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FEDERAL TRADE COMMISSION
Check No. 4613
THE MATTER OF
DATE 6-5-42
COMMISSIONER'S EXHIBIT No. 245A
WITNESS
REPORT

TRANSCRIPT OF CONVERSATION

June 18, 1940

Questions by: James P. Parker, Federal Trade Commission

Answers by: Paul C. Collopy

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CHIEF CLERK

ASSIGNED TO

Q. As I understand it, one of the principal reasons for your rescinding your license agreement with Mr. Tulloch was that local competition represented by competitors not operating under the agreement caused you to resort to other types of asbestos, which would enable you to meet lower prices of such non-licensees. If that is the case, please state why such competition could not have been anticipated when the license agreement was entered into by you with Mr. Tulloch.

A. Well, the license agreement was a new thing at the time it was proposed. I can't speak for him but will say for myself that we could not foresee the extent to which it would be used or which it would not be used. That about covers your question.

Q. With that in mind, was it a presumption or understanding at the time you entered into the agreement that the greater majority of competitive asbestos pipe covering manufacturers would also be governed by that agreement?

A. Yes, we were given to understand that there would be more complete subscription to the agreement; also we were perhaps attracted, maybe I should say impressed, with the value of the patents to the merchandise itself. We felt a big demand would be built up for it and if we were to remain outside the license agreement our ability to sell the old style stuff would be impaired. It was held out to us, therefore, as the answer to the asbestos man's long search for something to stop shrinkage.

Q. Have you found that to be the case now that you have abandoned the agreement and are now using another material - in other words whether it is known to be shrinkproof or non-shrinkproof, have you had any difficulty in selling it?

A. No, I can't say that we have. Contrary to our expectations the public did not go shrinkproof mad. They just continued to call it pipe covering.

Q. How is it sold? Is the shrinkproof angle stressed?

A. Well we mention the shrinkproof angle in the catalog, I believe, but otherwise haven't emphasized it a good deal - other than that.

Q. When you were first approached with the license agreement, was one of the principal inducements or attractions offered you with such an agreement, price stabilization?

Obtained 7-10-40
No. 12407
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A. No, the real advantage was improvement of the quality of the merchandise, it being held out that there would be very much less trouble - not entirely eliminated perhaps - but very much less trouble with the annoyance of shrinkage on coverings made from this paper.

Q. With respect to prices and discounts - does your firm use the Manuel of Unit Prices?

A. Yes, it has been a great help to the industry.

Q. How was that adopted by the Industry?

A. Well as I recall, it was kind of a brain child of Mr. Stover who is Licensor for another industry.

Q. Magnesia?

A. Yes, Magnesia.

Q. You do use the Manuel in your pricing?

A. Yes, but it does not have to do with prices in the sense of price control but is a series of tables showing net prices figured out for all discounts.

Q. I understand, but -----

A. ---A number of the asbestos manufacturers do not use it today but it seemed like such a forward step toward modern selling that we went in to it enthusiastically.

Q. When was it first adopted?

A. Well on the cover here it says published "October 1936." I can't remember any better date than that. We have made up a price sheet that lifts out of that book net prices on the styles that we make and ----- here--I find the first one dated March 1937. I guess we didn't adopt it until the issuance of this sheet in May 1937. The first sheet was dated May 1937; not March.

Q. That list has been in existence since 1907 hasn't it?

A. The book? No, that was not.....

Q. That particular method of basing prices....

A. Not that....

Q. Perhaps I did not make myself clear. I mean the pipe covering list - Table O (zero) in the book. That is the old pipe covering list, isn't it?

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Booklet No. 4613 Exhibit No. 245B

IN THE MATTER OF

Ex. 1-5-42

Asbestos Collops

Collops

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Obtained... 7-10-40
No. 1-12-407
Exhibit 16
Letter Interview
Atty. J. C. P.
Federal Trade Commission

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A. Yes, that zero list is the old pipe covering list.

Q. How long has it been since it was used; that is, the zero list in the Manual of Unit Prices?

A. O, it never was used except as a foundation on which to base discounts. The pipe covering was never sold on the list prices. The list and discount method has not been generally used since the new method went into effect.

Q. Did you ever attend any meetings called by Mr. Tulloch on prices, and so on?

A. No, he hasn't called any meetings lately. Of course we are out of the agreement and so do not know just what he is doing at the present time. He occasionally comes through and we have lunch together or something like that. When he was soliciting our membership he came in here and talked to us - to me and my associate.

Q. Did you ever attend any meetings at which any competitors of yours, who were also licensees, were present?

A. Yes.

Q. When and where did they take place?

A. Well sometimes it was at some one of the hotels: Palmer House or Bismarck.

Q. When was the last?

A. It has been some time. Tulloch was out here last summer - have seen him very infrequently lately.

Q. Did you ever get any circular letter - addressed to all licensees - subsequent to those meetings, telling what had taken place in those meetings?

A. No, it was all more or less informal.

Q. Well, now when did you rescind the contract? Do you have the date?

A. I suppose it is around somewhere. It was in the winter sometime.

Q. And since that date have you still bought your asbestos paper from Carey?

A. Yes.

Q. And you presume Carey had knowledge of the rescinded contract and sent you paper which was manufactured by a process other than that

Obtained 7-10-40 Letter
No 1-12-40 Atty. 906 Interview
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governed by the Tulloch patent?

A. Yes.

Q. Have you made any effort to determine whether the paper recently sent you by Carey is of another process than that governed by the Tulloch patent?

A. No, we haven't. In appearance there was never any difference and it would take some considerable testing to know the difference.

Q. Have you stopped paying royalties?

A. Yes.

Q. Now, what is your total volume of sales in a year?

A. Of this material only?

Q. Of everything.

A. Around 150 to \$175,000 - sometimes \$200,000.

Q. That is, or rather, is that based on actual cash transactions or is that on the zero list basis?

A. No, that is the net sales, including a lot of things outside the license agreement.

Q. Of that figure, what proportion would you say were sales of products manufactured under the Tulloch patents?

A. I presume anyway two-thirds.

Q. And just what products comprise the other third?

A. Well, we make plastic magnesia flooring, furnace cement - we make a number of asbestos cements.

Q. Cork and hair felt?

A. No, we buy and sell those. We presume you might say we job 85% Magnesia - in molded form, covering and blocks.

Q. What is Victor Ice Water and Brine Covering made of?

A. Well chiefly alternate layers of waterproof felt and dry wool felt.

Q. Practically no asbestos in that?

A. No.

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Exhibit No. 245-1

Obtained 7-10-40

Letter

Interview

Atty. J. P. O.

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Federal Trade Commission

Q. What is stack lining made of?

A. That is a material we buy. Our idea is that it is made out of corrugated asbestos, heavily impregnated with some kind of vitrifying solution which is baked in and the process repeated a number of times until it has built up a much stronger resistance to high temperatures than asbestos paper would normally have.

Q. Now with respect to your corrugated asbestos paper, is that bought from Carey in the corrugated form?

A. No, we corrugate it ourselves.

Q. You corrugate the flat sheets as purchased from Carey?

A. Yes.

Q. Was it your understanding that the License Agreement with Tulloch merely governed your corrugation of that flat paper which was manufactured by Carey under the Tulloch process?

A. I don't quite know what you mean. We bought the paper - the flat paper - and we always felt it was made under the shrinkproof patent. That is where the shrinkproof process goes into the paper - in the manufacture of the flat paper itself. After that, whether you cut it up or corrugate it or no matter what you do, it doesn't affect the process - that is, the shrinkproof quality.

Q. That being the case, was it your understanding that you were to pay royalty to Tulloch not merely for the purpose of corrugating it but for any purpose you might find, such as manufacturing or assembling of pipe insulation units?

A. Yes.

Q. Did Mr. Tulloch undertake to control the price at which you sold that asbestos paper after you had corrugated it and assembled it into a unit?

A. I wouldn't say he controlled it - no. He at times suggested what he felt his patented materials should sell for.

Q. Now as a matter of refreshing your memory - I don't want to frighten you by using the term "controlling prices" but because of my understanding of the patent license agreement wherein it states that you were not permitted to sell other than at prices shown in the schedules made a part thereof - with that understanding, then, he was entitled to control the prices pursuant to that agreement, was he not?

A. Yes, that's what it would appear.

FEDERAL TRADE COMMISSION

Docket No. 463 Exhibit No. 245-E

IN THE MATTER OF ACME ASBESTOS
 DATE 6-25-40 BY [Signature] 245-E

Acme Exhibit 1083
 Obtained 7-10-40 Letter
 1-12-40 Atty. 1083
 Federal Trade Commissioner

Q. Has Mr. Tulloch exercised any similar control of prices on ice water and brine covering, molded cork insulations, insulating hair felt, Acme Vitrac Stack Lining, Insulating cements and furnace cements?

A. No.

Q. Were prices on those last named products ever suggested by Mr. Tulloch?

A. No.

Q. Were the various circular letters pertaining to price structures as disseminated by Mr. Tulloch confined to the products which you have checked in this catalog furnished me a moment ago?

A. I would say they were confined to his licensed products - yes, what I have checked in the book is not a-parent.

Q. Since cancelling your agreement do you continue to receive circulars on prices and so on?

A. No.

Q. Has he abandoned any effort to control the prices at which you sell your products?

A. We have not received anything at all from Mr. Tulloch in some time. Whether or not Mr. Tulloch has abandoned all control, we do not know.

Q. How did you rescind that contract - by letter? How did you give notice?

A. As I recall we wrote him, yes.

Q. In your letter did you state conditions and reasons that prompted your withdrawal?

A. I presume we did. I don't recall just the exact wording of the letter.

Q. During the time in which you operated under the license agreement, did Mr. Tulloch ever impose on you a penalty for failure to maintain the prices attached to the agreement?

A. No.

Q. When you paid your royalty to Mr. Tulloch you were required to execute a report on materials shipped, sold or used as licensed under Patent 1972500 - in computing such reports was there a definite relationship between the figures furnished by you and the actual shipment, sale or use of the products in question?

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A. Yes.

Q. Were your reports accurately computed?

A. Yes, to the best of our knowledge.

Q. Did you ever pay royalty on fine or coarse corrugated asbestos paper?

A. I don't know without looking up the records - would have to look that up.

Q. Do you have carbon copies of those reports to Mr. Tulloch?

A. O yes.

Q. Good, will probably want to get copies of them myself.

Q. During the time in which your agreement with Mr. Tulloch was operative and particularly in the early periods of its operation, did Mr. Tulloch undertake to classify or determine who was a jobber or who wasn't a jobber with a view to further determining at what price you should quote this customer on these products?

A. I don't recall that he ever did. You mean make a list of jobbers?

Q. Yes.

A. If he attempted that I don't know of it and there is no such list now.

Q. No list of approved jobbers?

A. No. Now we decide who is and who is not a jobber and whether he could legally be established as a jobber under the Robinson-Patman Act - that is our chief concern. You see we sell quite a bit to a class of trade that most of the industry isn't concerned with; that is the plumbing and heating contractor himself. Our outlets are rather different from say the big J-M concern who sell almost entirely to approved contractors and distributors. We have almost none of them but on the other hand do sell plumbing and heating contractors.

Q. Do you sell to jobbers?

A. We sell to jobbers, yes, but we have but very few of what the industry terms an "approved contractor."

Q. During the course of the operation of the license agreement did

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Mr. Tulloch ever undertake policing of your accounts to find out if you were selling such and such a jobber who was known to be cutting the price in reselling the material? Has he ever corresponded with you, making inquiry as to whether you were selling a certain jobber, what price, and so on?

A. In a very limited way. I can't remember a single specific case of where that happened. I know the Magnesia Licensor has done that and am not certain whether I am thinking of one or the other ---- but I do think there was some effort on Tulloch's part to uphold his schedule and give equal opportunity to all the people who were subscribing to his agreement.

Q. Now was that effort confined to policing of sales by you and of the prices quoted by you, or did it go into the field of policing various jobbers and the prices at which they sold to their customers? In other words, did he make an effort to curtail your sales to a jobber known in the industry to be engaged in price cutting - that is when he sold the material bought from you?

A. No attempt to control the resale was ever made.

Q. In what state was your company incorporated?

A. Illinois.

Q. When?

A. August, 1907.

Q. Who are the officers of your firm?

A. Alfred E. Hermes is secretary-treasurer, and I, Paul C. Collopy am the president.

Q. Are there any vice-presidents?

A. No, no vice-presidents.

FEDERAL TRADE COMMISSION

Docket No. 4613 COMMISSIONER Exhibit No. 245H
IN THE MATTER OF Acme Lubricator
DATE 6-5-42 BY Collopy
REPORTER Lain

Acme Exhibit 12
Obtained 7-10-40 Letter
No. 1-12407 Atty. J. P. P. 1088
Federal Trade Commission
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