ground sawdust or other wood by-products which are ground into the consistency of flour, placed into a mold to which resins and other adhesive chemicals are added and subjected to high temperature and pressure; and

(b) "popular priced wood flour toilet seat" means the lowest priced wood flour toilet seat manufactured and sold by each of the defendants named herein.

III

DEFENDANTS

4. The corporations named below are hereby made defendants herein. Each of said corporations is organized and exists under the laws of the State, and has its principal place of business in the city, indicated below:

<u>Company</u>	<u>State of Incorporation</u>	<u>Principal Place of Business</u>
Beatrice Foods Co.	Delaware	Chicago, Illinois
Olsonite Corporation	Michigan	Detroit, Michigan
Bemis Manufacturing Company	Wisconsin	Sheboygan Falls, Wisconsin
Standard Tank & Seat Co.	New Jersey	Camden, New Jersey

During the time of the conspiracy alleged herein, each of said corporations engaged in the business of manufacturing and selling popular priced wood flour toilet seats and other types of toilet seats in various states of the United States. Defendant Beatrice Foods Co. engaged in the business of manufacturing and selling popular priced wood flour toilet seats and other types of toilet seats through its Beneke division.

IV

CO-CONSPIRATORS

5. Various individuals not named as defendants herein participated as co-conspirators in the violation alleged herein and have performed acts and made statements in furtherance thereof.

V

TRADE AND COMMERCE

6. During the period covered by this complaint, the defendants manufactured wood flour toilet seats, including popular priced wood flour toilet seats, in plants located in Michigan, Wisconsin, Georgia, Mississippi, New Jersey and California. The popular priced wood flour toilet seats manufactured by the defendants are comparable products, and are sold as new or replacement seats for residential and commercial purposes.

7. The defendants sold these toilet seats through manufacturers representatives in various states to plumbing wholesalers or jobbers, plumbing contractors, general contractors, department stores, discount houses and others located throughout the United States. The seats are shipped to such customers for use in specific projects or for resale.

8. Thus, there is a continuous movement of such toilet seats in interstate commerce from the various manufacturing plants to delivery sites in each state of the United States.

9. During the period covered by this complaint, the defendants had total sales of popular priced wood flour toilet seats of approximately \$100 million and accounted for more than 75% of the total sales of such products in the United States.

VI

VIOLATION ALLEGED

10. Beginning sometime in 1965 and continuing thereafter until sometime in 1974, the exact dates being unknown to the plaintiff, the defendants and co-conspirators entered into and engaged in a combination and conspiracy in unreasonable restraint of the aforesaid interstate trade and commerce in the sale of popular priced wood flour toilet seats in the United States, in violation of Section 1 of the Act of Congress of July 2, 1890, as amended (15 U.S.C. § 1), commonly known as the Sherman Act. Said combination and conspiracy may continue unless the relief hereinafter prayed for is granted.

11. Said combination and conspiracy consisted of a continuing agreement, understanding, and concert of action among the defendants and co-conspirators to raise, fix, maintain and stabilize the prices of popular priced wood flour toilet seats in the United States.

12. In formulating and effectuating the aforesaid combination and conspiracy, the defendants and co-conspirators did those things which they combined and conspired to do, including, among other things, the following:

(a) Held meetings at various times at different locales and during conventions of the Southern Wholesalers Association and American Supply Association at hotels, motels, apartments and clubs, including, among others, Roosevelt Hotel, New Orleans, Louisiana; Park Shelton Hotel, Detroit, Michigan; Howard Johnson Motor Lodge, Fort Lauderdale, Florida; and Regency Hyatt Motel, Chicago, Illinois, at which times said defendants and co-conspirators:

(i) agreed to increase the prices of popular priced wood flour toilet seats;

(ii) agreed to issue identical price lists for popular priced wood flour toilet seats;

(iii) agreed to stagger the dates of letters announcing new price increases for popular priced wood flour toilet seats; and

(iv) policed adherence to the agreed upon published prices of popular priced wood flour toilet seats;

(b) Published price announcements and price lists increasing the prices of popular priced wood flour toilet seats in accordance with the aforesaid agreements;

(c) Telephoned and otherwise contacted one another between meetings concerning:

(i) increased prices on popular priced wood flour toilet seats; and

(ii) reported deviations from agreed upon published prices of popular priced wood flour toilet seats.

VII

EFFECTS

13. The combination and conspiracy alleged herein had the following effects, among others:

(a) Prices of popular priced wood flour toilet seats sold by the defendants have been raised, fixed, maintained and stabilized at non-competitive levels; and

(b) Customers of the defendants have been deprived of the opportunity to purchase popular priced wood flour toilet seats in an open and competitive market.

VIII

PRAYER

WHEREFORE, the plaintiff prays:

1. That pursuant to Section 5 of the Sherman Act this Court order summons to be issued to Beatrice Foods Co., Bemis Manufacturing Company and Standard Tank & Seat Co. commanding said defendants to appear and answer the allegations contained in this complaint, and to abide by and perform such orders and decrees as the Court may make in the premises.

2. That this Court adjudge and decree that the defendants, and each of them, have engaged in an unlawful combination and conspiracy in unreasonable restraint of the aforesaid interstate trade and commerce in violation of Section 1 of the Sherman Act.

3. That each of the defendants, its successors, assignees, subsidiaries, and transferees, and the respective officers, directors, agents and employees, and all other persons acting or claiming to act on behalf thereof or in concert therewith be perpetually enjoined and restrained from, in any manner, directly or indirectly:

(a) Continuing, maintaining or renewing the aforesaid combination and conspiracy and from engaging in any other combination, conspiracy, agreement, understanding or concert of action having a similar purpose or effect and from adopting or following any practice, plan, program or design having a similar purpose or effect; and

(b) Entering into any agreement, arrangement, concerted activity or understanding to:

(i) fix, stabilize, maintain, or adopt prices, discounts or terms or conditions of sale of popular priced wood flour toilet seats to any third person; and

(ii) exchange information concerning prices, discounts or terms or conditions of sale of popular priced wood flour toilet seats to any third person.

4. That this Court order that each defendant maintain, for a period of ten (10) years from the date of entry of final judgment herein, a record of all meetings, formal or informal, attended by any of its officers, directors or employees having managerial or supervisory authority in connection with the sale or pricing of popular priced wood flour toilet seats and similar representatives of any other toilet seat manufacturer; said records shall include the dates and places of said meetings, the names of all persons in attendance and a list of the topics discussed thereat.

5. That this Court order each defendant within sixty (60) days following the entry of final judgment in this action to:

(a) Withdraw its present effective price announcements and price lists, discount terms, and terms and conditions of sale for its popular priced wood flour toilet seat;

(b) Individually review its prices, discount terms, and terms and conditions of sale for its popular priced wood flour toilet seat on the basis of its individual cost, figures and individual judgment as to profits;

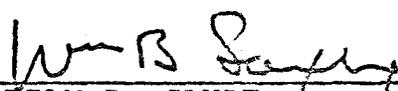
(c) Adopt and issue on a date certain new domestic prices, discount terms, and terms and conditions of sale for its popular priced wood flour toilet seat on the basis of such independent review; and

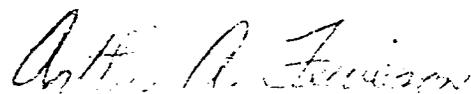
(d) Submit an affidavit, in a form approved by this Court, certifying that said prices, discount terms, and terms and conditions of sale were arrived at individually and independently.

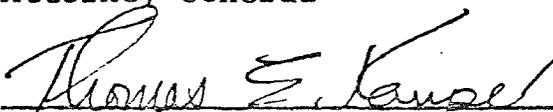
6. That this Court order each defendant, for a period of five (5) years, to certify by affidavit of one of its officers at the time of every succeeding change in its published prices, discount terms, or terms and conditions of sale for its popular priced wood flour toilet seat, that said change was individually and independently arrived at by said defendant and was not the result of any agreement or understanding with any other toilet seat manufacturer; and further, that every defendant retain in its files the aforesaid affidavits of certification.

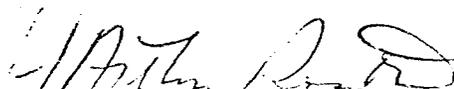
7. That plaintiff have such other and further relief as the nature of the case may require and the Court may deem just and proper.

8. That plaintiff recover the costs of this suit.

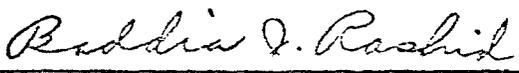

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