

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	CIVIL ACTION
)	
v.)	NO. 76 C 1860
)	
LAKE COUNTY CONTRACTORS ASSOCIATION,)	Filed: May 19, 1976
INC., and LAKE COUNTY CONTRACTORS)	
DEVELOPMENT ASSOCIATION, INC.,)	Equitable Relief
)	Sought
Defendants.)	

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 against the hereinafter named defendants, and complains and alleges as follows:

I

JURISDICTION AND VENUE

1. This complaint is filed and these proceedings are instituted against the defendants under Section 4 of the Act of Congress of July 2, 1890, commonly known as the Sherman Act, in order to prevent and restrain continuing violations by defendants, as hereinafter alleged, of Section 1 of the Sherman Act, 15 U.S.C. §1.

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2. Each of the defendants has an office, transacts business and is found within the Northern District of Illinois Eastern Division.

II

DEFENDANTS

3. Lake County Contractors Association, Inc. (hereinafter "LCCA"), a corporation organized and existing under the laws of the State of Illinois and maintaining offices in Waukegan, Illinois, is made a defendant herein. It is a trade association which has many of the larger general contractors operating in Lake County, Illinois as part of its membership.

4. Lake County Contractors Development Association, Inc. (hereinafter "LCCDA"), a corporation organized and existing under the laws of the State of Illinois and maintaining offices in Waukegan, Illinois, is made a defendant herein. It is a trade association which has many of the larger general contractors operating in Lake County, Illinois as part of its membership.

5. LCCA was formed in 1947 to promote the interests of the construction industry in Lake County, Illinois. It presently performs trade relation functions and investigates disputes between contractors and owners of construction projects. Between 1947 and 1972 it administered the bid support system hereinafter described. In 1972 it formed the LCCDA which assumed the operation of the bid support

system and conducted labor negotiations. Both defendants are located in the same office in Waukegan, Illinois, have the same telephone number and the same officers and directors. There are two employees who each perform duties for both defendant associations. One of them, the executive vice president, is paid by the LCCDA, whereas the other, the office secretary, is paid by the LCCA. The LCCA is funded by annual membership dues, whereas the LCCDA is funded by the bid support system. The two defendants are operated as a single entity.

III

CO-CONSPIRATORS

6. Various persons, firms and organizations, not made defendants herein, have participated as co-conspirators with the defendants in the violation alleged herein and have performed acts and made statements in furtherance thereof.

Such co-conspirators include, but are not limited to:

- (a) Officers, directors, agents, representatives, and members of the defendant Associations; and
- (b) Owners, partners, directors, and officers of general contracting firms seeking contracts in Lake County, Illinois.

7. Wherever in this complaint it is alleged that the Associations did any act or thing, such allegation shall be

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deemed to mean that such act or thing was done by the officers, directors, employees, agents or representatives of the Associations while actively engaged in the management, direction or control of their affairs.

IV

DEFINITIONS

8. As used herein:
- (a) "General Contractor" means a contractor or contracting firm engaged in the business of constructing, altering, remodeling, building additions to, renovating, reconstructing or repairing governmental and commercial buildings under direct contract with the owner or architect. General contractors sometimes perform all phases of a given construction project, but usually they arrange with subcontractors for the performance of certain mechanical and other special items or phases of the project.
- (b) "Bid support fee" means a fee payable by the successful bidder on any construction project in Lake County, Illinois to the defendants, half of such fee to be retained by the defendants and the remaining half to be distributed equally among the unsuccessful bidders on any such project

to which a bid support agreement is applicable.

V

TRADE AND COMMERCE

9. A substantial number of construction projects in Lake County, Illinois are placed on the market each year. These projects include constructing, altering, remodeling, renovating, reconstructing, repairing, or building additions to governmental and commercial buildings. Total expenditures for such projects were in excess of \$50 million in 1974.

10. The defendant Associations solicit and do in fact obtain agreements from general contractors whereby bid support fees based upon a percentage of the costs of the particular construction projects are paid to defendants and to unsuccessful bidders on such projects.

11. Invitations to submit competitive bids on Lake County construction projects frequently include contractors who are located in States other than Illinois. A substantial number of general contractors located in States other than Illinois engage in the business of bidding on and contracting for building projects, and of performing their services, in Lake County, Illinois.

12. Substantial quantities of construction materials and equipment are purchased by general contractors and subcontractors, including members of the defendant Associations,

for shipment in the flow of interstate commerce from distributors and manufacturers outside the State of Illinois and for delivery to job sites and to contractors inside the State of Illinois. Such materials and equipment are customarily purchased by general contractors and subcontractors, including members of the defendant Associations, after award of a construction contract.

13. As a result of the above described commercial relationship, any restraint or interference with building construction projects in Lake County, Illinois necessarily and directly restrains and affects a substantial interstate flow of construction materials and equipment from points outside the State of Illinois into Lake County, Illinois.

VI

VIOLATION ALLEGED

14. Commencing in or about the year 1947, and continuing thereafter up to and including the date of the filing of this complaint, the defendant Associations and co-conspirators have engaged in an unlawful combination and conspiracy in restraint of the interstate trade and commerce hereinbefore described, in violation of Section 1 of the Sherman Act. The alleged violation will continue unless the relief hereinafter prayed for is granted.

15. The aforesaid combination and conspiracy has consisted of a continuing understanding and concert of action among the defendants and co-conspirators, the substantial

terms of which have been and are:

(a) That each general contractor bidding on a construction project in Lake County, Illinois will be requested to enter into an agreement whereby each contractor agrees that if he is awarded the bid, he will pay a bid support fee to defendant LCCDA;

(b) That if any bidder on a construction project chooses not to agree to pay the bid support fee, all other bidders will be notified of such fact 24 hours prior to the time when bids are due and no agreement will be in effect with respect to such construction project; and

(c) That, if all bidders agree to pay the bid support fee and such a fee is paid, the defendant LCCDA will distribute one-half of the payment equally among the losing bidders and will retain the remainder of such payment.

EFFECTS

17. The aforesaid combination and conspiracy has had the following effects, among others:

- (a) General contractors and subcontractors have been restrained and prevented from freely competing for contracts on building construction projects in the Lake County, Illinois area;
- (b) Public and private owners of building construction projects in the Lake County, Illinois area have

been deprived of the benefits of free competition for contracts on such projects;

- (c) Bid prices of general contractors on construction projects in the Lake County, Illinois area have been made higher by including in those prices certain amounts for bid support fees;
- (d) Interstate trade and commerce in the contracting business and in building materials, equipment, and special products has been restrained.

PRAYER

WHEREFORE, the plaintiff prays:

1. That the court adjudge and decree that the defendants have combined and conspired in unreasonable restraint of the trade and commerce hereinbefore described in violation of Section 1 of the Sherman Act.

2. That the defendants, its successors, officers, directors, representatives, employees and members and all persons acting or claiming to act on behalf of the defendant be perpetually enjoined and restrained from, in any manner, directly or indirectly, continuing to carry out, maintaining or renewing the combination and conspiracy hereinbefore alleged, from engaging in any like or similar combination, and from adopting or following any practice, plea or program or device having a similar purpose or effect.

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3. That the defendants, their successors, officers, directors, representatives, employees, and members, and all persons acting or claiming to act on behalf of the defendants, be perpetually enjoined and restrained from inviting, inducing or requiring general contractors to include in their bids on construction projects any bid support fee or other amount payable to the association or to an another bidder.

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4. That the defendants, their officers, directors, representatives, employees and members be ordered and directed to take such further affirmative action as the Court may deem necessary and proper to dissipate the effects of the combination and conspiracy hereinbefore described.

5. That the defendants be prohibited from accepting or retaining as members, any individuals or firms participating in a bid support system or similar arrangement.

6. That the defendants be required to insert, at least once each week for a period of six weeks in an appropriate trade paper, a notice which shall fairly and fully apprise the readers thereof of the terms of the judgment of this Court.

7. That the plaintiff have such other, further and different relief as the Court may deem just and proper in the premises.

8. That the plaintiff recover the costs of this action.

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