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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,  
Plaintiff,

v.

UNITED STATES GYPSUM COMPANY;  
NATIONAL GYPSUM COMPANY; KAISER  
GYPSUM COMPANY, INC.; THE FLINT-  
KOTE COMPANY; FIBREBOARD CORPORA-  
TION; THE CELOTEX CORPORATION and  
GEORGIA-PACIFIC CORPORATION

Defendants.

CIVIL ACTION NO.

*C-71-2467-AJK*  
FILED: *12/30/71*

CIVIL COMPLAINT AND  
DEMAND FOR JURY TRIAL

(ANTITRUST)

COMPLAINT

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

I

JURISDICTION AND VENUE

1. This complaint is filed and these proceedings are instituted under Section 4A of the Clayton Act (15 U.S.C. §15a) by the United States of America, in its capacity as purchaser and consumer of gypsum products, to recover actual damages which it has sustained due to the violation by defendants of Section 1 of the Sherman Act (15 U.S.C. §1), as hereinafter alleged.

2. Each of the defendants transacts business and is found within the Northern District of California.

## II

### DEFINITION

3. As used herein, the term "gypsum products" means the gypsum board and plaster manufactured and sold by the defendants.

## III

### THE DEFENDANTS

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

<u>Company</u>	<u>State of Incorporation</u>	<u>Principal Place of Business</u>
United States Gypsum Company	Delaware	Chicago, Illinois
National Gypsum Company	Delaware	Buffalo, New York
Kaiser Gypsum Company, Inc.	Washington	Oakland, California
The Flintkote Company	Massachusetts	White Plains, New York
Fibreboard Corporation	Delaware	San Francisco, Calif.
The Celotex Corporation	Delaware	Tampa, Florida
Georgia-Pacific Corporation	Georgia	Portland, Oregon

During the time of the conspiracy alleged herein, each of said corporations engaged in the business of manufacturing and selling gypsum products in various States of the United States.

5. In 1965, Bestwall Gypsum Company was merged into defendant Georgia-Pacific Corporation and all references

herein to Georgia-Pacific Corporation include Bestwall Gypsum Company.

6. Since 1963, defendant Celotex Corporation has operated Big Horn Gypsum Company as a subsidiary, and all references herein to Celotex Corporation include Big Horn Gypsum Company.

7. In 1959, Blue Diamond Corporation was merged into defendant The Flintkote Company, and all references herein to The Flintkote Company include Blue Diamond Corporation.

## VI

### CO-CONSPIRATORS

8. Various corporations and individuals, not named as defendants herein, participated as co-conspirators with the defendants in the offense charged herein and performed acts and made statements in furtherance thereof.

## V

### NATURE OF TRADE AND COMMERCE

9. Gypsum board and plaster are common building materials. They are most often used in the construction of walls and ceilings.

10. The manufacture of gypsum plaster involves mining of the mineral gypsum, crushing and grinding of gypsum rock and calcining the gypsum to drive out water molecules. There are varieties of gypsum plaster, such as cement plaster, finishing plaster, fibered and unfibered plaster. The different kinds of plaster are produced by the mixing and blending of various ingredients with calcined gypsum.

11. The manufacture of gypsum board involves mixing water, accelerators and fillers with calcined gypsum to form a "slurry" which is sandwiched between layers of paper and other material by machinery which also cuts the board to size. When the gypsum slurry dries, it reverts to rock form and

creates a bond with the outside layers of paper. There are varieties of gypsum board, such as wallboard, backing board, fire-rated board, lath, formboard and sheathing board. The different types are produced by the addition of certain ingredients to the gypsum core, by the bonding of different kinds of surface materials to the outside of the gypsum core or by altering the basic form of the board by means such as laminating or perforating.

12. Gypsum board is manufactured in standard thicknesses, lengths and widths. The various kinds of gypsum plaster and gypsum board are generally given different trade names by different manufacturers, but the composition and quality of the various kinds is essentially the same for the different manufacturers. Gypsum board and plaster are basically homogeneous products. The types of board and plaster produced by one manufacturer are interchangeable with another manufacturer's corresponding type of board and plaster.

13. During the period of time covered by this complaint

(a) all the defendants sold and shipped substantial quantities of gypsum products to customers located in States other than the States in which said gypsum products were manufactured;

(b) substantial quantities of the ingredients used by the defendant corporations in manufacturing gypsum products were imported into the State where the gypsum products were manufactured;

(c) the defendants were among the principal manufacturers of gypsum products, accounting for over 90 per cent of the total sales of gypsum products in the United States.

## VI

### OFFENSE CHARGED

14. Beginning some time prior to 1960 and continuing thereafter until at least January 1, 1968, the exact dates being unknown to the plaintiff, the defendants and co-conspirators engaged in an unlawful combination and conspiracy in unreasonable restraint of the aforesaid interstate trade and commerce in gypsum products 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.

15. The aforesaid 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 gypsum products.

16. 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, raising, fixing, maintaining and stabilizing, at non-competitive levels, prices, credit terms, cash discounts, terms of payment, time of payment and other terms and conditions of sale for gypsum products.

## VII

### INJURIES SUSTAINED

17. During the period of the combination and conspiracy, the plaintiff purchased substantial quantities of gypsum products manufactured by the defendants for use in the construction, repairing and renovation of federally-owned buildings.

18. During the period of the combination and conspiracy, the plaintiff contracted for and purchased buildings which contained substantial quantities of gypsum products manufactured by the defendants.

19. During the period of the conspiracy, the plaintiff provided funds to state and local governments and instrumentalities for the purchase of substantial quantities of gypsum products manufactured by the defendants and for the construction and purchase of buildings which contained substantial quantities of gypsum products manufactured by the defendants.

20. As a result of the illegal combination and conspiracy alleged herein, plaintiff has been compelled to pay substantially higher prices for gypsum products and for buildings containing gypsum products than it would have paid but for the violation of the antitrust laws herein alleged, and has had to provide to state and local governments or instrumentalities greater funds which were used for the purchase of gypsum products and for the construction and purchase of buildings which contained gypsum products.

21. As a result of the illegal combination and conspiracy alleged herein, plaintiff has been injured and financially damaged by defendants in an amount which is presently undetermined.

22. Plaintiff had no knowledge of the aforesaid combination and conspiracy until some time subsequent to January 1, 1968. Plaintiff could not have uncovered said combination and conspiracy at an earlier date by the exercise of due diligence because it had been fraudulently concealed by defendants.

#### VIII

#### PRAYER

23. WHEREFORE, the plaintiff:

(a) Prays that the herein alleged combination and conspiracy among defendants be adjudged and decreed to be in unreasonable restraint of interstate

trade and commerce in violation of Section 1 of the Sherman Act.


(b) Demands judgment against defendants for damages suffered by the United States by reason of the violation alleged herein of the antitrust laws, as provided for in Section 4A of the Clayton Act (15 U.S.C. §15a), together with such interest thereon as is permitted by law and the cost of this suit.

(c) Prays that it recover such other amounts and have such other and further relief as the Court shall deem just.

DATED:


  
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JOHN C. FRICANO

  
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Assistant Attorney General

  
RODNEY O. THORSON

  
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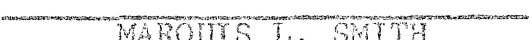
  
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