

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA, :

Plaintiff, :

v. :

FABRICATORS SUPPLY CO., INC.; :

MECHANICS BUILDING MATERIALS CO., :

INC.; :

NATIONAL PLYWOOD CO., INC.; and :

STURTEVANT MILLWORK CORP., :

Defendants. :

78 Civ. 595

STIPULATION

Filed: April 20, 1979

Entered: 7/12/79

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It is stipulated by and between the undersigned parties by their respective attorneys, that:

1. A Final Judgment in the form hereto attached may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. 16), and without further notice to any party or other proceedings, provided that Plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on Defendants and by filing that notice with the Court.

2. In the event Plaintiff withdraws its consent or if the proposed Final Judgment is not entered pursuant to this stipulation, this stipulation shall be of no effect whatever

and the making of this stipulation shall be without prejudice to Plaintiff and Defendants in this or any other proceeding.

Dated: April 20, 1979

For Plaintiff:

  
\_\_\_\_\_  
JOHN H. SHENEFIELD  
Assistant Attorney General

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ROBERT A. MCNEW

  
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WILLIAM E. SWOPE

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CHARLES V. REILLY

  
\_\_\_\_\_  
CHARLES MCALEER

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EDWIN WEISS

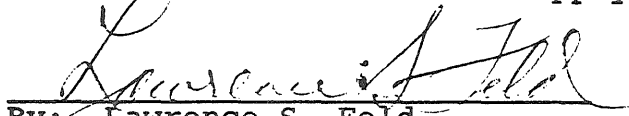
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RALPH T. GIORDANO

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STUART GRABOIS


Attorneys, Department of  
Justice  
Antitrust Division

Attorneys, Department of  
Justice  
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For Defendant Fabricators Supply Co., Inc.:

  
\_\_\_\_\_  
By: Lawrence S. Feld  
Kostelanetz & Ritholz


For Defendant Mechanics Building Materials Co., Inc.:

  
\_\_\_\_\_  
By: Arthur R. Schmauder  
Shanley & Fisher

For Defendant National Plywood Co., Inc.:

  
\_\_\_\_\_  
By: Thomas Fitzpatrick  
Martin, Obermaier & Morville

For Defendant Sturtevant Millwork Corp.:

  
\_\_\_\_\_  
By: Robert Coles Edmonds  
Miller Montgomery Sogi Brady & Taft

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,	:	
Plaintiff,	:	
v.	:	78 Civ. 595
FABRICATORS SUPPLY CO., INC.;	:	<u>FINAL JUDGMENT</u>
MECHANICS BUILDING MATERIALS CO., INC.;	:	Filed: April 20, 1979
NATIONAL PLYWOOD CO., INC.; and	:	
STURTEVANT MILLWORK CORP.,	:	Entered: July 12, 1979
Defendants.	:	

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Plaintiff, United States of America, having filed its complaint herein on March 30, 1978, and the Plaintiff and the Defendants Fabricators Supply Co., Inc., Mechanics Building Materials Co., Inc., National Plywood Co., Inc., and Sturtevant Millwork Corp., by their respective attorneys having each consented to the entry of this Final Judgment, without trial or adjudication of any issue of fact or law herein and without this Final Judgment constituting any evidence against or admission by any party with respect to any issue of fact or law herein;

NOW, THEREFORE, before the taking of any testimony and without trial or adjudication of any issue of fact or law in connection herewith, and upon consent of the parties hereto, it is hereby

ORDERED, ADJUDGED AND DECREED as follows:

I

This Court has jurisdiction of the subject matter herein and over the parties consenting hereto. The complaint states a claim upon which relief may be granted against the Defendants under Section 1 of the Sherman Act (15 U.S.C. 1).

## II

As used in this Final Judgment:

(A) "Wholesale Distributor" shall mean any person which purchases plastic laminates or adhesives from the Formica Corporation, and is engaged in the sale of such laminates or adhesives to lumberyards, retail home centers, construction contractors or fabricators of furniture, kitchen or bathroom countertops or other items.

(B) "Person" shall mean any individual, association, cooperative, partnership, corporation or other business or legal entity.

## III

The provisions of this Final Judgment are applicable to the Defendants herein and shall also apply to each of said Defendants' officers, directors, agents, employees, subsidiaries, successors and assigns, and in addition, to all other persons in active concert or participation with any of them who shall have received actual notice of this Final Judgment by personal service or otherwise, provided, however, that nothing contained herein shall apply to any transaction or communication solely between or among a defendant and its subsidiaries, affiliated companies, or parent company.

## IV

(A) Each of the Defendants is enjoined and restrained from adhering to, maintaining, furthering, enforcing or entering into directly or indirectly any agreement, understanding, plan or program with any other Wholesale Distributor to raise, fix, stabilize or maintain the prices at which plastic laminates or adhesives are offered for sale or from adopting or following any practice, plan, program, or device having a similar purpose or effect.

(B) Each of the Defendants is enjoined and restrained from acting, either unilaterally or in concert with any other person, directly or indirectly to induce, coerce or attempt to influence any other Wholesale Distributor to adhere to any suggested list price in the sale of plastic laminates or adhesives.

(C) Each defendant is enjoined and restrained from communicating directly or indirectly to any wholesale distributor information concerning:

(1) The actual or proposed changes in any wholesale distributor's price for plastic laminates or adhesives;

and

(2) The actual or proposed dates for any changes in any wholesale distributor's price for plastic laminates or adhesives;

Provided, however, that nothing contained herein shall apply to the unilateral dissemination by a defendant to its customers (other than another wholesale distributor) of a defendant's own existing prices or announced prices or other bona fide information pertaining to its prices, including such price list or other such price information not yet effective.

V

Each Defendant is ordered and directed:

(A) To establish a program for dissemination of, education as to, and compliance with this Final Judgment involving each corporate officer, director, employee and agent having responsibilities in connection with or authority over the establishment of the wholesale prices at which plastic laminates or adhesives are sold, advising them of its and their obligations under this Final Judgment. This program shall include, but is not necessarily limited to, the inclusion, in an appropriate company manual or internal memorandum, of this Final Judgment in whole or in part or an explanation thereof, and a statement of corporate compliance policy thereunder; and

twenty (120) days of the entry of this Final Judgment, and thereafter upon request by Plaintiff, on or about the anniversary date of this Final Judgment for a period of five (5) consecutive years from the date of its entry, an account of all steps the Defendant has taken during the preceding year to discharge its obligations under subparagraph (A) of this Section V and to include with said account copies of all written directives issued during the prior year with respect to compliance with the terms of this Final Judgment.

#### VI

For the purpose of determining or securing compliance with this Final Judgment and subject to any legally recognized privilege, from time to time:

(A) Duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to any Defendant made to its principal office, be permitted:

(1) Access during office hours of such Defendant, which may have counsel present, to inspect and copy all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of such Defendant relating to any of the matters contained in this Final Judgment; and

(2) Subject to the reasonable convenience of such Defendant, and without restraint or interference from it, to interview officers, directors, employees and agents of such Defendant, each of whom may have counsel present, regarding any such matters.

(B) Upon written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division made to any Defendant's principal office, such Defendant shall submit such written reports, with respect to any of the matters contained in the Final Judgment as may be requested.

No information or documents obtained by the means provided in this Section VI shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

If at the time information or documents are furnished by any Defendant to Plaintiff, and such Defendant represents and identifies in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and said Defendant marks each pertinent page of such material, "Subject to claim of protection under the Federal Rules of Civil Procedure," then ten (10) days notice shall be given by Plaintiff to such Defendant prior to divulging such material in any legal proceeding (other than a grand jury proceeding) to which that Defendant is not a party.

## VII

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the amendment or modification of any of the provisions thereof, for the enforcement of compliance therewith, and for punishment of violations thereof.

VIII

This Final Judgment will expire on the Tenth Anniversary from the date of its entry and with respect to any particular provision on any earlier date specified.

IX

Entry of this Final Judgment is in the public interest.

Dated: July 12, 1979

/s/ Jacob Mishler  
UNITED STATES DISTRICT JUDGE