

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. Las Vegas Merchant Plumbers Association; Merchant Plumbers Exchange, Inc.; A. R. Ruppert Plumbing and Heating Company; United Plumbing and Heating Company; A. R. Ruppert; Joe Davis; Ruben Cohen; Jack Hynds; Dan Jacomini; Don McGarvie; Bernard V. Provenzano; and Ralph Alsup., U.S. District Court, D. Nevada, 1955 Trade Cases ¶68,024, (Mar. 29, 1955)

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United States v. Las Vegas Merchant Plumbers Association; Merchant Plumbers Exchange, Inc.; A. R. Ruppert Plumbing and Heating Company; United Plumbing and Heating Company; A. R. Ruppert; Joe Davis; Ruben Cohen; Jack Hynds; Dan Jacomini; Don McGarvie; Bernard V. Provenzano; and Ralph Alsup.

1955 Trade Cases ¶68,024. U.S. District Court, D. Nevada. Civil No. 14. Civil No. 939 (Old). Filed March 29, 1955. Case No. 1080 in the Antitrust Division of the Department of Justice.

Sherman Antitrust Act

Combinations and Conspiracies—Price Fixing—Consent Decree—Practices Enjoined— Bidding Practices—Plumbing and Heating Contractors, Trade Associations, and Union Representative.—

Plumbing and heating contractors, trade associations of such contractors, and a union representative of plumbers and pipefitters were each enjoined by a consent decree from (1) utilizing the services of a common estimator in determining prices to be used in submitting bids or estimates, (2) participating in any organization having the purpose of influencing the submission or composition of bids or estimates, (3) agreeing with any plumbing contractor as to the prices to be submitted in bids or estimates, or (4) submitting complementary or factitious bids or estimates. Compelling adherence to any prices, discounts, or system of pricing also was prohibited.

Combinations and Conspiracies—Consent Decree—Practices Enjoined—Refusal to Deal.—Plumbing and heating contractors, trade associations of such contractors, and a union representative of plumbers and pipefitters were each enjoined by a consent decree from taking action in conjunction with any plumbing contractor to coerce or compel any wholesaler either to sell exclusively to or to refrain from selling to any designated customer or purchaser.

Combinations and Conspiracies—Labor Unions—Consent Decree—Practices Enjoined —Withholding Labor.—A union representative of plumbers and pipefitters was prohibited by a consent decree from combining or conspiring with any plumbing contractor to withhold qualified journeymen or apprentice plumbers or pipefitters from any licensed and otherwise qualified plumbing contractor or from coercing any journeymen or apprentice plumber or pipefitter to refuse to accept from or to refuse to continue employment by any licensed and otherwise qualified plumbing contractor, except when acting under the instructions from a bona fide labor union as to matters involving a labor dispute.

Department of Justice Enforcement and Procedure—Consent Decrees—Specific Relief—Dissolution of Association.—A trade association of plumbing contractors was ordered by a consent decree to institute such proceedings as may be necessary to terminate and dissolve its corporate existence.

For the plaintiff: Stanley N. Barnes, Assistant Attorney General; Madison B. Graves, United States Attorney; and Wm. D. Kilgore, Jr., Vincent Gorman, Lyle L. Jones, and Don H. Banks.

For the defendants: David Zenoff for Las Vegas Merchant Plumbers Assn.; Merchant Plumbers Exchange, Inc.; A. R. Ruppert Plumbing and Heating Co.; United Plumbing and Heating Co.; A. R. Ruppert; Joe Davis; Ruben Cohen; Jack Hynds; Dan Jacomini; Don McGarvie; and Bernard V. Provenzano; G. William Coulthard for A. R. Ruppert and A. R. Ruppert Plumbing and Heating Co. George E. Marshall for Dan Jacomini. John W. Bonner for Ralph Alsup.

Final Judgment

ROGER T. FOLEY, District Judge [*In full text*]: The plaintiff, United States of America, having filed its complaint herein on May 7, 1951, and the undersigned defendants having appeared by counsel; and the plaintiff and said defendants, by their respective attorneys, having severally consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein, and without admission of any of the parties with respect to any such issue; and the court having fully considered the matter and being duly advised;

Now, therefore, before any testimony has been taken, and without trial or adjudication of any issue of fact or law herein, and upon consent of the parties hereto, it is hereby ordered, adjudged and decreed as follows:

I

[*Sherman Act*]

The court has jurisdiction of the subject matter hereof and of the parties hereto. The complaint states a cause of action against the undersigned defendants under section 1 of the Act of Congress of July 2, 1890, entitled "An Act to protect trade and commerce against unlawful restraints and monopolies", commonly known as the Sherman Act, as amended.

II

[*Definitions*]

As used in this Final Judgment:

- (A) "Association" shall mean the defendant Las Vegas Merchant Plumbers Association, an incorporated trade association organized and existing under the laws of the State of Nevada, and having its principal place of business in Las Vegas, Nevada;
- (B) "Exchange" shall mean the defendant Merchant Plumbers Exchange, Inc., a corporation organized and existing under the laws of the State of Nevada, and having its principal place of business in Las Vegas, Nevada;
- (C) "Defendants" shall mean those defendants who consent to the entry of this Final Judgment;
- (D) "Person" shall mean an individual, partnership, firm, association, corporation, or other business or legal entity;
- (E) "Plumbing and heating supplies" shall mean the various commodities which are customarily installed in residential, commercial and other buildings by skilled labor as a part of plumbing or heating systems, including, among other things, cast iron enamelware products, vitreous chinaware, bathtubs, water closets, sinks, lavatories, hot water heaters, showers, laundry trays, pipe, pipe connections, furnaces, hot air and water or steam pipes or conduits, radiators, blowers, and appurtenant fixtures;
- (F) "Wholesalers" shall mean those persons engaged in the business of purchasing plumbing and heating supplies from manufacturers for sale to plumbing contractors and others;
- (G) "Plumbing contractors" shall mean those persons engaged in the business of distributing, selling, installing, altering and repairing plumbing and heating supplies.

III

[*Applicability of Judgment*]

The provisions of this Final Judgment applicable to any defendant shall apply to such defendant, its or his officers, agents, servants, employees, subsidiaries, successors, assigns, and attorneys, and to those persons in active concert or participation with them who receive actual notice of this Final Judgment by personal service or otherwise.

IV

[*Collusive Pricing and Bidding Practices*]

Each of the defendants is enjoined and restrained from:

- (A) Employing or otherwise utilizing the services of the same or a common estimator used by any other plumbing contractor, including but not limited to those plumbing contractors named as defendants herein, in determining prices to be used in submitting estimates or bids for the sale or installation of plumbing and heating supplies;
- (B) Organizing, operating, or participating in any organization having the purpose or effect of influencing in any way the submission or composition of bids or estimates by any plumbing contractor, or the awarding of contracts thereon;
- (C) Taking action in conjunction or association with any plumbing contractor or group thereof to coerce, compel or induce adherence to any particular prices, discounts, pricing policy, or system of pricing on the part of any wholesaler, or to coerce, compel or induce any wholesaler either to sell exclusively to or to refrain from selling to any designated customer or purchaser or any class or group thereof;
- (D) Agreeing with any plumbing contractor, or taking any action in connection with any such contractor, concerning the prices to be submitted in estimates or bids, or the prices to be charged for the sale of plumbing and heating supplies or for the installation of said supplies; or
- (E) Submitting complementary or factitious estimates or bids for the sale or installation of plumbing and heating supplies to any general contractor, architect, builder or consumer.

V

[*Withholding of Labor Prohibited*]

The defendant Ralph Alsup is enjoined and restrained from:

- (A) Combining or conspiring or otherwise acting pursuant to any agreement or understanding with any plumbing contractor or group thereof, to withhold or threaten to withhold qualified journeymen or apprentice plumbers or pipefitters, when available, from any licensed and otherwise qualified plumbing contractor, except when acting under and pursuant to instructions from Local #525 of the United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry of the United States or other bona fide labor union, as to matters involving or growing out of a labor dispute; or
- (B) Coercing, inducing or persuading or attempting to coerce, induce or persuade any journeyman or apprentice plumber or pipefitter to refuse to accept from or to refuse to continue employment by any licensed and otherwise qualified plumbing contractor except when acting under and pursuant to instructions from said Local #525, or other bona fide labor union, as to matters involving or growing out of a labor-dispute.

VI

[*Dissolution of Exchange*]

- (A) Defendant Exchange, within sixty (60) days of the date of entry of this Final Judgment, shall institute and complete such proceedings as may be appropriate and necessary to terminate and dissolve its corporate existence.
- (B) Within ninety (90) days of the date of entry of this Final Judgment, an official of the defendant Exchange shall notify this Court and the Attorney General of the United States, in writing, of the action taken by it in compliance with this Section VI(A).
- (C) Each defendant is enjoined and restrained from reviving said Exchange or forming any organization like or similar to the said defendant Exchange with similar objectives or purposes.

VII

[*Notice of Judgment—Association Membership*]

The defendant Association is ordered and directed to:

(A) Furnish to each of its present members and to each of its future members a copy of this Final Judgment and to obtain and keep on file receipts showing deliveries of said copies; and

(B) Admit to membership any bona fide plumbing contractor making written application therefor, provided, however, such contractor may be dropped from membership for failure to pay dues.

VIII

[*Inspection and Compliance*]

For the purpose of securing compliance with this Final Judgment, duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General, or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to any defendant, made to its principal office, be permitted:

(A) Reasonable access during the office hours of such defendant to all books, ledgers, accounts, correspondence, memoranda, and other, records and documents in the possession or under the control of such defendant relating to any matters contained in this Final Judgment; and

(B) Subject to the reasonable convenience of such defendant, and without restraint or interference from it, to interview officers and employees of such defendant, who may have counsel present, regarding any such matters.

Upon such written request the defendant shall submit such written reports in writing to the Department of Justice with respect to matters contained in this Final Judgment as from time to time may be necessary to the enforcement of said Final Judgment. No information obtained by the means provided in this Section VIII shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Department, except in the course of legal proceedings to which the United States is a party, or as otherwise required by law.

IX

[*Jurisdiction Retained*]

Jurisdiction of this action is retained for the purpose of enabling any of the parties to this Final Judgment to apply to the 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 modification of any of the provisions thereof, and for the enforcement of compliance therewith and the punishment of violations thereof.