

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

UNITED STATES OF AMERICA,)
)
 Plaintiff,) Civil Action No. C-C-81-328
)
 v.) Filed: July 28, 1981
)
 THE DICKERSON GROUP, INC.,)
)
 Defendant.)

COMPLAINT

The United States of America, 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 defendant named herein and complains and alleges as follows:

COUNT ONE

I

JURISDICTION AND VENUE

1. This complaint is filed and this action is instituted under Section 4 of the Sherman Act (15 U.S.C. § 4) in order to prevent and restrain the violations by the defendant, as hereinafter alleged, of Section 1 of the Sherman Act (15 U.S.C. § 1).

2. The defendant transacts business and is found in the Western District of North Carolina.

II

DEFENDANT

3. The Dickerson Group, Inc. is made a defendant herein. The Dickerson Group, Inc. is organized and exists under the laws of the State of North Carolina and has its principal

place of business in Monroe, North Carolina. Prior to April 1, 1979, The Dickerson Group, Inc. was known as Dickerson, Incorporated. Within the period of time covered by this complaint, said corporation has engaged in the business of highway construction in the State of North Carolina.

4. Whenever in this complaint reference is made to any act, deed or transaction of the defendant, such allegation shall be deemed to mean that the defendant engaged in such act, deed or transaction by or through its officers, directors, agents, employees or representatives while they were actively engaged in the management, direction, control or transaction of its business or affairs.

III

CO-CONSPIRATORS

5. Various firms and individuals, not made defendants herein, participated as co-conspirators with the defendant in the violations alleged herein and performed acts and made statements in furtherance thereof.

IV

TRADE AND COMMERCE

6. In the development of a nationwide network of inter-connecting highways, the United States of America and the State of North Carolina have cooperated in the financing and construction of highways in the State of North Carolina. Within the period of time covered by this complaint, there was in existence a program financed and administered by the State of North Carolina and the United States of America for the development and improvement of such highways. This program was undertaken in accordance with the terms and conditions of Chapter 1 of Title 23 of the United States Code, Sections 101 et seq., commonly known as the Federal-Aid Highway Act. Under this program, funds from the United

States of America, through its agency, the Federal Highway Administration, became available for use by the Department of Transportation of the State of North Carolina to pay the costs of program-related highway construction within North Carolina. The highway projects which are the subject of this complaint are part of the Federal-Aid highway program.

7. During the period of time covered by this complaint, the North Carolina Department of Transportation invited highway construction contractors to submit sealed competitive bids on highway construction projects. Such invitations are known as highway lettings and occur several times each year in Raleigh, North Carolina. The State of North Carolina awards contracts to the lowest responsible bidder following the opening of the sealed bids by its Department of Transportation.

8. Highways in North Carolina are part of the network of interconnecting highways over which motor vehicles move in a continuous and uninterrupted stream of interstate commerce from and through one state to another. A substantial amount of the nation's goods move in interstate commerce over these highways via truck transportation.

9. During the period of time covered by this complaint, there was a substantial, continuous and uninterrupted flow of steel, cement, liquid asphalt and other essential materials from suppliers outside of the State of North Carolina to the job sites within the State for use by highway contractors in the construction of highways under the Federal-Aid Highway Act, including the job sites of the projects which are the subject of this complaint.

10. During the period of time covered by this complaint, the activities of the defendant and co-conspirators, as alleged in part herein, were within the flow of and had a substantial effect upon interstate commerce.

VIOLATION ALLEGED

11. Beginning sometime in or about October 1976, and continuing thereafter, the exact dates being unknown to the United States, the defendant and co-conspirators engaged in a combination and conspiracy in unreasonable restraint of the aforesaid interstate trade and commerce, in violation of Section 1 of the Sherman Act (15 U.S.C. § 1).

12. The aforesaid combination and conspiracy consisted of an agreement, understanding and concert of action among the defendant and co-conspirators, a substantial term of which was to submit collusive, noncompetitive and rigged bids for Project 8.1115105 let by the State of North Carolina on November 2, 1976.

13. For the purpose of forming and effectuating the aforesaid combination and conspiracy, the defendant and co-conspirators have done those things which they combined and conspired to do, including, among other things:

(a) Discussing the submission of the prospective bids on Project 8.1115105;

(b) Agreeing that the defendant would be the low bidder on Project 8.1115105; and

(c) Submitting intentionally high or complementary bids or withholding bids on Project 8.1115105.

VI

EFFECTS

14. The aforesaid combination and conspiracy charged herein had the following effects, among others:

(a) The price of Project 8.1115105 was fixed, maintained and established at an artificial and noncompetitive level; and

(b) The State of North Carolina and the United States were denied the benefits of free and open competition for Project 8.1115105.

COUNT TWO

I

15. Each and every allegation contained in paragraphs 1 through 10 of Count One of this complaint are here realleged with the same force and effect as though said paragraphs were set forth in full detail.

II

VIOLATION ALLEGED

16. Beginning sometime in or about May 1978, and continuing thereafter, the exact dates being unknown to the United States, the defendant and co-conspirators engaged in a combination and conspiracy in unreasonable restraint of the aforesaid interstate trade and commerce, in violation of Section 1 of the Sherman Act (15 U.S.C. § 1).

17. The aforesaid combination and conspiracy consisted of an agreement, understanding and concert of action among the defendant and co-conspirators, a substantial term of which was to submit collusive, noncompetitive and rigged bids for Project 6.503019 let by the State of North Carolina on June 27, 1978.

18. For the purpose of forming and effectuating the aforesaid combination and conspiracy, the defendant and co-conspirators have done those things, which they combined and conspired to do, including among other things:

(a) Discussing the submission of the prospective bids on Project 6.503019;

(b) Agreeing that the defendant would be the low bidder on Project 6.503019; and

(c) Submitting intentionally high or complementary bids or withholding bids on Project 6.503019.

III

EFFECTS

19. The aforesaid combination and conspiracy charged herein had the following effects, among others:

(a) The price of Project 6.503019 was fixed, maintained and established at an artificial and noncompetitive level; and

(b) The State of North Carolina and the United States of America were denied the benefits of free and open competition for Project 6.503019.

COUNT THREE

I

20. Each and every allegation contained in paragraphs 1 through 10 of Count One of this complaint are here realleged with the same force and effect as though said paragraphs were set forth in full detail.

II

VIOLATION ALLEGED

21. Beginning sometime in or about November 1978, and continuing thereafter, the exact dates being unknown to the United States, the defendant and co-conspirators engaged in a combination and conspiracy in unreasonable restraint of the aforesaid interstate trade and commerce, in violation of Section 1 of the Sherman Act (15 U.S.C. § 1).

22. The aforesaid combination and conspiracy consisted of an agreement, understanding and concert of action among the defendant and co-conspirators, a substantial term of which was to submit collusive, noncompetitive and rigged bids in connection with Project 5.0411034 let by the State of North Carolina on December 19, 1978.

23. For the purpose of forming and effectuating the aforesaid combination and conspiracy, the defendant and co-conspirators have done those things, which they combined and conspired to do, including among other things:

(a) Discussing the submission of the prospective bids on Project 5.0411034;

(b) Agreeing that the defendant would be the low bidder on Project 5.0411034; and

(c) Submitting intentionally high or complementary bids or withholding bids on Project 5.0411034.

III

EFFECTS

24. The aforesaid combination and conspiracy charged herein had the following effects, among others:

(a) The price of Project 5.0411034 was fixed, maintained and established at an artificial and noncompetitive level; and

(b) The State of North Carolina and the United States of America were denied the benefits of free and open competition for Project 5.0411034.

PRAYER

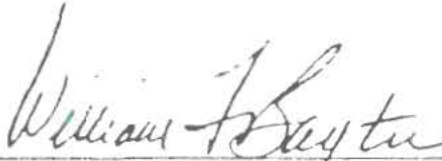
WHEREFORE, plaintiff prays:

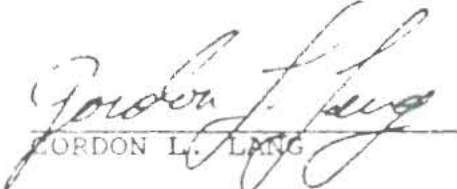
1. That the Court adjudge and decree that the defendant and co-conspirators engaged in unlawful combinations and conspiracies in restraint of the aforesaid interstate trade and commerce in violation of Section 1 of the Sherman Act, as alleged in Counts One, Two and Three of the complaint.

2. That the defendant, its officers, directors, agents, employees, representatives, successors, assigns and all persons acting or claiming to act on defendant's behalf, be perpetually enjoined from continuing, maintaining or renewing the aforesaid combinations and conspiracies as alleged in Counts One, Two and Three of the complaint and from engaging in any other combination, conspiracy, agreement or understanding having similar purposes or effects.

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

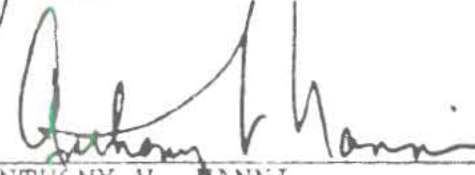
4. That the plaintiff recover the costs of this suit.


WILLIAM F. BAXTER
Assistant Attorney General


GORDON L. LANG


JOSEPH H. WIDMAR


LAURA METCOFF KLAUS


ANTHONY V. NANNI

Attorneys,
Department of Justice

Attorneys,
Department of Justice

Room 3248
Antitrust Division
Main Justice Building
Washington, D. C. 20530
202-633-2485
ITS 8-633-2485

HAROLD J. BENDER
First Assistant United
States Attorney