FILE NAME: Friction Materials Standards Institute (FMS)

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IN THE DISTRICT COURT OF THE UNITED STATES

FOR THE SOUTHERN DISTRICT OF NEW YORK

AUGUST TERM, 1947

NO. C 176/207

(15 USC, §1)

UNITED STATES OF AMERICA

v.

BRAKE LINING MANUFACTURERS' ASSOCIATION, INC.
AMERICAN BRAKE SHOE COMPANY
ASBESTOS MANUFACTURING COMPANY
BENDIX AVIATION CORPORATION
FIBRE & METAL PRODUCTS, INC.
FIRESTONE TIRE AND RUBBER COMPANY
GATKE CORPORATION
GENERAL MOTORS CORPORATION
GRIZZLY MANUFACTURING COMPANY
JOHNS-MANVILLE CORPORATION
LASCO BRAKE PRODUCTS CORP., LTD.
L. J. MILNY CO.
PHARIS TIRE & RUBBER CO.
RAYBESTOS-MANHATTAN, INC.
RUSSELL MANUFACTURING CO.
SCANDINAVIA BELTING COMPANY
SOUTHERN FRICTION MATERIALS CORP.
THERMOID CO.
WORLD BESTOS CORP.
FRED J. KELLY
HARRY SMITH
C. Q. SMITH
L. [illegible]. TUTTLE
L. E. WILSON
K. [illegible]. NASHOLDS
A. J. ROMMEL
J. A. BLAKE
F. C. HEPBURN
E. G. BERGEN
T. L. GATKE
H. C. BERKELY
J. G. BROWN
F. W. SHELTON
L. M. CASSIDY
J. S. DOYLE
J. R. GLAZEBROOK
C. M. JORGENSEN

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M. STEDER
FORBER MARSHALL
G. R. RITTER
C. H. GILLEY
ROBERT B. DAVIS
WILLIAM H. DUNN
H. GROENDYKE
NORMAN LEEDS, JR.
J. D. ROACH
C. W. SACHS
S. J. SYMMOTT
J. R. HOWIE
R. E. KRAFT
G. M. WILLIAMS
L. S. SULLIVAN
V. A. SPINA
HOWARD SNOW
T. E. ALLEN
A. L. CAMPBELL
H. T. SCHECKLER
FRED E. SCHLUTER
L. G. KERSGARD
DONALD H. SPICER

DEFENDANTS

I N D I C T M E N T

The Grand Jury charges:

COUNT ONE

DEFINITIONS

1. The term "brake linings" wherever referred to in this indictment, means asbestos brake linings used for replacement purposes in motor vehicles and in industrial equipment.

THE DEFENDANTS

2. Brake Lining Manufacturers' Association, Inc. (hereinafter referred to as the Association) is hereby indicted and made a

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defendant herein. The Association is a membership corporation organized under and existing by virtue of the laws of the State of New York and has its principal place of business in New York City. It is a trade association whose members are manufacturers of friction materials, including brake linings.

3. The following named companies are hereby indicted and made defendants herein. Each of said defendants has been organized under and exists by virtue of the laws of the state indicated below and each such defendant has its principal office and place of business in the city designated. Each of said defendants, during all or part of the period covered by this indictment, including the period within the statute of limitations, has been engaged in selling brake linings and has been and is a member of the defendant Association.

Defendant	State of Incorporation	Principal Place of Business
American Brake Shoe Company	Delaware	Detroit, Mich.
Asbestos Manufacturing Company	Indiana	Huntington, Ind.
Bendix Aviation Corporation	Delaware	Detroit, Mich.
Fibre & Metal Products, Inc.	California	Downey, Cal.
Firestone Tire and Rubber Company	Ohio	Akron, Ohio
Gaske Corporation	Illinois	Chicago, Ill.
General Motors Corporation	Delaware	Detroit, Mich.
Grizzly Manufacturing Company	California	Bell, Cal.
Johns-Manville Corporation	New York	New York, N. Y.
Lasco Brake Products Corp., Ltd.	California	Oakland, Cal.
L. J. Miley Co.	Illinois	Chicago, Ill.
Pharis Tire & Rubber Co.	Ohio	Newark, Ohio
Raybestos-Manhattan, Inc.	New Jersey	Passaic, N. J.

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Russell Manufacturing Co.	Connecticut	Middletown, Conn.
Scandinavia Belting Company	Maine	Newark, N. J.
Southern Friction Materials Corp.	N. Carolina	Charlotte, N. C.
Thermoid Co.	Delaware	Trenton, N. J.
World Bestos Corp.	New Jersey	Paterson, N. J.

Collectively the above-named defendants are hereinafter referred to as the corporate defendants.

4. The following individuals are hereby indicted and made defendants herein. Each is associated with a defendant corporation in the capacity shown below. Each said defendant during all or a part of the period covered by this indictment, including the period within the statute of limitations, has authorized, ordered or done the acts alleged herein to have been in violation of law:

Defendant	Corporate Defendant with which Associated	Title or Position	Address
Fred J. Kelly	American Brake	Mgr.	Detroit, Mich.
Harry Seith	American Brake	Asst.Mgr.	Detroit, Mich.
C. Q. Smith	American Brake	Asst. to Pres.	Detroit, Mich.
L. W. Tuttle	Asbestos Mfg.	V. Pres.	Huntington, Ind.
L. E. Wilson	Asbestos Mfg.	Sec.& Treas.	Huntington, Ind.
K. W. Nasholds	Bendix Aviation	Asst. Sales Mgr.	Troy, N. Y.
A. J. Roemer	Bendix Aviation	Sales Mgr.	Troy, N. Y.
J. A. Blake	Fibre & Metals	V. Pres.	Downey, Cal.
F. C. Hepburn	Firestone	Brake Lining Dept.	Akron, Ohio
E. G. Berngen	Gatke	Sec't.	Chicago, Ill.
T. L. Gatke	Gatke	Pres.	Chicago, Ill.
H. C. Berkely	General Motors	Sales Mgr.	Dayton, Ohio
J. G. Brown	Grizzly	Sales Mgr.	Paulding, Ohio
F. W. Shelton	Grizzly		Paulding, Ohio

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L. M. Cassidy	Johns-Manville	V. Pres.	New York
J. S. Doyle	Johns-Manville	Staff Mgr.	New York
J. R. Glazebrook	Johns-Manville	Staff member	New York
C. M. Jorgensen	Lasco	Sales Mgr.	Oakland, Cal.
M. Stoder	L. J. Miley	Sales Mgr.	Chicago, Ill.
Furber Marshall	Pharis	Pres.	Ridgeway, Pa.
G. E. Ritter	Pharis	Sales Mgr.	Ridgeway, Pa.
C. H. Gilley	Raybestos	V. Pres.	Manheim, Pa.
Robert B. Davis	Raybestos	V. Pres.	Bridgeport, Conn.
William H. Dunn	Raybestos	Compt.	Passaic, N. J.
H. Groendyke	Raybestos	Mgr.	Passaic, N. J.
Norman Leeds, Jr.	Raybestos	Gen. Sales Mgr.	Bridgeport, Conn.
J. D. Roach	Raybestos	Sales Engineer	Manheim, Pa.
C. W. Sachs	Raybestos	Mgr.	Manheim, Pa.
S. J. Synnott	Raybestos	Mgr.	Passaic, N. J.
J. R. Howie	Russell	Mgr.	Middletown, Conn.
R. E. Keane	Russell	Automotive Div.	Middletown, Conn.
G. M. Williams	Russell	Pres.	Middletown, Conn.
L. S. Sullivan	Russell	Mgr.	Middletown, Conn.
V. A. Spina	Scandinavia	Treas.	Newark, N. J.
Howard Snow	Southern Friction	Pres.	Charlotte, N. C.
T. E. Allen	Thermoid	Asst. to Pres.	Trenton, N. J.
A. L. Campbell	Thermoid	Sales Dept.	Trenton, N. J.
E. T. Scheckler	Thermoid	Mgr.	Trenton, N. J.
Fred E. Schluter	Thermoid	Pres.	Trenton, N. J.
L. G. Kersgard	World Bestos	Mgr.	Paterson, N. J.
Donald E. Spicer	World Bestos	Pres.	Paterson, N. J.

DESCRIPTION OF INDUSTRY AND NATURE OF INTERSTATE TRADE AND COMMERCE INVOLVED

5. The corporate defendants manufacture and sell approximately 95% of the brake linings manufactured and sold in the United States.

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In 1946, their sales amounted to approximately $35,000,000.

6. The corporate defendants sell brake linings primarily to the following classes of customers: (1) other friction material manufacturers, including other corporate defendants; (2) motor vehicle and industrial equipment manufacturers; (3) distributors, jobbers and dealers; (4) large consumers such as municipal, state and federal governments and owners of large fleets. The bulk of the sales are made to customers in class 3; in 1946, such sales amounted to approximately $25,500,000 or 73% of the total sales of brake linings. This class of distributors, jobbers and dealers resell mainly to retailers who in turn resell to motor vehicle owners.

7. The corporate defendants manufacture brake linings in the States of California, Connecticut, Ohio, Illinois, Indiana, Michigan, New Jersey, New York, North Carolina and Pennsylvania and ship therefrom to customers in every state in the United States.

COMBINATION AND CONSPIRACY IN RESTRAINT OF TRADE

8. Beginning sometime in 1927, the exact date being unknown to the Grand Jurors, and continuing thereafter up to and including the date of this indictment, the defendants and other persons and corporations unknown to the Grand Jurors have unlawfully combined and conspired to fix, establish, maintain, control, manipulate and tamper with the prices, terms and conditions in the marketing of brake linings in restraint of the aforesaid interstate trade and commerce.

9. The aforesaid combination and conspiracy has been a continuing one, the substantial terms of which have been that the defendants agree that:

(a) The Association prepare and distribute among the defendants uniform price lists;

(b) Each corporate defendant publish in its own price lists the prices contained in the Association price lists;

(c) The Association prepare and distribute among the defendants classifications of customers;

(d) The Association prepare and distribute among the defendants uniform discounts, terms and conditions of sale to be granted purchasers in each such classification;

(e) Each corporate defendant use the classifications of customers, uniform discounts, terms and conditions of sale in selling to purchasers;

(f) Each corporate defendant require its customers in their resales, to use discounts from the list prices identical with those contained in the uniform discounts described in subparagraph (d) above;

(g) Each corporate defendant require retailers to sell at the list prices;

(h) From time to time the price lists, classification of customers, discounts, terms and conditions of sale, sales and resale prices would be changed.

EFFECTS OF THE COMBINATION AND CONSPIRACY

10. The aforesaid combination and conspiracy hereinabove alleged has had the following effects with respect to brake linings as intended by the defendants:

(a) Prices have been increased at all levels of sale;

(b) Prices have tended to become uniform at all levels of sale;

(c) The public and other purchasers have been charged high and unreasonable prices;

(d) Substantially all price competition has been eliminated.

VENUE

11. The combination and conspiracy hereinbefore alleged has been formed in part and carried out in part within the Southern District of New York in the following manner:

(a) Meetings have been held in New York City at which the defendants have agreed with each other upon uniform list prices, classification of customers, discounts, terms, conditions, sales prices and resale prices;

(b) The Association has prepared in New York City uniform price lists, classification of customers, discounts, terms and conditions which it has sent out to the defendants;

(c) Substantial quantities of brake lining have been sold in New York City at the fixed prices, including sales to the City of New York.

A TRUE BILL:

Daniel K. Stanley
Foreman

Tom C. Clark
TOM C. CLARK
Attorney General

John F. Sonnett
JOHN F. SONNETT
Assistant Attorney General

John F. X. McGohey
JOHN F. X. McGOHEY
United States Attorney

J. Francis Hayden
J. FRANCIS HAYDEN
IRVING B. GLICKFELD
JOSEPH T. QUINNAN
EMANUEL S. CAHN
Special Assistants to the Attorney General

HOLMES BALDRIDGE
GEORGE B. HADDOCK
Special Assistants to the Attorney General

DESCRIPTION OF DEFENDANTS AND NATURE OF INTERSTATE TRADE AND COMMERCE INVOLVED

5. The corporate defendants manufacture and sell approximately 98% of the clutch facings manufactured and sold in the United States. In 1946, their sales amounted to approximately $7,000,000.

6. The corporate defendants sell clutch facings primarily to the following classes of customers: (1) other friction material manufacturers, including other corporate defendants; (2) motor vehicle and industrial equipment manufacturers; (3) distributors, jobbers and dealers; (4) large consumers such as municipal, state and federal governments and owners of large fleets. The bulk of the sales are made to customers in class 3; in 1946, such sales amounted to approximately $4,600,000 or 63% of the total sales of clutch facings. This class of distributors, jobbers and dealers resell mainly to retailers who in turn resell to motor vehicle owners.

7. The corporate defendants manufacture clutch facings in the States of Connecticut, Ohio, Illinois, Indiana, Michigan, New Jersey, New York, North Carolina and Pennsylvania and ship therefrom to customers in every state in the United States.

COMBINATION AND CONSPIRACY IN RESTRAINT OF TRADE

8. Beginning sometime in 1928, the exact date being unknown to the Grand Jurors, and continuing thereafter up to and including the date of this indictment, the defendants and other persons and corporations unknown to the Grand Jurors have unlawfully combined and conspired to fix, establish, maintain, control, manipulate and tamper with the prices, terms and conditions in the marketing of clutch facings in restraint of the aforesaid interstate trade and commerce.

DESCRIPTION OF INDUSTRY AND NATURE OF FOREIGN TRADE AND COMMERCE INVOLVED

5. The corporate defendants manufacture friction materials in several of the States of the United States and ship substantial quantities to foreign countries. The corporate defendants manufacture and sell approximately 97% of the friction materials manufactured in the United States and shipped in foreign trade and commerce. In 1946, their foreign sales amounted to approximately $2,700,000.

COMBINATION AND CONSPIRACY IN RESTRAINT OF FOREIGN TRADE

6. Beginning sometime in 1932, the exact date being unknown to the Grand Jurors, and continuing thereafter up to and including the date of this indictment, the defendants and other persons and corporations unknown to the Grand Jurors have unlawfully combined and conspired to fix, establish, maintain, control, manipulate and temper with the prices, terms and conditions in the sale of friction materials in restraint of the aforesaid foreign trade and commerce.

7. The aforesaid combination and conspiracy has been a continuing one, the substantial terms of which have been that the defendants agree that:

(a) The Association prepare and distribute among the defendants uniform price lists, discounts, terms and conditions of sale;

(b) Each corporate defendant publish in its own price lists the prices contained in the Association price lists;

(c) Each corporate defendant use the uniform discounts, terms, and conditions of sale in selling to purchasers;

(d) From time to time the price lists, discounts, terms and conditions of sale, and sales prices would be changed.

Brake Lining Mfrs. Assn. Inc., Pleads Not Guilty

AUG 21 1947.

The Court directs the issuance of summons as to all defendants

Porterfield J.

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Judgment dismissed as to Docket for Pleas.

Judgment and dismissals

Conger

Form No. 000 C126/206

No.

IN THE DISTRICT COURT
OF THE UNITED STATES
FOR THE
SOUTHERN DISTRICT NEW YORK

UNITED STATES OF AMERICA

vs.

BRAKE LINING MANUFACTURERS' ASSOCIATION, INC., ET AL.
Defendants

INDICTMENT

J. FRANCIS HAYDEN
Special Assistant to the Attorney General
Office and P. O. Address
U. S. Court House, Foley Square, Rm. 232
Borough of Manhattan, N. Y.

Filed ..... 19...
..... Clerk.
By ..... Deputy.

U. S. DISTRICT COURT
FILED
AUG 21 1947
S. D. OF N. Y.

[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
[illegible]	[illegible]		[illegible]	5,000.
Brake Lining Manufacturers' Association, Inc.				
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
[illegible]	[illegible]		[illegible]	[illegible]
[illegible]	[illegible]	[illegible]	(not named)	10,000.
[illegible]	2,500.	[illegible]	"	5,000.
[illegible]				
[illegible]	not named	not named	[illegible]	[illegible]
[illegible], Inc.	[illegible]	[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]	[illegible]	15,000.
[illegible], Sales Manager	2,500.	[illegible]	not named	5,000.
Asbestos Manufacturing Company	1,500.	1,500.	1,500.	4,500.
L. E. Wilson, Secretary and Treasurer	750.	750.	not named	1,500.
Bendix Aviation Corporation	3,000.	not named	3,000.	6,000.
Gatke Corporation	1,500.	1,500.	1,500.	4,500.
T. L. Gatke, President	500.	500.	500.	1,500.
Russell Manufacturing Co.	1,500.	1,500.	1,500.	4,500.
[illegible], Sales Manager	750.	[illegible]	not named	1,500.
World Bestos Corp.	1,500.	1,500.	1,500.	4,500.
Donald E. [illegible], President	500.	500.	500.	1,500.
Fibre & Metal Products, Inc.	400.	400.	[illegible]	1,000.
Lasco Brake Products Corp.	1,000.	not named	not named	1,000.
L. J. Riley Co.	500.	500.	" "	1,000.
Pharis Tire & Rubber Co.	500.	not named	500.	1,000.
Scandinavia Belting Company	400.	400.	200.	1,000.
Southern Friction Materials Corp.	500.	500.	not named	1,000.
General Motors Corporation	400.	400.	200.	1,000.
Totals	$56,200.	$41,700.	$44,100.	$142,000.

Judgment — Form No. 85

DISTRICT COURT OF THE UNITED STATES

FOR THE

SOUTHERN DISTRICT OF NEW YORK

United States of America

v. No. C126/205-206-207

RAYBESTOS-MANHATTAN, INC

On this 22nd day of September, 1948 came the attorney for the government and the defendant appeared in person by Robert P. Patterson

It Is Adjudged that the defendant has been convicted upon its plea of nolo contendere by atty of the offense of conspiracy in restraint of trade and commerce in friction materials T. 15 Sec 1 USC

as charged and the court having asked the defendant whether it has anything to say why judgment should not be pronounced, and no sufficient cause to the contrary being shown or appearing to the Court,

It Is Adjudged that the defendant is guilty as charged and convicted.

It Is Adjudged that the defendant be fined the sum of $5000. on each indictment Total fine $15,000. to be paid by 4 PM

Edward J. Ryan

United States District Judge,

J.T.A.

Judgment — Cr. Book No. 16

DISTRICT COURT OF THE UNITED STATES

FOR THE

SOUTHERN DISTRICT OF NEW YORK

United States of America

v. No. C126/206 & 207

BENDIX AVIATION CORPORATION

On this 22nd day of September, 1948 came the attorney for the government and the defendant appeared by Hughes, Hubbard & Ewing, Attys

It Is Adjudged that the defendant has been convicted upon its plea of nolo contendere by Attys of the offense of conspiracy in restraint of trade and commerce in friction materials T. 15 Sec 1 USC

as charged it and the court having asked the defendant whether has anything to say why judgment should not be pronounced, and no sufficient cause to the contrary being shown or appearing to the Court,

It Is Adjudged that the defendant is guilty as charged and convicted.

It Is Adjudged that the defendant be fined the sum of $3000. on each indictment Total fine $6000. to be paid by 4 PM

Edward A. Conger

United States District Judge.

Form No. 58

DISTRICT COURT OF THE UNITED STATES

FOR THE

SOUTHERN DISTRICT OF NEW YORK

United States of America

v. No. C126/205-206-207

GENERAL MOTORS CORPORATION

On this 22nd day of September, 1948 came the attorney for the government and the defendant appeared by George A. Brooks, Atty

It Is Adjudged that the defendant has been convicted upon its plea of nolo contendere by atty of the offense of conspiracy in restraint of trade and commerce in friction materials T. 15 Sec 1 USC

as charged it and the court having asked the defendant whether has anything to say why judgment should not be pronounced, and no sufficient cause to the contrary being shown or appearing to the Court,

It Is Adjudged that the defendant is guilty as charged and convicted.

It Is Adjudged that the defendant be fined the sum of $400., on each of indictments C126/205 & 207 and $200. on C126/206

Edward A. Conger
United States District Judge.

Judgment Cr. Form No. 25

DISTRICT COURT OF THE UNITED STATES

FOR THE

SOUTHERN DISTRICT OF NEW YORK

United States of America

v.

AMERICAN BRAKE SHOE COMPANY

C126/205-206-207

No. [redacted]

On this 22nd day of September, 1948 came the attorney for the government and the defendant appeared [redacted] by Milbank, Tweed, Hope & Hadley, Attys

It Is Adjudged that the defendant has been convicted upon its plea of nolo contendere by Attys of the offense of conspiracy in restraint of trade and commerce in friction materials T. 15 Sec 1 USC as charged it and the court having asked the defendant whether he has anything to say why judgment should not be pronounced, and no sufficient cause to the contrary being shown or appearing to the Court,

It Is Adjudged that the defendant is guilty as charged and convicted.

It Is Adjudged that the defendant be fined the sum of $5000. on each indictment Total fine $15,000. to be paid by 4 PM

Edward D. Ross

United States District Judge.