

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff,

v.

TOY GUIDANCE COUNCIL, INC.;  
MASBACK, INC.; THE BOSTWICK-  
BRAUN CO. (INC.); CENTRAL  
INDIANA DISTRIBUTING CORPORA-  
TION; GARRISON TOY & NOVELTY  
CO. INC.; GENERAL MERCANTILE  
& HARDWARE COMPANY (INC.);  
THE HAROLD HAHN COMPANY,  
INCORPORATED; M. W. KASCH  
COMPANY (INC.); KAUFMAN BROS.  
INC.; PENSICK & GORDON, INC.;  
EDWARD K. TRYON CO. (INC.);  
WILLIAMS & SHELTON CO. INC.;  
SEYMOUR KRAUSE; MELVIN S.  
LACHMAN; BENNETT M. SEIGEL;  
EDWIN MAZO and WILLARD S. STULL,  
Defendants.

Civil No.  
119-6

Filed: January 13, 1958  
2:40 P.M.

FINAL JUDGMENT

The plaintiff, UNITED STATES OF AMERICA, having filed its complaint herein on March 27, 1957; each of the defendants, Masback, Inc., The Bostwick-Braun Co. (Inc.) and Central Indiana Distributing Corporation, having filed its answer in which it denies the offenses charged in such complaint; and the plaintiff and said defendants by their respective attorneys having consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein, and without any admission by any of the parties hereto with respect to any such issue;

NOW, THEREFORE, before the taking of any testimony and without trial or adjudication of any issue of fact or law herein and upon the consent of the parties signatory hereto, it is hereby

ORDERED, ADJUDGED and DECREED as follows:

I

This Court has jurisdiction of the subject matter of this action and of the parties signatory hereto. The complaint states claims for

relief against the consenting defendants under Section 1 of the Act of Congress of July 2, 1890, entitled "An act to protect trade and commerce from unlawful restraints and monopolies", commonly known as the Sherman Act, as amended.

## II

As used in this Final Judgment:

(A) "Consenting defendants" shall mean Masback, Inc., The Bostwick-Braun Co. (Inc.) and Central Indiana Distributing Corporation and each of them;

(B) "Council" shall mean the defendant, Toy Guidance Council, Inc., which with its subsidiaries The Toy Yearbook, Inc. and Consumer Toy Catalogues, Inc. shall be considered to be one person;

(C) "Person" shall mean any individual, partnership, firm, corporation, association, or other business or legal entity;

(D) "Toy Program" shall mean any plan, program or activity for the advertisement and promotion of the sale of toys;

(E) "Toy literature" shall mean any literature, catalogue or booklet advertising or promoting the sale of toys.

## III

The provisions of this Final Judgment applicable to any consenting defendant shall apply to such defendant and to each of its subsidiaries, successors, assigns, officers, directors, servants, employees and agents, and to all persons in active concert or participation with said defendant who receive actual notice of this Final Judgment by personal service or otherwise.

Each of the consenting defendants is enjoined and restrained from entering into, adhering to, maintaining or furthering, directly or indirectly, any contract, agreement, understanding, plan, toy program or other program with any of the other defendants or with any other person:

(A) To fix, change, maintain or adhere to prices for the sale of toys to any third person;

(B) To fix, change, maintain or adhere to any retail price submitted by any toy manufacturer for use in any toy literature which lists toys available for sale to the public;

(C) To maintain or require or to attempt to maintain or require adherence by retail toy dealers to any suggested retail price published in any toy literature;

(D) To boycott or refuse to deal with any toy retailer who does not maintain or adhere to any retail price for toys;

(E) Not to purchase, distribute or publish any toy literature other than that sold, distributed or published by defendant Council;

(F) Not to advertise toys at prices lower than or at a discount from the manufacturer's published or suggested prices.

V

(A) Subject to each and all of the provisions of Section IV of this Final Judgment, each of the consenting defendants may:

(1) Exercise its individual right to choose and select its customers; and

(2) Select toys submitted to any publisher of any toy literature for advertising and promotion therein.

(B) Nothing in this Final Judgment shall be deemed to prevent any consenting defendant from entering into or adhering to any fair trade contract, otherwise permitted by the acts of Congress commonly known as the Miller-Tydings and McGuire Acts, where so required by a manufacturer or an importer.

## VI

For the purpose of securing compliance with this Final Judgment and for no other purpose, duly authorized representatives of the Department of Justice shall, on written request of the Attorney General, or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to any consenting defendant made to its principal office, be permitted, subject to any legally recognized privilege;

(A) Access, during the office hours of said defendant, to those books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of said defendant which relate to any matter contained in this Final Judgment;

(B) Subject to the reasonable convenience of said defendant and without restraint or interference from it, to interview officers or employees of the defendant, who may have counsel present, regarding any such matters.

Upon written request of the Attorney General, or the Assistant Attorney General in charge of the Antitrust Division, said defendant shall submit such reports in writing with respect to the matters contained in this Final Judgment as may from time to time be necessary to the enforcement of this Final Judgment.

No information obtained by the means permitted in this Section VI shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Department of Justice except in the course of legal proceedings in which the United States is a party for the purpose of securing compliance with this Final Judgment or as otherwise required by law.

## VII

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment,

for the amendment or modification of any of the provisions thereof,  
for the enforcement of compliance therewith, and for the punishment  
of violations thereof.

Dated: January 13, 1958.

/s/ Sylvester J. Ryan  
United States District Judge

We hereby consent to the making and entry of the foregoing Final  
Judgment.

For the Plaintiff:

/s/ Victor R. Hansen  
Assistant Attorney General

/s/ Leo A. Roth

/s/ W. D. Kilgore, Jr.

/s/ Charles F. B. McAleer  
Attorneys  
Department of Justice

/s/ George D. Reycraft

For the Defendant, Masback, Inc.

Cahn, Schwartzreich & Mathias,  
/s/ by Jeshua B. Cahn

For the Defendant, Central Indiana Distributing Corporation:

/s/ D. C. Duck,  
Attorney

For the Defendant, The Bostwick-Braun Co. (Inc.)

Cahill, Gordon, Reindel & Ohl,  
/s/ by Jerrold G. Van Cise