

violations of state law alleged herein have caused loss and damage and threaten loss and damage to the general welfare and economy of the State of Texas.

IV. DEFENDANT

4.1 Benco is a for-profit corporation, organized, existing, and doing business under and by virtue of the laws of the State of Delaware, with its principal address at 295 Centerpoint Boulevard, Pittston, PA, 18640. Benco, among other things, sells consumable dental supplies to dentists throughout Texas and nationwide.

V. RELEVANT MARKETS

5.1 The relevant product market is the sale of consumable dental supplies.

5.2 The relevant geographic market is Texas.

VI. RELEVANT FACTS

6.1 Benco sells and distributes consumable dental supplies throughout Texas, and operates regional offices throughout the state.

6.2 Consumable dental supplies are traditionally sold through a sales model by which a distributor's sales representative interacts directly with a purchasing dentist. As a part of this business, many dental supply distributors and manufacturers participate in trade shows sponsored by organizations, such as the annual meeting sponsored by the Texas Dental Association (TDA).

6.3 The traditional dental supply distributors enjoy close relationships with one another, both personally and professionally. Many sales representatives, and even higher level employees, have previous employment relationships with other distributors. The employees interact regularly in person, at various social gatherings, and industry or trade association meetings, and remotely, through company email, personal email, personal cell phone calls, company cell phone calls, and text messaging. These close contacts provide the opportunity for

the sharing of competitively-sensitive information among the various distributors and manufacturers.

6.4 In October 2013, the TDA launched TDA Perks Supplies, an online sales platform, in partnership with SourceOne Dental. TDA Perks Supplies allows TDA member dentists to purchase dental supplies online, without working through a sales representative. This model allows for TDA Perks Supplies to sell TDA member dentists many dental supplies at a discount compared to the prices offered by Benco and its competitor distributors operating under the traditional sales model.

6.5 Benco and its competitor distributors understood that TDA Perks Supplies, with its potentially disruptive new business model, directly competed with them, and perceived a competitive threat based on the lower prices offered by TDA Perks Supplies for many of the same goods offered by Benco and its competitor distributors.

6.6 Building on their historic culture of cooperation and communication, Benco and its competitor distributors engaged in ongoing communications over several months about TDA Perks Supplies. They shared information about market players' reactions to the new firm's entry, they collectively developed a response, and they provided reassurances to market participants about the collective response.

6.7 The collective response to this competitive threat by TDA Perks Supplies was two-fold. Benco and its competitor distributors (1) agreed to break with their traditional pattern of attendance and boycott the annual TDA meeting held in May 2014 because they perceived that TDA had positioned itself as a competitor to the traditional distributors, and (2) agreed to pressure other distributors and manufacturers to discontinue supplying TDA Perks Supplies

and/or end any relationships with manufacturers or distributors that ultimately supplied TDA Perks Supplies in order to stifle the competition provided by the new TDA offering.

6.8 Pursuant to this agreement, Benco and its competitor distributors did not attend the annual TDA meeting, despite the economic gains Benco and other distributors historically derived from the event, not only from direct sales to conference attendees during the meeting, but also throughout the year through contacts and relationships fostered and developed at the meeting.

6.9 Pursuant to this agreement, Benco and its competitor distributors contacted other distributors and manufacturers to pressure those entities to discontinue any relationships that ultimately supplied TDA Perks Supplies.

6.10 As a result of this pressure, other distributors and manufacturers discontinued such relationships, causing TDA Perks Supplies to lose access to products.

VII. FIRST CAUSE OF ACTION

7.1 The State incorporates and adopts by reference the allegations contained in every prior paragraph of this petition.

7.2 Beginning in 2013 and continuing into 2014, Benco entered into and participated in an agreement with dental supply distributors not to attend the TDA 2014 meeting and not to do business with SourceOne Dental or its suppliers.

7.3 These agreements unreasonably restrained trade in the relevant product and geographic markets in *per se* violation of Tex. Bus. & Com. Code § 15.05(a).

VIII. PRAYER

WHEREFORE, Plaintiff demands judgment against Defendant as follows:

- a) Adjudging and decreeing that Benco engaged in conduct in violation of Section 15.05(a) of the Tex. Bus. & Com. Code;
- b) Awarding the State of Texas injunctive relief to remedy the violations alleged in this petition;
- c) Awarding the State of Texas its costs of this action, including reasonable attorneys' fees and costs, as provided in Tex. Bus. & Com. Code § 15.20(b) and Tex. Gov't Code § 402.006(c)
- d) Awarding the State of Texas a civil fine, as provided in Tex. Bus. & Com. Code § 15.20(a);
and
- e) Directing such other and further relief as the Court deems just and proper.

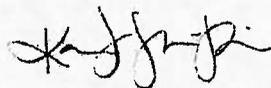
Respectfully submitted,

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