

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

UNITED STATES OF AMERICA,)

Plaintiff,)

v.)

THE CLAYTON COMPANY;)

CLYDE C. CARPENTER, INC.;)

HARRY P. LEU, INC.;)

THE LEE COMPANY;)

POWELL & DRIGGERS, INC.;)

QUALITY HARDWARE AND SPECIALTY)

COMPANY, INC.;)

RAY WARE HARDWARE, INC.;)

TAYLOR & COTTON, INC.;)

TAYLOR, COTTON & RIDLEY, INC.;)

TAYLOR, COTTON & WILEY, INC.; and)

W. S. LEE CO., INC.,)

Defendants.)

CIVIL NO. 79-472-CIV-R

FILED: September 28, 1979

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 and these proceedings are instituted under Section 4 of the Sherman Act (15 U.S.C. § 4), in order to prevent and restrain the violation by the defendants, as hereinafter alleged, of Section 1 of that Act (15 U.S.C. § 1).

2. Except for The Clayton Company; Powell & Driggers, Inc.; Taylor, Cotton & Ridley, Inc. and W. S. Lee Co., Inc., each of the defendants transacts business and is found within the Middle District of Florida. The combination and conspiracy hereinafter alleged has been, in part, formed or carried out within the Middle District of Florida, and within the jurisdiction of this Court.

II

DEFENDANTS

3. The corporations named below are hereby made defendants herein. Each of the corporations is organized and exists under the laws of the State of Florida and has its principal place of business in the city indicated below. Within the period of time covered by this Complaint, each of these defendants has been a distributor of contract hardware in the State of Florida.

<u>Corporation</u>	<u>Principal Place of Business</u>
The Clayton Company	Gainesville, Florida
Clyde C. Carpenter, Inc.	Orlando, Florida
Harry P. Leu, Inc.	Orlando, Florida
The Lee Company	Jacksonville, Florida
Powell & Driggers, Inc.	Tallahassee, Florida
Quality Hardware and Specialty Company, Inc.	Jacksonville, Florida
Ray Ware Hardware, Inc.	Jacksonville, Florida
Taylor & Cotton, Inc.	Tampa, Florida
Taylor, Cotton & Ridley, Inc.	Gainesville, Florida
Taylor, Cotton & Wiley, Inc.	Maitland, Florida
W. S. Lee Co., Inc.	Tallahassee, Florida

III

CO-CONSPIRATORS

4. Various other corporations and individuals, not named as defendants in this Complaint, participated as co-conspirators in the violation alleged and have performed acts and made statements in furtherance thereof.

IV

TRADE AND COMMERCE

5. Contract hardware, also known as architectural hardware or builders' hardware, is a type of hardware used

on doors and door frames. It includes such items as locks, locksets, latchsets, hinges, bolts, knobs, holders, closers, panic exit bars, push plates, pull plates and kick plates. This hardware is sold through specialized distributors and is usually installed by the general contractor or a subcontractor other than the hardware distributor.

6. Contract hardware is purchased by customers such as general contractors, building owners, and federal, state, county and municipal authorities. Contract hardware is often purchased by such customers from distributors through the solicitation of competitive bids.

7. A substantial part of all contract hardware sold in the State of Florida is sold by the corporate defendants and co-conspirators. In 1977, the corporate defendants and co-conspirators had total revenues of approximately \$12 million from the sale of contract hardware.

8. Substantial quantities of contract hardware are manufactured in states other than the State of Florida and are sold and shipped regularly in a continuous, uninterrupted stream from their points of origin to their places of installation and use in buildings in the State of Florida. Thus, contract hardware distributors, including the corporate defendants and co-conspirators, are conduits through which contract hardware manufactured in and shipped from states of the United States other than the State of Florida, is sold to customers in the State of Florida. During the period of time covered by this Complaint, this shipment and sale of contract hardware was within the flow of interstate commerce, and interstate commerce in contract hardware was substantially affected by the combination and conspiracy alleged in this Complaint.

VIOLATION ALLEGED

9. Beginning at least as early as 1969 and continuing until at least August 1978, the exact dates being unknown to the plaintiff, the defendants and co-conspirators have 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. The aforesaid combination and conspiracy may continue or recur unless the relief hereinafter prayed for is granted.

10. The aforesaid combination and conspiracy consisted of a continuing agreement, understanding, and concert of action among the defendants and co-conspirators, the substantial terms of which were:

- (a) to allocate among themselves contract hardware projects in the State of Florida; and
- (b) to submit collusive, noncompetitive, and rigged bids on contract hardware projects in the State of Florida.

11. 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) agreeing upon the low bidder for contract hardware projects in the State of Florida at meetings or by telephone;
- (b) exchanging information relating to prospective bids; and
- (c) agreeing to submit, and submitting, intentionally high (complementary) bids or withholding bids on contract hardware

projects in the State of Florida upon the request of, or as a result of collusion with, other defendants or co-conspirators.

IV

EFFECTS

12. The combination and conspiracy charged herein has had the following effects, among others:

- (a) price competition in the sale of contract hardware in the State of Florida has been restrained and eliminated;
- (b) quotations and bids for contract hardware on public and private projects in the State of Florida have been fixed and rigged at artificial and noncompetitive levels; and
- (c) purchasers of contract hardware in the State of Florida have been deprived of the benefits of free and open competition in the sale of contract hardware for public and private projects.

PRAYER

WHEREFORE, the plaintiff prays:

1. That pursuant to Section 5 of the Sherman Act, 15 U.S.C. § 5, the Court order summons to be issued to The Clayton Company; Powell & Driggers, Inc.; Taylor, Cotton & Ridley, Inc. and W. S. Lee Co., Inc. commanding them to appear and answer the allegations contained in this Complaint, and to abide by and perform such orders and decrees as this Court may make.
2. That the Court adjudge and decree that the defendants have engaged in an unlawful combination and conspiracy in restraint of the aforesaid interstate trade and commerce,

in violation of Section 1 of the Sherman Act.

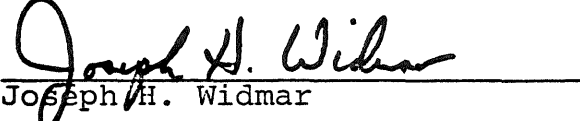
3. That each of the defendants, its subsidiaries, successors, assigns, transferees, and the respective officers, directors, employees and agents thereof, and all persons acting or claiming to act on its behalf be permanently enjoined from continuing, maintaining or renewing the aforesaid combination and conspiracy, and from engaging in any other combination, conspiracy, agreement or understanding having a similar purpose or effect.

4. 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.

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


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