

STATE OF MAINE
KENNEBEC, SS.

SUPERIOR COURT
CIVIL ACTION
DOCKET NO. CV-

STATE OF MAINE,)
)
)
 Plaintiff,)
)
)
 v.)

COMPLAINT

PHELPS DODGE INDUSTRIES,)
 INC., a corporation)
 organized and existing under)
 the laws of the State of)
 Delaware with a principal)
 place of business in the)
 State of Connecticut;)
 CERRO COPPER PRODUCTS, CO.,)
 a corporation)
 organized and existing)
 under the laws of the)
 State of Delaware with a)
 principal place of business)
 in the State of Illinois;)
 and CAMBRIDGE-LEE)
 INDUSTRIES,)
 INC., a corporation existing)
 under the laws of the)
 Commonwealth of)
 Massachusetts, with a)
 principal place of)
 business in the Commonwealth)
 of Massachusetts,)
)
 Defendants.)

INTRODUCTION

1. This is an action under the Unfair Trade Practices Act, 5 M.R.S.A. § 206 et seq. (Supp. 1982), to permanently enjoin Defendant from engaging in a conspiracy to fix the price

of copper water tubing and to obtain restitution for the State of Maine.

PARTIES AND JURISDICTION

2. Plaintiff STATE OF MAINE, a sovereign state by and through the Attorney General, commences this action under 5 M.R.S.A. § 206 et seq. (Supp. 1983), commonly known as the Unfair Trade Practices, to protect the public by preventing and restraining Defendants from practicing unfair methods of competition and to obtain restitution for the State of Maine.

3. Defendant PHELPS DODGE INDUSTRIES, INC. (hereinafter referred to as "Phelps"), is a corporation organized and existing under the laws of the State of Delaware with a principal place of business in Greenwich, Connecticut. Defendant Phelps transacts business within the State of Maine.

4. Defendant CERRO COPPER PRODUCTS CO. (hereinafter referred to as "Cerro"), is a corporation organized and existing under the laws of the State of Delaware with a principal place of business in Sauget, Illinois. Defendant Cerro transacts business within the State of Maine.

5. Defendant CAMBRIDGE-LEE INDUSTRIES, INC. (hereinafter referred to as "Cambridge-Lee"), is a corporation organized and existing under the laws of the Commonwealth of Massachusetts with a principal place of business in Allston, Massachusetts. Defendant Cambridge-Lee transacts business within the State of Maine.

6. This Court has jurisdiction over this action pursuant to 5 M.R.S.A. § 206, et seq. (Supp. 1982) and 4 M.R.S.A. § 105.

DEFINITION

7. As used in this Complaint, the term "copper water tube" is tubing made from metal billets in a variety of standard sizes, diameters, lengths and wall thicknesses for use by the plumbing and construction trade in applications such as water service, drainage, air conditioning and refrigeration. Copper water tube includes, but is not limited to, plumbing tubes, refrigeration tube, "ACR" tube, and brass or red brass pipe. These products are also known in the trade as "standard products" and do not include copper tubing manufactured to customer specifications, known in the trade as "industrial tubing".

CO-CONSPIRATORS

8. Various persons and firms, not made Defendants herein, and whose identities are not now known to Plaintiff, have combined and conspired with Defendants in the violations hereinafter alleged.

NATURE OF TRADE AND COMMERCE

9.- During all or part of the period encompassed by this Complaint, the Defendants sold and shipped copper water tube from outside the State of Maine into the State. In 1980 alone, total sales of copper water tube of the Defendants exceeded \$350 million.

10. The State of Maine, and its political subdivisions, purchase copper water tube manufactured by some or all of the Defendants.

CAUSE OF ACTION

11. Beginning at least as early as 1975 and continuing thereafter until June 1981, the exact dates being unknown to the Plaintiff, the Defendants and co-conspirators engaged in a continuing combination, arrangement and conspiracy in unreasonable restraint of trade and commerce in this state.

12. The aforesaid combination, arrangement and conspiracy consisted of an agreement, understanding and concert of action among the Defendants and co-conspirators, the substantial terms of which were to fix, raise and maintain price of copper water tube.

13. For the purpose of forming and effectuating the aforesaid combination, arrangement and conspiracy, the

Defendants and co-conspirators fixed, raised and maintained the price of copper water tube and otherwise did those things which they conspired to do.

14. The aforesaid combination, arrangement and conspiracy had the following effect among others:

(a) prices of copper water tube sold by the Defendants and co-conspirator companies were fixed, raised and maintained at artificial non-competitive and supra-competitive levels;

(b) purchasers of copper water tube were deprived of the benefits of a free and competitive market in the purchase of copper water tube; and

(c) competition among the Defendants and co-conspirators in the sale of copper water tube was restrained, suppressed and eliminated.

15. Defendants' conduct as described in this Complaint constitutes an unreasonable restraint of trade and an unfair method of competition in violation of 5 M.R.S.A. § 207.

REQUEST FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court:

1. Adjudge and decree that the aforesaid combination, arrangement and conspiracy constitutes an unfair method of competition in violation of 5 M.R.S.A. § 207 (Supp. 1983).

2. Issue a permanent injunction enjoining defendants, their agents, attorneys, employees, assigns or other persons acting for Defendants or under their control from continuing such combination, arrangement and conspiracy.

3. Order Defendants to pay restitution to the State of Maine and all of its political subdivisions which purchased copper water tube from Defendants.

4. Enter an order requiring Defendants to pay the cost of this suit and of the investigation of the Defendants made by the Attorney General.

5. Grant such other relief as the Court deems just and proper.

Dated:

Respectfully submitted,

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