APPENDIX A:

FINAL JUDGMENTS

(Ordered by Year Judgment Entered)

United States v. Swift & Company, et al.

Equity No. 26291

Year Judgment Entered: 1903

IN THE CIRCUIT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF ILLINOIS, NORTHERN DIVISION.

Equity No. 26291.

THE UNITED STATES OF AMERICA,
vs.
SWIFT & COMPANY ET AL.

DECREE OF MAY 26, 1903.

This cause came on to be heard upon the demurrers of the defendants, and the court, being fully advised in the premises, overruled the same, and ordered the defendants to answer the petition herein on or before the twenty-first day of April, 1903, whereupon on the twenty-second day of April, 1903, the defendants having elected to stand by their demurrers, and having failed to file their answer to the petition, the default of the defendants and each of them was entered herein upon motion of S. H. Bethea, United States Attorney.

And now, upon motion of the said attorney, the court doth order that the preliminary injunction heretofore awarded in this cause, to restrain the said defendants and each of them, their respective agents and attorneys, and all other persons acting in their behalf, or in behalf of either of them, or claiming so to act, from entering into, taking part in, or performing any contract, combination or conspiracy, the purpose or effect of which, will be, as

to trade and commerce in fresh meats between the several States and Territories and the District of Columbia, a restraint of trade, in violation of the provisions of the act of Congress approved July 2, 1890, entitled "An Act to protect trade and commerce against unlawful restraints and monopolies," either by directing or requiring their respective agents to refrain from bidding against each other in the purchase of livestock; or collusively and by agreement to refrain from bidding against each other at the sales of live stock; or by combination, conspiracy or contract raising or lowering prices or fixing uniform prices at which the said meats will be sold, either directly or through their respective agents; or by curtailing the quantity of such meats shipped to such markets and agents, or by establishing and maintaining rules for the giving of credit to dealers in such meats, the effect of which rules will be to restrict competition; or by imposing uniform charges for cartage and delivery of such meats to dealers and consumers, the effect of which will be to restrict competition; or by any other method or device, the purpose and effect of which is to restrain commerce as aforesaid; and also from violating the provisions of the act of Congress approved July 2, 1890, entitled "An Act to protect trade and commerce against unlawful restraints and monopolies," by combining or conspiring together, or with each other and others, to monopolize or attempt to monopolize any part of the trade and commerce in fresh meats among the several States and Territories and the District of Columbia, by demanding, obtaining, or, with or without the connivance of the officers or agents thereof, or of any of them, receiving from railroad companies or other common carriers transporting such fresh meats in such trade and commerce, either directly or by means of rebates, or by any other device, transportation of or for such meats, from the points of the preparation and production of the same from live stock or elsewhere, to the markets for the sale of the same to dealers and consumers in other States and Territories than those wherein the same are so prepared, or the District of Columbia, at less than the regular rates which may be established or in force on their several lines of transportation, under the provisions in that behalf of the laws of the said United States for the regulation of commerce, be and the same is hereby made perpetual.

But nothing herein shall be construed to prohibit the said defendants from agreeing upon charges for cartage and delivery, and other incidents connected with local sales, where such charges are not calculated to have any effect upon competition in the sales and delivery of meats; nor from establishing and maintaining rules for the giving of credit to dealers where such rules in good faith are calculated solely to protect the defendants against dishonest or irresponsible dealers, nor from curtailing the quantity of meats shipped to a given market where the purpose of such arrangement in good faith is to prevent the over-accumulation of meats as perishable articles in such markets.

Nor shall anything herein contained be construed to restrain or interfere with the action of any single company or firm, by its or their officers or agents (whether such officers or agents are themselves personally made parties defendant hereto or not) acting with respect to its or their own corporate or firm business, property or affairs.

MAY 26, 1903.

SUPREME COURT OF THE UNITED STATES.

No. 103. October Term, 1904.

SWIFT AND COMPANY ET AL., APPELLANTS,
vs.
THE UNITED STATES.

Appeal from the Circuit Court of the United States for the Northern District of Illinois.

[January 30, 1905.]

Mr. Justice HOLMES delivered the opinion of the Court.

This is an appeal from a decree of the Circuit Court, on

demurrer, granting an injunction against the appelants' commission of alleged violations of the act of July 2, 1890, c. 647, (26 Stat. 209,) "to protect Trade and Commerce against unlawful Restraints and Monopolies." It will be necessary to consider both the bill and the decree. The bill is brought against a number or corporations, firms and individuals of different States and makes the following allegations. 1. The defendants (appellants) are engaged in the business of buying live stock at the stock yards in Chicago, Omaha, St. Joseph, Kansas City, East St. Louis and St. Paul, and slaughtering such live stock at their respective plants in places named, in different States, and converting the live stock into fresh meat for human consumption. 2. The defendants "are also engaged in the " business of selling such fresh meats, at the several " places where they are so prepared, to dealers and " consumers in divers States and Territories of the said " United States other than those wherein the said meats " are so prepared and sold as aforesaid, and in the District " of Columbia, and in foreign countries, and shipping the " same meats, when so sold from the said places of their " preparation, over the several lines of transportation of " the several railroad companies serving the same as " common carriers, to such dealers and consumers, " pursuant to such sales." 3. The defendants also are engaged in the business of shipping such fresh meats to their respective agents at the principal markets in other States, &c., for sale by those agents in those markets to dealers and consumers. 4. The defendants together control about six-tenths of the whole trade and commerce in fresh meats among the States, Territories and District of Columbia, and, 5. but for the acts charged would be in free competition with one another.

6. In order to restrain competition among themselves as to the purchase of live stock, defendants have engaged in, and intend to continue, a combination for requiring and do and will require their respective purchasing agents at the stock yards mentioned, where defendants buy their live stock, (the same being stock produced and owned principally in other States and shipped to the yards for sale,) to refrain from bidding against each other, "except perfunctorily and without good faith," and by this means compelling the owners of such stock to sell at less prices than they would receive if the bidding really was competitive.

7. For the same purposes the defendants combine to bid up, through their agents, the prices of live stock for a few days at a time, "so that the market reports will show prices much higher than the state of the trade will warrant," thereby inducing stock owners in other States to make large shipments to the stock yards to their disadvantage.

8. For the same purposes, and to monopolize the commerce protected by the statute, the defendants combine "to arbitrarily, from time to time raise, lower, and fix prices, and to maintain uniform prices at which they will sell" to dealers throughout the States. This is effected by secret periodical meetings, where fixed prices are to be enforced until changed at a subsequent meeting. The prices are maintained directly, and by collusively restricting the meat shipped by the defendants, whenever conducive to the result, by imposing penalties for deviations, by establishing a uniform rule for the giving of credit to dealers, &c., and by notifying one another of the delinquencies of such dealers and keeping a black list of delinquents, and refusing to sell meats to them.

9. The defendants also combine to make uniform charges for cartage for the delivery of meats sold to dealers and consumers in the markets throughout the States, &c., shipped to them by the defendants through the defendants' agents at the markets, when no charges would have been made but for the combination.

10. Intending to monopolize the said commerce and to prevent competition therein, the defendants "have all and each engaged in and will continue" arrangements with the railroads whereby the defendants received, by means of rebates and other devices, rates less than the lawful rates for transportation, and were exclusively to enjoy

and share this unlawful advantage to the exclusion of competition and the public. By force of the consequent inability of competitors to engage or continue in such commerce, the defendants are attempting to monopolize, have monopolized, and will monopolize the commerce in live stock and fresh meats among the States and Territories, and with foreign countries, and, 11, the defendants are and have been in conspiracy with each other, with the railroad companies and others unknown, to obtain a monopoly of the supply and distribution of fresh meats throughout the United States, &c. And to that end defendants artificially restrain the commerce and put arbitrary regulations in force affecting the same from the shipment of the live stock from the plains to the final distribution of the meats to the consumer. There is a prayer for an injunction of the most comprehensive sort, against all the foregoing proceedings and others, for discovery of books and papers relating directly or indirectly to the purchase or shipment of live stock, and the sale or shipment of fresh meat, and for an answer under oath. The injunction issued is appended in a note.*

*"And now, upon motion of the said attorney, the court doth order that the preliminary injunction heretofore awarded in this cause, to restrain the said defendants and each of them, their respective agents and attorneys, and all other persons acting in their behalf, or in behalf of either of them, or claiming so to act, from entering into, taking part in, or performing any contract, combination or conspiracy, the purpose or effect of which will be, as to trade and commerce in fresh meats between the several States and Territories and the District of Columbia, a restraint of trade, in violation of the provisions of the act of Congress approved July 2, 1890, entitled 'An act to protect trade and commerce against unlawful restraints and monopolies,' either by directing or requiring their respective agents to refrain from bidding against each other in the purchase of live stock; or collusively and by agreement to refrain from bidding against each other at the sales of live stock; or by combination, conspiracy or contract raising or lowering prices or fixing uniform prices at which the said meats will be sold, either directly or through their respective agents; or by curtailing the quantity of such meats shipped to such markets and agents; or by establishing and maintaining rules for the giving of credit to dealers in such meats, the effect of which rules will be to restrict competition; or by imposing uniform charges for cartage and delivery of such meats to dealers and consumers, the effect of which will be to restrict competition; or by any other method or device, the purpose and effect of which is to restrain commerce as aforesaid; and also from violating the provisions of the act of Congress approved July 2, 1890, entitled 'An act to protect trade and commerce against unlawful restraints and monopolies,' by combining or conspiring together, or with each other and others, to monopolize or attempt to monopolize any part of the trade and commerce in fresh meats among the several States and Territories and the District of Columbia, by demanding, obtaining, or, with or without the connivance of the officers or agents thereof, or any of them, receiving from railroad companies or other common carriers transporting such fresh meats in such trade and commerce, either directly or by means of rebates, or by any other device, transportation of or for such meats, from the points of the preparation and production of the same from live stock or elsewhere, to the markets for the sale of the same to dealers and consumers in other States and Territories than those wherein the same are so prepared, or the District of Columbia, at less than the regular rates which may be established or in force on their several lines of transportation, under the provisions in that behalf of the laws of the said United States for the regulation of commerce, be and the same is hereby made perpetual.

But nothing herein shall be construed to prohibit the said defendants from agreeing upon charges for cartage and delivery, and other incidents connected with local sales, where such charges are not calculated to have any effect upon competition in the sales and delivery of meats; nor from establishing and maintaining rules for the giving of credit to dealers where such rules in good faith are calculated solely to protect the defendants against dishonest or irresponsible dealers, nor from curtailing the quantity of meats shipped to a given market where the purpose of such arrangement in good faith is to prevent the over-accumulation of meats as perishable articles in such markets.

Nor shall anything herein contained be construed to restrain or interfere with the action of any single company or firm, by its or their officers or agents (whether such officers or agents are themselves personally made parties defendant hereto or not) acting with respect to its or their own corporate or firm business, property or affairs."

To sum up the bill more shortly, it charges a combination of a dominant proportion of the dealers in fresh meat throughout the United States not to bid against each other in the live stock markets of the different States, to bid up prices for a few days in order to induce the cattle men to send their stock to the stock yards, to fix prices at which

they will sell, and to that end to restrict shipments of meat when necessary, to establish a uniform rule of credit to dealers and to keep a black list, to make uniform and improper charges for cartage, and finally to get less than lawful rates from the railroads to the exclusion of competitors. It is true that the last charge is not clearly stated to be a part of the combination. But as it is alleged that the defendants have each and all made arrangements with the railroads, that they were exclusively to enjoy the unlawful advantage, and that their intent in what they did was to monopolize the commerce and to prevent competition, and in view of the general allegation to which we shall refer, we think that we have stated correctly the purport of the bill. It will be noticed further that the intent to monopolize is alleged for the first time in the eighth section of the bill as to raising, lowering, and fixing prices. In the earlier sections, the intent alleged is to restrain competition among themselves. But after all the specific charges there is a general allegation that the defendants are conspiring with one another, the railroads and others, to monopolize the supply and distribution of fresh meat throughout the United States, &c., as has been stated above, and it seems to us that this general allegation of intent colors and applies to all the specific charges of the bill. Whatever may be thought concerning the proper construction of the statute, a bill in equity is not to be read and construed as an indictment would have been read and construed a hundred years ago, but it is to be taken to mean what it fairly conveys to a dispassionate reader by a fairly exact use of English speech. Thus read, this bill seems to us intended to allege successive elements of a single connected scheme.

We read the demurrer with the same liberality. Therefore we take it as applying to the bill generally for multifariousness and want of equity, and also to each section of it which makes a charge and to the discovery. The demurrer to the discovery will not need discussion in the view which we take concerning the relief, and therefore we turn at once to that.

The general objection is urged that the bill does not set forth sufficient definite or specific facts. This objection is serious, but it seems to us inherent in the nature of the case. The scheme alleged is so vast that it presents a new problem in pleading. If, as we must assume, the scheme is entertained, it is, of course, contrary to the very words of the statute. Its size makes the violation of the law more conspicuous, and yet the same thing makes it impossible to fasten the principal fact to a certain time and place. The elements, too, are so numerous and shifting, even the constituent parts alleged are and from their nature must be so extensive in time and space, that something of the same impossibility applies to them. The law has been upheld, and therefore we are bound to enforce it notwithstanding these difficulties. On the other hand, we equally are bound by the first principles of justice not to sanction a decree so vague as to put the whole conduct of the defendants' business at the peril of a summons for contempt. We cannot issue, a general injunction against all possible breaches of the law. We must steer between these opposite difficulties as best we can.

The scheme as a whole seems to us to be within the reach of the law. The constituent elements, as we have stated them, are enough to give the scheme a body and, for all that we can say, to accomplish it. Moreover, whatever we may think of them separately when we take them up as distinct charges, they are alleged sufficiently as elements of the scheme. It is suggested that the several acts charged are lawful and that intent can make no difference. But they are bound together as the parts of a single plan. The plan may make the parts unlawful. *Aikens* v. *Wisconsin*, 195 U. S. 194, 206. The statute gives this proceeding against combinations in restraint of commerce among the States and against attempts to monopolize the same. Intent is almost essential to such a combination and is essential to such an attempt. Where acts are not sufficient in themselves to produce a result which the law seeks to prevent—for instance, the monopoly—but require further acts in addition to the mere forces of

nature to bring that result to pass, an intent to bring it to pass is necessary in order to produce a dangerous probability that it will happen. *Commonwealth* v. *Peaslee*, 177 Mass. 267, 272. But when that intent and the consequent dangerous probablilty exist, this statute, like many others and like the common law in some cases, directs itself against that dangerous probability as well as against the completed result. What we have said disposes incidentally of the objection to the bill as multifarious. The unity of the plan embraces all the parts.

One further observation should be made. Although the combination alleged embraces restraint and monopoly of trade within a single State, its effect upon commerce among the States is not accidental, secondary, remote or merely probable. On the allegations of the bill the latter commerce no less, perhaps even more, than commerce within a single State is an object of attack. See *Leloup* v. *Port of Mobile*, 127 U. S. 640, 647; *Crutcher* v. *Kentucky*, 147 U. S. 47, 59; *Allen* v. *Pullman Co.*, 191 U. S. 171, 179, 180. Moreover it is a direct object, it is that for the sake of which the several specific acts and courses of conduct are done and adopted. Therefore the case is not like *United States* v. *E. C. Knight Co.*, 156 U. S. 1, where the subject matter of the combination was manufacture and the direct object monopoly of manufacture within a state. However likely monopoly of commerce among the States in the article manufactured was to follow from the agreement it was not a necessary consequence nor a primary end. Here the subject matter is sales and the very point of the combination is to restrain and monopolize commerce among the States in respect of such sales. The two cases are near to each other, as sooner or later always must happen where lines are to be drawn, but the line between them is distinct. *Montague* v. *Lowry*, 193 U. S. 38.

So, again, the line is distinct between this case and *Hopkins* v. *United States*, 171 U. S. 578. All that was decided there was that the local business of commission merchants was not commerce among the States, even if what the brokers were employed to sell was an object of such commerce. The brokers were not like the defendants before us, themselves the buyers and sellers. They only furnished certain facilities for the sales. Therefore, there again the effects of the combination of brokers upon the commerce was only indirect and not within the act. Whether the case would have been different if the combination had resulted in exorbitant charges, was left open. In *Anderson* v. *United States*, 171 U. S. 604, the defendants were buyers and sellers at the stock yards, but their agreement was merely not to employ brokers, or to recognize yard-traders, who were not members of their association. Any yard-trader could become a member of the association on complying with the conditions, and there was said to be no feature of monopoly in the case. It was held that the combination did not directly regulate commerce between the States, and, being formed with a different intent, was not within the act. The present case is more like *Montague* v. *Lowry*, 193 U. S. 38.

For the foregoing reasons we are of opinion that the carrying out of the scheme alleged, by the means set forth, properly may be enjoined, and that the bill cannot be dismissed.

So far it has not been necessary to consider whether the facts charged in any single paragraph constitute commerce among the States or show an interference with it. There can be no doubt, we apprehend, as to the collective effect of all the facts, if true, and if the defendants entertain the intent alleged. We pass now to the particulars, and will consider the corresponding parts of the injunction at the same time. The first question arises on the sixth section. That charges a combination of independent dealers to restrict the competition of their agents when purchasing stock for them in the stock yards. The purchasers and their slaughtering establishments are largely in different States from those of the stock yards, and the sellers of the cattle, perhaps it is not too much to assume, largely in different States from either. The intent of the combination is not merely to restrict competition among the parties, but, as we have said, by force of the

general allegation at the end of the bill, to aid in an attempt to monopolize commerce among the States.

It is said that this charge is too vague and that it does not set forth a case of commerce among the States. Taking up the latter objection first, commerce among the States is not a technical legal conception, but a practical one, drawn from the course of business. When cattle are sent for sale from a place in one State, with the expectation that they will end their transit, after purchase, in another, and when in effect they do so, with only the interruption necessary to find a purchaser at the stock yards, and when this is a typical, constantly recurring course, the current thus existing is a current of commerce among the States, and the purchase of the cattle is a part and incident of such commerce. What we say is true at least of such a purchase by residents in another State from that of the seller and of the cattle. And we need not trouble ourselves at this time as to whether the statute could be escaped by any arrangement as to the place where the sale in point of law is consummated. See *Norfolk & Western Ry. v. Sims*, 191 U. S. 441. But the sixth section of the bill charges an interference with such sales, a restraint of the parties by mutual contract and a combintion not to compete in order to monopolize. It is immaterial if the section also embraces domestic transactions.

It should be added that the cattle in the stock yard are not at rest even to the extent that was held sufficient to warrant taxation in *American Steel & Wire Co.* v. *Speed*, 192 U. S. 500. But it may be that the question of taxation does not depend upon whether the article taxed may or may not be said to be in the course of commerce between the States, but depends upon whether the tax affects that commerce as to amount to a regulation of it. The injunction against taking part in a combination, the effect of which will be a restraint of trade among the States by directing the defendants' agents to refrain from bidding against one another at the sale of live stock, is justified so far as the subject matter is concerned.

The injunction, however refers not to trade among the States in cattle, concerning which there can be no question of original packages, but to trade in fresh meats, as the trade forbidden to be restrained, and it is objected that the trade in fresh meats described in the second and third sections of the bill is not commerce among the States, because meat is sold at the slaughtering places, or when sold elsewhere may be sold in less than the original packages. But the allegations of the second section, even if they import a technical passing of title at the slaughtering places, also import that the sales are to persons in other States, and that the shipments to other States are part of the transaction—"pursuant to such sales"—and the third section imports that the same things which are sent to agents are sold by them, and sufficiently indicates that some at least of the sales are of the original packages. Moreover, the sales are by persons in one State to persons in another. But we do not mean to imply that the rule which marks the point at which State taxation or regulation becomes permissible necessarily is beyond the scope of interference by Congress in cases where such interference is deemed necessary for the protection of commerce among the States. Nor do we mean to intimate that the statute under consideration is limited to that point. Beyond what we have said above, we leave those questions as we find them. They were touched upon in the *Northern Securities Company's Case*, 193 U. S. 197.

We are of opinion, further, that the charge in the sixth section is not too vague. The charge is not of a single agreement but of a course of conduct intended to be continued. Under the act it is the duty of the Court, when applied to, to stop the conduct. The thing done and intended to be done is perfectly definite: with the purpose mentioned, directing the defendants' agents and inducing each other to refrain from competition in bids. The defendants cannot be ordered to compete, but they properly can be forbidden to give directions or to make agreements not to compete. See *Addyston Pipe & Steel Co.* v. *United States*, 175 U. S. 211. The injunction follows the charge.

No objection was made on the ground that it is not confined to the places specified in the bill. It seems to us, however, that it ought to set forth more exactly the transactions in which such directions and agreements are forbidden. The trade in fresh meat referred to should be defined somewhat as it is in the bill, and the sales of stock should be confined to sales of stock at the stock yards named, which stock is sent from other States to the stock yards for sale or is bought at those yards for transport to another State.

After what we have said, the seventh, eighth and ninth sections need no special remark, except that the cartage referred to in section nine is not an independent matter, such as was dealt in *Pennsylvania Railroad* v. *Knight*, 192 U. S. 21, but a part of the contemplated transit—cartage for delivery of the goods. The general words of the injunction " or by any other method or device, the purpose and effect of which is to restrain commerce as aforesaid," should be stricken out. The defendants ought to be informed as accurately as the case permits what they are forbidden to do. Specific devices are mentioned in the bill, and they stand prohibited. The words quoted are a sweeping injunction to obey the law, and are open to the objection which we stated at the beginning that it was our duty to avoid. To the same end of definiteness so far as attainable, the words "as charged in the bill," should be inserted between "dealers in such meats," and "the effect of which rules," and two lines lower, as to charges for cartage, the same words should be inserted between "dealers and consumers" and "the effect of which."

The acts charged in the tenth section, apart form the combination and the intent, may, perhaps, not necessarily be unlawful, except for the adjective which proclaims them so. At least we may assume, for the purpose of decision, that they are not unlawful. The defendants severally lawfully may obtain less than the regular rates for transportation if the circumstances are not substantially similar to those for which the regular rates are fixed. Act of Feb. 4, 1887, c. 104, § 2, 24 Stat. 379. It may be that the regular rates are fixed for carriage in cars furnished by the railroad companies, and that the defendants furnish their own cars and other necessities of transportation. We see nothing to hinder them from combining to that end. We agree, as we already have said, that such a combination may be unlawful as part of the general scheme set forth in the bill, and that this scheme as a whole might be enjoined. Whether this particular combination can be enjoined, as it is, apart from its connection with the other elements, if entered into with the intent to monopolize, as alleged, is a more delicate question. The question is how it would stand if the tenth section were the whole bill. Not every act that may be done with intent to produce an unlawful result is unlawful, or constitutes an attempt. It is a question of proximity and degree. The distinction between mere preparation and attempt is well known in the criminal law. *Commonwealth* v. *Peaslee*, 177 Mass. 267, 272. The same distinction is recognized in cases like the present. *United States* v. *E. C. Knight Co.* 156 U. S. 1, 13. *Kidd* v. *Pearson*, 128 U. S. 1, 23, 24. We are of opinion, however, that such a combination is within the meaning of the statute. It is obvious that no more powerful instrument of monopoly could be used than an advantage in the cost of transportation. And even if the advantage is one which the act of 1887 permits, which is denied, perhaps inadequately, by the adjective "unlawful," still a combination to use it for the purpose prohibited by the act of 1890 justifies the adjective and takes the permission away.

It only remains to add that the foregoing question does not apply to the earlier sections, which charge direct restraints of trade within the decisions of the Court, and that the criticism of the decree, as if it ran generally against combinations in restraint of trade or to monopolize trade, ceases to have any force when the clause against "any other method or device" is stricken out. So modified it restrains such combinations only to the extent of cer-

tain specified devices, which the defendants are alleged to have used and intend to continue to use.

Decree modified and affirmed.

DECREE ON MANDATE.

ORDER OF APRIL 10, 1905

GROSSCUP, J.

Equity No. 26291.

UNITED STATES OF AMERICA,
VS.
SWIFT & COMPANY, ET AL.

On motion of the United States Attorney, leave is hereby given to file instanter the mandate from the Supreme Court of the United States, and thereupon it is Ordered that the order of Injunction heretofore entered herein, be, and the same is hereby modified in accordance with said mandate.

United States v. American Seating Company, et al.

Civil No. 28604

Year Judgment Entered: 1907

[Church Pews]

UNITED STATES v. AMERICAN SEATING CO.

IN THE CIRCUIT COURT OF THE UNITED STATES OF AMERICA, FOR THE NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION.

Present: The Honorable Kenesaw M. Landis, Circuit Judge, August 5, 1907.

Civil. No. 28604.

THE UNITED STATES OF AMERICA
vs.
AMERICAN SEATING COMPANY ET AL.

This cause coming on to be heard upon the Bill of Complaint filed herein, and it appearing to the court that a default pro confesso was duly taken against the defendants, the American Seating Company, A. H. Andrews Company, Superior Manufacturing Company, Owensboro Seating and Cabinet Company, Southern Seating and Cabinet Company, Cincinnati Seating Company, The Fridman Seating Company, Minneapolis Office and School Furniture Company, H. C. Voght Sons and Company, Frederick A. Holbrook, Thomas M. Boyd, Edward Hubbard, Leo A. Peil, Charles D. Miller, William F. Merle, Henry J. Merle, Frank Morton, Joseph Kenfield, John McKearnan, F. L. Ingersoll, Finley S. Brooke, William M. Brooke, John C. Brooke, C. D. Fridman, F. W. Fridman, L. S. Fridman, Albert Canfield, Carl R. Voght, M. C. Williams, D. M. Witmer, Oliver M. Stafford, W. L. Dechant and S. H. Carr, and that no motion has been filed herein to set aside said default, and that said defendants are still in default, and that more than thirty days have elapsed since the date of entry of said default, it is ordered, adjudged and decreed, and the court doth hereby order as follows:

That the Bill of Complaint be and the same is hereby taken confessed by the said defendants.

The court doth further order that the said defendants and each of them, their respective agents and attorneys, and all other persons acting in their behalf, or in behalf of either of them or claiming so to act, be and are hereby perpetually enjoined from entering into, taking part in, or engaging in any combination or conspiracy the purpose and effect of which will be as to trade and commerce in church pews between the several states and territories and the District of Columbia, a restraint of trade in violation of the provisions of the Act of Congress approved July 2, 1890, entitled, "An Act to protect trade and commerce against unlawful restraints and monopolies," either by combination, conspiracy, or contract agreeing upon and fixing uniform and non-competitive prices, below which none of the said defendants should sell church pews, in the interstate commerce aforesaid; or by collusively and by agreement refraining from bidding against each other in the sale of church pews, or by collusively causing their salesman to refrain from bidding in good faith against each other in the sale of church pews in the interstate commerce aforesaid, or by making fictitious, assisting, or straw bids; or by organizing, managing or conducting any association or club for the purpose of discussing, proposing, devising and agreeing upon uniform arbitrary minimum prices for church pews below which none of said defendants could sell; or by attending or taking part in any meetings of the association or club called the Prudential Club, and from

maintaining, conducting and keeping organized and in existance the said association or the said club; or by reporting to the said Frederick A. Holbrook, or to any other person, the names and addresses of churches and prospective purchasers desiring or requiring church pews and the particulars as to the number, kind and quantity of church pews desired, or required for such churches or prospective purchasers; or by assigning and allotting the prospective sales of church pews among and to the said defendants by the said Frederick A. Holbrook; and also from violating the provisions of the Act of Congress approved July 2, 1890, entitled, "An Act to protect trade and commerce against the unlawful restraints and monopolies," by combining or conspiring together or with each other and others to monopolize any part of the trade and commerce in church pews among the several states and territories and the District of Columbia by uniting and combining in an effort to prevent competition in the sale of church pews throughout the said United States or by organizing, managing or conducting any association or club for the purpose of discussing, proposing, devising and agreeing upon arbitrary minimum prices for church pews below which none of said defendants could sell; or by agreeing upon and fixing uniform and non-competitive minimum prices below which said defendant corporations should not sell church pews.

But nothing herein contained shall be construed to restrain or interfere with the action of any of said defendants acting with respect to their own corporate or firm business, property or affairs, when such action is not taken as a result of combination with any other of said defendants as above set forth.

(Signed) KENESAW M. LANDIS,
District Judge.

IN THE CIRCUIT COURT OF THE UNITED STATES OF AMERICA, FOR THE NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION.

Present: The Honorable Kenesaw M. Landis, Circuit Judge, August 5, 1907.

United States v. American Seating Company, et al.

Civil No. 28605

Year Judgment Entered: 1907

[School Desks]

IN THE CIRCUIT COURT OF THE UNITED STATES OF AMERICA, FOR THE NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION.

Present: The Honorable Kenesaw M. Landis, Circuit Judge, August 5, 1907.

Civil. No. 28605.

THE UNITED STATES OF AMERICA
vs.
AMERICAN SEATING COMPANY ET AL.

This cause coming on to be heard upon the Bill of Complaint filed herein, and it appearing to the court that a default pro confesso was duly taken against the defendants, the American Seating Company, A. H. Andrews Company, Superior Manufacturing Company, Haney School Furniture Company, The Hudson School Furniture Company, Peabody School Furniture Company, The Illinois Refrigerator Company, Owensboro Seating and Cabinet Company, Minneapolis Office and School Furniture Company, Frederick A. Holbrook, Thomas M. Boyd, Leo A. Peil, John H. Howard, Harry R. Holden, William F. Merle, Henry J. Merle, Augustus C. Sanford, George Anderson, John McKearnan, Elijah Haney, George M. Haney, Alberta Haney, W. C. Hudson, S. M. Hudson, J. B. Peabody, T. A. Peabody, J. B. Markey, A. Harry Wolf, F. H. Walker, Martin C. Williams, D. M. Witner, Oliver M. Stafford, W. L. Dechant, and S. H. Carr and that no motion has been filed herein to set aside said default, and that said defendants are still in default, and that more than thirty days have elapsed since the date of the entry of said default, it is ordered, adjudged and decreed, and the court doth hereby order as follows:

That the Bill of Complaint be and the same is hereby taken confessed by the said defendants.

The court doth further order that the said defendants and each of them, their respective agents and attorneys, and all other persons acting in their behalf or in behalf of either of them, or claiming so to act, be and are hereby perpetually enjoined from entering into, taking part in, or engaging in any combination or conspiracy the purpose and effect of which will be as to trade and commerce in school desks between the several states and territories and the District of Columbia, a restraint of trade in violation of the provisions of the Act of Congress ap-

proved July 2, 1890, entitled "An Act to protect trade and commerce against unlawful restraints and monopolies," either by combination, conspiracy or contract agreeing upon and fixing uniform and non-competitive prices, below which none of the said defendants should sell school desks in the interstate commerce aforesaid; or by collusively and by agreement refraining from bidding against each other in the sale of school desks, or by collusively causing their salesman to refrain from bidding in good faith against each other in the sale of school desks in the interstate commerce aforesaid, or by making fictitious, assisting, or straw bids, or by organizing, managing, or conducting any association or club for the purpose of discussing, proposing, devising, or agreeing upon uniform arbitrary minimum prices for school desks below which none of said defendants could sell; or by attending or taking part in any meetings of the association or club called the Prudential Club, and from maintaining, conducting and keeping organized and in existance the said association or the said club; or by reporting to the said Frederick A. Holbrook, or to any other person, the names and addresses of schools and prospective purchasers desiring or requiring school desks and the particulars as to the number, kind and quantity of school desks desired or required for such schools and prospective purchasers, or by assigning and allotting the prospective sales of school desks among and to the said defendants by the said Frederick A. Holbrook; and also from violating the provisions of the Act of Congress approved July 2, 1890, entitled "An Act to protect trade and commerce against unlawful restraints and monopolies," by combining or conspiring together or with each other and others to monopolize any part of the trade and commerce in school desks among the several states and territories and the District of Columbia by uniting and combining in an effort to prevent competition in the sale of school desks throughout the said United States; or by organizing, managing, or conducting any association or club for the purpose of discussing, proposing, devising and agreeing upon arbitrary minimum prices for school desks below which none of said defendants could sell; or by agreeing upon and fixing uniform and non-competitive minimum prices below which said defendant corporations should not sell school desks.

But nothing herein contained shall be construed to restrain or interfere with the action of any of said defendants acting with respect to their own corporate or firm business, property or affairs, when such action is not taken as a result of combination with any other of said defendants as above set forth.

KENESAW M. LANDIS,
District Judge.

United States v. Central-West Publishing Company, et al.

Equity No. 30888

Year Judgment Entered: 1912

Years Judgment Modified: 1917 and 1940

U. S. v. CENTRAL-WEST PUBLISHING CO.

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF ILLINOIS.

Equity No. 30888.

THE UNITED STATES OF AMERICA, PETITIONER,
vs.
CENTRAL-WEST PUBLISHING COMPANY, WESTERN NEWSPAPER UNION, AMERICAN PRESS ASSOCIATION, ET AL., DEFENDANTS.

DECREE.

This cause coming on for hearing on this 3rd day of August, A. D. 1912, before the Honorable K. M. Landis, district judge of this court, and the petitioner having appeared by its district attorney, James H. Wilkerson, and by William T. Chantland, special assistant to the Attorney General, and having moved the court for an injunction in accordance with the prayer of its petition, and it appearing to the court that the allegations of the petition state a cause of action against the defendants under the provisions of the act of July 2, 1890, known as the antitrust act, and that the court has jurisdiction of the persons and the subject matter and that the defendants have each been regularly served with proper process and have filed their answers to the petition, and that the defendants, Central-West Publishing Company, Western Newspaper Union, Western Newspaper Union of New York, George A. Joslyn, John F. Cramer, H. H. Fish, and M. H. McMillen, by their attorneys, J. H. Cowin, John J. Sullivan, and Charles

F. Harding, and the defendants, American Press Association, Courtland Smith, W. G. Brogan, and Maurice F. Germond, by their attorney, Charles A. Brodek, have given and do now give in open court their consent to the rendition and entering of the following decree:

Now, therefore, it is ordered, adjudged, and decreed:

I. That the defendants and each of them are found, and they are hereby declared to have been and to be now engaged in an attempt to monopolize interstate trade and commerce in the business of shipping ready-print papers, matrices, and stereotyped plates, and in the dissemination of news among the several States of the Union, all done and carried on in violation of the act of Congress of July 2, 1890, commonly known as the antitrust act.

II. That the defendants herein and each of them have both separately and in concert committed acts in unfair competition against mutual competitors and that these defendants and each of them as to said matters be permanently and specifically enjoined and restrained from either directly or indirectly, separately or in concert, through their agents or employees, from in any manner committing or doing any acts of unfair competition against the competitors of either of these defendants, and that specifically each be permanently enjoined from thus doing or aiding in doing any of the following acts:

(1) From underselling any competing service with the intent or purpose of injuring or destroying a competitor of either of these defendants.

(2) From sending out traveling men for the purpose or with instructions to influence the customers of such competitors of either of these defendants, so as to secure the trade of such customers, without regard to the price.

(3) From in any manner or for any length of time selling his or its service in either plate, ready print, or matrices, either separately or one service with another, at less than a fair and reasonable price, with the purpose or intent of injuring or destroying the business of any competitor of either of these defendants.

(4) From threatening any customer of a competitor with starting a competing plant unless he patronizes one or the other of these defendants.

(5) From threatening the competitors of either of these defendants that they must either cease competing with defendants or sell out to one or the other of the defendants herein, and from threatening that unless they do their industries will be destroyed by the establishment of nearby plants to actively compete with them or by any other method of unfair competition.

III. That the defendants Western Newspaper Union, Western Newspaper Union of New York, Central-West Publishing Company, George A. Joslyn, John F. Cramer, H. H. Fish, and M. H. McMillen be, and they are hereby, permanently enjoined from either directly or indirectly, by themselves or through their agents or employees, from in any manner continuing to do any acts in unfair competition against the other defendant company in this petition named, to wit, American Press Association, as alleged in divisions six and seven of this petition, and particularly that they be thus enjoined from doing any of the following acts:

(a) From combining or attempting to combine with said defendant American Press Association, either by purchase, stock ownership, or in any other manner.

(b) From holding out inducements, in the way of control or otherwise, to the said American Press Associations, or either of them, or any of their officers, agents, or employees, to induce or compel a combination between the Western Newspaper Union and its allied concerns and the American Press Associations.

(c) From selling any of their product or services at less than a fair and reasonable profit, or at cost, or less than cost, with the purpose or intent of injuring or destroying the interstate trade and commerce of the American Press Association, or of any other competitors.

(d) From in any manner, either directly or indirectly, causing any person or persons or company to purchase

stock or become interested in the American Press Association for the purpose of or with the effect of harassing the said American Press Association by unconscionable or unreasonable demands for an examination of its books or inquiry into its business methods, or the institution of suits, with such or like purpose in view.

(e) From in any manner, either directly or indirectly, instructing, causing or permitting their agents or employees or traveling salesman throughout the country, to circulate reports or to intimate or convey the impression that these defendants will put the American Press Association out of business, or that the American Press Association will not be able to continue in business against the competition of these defendants, or that the American Press Association intends to or is about to combine with the defendants or the defendants with them, or to intimate or convey the impression that unless publishers approached by such salesman deal with these defendants, they will be discriminated against as soon as the American Press Association shall be put out of business by the competition to which it is being subjected.

(f) From sending out traveling men for the purpose or with instructions to influence the customers of the other defendants hereto, so as to secure the trade of such customers, without regard to the price.

(g) From in any manner threatening or intimating that they will start competing papers at points where customers of the American Press Association or other competitors refuse to deal with them, either in plate or ready print matter or both.

(h) From in any manner promising or intimating to any publisher or other person who is a customer of the American Press Association, or any other competitor, that they will protect such customer against expenses and costs in any suit that may arise by reason of the repudiation of any contract between such competitor and such customer.

(i) From in any manner retaining or permitting the retention by their agents or employees of plate metal or other property belonging to the American Press Association, or other competitor of said defendants.

(j) From in any manner offering bonuses of paper or plate service free or at a nominal price with the purpose and intent of inducing or enabling customers of the American Press Association or any other competitor to temporarily change to home-print papers and thus to assist them in breaking contracts with the said American Press Association with lessened chance of liability for breach of contract; and furthermore from offering in connection with such bonus to sell their service at less than the usual price to such customer of such competitor, and from offering as a part of such plan the continued use of free plate for the home-print side of the papers of such customers.

(k) From purchasing or acquiring stock in any other corporation, or interest in any other concern, engaged in the manufacture or sale of plate matter or ready prints, and not a party hereto; and from acquiring the property and business of any such company, unless application be made to and permission to make such purchase be granted by this court.

(l) From in any manner unfairly criticizing and abusing the method of the said American Press Association with reference to advertising, or from doing any of said things through its weekly house organs, known as the Publishers' Auxiliary and the Western Publisher, and particularly from misrepresenting through said means the business and business methods of the American Press Association, with the intent and for the purpose of taking away the customers of the said American Press Association, or otherwise injuring its business.

(m) From in any manner continuing or participating in unfair attacks upon the said American Press Association, with the purpose of injuring or depreciating or destroying the value of the property and securities of the said American Press Association.

(n) From maintaining any auxiliary plant in any cities of the United States apparently independent, but in fact

the property of the Western Newspaper Union, or its officers and stockholders, for the purpose and with the intent of making the newspaper trade generally believe such institutions to be independent.

IV. That the defendants American Press Association, Courtland Smith, W. G. Brogan, and Maurice F. Germond be perpetually enjoined from in any manner, either personally or as officers, or through their agents or employees, from continuing to commit or assisting in the commission of any acts of unfair competition directed against the defendants Central-West Publishing Company, Western Newspaper Union, or any other of these named defendants' competitors, and that they be permanently enjoined particularly from in any manner doing or committing any of the following acts:

(a) From selling its adless ready-print or plate service for less than a fair and reasonable price, or at cost, or below cost, with the purpose or intent of injuring the business of these named defendants or other competitors of the said American Press Association.

(b) From in any manner unfairly criticizing and abusing the method of the said Western Newspaper Union with reference to advertising through these defendants' circulars relating to its bureau of foreign advertising, or from doing any of said things through its weekly house organ, known as the American Press, and particularly from misrepresenting through said means the business and business methods of the Western Newspaper Union, with the intent and for the purpose of taking away the customers of the said Western Newspaper Union, or otherwise injuring its business.

(c) From in any manner continuing or participating in unfair attacks upon the said Western Newspaper Union with the purpose of injuring or depreciating or destroying the value of the property and securities of the said Western Newspaper Union.

(d) From maintaining any auxiliary plant in any cities of the United States apparently independent but in fact

the property of the American Press Association, or its officers and stockholders, for the purpose and with the intent of making the newspaper trade generally believe such institutions to be independent.

(e) From sending out traveling men for the purpose or with instructions to influence the customers of the other defendants hereto, so as to secure the trade of such customers, without regard to the price.

(f) From in any manner retaining, or permitting the retention by their agents or employees, of plate metal or other property belonging to the Western Newspaper Union, or other competitor of said defendants.

(g) From in any manner offering bonuses of paper or plate service, free or at a nominal price, with the purpose and intent of inducing or enabling customers of the Western Newspaper Union or any other competitor to temporarily change to home print papers and thus to assist them in breaking contracts with the said Western Newspaper Union with lessened chances of liability for breach of contract; and furthermore from offering in connection with such bonus to sell their service at less than the usual price to such customer of such competitor, and from offering as part of such plan the continued use of free plate for the home print side of the papers of such customer.

(h) From purchasing or acquiring stock in any other corporation or interest in any other concern engaged in the manufacture or sale of plate matter or ready prints and not a party hereto; and from acquiring the property and business of any such company, unless application be made to and permission to make such purchase be granted by this court.

V. That each of the defendants named in this petition be specifically and permanently enjoined and restrained from combining or joining in any acts—

(a) Of unfair competition either against another or against any mutual competitor;

(b) Looking toward a combination between any of these defendants;

(c) Any acts done with the intent or purpose of driving out of the industries in which they are now engaged of either of these defendants, or of any of their competitors;

And as to each of the above acts defendants, and each of them, and their officers and agents, are enjoined from doing them, either separately or in concert or conjunction with either of the other defendants.

It is further ordered that the defendants, Western Newspaper Union and the American Press Association, each pay one-half of the cost of this suit, to be taxed.

When in this decree the American Press Association is mentioned, reference is had to both the American Press Association organized under the laws of New York and the American Press Association organized under the laws of West Virginia, or if such portion of the decree is not appropriate to both, the one is intended to which it is appropriate.

KENESAW M. LANDIS, *Judge.*

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF ILLINOIS.

Equity No. 30888.

THE UNITED STATES OF AMERICA, PETITIONER,

vs.

CENTRAL-WEST PUBLISHING COMPANY; WESTERN NEWSPAPER UNION; WESTERN NEWSPAPER UNION OF NEW YORK, GEORGE A. JOSLYN, JOHN F. CRAMER, H. H. FISH, AND M. H. MCMILLEN; AMERICAN PRESS ASSOCIATION, A CORPORATION ORGANIZED UNDER THE LAWS OF THE STATE OF NEW YORK; AMERICAN PRESS ASSOCIATION, A CORPORATION ORGANIZED UNDER THE LAWS OF THE STATE OF WEST VIRGINIA; COURTLAND SMITH, W. G. BROGAN, AND MAURICE F. GERMOND, DEFENDANTS.

The petition of the defendants American Press Association, Courtland Smith, William G. Brogan, and Maurice F. Germond that the decree entered herein on August 3, 1912, be so modified as to permit American Press Association to sell its assets and business pertaining to stereotyped plates, as a going concern, to Western Newspaper Union, having come on for hearing, and said petitioners appearing by their solicitors, Edgar A. Bancroft and Charles A. Brodek, and the United States of America appearing by Henry S. Mitchell, special assistant to the Attorney General, and the other defendant, Central-West Publishing Company, Western Newspaper Union Company, Western Newspaper Union of New York, John F. Cramer, H. H. Fish, and M. H. McMillen (George A. Joslyn having died since the rendition of the decree), appearing by their solicitors, Horace K. Tenney and Charles F. Harding, and it appearing to the court that it has jurisdiction of the parties to and subject matter of said decree, and the testimony of witnesses and other evidence and the statements of counsel in support of said petition having been heard and considered, the court holds that the facts set forth in the petition and the evidence introduced upon the hearing to support the same are immaterial; that it is contrary to the whole spirit and purpose of the Sherman Law to authorize one competitor to absorb or assimilate another competitor, regardless of whether such competitor is able to continue in business or not, and that the sale of such assets and business by American Press Association to Western Newspaper Union would be in violation of the Sherman Law.

It is therefore ordered, adjudged, and decreed that said petition be and it hereby is denied.

To which order and decree the petitioners duly object and except.

Thereupon, the petitioners, American Press Association, Courtland Smith, William G. Brogan, and Maurice F. Germond, pray an appeal from said order to the Circuit Court of Appeals of the Seventh Circuit, which is allowed upon said petitioners filing an appeal bond in the sum of two hundred and fifty dollars, and presenting their certificate of evidence within twenty days from this date.

KENESAW M. LANDIS.

JUNE 15, 1917.

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION.

Present: The Hon. Evan A. Evans, acting district judge.
WEDNESDAY, SEPTEMBER 5, A. D., 1917.

Equity No. 30888.

THE UNITED STATES OF AMERICA
vs.
CENTRAL-WEST PUBLISHING COMPANY, WESTERN NEWSPAPER UNION, AMERICAN PRESS ASSOCIATION, ET AL.

IN THE MATTER OF THE PETITION OF THE AMERICAN PRESS ASSOCIATION AND OTHERS FOR THE MODIFICATION OF THE DECREE ENTERED HEREIN ON AUGUST 3, 1912.

Come now the parties by their respective counsel, and the American Press Association, a corporation of New York; American Press Association, a corporation of West Virginia; and Courtland Smith having moved the court for leave to file the mandate of the Circuit Court of Appeals of the United States for the seventh circuit bearing date August 30, 1917, reversing the order and decree of this court of June 15, 1917, and remanding the cause with directions, said motion is allowed, and it is ordered that said mandate be duly filed and made a part of the record herein; and in pursuance of said mandate,

It is ordered and decreed by the court, supplemental to said decree of August 3, 1912, that the defendant Western Newspaper Union is hereby authorized to be a bidder and purchaser at a sale by the American Press Association of its plate plant and business as a going concern, on the condition and under the prohibition that the Western Newspaper Union shall not employ the plant and business so purchased or use the situation created by such purchase to charge more for its plate service to newspaper publishers than cost of production plus a fair and reasonable profit, such fair and reasonable profit to be measured relatively by the range of annual profit obtained by the Western Newspaper Union from its plate business since the entry of the original decree of August 3, 1912, without, however, depriving the purchaser of such profits as result from its purchase by reason of the increase of business and the economies in the cost of production following the same; provided that present prices for plate service to newspaper publishers shall not be increased unless but not longer than an increase is warranted by increase in cost factors.

And said decree of August 3, 1912, is modified accordingly.

EVAN A. EVANS,
Acting District Judge.

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF ILLINOIS,

EASTERN DIVISION.

THE UNITED STATES OF AMERICA, PETITIONER,

vs.

CENTRAL-WEST PUBLISHING COMPANY, ET AL.,
DEFENDANTS.

Equity No. 30888.

ORDER.

Upon consideration of the petition of American Press Association and Western Newspaper Union herein filed on the 12th day of January, 1940, and of the affidavits of Herbert H. Fish, verified January 2, 1940, Courtland Smith, verified January 2, 1940, Edward C. Johnson, verified January 3, 1940, W. Wilson Brown, verified January 3, 1940, and Charles B. Emde, verified January 5, 1940, and after hearing counsel for Petitioners and counsel for the United States in open Court, and it appearing to the Court that all existing and living individual and corporate parties to the original proceeding have been duly served with notice; and it further appearing to the court that the changes in the corporate defendants hereto, the changes in the character of their businesses, the changes in the country and suburban newspaper industry, and the abandonment by defendants of the activities of the defendants prohibited by the decree hereinbefore entered on August 3, 1912, as heretofore modified, have

made it proper further to modify said decree; it is therefore

ADJUDGED, ORDERED, AND DECREED that the consent decree hereinbefore entered on the 3rd day of August, 1912, as modified by the decree hereinbefore entered on the 5th day of September, 1917, be and the same is hereby further modified by striking therefrom sections II to V, both inclusive, and by substituting therefor the following:

"II That the American Press Association, a New York corporation, and Western Newspaper Union, a Delaware corporation (successor to Western Newspaper Union, an Illinois corporation, one of the original defendants herein), defendants herein, at least twenty days prior to putting into effect:

(a) any plan of merger of their respective corporations with each other;

(b) any plan of consolidation of their respective corporations into a new corporation;

(c) any plan for purchasing or acquiring the capital stock or other share capital of any other corporation engaged in the manufacture or sale of plate matter or ready prints;

(d) any plan for acquiring the property or business of any other corporation engaged in the manufacture or sale of plate matter or ready prints; or

(e) any plan of consolidation of their respective businesses, either with each other or into a new corporation; shall file said plan with the Attorney General of the United States.

III. That this court shall, in the public interest, retain jurisdiction of this cause and of the parties hereto, for the purpose of taking such further action in the premises as may seem to it to be necessary."

Except as modified by this order, said decree hereinbefore entered on the 3rd day of August, 1912, as modified by the decree hereinbefore entered on the 5th day of September, 1917, shall remain in full force and effect.

ENTER

(sd) HOLLY
United States District Judge.

Dated at Chicago, Illinois this 12th day of January, A. D. 1940.

United States v. International Brotherhood of Electrical Workers, Local Unions Nos. 9 and 134, et al.

In Equity No. 14

Year Judgment Entered: 1914

IN THE DISTRICT COURT OF THE UNITED STATES OF AMERICA FOR THE NORTHERN DISTRICT OF ILLINOIS EASTERN DIVISION.

In Equity No. 14.

UNITED STATES OF AMERICA

vs.

INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, LOCAL UNIONS NOS. 9 AND 134, ET AL.

This cause coming on to be heard upon the bill of complaint of the United States of America, petitioner herein and upon the answer of the defendants filed herein on March 21, 1913, and upon the temporary injunction heretofore entered herein on March 11, 1913, and the United States of America, petitioner herein, now moving that said temporary injunction be made permanent, and it appearing to the Court that the allegations of the petition herein are sufficient under the provisions of the act to regulate commerce and the amendments thereto, and that the Court has jurisdiction of the persons and the subject matter and that the defendants have each been regularly served with proper process and have filed their answers to the said petition, and the said defendants appearing now by their solicitors, Litzinger, McGurn and Reid, have given and do now give in open court their consent to the rendition and entering of the following decree and the court being fully advised:

The Court finds that the material allegations of the Bill of Complaint are sustained.

Now, therefore, it is ordered, adjudged and decreed:

That the said defendants, International Brotherhood of Electrical Workers, Local Union No. 9, International Brotherhood Electrical Workers, Local Union No. 134, Martin J. Healy, individually and as President of said Local Union No. 9, Michael J. Doyle, individually and as President of said Local Union No. 134, William J. Sloan, individually and as Business Agent of said Local Union No. 9, W. N. Harris, E. M. Lamie, J. J. Elliott, W. Conrad, E. D. Shanks, G. Florian, W. Saunders, B. Warner, W. Sinclair, S. O. Minor, A. V. Beckner, F. S. Allen, H. Coghill, M. O'Day, J. C. Carroll, Jr., J. Gaul, Bert Coghill and Frank H. Carroll, and each and every of said defendants, and each and every of the members, officers, agents, servants and representatives of the said defendants, and each of them, and any and all persons, associations or corporations now or hereafter aiding or abetting or confederating or acting in concert with or conspiring and combining with said defendants, or any or either of them, in committing the acts and grievances, or any of them, complained of in said Bill of Complaint, and all other persons whomsoever, are permanently enjoined and restrained from in any manner interfering with, hindering, obstructing or stopping any of the business of the Postal Telegraph Cable Company of Illinois described in said Bill of Complaint, in the management, conduct or operation of any of its business as a common carrier of telegraph messages between or among any states of the United States or of messages of the Government of the United States, or from in any way or manner cutting, burning, tearing or otherwise injuring, destroying or interfering with any of the telegraph lines, wires, aerial cables or underground cables of said Telegraph Cable Company engaged in interstate commerce or in transmitting messages to or from states other than Illinois from or into said State of Illinois, or messages of the Government as aforesaid, and from in any manner interfering with, injuring or destroying any of the property, including the telegraph poles, wires, conduits, aerial cables, underground cables, call circuits, call boxes, and other property, of said Telegraph Cable Company engaged in or used for the purpose, directly or indirectly, of or in connection with interstate commerce or the transmission of messages between or among different states or the transmission of messages sent by the Government of the United States or any of the officials thereof, and from compelling or inducing or attempting to compel or induce by threats, intimidation, persuasion, force or violence any of the employees of said Telegraph Cable Company to refuse, fail or neglect to perform any of their duties as employees of said Telegraph Cable Company in connection with the interstate business or commerce of said Company or the transmission of messages between or among different states as aforesaid or the transmission of messages of the Government of the United States or any of the officials thereof, or to temporarily or permanently suspend the performance of any of their duties as employees of said Telegraph Cable Company, and from

compelling or inducing or attempting to compel or induce by threats or intimidation, force or violence any of the employees of said Telegraph Cable Company, who are employed thereby in its service in the conduct of interstate business aforesaid or in the transmission of Government messages, to leave the service of said Telegraph Cable Company, and from preventing any persons whatever by threats, intimidation, force or violence from entering the service of said Telegraph Cable Company and doing the work thereof in interstate commerce as aforesaid, and from doing any act whatever in furtherance of any conspiracy or combination to restrain said Telegraph Cable Company in the free and unhindered control, handling and transmission of interstate messages or messages of the Government of the United States over its lines, and from ordering, directing, aiding, assisting or abetting in any manner whatever any person or persons to commit any or either of the acts aforesaid.

FEBRUARY 27, 1914.

CARPENTER,
Judge.

United States v. Elgin Board of Trade, et al.

In Equity No. 31051

Year Judgment Entered: 1914

Year Judgment Modified: 1914

UNITED STATES v. ELGIN BOARD OF TRADE

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION.

In Equity, No. 31051.

UNITED STATES OF AMERICA, PETITIONER,

vs.

ELGIN BOARD OF TRADE AND OTHERS, DEFENDANTS.

DECREE.

This cause having come on to be heard at this term, and having been argued by counsel, upon consideration

thereof and of the consent of defendants on file, it is ordered, adjudged and decreed as follows:

FIRST: That the petition is dismissed as to the defendants American Association of Creamery Butter Manufacturers, James A. Walker, George E. Haskell, George L. McKay, E. H. Forney, Henry Bridgeman, Joseph H. Rushton, Charles Harding, Arthur S. Hanford, Carl W. Kent, Henry A. Page, Samuel Schlosser, William A. Tilden, Samuel P. Wadley and W. T. Sherman White.

SECOND: That the defendants, except those dismissed, heretofore formed and at the time of the filing of the petition were parties to a combination and conspiracy to restrain interstate trade and commerce in butter by the the means hereinafter specifically enjoined in paragraphs (*a*), (*b*), and (*c*), in violation of the Act of Congress of July 2, 1890, entitled "An Act to protect trade and commerce against unlawful restraints and monopolies."

WHEREFOR, the defendants, the Elgin Board of Trade, Charles H. Potter, H. C. Christians, J. P. Mason, Colvin W. Brown and A. C. Hawley, the officers, agents and members of said Elgin Board of Trade, and all persons acting for or on its behalf or in connection with it or any of its members concerning any of the matters set forth in the petition herein, are permanently enjoined and restrained from further engaging in the aforsaid combination or conspiracy, or from entering into any other combination or conspiracy to restrain trade in butter by any like means or devices whatsoever; and

(*a*) From appointing or authorizing the appointment of any officer, agent, or committee of said Elgin Board of Trade, whether of one or more persons, to fix or suggest the price or prices of butter;

(*b*) From maintaining a quotation committee or any other committee or agency of said Elgin Board of Trade or its membership which shall fix a price or prices of butter;

(*c*) From quoting or publishing any price or prices of butter purporting to be "market prices," "Elgin prices," or the prices obtaining upon the board of said defendant corporation, unless and except such prices be those which have actually obtained upon said board in bona fide sales of butter;

(*d*) From fixing or determining by contract, combination or agreement, the bids or offers which members of said Elgin Board of Trade shall make with respect to purchases or sales of butter, in advance of the making of said bids or offers;

(*e*) From requiring, compelling or demanding by board rule, by-law or otherwise, that the members of said Elgin Board of Trade use the quotations or prices of butter which are made by means of transactions upon said Elgin Board of Trade as a basic price in contracts for the purchase or sale of butter in interstate commerce;

(*f*) From making fictitious or washed or pretended sales or purchases of butter for the purpose of misleading any person or persons as to the actual price at which butter is being sold upon said Elgin Board of Trade, or which are intended to be used in any way as a basis for the making of quotations of prices on said Elgin Board of Trade;

(*g*) From making or participating in or knowingly permitting on said Elgin Board of Trade at any time any sale or purchase of butter that is not a bona fide transaction in which the seller in good faith intends to deliver the commodity and the purchaser in good faith intends to accept and pay therefor;

(*h*) From making or participating in or knowingly permitting to be made any sale or purchase of butter on said Elgin Board of Trade in pursuance of any combination or conspiracy by or between any two or more persons or corporations to raise or lower or affect the price of butter on said Elgin Board of Trade; and thereby to raise or lower or affect the price of butter in interstate commerce;

(*i*) From making or causing to be made any offer to buy or sell butter on said Elgin Board of Trade at a price which has been agreed upon by any two or more of the members of said board or by any one or more of said members and any other person or persons prior to the making of said offer.

THIRD: That the secretary of said Elgin Board of Trade furnish a copy of this decree to members of said board and to those who hereafter shall become members thereof.

FOURTH: That the court retains jurisdiction of this case for the purpose of entertaining at any time hereafter any application which petitioner may make with respect to this decree; and

FIFTH: That the petitioner have and recover from the defendants, not dismissed, its costs.

Entered at Chicago, Illinois, this 27th day of April, A. D. 1914.

By the Court:

KENESAW M. LANDIS, *Judge.*

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF ILLINOIS

In Equity No. 31,051

THE UNITED STATES OF AMERICA,

VS.

ELGIN BOARD OF TRADE,
H. C. CHRISTIANS, ET AL.

This cause coming on to be heard upon the petition of H. C. Christians for a modification of the decree heretofore entered on the 27th day of April, 1914, by striking out the name of H. C. Christians wherever the same appears in said decree, and the court being fully advised in the premises doth find that the aforementioned. H. C. Christians was never served with process and did not enter his appearance in the above entitled cause; that the said name of H. C. Christians was inserted in the aforementioned decree as the result of error.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED, that the said decree be, and the same is hereby modified by striking out the name of H. C. Christians wherever the same appears in said decree.

ENTER

June 11, 1914

LANDIS,
Judge.

United States v. Chicago Butter and Egg Board, et al.

Civil No. 30042

Year Judgment Entered: 1914

UNITED STATES v. CHICAGO BUTTER & EGG BOARD.

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION.

Civil No. 30042.

UNITED STATES OF AMERICA, PETITIONER,

VS.

CHICAGO BUTTER AND EGG BOARD ET AL., DEFENDANTS.

DECREE.

This cause having come on to be heard at this term, upon the amended petition herein, the answers of the defendants thereto, the replication of the petitioner to such answers, the report of Hon. Charles B. Morrison, one of the masters in chancery of this court, to whom this cause was heretofore referred to take the evidence herein and report the same to this court, together with his conclusions of law and fact thereon, and the exceptions of the defendants to the report of said master, and the court having considered said report and the said exceptions thereto, and heard the arguments of counsel for the respective parties in respect thereto, and being now fully advised in the premises,

It is ordered, That the said exceptions, and each of them, of the said defendants to the report of the said master be and the same and each of them hereby are overruled; and said cause having come on further to be heard upon the pleadings aforesaid and upon the motion of the petitioner for a decree herein, in accordance with the said findings and report of said master in chancery, and the court being now fully advised in the premises, *It is therefore ordered, adjudged, and decreed as follows:*

First. That the said master's report be and the same is hereby in all respects approved and confirmed.

Second. That the defendants heretofore formed and at the time of the filing of the petition were parties to a combination and conspiracy to restrain interstate trade and commerce in butter and eggs by the means hereinafter specifically enjoined in paragraphs (*a*), (*b*), and (*c*), in violation of the act to protect trade and commerce against unlawful restraints and monopolies.

Wherefore, the defendants Chicago Butter and Egg Board, G. W. Bull, Charles S. Borden, M. H. Eichengreen, A. J. Strigel, K. Rutledge, Charles B. Ford, John W. Lowe, Thomas W. Brennan, and F. A. Kelly, the officers, agents and members of said Chicago Butter and Egg Board, and all persons acting for or on its behalf, or in connection with it, or any of its members, concerning any of the matters set forth in the amended petition herein, are permanently enjoined and restrained from further engaging in the aforesaid combination or conspiracy or from entering into any other combination or conspiracy to restrain trade in butter and eggs, or in either commodity, by like means or devices whatsoever; and

(*a*) From appointing or authorizing the appointment of any officer, agent, or committee of said Chicago Butter and Egg Board, whether of one or more persons, to fix or suggest the price or prices of butter and eggs or of either commodity.

(*b*) For maintaining a quotation committee, or any other committee or agency of said Chicago Butter and

Egg Board, or its membership, which shall fix a price or prices of butter and eggs or of either commodity.

(*c*) From quoting or publishing any price or prices of butter and eggs or of either commodity purporting to be "quotations," "market prices," "Chicago Butter and Egg Board prices," or "official quotations of Chicago Butter and Egg Board," or the prices obtaining upon the board of said defendant corporation, unless and except such prices be those which have actually obtained upon said board in *bona fide* sales of butter or eggs.

(*d*) From fixing or determining by contract, combination, or agreement the bids or offers which members of said Chicago Butter and Egg Board shall make with respect to purchases or sales of butter and eggs or of either commodity in advance of the making of said bids or offers.

(*e*) From requiring, compelling, or demanding by board rule, by-law, or otherwise, that the members of said Chicago Butter and Egg Board use the quotations or prices of butter and eggs or of either commodity which are made by means of transactions upon said Chicago Butter and Egg Board as a basic price in contracts for the purchase or sale of butter or eggs in interstate commerce.

(*f*) From making fictitious or washed or pretended sales or purchases of butter and eggs or of either commodity for the purpose of misleading any person or persons as to the actual price at which butter and eggs or either commodiy are being sold upon said Chicago Butter and Egg Board or which are intended to be used in any way as a basis for the making of quotations or prices on said Chicago Butter and Egg Board.

(*g*) From making or participating in or knowingly permitting on said Chicago Butter and Egg Board at any time any sale or purchase of butter and eggs or of either commodity that is not a *bona fide* transaction in which the seller in good faith intends to deliver the commodity

and the purchaser in good faith intends to accept and pay therefor.

(*h*) From making or participating in or knowingly permitting to be made any sale or purchase of butter or eggs or either commodity on said Chicago Butter and Egg Board, in pursuance of any combination or conspiracy by or between any two or more persons or corporations to raise or lower or affect the price of butter and eggs or of either commodity on said Chicago Butter and Egg Board, and thereby to raise or lower or affect the price of butter and eggs or of either commodity in interstate commerce.

(*i*) From making or causing to be made any offer to buy or sell butter and eggs or either commodity on said Chicago Butter and Egg Board at a price which has been agreed upon by any two or more of the members of said board or by any one or more of said members and any other person or persons prior to the making of said offer.

Third. That the secretary of said Chicago Butter and Egg Board furnish a copy of this decree to members of said board and to those who hereafter shall become members thereof.

Fourth. That the court retains jurisdiction of this case for the purpose of entertaining at any time hereafter any application which petitioner may make with respect to this decree; and

Fifth. That the petitioner have and recover from the defendants its costs.

Entered at Chicago, Illinois, this 12th day of October, A. D. 1914.

By the court.

(Signed) KENESAW M. LANDIS,
Judge.

United States v. Associated Billposters and Distributors of the United States and Canada, et al.

In Equity No. 30887

Year Judgment Entered: 1916

UNITED STATES v. ASSOCIATED BILLPOSTERS & DISTRIBUTORS

IN THE DISTRICT COURT OF THE UNITED STATES OF AMERICA FOR THE NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION.

In Equity, No. 30887.

THE UNITED STATES OF AMERICA, PETITIONER,

VS.

ASSOCIATED BILLPOSTERS AND DISTRIBUTORS OF THE UNITED STATES AND CANADA, AND OTHERS, DEFENDANTS.

DECREE.

This cause having come on to be heard at this term, and having been argued by counsel, upon consideration thereof, it is ordered, adjudged and decreed, as follows:

First. That the petition is dismissed as to the defendants F. Weyland Ayer, Henry E. McKinney, Albert G. Bradford, Jarvis A. Wood, George L. Dyer Company; the George Batten Company; Mahin Advertising Company; and Henry P. Wall.

Second. That the defendants, except those dismissed, heretofore formed and are now parties to a combination or conspiracy to restrain interstate and foreign trade and commerce in posters by the means hereinafter specifically enjoined, in violation of the Act of Congress of July 2, 1890, entitled: "An Act to protect trade and commerce against unlawful restraints and monopolies."

Wherefore, the defendant Associated Billposters and Distributors of the United States and Canada, the name of which has been changed since the filing of the petition

herein to Poster Advertising Association, and the defendants Peter J. McAliney, L. T. Bennett, John E. Shoemaker, John H. Logeman, Edward C. Donnelly, Joseph J. Flynn, Barney Link, James F. O'Mealia, O. S. Hathaway, Samuel Pratt, James A. Reardon, Burnett W. Robbins, Harry C. Walker, George L. Chennell, Will J. Davis, Jr., Phinelan B. Haber, Charles T. Kindt, Frank Z. Zehrung, Lewis H. Ramsey, James D. Burbridge, Walter S. Barton, James A. Curran, A. A. Edwards, Thomas H. B. Varney, E. L. Ruddy, Associated Billposters and Distributors Protective Company, George Enos Throop, Inc., Massengale Advertising Agency, A. M. Briggs, L. J. Reese, W. A. Thompson, Ivan B. Nordhem Company, Crockett Agency and John F. Sheehan, and all persons acting for or on behalf or in connection with said Associated Billposters and Distributors of the United States and Canada, or any of its members, concerning any of the matters set forth in the petition herein, are permanently enjoined and restrained from further carrying out the aforesaid combination or conspiracy, and from entering into any other combination or conspiracy to restrain trade and commerce in posters by any similar means or devices, and

(*a*) From agreeing together, or with one another, expressly or impliedly, directly or indirectly, with respect to maintaining a limited price, or any price, at which posters shipped in interstate or foreign commerce shall be posted upon billboards, or from making any rule or regulation of said defendant association with respect to prescribing the price or prices at which posters shipped in interstate or foreign commerce shall be posted upon billboards;

(*b*) From agreeing together, or with one another expressly or impliedly, with respect to limiting the number, or in any manner interfering with the business of individuals, firms or corporations engaged in posting upon billboards posters transported in interstate or foreign commerce, or from agreeing together, or with one another, expressly or impliedly, or from making any rule, regulation or by-law, to restrict the number of individuals, firms or corporations in any one city or town who are engaged in the business of posting posters which are transported in interstate or foreign commerce;

(*c*) From agreeing together, or with one another, expressly or impliedly, or from adopting any rule or regulation to the effect that any person, firm or corporation engaged, in opposition to any member of said defendant association, or any of its subordinate associations, in the business of posting posters transported in interstate or foreign commerce, shall not be eligible to membership in said defendant association;

(*d*) From adopting any measures whatsoever, to prevent or hinder any individual, firm or corporation from contracting with any billposter in the United States, including those who are members of the defendant association, for the posting by such billposter of advertising matter or posters sent to him from any different State or Territory of the United States from that in which he is located, or from any foreign country;

(*e*) From agreeing together, or with one another, expressly or impliedly, directly or indirectly, or from adopting any rule, regulation or by-law, with respect to restricting the number of persons, firms or corporations by whom orders for posting posters transported in interstate or foreign commerce shall be obtained and transmitted;

(*f*) From agreeing together, or with one another, expressly or impliedly, or from adopting any rule, regulation or by-law to the effect, that solicitors employed by said defendant association, or any member thereof, shall not send business relating to the posting of posters transported in interstate or foreign commerce to persons, firms or corporations who are not members of said defendant association, and from placing any restriction whatsoever upon solicitors employed by said defendant association, or any member thereof, with respect to the persons with whom they may transact business relating to the posting of posters transported in interstate or foreign commerce;

(*g*) From agreeing together, or with one another, expressly or impliedly, or from adopting any rule, regula-

tion or by-law to the effect, that members of said defendant association will not post posters transported in interstate or foreign commerce for persons, firms or corporations who transact business with billposters who are not members of said defendant association, or that solicitors employed by said defendant association or any member thereof, shall not accept business, relating to the posting of posters transported in interstate or foreign commerce, from persons, firms or corporations who transact business with billposters who are not members of said defendant association;

(*h*) From inducing or endeavoring to induce manufacturers of stock or sample posters, or any other posters, not to sell the same in interstate or foreign commerce in open competition and upon equal terms to any person desiring to purchase.

Third. That the secretary of said Associated Billposters and Distributors of the United States and Canada shall furnish a copy of this decree to members of said association, and to those who hereafter become members thereof.

Fourth. That the court retains jurisdiction of this case for the purpose of entertaining at any time hereafter any application which the parties may make with respect to this decree.

Fifth. That the petitioner have and recover, from the defendants not dismissed, its costs.

The operation of this decree is suspended until Sept. 1, 1916.

Entered at Chicago, Illinois, this 6th day of July, A. D. 1916.

(Sgd.) KENESAW M. LANDIS, *Judge.*

United States v. Western Cantaloupe Exchange, et al.

Equity No. 5460

Year Judgment Entered: 1918

U. S. v. WESTERN CANTALOUPE EXCHANGE ET AL

IN THE DISTRICT COURT OF THE UNITED STATES
NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION.

Equity No. 5460.

UNITED STATES OF AMERICA

VS.

WESTERN CANTALOUPE EXCHANGE ET AL.

FINAL DECREE.

This cause having come on to be heard on this 9th day of November in the year nineteen hundred and eighteen, before the Honorable George A. Carpenter, District Judge; and the petitioner having appeared by Charles F. Clyne, United States Attorney in and for the Northern District of Illinois, and the several defendants having been duly served or having accepted service of process and appeared and filed answers to the petition, which answers are on file in the office of the Clerk of this court; and the defendants, The Western Cantaloupe Exchange, et al., having appeared by their counsel, and the court having heard and duly considered the pleadings and the statements of counsel for the respective parties, and it appearing to the court that it has jurisdiction of the subject matter alleged in the petition, and the petitioner having stated to the court, by its said attorney, that it consents to the entering of this decree, and the defendants by their counsel, before the taking of any testimony in this cause, having stated to the court that they consent that this decree be entered, and no testimony having been taken in this cause, the court finds:

That the defendants, The Western Cantaloupe Exchange, The Lyon Brothers Company, Arthur Miller, Cecil H. Cummings, M. O. Coggins Company, Clifford A. Coggins, C. Swift Bollens, Lyon-Coggins Company, Samuel Y. Free, Mutual Distributing Company, United Marketing Company, Charles E. Virden, Edward S. Armstrong, Arthur M. Blein, A. G. Kohnhorst, Fred Brennisen, Louis M. Spiegl, Frank E. Wagner, William L. Wagner, Charles H. Weaver, William F. Morpf, Ira Dodge Hale, Joseph Friedheim, James Stapleton Crutchfield, Robert B. Woolfolk, Stephen A. Gerrard, Virgil M. Gerrard, Peter P. Hovley, Duncan Campbell and A. W. Phelps, and their agents, made the contract bearing date April 19th, 1912, set forth in the petition herein, in restraint of the interstate trade and commerce in cantaloupes described in said petition, in violation of the Act of Congress of July 2, 1890, entitled "An Act to protect trade and commerce against unlawful restraints and monopolies," and carried on their business in accordance with the terms of said contract.

It is therefore ORDERED, ADJUDGED AND DECREED as follows:

First. That the defendants and each of them and every and each of the directors, officers, managers and agents of the corporate defendants, be and they are hereby severally enjoined from making, entering into, carrying out, or in any way performing or cooperating in the performance of any combination, agreement, or understanding, oral or written, between the defendants, or any of them, and their or any of their directors, officers, managers, agents, or employees, or between either of the above described defendants or any of the members thereof, and any other corporation, copartnership, or person, to limit or regulate competition between the above described groups or between any of the defendants and the other defendants or any of them, in the interstate or foreign cantaloupe trade of the United States.

Second. That the defendants and their directors, officers, managers and agents, including the individual defendants be and they are hereby jointly and severally enjoined, restrained and forbidden from acquiring on or after the date of this decree, and from holding, directly or indirectly, any membership or other interest in the Western Cantaloupe Exchange.

Third. That the defendant corporations and partner-

ships, together with their directors, officers, managers, agents and employees, including the individual defendants while they are associated in business with, or employed by said corporations and partnerships, or any of them, and all persons authorized to act and acting for or in behalf of said corporations and partnerships or any of them, be and they are hereby jointly and severally enjoined as follows:

(a) From soliciting, making, ratifying, confirming, maintaining or carrying out any agreement or understanding of any kind or nature with any competitor in business as to the amounts of advances to be made to growers or shippers of cantaloupes, whether in money or any other thing of value, or as to the terms and conditions under which advances shall be made.

(b) From fixing, establishing, ratifying or confirming by agreement or understanding of any kind or nature with any competitor in business whether an individual, partnership or corporation, any terms or conditions of sale or credit in connection with or relating to the distribution, sale or shipment of cantaloupes in the United States.

(c) From making, ratifying, maintaining, confirming or carrying out any agreement or understanding of any kind or nature with any competitor in business in connection with or relating to the acreage of cantaloupes to be grown or limiting the quantities of cantaloupes to be shipped in interstate commerce or in connection with or relating to the discontinuing of shipments in interstate commerce of any kind or quality of cantaloupes under any circumstances whatsoever.

Fourth. That the defendants and each and every one of them, be and they hereby are perpetually enjoined and restrained from agreeing together or with one another, either expressly or impliedly, directly or indirectly, with respect to arbitrarily enhancing the price of cantaloupes in the markets of the United States, in the manner and by the means complained of in the bill of complaint or in any other manner or by any other means.

Fifth. That the said defendants and each and every one of them be and they hereby are perpetually enjoined and restrained from agreeing together or with one another, either expressly or impliedly, directly or indirectly, with respect to distribution of cantaloupes in violation of an Act of Congress of July 2, 1890, entitled "An Act to protect trade and commerce against unlawful restraints and monopolies," as complained of in said bill of complaint.

Sixth. Nothing in this decree shall be construed as preventing the petitioner in any other proceedings from questioning the legality under the aforesaid Act of July 2, 1890, or any other provisions of law, or any of the matters, things or transactions mentioned in the petition and not hereby specifically enjoined.

Seventh. That the defendants pay the costs of this suit to be taxed.

GEORGE A. CARPENTER,
Judge of United States District Court for the Northern District of Illinois.

Dated this 9th day of November A. D. 1918.

United States v. Railway Employees' Department of the American Federation of Labor, et al.

In Equity No. 2943

Year Judgment Entered: 1923

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION.

In Equity No. 2943.

Thursday, July 12, 1923.

Present: HON. JAMES H. WILKERSON, *District Judge.*

UNITED STATES OF AMERICA

vs.

RAILWAY EMPLOYEES' DEPARTMENT OF THE AMERICAN FEDERATION OF LABOR, Bert M. Jewell, President, J. F. McGrath, Vice President, and John Scott, Secretary and Treasurer; International Brotherhood of Blacksmiths, Drop Forgers and Helpers; James W. Kline, President; International Alliance of Amalgamated Sheet Metal Workers, J. J. Hynes, President; International Brotherhood of Boiler Makers, Iron Ship Builders and Helpers of America, J. A. Franklin, President, Brotherhood of Railway Car Men of America, Martin F. Ryan, President; International Association of Machinists, William H. Johnston, International President and E. C. Davison, Grand Secretary and Treasurer; International Brotherhood of Electrical Workers, James P. Noonan, President; Atlanta, Tennessee & Northern System Federation No. 132, J. M. Key, President, and Robert A. Seabury Secretary thereof, and numerous other System Federations and the president and secretary of each thereof.

This cause having come on for final hearing upon pleadings and proofs and the pleadings and proofs having been considered, it is now, this 12th day of July, 1923, ORDERED, ADJUDGED AND DECREED: First; that the following named defendants, viz: (a) Railway Employees' Department of the American Federation of Labor, a voluntary labor organization, with headquarters and principal place of business located in Chicago, State of Illinois, Bert M. Jewell, president, J. E. McGrath, vice president, and John Scott, secretary and treasurer thereof, who are now at the time of the filing of the bill of complaint and ever since have been within the Northern District of Illinois and who are sued individually and as representatives of all the members of said organization and in their respective official capacities;

(b) International Brotherhood of Blacksmiths, Drop Forgers and Helpers, a voluntary labor organization with its headquarters and principal place of business in the City of Chicago, State of Illinois, and James W. Kline, president thereof, who is a resident and citizen of said city and state; and who is sued as such president, also individually and as representative of all of the members of said organizations;

(c) International Alliance of Amalgamated Sheet Metal Workers, a voluntary labor organization with its headquarters and principal place of business in the City of Chicago, State of Illinois and J. J. Hynes, president, thereof, who is a resident and citizen of said city and state; and who is sued as such president; also individually and as representative of all of the members of said organization;

(d) International Brotherhood of Boiler Makers, Iron Ship Builders and Helpers of America a voluntary labor organization with its headquarters and principal place of business in the City of Kansas City, State of Missouri and J. A. Franklin president thereof, who is a resident and citizen of said city and state and who is sued as such president also individually and as representative of all of the members of said organization;

(e) Brotherhood of Railway Car Men of America, a voluntary labor organization, with its headquarters and principal place of business in the City of Kansas City, State of Kansas and Martin F. Ryan, president thereof, a resident and citizen of said city and state and who is sued as such president also individually and as representative of all of the members of said organization;

(f) International Association of Machinists, a voluntary labor organization with its headquarters and principal place of business located in the City of Washington, District of Columbia; William H. Johnston, International president and E. C. Davison grand secretary and treasurer thereof, who are residents and citizens of said city and who are sued as such officers, also individually and as representatives of all of the members of said organization;

(g) International Brotherhood of Electrical Workers, a voluntary labor organization, with its headquarters and principal place of business located in the city of Washington, District of Columbia, and James P. Noonan, president thereof, a resident and citizen of said city, who is sued as such president, also individually and as representative of all of the members of said organization;

(h) Numerous system federations, and the respective officers of each who are sued as such officers, also individually and as representatives of all the members of their respective federations, viz:

System federation	Officer	Address
Atlanta, Tennessee & Northern, No. 132	J. M. Key, Pres.	York, Ala.
	Robert A. Seabury, Sec.	York, Ala.
Ann Arbor, No. 77	Walter Bennett, Pres.	Owosso, Mich.
	David Bodary, Sec.	Owosso, Mich.
Atchison, Topeka & Santa Fe, No. 97	Thos. L. Personett, Pres.	Kansas City, Kan.
	W. E. Wildhaber, Sec.	Albuquerque, N. M.
Atlanta, Birmingham & Atlantic, No. 33	L. W. Cook, Pres.	Fitzgerald, Ga.
	G. S. Garrett, Sec.	Fitzgerald, Ga.
Altanta & WestPoint & Western Ry. of Alabama, No. 126	W. T. Eubanks, Pres.	Montgomery, Ala.
	L. A. Ratley Sec.	Montgomery, Ala.
Atlanta Joint Terminal, No. 110	J. S. Price, Pres.	Atlanta, Ga.
	W. H. Ball, Sec.	Atlanta, Ga.
Atlantic Coast Line, No. 42	G. D. Rosser, Pres.	Rocky Mount, N.C.
	R. C. Taylor, Sec	Montgomery, Ala.
Baltimore & Ohio, No. 30	Wm. J. McGee, Pres.	Cincinnati, Ohio
	H. L. Alberty, Sec.	Cincinnati, Ohio
Bangor & Aroostook, No. 102	H. A. McLelland, Pres.	Derby, Me.
	A. H. Rowe, Sec.	Milo, Me.
Big Four & Cincinnati Northern (C.C.C. & St.L.) No. 54	J. E. Boyle, Pres.	Mattoon, Ill.
	J. H. Cron, Sec.	Indianapolis, Ind.
Boston & Maine, No. 18	C. E. Severns, Pres.	No. Woburn, Mass.
	W. K. Cleary, Sec.	Lyndonville, Vt.
Buffalo, Rochester & Pittsburgh, No. 49	John M. Neil, Jr. Pres.	Dubois, Pa.
	Leonard Singer, Sec.	Dubois, Pa.
Buffalo & Susquehanna, No. 48	Frank P. Hinman, Pres.	Galeton, Pa.
	George Meikle, Sec.	Galeton, Pa.
Carolina, Clinchfield & Ohio, No. 44	F. B. Bowman, Pres.	Erwin, Tenn.
	J. H. Galloway, Sec.	Erwin, Tenn.
Central of Georgia, No. 26	J. H. Downs, Pres.	Savannah, Ga.
	C. H. Ray, Sec.	Columbus, Ga.
Central R. R. of N.J., No. 72	L. A. McGinley, Pres.	Mauch Chunk, Pa.
	C. L. Hulshizer, Sec.	Easton, Pa.
Central Vermont, No. 93	H. D. Leonard, Pres.	St. Albans, Vt.
	E. E. Corrigan, Sec.	St. Albans, Vt.
Chesapeake & Ohio, No. 41	G. H. Stewart, Pres.	Covington, Ky.
	W. O. Bradley, Sec.	Huntington, W. Va.
Chicago & Alton, No. 29	W. T. Wolcott, Pres.	Normal, Ill.
	David Deans, Sec.	Bloomington, Ill.
Chicago, Burlington & Quincy, No. 95	D. J. Dillon, Pres.	Galesburg, Ill.
	A. C. Butler, Sec.	Galesburg, Ill.
Chicago & Eastern Illinois, No. 20	Percy Molyneau, Pres.	Danville, Ill.
	Thos. J. Short, Sec.	Danville, Ill.
Chicago Great Western, No. 73	W. C. Elliott, Pres.	Oelwein, Iowa
	A. B. Koile, Sec,	Oelwein. Iowa
Chicago, Indianapolis & Louisville, No. 32	E. J. Humbert, Pres.	LaFayette, Ind.
	Roy W. Buikema, Sec.	LaFayette, Ind.

System federation	Officer	Address
Chicago, Milwaukee & St. Paul No. 76	C. S. Johnson, Pres.	Milwaukee, Wis.
	John Pelkefer, Sec.	Milwaukee, Wis.
Chicago & North Western, No. 12	R. C. Gaeth, Pres.	Chicago, Ill.
	Fred E. Williams, Sec.	Chicago, Ill.
Chicago, Peoria & St. Louis, No. 128	R. F. Cour, Pres.	Springfield, Ill.
	W. J. Walsh, Sec.	Springfield, Ill.
Chicago, Rock Island & Pacific, No. 6	Geo. Ganzer, Pres.	Davenport, Iowa
	H. A. Whittemore, Sec.	Moline, Ill.
Chicago, St. Paul, Minneapolis & Omaha, No. 75	R. A. Henning, Pres.	St. Paul, Minn.
	H. C. Dixon, Sec.	St. Paul, Minn.
Chicago, Terre Haute & Southeastern, No. 79	E. T. Hopkins, Pres.	Terre Haute, Ind.
	H. O. Flood, Sec.	Terre Haute, Ind.
Charleston & Western Carolina, No. 60	R. G. Smith, Pres.	Augusta, Ga.
	Patrick Rice, Sec.	Augusta, Ga.
Cincinnati, Indianapolis & Western, No. 65	H. C. Darnell, Pres.	N. Indianapolis, Ind
	A. Lunsford, Sec.	N. Indianapolis, Ind
Delaware & Hudson, No. 35	E. J. McGovern, Pres.	Troy, N. Y.
	Wm. J. Williams, Sec.	Oneonta, N. Y.
Delaware, Lackawanna & Western, No. 78	T. J. Maloney, Pres.	Scranton, Pa.
	James F. Murdock, Sec.	Paterson, N. J.
Denver & Rio Grande, No. 10	Wm. E. Medors, Pres.	Grand Junction, Colo.
	J. V. Sartori, Sec.	Salt Lake City, Utah
Denver & Salt Lake, No. 47	Frank Larimer, Pres.	Denver, Colo.
	W. J. Offield, Sec.	Denver, Colo.
Detroit & Mackinaw, No. 118	John Moran, Pres.	East Tawas, Mich.
	E. Cecil, Sec.	East Tawas, Mich.
Duluth & Iron Range, No. 81	Dick Masters, Pres.	Two Harbors, Minn
	Chris Wold, Sec.	Two Harbors, Minn.
Duluth, Missabe & Northern, No. 71	W. A. Newman, Pres.	Proctor, Minn.
	Sam Thomas, Sec.	Proctor, Minn.
Elgin, Joliet & Eastern, No. 88	John Barnes, Acting Pres.	Joliet, Ill.
	Adam L. Smith, Sec.	Joliet, Ill.
El Paso & Southwestern, No. 120	D. H. Wood, Pres.	El Paso, Texas
	F. P. Wentzell, Sec.	El Paso, Texas
Erie, No. 100	V. J. Davern, Pres.	Meadville, Pa.
	W. T. Rieman, Sec.	Meadville, Pa.
Ft. Smith & Western, No. 5	Jesse Davis, Pres.	Ft. Smith, Ark.
	A. D. Chase, Sec.	Ft. Smith, Ark.
Florida East Coast, No. 69	R. D. Roberts, Pres.	Miami, Fla.
	J. F. Potts, Sec.	Miami, Fla.
Georgia Railroad, No. 70	G. W. Akins, Pres.	Augusta, Ga.
	W. J. Goodwin, Sec.	Augusta, Ga.
Georgia & Florida, No. 116	R. L. McCook, Pres.	Douglas, Ga.
	W. C. Jenks, Sec.	Douglas, Ga.
Grand Trunk Pacific, No. 82	James Logan, Pres.	West Edmonton, Alta., Can.
	G. A. Boath, Sec.	West Edmonton, Alta., Can.
Green Bay & Western No. 94	Carl O. Betcher, Pres.	Green Bay, Wis.
	Louis J. McGahan Sec.	Green Bay, Wis.
Great Northern, No. 101	R. A. Henning, Pres.	St. Paul, Minn.
	J. W. Bowen, Sec.	Hillyard, Wash.
Gulf Coast Lines, No. 55	W. R. Rolph, Pres.	Kingsville, Texas
	C. B. Ballard, Sec.	Kingsville, Texas
Georgia, Florida & Alabama, No. 137	W. R. Wratley, Pres.	Bainbridge, Ga.
	W. C. Stephens, Sec.	Bainbridge, Ga.
Gulf, Mobile & Northern, No. 113	G. W. DeVaughn, Pres.	Mobile, Ala.
	J. W. Sample, Sec.	Laurel, Miss.
Grand Trunk (lines in United States), No. 92	J. W. Thompson, Pres.	Battle Creek, Mich.
	I. Barney, Sec.	Chicago, Ill.
Hocking Valley, No. 51	H. T. Hamilton, Pres.	Columbus, Ohio
	J. W. McDonald, Sec.	Columbus, Ohio
Houston Belt & Terminal, No. 124	Sam Genusa, Pres.	Houston, Texas
	G. R. Brocke, Sec.	Houston, Texas
Illinois Central, No. 99	J. C. Eubanks, Pres.	Paducah, Ky.
	W. J. Meehan, Sec.	Chicago, Ill.
Indiana Harbor Belt, No. 74	R. S. Johnson, Pres.	Hammond, Ind.
	W. M. Knight, Sec.	Hammond, Ind.
International &Great Northern, No. 14	J. S. Quinn, Pres.	Palestine, Texas
	P. F. Parker, Sec.	Palestine, Texas
Jacksonville Terminal, No. 50	W. A. Carey, Pres.	Jacksonville, Fla.
	E. M. Breese, Sec.	Jacksonville, Fla.
Kanawha & Michigan, No. 111	W. E. Yeager, Pres.	Middleport, Ohio
	Virgil Edwards, Sec.	Middleport, Ohio
Kansas City, Mexico & Orient, No. 1	Oscar Maze, Pres.	Wichita, Kan.
	Jap Hall, Sec.	Wichita, Kan.
Kansas City Southern, No. 3	W. A. Wood, Pres.	Pittsburg, Kan.
	H. S. Laughery, Sec.	Pittsburg, Kan.
Kansas City Terminal, No. 38	J. R. Newton, Pres.	Kansas City, Mo.
	E. G. Smedley, Sec.	Kansas City, Mo.
Kentucky & Indiana Terminal, No. 58	George Stiggers, Pres.	Louisville, Ky.
	Wm. T. Sils, Sec.	Louisville, Ky.
Lehigh & Hudson River, No. 107	E. Odell, Pres.	Warwick, N. Y.
	Alva J. Smith, Sec.	Warwick N. Y.

System federation	Officer	Address
Lehigh & New England, No. 129	Joe Wheelock, Pres.	Pen Argyle, Pa.
	Wm. Burnard, Sec.	Pen Argyle, Pa.
Lehigh Valley, No. 96	Edward Burke, Pres.	Waverly, N, Y.,
	Robert Rumble, Sec.	Sayre, Pa.
Louisville & Nashville, No. 91	S. E. Roper, Pres.	Albany, Ala.
	Fred C. Wayler, Sec.	Louisville, Ky.
Louisville & Arkansas, No. 59	A. S. Hughes, Pres.	Stamps, Ark.
	B. F. Sapp, Sec.	Stamps, Ark.
Maine Central, No. 80	Wm. J. Foley, Pres.	Portland, Me.
	A. L. Frame, Sec.	Portland, Me.
Macon, Dublin & Savannah, No. 56	G. P. Baggarly, Pres.	Macon, Ga.
	H. C. Chambless, Sec.	Macon, Ga.
Michigan Central, No. 67	D. E. Tanney, Pres.	Bay City, Mich.
	C. Cunningham, Sec.	Jackson, Mich.
Midland Valley, No. 52	J. C. Allen, Pres.	Muskogee, Okla.
	C. F. Files, Sec.	Muskogee, Okla.
Minneapolis & St. Louis, No. 15	John E. Stephenson Pres.	Minneapolis, Minn.
	N. E. Theis, Sec.	Minneapolis, Minn.
Missouri, Kansas & Texas, No. 8	Wm. Dickerson, Pres.	Waco, Texas
	F. N. Galloway, Sec.	Parsons, Kan.
Missouri & North Arkansas, No. 27	T. Jines, Pres.	Harrison, Ark.
	E. M. Roberts, Sec.	Harrison, Ark.
Missouri, Oklahoma & Gulf, No. 4	J. D. Ratterre, Pres.	Muskogee, Okla.
	R. C. Kiddy, Sec.	Muskogee, Okla.
Missouri Pacific, No. 2	S. L. Watts, Pres.	St. Louis, Mo.
	G. A. McDonald, Sec.	St. Louis. Mo,
Nashville, Chattanooga & St. Louis, No. 83	H. L. Nelson, Pres.	Nashville, Tenn.
	W. H. Harper, Sec.	Nashville, Tenn.
New York, Chicago & St. Louis (Nickel Plate), No. 57	Earl Duddleson, Pres.	Ft. Wayne, Ind.
	L. E. Nicholson, Sec.	Chicago, Ill.
New York, Ontario & Western, No. 31	Wm. E. Appel, Pres.	Carbondale, Pa.
	M. S. Hopkins, Sec.	Middletown, N. Y.
New York, New Haven & Hartford, No.17	John C. Ready, Pres.	New Haven, Conn.
	Robt. Henderson, Sec.	Roslindale, Mass.
New Orleans Great Northern, No. 112	E. T. Williams, Pres.	Bogalusa, La.
	Alban Bush, Sec.	Bogalusa, La.
New York Central, No. 103	T. A. Rodgers, Pres.	Albany, N. Y.
	J. H. Vance, Sec.	Cleveland, Ohio
Norfolk & Western, No. 16	W. L. Scott, Pres.	Roanoke, Va.
	H. W. Bias, Sec.	Roanoke, Va.
Norfolk & Southern, No. 28	E. T. Kerchner, Pres.	Raleigh, N. C.
	J. W. Jelliff, Sec.	Portsmouth, Va.
Northern Pacific, No. 7	W. A. Parranto, Pres.	St. Paul, Minn.
	M. A. Adams, Sec.	St. Paul, Minn.
Northwestern Pacific, No. 115	Walter Scott, Pres.	Sausalito, Calif.
	J. F. Miller, Sec.	Sausalito, Calif.
Pennsylvania, No. 90	N. P. Good, Pres.	Pittsburgh, Pa.
	H. A. Bixler, Sec.	Pittsburgh, Pa.
Pere Marquette, No. 9	Frank Cavanaugh, Pres.	Grand Rapids, Mich.
	Fred J. Klump, Sec.	Grand Rapids, Mich.
Peoria & Pekin Union, No. 123	A. K. Buckley, Pres.	Peoria, Ill.
	C. A. Myers, Sec.	Peoria, Ill.
Philadelphia & Reading, No. 109	H. E. Ellenberger, Pres.	Harrisburg, Pa.
	W. J. Ryder, Sec.	Philadelphia.Pa,
Pittsburgh & Shawmut, No. 104	C. O. Hellman, Pres.	Brookville, Pa.
	G. B. Fiscus, Sec.	Brookville, Pa.
Pittsburgh & West Virginia, No. 127	J. O'Neil, Pres.	Pittsburgh, Pa.
	J. F. Tietz, Sec.	Carnegie, Pa.
Pullman Car Lines, No. 122	Fred Nerman, Pres.	Buffalo, N. Y.
	Thomas W. March, Sec.	Denver, Colo.
Richmond, Fredericksburg & Potomac No. 37	S. C. Spencer, Pres.	Richmond, Va.
	D. Kennedy, Sec.	Richmond, Va.
Rutland System, No. 98	A. J. Carpenter, Pres.	Rutland, Va.
	Thomas B. Keith, Sec.	Rutland, Vt.
San Antonio, Uvalde & Gulf, No. 133	A. J. Bell, Pres.	North Pleasanton, Tex.
	C. V. Wilkins, Sec.	North Pleasanton, Tex.
Seaboard Air Line, No. 39	H. N. Fallon, Pres.	Savannah, Ga.
	J. S. Wilds, Sec.	Jacksonville, Fla.
Short Line Railroads of St. Louis & East St. Louis & Alton, No. 131	C. D. Miller, Pres.	St. Louis, Mo.
	S. M. Laws, Sec.	
Spokane, Portland & Seattle, No. 119	W. B. Richardson, Pres.	Vancouver, Wash.
	W. E. Davy, Sec.	Vancouver, Wash.
Soo Line, No. 66	Dennis Doyle, Pres.	Fond du Lac, Wis.
	E. E. Thrall, Sec.	Minneapolis, Minn.
Southern and Allied Lines, No. 21	A. McGillvary, Pres.	Birmingham, Ala.
	Arthur Gledhill, Sec.	Birmingham, Ala.
Southern Pacific, No. 114	H. A. Jones, Pres.	San Francisco, Calif.
	L. S. Gordon, Sec.	San Francisco, Calif.
St. Louis Southwestern, No. 45	B. E. Shields, Pres.	Pine Bluff, Ark.
	G. W. Daroux, Sec.	Pine Bluff, Ark.
St. Louis & San Fran-	Harry Bayes, Pres.	Springfield, Mo.

System federation	Office	Address
cisco (Frisco), No. 22	C. H. McEvilly, Sec.	Springfield, Mo.
St. Louis Terminal, No. 25	W. N. Baker, Pres.	St. Louis, Mo.
	Wm. Ahearn, Sec.	St. Louis, Mo.
Switching & Terminal Lines of Chicago, No. 130	Travers Johnson, Pres.	Chicago, Ill.
	Walter Ungarait, Sec.	Chicago, Ill.
Tennessee Central, No. 68	H. R. Brown, Pres.	Nashville, Tenn.
	H. B. Goodrich, Sec.	Nashville, Tenn.
Texas & Pacific, No. 121	C. M. Boyett, Pres.	Marshall, Texas
	E. L. Hilliard, Sec.	Marshall, Texas
Toledo, Peoria & Western, No. 135	B. H. Reichelderfer, Pres.	Peoria, Ill.
	Philipp Probert, Sec.	Peoria, Ill.
Toledo, St. Louis & Western, No. 64	Albert S. Freas, Pres.	Frankfort, Ind.
	Abner Fellabaum, Sec.	Frankfort, Ind.
Toledo Terminal, No. 134	J. McCann, Pres.	Toledo, Ohio
	J. C. Dandelin, Sec.	Toledo, Ohio
Trans-Mississippi Terminal, No. 46	J. J. Davies, Pres.	Gretna, La.
	W. S. Kenny, Sec.	New Orleans, La.
Trinity & Brazos Valley, No. 62	J. A. Yarbrough, Pres.	Teague, Texas
	G. C. Ward, Sec.	Teague, Texas
Union Pacific, No. 105	B. H. Furse, Pres.	Omaha, Neb.
	Anthony Johnson, Sec.	Omaha, Neb.
Virginian Mutual, No. 40	W. E. Gibbs, Pres.	Princeton, W. Va.
	W. H. Richards, Sec.	Princeton, W. Va.
Wabash System, No. 13	F. R. Lee, Pres.	Moberly, Mo.
	D. G. Hazlett, Sec.	Shringfield, Ill.
Washington Terminal, No. 106	G. F. Holmes, Pres.	Washington, D. C.
	Ed. M. Bridwell Sec.	Washington, D. C.
Western Maryland, No. 24	L. R. Barnhart, Pres.	Hagerstown, Md.
	F. E. Rossman Sec.	Hagerstown, Md.
Western Pacific, No. 117	F. Bianchi, Pres.	Sacramento, Calif.
	Geo. Wright, Sec.	Sacramento, Calif.
Wheeling & Lake Erie, No. 23	W. M. McWade, Pres.	Massillon, Ohio
	T. P. Powers, Sec.	Massillon, Ohio
Wrightville & Tennille, No. 61	G. W. Spivey, Pres.	Tennille, Ga.
	S. F. Davis, Sec.	Tennille, Ga.

and each and all of said defendants, have, in violation of law, combined, conspired and confederated together to interfere with, hinder, obstruct and restrain interstate trade and commerce and the carriage of the United States mail upon and over the various lines of railroad and systems of transportation of the following named railway companies in the United States of America, to wit:

Alabama & Vicksburg Railway Company,
Vicksburg, Shreveport & Pacific Railway Company.
Alton & Southern Railroad.
Ann Arbor Railroad Company.
Atchison, Topeka & Santa Fe Railway Company,
Beaumont Wharf & Terminal Company,
Grand Canyon Railway Company,
Gulf, Colorado & Santa Fe Railway Company,
Panhandle & Santa Fe Railway Company,
Rio Grande, El Paso & Santa Fe Railway Company.
Atlanta & West Point Railroad Company,
Western Railway of Alabama.
Atlanta Joint Terminals.
Atlantic Coast Line Railroad Company.
Baltimore & Ohio Chicago Terminal Railway Company.
Baltimore & Ohio Railroad Company.
Bangor & Aroostook Railroad Company.
Belt Railway of Chicago.
Boston & Albany Railroad.
Boston & Maine Railroad,
And its subsidiaries.
Buffalo & Susquehanna Railroad Corporation.
Buffalo Rochester & Pittsburgh Railway Company.
Carolina, Clinchfield & Ohio Railway.
Carolina, Clinchfield & Ohio Railway of S. Carolina.
Central Indiana Railway.
Central of Georgia Railway Company.
Central Railroad Company of New Jersey.
Central Vermont Railway Company.
Charleston & West Carolina Railway.
Charleston Union Station Company.
Chesapeake & Ohio Railway Company.
Chesapeake & Ohio Railway Company of Indiana.
Chicago & Eastern Illinois Railroad Company.
Chicago & Northwestern Railway Company.
Chicago & Western Indiana Railroad Company.
Chicago Burlington & Quincy Railroad Company.
Chicago, Great Western Railroad Company.
Chicago, Indianapolis & Louisville Railway Company.
Chicago Junction Railway Company.

Chicago River & Indiana Railroad Company.
Chicago, Milwaukee & St. Paul Railway Company.
Chicago, Peoria & St. Louis Railroad Company.
Chicago, Rock Island & Pacific Railway Company.
Chicago, Rock Island & Gulf Railway Company.
Chicago, St. Paul, Minneapolis & Omaha Railway Co.
Cincinnati, Indianapolis & Western Railroad Co.
Cleveland, Cincinnati, Chicago & St. Louis Railway Co.
Cincinnati, Northern Railroad,
Evansville, Indianapolis & Terre Haute Railway,
Louisville & Jeffersonville Bridge & Railroad Co.,
Muncie Belt Railway.
Colorado & Southern Railway Company.
Cumberland & Pennsylvania Railroad Company.
Delaware & Hudson Company.
Delaware, Lackawanna & Western Railroad Company.
Denver & Rio Grande Western Railroad Company,
Rio Grande Southern Railroad Company.
Duluth, South Shore & Atlantic Railway Company,
Mineral Range Railroad.
Erie Railroad Company.
Florida East Coast Railway Company.
Fort Smith & Western Railroad.
Fort Worth & Denver City Railway Company,
Wichita Valley Railway Company.
Georgia Railroad.
Grand Trunk Railway System (Lines in U. S.).
Great Northern Railway Company.
Gulf & Ship Island Railroad Company.
Gulf Coast Lines,
Beaumont, Sour Lake & Western Railway Company,
New Iberia & Northern Railroad Company,
New Orleans, Texas & Mexico Railway Company,
Orange & Northwestern Railroad Company,
St. Louis, Brownsville & Mexico Railway Company.
Hocking Valley Railway Company.
Illinois Central Railroad Company,
Yazoo & Mississippi Valley Railroad Company.
Indianapolis Union Railway Company.
International & Great Northern Railway.

Kansas City, Mexico & Orient Railway Company.
Kansas City, Mexico & Orient Railway Co. of Texas.
Kansas City Southern Railway Company,
Arkansas Western Railway Company,
Poteau Valley Railroad Company,
Texarkana & Fort Smith Railway Company.
Kansas City Terminal Railway Company.
Kansas, Oklahoma & Gulf Railway Company.
Lake Erie & Western Railroad Company,
Fort Wayne, Cincinnati & Louisville Railroad Company.
Lehigh & New England Railroad Company.
Lehigh Valley Railroad Company.
Louisville & Nashville Company.
Louisville, Henderson & St. Louis Railway Company.
Maine Central Railroad Company,
Portland Terminal Company.
Manistique & Lake Superior Railroad Company.
Michigan Central Railroad Company.
Midland Valley Railroad Company.
Minneapolis & St. Louis Railroad Company.
Minneapolis, St. Paul & Sault Ste. Marie Railway Co.
Minnesota & International Railway Company,
Big Fork & International Falls Railway Company.
Minnesota Transfer Railway Company.
Missouri, Kansas & Texas Lines.
Missouri Pacific Railroad Company.
Mobile & Ohio Railroad Company.
Monongahela Railway Company.
Nashville, Chattanooga & St. Louis Railway.
Natchez & Southern Railway Company.
New York Central Railroad Co. (Lines East and West).
New York Chicago & St. Louis Railroad Company.
New York, New Haven & Hartford Railroad Company,
Central New England Railway Company.
New York, Ontario & Western Railway Company.
Norfolk & Western Railway Company.
Norfolk Southern Railroad Company.
Northern Pacific Railway Company.
Northwestern Pacific Railroad Company.

Pennsylvania Lines:
Baltimore & Sparrows Point Railroad,
Baltimore, Chesapeake & Atlantic Railway,
Barnegat Railroad,
Cape Charles Railroad,
Cincinnati, Lebanon & Northern Railway,
Cornwall & Lebanon Railroad,
Connecting Terminal Railroad,
Cumberland Valley Railroad,
Grand Rapids & Indiana Railway,
Long Island Railroad,
Lorain, Ashland & Southern Railroad,
Louisville Bridge & Terminal Railway,
Manufacturers Railway,
Maryland, Delaware & Virginia Railway,
New York, Philadelphia & Norfolk Railroad,
Ohio River & Western Railway,
Pennsylvania Company,
Pennsylvania Railroad,
Pennsylvania Terminal Railway,
Philadelphia & Beach Haven Railroad,
Pittsburgh, Cincinnati, Chicago & St. Louis Railway,
Rosslyn Connecting Railroad,
Union Railroad Company of Baltimore,
Waynesburg & Washington Railroad,
West Jersey & Seashore Railroad,
Wheeling Terminal Railway.
Peoria & Pekin Union Railway Company.
Pere Marquette Railway Company,
Fort Street Union Depot Company.
Philadelphia & Reading Railway Company,
Atlantic City Railroad Company,
Cataseauque & Fogelsville Railroad Company,
Chester & Delaware River Railroad Company,
Gettysburg & Harrisburg Railway Company,
Middletown & Hummelstown Railroad Company.
Northeast Pennsylvania Railroad Company,
Perkimon Railroad Company,
Philadelphia & Chester Valley Railroad Company,
Philadelphia, Newtown & New York Railroad Company,
Pickering Valley Railroad Company,
Port Reading Railroad Company,
Reading & Columbia Railroad Company,
Rupert & Bloomsburg Railroad Company,
Stoney Creek Railroad Company,
Tamaqua Hazelton & Northern Railroad Company,
Williams Valley Railroad Company.
Pittsburgh & Lake Erie Railroad Company,
Lake Erie & Western Railroad Company.
Pittsburgh & West Virginia Railway Company,
West Side Belt Railroad Company.
Richmond, Fredericksburg & Potomac Railroad Co.
Rutland Railroad Company.
St. Joseph Belt Railway Company.
St. Louis-San Francisco Railway Company.
St. Paul Bridge & Terminal Company.
San Antonio & Arkansas Pass Railway Company.
San Antonio, Uvalde & Gulf Railroad.
Savannah Union Station Company.
Seaboard Air Line Railway Company.
Sioux City Terminal Railway.
Southern Pacific Company (Pacific System).
Southern Pacific Lines in Texas & Louisiana,
Galveston, Harrisburg & San Antonio Railroad Co.,
Houston & Shreveport Railroad Company,
Houston & Texas Central Railroad Company,
Houston, East & West Texas Railway Company,
Iberia & Vermillion Railroad Company,
Louisiana Western Railroad Company,
Morgan's Louisiana & Texas Railroad & Steamship Co.,
Southern Pacific Terminal Company,
Texas & New Orleans Railroad.
Southern Railway Company,
Alabama Great Southern Railroad Company,
Atlantic & Yadkin Railway Company,
Cincinnati, New Orleans & Texas Pacific Railway Co.,

Georgia Southern & Florida Railway Company,
Harriman & Northeastern Railroad Company,
New Orleans & Northeastern Railroad Company,
New Orleans Terminal Company,
Northern Alabama Railway Company,
St. Johns River Terminal Company.
Spokane, Portland & Seattle Railway Company,
Oregon Electric Railway Company,
Oregon Trunk Railway.
Terminal Railroad Association of St. Louis,
And its Subsidiaries.
Texas & Pacific Railway Company.
Texas Midland Railroad.
Toledo & Ohio Central Railway Company,
Kanawha & Michigan Railway Company,
Kanawha & West Virginia Railroad Company.
Toledo, Peoria & Western Railway Company.
Trinity & Brazos Valley Railway Company.
Union Railway Company (Memphis, Tennessee).
Union Pacific System,
Los Angeles & Salt Lake Railroad Company,
Ogden Union Railway & Depot Company,
Oregon Short Line Railroad Company,
Oregon-Washington Railroad & Navigation Company,
St. Joseph & Grand Island Railway Company,
Union Pacific Railway Company.
Virginian Railway Company.
Wabash Railway Company.
Western Pacific Railroad Company.
Wheeling & Lake Erie Railway Company,
Lorain & West Virginia Railway Company,
Zanesville & Western Railway Company.

Second; That in pursuance of said unlawful combination and conspiracy the defendants and each of them, have, by picketing, acts of violence, threats, intimidations, unlawful persuasions, sabotage, injury to and destruction of property, and by other unlawful means interfered with, hindered, obstructed and restrained interstate trade and commerce and the carriage of the United States mail upon and over the said lines of railroad and systems of transportation aforesaid; and have interfered with, obstructed, hindered and restrained interstate trade and commerce and the carriage of the United States mail thereon and thereover so as to cause great and widespread inconvenience, loss and damage and irreparable injury to the commercial, manufacturing, agricultural, producing and distributing interests in the United States and to the detriment of the public interest; and unless permanently restrained and enjoined the said defendants will continue such unlawful conduct with further great and widespread inconvenience, loss and damage and irreparable injury as aforesaid; (that the said defendants and each and all of them are properly before the court and that the ends of justice require that the said defendants and each and all of them should be permanently restrained and enjoined; that the United States of America is without an adequate remedy at law and that the prayer for permanent injunction should be granted.)

Third; That said defendants, and each of them, and each and all of their officers, attorneys, servants, agents, associates, members, employees, and all persons acting in aid of or in conjunction with them, be, and they hereby are, permanently restrained and enjoined from—

(a) In any manner interfering with, hindering or obstructing said railway companies, or any of them, their officers, agents, servants, or employees in the operation of their respective railroads and systems of transportation or the performance of their public duties and obligations in the transportation of passengers and property in interstate commerce and the carriage of the mail, and from in any manner interfering with, hindering or obstructing the officers, agents, servants or employees of said railway companies or any of them engaged in its construction, inspection, repair, operation or use of trains, locomotives, cars, or other equipment of said railway companies or any of them, and from preventing or attempting to prevent any person or persons from freely entering into or continuing in the employment of said railway companies or any of them, for the construction, inspection, repair,

operation or use of locomotives, cars, rolling stock or other equipment.

(b) In any manner conspiring, combining, confederating, agreeing and arranging with each other or with any other person or persons, organizations or associations to injure or interfere with or hinder said railway companies or any of them, in the conduct of their lawful business of transportation of passengers and property in interstate commerce and the carriage of the mail; or to injure, interfere with, hinder or annoy any officer or employee of said railway companies, or any of them in connection with the performance of their duties as such officers or employees or while going to or returning from the premises of said railway companies in connection with their said employment or at any time or place by displays of force or numbers the making of threats, intimidation, acts of violence, opprobrious epithets, jeers, suggestions of danger, taunts, entreaties, or other unlawful acts or conduct, or to injure, interfere with, hinder, or annoy by any such acts any persons or person desirous of contemplating or intending to enter into such employment;

(c) Loitering or being unnecessarily in the vicinity of the points and places of ingress or egress of the employees of said railway companies, or any of them, to and from such premises in connection with their said employment for the purpose of doing any of the things herein prohibited; or aiding, abetting, directing or encouraging any person or persons, organization or association, by letters, telegrams, telephone, word of mouth or otherwise, to do any of the acts heretofore described in this and preceding paragraphs; trespassing, entering or going upon the premises of the said railway companies or any of them, without their consent, at any place or in the vicinity of any place where the employees of said companies or any of them are engaged in constructing, inspecting, overhauling, or repairing locomotives, cars, or other equipment, or where such employees customarily perform such duties or at any other place on the premises of said railway companies, or any of them, except where the public generally are invited to come to transact business with said railway companies as common carriers of passengers and property in interstate commerce;

(d) Inducing or attempting to induce with intent to further said conspiracy by the use of threats, violent or abusive language, opprobrious epithets, physical violence or threats thereof, intimidation, displays of force or numbers, or jeers, any person or persons to abandon the employment of said railway companies, or any of them, or to refrain from entering such employment;

(e) Engaging directing or procuring others to engage in the practice commonly known as picketing that is to say, assembling or causing to be assembled numbers of the members of said Federated Shop Crafts, or others in sympathy with them, in the vicinity of where the employees of said railway companies, or any of them, are required to work and perform their duties, or at or near the places of ingress or egress, or along the ways traveled by said employees thereto or therefrom, and by threats, jeers, violent or abusive language, violence or threats of violence, taunts, entreaties or arguments, or by any similar acts preventing or attempting to prevent any of the employees of said railway companies, or any of them, from entering upon or continuing in their duties as such employees, or so preventing or attempting to prevent any other person or persons from entering or continuing in the employment of said railway companies, or any of them; and aiding, abetting, ordering, assisting, directing, or encouraging in any way any person or persons in the commission of any of said acts;

(f) Congregating or maintaining, or directing, aiding or encouraging the congregation or maintaining upon, at or near any of the yards, shops, depots, terminals, tracks, waylands, roadbeds, or premises of said railway companies, or any of them, of any guards, pickets, or persons to perform any act of guarding, picketing or patrolling any such yards, shops, depots, terminals or other premises of said railway companies or any of them; or in any manner threatening or intimidating, by suggestions of danger or by personal violence towards any servant or employees of said railway companies, or any

of them, or towards persons contemplating the entering of their employment; or aiding, encouraging, directing or causing any other person or persons so to do;

(g) Doing or causing, or in any manner conspiring, combining, directing, commanding or encouraging the doing or causing the doing by any person or persons of any injury or bodily harm to any of the servants, agents, or employees of said railway companies or any of them; going singly or collectively to the home, abode or place of residence of any employee of the said railway companies, or any of them, for the purpose of intimidating, threatening, or coercing such employees or member of his family, or in any manner by violence or threats of violence, intimidation, opprobrious epithets or other acts of like character, directed towards any said employee or member of his family, for the purpose of inducing or attempting to induce such employees to refuse to perform his duties as an employee of said railway companies, or any of them; or so attempting to prevent any person or persons from entering the employ of any of said railway companies or aiding, encouraging, directing commanding or causing any person or persons so to do;

(h) In any manner directly or indirectly hindering, obstructing or impeding the operation of any train or trains of said railway companies, or any of them, in the movement and transportation of passengers and property in interstate commerce or in the carriage of the United States mail, or in the performance of any other duty as common carriers, or aiding, abetting, causing, encouraging or directing any person or persons, association or organization to do or cause to be done any of the matters or things aforesaid;

(i) In any manner, with intent to further said conspiracy, by letters printed or other circulars, telegrams, telephones, word of mouth, oral persuasion, or communication, or through interviews published in newspapers, or other similar acts, encouraging, directing or commanding any person, whether a member of any or either of said labor organizations or associations defendants

herein, to abandon the employment of said railway companies, or any of them, or to refrain from entering the service of said railway companies or any of them.

Fourth; The said defendants, Bert M. Jewell, J. F. McGrath, John Scott, James W. Kline, J. J. Hynes, J. A. Franklin, Martin F. Ryan, William H. Johnston, E. C. Davison and James P. Noonan, and each of them, as officers as aforesaid and as individuals, be and they hereby are permanently restrained and enjoined from—

(a) Issuing any instructions or making any requests, public statements or communications heretofore enjoined and restrained in this decree to any defendant herein, or to any officer or member of any said labor organizations constituting the said Federated Shop Crafts or to any officer or member of any system federation thereof, with intent to further said conspiracy for the purpose of inducing or calculated to induce any such officer or member, or any other persons whomsoever to do or say anything intended or calculated to cause any employees of said railway companies or any of them, to abandon the employment thereof, or any persons to refrain from entering the employment thereof to aid in the movement and transportation of passengers and property in interstate commerce and the carriage of the United States mail;

(b) Using, or causing to be used, or consenting to the use of any of the funds or moneys of said labor organizations in aid of or to promote or encourage the doing of any of the matters or things hereinbefore restrained and enjoined.

But nothing herein contained shall be construed to prohibit the use of the funds or moneys of any of said labor organizations for any lawful purpose, and nothing contained in this decree shall be construed to prohibit the expression of an opinion or argument not intended to aid or encourage the doing of any of the acts hereinbefore enjoined, or not calculated to maintain or prolong a conspiracy to restrain interstate commerce or the carriage of the United States mail.

Fifth; That the United States shall recover its costs herein to be taxed by the clerk of the court and shall have execution therefor.

United States v. American Linseed Oil Company, et al.

In Equity No. 1490

Year Judgment Entered: 1923

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF ILLINOIS,

In Equity No. 1490.

UNITED STATES OF AMERICA, PLAINTIFF,

VS.

AMERICAN LINSEED OIL COMPANY ET AL., DEFENDANTS.

FINAL DECREE.

An appeal having been taken from the decree of this court entered on the 3rd day of December, 1921, to the Supreme Court of the United States, said court reversed

said decree and directed that the cause be remanded to this court for the issuance of an injunction and the taking of such further action as may be necessary to carry the opinion of the court into effect. In said opinion of the Supreme Court of the United States the plan of operation provided for in the contracts between the Armstrong Bureau of Related Industries and the American Linseed Oil Company and other manufacturers of linseed oil, and the organization perfected and the activities carried on thereunder, were held to be unlawful.

It is therefore ordered, adjudged, and decreed that the said identical contracts between the Armstrong Bureau of Related Industries and the several manufacturers of linseed oil, copies of which appear in the record as plaintiff's Exhibits 1A and 1B, constitute a contract or combination in restraint of interstate and foreign trade in linseed oil within the meaning of the Federal Anti-Trust Act of July 2, 1890; and that the organization and operation of the Linseed Crushers' Industrial Council and the activities carried on by defendants under and pursuant to the provisions of said contracts were and are violative of said Anti-Trust Act in that defendants were thereby engaging in a combination in restraint of interstate and foreign trade and commerce in linseed oil: And,

It is further ordered and decreed that defendants and each of them and their officers, agents, servants, and employees, and all persons acting by or in behalf of them or any of them, be, and they hereby are, perpetually enjoined from in any way recognizing the validity of the said contracts between the Armstrong Bureau of Related Industries and the several manufacturers of linseed oil, or any of the provisions thereof, and from making, receiving, or distributing any statistics or other information under said contracts and pursuant to their terms, or under any other contract or understanding of a like nature, and from holding meetings for the exchange of views, and imparting information through correspondence under said contracts, or any contract or contracts or understanding similar thereto, and from doing any other act or engaging in any other practice under and as prescribed in said contracts or by the Armstrong Bureau, or under any other contract or understanding of a like nature; and they and each of them are further perpetually enjoined from entering into any contract or contracts of the same or similar character and from engaging, pursuant to any other such contract or combination or understanding, in the practices engaged in under the aforesaid contracts.

It is further ordered that defendants pay all the costs of the cause to be taxed.

JAMES H. WILKERSON,
District Judge.

DECEMBER 27, 1923.

United States v. Tanners Products Company, et al.

Equity No. 4913

Year Judgment Entered: 1927

In the District Court of the United States, Northern District of Illinois, Eastern Division

Equity No. 4913

UNITED STATES OF AMERICA, PETITIONER

v.

TANNERS PRODUCTS COMPANY ET AL., DEFENDANTS

This cause coming on this day to be heard on the original petition and the answers thereto filed therein, and no evidence having been taken in this cause, the Court finds, by consent of all parties herein:

1. That it has jurisdiction of the subject matter and all persons and parties hereto.

2. That those certain contracts entered into between the defendant, American Hair Felt Company, and competing manufacturers of hair felt and hair-felt machinery, which said contracts were terminated on February 12, 1912, as alleged in the petition, restraining the said competitors from engaging in the manufacture of hair felt or hair-felt machinery, were in violation of the Act of July 2, 1890, entitled "An Act to protect trade and commerce against unlawful restraints and monopolies."

3. That the contract entered into on or about April 18, 1910, and canceled on or about September 14, 1911, between American Hair Felt Company and Newark Hair Felt Company, providing for the

purchase of the entire output of hair felt of the Newark Hair Felt Company at certain stipulated prices, as alleged in the petition, was in violation of the aforesaid Act of July 2, 1890.

4. That the agreements between Illinois Leather Company, through the W. T. Tilden Company, with William F. Allen & Company during the period from 1908 to 1914, providing for the apportionment of tanneries and fixing the prices, as alleged in the petition, were in violation of the aforesaid Act of July 2, 1890.

5. That the agreement entered into between Illinois Leather Company and Densten Hair Company in 1910, providing that Illinois Leather Company would not pay tannery companies in the territory near Peabody, Massachusetts, a higher price for hair than was then being paid by the latter company in other sections of the country, and that the Densten Hair Company would not pay a price for hair in excess of the price being paid by the Illinois Leather Company in other sections of the country, as alleged in the Petition, which said agreement was terminated in 1912, was in violation of the aforesaid Act of July 2, 1890.

6. That the so-called "contributing stockholders plan" as alleged in the Petition wherein the contributing stockholders pool their hair with said Tanners Products Company and receive in part payment therefore a division of profits by way of added price is illegal and in violation of the aforesaid Act of July 2, 1890.

It is therefore ordered and decreed:

1. That American Hair Felt Company and its officers, employees, and agents be, and they hereby are, severally restrained and enjoined from making or entering into any agreements preventing its competitors or the competitors of any of its subsidiaries from engaging in the manufacture of hair felt or hair-felt machinery.

2. That American Hair Felt Company, their officers, employees, and agents, be, and they hereby are, severally restrained from entering into or carrying out any agreements, contracts, or arrangements with others to fix the prices of felt, whereby the prices of felt of other manufacturers will be regulated by the standard prices as fixed by American Hair Felt Company.

3. That American Hair Felt Company, their officers, employees, and agents, be, and they hereby are, severally restrained and enjoined from carrying out or entering into any agreements providing for the purchase of the entire output of hair felt of Newark Hair Felt Company by American Hair Felt Company and from entering into or carrying out any working or price-fixing agreements as to the prices to be charged by Newark Hair Felt Company for hair felt products manufactured by it.

4. That the defendant, Tanners Products Company, its officers, employees, and agents, be, and they hereby are, severally restrained and enjoined from entering into any contracts or agreements with William F. Allen & Company providing for

the apportionment of tanneries or the fixing of prices of cattle, calf, or goat hair.

5. That the defendant, Tanners Products Company, its officers, employees, and agents, be, and they hereby are, severally restrained and enjoined from entering into or carrying out any agreements or contracts fixing or regulating or attempting to fix or regulate the prices of cattle, calf, or goat hair.

6. That the defendants, Tanners Products Company, American Hair Felt Company, National Retarder Company, Califelt Insulation Manufacturing Company, and Textile Fabrics Corporation (hereinafter called the principal defendants), be, and they are hereby, perpetually enjoined from continuing the acquisition of cattle and calf hair under the so-called "contributing stockholder plan," according to which stockholders of the principal defendants who are tanning companies producing cattle and calf hair sell or deliver it to said principal defendants and receive in part payment therefor a so-called "added price," said plan being more particularly described in the Petition; and that the defendants described in the Petition as contributing stockholders (and hereinafter in this decree called the secondary defendants), be, and they are hereby, perpetually enjoined from contributing, selling, or delivering cattle and calf hair to the principal defendants, or to any other person or corporation, according to said contributing stockholder plan; but nothing herein contained shall prevent said principal defendants from purchasing hair of and from said secondary defendants and/or nonstockholders as vendors and vendees, on yearly contract or otherwise, or in any manner which shall not include any distribution of profits to the vendors by the way of added price, or whereby the vendors shall retain any interest, direct or indirect, in hair so sold, after the sale and delivery thereof to the principal defendants.

7. That the principal defendants and their officers, agents, and employees be, and they are hereby, perpetually enjoined from acquiring or purchasing cattle and calf hair from the secondary defendants, or any of them, or from any other person, at a price, the amount of which shall be contingent upon the earnings of the principal defendants, and the fact that such secondary defendant or other person shall sell, deliver, or contribute to said principal defendants all the cattle and calf hair produced or sold by it during any given period.

8. It is further ordered and decreed that this is a final decree and that jurisdiction of the parties and the subject matter herein be retained by this court for the purpose of enforcing this decree.

9. It is further ordered and decreed that the petition in all other respects be, and the same hereby is, dismissed for want of equity.

Enter:

WALTER C. LINDLEY, *Judge.*

OCTOBER 3, 1927.

United States v. Glaziers Local No. 27 of Chicago and Vicinity of the Brotherhood of Painters, Decorators and Paper Hangers of America, et al.

In Equity No. 8958

Year Judgment Entered: 1930

UNITED STATES OF AMERICA vs. GLAZIERS LOCAL No. 27 OF CHICAGO AND VICINITY OF THE BROTHERHOOD OF PAINTERS, ET AL., DEFENDANTS.

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION.

In Equity No. 8958.

UNITED STATES OF AMERICA, PETITIONER

vs.

GLAZIERS LOCAL NO. 27 OF CHICAGO AND VICINITY OF THE Brotherhood of Painters, Decorators, and Paper Hangers of America, et al., defendants.

DECREE PRO CONFESSO.

Comes now the United States of America, by George E. Q. Johnson, its attorney for the Northern District of Illinois, Eastern Division, and by John Lord O'Brian, Assistant to the Attorney General, and Mary G. Connor, Special Assistant to the Attorney General;

And it appearing to the court that the petition in the above cause was filed in this court on February 20, 1929, and that subpoenas were duly issued and were served on defendants on April 10, 1929, and that no answer has been filed by the defendants, as required by equity rule 16, and that an order taking the bill as confessed as against defendants Glaziers Local No. 27 of Chicago and

vicinity of the Brotherhood of Painters, Decorators and Paper Hangers of America, George H. Meyers, Timothy Rice, and Frank C. Harris, was duly entered in the order book in the office of the clerk of this court on July 25, 1929, for failure to answer within the time limited therefor by equity rule 12, and that said defendants have not moved to set aside said order, and that more than thirty days have elapsed since entering said order *pro confesso*, it is now deemed absolute;

And it further appearing to the court that the petition herein states a cause of action under the provisions of the Act of Congress of July 2, 1890, known as the Sherman Law, and that the Court has jurisdiction of the persons and the subject matter, and the petitioner having moved the court for an injunction and such other relief against defendants as hereinafter agreed;

Now, therefore, it is ordered, adjudged, and decreed:

I. That the combination and conspiracy in restraint of interstate trade and commerce, the acts, agreements, and understandings among the defendants in restraint of interstate trade and commerce, as described in the petition herein, and the restraint of such trade and commerce thereby achieved, are violative of the Act of Congress of July 2, 1890, entitled "An Act To protect trade and commerce against unlawful restraints and monopolies," known as the Sherman Antitrust Act.

II. That the defendants, Glaziers' Union Local No. 27 of Chicago and Vicinity, and each and every of its members and officers, George H. Meyers, individually and as business manager of said Local Union No. 27, Timothy Rice, individually and as business agent of said Local Union No. 27, Frank C. Harris, individually and as trustee and employee of said Local Union No. 27, and each and every of said defendants, and each and every of the agents, servants, and employees of the said defendants and each of them, and any and all other persons, associations, or corporations now or hereafter aiding or abetting or confederating or acting in concert with or conspiring and combining with said defendants, or any or

each of them, in the unlawful conspiracy and in the acts complained of in the petition herein, are perpetually enjoined and restrained from in any manner interfering with, hindering, obstructing, restraining, or restricting any of the interstate trade and commerce of the American Enamelled Products Company, Frank S. Betz Co., Inc., Ideal Cabinet Corp., The F. H. Lawson Co., Liggonier Refrigerator Co., Miami Cabinet Co., Columbia Metal Box Co., all having plants located outside the State of Illinois, and of any other manufacturer of glazed bathroom cabinets or other glazed commodities located outside the State of Illinois, in the management, conduct, or operation of any of their interstate business, and from in any manner interfering with, restricting, restraining, injuring, or destroying such interstate business.

That the defendants, their agents, servants, and employees are perpetually enjoined and restrained—

From coercing and compelling, and attempting to coerce and compel, directly or indirectly, architects, building owners, building contractors, and other persons engaged in building construction within the State of Illinois, or any other possible purchaser located within said State, by means of strikes or threats to call strikes of workmen employed in buildings in which fully glazed cabinets or other glazed products are being or are to be installed, or otherwise, to refuse to purchase or refrain from purchasing such glazed products, or any other glazed commodities, from manufacturers located outside the State of Illinois.

From coercing and compelling, and attempting to coerce or compel, directly or indirectly, manufacturers of glazed cabinets or other glazed articles, or their agents and employees to enter into contracts for glazing their products in the City of Chicago with the Hamilton Glass Company, American Glass Company, or any other company specified by defendants.

From coercing and compelling, or attempting to coerce and compel, directly or indirectly, manufacturers located outside the State of Illinois to pay sums of money to defendants and/or their agents and employees in order to be permitted to sell and install their glazed cabinets in the City of Chicago.

III. Jurisdiction of this cause is hereby retained for the purpose of giving full effect to this decree, and for the purpose of making such other and further orders, decrees, amendments, or modifications, or taking such other action, if any, as may be necessary or appropriate to the carrying out and enforcement of said decree.

IV. That the United States shall recover its costs.

CHARLES E. WOODWARD,
United States District Judge.

JANUARY 8, 1930.

United States v. Painters District Council No. 14 of Chicago and Vicinity of the Brotherhood of Painters, Decorators, and Paper Hangers of America, et al.

In Equity No. 8556

Year Judgment Entered: 1931

In the District Court of the United States for the Northern District of Illinois, Eastern Division

IN EQUITY No. 8556

UNITED STATES OF AMERICA, PETITIONER

v.

PAINTERS DISTRICT COUNCIL NO. 14 OF CHICAGO AND Vicinity of the Brotherhood of Painters, Decorators and Paper Hangers of America et al., defendants

DECREE

This cause having come on for final hearing upon the original and supplemental petitions of the United States of America and upon the answers thereto of defendants and having been tried to the Court in May, 1930, the petitioner having been represented by Mary Connor Myers, Special Assistant to the Attorney General, and the defendants having been represented by David D. Stansbury and William E. Rodriguez:

Now, therefore, it is ordered, adjudged and decreed that—

I. When used in this decree, the term "union defendants" shall mean (1) Painters District

Council No. 14 of Chicago and Vicinity of the Brotherhood of Painters, Decorators and Paper Hangers of America, Local Unions of the Brotherhood of Painters, Decorators and Paper Hangers of America Nos. 16, 54, 101, 147, 180, 184, 191, 194, 225, 265, 273, 275, 371, 455, 521, 624, 637, 863, 893, 972 and 1332; and Glaziers' Local Union No. 27 of the Brotherhood of Painters, Decorators and Paper Hangers of America; (2) and all individuals, whether or not in this cause impleaded by name, who are now members, or who shall hereafter become members of any of the above named organizations, and, also any and all officers, agents, employees and servants of the above-named organizations.

II. When used in this decree, the term "individual defendants" shall mean the following, both in their individual capacities and as representatives of any of the union defendants:

Arthur W. Wallace	Wiggo E. Hertz
Frank L. Axelson	Charles W. Hanson
Joseph Casey	Harry Luebbe
George W. Cummings	Joseph C. Moenich
Albert Green	George Tuckebreiter

III. The combination and conspiracy in restraint of interstate trade and commerce, the acts, agreements and understandings among the defendants in restraint of interstate trade and commerce described in the original and supplemental petitions herein, and the restraint of said trade and commerce thereby achieved, are violative of the Act

of Congress of July 2, 1890, entitled "An Act To protect trade and commerce against unlawful restraints and monopolies," known as the Sherman Antitrust Law.

IV. All the defendants herein, both union and individual, and each and every of said defendants, and each and every of the agents, servants and employees of the said defendants and each of them, and any and all other persons and associations now or hereafter conspiring and combining with said defendants, or any or each of them, and agreeing to and engaging in the performance of acts complained of in the petition herein, are perpetually enjoined and restrained from interfering with, hindering, obstructing, restraining, restricting or destroying in any manner any of the interstate trade and commerce of Coppes Brothers & Zook, Hoozier Manufacturing Company, McDougall Company, G. I. Sellers & Sons Company, Wasmuth-Endicott Company and the Anderson Manufacturing Company, all having manufacturing plants located outside the State of Illinois, and of any other manufacturers or distributors of finished kitchen equipment, interior woodwork or any other finished products, who ship such finished products into the State of Illinois or elsewhere in interstate commerce.

V. Said defendants and each of them, their agents, servants and employees are perpetually enjoined and restrained from directly or indirectly—

(a) Coercing, compelling, or inducing, or attempting to coerce, compel or induce, by any methods or means whatsoever, architects, building owners, building contractors and other persons interested or engaged in building construction within the State of Illinois, or elsewhere, who propose to purchase or who have ordered or purchased finished kitchen equipment, finished interior woodwork and trim, or any other finished products for installation in buildings existing or to be erected within the State of Illinois, to refrain from ordering or purchasing such finished kitchen equipment, woodwork and trim from manufacturers whose plants are located in States other than the State in which said finished products have been sold and into which they are to be shipped;

(b) Coercing, compelling, or inducing or attempting to coerce, compel or induce, by any means whatsoever, architects, building owners, building contractors and other persons interested in and engaged in building construction within the State of Illinois or elsewhere, who have entered into contracts for the purchase of finished kitchen equipment, finished interior woodwork and trim or any other finished products manufactured in any State of the United States other than the State in which said product has been sold and into which it is to be shipped, to cancel, modify or ignore the same;

(c) Agreeing with, compelling or inducing other individuals or unions by any methods or means whatsoever, not to trans-

port, install or refinish finished kitchen cabinets, finished interior woodwork and trim or any other finished products which have been manufactured in and shipped from States other than the State in which said products have been sold and into which they have been shipped for the purpose and/or with the direct effect of restraining interstate trade and commerce in finished kitchen cabinets, interior woodwork and trim or any other finished products;

(d) Coercing, compelling or inducing, or attempting to coerce, compel or induce, by any methods or means whatsoever, any other individuals or unions, to decline employment under or to cease working for any person, firm or corporation having plants located outside the State of Illinois, engaged in the manufacture, sale and shipment in interstate trade and commerce of finished kitchen equipment, finished woodwork or other finished products, for the reason that such person, firm or corporation has entered into or proposes to enter into contracts for the sale and/or shipment of such finished products within the State of Illinois, or any other State than the State of manufacture;

(e) Coercing and compelling, or attempting to coerce and compel, directly or indirectly, architects, building owners, building contractors, and other persons interested or engaged in building construction, or any other possible purchaser, within the State of Illinois or elsewhere, by means of strikes or threats to call strikes of workmen employed in buildings in which completely finished kitchen equipment, finished woodwork or other finished products are being or are to be installed, to refuse to order or purchase or refrain from ordering or purchasing such finished products from manufacturers located in other States than that into which such finished products are to be shipped;

(f) Causing, calling, supporting, or continuing in existence, or attempting to cause, call, support or continue in existence, any strikes or cessations of, or refusals to work among members of the defendant unions on any work whatsoever being done or to be done by them within the State of Illinois, the purpose of which, in whole or in part is, to compel directly or indirectly any architect, building owner, building contractor, or any other person interested or engaged in building construction within the State of Illinois, to refrain from ordering, purchasing or installing, or to cancel a contract for the purchase or installation of finished kitchen equipment, finished interior woodwork or other finished products manufactured in States other than the State of Illinois.

VI. This decree shall be read at a regular meeting of Painters District Council No. 14 of Chicago and Vicinity of the Brotherhood of Painters, Decorators and Paper Hangers of America, and of each of the other defendant unions within thirty (30) days from the date of the entry hereof.

VII. Defendants shall cause this decree to be published in full in an issue of the monthly magazine published by the Botherhood of Painters, Decorators and Paper Hangers of America within ninety (90) days after the entry hereof, and shall cause a copy of the issue in which this decree is so published to be mailed to the Attorney General, Department of Justice, Washington, D. C.

VIII. An officer of Painters District Council No. 14 of Chicago and Vicinity of the Brotherhood of Painters, Decorators and Paper Hangers of America, and of each of the other defendant unions, having knowledge of the facts, shall within forty-five (45) days of the date of the entry hereof furnish the Attorney General, Department of Justice, Washington, D. C., with an affidavit containing the following information regarding the respective meetings referred to in paragraph VI hereof: (1) the fact and the date of said meeting; (2) names and addresses of members present; (3) the fact of the reading of this decree at said meeting.

IX. Jurisdiction of this cause is hereby retained for the purpose of giving full effect to this decree, and for the purpose of making such other and further orders, decrees, amendments, or modifications, or taking such other action, if any, as may be necessary or appropriate to the carrying out and enforcement of said decree.

X. The United States shall recover its costs.

XI. The defendants shall have 60 days from this date for filing and approval of certificate of evidence.

WALTER C. LINDLEY,
United States District Judge.

Approved as to form only:

WILLIAM E. RODRIGUEZ,
Counsel for All Defendants.

FEBRUARY 3, 1931.

United States v. Corn Derivatives Institute, et al.

In Equity No. 11634

Year Judgment Entered: 1932

Years Judgment Modified: 1943; 1947

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. Corn Derivatives Institute et al., U.S. District Court, N.D. Illinois, 1932-1939 Trade Cases ¶55,002, (Apr. 6, 1932)

United States v. Corn Derivatives Institute et al.

U.S. District Court, N.D. Illinois. 1932-1939 Trade Cases ¶55,002. April 6, 1932.

Consent decree entered ordering defendants to (1) dissolve the Corn Derivatives Institute, (2) discontinue use of the so-called basing point system in fixing prices, and (3) discontinue allotting customers.

Final Decree

This cause having come on to be heard at this term; upon consideration thereof and upon motion of the petitioner, by George E. Q. Johnson, United States Attorney for the Northern District of Illinois, John Lord O'Brian, The Assistant to the Attorney General, Russell Hardy and Walter L. Rice, Special Assistants to the Attorney General, for relief in accordance with the prayer of the petitioner, the answers of the several defendants having been filed, and no testimony or: evidence having been taken but all of the defendants herein having duly appeared by their attorneys and having consented in open court to the entry of this decree; it is

ORDERED, ADJUDGED AND DECREED: 1. That the court has jurisdiction of the subject matter and of all persons and parties hereto; that the petition states a cause of action against the defendants under the Act of July 2, 1890, entitled “An Act to protect trade and commerce against unlawful restraints and monopolies;” and that the “Reporting Plan,” all agreements, understandings, concert of action, plans and the defendants' activities thereunder, as set forth in the petition, are declared illegal and in violation of said Act.

2. That the words “acting in concert” as used in this decree shall mean by-mutual agreement, understanding, plan, device, or contrivance entered into or employed by any two or more defendants and shall not be construed to include merely simultaneous or similar action independently taken on the part of two or more defendants. Corn Derivatives Institute shall be hereinafter referred to as the “Institute.” The term “Manufacturer” will include any individual, corporation, or association engaged in the manufacture, sale and distribution of corn sugar, corn syrup, corn starch, or other products derived from corn. Corn sugar, corn syrup, corn starch, and other corn products will be hereinafter described collectively by the word “Products.” The word “prices” when hereinafter used will include differentials in prices. The word “conditions,” as used in this decree, shall mean the conditions of any transaction in the purchase or sale of products.

3. That the defendants and each of them, their members, officers, directors, managers, agents, servants, employees, and all persons acting or claiming to act under or in behalf of the defendants, or any of them, be and they hereby are, ordered and directed within thirty (30) days after the entry of this decree to dissolve and to forever discontinue the Institute, and they are perpetually enjoined from, either directly or indirectly, forming, participating in, or contracting with, any institute, association, bureau or other organization similar to the Institute in respect of the practices herein enjoined.

4. That the defendants and each of them, their members, officers, directors, managers, agents, servants, employees, and all persons acting or claiming to act under or in behalf of the defendants, or any of them, be, and they hereby are, permanently and perpetually enjoined and restrained:

(a) From in any way maintaining, continuing, or reviving, either directly or indirectly, in whole or in part, by any means whatsoever, the combination and conspiracy described in the petition, or from entering into or participating in any combination or conspiracy, similar to or having the same purpose and/or effect as said conspiracy.

(b) From arranging, agreeing, entering into any understanding or otherwise “acting in concert,” amongst themselves, with the Institute, with any one or more of its members or with any manufacturer—

(1) To fix or determine the prices, terms, conditions, concessions, exceptions or transportation charges in the purchase and sale of Products; or

(2) To maintain, adhere to, charge or allow uniform prices, terms, conditions, concessions in the purchase or sale of Products; or

(3) To cause uniform or substantially uniform and simultaneous changes in prices, terms, conditions, concessions in the purchase or sale of Products; or

(4) To prevent, obstruct, retard, or re strain any change in prices, terms, conditions, concessions in the purchase or sale of Products; or

(5) To refrain from competing with each other in the manufacture, sale, and distribution of Products; or

(6) To make any discrimination amongst purchasers in the price, terms, conditions, concessions or transportation charges in the purchase or sale of Products, for the purpose of eliminating competition in the manufacture, sale, or distribution of Products; or

(7) To cut or manipulate prices in the purchase or sale of Products, for the purpose of restraining competition or trade, or for the purpose of coercing or inducing any manufacturer to cooperate with the defendants or with others in any institute, bureau or association, or in any plan to limit production, maintain or enhance prices of Products; or

(8) To assign or allot any purchaser of Products as the exclusive customer of any of the defendants, or to regard or designate any purchaser who has been or is trading with any of the defendants as the exclusive customer of that defendant, or to limit or curtail production; or

(9) To obstruct or restrain, the manufacture, sale, or distribution of any Product, or prevent any individual, corporation or association from undertaking to manufacture, sell, or distribute Products; or

(10) To refuse to quote prices for products f.o.b. point of manufacture, or to refuse to sell products at prices to apply at the point of manufacture.

(11) To sponsor or encourage the accomplishment of any of the acts or purposes enjoined by clauses 1 to 10, inclusive, of this paragraph (b) of section 4 of this decree.

(c) From doing any of the following described acts or things, in pursuance of any arrangement, agreement, understanding, action in concert, or conspiracy described in the foregoing paragraph (b) hereof, or for the purpose of creating or carrying into effect any arrangement, agreement, concert of action, or conspiracy, similar to or having the same purpose and/or effect as said conspiracy.

(1) Making, disseminating or publishing any statements, facts, predictions, plans or reports, which cause uniform and simultaneous changes in prices, terms, conditions, concessions, exceptions or transportation charges in the purchase or sale of Products, or which prevent, obstruct, retard or restrain any change in prices, terms, conditions, concessions or transportation charges in the purchase or sale of Products; or

(2) Reporting, disseminating or exchanging amongst themselves, directly or indirectly, or through the instrumentality of the Institute, or otherwise, prices, terms, conditions, concessions, exceptions or transportation charges in any current or future purchase or sale of Products, or quotations of prices, terms and conditions, concessions and transportation charges in any future purchase or sale of Products; or

(3) Suggesting or indicating to any manufacturer or person affiliated with any manufacturer, the prices, terms, conditions, concessions, exceptions or transportation charges applying to any current, future or contemplated purchase or sale of Products; or

(4) Gathering, compiling, distributing or otherwise dealing with or using, figures, or other information relating to the cost of Products, for the purpose or with the effect of causing uniform, enhanced or more onerous prices, terms, conditions, concessions, exceptions or transportation charges in the purchase or sale of Products; or

(5) Investigating, inquiring into, discussing or obtaining disclosures, orally or in writing, pursuant to a reporting plan or otherwise, with regard to the prices, terms, conditions, concessions, exceptions or transportation charges made, or to be made, by any manufacturer in the sale of products, for the purpose or with the effect of influencing, coercing, intimidating any manufacturer with regard to prices, terms, conditions, concessions, exceptions or transportation charges made or to be made by him as aforesaid.

5. That nothing in this decree shall be construed—

(a) To prevent the defendant manufacturers or any of them from exchanging either directly or through a committee or other agency, information concerning the financial or moral responsibility of any manufacturer or dealer; always provided, that there shall not be made, in connection with or in supplement of such exchange of information, any comment in the nature of a recommendation as to any action to be taken thereon; or

(b) To prevent the defendant manufacturers or any of them from reporting any statistical information to any government or governmental agency requesting such information, or from compiling or publishing any statistical information for the purpose of making such a report; or from associating amongst themselves for the purpose of collecting, compiling or distributing statistical information as to production, stocks on hand, prices, terms, conditions, concessions, exceptions or transportation charges in purchases or sales which have been made, when not done in pursuance of or for the purpose of creating an agreement, combination or conspiracy to restrain trade or in violation of the aforesaid Act of July 2, 1890; or

(c) To prevent the defendant manufacturers or any of them from taking concerted action to revise the rates charged by common carriers for the transportation of products, or incidental to any proposed or actual proceeding before any governmental agency.

6. That jurisdiction of this cause be and it is hereby retained for the purpose of enforcing or modifying this decree upon application of the petitioner or any of the defendants.

7. That this decree shall not be construed as a contract between the parties hereto, but shall be construed in the same manner as a decree entered after full hearing by the court.

8. That the petitioner have and recover from the defendants the costs of this suit.

(Signed) *Charles E. Woodward,* United States District Judge.

IN THE DISTRICT COURT OF THE UNITED STATES.
NORTHERN DISTRICT OF ILLINOIS.

In Equity No. 11634.

UNITED STATES OF AMERICA, PETITIONER

vs.

CORN DERIVATIVES INSTITUTE, ET AL., DEFENDANTS.

ORDER MODIFYING AND AMENDING ORIGINAL DECREE DATED APRIL 6, 1932 IN THE ABOVE ENTITLED CAUSE

This cause coming on to be heard at this Term in this Court on the petition and motion of petitioners by Carl R. Miller, counsel for certain defendants, and by Charles C. LeForgee, counsel for the A. E. Staley Manufacturing Company and the Staley Sales Corporation, and all of said defendants having duly appeared by their attorneys and consented in open court to the entry of this said modification and decree,

IT IS ORDERED, ADJUDGED, AND DECREED,

1. That the Court has jurisdiction of the subject matter and all persons and parties hereto.

2. That the matters and things averred and alleged in said petition are true.

3. That the modification of said decree as prayed for in said petition has been consented to by Daniel B. Britt, of counsel for the United States of America, and by counsel for the several defendant manufacturers herein.

4. That said original decree be modified and amended in the manner following, that is to say:

IT IS ORDERED, ADJUDGED, AND DECREED,

That nothing in said decree shall be construed to restrict or prohibit the defendant manufacturers, or any of them, to the extent authorized by and in compliance with the Emergency Price Control Act of 1942 (Public Law 421, 77th Congress), or acts amendatory thereof, from meeting with and at the request of representatives of the Office of Price Administration or with and at the request of representatives of any agency of the United States which shall succeed to the functions of the Office of Price Administration, and to the extent authorized by and in compliance with said act, advising or consulting with representatives of the Office of Price Administration or its successor, respecting any regulation or order issued, or to be issued by it, fixing maximum prices for starch and its derivatives, corn animal feeds, and corn oil.

Except as specifically modified by this order, the final decree of April 6, 1932 shall remain in full force and effect.

That this Court retains jurisdiction of said cause and of the parties therein named for the entry of such further orders as may be necessary in relation to the subject matter stated in said decree.

Entered this 20th day of April, A.D. 1943.

s/ BARNES,
Judge of the District Court
of the United States
Northern District of Illinois.

IN THE DISTRICT COURT OF THE UNITED STATES,
NORTHERN DISTRICT OF ILLINOIS.

In Equity No. 11634.

UNITED STATES OF AMERICA, PETITIONER

vs.

CORN DERIVATIVES INSTITUTE, ET AL., DEFENDANTS.

ORDER AMENDING ORIGINAL DECREE

Upon reading and filing the Petition and Motion dated November 10, 1947, of Parker McCollester and Samuel A. McCain, attorneys for Corn Products Refining Company and Corn Products Sales Company, defendants in the above-entitled proceeding, and upon the consent of the United States by its attorneys, it is hereby ordered that:

(1) The decree entered April 6, 1932, as modified and amended by the Order entered April 20, 1943, be further amended by adding the following:

"Nothing in this decree shall be construed to restrict or prohibit in any way any action taken by any defendant, its officers, directors, managers, agents, servants, employees or any person acting on behalf of any such defendant, in good faith and within the fair intendment of the program for the conservation of grain and the procedures described in the letters, copies of which are attached hereto as Exhibits "A", "B" and "C", between the Attorney General of the United States and the Assistant to the President, or of any amplification or extension of time for such program established by further exchanges of letters between the Attorney General and the Assistant to the President."

(2) That this order apply to each party to the above-entitled proceeding who now or hereafter consents to the entry of this order.

(3) That except as specifically modified by this Order and as modified by the decree entered April 20, 1943, the final decree of April 6, 1932, shall remain in full force and effect.

(4) That this Court retains jurisdiction of said cause and of the parties therein named for the entry of such further orders as may be necessary in relation to the subject matter stated in said decree.

Entered this 12th day of November A. D. 1947.

BARNES
Judge of the District Court
of the United States,
Northern District of Illinois.

EXHIBIT A

October 8, 1947

Honorable Tom C. Clark
Attorney General
Department of Justice
Washington, D. C.

Dear Mr. Clark:

As part of the program of the President and in accordance with the recommendations of the Citizens Food Committee to deal with the emergency confronting this country with respect to available supplies of grain, various industries have been requested to meet and to adopt programs which will result in the temporary elimination or reduction of the use of grain. Such elimination or reduction of the use of grain by such industries is an essential part of the program of the President and the Committee to cope with the present emergency.

Among the industries to which requests for action will be made are the distillers, the brewers, the manufacturers of industrial alcohol, the millers and the bakers. Others may be added as the program progresses. Each of these industries desires assurances from the Department of Justice that action by its members in compliance with requests from the Government pursuant to the President's program would not subject the members of these industries to prosecution by the Department under the antitrust laws. Requests will be addressed to specific industries and industry action in compliance therewith will be approved

by or on behalf of the President. Requests will be limited to the temporary period of the present emergency, a matter of months. No request involving action beyond the emergency will be made, and no industry member will be requested or authorized to coerce compliance with any arrangement.

We would appreciate an expression of your views whether, under such circumstances, compliance with Governmental request to conserve grain in order to aid in meeting the emergency confronting this nation would be regarded as a basis for antitrust proceedings by the Department of Justice.

Sincerely yours,
JOHN R. STEELMAN

EXHIBIT B

October 8, 1947

Honorable John R. Steelman
Assistant to the President
The White House
Washington, D. C.

Dear Mr. Steelman:

You have informed us that as part of the program of the President to deal with the emergency confronting this country with respect to available supplies of grain, various industries have been, and will be requested to meet and to adopt programs which will result in the temporary elimination or reduction of the use of grain. We further understand that such elimination or reduction of the use of grain by such industries is an essential part of the program of the President to cope with the present emergency.

This is to advise you that, under the circumstances you have described, action during a limited period, until January 31, 1948, of industry members looking toward the temporary elimination or reduction of the use of grain, as requested on behalf of the Government and approved by or on behalf of the President, will not be used by this

Department as the basis for proceedings against such industry members under the antitrust laws.

In the event that the emergency situation should continue beyond January 31, 1948, we would, of course, give further consideration to this matter.

Sincerely yours,

TOM C. CLARK
Attorney General

EXHIBIT C

November 3, 1947

Honorable John R. Steelman
Assistant to the President
The White House
Washington, D. C.

Dear Mr. Steelman:

You have informed us that as part of the program of the President to deal with the emergency confronting this country with respect to available supplies of grain, the wet and dry milling industries, have been, and will be requested to meet and to adopt programs which will result in the temporary conservation, elimination or reduction of the use of grain. We further understand that such elimination or reduction of the use of grain by such industries is an essential part of the program of the President to cope with the present emergency.

This is to advise you that, under the circumstances you described in your letter dated October 8, 1947, action during a limited period, until January 31, 1948, of the wet and dry milling industries, or any members thereof, looking toward the temporary conservation, elimination or reduction of the use of grain, as requested on behalf of the Government and approved by or on behalf of the President, will not be used by this Department as the basis for proceedings against the wet and dry milling industry or any member thereof under the antitrust laws or any consent decree presently in effect. If the respondents in the proceedings in which consent decrees have been entered against members of the wet milling industry apply for an appropriate modification of the outstanding consent decree to permit their participation in the conservation program as described, this Department will not object thereto.

In the event that the emergency situation should continue beyond January 31, 1948, we would, of course, give further consideration to this matter.

With kind personal regards,

Sincerely yours,

TOM C. CLARK
Attorney General

United States v. The Tile Contractors' Association of America, Inc., et al.

Civil No. 1761

Year Judgment Entered: 1940

Year Judgment Modified: 1941

U. S. v. THE TILE CONTRACTORS' ASS'N, ET AL.

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION.

June Term, 1940—Civil No. 1761.

UNITED STATES OF AMERICA, PLAINTIFF

vs.

THE TILE CONTRACTORS' ASSOCIATION OF AMERICA, INC.; H. RICHARDSON COLE; CHICAGO MANTEL & TILE CONTRACTORS' ASSOCIATION; H. B. CARTER CO.; VICTOR E. COLE & CO.; INTERIOR TILING COMPANY; RAVENSWOOD TILE COMPANY; WALTER PERINE; WALTER O. SWANSON; ARTHUR B. PETERSON; EDWIN KRAUSE; ARTHUR D'AMBROSIO; VICTOR E. COLE; HARRY B. CARTER; HAMPTON MCCORMICK, SR.; BRICKLAYERS, MASONS & PLASTERERS INTERNATIONAL UNION OF AMERICA; HARRY C. BATES; RICHARD J. GRAY; ELMER SPAHR; CERAMIC, MOSIAC & ENCAUSTIC TILE LAYERS LOCAL UNION NO. 67 OF THE BRICKLAYERS, MASONS & PLASTERERS INTERNATIONAL UNION OF AMERICA; ROBERT E. SHEPHERD; HENRY BARTELS; FLORENCE J. O'SHEA; JOHN R. O'KEEFE; WILLIAM J. DUGAL; EDWARD HANSON; LOUIS MILLER; JESS HARRIS; ANTHONY E. BERHEID; FRED JASPER; THOMAS MCNELLEY, DEFENDANTS.

FINAL DECREE.

1. This cause came on to be heard on this 10th day of June 1940, the complainant being represented by Thurman Arnold, Assistant Attorney General, and William J. Campbell, United States Attorney for the Northern District of Illinois, and the defendants being represented by their counsel, said defendants having appeared voluntarily and generally and waived service of process.

2. It appears to the Court that the defendants have consented in writing to the making and entering of this decree, without any findings of fact, upon condition that neither such consent nor this decree shall be considered an admission or adjudication that said defendants have violated any law.

3. It further appears to the Court that this decree will provide suitable relief concerning the matters alleged in the complaint and by reason of the aforesaid consent of the parties it is unnecessary to proceed with the trial of the cause, or to take testimony therein, or that any adjudication be made of the facts. Now, therefore, upon motion of complainant, and in accordance with said consent, it is hereby

ORDERED, ADJUDGED, AND DECREED

4. That the Court has jurisdiction of the subject matter set forth in the complaint and of all parties hereto with full power and authority to enter this decree, that the complaint states a cause of action against the defendants under the Act of Congress of July 2, 1890, entitled: "An Act To protect trade and commerce against unlawful restraints and monopolies," and the acts amendatory thereof and supplemental thereto, and that the defendants and each of them and each and all of their respective officers, directors, agents, servants, and employees, and all persons acting or claiming to act on behalf of the defendants or any of them are hereby perpetually enjoined and restrained from maintaining, or extending, directly or indirectly, any combination or conspiracy to restrain interstate trade or commerce as alleged in the complaint by doing, performing, agreeing upon, entering upon, or carrying out any of the acts or things hereinafter prohibited.

5. That the Tile Contractors' Association of America, Inc. (hereinafter sometimes called the Tile Association), the defendant Secretary thereof, local associations (hereinafter sometimes called subordinate tile associations) of tile contractors affiliated with and subordinate to said Tile Association, including defendant associations and defendant tile contractors be and they are hereby perpetually enjoined and restrained from agreeing, combining, and conspiring among themselves or any of them or with any labor union or officer, agent, or employee thereof or with any of them, or with a manufacturer of tile or

officer, agent, representative, or employee thereof or with any of them:

(a) To refuse to do business with, or to threaten to refuse to do business with, any manufacturer, jobber, other local distributor, general contractor, or any other person.

(b) To prevent any person, firm, or corporation who is not a member either of the Tile Association or of any subordinate tile association from securing union labor, or to require him to agree to higher wages, shorter hours, or better working conditions than are required of tile contractors who are members of such association.

(c) To create, operate, or participate in the operation of any bid depository.

(d) To create, operate, or participate in the operation of any device similar to a bid depository, any central estimating bureau, any cost formula system or any other method, which device, estimating bureau, cost formula system, or other method is designed to maintain or to fix the price of tile and tile installation or of any other building material or building material installation or to limit competition in bidding on tile or tile installation or of any other building material or building material installation or which has the effect of limiting the awarding authority in its free choice of the successful tile contractor on a given project.

(e) To prevent any person, partnership, or corporation from employing union labor.

(f) To prevent the defendant Bricklayers, Masons and Plasterers' International Union of America (hereinafter sometimes called the International Union) or any unions (hereinafter sometimes called subordinate unions) affiliated with and subordinate to said defendant International Union, including defendant unions, or any officer or agent of said subordinate unions, including defendant union officers, from negotiating a labor agreement directly with a tile contractor who is not a member of the Tile Association or of any subordinate tile association: *Provided, however*, That nothing in this decree shall prohibit the Tile Association or any subordinate tile association from insisting upon providing in its labor agreement with any union that the union shall grant to the members of such association terms as favorable to the members of such association as are granted by such union to any nonmember of such association.

(g) To fine or otherwise penalize any member of said Tile Association or subordinate tile association for selling tile unset to any person, partnership, or corporation not a member of said Tile Association or subordinate tile association.

(h) To prevent any person, partnership, or corporation from selling tile unset: *Provided, however*, That nothing herein shall be deemed to prevent the advancement or promotion by publicity or advertisement of the use of skilled tile setters for the installation of tiles.

(i) To refuse to install or threaten to refuse to install the material of any manufacturer because he sells or has sold tile to any particular person, partnership, or corporation.

(j) To report to or otherwise notify directly or indirectly for the purposes of accomplishing any objective, end, or act enjoined or prohibited by this decree, any member, officer, or agent of the International Union or any subordinate union, or any person acting for or on behalf of them that:

1. A particular manufacturer, jobber, local distributor, general contractor, tile contractor, or any other person is doing or has done business with any individual, partnership, association, or corporation not a member of said Tile Association or subordinate tile association.

2. Any individual, partnership, association, or corporation not a member of said Tile Association or subordinate tile association has contracted for or is engaged in the installation of tile generally or on a particular job.

(k) To aid or assist the International Union, any subordinate union, their officers or agents, or any of them in the imposition of fines or penalties against any person, partnership, or corporation not a member of said Tile Association or subordinate tile association.

(l) To restrict the sale of tile to any person, partnership, or corporation whatsoever.

(6) That the International Union and all subordinate unions, their officers, agents, and employees, including defendant union officers and defendant unions, be and they hereby are perpetually enjoined, restrained, and prohibited from agreeing, combining, and conspiring with the Tile Association or any subordinate tile association, their officers or agents, including defendant contractors and defendant associations, or with any of them, or with any manufacturer, jobber, or local distributor or the officers, representatives, or agents thereof, or any of them:

(a) To restrain, restrict, or prevent the sale of tile to any person, partnership, or corporation.

(b) To circulate or distribute to manufacturers, manufacturers, representatives, jobbers, or distributors of tile a list or lists containing the names of contractors under agreement with said International Union or subordinate unions for the purpose of influencing such manufacturers, manufacturers' representatives, jobbers, or distributors to do business only with contractors whose names are included on said list or lists.

(c) To withhold or threaten to withhold labor from any person, partnership, or corporation.

(d) To intimidate or threaten any general contractor or awarding authority from dealing with any person, partnership, or corporation.

(e) To blacklist any person, partnership, or corporation.

(f) To require conditions and terms of any person, partnership, or corporation, which conditions and terms are not required of other contractors in the same branch of the building industry in the same locality.

(g) To impose fines or otherwise assess penalties against any person, partnership, or corporation, other than a member of the Tile Association or of a subordinate tile association.

7. That the International Union and all subordinate unions, their officers, agents, or employees, including defendant union officers and defendant unions, shall not

(a) withhold or threaten to withhold labor from, or

(b) intimidate any general contractor or awarding authority from dealing with, or

(c) blacklist, or

(d) require conditions and terms not required of other contractors in the same branch of the building industry in the same locality save as otherwise in the decree permitted in the case of, or

(e) impose fines or otherwise assess penalties against,

any individual, partnership, or corporation who is willing and able to execute a written agreement to comply, and to comply, in respects other than those hereinafter specified in paragraphs (a) to (k), inclusive, with the International Union's and such subordinate unions' requirements for wages, hours, and working conditions (including requirements with respect to the closed shop) required by said unions of all contractors doing similar work in the same locality:

(a) Because the wages, hours, and working conditions (including requirements with respect to the closed shop) required of such person, partnership, or corporation in the locality where such person, partnership, or corporation wishes to hire union labor are less favorable to the union members than the union requirements in some other locality where such person, partnership, or corporation also does business: *Provided*, The union may require contractors to pay for the transportation, room, and board of employees ordered from one locality to another by contractors and to pay to such employees the wages, and to adhere to the conditions, obtaining in the locality from which the employees are ordered.

(b) Because the manufacturer of the building materials to be installed by members of the said unions for said person, partnership, or corporation either sells directly to jobbers, general contractors, or builders, or to subcontractors who carry on more than one kind of contracting business, or sells to other persons, firms, or corporations not members of the Tile Association or any subordinate tile association.

(c) Because the material to be installed by members of the said unions for such complying contractor was manufactured by employees whose wages, hours, and working conditions were less favorable to the employees than the wages, hours, and working conditions of the employees of other manufacturers of the same or of a substitute building material, or because said material was manufactured by another union: *Provided, however,* That nothing in this decree shall prevent the members of the said unions from refusing, either alone or in concert, to install any building material that is prison-made or that is made by a manufacturer who maintains an open shop, or a company union, or with whom the International Union, or a subordinate union, is having at the time a labor dispute with respect to wages, hours, or working conditions, or whom the union is attempting to organize.

(d) Because such contractor has broken a rule or regulation of the Tile Association or of any subordinate tile association: *Provided, however,* That nothing in this decree shall prohibit or prevent the unions and the tile associations from disciplining any member of said associations for a breach by such members of the provisions relating to wages, hours, working conditions, or the closed shop of the labor agreement between said associations or either of them and the International Union or a subordinate union: *And provided further,* That nothing in this decree shall prohibit or prevent the unions from disciplining any contractor for a breach by such contractor of the provisions relating to wages, hours, working conditions, or closed shop of the labor agreement under which he operates.

(e) Because such complying contractor is not a member either of the Tile Association, of a subordinate tile association, or of any other association of contractors.

(f) Because such complying contractor carries no stock of tile or of any other building material, or carries an insufficient quantity of tile or of other building material; or because he does business from his residence, or because he maintains no show room; or because he carries on more than one kind of contracting business; or because he is a general contractor.

(g) Because such person, partnership, or corporation has refused to make payments to any officer, agent, member, or employee of the International Union or subordinate union other than payments due under the contract made or to be made between said parties.

(h) Because such person, partnership, or corporation has refused to deposit with the International Union or a subordinate union, or any officer or agent thereof, an unreasonable wage bond. For the purposes of this decree, it is agreed that a reasonable wage bond shall be one conditioned upon the employer's meeting his payroll obligation on the particular job.

(i) Because said person, partnership, or corporation, after having made a bona fide request for the privilege of hiring men from the subordinate local, and having been refused, has used the tools or has hired persons not in good standing with the International Union.

(j) Because such person, partnership, or corporation sells, has sold, or contemplates selling tile unset to any individual, partnership, or corporation.

(k) Because such person, partnership, or corporation had, in the past, worked with the tools, provided that henceforth, only one contractor member of any firm shall work with the tools.

8. That the International Union and each subordinate union be and they hereby are perpetually enjoined and restrained from agreeing, combining, and conspiring among themselves or among any of them, or with

any other person, firm, corporation, or association, or any officer or employee thereof.

(a) To deny to any contractor who has entered into, and who is fully performing, an agreement with the International Union or with a subordinate union, the privilege of selection for employment any union workman in good standing who is at the time unemployed and who is willing to work for such contractor: *Provided, however,* That nothing in this decree shall prevent the International Union or a subordinate union from insisting upon, or any union and any tile association from mutually agreeing to, a "spread the work" plan and applying the same without discrimination among tile association members and tile contractors who are not members of the Tile Association; or

(b) To threaten to impose upon any general contractor who is and has been fully performing a written agreement with the International Union or any subordinate union, restrictions or requirements not imposed upon his competitors because he does business with a subcontractor who is not a member either of the Tile Association or a subordinate tile association or of any other association of subcontractors: *Provided, however,* That nothing in this decree shall prevent such unions or any of them, either alone or in concert, from imposing such conditions as it may wish upon the supplying of union labor to a general contractor who does business with a subcontractor who does not have, or who has failed fully to comply with, a labor agreement with such unions or any of them.

(c) To deny to any bona fide member in good standing of the International Union or of any subordinate union the right to transfer bona fide his membership from one subordinate union to another, or to work in the jurisdiction of another subordinate union, in accordance with the provisions of Article XV of the Constitution of the International Union, Revised and Adopted September 1938.

(d) To violate any provisions contained in the Constitution of the International Union.

(e) To limit the amount of work a tile layer may perform, or to limit the use of machinery or tools, or to determine the number of tile layers to be employed on any specific job: *Provided, however,* That no member of a subordinate union shall be required to bargain or contract to lay or to lay a designated number of feet of tile or do a certain piece of work in a designated time.

9. That the defendant Tile Association and defendant International Union shall cause copies of this decree to be printed and shall furnish each subordinate tile association and each subordinate union with three copies hereof. Said decree shall either be read at open meeting of such subordinate tile associations and subordinate unions, or shall be mailed to each member thereof; and the constitution and bylaws of the International Union and all constitutions and bylaws hereafter adopted, printed, or promulgated by said International Union and the bylaws of the Tile Association, and all bylaws hereafter adopted, printed, or promulgated by such Tile Association shall call attention to this decree and its provisions and to the fact that each member of said organizations and subordinates thereof is bound thereby.

10. That the defendant Tile Association and defendant International Union shall use every reasonable effort to prevent violations of this decree by subordinate tile associations and subordinate unions and members thereof, and to inform themselves as to the observance of the decree by said tile associations and subordinate unions and the members thereof. And said Tile Associations and said International Union shall promptly report to the Attorney General of the United States every case in which proceedings have been instituted by either the Tile Association or the International Union to try alleged violations of this decree. Said Tile Association and International Union shall notify their respective subordinate tile associations and subordinate unions to report to them any violations of this decree coming to

the attention of said subordinate tile association and subordinate unions.

11. That it shall be the duty of the International Union, after knowledge obtained of a violation of this decree, to bring to trial, and to punish, any subordinate union or member thereof violating this decree. Said trial shall be in accordance with Article IV, Section 17, of the Constitution of the said International Union which provides as follows:

SECTION 17. The Executive Board, upon notice given it of any executive matter in any manner or from any source that any subordinate union, officer, or member thereof has failed or neglected to comply with the laws of this International Union or its rules or orders or the rules or orders of the Executive Board of this International Union shall immediately cause notice of said complaint to be given to the union, officer, or member thereof so charged. Such notice may be served by telegraph, registered mail, or personally. It shall state the substance of the charge and the name of the person or body making the charge. The accused must, within three (3) days thereafter, cause his answer to be served on this International Union or its Executive Board by telegraph that an answer has been mailed. Upon receipt of the answer, or if no answer is received within ten (10) days after notice shall have been served upon the accused, this International Union or its Executive Board shall pass upon the whole matter as set forth in the complaint and answer, and if it determines that there is reasonable ground to believe the accused guilty it shall immediately suspend said accused and shall direct the accused to appear with his witnesses for trial upon said charges at a time and place specified before said Executive Board or any member thereof designated by the President of this International Union or any member of this International Union who shall be designated as referee by the President of this International Union. If the trial is held by the entire Executive Board, it shall cause witnesses to be sworn and the testimony taken by a stenographer and transcribed, and it shall immediately render its decision and impose the penalty therefor. If the trial is held by a member of the Executive Board or a referee designated by the President of this International Union, he shall cause all parties and witnesses to be sworn and the testimony of the parties and witnesses to be taken by a stenographer and transcribed, and he shall make his report at once to the Executive Board, which shall as soon thereafter as convenient meet and determine the guilt or innocence of the accused. If found guilty, the Executive Board shall immediately impose the penalty, which shall be binding on all of the parties, and shall be observed and obeyed by them. If the accused shall feel aggrieved at the action of said Executive Board, it or he may within ten (10) days after notice of the action of said Executive Board has been served on it or him, appeal from the action of the Executive Board to the Board of Appeals, and when such appeal has been taken, the entire transcript of the proceedings appealed from and all books and papers relating to the same, shall at once be transmitted to said Board of Appeals and said Board of Appeals shall review said case in its entirety.

The Executive Board is authorized to appoint an International Apprentice Inquiry Commission to investigate every phase of the apprentice situation, to subpoena persons, documents, records, or any material evidence, to the end that our established apprentice policy may be enforced; that such Commission shall have authority to travel from place to place under the direction of the Executive Board and to be compensated for such travel; that the International Executive Board shall have full authority to act on the findings of such Commission, to issue special cards, and to do any other act that may be, in the judgment of the Executive Board, required to bring order out of the situation, bring all apprentices under registra-

tion and create a situation in conformity with the laws of our International Union.

The Executive Board shall have entire control over all judicial business of this International Union when not in session, viz, all appeals by members or unions against members or unions of another State or Province or in States or Provinces where no Conference is legalized; all decisions as to the laws or usages of the International Union or of subordinate unions; all charges or disputes of one member against another or his union; and all charges or disputes of one union against another; all questions as to the law raised or reported by deputies—in fact, all questions relating to the laws of the International Union or subordinate unions and violations thereof. But said Board shall in no case render a decision until both parties shall have had a full and complete opportunity to answer all charges made and refute all evidence submitted.

The Board shall notify all interested parties of its decision by mail by registered letter, within five days after the rendition thereof, and its decision shall be final unless reversed by the Board of Appeals or by the International Union at its first Convention held after such decision. The Executive Board shall file at Headquarters all papers and copies of all decisions rendered and the same shall be printed in the President's report. The decision of the Executive Board shall be in full force and effect pending the decision of the appeal.

12. That is shall be the duty of the Tile Association to invoke its powers under Article I, Section 5, and Article II. Section 10, of the Bylaws of said Tile Association, to punish any violation of this decree by any member of said Tile Association or by any subordinate tile association or by any member thereof. The provisions of Article I, Section 5, and Article II, Section 10, of said Bylaws read as follows:

ARTICLE I, SECTION 5

Local Associations.—The Board of Directors shall have power to grant, suspend, or revoke charters to local organizations in cities, towns, or localities having three or more qualified tile, mantel, and grate contractors. Such local organizations shall be subordinate to this association, shall at all times further and carry out the object of this association, and may adopt their own bylaws and regulations, which shall be in furtherance of the charter and bylaws of this association and not inconsistent therewith. On request of the president the local organization shall file with this association a complete and accurate copy of its bylaws, rules, and regulations. The local organization shall not create any obligation against this association.

ARTICLE II, SECTION 10

Suspension and Expulsion.—Any member of this association not a member of any local association who shall violate the charter and bylaws of this association or be guilty of conduct unbecoming a member of this association may be suspended or expelled by the Board of Directors. If such member shall feel such action unjust he may appeal therefrom to the members at the next annual meeting.

Any member of the Association who is a member of a local association may be suspended or expelled by the local association for like cause or for violating the bylaws, rules, or regulations of the local association. Suspension or expulsion from the local association shall constitute and be suspension or expulsion from this association. If any member shall feel himself aggrieved by any such action of the local association, he may appeal therefrom to the Board of Directors of this association who shall hear the complaint and affirm, reverse, or modify the action of the local association as in their judgment the facts warrant.

If a member of a local association is suspended they automatically cease to be a member of this association, but upon application of the local association and reinstatement of the member by the local association, they may be reinstated by The Tile Contractors' Associa-

tion of America, Inc., subject to the approval of the Board of Directors.

13. That all constitutions, bylaws, resolutions, and agreements of the Tile Association and any of its subordinate associations, the International Union and any of its subordinate unions, and any arbitration boards whose membership consists of representatives of any of the subordinate tile associations or subordinate unions or of the International Union or of the Tile Association, insofar as said constitutions, bylaws, resolutions, and agreements authorize, provide, or permit any activity prohibited by this decree, are hereby declared unlawful and of no force and effect.

14. That the terms of this decree shall be binding upon, and shall extend to each and every one of the successors in interest of any and all of the defendants herein, and to any and all corporations, partnerships, associations, and individuals who may acquire the ownership, control, directly or indirectly, of the property, business, and assets of the defendants or any of them, or of any of the subordinate tile associations or subordinate unions other than those named as defendants or any of them, whether by purchase, merger, consolidation, reorganization, or otherwise.

15. That for the purpose of securing compliance with this decree, and for no other purpose, duly authorized representatives of the Department of Justice shall, on the written request of the Attorney General or an Assistant Attorney General and on reasonable notice to the defendants made to the principal office of the defendants, be permitted (a) reasonable access, during the office hours of the defendants, to all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of the defendants, relating to any of the matters contained in this decree, (b) subject to the reasonable convenience of the defendants and without restraint or interference from them, to interview officers or employees of the defendants, who may have counsel present, regarding any such matters; and the defendants, on such request, shall submit such reports in respect of any such matters as may from time to time be reasonably necessary for the proper enforcement of this decree: *Provided, however,* That information obtained by the means permitted in this paragraph shall not 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 or as otherwise required by law.

16. That it is: *Provided, however,* That nothing herein contained shall, with respect to any act not enjoined by this decree, prohibit, prevent, or curtail the rights of the defendant unions or any of them from picketing or threatening to picket, circularizing or disseminating accurate information or carrying on any other lawful activities against anyone, or with reference to any product when the defendant unions or their members have a strike, grievance, or controversy, or from lawfully seeking to attain and carry out the legitimate and proper purpose and functions of a labor union.

17. That jurisdiction of this cause is retained for the purpose of enabling any of the parties to this decree to make application to the Court at any time for such further orders and directions as may be necessary or appropriate in relation to the construction of or carrying out of this decree, for the modification hereof upon any ground (including any modification upon application of the defendants or any of them required in order to conform this decree to any Act of Congress enacted after the date of entry of this decree), for the enforcement of compliance herewith and the punishment of violations hereof. Jurisdiction of this cause is retained for the purpose of granting or denying such applications as justice may require and the right of the defendants to make such applications and to obtain such relief is expressly granted.

18. That this decree shall become effective upon date of entry hereof.

Dated June 10, 1940.

MICHAEL L. IGOE,
United States District Judge.

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF ILLINOIS EASTERN DIVISION.

September Term 1941—Civil Action No. 1761.

UNITED STATES OF AMERICA

vs.

THE TILE CONTRACTORS' ASSOCIATION OF AMERICA, INC.; H. RICHARDSON COLE; CHICAGO MANTEL & TILE CONTRACTORS' ASSOCIATION; H. B. CARTER CO.; VICTOR E. COLE & CO.; INTERIOR TILING COMPANY; RAVENSWOOD TILE COMPANY; WALTER PERINE; WALTER O. SWANSON; ARTHUR B. PETERSON; EDWIN KRAUSE; ARTHUR D'AMBROSIO; VICTOR E. COLE; HARRY B. CARTER; HAMPTON MCCORMICK, SR.; BRICKLAYERS, MASONS & PLASTERERS INTERNATIONAL UNION OF AMERICA; HARRY C. BATES; RICHARD J. GRAY; ELMER SPAHR; CERAMIC, MOSIAC & ENCAUSTIC TILE LAYERS LOCAL UNION NO. 67 OF THE BRICKLAYERS, MASONS & PLASTERERS INTERNATIONAL UNION OF AMERICA; ROBERT E. SHEPHERD; HENRY BARTELS; FLORENCE J. O'SHEA; JOHN R. O'KEEFE; WILLIAM J. DUGAL; EDWARD HANSON; LOUIS MILLER; JESS HARRIS; ANTHONY E. BERHEID; FRED JASPER; THOMAS MCNELLEY, DEFENDANTS.

DECREE MODIFYING FINAL DECREE.

1. This cause came on to be heard this 24th day of September, 1941, the plaintiff being represented by Thurman Arnold, Assistant Attorney General, and J. Albert Woll, United States Attorney for the Northern District of Illinois, and the defendants being represented by their counsel.

2. Bricklayers, Masons & Plasterers International Union of America, Harry C. Bates, Richard J. Gray, Elmer Spahr, Ceramic, Mosaic & Encaustic Tile Layers Local Union No. 67 of the Bricklayers, Masons & Plasterers International Union of America, Robert E. Shepherd, Henry Bartels, Florence J. O'Shea, John R. O'Keefe, William J. Dugal, Edward Hanson, Louis Miller, Jess Harris, Anthony E. Berheid, Fred Jasper, Thomas McNeally, defendants in the above-entitled cause, having filed herein on September 24, 1941, an application for a modification of the final decree entered herein, with the consent of all parties, on June 10, 1940, and the proposed modification not being opposed, after notice given, by any of the other defendants or by the United States of America and having been found by the Court to provide suitable relief concerning the matters alleged in the complaint and application herein, it is

ORDERED, ADJUDGED, AND DECREED as follows, as to all of the parties to this cause and upon their consents hereto, as signified in writing at the foot of this decree:

3. That the aforesaid consent decree of June 10, 1940 be and the same is hereby modified by the cancellation of sub-paragraph (k) of paragraph 7, on page 9, and the substitution therefor of the following sub-paragraph:

(k) Because such person, partnership, or corporation had, in the past, worked with the tools: *provided, however*, that nothing in this decree shall prevent the International Union or a subordinate union, their officers, agents, or employees, from requiring such person, partnership, or corporation to cease working with the tools after the expiration of six months from the date said International Union or subordinate union, their officers, agents, or employees, serves written notice of such requirement upon such person, partnership, or corporation, except that contractors may work with the tools on small repair jobs in private homes.

4. That the cancellation and substitution herein decreed shall become effective upon the date of entry of this decree.

Dated: September 24, 1941.

MICHAEL L. IGOE,
United States District Judge.

United States v. The Mosaic Tile Company, et al.

Civil No. 1788

Year Judgment Entered: 1940

U. S. v. THE MOSIAC TILE COMPANY, ET AL.

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF ILLINOIS EASTERN DIVISION.

June Term, 1940.

Civil No. 1788.

UNITED STATES OF AMERICA, PLAINTIFF

vs.

THE MOSAIC TILE COMPANY, ROBIN K. SILVEY, JAMES A. FALCONER, A. T. FALCONER, OWEN WATKINS, FRANK BURT, THE NATIONAL TILE COMPANY, C. G. STEINBICKER, EMILE FRANCOIS, DUNCAN MILLETT, THE WHEELING TILE COMPANY, WALTER SULLIVAN, J. B. YOUNGSON, IRA PRESTON, ROBERTSON ART TILE COMPANY, EDWARD DERBACHER, D. P. FORST, THE STANDARD TILE COMPANY, H. W. RHEAD, JOHN MORTON, SUPERIOR CERAMIC CORPORATION, DEFENDANTS.

FINAL DECREE.

1. This cause came on to be heard on this 17th day of June 1940, the complainant being represented by Thurman Arnold, Assistant Attorney General, and William J. Campbell, United States Attorney for the Northern District of Illinois, and Leo F. Tierney, Lyle L. Jones, Jr., and Robert A. Nitschke, Special Assistants to the Attorney General, and the defendants being represented by their counsel, said defendants having appeared voluntarily and generally and waived service of process.

2. It appears to the Court that the defendants have consented in writing to the making and entering of this decree, without any findings of fact, upon condition that neither such consent nor this decree shall be considered an admission or adjudication that said defendants have violated any law.

3. It further appears to the Court that this decree will provide suitable relief concerning the matters alleged in the complaint and by reason of the aforesaid consent of the parties it is unnecessary to proceed with the trial of the cause, or to take testimony therein, or that any adjudication be made of the facts. Now, therefore, upon motion of complainant, and in accordance with said consent it is hereby

ORDERED, ADJUDGED, AND DECREED

4. That the Court has jurisdiction of the subject matter set forth in the complaint and of all parties hereto with full power and authority to enter this decree, that the complaint states a cause of action against the defendants under the Act of Congress of July 2, 1890, entitled: "An Act To protect trade and commerce against unlawful restraints and monopolies," and the acts amendatory thereof and supplemental thereto, and that the defendants and each of them and each and all of their respective officers, directors, agents, servants, and employees, and all persons acting or claiming to act on behalf of the defendants or any of them are hereby perpetually enjoined and restrained from maintaining, or extending, directly or indirectly, any combination or conspiracy to restrain interstate trade or commerce as alleged in the complaint by doing, performing, agreeing upon, entering upon, or carrying out any of the acts or things hereinafter prohibited.

5. That the defendants, their officers, agents, and employees be and they hereby are perpetually enjoined and restrained from agreeing, combining, and conspiring among themselves, or with the Bricklayers, Masons & Plasterers International Union of America or any

subordinate union, their officers, agents, or members, or the Tile Contractors' Association of America, Inc., or any subordinate association, their officers, agents, or members:

(a) To refuse to sell tile to any person, partnership, or corporation;

(b) To refuse to sell tile to any tile contractor because such tile contractor is or is not a member of any association or because such tile contractor does or does not hire union tile setters;

(c) To refuse to sell tile to any jobber or local distributor of tile because such jobber or local distributor sells to a tile contractor who is or is not a member of any association or who does or does not hire union tile setters:

(d) To create, operate, or participate in the operation of any device or method to maintain or to fix the price of tile, or to limit competition in the sale of tile; provided that nothing in paragraph 5 contained shall be construed to enjoin the officers, agents, or employees of a single corporation from agreeing among themselves with respect to the sales policy of such corporation.

6. That the defendants, their officers, agents, and employees be and they hereby are perpetually enjoined and restrained from doing individually any of the acts named in paragraphs 5 (a), (b), (c), and (d) above, for the purpose of accomplishing any objective, end or action enjoined by this decree.

7. This decree is in favor of the United States of America and against the defendant tile manufacturers, their officers, agents, and employees, and nothing herein contained shall be considered or construed as an agreement between the defendant tile manufacturers, their officers, agents, or employees, or any of them, and the other defendants or any of them. Nothing in this decree shall be construed to limit the right of each defendant tile manufacturer to deal individually with customers of its own selection, except as specified in paragraph 6 hereof.

8. That the terms of this decree shall be binding upon, and shall extend to each and every one of the successors in interest of any and all of the defendants herein, and to any and all corporations, partnerships, associations, and individuals who may acquire the ownership, control, directly or indirectly, of the property, business and assets of the defendants or any of them, whether by purchase, merger, consolidation, reorganization, or otherwise.

9. That for the purpose of securing compliance with this decree, and for no other purpose, duly authorized representatives of the Department of Justice shall, on the written request of the Attorney General or an Assistant Attorney General and on reasonable notice to the defendants made to the principal office of the defendants, be permitted (a) reasonable access, during the office hours of the defendants, to all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of the defendants, relating to any of the matters contained in this decree, (b) subject to the reasonable convenience of the defendants and without restraint or interference from them, and subject to any legally recognized privilege, to interview officers or employees of the defendants, who may have counsel present, regarding any such matters; and the defendants, on such request, shall submit such reports in respect of any such matters as may from time to time be reasonably necessary for the proper enforcement of this decree; *Provided, however,* that information obtained by the means permitted in this paragraph shall not 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 or as otherwise required by law.

10. That jurisdiction of this cause is retained for the purpose of enabling any of the parties to this decree to make application to the Court at any time for such fur-

ther orders and directions as may be necessary or appropriate in relation to the construction of or carrying out of this decree, for the modification hereof upon any ground (including any modification upon application of the defendants or any of them required in order to conform this decree to any Act of Congress enacted after the date of entry of this decree), for the enforcement of compliance herewith and the punishment of violations hereof. Jurisdiction of this cause is retained for the purpose of granting or denying such applications as justice may require and the right of the defendants to make such applications and to obtain such relief is expressly granted.

11. That this decree shall become effective upon date of entry hereof.

Dated June 17, 1940.

MICHAEL L. IGOE,
United States District Judge.

United States v. The Borden Company, et al.

Civil Action No. 2088

Year Judgment Entered: 1940

U. S. vs. THE BORDEN COMPANY, ET AL.

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION.

Civil Action No. 2088.

UNITED STATES OF AMERICA, PLAINTIFF

vs.

THE BORDEN COMPANY; BOWMAN DAIRY COMPANY; SIDNEY WANZER & SONS, INC.; HUNDING DAIRY COMPANY; CAPITOL DAIRY COMPANY; WESTERN-UNITED DAIRY COMPANY; WESTERN DAIRY COMPANY, INC.; UNITED DAIRY COMPANY; INTERNATIONAL DAIRY COMPANY; ASSOCIATED MILK DEALERS, INC.; MILK DEALERS BOTTLE EXCHANGE; PURE MILK ASSOCIATION; MILK WAGON DRIVERS' UNION LOCAL 753; INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, STABLEMEN AND HELPERS OF AMERICA; D. B. PECK; FRANCIS H. KULLMAN, JR.; M. J. METZGER; H. T. ADAMSON; J. F. PHILIPPI; H. W. COMFORT; S. M. ROSS; CHARLES L. DRESSEL; HARRY M. RESER; W. A. BARIL; O. O. SMAHA; R. W. NESSLER; GORDON B. WANZER; H. STANLEY WANZER; HYMAN I. FREED; LOUIS G. GLICK; MAURICE S. DICK; SAMUEL S. DICK; LOUIS JANATA; PAUL POTTER; DON N. GEYER; EDWARD F. COOKE; E. E. HOUGHTBY; F. J. KNOX; LOWELL D. ORANGER; JOHN P. CASE; ROBERT G. FITCHIE; JAMES KENNEDY; STEVE SUMNER; FRED C. DAHMS; F. RAY BRYANT; JOHN O'CONNOR; DEFENDANTS.

CONSENT DECREE

The United States of America, having filed its complaint herein on September 14, 1940; each of the defendants appeared and filed its answer to such complaint, and asserted the truth of its answer and its innocence of any violation of law; each of the defendants have agreed and consented to the making and entry of this decree without taking any testimony and without findings of fact, upon condition that neither such consent nor this decree shall be considered as evidence, admission or adjudication that the defendants or any of them have violated any law of the United States; and on further condition that this decree shall not be admitted in evidence or be regarded as of probative effect in any civil action or proceeding of a private nature brought under the antitrust laws of the United States of America; and the United States of America by its counsel having consented to the entry of this decree and to each and every provision thereof, and having moved the court for this injunction.

Now, Therefore, it is Ordered, Adjudged, and Decreed as follows:

I

That the Court has jurisdiction of the subject matter hereof and of all persons and parties hereto; that the complaint states a cause of action against the defendants under the Act of Congress of July 2, 1890, entitled, "An Act to Protect Trade and Commerce Against Unlawful Restraints and Monopolies" and the Acts amendatory thereof and supplemental thereto.

II

That whenever the following words are used in this decree, they shall be deemed to have the respective meanings set forth below:

(a) *Producer*—A producer is any person, firm or corporation owning or possessing one or more cows and selling as milk or cream a part or all of the milk produced by such cows.

(b) *Member-Producer*—A member-producer is a producer belonging to the Pure Milk Association, a corporation organized and incorporated on January 11, 1926, under an Act of the General Assembly of the State of Illinois, entitled "An Act in relation to agricultural cooperative associations and societies" approved June 21, 1923, as amended, or a producer who has authorized Pure Milk Association to market milk produced under his control.

(c) *Independent Producer*—An independent producer is a producer not belonging to the Pure Milk Association and who has not authorized Pure Milk Association to market milk produced under his control.

(d) *Distributor*—A distributor is a person, firm or corporation engaged in the business of receiving, pasteurizing, bottling, distributing or selling milk or cream in the City of Chicago.

(e) *Dairy Products*—Dairy products means milk, cream, butter, eggs and cottage cheese.

(f) *Vendor*—A vendor is a person, firm or corporation engaged in the business of buying milk or other dairy products at pasteurizing or bottling plants in the City of Chicago for resale in whole or in part in the City of Chicago.

III

That the defendants and each of them and their and each of their successors, officers, agents, employees, representatives, and all persons acting under, through or for them, be and they hereby are enjoined and restrained:

(a) from combining or conspiring together or engaging with one another, to fix, maintain or control prices to be paid to producers by distributors for milk or cream shipped into the City of Chicago;

(b) from combining or conspiring together or engaging with one another to fix, maintain or control prices for the sale of milk or cream by distributors in the City of Chicago;

(c) from combining or conspiring together or engaging with one another or others to restrict, limit or control or to restrain or obstruct the supply of milk or cream moving into the City of Chicago.

IV

That the defendants, Associated Milk Dealers, Inc.; The Borden Company; Bowman Dairy Company; Sidney Wanzer & Sons, Inc.; Hunding Dairy Company; Capitol Dairy Company; Western-United Dairy Company; Western Dairy Company, Inc.; United Dairy Company; International Dairy Company; D. B. Peck; Francis H. Kullman, Jr.; M. J. Metzger; H. T. Adamson; J. F. Philippi; H. W. Comfort; S. M. Ross; Charles L. Dressel; Harry M. Reser; W. A. Baril; O. O. Smaha; R. W. Nessler; Gordon B. Wanzer; H. Stanley Wanzer; Hyman I. Freed; Louis G. Glick; Maurice S. Dick; Samuel S. Dick; Louis Janata; Paul Potter; and their and each of their successors, officers, agents, employees, representatives, and all persons acting under, through or for them, be, and they hereby are, enjoined and restrained:

(a) from agreeing with any producer or group of producers as to what any distributor not a party to the agreement shall pay for milk or cream to be resold in the City of Chicago;

(b) from agreeing with any producer, distributor, or group of producers or distributors, upon prices to be charged by distributors for milk or cream sold in the City of Chicago;

(c) from inducing, compelling, or coercing, or taking any action to induce, compel, or coerce, any distributor or distributors in the City of Chicago to charge prices fixed by any other distributor for milk or cream;

(d) from interfering with, obstructing, regulating, or controlling the manner or method of sale or distribution of milk or cream used by any distributor in the City of Chicago;

(e) from combining or conspiring together, or with any other distributor to hinder or prevent prospective or existing distributors from engaging in the business of distributing milk or cream in the City of Chicago;

(f) from agreeing with one another or with any other distributor to refrain, and in accordance with such agreement, refraining from competing for customer accounts in connection with the sale of milk or cream in the City of Chicago;

(g) from controlling, regulating, or interfering with the membership, internal affairs or management of the defendant Pure Milk Association or any other farm group or cooperative association of producers selling milk or cream;

(h) from controlling, regulating, or interfering with the internal management or membership of the defendant Milk Wagon Drivers' Union, Local 753, International Brotherhood of Teamsters, Chauffeurs, Stablemen and Helpers of America.

And said defendants named in this paragraph IV of this decree, their officers, agents, employees, representatives, successors, and each of them, are further enjoined and restrained from carrying out or performing the provisions of any contract or agreement or from making, carrying out or performing any provisions in any contract or agreement which provisions are inconsistent with, contrary to, or prohibited by the terms of this decree, and from aiding, abetting or assisting others to do any of the things prohibited by this decree.

V

That the defendants, Milk Dealers' Bottle Exchange, R. W. Nessler, F. A. Webb, Francis H. Kullman, Jr., H. Stanley Wanzer, Maurice S. Dick, their and each of their successors, officers, agents, employees, representatives, and all persons acting under, through or for them, be, and they hereby are, enjoined and restrained:

(a) from delaying or refusing to return milk bottles or other containers in its possession to any distributor entitled to possession thereof whose accounts are not in arrears and who is complying with reasonable and non-discriminatory rules and regulations of the Milk Dealers' Bottle Exchange designed to assure return of bottles and other containers and to prevent the use thereof by other than the rightful owner;

(b) from refusing to transfer on the records of the Milk Dealers' Bottle Exchange any share of its capital stock purchased or title to which is otherwise acquired by any distributor;

(c) from refusing to grant to any distributor, requesting and offering in good faith to pay therefor, the same service in the collection and return of bottles and other containers upon the same terms and conditions as are granted to any other distributor having a comparable volume of bottles and other containers, whether or not any such distributor is a stockholder of the Milk Dealers' Bottle Exchange; provided, however, that said Milk Dealers' Bottle Exchange may require any such distributor to enter into a written contract with it, before performing any such service;

(d) from establishing a rate of compensation for the services of the Milk Dealers' Bottle Exchange in excess of that necessary to provide a reasonable return upon the investment therein;

(e) from imposing any condition or conditions upon the collection or return of milk bottles or other containers other than those necessary to assure return of bottles and other containers to the rightful owner, to prevent the use of such bottles or other containers by other than the rightful owner thereof, and to provide for payment to the Exchange for services rendered;

(f) nothing herein contained shall prevent said Milk Dealers' Bottle Exchange from paying or delivering over, from time to time, a portion or all of its assets to its shareholders, by way of dividends (cash, liquidation, dissolution or otherwise); and nothing herein contained shall prevent the legal dissolution, consolidation or merger of said Milk Dealers' Bottle Exchange or the amendment or surrender of its corporate franchise or charter.

At any time after three years from the effective date of this decree, the defendants, or any of them, upon

reasonable notice to the Attorney General of the United States of America, may apply for the deletion or modification of this paragraph V on the ground that the commission or omission of any of the agreements, acts or practices herein prohibited or required, under the economic or competitive conditions existing at the time of such application, does not constitute an unreasonable restraint of trade or commerce within the meaning of the antitrust acts, regardless of whether or not such economic or competitive conditions are new or unforseen.

VI

That the defendants Pure Milk Association, Don N. Geyer, Edward F. Cooke, E. E. Houghtby, F. J. Knox, Lowell D. Oranger and John P. Case, and their and each of their successors, officers, agents, employees, representatives, and all persons acting under, through or for them, be and they hereby are enjoined and restrained;

(a) from preventing, hindering, restraining or delaying, by threats, coercion, intimidation or violence, the production or sale of milk or cream by independent producers for shipment into the City of Chicago, or the transportation or delivery of such milk or cream into the City of Chicago, or the sale, delivery or distribution of such milk or cream in the City of Chicago;

(b) from discriminating in prices charged for milk or cream between different distributors in the City of Chicago or giving or granting any preference, priority or rebate in any form whatsoever to, in favor of, or against any distributor or distributors in the City of Chicago, provided, however, that nothing contained herein shall prevent the granting of differentials or adjustments which make only due allowances for differences in quantity, grade, quality, the purpose for which the milk or cream is to be used or consumed, location of farm where produced, place of delivery, or differences in the cost of sale or transportation;

(c) from interfering with, obstructing, hampering, regulating, or controlling the sale or distribution of milk or cream by distributors in the City of Chicago or the manner or method of such sale or distribution, or the price charged by, or sales policies of, any such distributor;

(d) from requiring any distributor or distributors in the City of Chicago to purchase milk or cream from independent producers only upon terms and conditions specified by Pure Milk Association or agreed upon between Pure Milk Association and the said distributor or distributors;

(e) from fixing, determining, or agreeing upon the price to be paid by distributors in the City of Chicago to independent producers for milk or cream;

(f) from agreeing with any of the defendants herein or with any other distributor to fix or maintain prices for the sale of milk or cream by distributors in the City of Chicago;

(g) from coercing or compelling independent producers to become members of the Pure Milk Association or to enter into agreements with it, by threats, intimidation or acts of violence;

(h) from refusing to sell milk to any distributor because of his sales policies, the manner or method of distribution employed by him or the price at which he sells milk or cream;

(i) from adopting or enforcing a base and surplus plan, or any other plan designed to equalize or level out the quantity of milk produced by member-producers, without first submitting such plan to the Secretary of Agriculture of the United States at least 60 days prior to the effective date thereof. If the Secretary shall within such time determine that the plan submitted is not fair and equitable as between the members of

the Pure Milk Association, and notify the Association accordingly, it shall not become effective.

And said defendants named in this paragraph VI of this decree, their officers, agents, employees, representatives, successors, and each of them, are further enjoined and restrained from carrying out or performing the provisions of any contract or agreement or from making, carrying out or performing any provisions in any contract or agreement which provisions are inconsistent with, contrary to, or prohibited by the terms of this decree, and from aiding, abetting or assisting others to do any of the things prohibited by this decree.

VII

That nothing contained in this decree shall prevent or be construed to prevent the Pure Milk Association from selecting its members or from adopting reasonable rules and regulations for the conduct of its members; nor shall this decree prevent or be construed to prevent the defendants named in paragraph IV, or any of them, or any other distributor or distributors and the defendants named in paragraph VI from bargaining collectively with each other, or from making and entering into lawful contracts concerning prices, terms and conditions for the purpose and sale of milk, subject to the limitations of this decree; and without limiting the general provisions of this paragraph, such contracts may provide that the purchaser shall be entitled to as favorable terms as other purchasers from the same seller, and may provide for the arbitration of disputes arising in connection with the purchase and sale of milk, provided, however, that any such arbitration shall be conducted by arbitrators selected, one by the distributors, one by the Pure Milk Association and one by the Senior District Judge of the District Court of the United States for the Northern District of Illinois, Eastern Division, or in the event the parties thereto agree, such arbitration shall be conducted in the manner provided by Section 3 of the Agricultural Marketing Agreement Act of 1937, 50 Stat. 248, 7 U. S. C. 671.

Except as to acts or conduct specifically prohibited herein the provisions of this decree shall not be deemed or construed to restrict any rights conferred or duties imposed upon the defendants named in paragraph VI by the provisions of the Clayton Act (15 U. S. C. Sec. 17), the Capper Volstead Act (7 U. S. C. 291, 292) or any other act of Congress dealing with or relating to agricultural cooperative associations.

VIII

That the defendants, Milk Wagon Drivers' Union Local 753, International Brotherhood of Teamsters, Chauffeurs, Stablemen and Helpers of America, Robert G. Fitchie, James Kennedy, Steve Sumner, Fred C. Dahms, F. Ray Bryant, and John O'Connor, and their and each of their successors, officers, agents, employees, representatives, members, and all persons acting under, through or for them, be and they hereby are enjoined and restrained:

(a) from inducing, coercing, compelling, or attempting to induce, coerce or compel, any distributor or distributors to pay or to charge any price or prices fixed or advocated by said defendants or by any other distributor for milk or cream purchased or sold for distribution or distributed in the City of Chicago;

(b) from obstructing, hampering or preventing any distributor from selling to or soliciting any customer or customers of any other distributor or distributors;

(c) from preventing, hampering, or obstructing or placing restrictions upon sales by any distributor to or through stores, milk depots, vending machines, vendors, or others; the size or type of containers or the size or type of vehicles used by any distributor or distributors; the kind or kinds of dairy products distributed or sold by any distributor or distributors; the advertising programs or policies of any distributor or dis-

tributors or the manner of solicitation of business by any distributor or distributors; the hiring of solicitors or the use or employment of more than one employee on any vehicle used in the sale and delivery of milk or other dairy products by any distributor or distributors; the purchase of the business, assets, or capital stock of any other person, firm or corporation engaged in the sale, processing, or distribution of fluid milk or other dairy products; provided, that nothing contained herein shall be construed to prevent the defendants named in paragraph VIII from seeking, securing, entering into, or using lawful means to enforce agreements as to the minimum number of employees to be used on any vehicle or as to wages, commissions, hours, and working conditions of or for any employee or solicitor; nor shall this decree be construed to prevent said defendants from (1) refusing to deliver products other than dairy products or (2) requiring compensation for the delivery of free goods; provided, further, that the restraining provisions of this sub-paragraph (c) shall not be construed to prevent the defendants named in this paragraph VIII from using lawful means to effect a lawful unionization of milk wagon drivers, vendors or others delivering milk in the City of Chicago, but it is not intended that this provision shall be construed to be an admission by any of the parties hereto or a finding by the court that the unionization of vendors is lawful or unlawful.

(d) from denying membership, by unreasonable or discriminatory initiation fees or dues or by any other means or practices, to duly qualified drivers employed by any distributor because such distributor fails or refuses to pay or charge any price or prices fixed or advocated by any defendant or by others for milk or cream purchased or sold for distribution or distributed in the City of Chicago;

(e) from preventing, hindering, restraining or delaying the transportation or delivery of milk or cream into the City of Chicago, or the sale, delivery or distribution of milk or cream within the City of Chicago by means of force or violence or threats of force or violence;

(f) from denying or refusing membership in the Milk Wagon Drivers' Union, Local 753, to duly qualified drivers in the employ of any distributor or distributors, because such distributor or distributors induce or attempt to induce member producers to withdraw from the Pure Milk Association or who purchase milk from producers who are not members of the Pure Milk Association;

(g) from compelling or coercing, or attempting to compel or coerce, prospective independent distributors to acquire the business of existing distributors as a condition precedent to entering into the milk business in the City of Chicago;

(h) from compelling or coercing or attempting to compel or coerce any distributor not to serve any customer served by any other distributor or not to take customers away from any other distributor;

(i) from refusing to enter into a labor contract with any distributor except on condition that such distributor shall agree (1) not to serve any customer served by any other distributor, or (2) not to take any customer away from any other distributor.

And said defendants named in this paragraph VIII, their successors, officers, agents, employees, representatives, members, and each of them, are further enjoined and restrained from carrying out or performing the provisions of any contract or agreement or from mak-

ing, carrying out or performing any provisions in any contract or agreement which provisions are inconsistent with, contrary to, or prohibited by the terms of this decree, and from aiding, abetting, or assisting others to do any of the things prohibited by this decree.

IX

That nothing contained in this decree shall prevent or be construed to prevent the defendants named in paragraph VIII hereof from:

(a) seeking, securing, entering into, or using lawful means to enforce, agreements with distributors or other employers in the City of Chicago covering wages, hours, or working conditions;

(b) seeking to bargain collectively or bargaining collectively for and on behalf of the members of Milk Wagon Drivers' Union, Local 753;

(c) lawfully and peacefully picketing, striking or refusing to work.

That nothing contained in this decree shall prevent or be construed to prevent the Milk Wagon Drivers' Union, Local 753, from selecting it membership (except as provided in subparagraphs (d) and (f) of paragraph VIII), or from adopting and enforcing reasonable rules and regulations for the conduct of its members, nor shall this decree be construed to prevent the defendants named in paragraph VIII and the defendants named in paragraph IV hereof, or any of them, from bargaining collectively, or making or entering into lawful contracts respecting terms and conditions of employment, including the right to arbitrate disputes with respect to the terms thereof.

X

That nothing contained in this decree shall prevent or be construed to prevent the defendants, or any of them, from exercising any right, or performing any act, granted or required by any order of, or marketing agreement entered into with, the Secretary of Agriculture issued or made pursuant to the Agricultural Marketing Agreement Act of 1937, or acts amendatory thereof or supplementary thereto.

XI

That if obligations are imposed upon, or rights granted to, the defendants, or any of them, by the laws or regulations of any state or of the Federal Government, which are inconsistent with the terms of this decree, the Court, upon application of the defendants or any of them and reasonable notice to the Attorney General, and to the other parties hereto, shall from time to time enter orders relieving such defendants, or any of them, from compliance with any requirements of this decree in conflict with such laws or regulations; and the right of the defendants to make such applications and to obtain such relief is expressly granted.

XII

That for the purpose of securing compliance with this decree, and for no other purpose, duly authorized representatives of the Department of Justice shall, on the written request of the Attorney General or an Assistant Attorney General and on reasonable notice as to time and subject matter to the defendants made to the principal office of the defendants, be permitted (1) reasonable access, during the office hours of the defendants, to all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of the defendants, relating to any of the matters contained in this decree (2) subject to the reasonable convenience of the defendants and without restraint or interference from them, and subject to any legally recognized privilege, to interview officers or employees of the defendants, who may have counsel present, regarding any such matters; and the defendants, on such request, shall submit such reports in respect of any such matters as may from time to time

be reasonably necessary for the proper enforcement of this decree; provided, however, that information obtained by the means permitted in this paragraph shall not 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 or as otherwise required by law.

XIII

Jurisdiction of this cause is retained for the purpose of enabling any of the parties to this decree to apply to the Court at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out of this decree, for the modification thereof, for the enforcement of compliance therewith or for the punishment of violations thereof.

XIV

That this decree shall have no effect with respect to the defendants' acts and conduct without the Continental United States of America, nor to their acts and conduct within the Continental United States of America except as such acts and conduct relate to or affect the production, transportation, sale or delivery of milk or cream for consumption in the City of Chicago.

XV

That this decree shall become effective twenty (20) days after the date hereof.

XVI

That this decree be entered without costs to any of the parties.

Dated September 16, 1940.

CHARLES E. WOODWARD,
United States District Judge.

United States v. Kearney & Trecker Corporation, et al.

Civil Action No. 3337

Year Judgment Entered: 1941

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States of America v. Kearney & Trecker Corporation, Brown & Sharpe Manufacturing Company, and The Cincinnati Milling Machine Company., U.S. District Court, N.D. Illinois, 1940-1943 Trade Cases ¶56,147, (Aug. 22, 1941)

United States of America v. Kearney & Trecker Corporation, Brown & Sharpe Manufacturing Company, and The Cincinnati Milling Machine Company.

1940-1943 Trade Cases ¶56,147. U.S. District Court, N.D. Illinois, Eastern Division, August 22, 1941. Civil Action No. 3337.

Upon consent of all parties a final decree is entered in proceedings under the Sherman Anti-Trust Act, requiring defendant manufacturers to divest themselves of all rights in a patent covering a milling machine spindle and tool, and to transfer all rights thereunder to the public without payment of any compensation therefor.

Daniel B. Britt, Special Assistant to the Attorney General, Lyle L. Jones, Jr., and Robert Diller, Special Attorneys, J. Albert Woll, United States Attorney, and Thurman Arnold, Assistant Attorney General, Attorneys for the Plaintiff.

Lines, Spooner and Quarles, by Louis Quarles, Attorneys for Kearney & Trecker Corporation.

Swan, Keeney & Smith, by Eugene J. Phillips, Attorneys for Brown & Sharpe Manufacturing Company.

Winston, Strawn & Shaw, by Walter H. Jacobs, Attorneys for The Cincinnati Milling Machine Company.

Final Decree

SULLIVAN, J.: The plaintiff, United States of America, having filed its complaint herein on August 22, 1941, all the defendants having appeared and severally filed their answers to such complaint denying the substantive allegations thereof; all parties hereto by their respective attorneys herein having severally consented to the entry of this final decree herein without trial or adjudication of any issue of fact or law herein and without admission by any party in respect of any such issue;

Now, Therefore, before any testimony has been taken herein and without trial or adjudication of any issue of fact or law herein and upon consent of all parties hereto, it is hereby

Ordered, Adjudged and Decreed, as follows:

[*Jurisdiction of Court*]

I. That the Court has jurisdiction of the subject matter and of all the parties hereto; that the complaint states a cause of action against the defendants under the Act of Congress of July 2, 1890, entitled “An Act to Protect Trade and Commerce against Unlawful Restraints and Monopolies” and the acts amendatory thereof and supple mental thereto.

[*Issuance of Patent*]

II. United States Letters Patent No. 1,794,361 was duly issued on March 3, 1931 to the defendants, Kearney & Trecker Corporation, Brown & Sharpe Manufacturing Company, and The Cincinnati Milling Ma chine Company, as assignees, and covers five (5) claims on a “milling machine spindle and tool.”

[*Patent Rights Divested*]

III. The defendants, Kearney & Trecker Corporation, Brown & Sharpe Manufactur ing Company, and The Cincinnati Milling Machine Company, and each of them, their officers, managers, directors, agents and employees, and all persons acting under, through, or for them or any of them, be and they are hereby ordered

to divest them selves of all right, title and interest in and to said United States Letters Patent 1,794,361, and forthwith to take such steps as may be necessary to dedicate, transfer, and assign said Letters Patent and all rights thereunder to the public (including said defendants), without the payment of royalties or other compensation whatever therefor.

[*Inspection of Records*]

IV. For the purpose of securing compliance with this decree, and for no other purpose,' duly authorized representatives of the Department of Justice shall, on written consent of the Attorney General or an Assistant Attorney General, and on reasonable notice to the defendants made at the principal office of the defendants, be permitted, subject to any legally recognized privilege (1) access, during the office hours of the defendants, to all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of the defendants, relating to any matters contained in this decree, (2) subject to the reasonable convenience of the defendants and without restraint or interference from them, to interview officers and employees of the defendants, who may have counsel present, regarding any such matters, and (3) the defendants, on such re quest, shall submit such reports in respect of any such matters as may from time to time be reasonably necessary for the proper enforcement of this decree; provided, how ever, that information obtained by the means, permitted in this paragraph shall not 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 for the purpose of securing compliance with this decree in which the United States is a party or as otherwise required by law.

[*Jurisdiction Retained*]

V. Jurisdiction of this cause is retained for the purpose of enabling any of the parties to this decree to apply to the Court at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out of this decree, for the modification thereof and enforcement of compliance therewith and for the punishment of violations thereof.

United States v. The Rail Joint Company, et al.

Civil Action No. 43-C-1295

Years Judgment Entered: 1944; 1946

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. The Rail Joint Company et al., U.S. District Court, N.D. Illinois, 1944-1945 Trade Cases ¶57,287, (Sept. 20, 1944)

United States v. The Rail Joint Company et al.

1944-1945 Trade Cases ¶57,287. U.S. District Court, N.D. Illinois, Eastern Division. Civil Action No. 43-C-1295. September 20, 1944.

In an anti-trust suit, defendants, engaged in the rail joint bar reforming industry, consent to a decree directing defendants to dedicate certain patents to the public; enjoining defendants from threatening to institute or instituting any proceeding for the enforcement of certain patents; enjoining defendants from entering into any agreement to fix prices, to agree upon the terms or conditions for the issuance or acceptance of patent rights, to fix price diGerentials between new rail joint bars and reformed rail joint bars, to limit the location or scope of operations of any plant, to allocate territories, customers or markets, or to refrain from competing in any territory or for any particular customers or markets; and declaring certain licenses and agreements illegal and enjoining defendants from reinstating them.

For the United States: Wendell Berge, Assistant Attorney General; George B. Haddock, Special Assistant to the Attorney General; and W. L. Hotchkiss, Special Assistant to the Attorney General.

For defendants: Mayer, Meyer, Austrian & Platt by Leo F. Tierney.

Decree entered by United States District Judge Barnes.

Final Judgment

Plaintiff, United States of America, having filed its Complaint herein on the 21st day of December 1943; the defendants, The Rail Joint Company, Poor & Company, Woodings-Verona Tool Works, Fred Poor, Victor C. Armstrong and Emanuel Wood-ings, having severally appeared and filed their Answers to such Complaint, denying the substantive allegations thereof: and each of the aforesaid parties, by their respective attorneys herein, having consented to the entry of this final judgment herein;

NOW, THEREFORE, without taking any testimony or evidence or making any Findings of Fact, it is hereby

ORDERED, ADJUDGED AND DECREED as follows:

I

[*Jurisdiction and Cause of Action*]

The Court has jurisdiction of the subject matter hereof and of all of the said parties hereto, and the Complaint states a cause of action against the said parties hereto under the Act of Congress of July 2, 1890, entitled “An Act to protect trade and commerce against unlawful restraints and monopolies,” and acts amendatory thereof and supplemental thereto.

II

[*Definition of “Reforming” or “Reformed”*]

As used in this Judgment the term “reforming” or “reformed” when applied to rail joint bars mean the reconditioning or the reworking of used or worn rail joint bars to original or new shapes, or to new or original fits with the rails on which they are to be used.

III

[*Patents to be Dedicated to Public*]

Each of the defendants, the Rail Joint Company, Poor & Company, Woodings-Verona Tool Works, and each of their subsidiaries, successors, assigns, officers, directors, agents, and employees, and all persons acting or claiming to act under, through or for them, or any of them, is hereby ordered and directed to forthwith take such steps as may be necessary to dedicate to the public the following patents owned by such defendants:

Patents owned by The Rail Joint Company:

Patentee	Patent No.	Date
Armstrong	1,833,550	November 24, 1931
Disbrow	1,641,416	September 6, 1927
Thomson	1,829,247	October 27, 1931

Patents owned by Woodings-Verona Tool Works:

Patentee	Patent No.	Date
Woodings	1,728,225	January 6, 1931

Such dedication shall be without any restriction or condition and shall extend to all rights under such patents and under any reissue of any such patent.

IV

[*Activities Enjoined*]

Each of the defendants, the Rail Joint Company, Poor & Company, and Woodings-Verona Tool Works, Fred Poor, Victor C. Armstrong, and Emanuel Woodings, and each of their subsidiaries, successors, assigns, officers, directors, employees, and agents, and all persons acting or claiming to act under, through or for them, or any of them, is hereby enjoined and restrained from doing, attempting to do, or inducing others to do, the following:

(a) Threatening, to institute, instituting or maintaining any proceeding in any court for the enforcement of any right claimed under any of the patents listed in the Exhibits attached here to and marked “A”, “B”, and “C” or under any reissue of any such patent;

(b) Threatening to institute, instituting or maintaining any suit or proceeding under any United States Letters Patent applied for or issued on or prior to the date of the entry of this judgment, in any court on account of the reforming by any person of rail joint bars into an unpatented form or design or into the original form or design or into substantially the original form or design of such bars or on account of the use or sale by any person of any bar so reformed into an unpatented form or design or into its original form or design or into substantially its original form or de sign;

(c) Threatening to institute, instituting or maintaining any suit or proceeding in any court under any United States Letters Patent applied for after the date of the entry of this judgment under an assertion that the reforming of any rail joint bar into its original form or design or into substantially its original form or design or the use or sale of any rail joint bar so re formed, infringes a patent claiming such form or design as an invention.

V

[*Agreements Enjoined*]

Each of the defendants, the Rail Joint Company, Poor & Company, and Woodings-Verona Tool Works, Fred Poor, Victor C. Armstrong, and Emanuel Woodings, and each of their subsidiaries, successors, officers, directors, employees, and agents, and all persons acting or claiming to act under, through or for them, or any of them, is hereby enjoined and restrained from entering into, adhering to, or furthering any contract, agreement, license, cross-license, understanding, plan or program . among themselves or with any other person to:

(a) Determine, fix, maintain or adhere to prices, terms or conditions to be quoted, sub mitted to or required of any other person for the reforming of rail joint bars or for the pur chase or sale of reformed rail joint bars;

(b) Agree upon the terms or conditions for the issuance to or acceptance from any other person of any right under or interest in any patent right or license or sub-license under any patent right, relating to the reforming of rail joint bars;

(c) Determine, fix, maintain or adhere to price differentials or any other differential. between new rail joint bars and the reforming of rail joint bars or reformed rail joint bars, in deal ing with any other person;

(d) Limit, restrict, or determine the location of any rail joint bar reforming plant, or the scope of operations of any such plant, whether as. to territory, service or otherwise:

(e) Allocate territories, customers or markets for the reforming of rail joint bars;

(f) Refrain from competing in any territory, or for any particular customers or markets in relation to the reforming of rail joint bars.

VI

[*Licenses and Agreements Declared Illegal*]

The licenses and agreements listed in Exhibit "D" attached hereto and all licenses and agreements supplementary or amendatory to such listed licenses and agreements are hereby declared to be illegal, and each of the defendants, the Rail Joint Company, Poor & Company, and Woodings-Verona Tool Works, Fred Poor, Victor C. Armstrong, and Emanuel Woodings, and each of their successors, officers, directors, employees, and agents, and all persons acting or claiming to act under, through or for them, or any of them is hereby enjoined and restrained from reinstating any of such licenses or agreements and from, by any arrangement, plan or program, reviving the operation or effects of such licenses and agreements.

VII

Access of Department of Justice to Records; Right to Interview]

For the purpose of securing compliance with, this judgment, duly authorized representatives of the Department of Justice on written request of the Attorney General of the United States or an Assistant Attorney General, and on reasonable notice to a corporate defendant, shall be permitted (1) access during the office hours of such defendant to all books, ledgers, accounts, correspondence, memoranda or other records and documents in the possession or under the control of such defendant relating to any matter contained in this judgment; (2) without restraint or interference from any corporate defendant, to interview officers or employees of such defendant, who may have counsel present regarding any such matter. Each of the defendants, on such written request, shall submit copies of any agreements or statements of any understandings, relating to patent rights for the reforming of rail Joint bars to which such defendant or its successors may be a party or a participant; *provided, however,* that information obtained by the means permitted in this paragraph shall not 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 for the purpose of securing compliance with this judgment in which the United States is a party or as is otherwise required by law.

VIII

[*Report of Compliance*]

Each of the corporate signatory defendants and each of their successors shall file with this court and with the Attorney General of the United States or with the Assistant Attorney General in charge of the Antitrust Division, a report, within ninety days after the date of the entry of this judgment, of all action taken by them to comply with or conform to the terms of Section III of this judgment.

IX

[*Jurisdiction Retained*]

Jurisdiction of this cause is retained for the purpose of enabling any of the parties to this judgment to apply to the court at any time for such further orders and directions as may be appropriate for the construction or carrying out of this judgment, for the enforcement of compliance therewith, and for the punishment of violations thereof.

X

[*Activities for War Purposes*]

Nothing in this judgment shall be construed to restrict or prohibit in any way any action taken by any defendant, its successors, subsidiaries, officers, or employees in good faith and within the fair intendment of the letter of the Attorney General of the United States to the General Counsel of the Office of Production Management, dated April 29, 1941 (a copy of which is attached hereto as "Exhibit E") [reported at ¶ 1151 and omitted here], or with any amendment or amplifications thereof by the Attorney General, or in accordance with any arrangement of similar character between the Attorney General and any National War Agency in effect at the time, provided such letter or arrangement has not at the time of such action been withdrawn or cancelled with respect thereto.

Exhibit A

Patentee	Patent No.	Date
Thomson	1,208,698	December 12, 1916
"	1,374,782	April 12, 1921
"	Reissue 15,773	February 19, 1924
Woodings	1,547,853	July 28, 1925
"	Reissue 18,794	April 11, 1933
Langford	1,562,423	November 17, 1925
"	Reissue 17,561	January 14, 1930
Langford	Reissue 17,596	February 18, 1930
Langford	Reissue 18,213	September 29, 1931
Langford	Reissue 19,638	July 9, 1935
Langford	1,659,776	February 21, 1928
Langford	1,712,506	May 14, 1929
Langford	1,724,031	August 13, 1929
Langford	1,732,650	October 22, 1929
Langford	Reissue 18,011	March 24, 1931
Langford	1,757,774	May 6, 1930
Langford	Reissue 17,963	February 10, 1931
Woodings	1,788,225	January 6, 1931
Langford	1,799,382	April 7, 1931
Langford	1,804,792	May 12, 1931
Langford	1,808,466	June 2, 1931
Langford	Reissue, 18,165	August 25, 1931
Langford	1,808,467	June 2, 1931
Langford	1,808,468	June 2, 1931
Langford	Reissue 20,874	October 4, 1938
Thomson	1,829,247	October 27, 1931
Langford	1,836,032	December 15, 1931
Langford	1,858,401	May 17, 1932

Langford	2,134,449	October 25, 1938
Langford	2,134,450 [2]	October 25, 1938

Exhibit B

Patentee	Patent No.	Date
Langford	1,759,458	May 20, 1930
Langford	1,799,380	April 7, 1931
Langford	Reissue 18,568	August 16, 1932
Langford	1,799,381	April 7, 1931
Langford	1,814,835	July 14, 1931
Langford	1,833,026	November 24, 1931
Langford	1,836,033	December 15, 1931
Langford	1,842,412	January 26, 1932
Langford	1,865,194	June 28, 1932
Langford	1,883,982	October 25, 1932
Langford	1,890,687	December 13, 1932
Langford	2,034,043	March 17, 1936
Langford	2,034,044	March 17, 1936
Langford	2.034,045	March 17, 1936
Langford	2,034,046	March 17, 1936
Langford	2;060,996	November 17, 1936

Exhibit C

Patentee	Patent No.	Date
Armstrong	1,833,550	November 24, 1931
Disbrow	1,641,416	September 6, 1927
Faries	1,948,102	February 20, 1934

Exhibit D

Date License Executed	Parties to the Agreement
September 12, 1931	McKenna Process Company (Licensor) The Rail Joint Company (Licensee) (Designated as License Agreement “A”)
September 12, 1931	The Rail Joint Company (Licensor) McKenna Process Company (Licensee) (Designated as License Agreement “B”)
September 12, 1931	The Rail Joint Company (Licensor) McKenna Process Company (Licensee) (Designated as License Agreement “C”)
October 19, 1931	Woodings-Verona Tool Works (Licensor) The Rail Joint Company (Licensee)
October 19, 1931	The Rail Joint Company (Licensor) Woodings-Verona Tool Works (Licensee)
October 5, 1931	The Rail Joint Company (Licensor) Tredegar Company (Licensee)
October 7, 1931	The Rail Joint Company (Licensor) Rail Joint Reforming Company (Licensee)
October 15, 1931	The Rail Joint Company (Licensor) Mississippi Valley Structural Steel Company (Licensee)
September 28, 1931	Agreement between The Rail Joint Company and Woodings - Verona Tool works supplementing the license of October 19, 1931, entered into between Rail Joint as Licensor and Woodings as Licensee,

October 26, 1931	The Rail Joint Company (Licensor) Mohawk Equipment Co. (Licensee)
November 3, 1931	The Rail Joint Company (Licensor) Ray O. Shaffer (Licensee)
November 18, 1931	The Rail Joint Company (Licensor) Texas Rail Joint Company (Licensee)
October 31, 1932	Supplement to License Agreements “B” and “C” entered into between The Rail Joint Company and McKenna Process Company
March 8, 1935	The Rail Joint Company (Licensor) Poole & McGonigle, Inc., (Licensee) (License under Disbrow Patent No. 1,641,416)
October 11, 1935	McKenna Process Company (Licensor) The Rail Joint Company (Licensee)
December 15, 1935	Agreement between The Rail Joint Company and Woodings - Verona Tool Works supplementing and amending their agreement of October 19, 1931.
February 1, 1936	The Rail Joint Company (Licensor) Youngstown Steel Car Company (Licensee)
April, 1936	Agreement between The Rail Joint Company and McKenna Process Company cancelling License Agreement “B” and amending Agreement “A”
June 27, 1936	The Rail Joint Company (Licensor) Mohawk Equipment Co. (Licensee) (License under Disbrow Patent No. 1,641,416 and Farles No. 1,948,102)
May 24, 1939	George Langford (Licensor) The Rail Joint Company (Licensee)

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. The Rail Joint Company et al., U.S. District Court, N.D. Illinois, 1944-1945 Trade Cases ¶57,287, (Sept. 20, 1944)

United States v. The Rail Joint Company et al.

1944-1945 Trade Cases ¶57,287. U.S. District Court, N.D. Illinois, Eastern Division. Civil Action No. 43-C-1295. September 20, 1944.

In an anti-trust suit, defendants, engaged in the rail joint bar reforming industry, consent to a decree directing defendants to dedicate certain patents to the public; enjoining defendants from threatening to institute or instituting any proceeding for the enforcement of certain patents; enjoining defendants from entering into any agreement to fix prices, to agree upon the terms or conditions for the issuance or acceptance of patent rights, to fix price diGerentials between new rail joint bars and reformed rail joint bars, to limit the location or scope of operations of any plant, to allocate territories, customers or markets, or to refrain from competing in any territory or for any particular customers or markets; and declaring certain licenses and agreements illegal and enjoining defendants from reinstating them.

For the United States: Wendell Berge, Assistant Attorney General; George B. Haddock, Special Assistant to the Attorney General; and W. L. Hotchkiss, Special Assistant to the Attorney General.

For defendants: Mayer, Meyer, Austrian & Platt by Leo F. Tierney.

Decree entered by United States District Judge Barnes.

Final Judgment

Plaintiff, United States of America, having filed its Complaint herein on the 21st day of December 1943; the defendants, The Rail Joint Company, Poor & Company, Woodings-Verona Tool Works, Fred Poor, Victor C. Armstrong and Emanuel Wood-ings, having severally appeared and filed their Answers to such Complaint, denying the substantive allegations thereof: and each of the aforesaid parties, by their respective attorneys herein, having consented to the entry of this final judgment herein;

NOW, THEREFORE, without taking any testimony or evidence or making any Findings of Fact, it is hereby

ORDERED, ADJUDGED AND DECREED as follows:

I

[*Jurisdiction and Cause of Action*]

The Court has jurisdiction of the subject matter hereof and of all of the said parties hereto, and the Complaint states a cause of action against the said parties hereto under the Act of Congress of July 2, 1890, entitled “An Act to protect trade and commerce against unlawful restraints and monopolies,” and acts amendatory thereof and supplemental thereto.

II

[*Definition of “Reforming” or “Reformed”*]

As used in this Judgment the term “reforming” or “reformed” when applied to rail joint bars mean the reconditioning or the reworking of used or worn rail joint bars to original or new shapes, or to new or original fits with the rails on which they are to be used.

III

[*Patents to be Dedicated to Public*]

Each of the defendants, the Rail Joint Company, Poor & Company, Woodings-Verona Tool Works, and each of their subsidiaries, successors, assigns, officers, directors, agents, and employees, and all persons acting or claiming to act under, through or for them, or any of them, is hereby ordered and directed to forthwith take such steps as may be necessary to dedicate to the public the following patents owned by such defendants:

Patents owned by The Rail Joint Company:

Patentee	Patent No.	Date
Armstrong	1,833,550	November 24, 1931
Disbrow	1,641,416	September 6, 1927
Thomson	1,829,247	October 27, 1931

Patents owned by Woodings-Verona Tool Works:

Patentee	Patent No.	Date
Woodings	1,728,225	January 6, 1931

Such dedication shall be without any restriction or condition and shall extend to all rights under such patents and under any reissue of any such patent.

IV

[*Activities Enjoined*]

Each of the defendants, the Rail Joint Company, Poor & Company, and Woodings-Verona Tool Works, Fred Poor, Victor C. Armstrong, and Emanuel Woodings, and each of their subsidiaries, successors, assigns, officers, directors, employees, and agents, and all persons acting or claiming to act under, through or for them, or any of them, is hereby enjoined and restrained from doing, attempting to do, or inducing others to do, the following:

(a) Threatening, to institute, instituting or maintaining any proceeding in any court for the enforcement of any right claimed under any of the patents listed in the Exhibits attached here to and marked “A”, “B”, and “C” or under any reissue of any such patent;

(b) Threatening to institute, instituting or maintaining any suit or proceeding under any United States Letters Patent applied for or issued on or prior to the date of the entry of this judgment, in any court on account of the reforming by any person of rail joint bars into an unpatented form or design or into the original form or design or into substantially the original form or design of such bars or on account of the use or sale by any person of any bar so reformed into an unpatented form or design or into its original form or design or into substantially its original form or de sign;

(c) Threatening to institute, instituting or maintaining any suit or proceeding in any court under any United States Letters Patent applied for after the date of the entry of this judgment under an assertion that the reforming of any rail joint bar into its original form or design or into substantially its original form or design or the use or sale of any rail joint bar so re formed, infringes a patent claiming such form or design as an invention.

V

[*Agreements Enjoined*]

Each of the defendants, the Rail Joint Company, Poor & Company, and Woodings-Verona Tool Works, Fred Poor, Victor C. Armstrong, and Emanuel Woodings, and each of their subsidiaries, successors, officers, directors, employees, and agents, and all persons acting or claiming to act under, through or for them, or any of them, is hereby enjoined and restrained from entering into, adhering to, or furthering any contract, agreement, license, cross-license, understanding, plan or program . among themselves or with any other person to:

(a) Determine, fix, maintain or adhere to prices, terms or conditions to be quoted, sub mitted to or required of any other person for the reforming of rail joint bars or for the pur chase or sale of reformed rail joint bars;

(b) Agree upon the terms or conditions for the issuance to or acceptance from any other person of any right under or interest in any patent right or license or sub-license under any patent right, relating to the reforming of rail joint bars;

(c) Determine, fix, maintain or adhere to price differentials or any other differential. between new rail joint bars and the reforming of rail joint bars or reformed rail joint bars, in deal ing with any other person;

(d) Limit, restrict, or determine the location of any rail joint bar reforming plant, or the scope of operations of any such plant, whether as. to territory, service or otherwise:

(e) Allocate territories, customers or markets for the reforming of rail joint bars;

(f) Refrain from competing in any territory, or for any particular customers or markets in relation to the reforming of rail joint bars.

VI

[*Licenses and Agreements Declared Illegal*]

The licenses and agreements listed in Exhibit "D" attached hereto and all licenses and agreements supplementary or amendatory to such listed licenses and agreements are hereby declared to be illegal, and each of the defendants, the Rail Joint Company, Poor & Company, and Woodings-Verona Tool Works, Fred Poor, Victor C. Armstrong, and Emanuel Woodings, and each of their successors, officers, directors, employees, and agents, and all persons acting or claiming to act under, through or for them, or any of them is hereby enjoined and restrained from reinstating any of such licenses or agreements and from, by any arrangement, plan or program, reviving the operation or effects of such licenses and agreements.

VII

Access of Department of Justice to Records; Right to Interview]

For the purpose of securing compliance with, this judgment, duly authorized representatives of the Department of Justice on written request of the Attorney General of the United States or an Assistant Attorney General, and on reasonable notice to a corporate defendant, shall be permitted (1) access during the office hours of such defendant to all books, ledgers, accounts, correspondence, memoranda or other records and documents in the possession or under the control of such defendant relating to any matter contained in this judgment; (2) without restraint or interference from any corporate defendant, to interview officers or employees of such defendant, who may have counsel present regarding any such matter. Each of the defendants, on such written request, shall submit copies of any agreements or statements of any understandings, relating to patent rights for the reforming of rail Joint bars to which such defendant or its successors may be a party or a participant; *provided, however,* that information obtained by the means permitted in this paragraph shall not 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 for the purpose of securing compliance with this judgment in which the United States is a party or as is otherwise required by law.

VIII

[*Report of Compliance*]

Each of the corporate signatory defendants and each of their successors shall file with this court and with the Attorney General of the United States or with the Assistant Attorney General in charge of the Antitrust Division, a report, within ninety days after the date of the entry of this judgment, of all action taken by them to comply with or conform to the terms of Section III of this judgment.

IX

[*Jurisdiction Retained*]

Jurisdiction of this cause is retained for the purpose of enabling any of the parties to this judgment to apply to the court at any time for such further orders and directions as may be appropriate for the construction or carrying out of this judgment, for the enforcement of compliance therewith, and for the punishment of violations thereof.

X

[*Activities for War Purposes*]

Nothing in this judgment shall be construed to restrict or prohibit in any way any action taken by any defendant, its successors, subsidiaries, officers, or employees in good faith and within the fair intendment of the letter of the Attorney General of the United States to the General Counsel of the Office of Production Management, dated April 29, 1941 (a copy of which is attached hereto as "Exhibit E") [reported at ¶ 1151 and omitted here], or with any amendment or amplifications thereof by the Attorney General, or in accordance with any arrangement of similar character between the Attorney General and any National War Agency in effect at the time, provided such letter or arrangement has not at the time of such action been withdrawn or cancelled with respect thereto.

Exhibit A

Patentee	Patent No.	Date
Thomson	1,208,698	December 12, 1916
"	1,374,782	April 12, 1921
"	Reissue 15,773	February 19, 1924
Woodings	1,547,853	July 28, 1925
"	Reissue 18,794	April 11, 1933
Langford	1,562,423	November 17, 1925
"	Reissue 17,561	January 14, 1930
Langford	Reissue 17,596	February 18, 1930
Langford	Reissue 18,213	September 29, 1931
Langford	Reissue 19,638	July 9, 1935
Langford	1,659,776	February 21, 1928
Langford	1,712,506	May 14, 1929
Langford	1,724,031	August 13, 1929
Langford	1,732,650	October 22, 1929
Langford	Reissue 18,011	March 24, 1931
Langford	1,757,774	May 6, 1930
Langford	Reissue 17,963	February 10, 1931
Woodings	1,788,225	January 6, 1931
Langford	1,799,382	April 7, 1931
Langford	1,804,792	May 12, 1931
Langford	1,808,466	June 2, 1931
Langford	Reissue, 18,165	August 25, 1931
Langford	1,808,467	June 2, 1931
Langford	1,808,468	June 2, 1931
Langford	Reissue 20,874	October 4, 1938
Thomson	1,829,247	October 27, 1931
Langford	1,836,032	December 15, 1931
Langford	1,858,401	May 17, 1932

Langford	2,134,449	October 25, 1938
Langford	2,134,450 [2]	October 25, 1938

Exhibit B

Patentee	Patent No.	Date
Langford	1,759,458	May 20, 1930
Langford	1,799,380	April 7, 1931
Langford	Reissue 18,568	August 16, 1932
Langford	1,799,381	April 7, 1931
Langford	1,814,835	July 14, 1931
Langford	1,833,026	November 24, 1931
Langford	1,836,033	December 15, 1931
Langford	1,842,412	January 26, 1932
Langford	1,865,194	June 28, 1932
Langford	1,883,982	October 25, 1932
Langford	1,890,687	December 13, 1932
Langford	2,034,043	March 17, 1936
Langford	2,034,044	March 17, 1936
Langford	2.034,045	March 17, 1936
Langford	2,034,046	March 17, 1936
Langford	2;060,996	November 17, 1936

Exhibit C

Patentee	Patent No.	Date
Armstrong	1,833,550	November 24, 1931
Disbrow	1,641,416	September 6, 1927
Faries	1,948,102	February 20, 1934

Exhibit D

Date License Executed	Parties to the Agreement
September 12, 1931	McKenna Process Company (Licensor) The Rail Joint Company (Licensee) (Designated as License Agreement “A”)
September 12, 1931	The Rail Joint Company (Licensor) McKenna Process Company (Licensee) (Designated as License Agreement “B”)
September 12, 1931	The Rail Joint Company (Licensor) McKenna Process Company (Licensee) (Designated as License Agreement “C”)
October 19, 1931	Woodings-Verona Tool Works (Licensor) The Rail Joint Company (Licensee)
October 19, 1931	The Rail Joint Company (Licensor) Woodings-Verona Tool Works (Licensee)
October 5, 1931	The Rail Joint Company (Licensor) Tredegar Company (Licensee)
October 7, 1931	The Rail Joint Company (Licensor) Rail Joint Reforming Company (Licensee)
October 15, 1931	The Rail Joint Company (Licensor) Mississippi Valley Structural Steel Company (Licensee)
September 28, 1931	Agreement between The Rail Joint Company and Woodings - Verona Tool works supplementing the license of October 19, 1931, entered into between Rail Joint as Licensor and Woodings as Licensee,

October 26, 1931	The Rail Joint Company (Licensor) Mohawk Equipment Co. (Licensee)
November 3, 1931	The Rail Joint Company (Licensor) Ray O. Shaffer (Licensee)
November 18, 1931	The Rail Joint Company (Licensor) Texas Rail Joint Company (Licensee)
October 31, 1932	Supplement to License Agreements “B” and “C” entered into between The Rail Joint Company and McKenna Process Company
March 8, 1935	The Rail Joint Company (Licensor) Poole & McGonigle, Inc., (Licensee) (License under Disbrow Patent No. 1,641,416)
October 11, 1935	McKenna Process Company (Licensor) The Rail Joint Company (Licensee)
December 15, 1935	Agreement between The Rail Joint Company and Woodings - Verona Tool Works supplementing and amending their agreement of October 19, 1931.
February 1, 1936	The Rail Joint Company (Licensor) Youngstown Steel Car Company (Licensee)
April, 1936	Agreement between The Rail Joint Company and McKenna Process Company cancelling License Agreement “B” and amending Agreement “A”
June 27, 1936	The Rail Joint Company (Licensor) Mohawk Equipment Co. (Licensee) (License under Disbrow Patent No. 1,641,416 and Farles No. 1,948,102)
May 24, 1939	George Langford (Licensor) The Rail Joint Company (Licensee)

United States v. U.S. Machine Corporation

Civil Action No. 45 C 620

Year Judgment Entered: 1945

UNITED STATES vs. U. S. MACHINE CORPORATION.

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

Civil Action No. 45C620

UNITED STATES OF AMERICA, PLAINTIFF,

vs.

U. S. MACHINE CORPORATION, DEFENDANT.

FINAL JUDGMENT

Plaintiff, United States of America, having filed its Complaint herein on the 3rd day of May, 1945; the defendant having appeared, by its attorney, and having consented to the entry of this final judgment herein;

NOW, THEREFORE, without taking any testimony or evidence or making any Findings of Fact, it is hereby

ORDERED, ADJUDGED AND DECREED as follows:

I

The Court has jurisdiction of the subject matter hereof and of parties hereto, and the Complaint states a cause of action against the said defendant herein under Section 1 of the Act of Congress of July 2, 1890, entitled "An

Act to protect trade and commerce against unlawful restraints and monopolies," and acts amendatory thereof and supplemental thereto.

II

The defendant and its subsidiaries, successors, officers, directors, employees and agents and all persons acting or claiming to act under, through or for said defendant are hereby enjoined and restrained from directly or indirectly entering into, adhering to or furthering any contract, agreement, license, franchise, understanding, plan or program with any manufacturer or distributor of stokers to:

(a) Determine, fix, maintain or adhere to prices, terms, conditions of sale, pricing formulae or price differentials to be imposed on, required of, charged or offered, to any other person or by any other person, for the installation of stokers or for any service in connection with such installation;

(b) Determine, fix, maintain or adhere to price margins or differentials between the cost or price of stokers, with or without accessories thereto, and the installation of stokers, with or without accessories thereto.

III

The defendant and its subsidiaries, successors, officers, directors, employees and agents and all persons acting or claiming to act under, through or for said defendant are hereby enjoined and restrained from:

(a) Establishing, maintaining, adhering to or furthering, directly or indirectly, any plan or program, bid depository or reporting system by which prices, quotations, bids, terms or conditions of sale, offered or to be offered, quoted or to be quoted, to any customer for the installation of stokers are made available to any competitor;

(b) Establishing, maintaining, adhering to or furthering, directly or indirectly, whether by threats of discrimination or otherwise, any plan or program, bid depository or reporting system which has the effect directly or indirectly of assigning to a seller or installer of stokers receiving an inquiry from a customer, an exclusive or preferential right to deal with such customer for the sale or for the installation of a stoker.

IV

The defendant and its officers, directors, agents, employees, successors, and assigns are ordered to destroy, upon the entry of this judgment, their accumulated files of protected inquiry notations filed with the said defendant by any distributor, dealer, seller or installer of stokers; and are hereby enjoined from directly or indirectly maintaining such files or any files similar thereto.

V

The defendant shall file with this Court and with the Attorney General of the United States or with the Assistant Attorney General in charge of the Antitrust Division a report within thirty days after the date of the entry of this judgment of all action taken by it to comply with, and to conform to, the terms of Paragraph IV of this judgment.

VI

For the purpose of securing compliance with this judgment, duly authorized representatives of the Department of Justice on written request of the Attorney General of the United States or an Assistant Attorney General, and on reasonable notice to the defendant, shall be permitted, subject to any legally recognized privilege against self-incrimination, (1) access during the office hours of such defendant to all books, ledgers, accounts, correspondence, memoranda or other records and documents in the possession or under the control of said defendant relating to any matter contained in this judgment; (2) without restraint or interference from the defendant, to interview officers or employees of said defendant, who may have counsel present, regarding any such matter; provided, however, that information obtained by the means permitted in this paragraph shall not 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 for the purpose of securing compliance with this judgment in which the United States is a party or as is otherwise permitted by law.

VII

Jurisdiction of this cause is retained for the purpose of enabling the parties to this judgment to apply to the court at any time for such further orders and directions as may be appropriate for the construction or carrying out of this judgment, for the enforcement of compliance therewith, and for the punishment of violations thereof.

Dated: May 3, 1945.

IGOE

United States District Judge

United States v. Automatic Sprinkler Company of America, et al.

Civil Action No. 46 C 1289

Year Judgment Entered: 1948

U. S. vs. AUTOMATIC SPRINKLER COMPANY.

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF ILLINOIS EASTERN DIVISION

Civil Action No. 46 C 1289.

UNITED STATES OF AMERICA, PLAINTIFF,

VS.

AUTOMATIC SPRINKLER COMPANY OF AMERICA, ET AL., DEFENDANTS.

FINAL JUDGMENT

Plaintiff, United States of America, having filed its complaint herein on July 11, 1946; all the defendants having appeared and severally filed their answers to such complaint denying any violation of law; and all parties by their respective attorneys herein having severally consented to the entry of this final judgment without trial or adjudication of any issue of fact or of law and without admission of any party herein in respect of any such issue;

NOW, THEREFORE, before any testimony has been taken herein, and without trial or adjudication of issues of fact or law herein, and upon consent of all parties hereto, it is hereby

ORDERED, ADJUDGED, AND DECREED, as follows:

I

That this Court has jurisdiction of the subject matter hereof and of all parties hereto; that the complaint states a cause of action against the defendants under Sections 1 and 2 of the Act of Congress of July 2, 1890, entitled "An Act to protect trade and commerce against unlawful restraints and monopolies," commonly known as the Sherman Act, and acts amendatory thereof and supplemental thereto.

II

As used in this judgment:

(a) "Defendants" refers to each and all of the defendants and each and all of their officers, directors, agents, employees, successors, subsidiaries, and assigns, and each person acting or claiming to act under, through, or for them or any of them;

(b) "Defendant Automatic" refers to Automatic Sprinkler Company of America, Automatic Sprinkler Corporation of America and their officers, directors, agents, employees, successors, subsidiaries, and assigns, and each person acting or claiming to act under, through, or for them, or any of them;

(c) "Person" means any individual, partnership, firm, corporation, association, trustee, or any other business or legal entity;

(d) "Rate-of-rise system" means any automatic sprinkler system for automatically distributing water upon a fire, which is operated by means of heat actuated devices used in conjunction with an adjustable releasing mechanism, and which is designated to operate when the rate of increase of temperature in the protected area exceeds a predetermined rate;

(e) "Rate-of-rise devices" means any of the heat actuated devices and adjustable releasing mechanisms by the means of which a rate-of-rise system is operated and any auxiliary devices specially designed for supervising a rate-of-rise system;

(f) "Rate-of-rise equipment" means any part, apparatus or accessories comprising or used in connection with a rate-of-rise system, with the exception of rate-of-rise devices;

(g) "Device patents" means all United States letters patent, and all applications for such letters patent listed in Appendix A hereof; all divisions, continuations, renewals, extensions or reissues of the foregoing patents and patent applications; all patents issued upon such applications; all patents covering any rate-of-rise devices or any process for the manufacture of rate-of-rise devices which may be issued to or acquired by defendants on or before December 31, 1952; and all such patents of which any defendant on or before that date becomes the licensee with the power to sub-license; provided that in so far as any claims of any of said patents cover combinations or systems (instead of devices) said patents with respect to such claims shall be treated as "system patents" hereunder and not "device patents";

(h) "System patents" means all United States letters patent, and all applications for such letters patent, listed in Appendix B hereof; all divisions, continuations, renewals, extensions, or reissues of the foregoing patents and patent applications; all patents covering any rate-of-rise system which may be issued to or acquired by defendants on or before December 31, 1952; and all such patents of which any defendant on or before that date becomes the licensee with the power to sublicense; provided that in so far as any claims of any of said patents cover devices (instead of combinations or systems) said patents with respect to such claims shall be treated as "device patents" hereunder and not "system patents";

(i) "1927-28 Agreements" means the following contracts and agreements:

The first agreement dated October 3, 1927, between Defendant Automatic and General Fire Extinguisher Company (now Grinnell Corporation), further identified as containing five numbered paragraphs.

The second agreement dated October 3, 1927, between Defendant Automatic and General Fire Extinguisher Company (now Grinnell Corporation), further identified as containing seventeen numbered paragraphs.

The agreement dated October 6, 1927, between Defendant Automatic and Globe Automatic Sprinkler Company of Pennsylvania.

The agreement dated January 14, 1928, between Defendant Automatic and H. G. Vogel Company.

The agreement dated March 8, 1928, between Defendant Automatic and Rockwood Sprinkler Company of Massachusetts.

The agreement dated March 3, 1928, between Defendant Automatic and Rhode Island Supply & Sprinkler Company (subsequently assigned to Rhode Island Supply & Engineering Company).

(j) "Necessary technical information" means the know-how and technical knowledge which are necessary for or useful to a licensee in the manufacture, installation, maintenance and operation of any rate-of-rise device or rate-of-rise system under patents licensed pursuant to the terms of this judgment.

III

The 1927-28 Agreements, as defined in this judgment, and each of them are hereby cancelled; and the defendants and each of them are hereby enjoined and restrained (1) from the further performance of any of the provisions of said agreements and of any agreements amendatory thereof or supplemental thereto, and (2) from entering into, adhering to, maintaining or furthering, directly or indirectly among themselves or with any other person, or claiming any rights under any contract, agreement, understanding, plan, program or course of conduct for the purpose or with the effect of continuing, reviving, or renewing any of said agreements.

IV

(a) The defendant Automatic is hereby ordered and directed, with respect to patents referred to in Section II hereof under its ownership or control, to grant to each applicant therefor at his option a non-exclusive license (1) to make, use and vend, under any, some or all of its device patents as defined; and/or (2) to install, use and vend, under any, some or all of its system patents as defined in this judgment. Defendant Automatic is hereby enjoined and restrained from making any assignment, sale or other disposition of any of said patents which would deprive it of the power or authority to grant such licenses, unless it requires, as a condition of such assignment, sale or other disposition, that the purchaser, transferee, or assignee shall observe the requirements of Sections IV, VI, VII, VIII and X of this judgment and the purchaser, transferee or assignee shall file with this Court, prior to consummation of said transaction, an undertaking to be bound by the provisions of said Sections IV, VI, VII, VIII and X of this judgment.

(b) If at any time or times hereafter any of the defendants shall grant to any other defendant a license to make, install, use or vend under any system patent or patents or any device patent or patents as herein defined, then at each such time and in each such event the defendant so licensing another defendant is hereby ordered and directed to grant to each applicant therefor a similar non-exclusive license (1) to make, use and vend under the device patent or patents so licensed to another defendant and/or (2) to install, use and vend under the system patent or patents so licensed to another defendant.

(c) Defendants are hereby enjoined and restrained from including any restriction or condition whatsoever in any license granted by them pursuant to the provisions of this Section except that (1) the license may be non-transferable; (2) a reasonable non-discriminatory royalty may be charged; (3) a reasonable provision may be made for inspection of the books and records of the licensee by an independent auditor or any person acceptable to the licensee who shall report to the licensor only the amount of the royalty due and payable; (4) reasonable provision may be made for cancellation of the license upon failure of the licensee to pay the royalties or to permit the inspection of his books and records as hereinabove provided; (5) the license must provide that the licensee may cancel the license at any time after one year from the initial date thereof by giving thirty (30) days notice in writing to the licensor; (6) the license shall provide that the licensee shall immediately have the benefit of any more favorable terms granted other licensees.

(d) Upon receipt of written request for a license under the provisions of this section, the defendant receiving such request shall advise the license applicant in writing of the royalty which it deems reasonable for the patent or patents to which the request pertains. If the parties are unable to agree upon a reasonable royalty within sixty (60) days from the date such request for the license was received by the defendant, the license applicant may forthwith apply to this Court for the determination of a reasonable royalty, and the defendant shall, upon receipt of notice of the filing of such court application, promptly give notice thereof to the Attorney General. In any such court proceeding, the burden of proof shall be on the defendant to establish the reasonableness of the royalty requested by it, and the reasonable royalty rates, if any, determined by the Court shall apply to the license applicant and all other licensees under the same patent or patents. For said sixty (60) day period and pending the completion of any such court proceeding, the applicant shall have the right to make, use and vend under the patent or patents to which his application pertains without payment of royalty or other compensation, but subject to the final judgment and order of the Court in such proceeding, and further subject to the following provisions: The defendant may apply to the Court to fix an interim royalty rate, pending final determination of what constitutes a reasonable royalty, if any. If the Court fixes such interim royalty rate, the defendant shall then issue and the court applicant shall accept a license, or as the case may be, a sublicense, providing for the periodic payment of royalties at such interim rate from the date of the filing of such court application by the applicant. If the court applicant fails to accept such license or fails to pay the interim royalty in accordance therewith, such action shall be ground for the dismissal of his application and for the rescission of any and all of the applicant's rights under this subsection. Where an interim license or sublicense has been issued pursuant to this subsection, or where the applicant has exercised a right to make, use and vend hereunder, reasonable royalty rates, if any, as finally determined by the Court shall be retroactive for the applicant and all other licensees under the same patents to the date the applicant files his application with the Court.

(e) Nothing herein shall prevent any applicant from attacking at any time the validity or scope of any of said patents nor shall this judgment be construed as importing any validity or value to any of said patents.

V

Defendants are enjoined and restrained from instituting or threatening to institute, or maintaining, or continuing any action, suit or proceeding for acts of infringement of any device or system patent occurring prior to the date of this judgment.

VI

The defendants are hereby ordered and directed to furnish with all licenses issued under their respective patents pursuant to Section IV of this judgment, to all licensees making application therefor, and at any time within the term of such licenses, necessary technical information as defined in this judgment, in the possession of the defendant licensor, without charge, except that the cost of furnishing such necessary technical information may be recovered from the licensee. Such cost shall not include any overhead or general charges.

VII

Defendant Automatic is hereby ordered and directed, as long as it shall manufacture, sell or deal in rate-of-rise devices, to offer to sell, and to sell such rate-of-rise devices, in such quantities as may be reasonably required and to the extent that it has such devices currently available, to any prospective purchaser or user, without discrimination among such prospective purchasers or users as to availabilty of such devices or as to the prices, terms and conditions of their sale.

VIII

Defendants are hereby enjoined and restrained from conditioning, or requiring or inducing any other person to condition any license or grant of immunity issued by them under a device or system patent, or any sale, offer to sell, distribution or use of any rate-of-rise device or rate-of-rise equipment (1) upon the purchase, securement or use of any other product, article or service from or through any defendant or from or through any particular or designated source or sources; (2) by requiring the purchaser, licensee or grantee to refrain from reselling or distributing such rate-of-rise devices or equipment; (3) by requiring the purchaser, licensee or grantee to resell such a device at a price or on other terms or conditions fixed by the defendants; (4) by requiring the purchaser, licensee or grantee to use, sell, install or deal, exclusively or in any determined amounts or quotas, in rate-of-rise devices or equipment made by one or more specified manufacturers, or to refrain from using, selling, installing or dealing in any rate-of-rise devices or equipment; or (5) by requiring the purchaser, licensee or grantee to purchase rate-of-rise devices or equipment exclusively or in any determinate amount or quotas from one or more specified sellers thereof.

IX

The defendants herein are hereby severally and jointly enjoined and restrained, either when acting alone or pursuant to any agreement, contract, understanding, combination or conspiracy among themselves or with any other person, from requiring or inducing any person (including but not limited to other defendants, and the licensees and distributors of any defendant), (1) to sell or to purchase any rate-of-rise device subject to any condition or restriction whatsoever with respect to the use, installation or resale of such device; (2) to sell or to purchase any rate-of-rise equipment, subject to any condition or restriction whatsoever with respect to the use, installation or resale of such equipment; (3) to give or receive any license or grant of immunity under a system or device patent, subject to any condition or restriction whatsoever with respect to the use, installation or resale of such equipment, system or device; or (4) to agree not to buy, sell, use, install or otherwise deal in any rate-of-rise devices, equipment, or systems outside a specified geographical area.

X

For the purpose of securing compliance with this judgment and for no other purpose, duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General or an Assistant Attorney General, and on reasonable notice to any defendant, be permitted, subject to any legally recognized privilege, (a) access during the office hours of such defendant to all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of such defendant relating to any of the matters contained in this judgment; and (b) subject to the reasonable convenience of such defendant and without restraint or interference from it, to interview officers or employees of such defendant, who may have counsel present, regarding any such matters; provided, however, that no information obtained by the means permitted in this paragraph 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 to which the United States is a party for the purpose of securing compliance with this judgment or as otherwise required by law.

XI

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

modification thereof, the enforcement of compliance therewith, and for the punishment of violations thereof.

/s/ IGOE
United States District Judge

Dated: February 20, 1948.

APPENDIX A

"DEVICE PATENTS"

Patents

Number	*Date*	*Title*
1, 831, 954	11–17–31	Pressure Supply System for Pipes
1, 837, 322	12–22–31	Sprinkler Head
1, 843, 688	2–2–32	Supervising Thermal System
1, 869, 204	7–26–32	Deluge Valve
1, 893, 210	1–3–33	Fluid Distributing Device
1, 938, 845	12–12–33	Automatic Release
1, 942, 823	1–9–34	Thermally Operated Device Operating by Expansion of Air or Other Gas When Heated
1, 959, 591	5–22–34	Combined Rate of Rise & Fixed Temperature Elect. Thermostat
1, 973, 535	9–11–34	Retard Devices for Delaying the Action of Rate-of-Rise Pneumatic Systems
1, 990, 339	2–5–35	Gate Valve Supervisory Device
1, 996, 478	4–2–35	Fire Extinguishing Apparatus
2, 027, 051	1–7–36	Fire Extinguishing & Alarm Apparatus
2, 044, 313	6–16–36	Fire Extinguishing Apparatus
2, 099, 069	11–16–37	Fire Extinguishing & Alarm Apparatus
2, 168, 244	8–1–39	Retard Device for Automatic Fire Control Systems
2, 251, 423	8–5–41	Air Pump & Alarm Unit
2, 340, 144	1–25–44	Pressure Actuated Tube Valve
2, 349, 464	5–23–44	Fluid Release Valve and Actuating Mechanism

Patents (Cont'd.)

Number	*Date*	*Title*
2, 349, 883	5–30–44	Sprinkler Valve Actuating Device
2, 357, 133	8–29–44	Pressure Actuated Valve
2, 384, 342	9–4–45	Valve
2, 389, 817	11–27–45	Valve for Sprinkler Systems
2, 398, 461	4–16–46	Pressure Actuated Sprinkler Valve
2, 400, 372	5–14–46	Fluid Pressure Actuated Valve

Pending Applications

Number	*Date Filed*	*Title*
482, 657	Apr. 10, 1943	Hydraulic Valve Operating Device
482, 658	Apr. 10, 1943	Valve Operating Device
569, 031	Dec. 20, 1944	Fluid Valve and Remote Control System Therefor
576, 063	Feb. 3, 1945	Heat Actuated Device
601, 093	June 23, 1945	Releasing Mechanism

APPENDIX B

"SYSTEM PATENTS"

Patents

Number	*Date*	*Title*
1, 831, 954	Nov. 17, 1931	Pressure Supply System for Pipes
1, 843, 688	Feb. 2, 1932	Supervising Thermal System
1, 869, 201	July 26, 1932	Automatic and Manual Control Fire Extinguishing System

Patents (Cont'd.)

1, 869, 202	July 26, 1932	Fluid Controlled System
1, 869, 203	July 26, 1932	Automatic Thermal Valve Actuator
1, 941, 700	Jan. 2, 1934	Dual Action Deluge Valve
1, 942, 822	Jan. 9, 1934	Automatic Fire Extinguishing System
1, 942, 823	Jan. 9, 1934	Thermally Operated Device Operating by Expansion of Air or Other Gas when Heated
1, 945, 284	Jan. 30, 1934	Automatic Fire Extinguishing Apparatus
1, 945, 620	Feb. 6, 1934	Fire Protective System
1, 950, 029	Mar. 6, 1934	Fluid Controlled System
1, 986, 479	Jan. 1, 1935	Means for Supervising Pneumatic Fire Alarm Systems
2, 027, 051	Jan. 7, 1936	Fire Extinguishing and Alarm Apparatus
2, 099, 069	Nov. 16, 1937	Fire Extinguishing and Alarm Apparatus
2, 196, 592	April 9, 1940	Fire Extinguishing System
2, 277, 873	Mar. 31, 1942	Pressure Tank Sprinkler System
2, 352, 995	July 4, 1944	Automatic Sprinkler System
2, 353, 116	July 4, 1944	Pressure Tank Sprinkler System With Secondary Supply
2, 353, 117	July 4, 1944	Deluge or Preaction Pressure Tank Sprinkler System With Secondary Supply
2, 365, 906	Dec. 26, 1944	Automatic Deluge Sprinkler System

Pending Applications

Number	*Date Filed*	*Title*
643, 482	Jan. 25, 1946	Pneumatically Actuated Valve Controlling Apparatus
643, 429	Jan. 25, 1946	Actuating System for Pressure Responsive Valves
732, 881	Mar. 6, 1947	Means for Maintaining Supervisory Pressure in Sprinkler System

United States v. White Cap Company, et al.

Civil Action No. 46 C 861

Year Judgment Entered: 1948

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. White Cap Company., U.S. District Court, N.D. Illinois, 1948-1949 Trade Cases ¶62,268, (Jun. 17, 1948)

United States v. White Cap Company.

1948-1949 Trade Cases ¶62,268. U.S. District Court, N.D. Illinois, Eastern Division. Civil Action No. 46C 861. June 17, 1948.

Sherman Antitrust Act, Clayton Antitrust Act

Consent Judgment—Sale or Lease of Machinery—Patent Licensing—A consent judgment entered in an action charging violations of the antitrust laws by a manufacturer of closures for glass jars and containers and of sealing machinery, enjoins the defendant from leasing or selling sealing machinery on condition that the lessee or purchaser purchase closures only from defendant, and in specified quantities; conditioning the availability of sealing machinery or parts thereof upon the procurement of closures from defendant or any other designated source; removing sealing machinery from the premises of any lessee thereof because such lessee uses closures or machinery manufactured or sold by any person other than the defendant; altering or changing sealing machinery in such a manner as to prevent the use therein of closures manufactured or sold by others, unless such alteration improves the operation efficiency of the machine; altering or changing closures in such a manner as to prevent the use in connection therewith of sealing machinery manufactured or sold by others, unless the change results in more efficient operation; conditioning any license or immunity to practice any invention relating to sealing machinery or closures by the tying of any such license or immunity to the purchase or procurement of machinery or closures from defendant or any other designated source ; and instituting or maintaining any suit for royalties alleged to have accrued prior to the date of this judgment under any existing machine patent as herein defined. Defendant is ordered and directed to grant to each applicant therefor a non-exclusive license to make, use and vend machines under all existing machine patents as herein defined.

For plaintiff: Herbert A. Bergson, Acting Assistant Attorney General; Sigmund Timberg, Rohert A. Nitschke, Special Assistants to the Attorney General.

For defendant:

Final Judgment

The plaintiff, United States of America, having filed its complaint herein on May 14, 1946; defendant, White Cap Company, a corporation, having appeared and filed its answer to said complaint denying the substantive allegations thereof and asserting its innocence of any violation of law; and the plaintiff and said defendant by their respective attorneys having consented to the entry of this final judgment herein without trial or adjudication of any issue of fact or law herein;

NOW, THEREFORE, before the taking of any testimony and without trial or adjudication of any issue of fact or law herein, and without any admission by any party in respect to any such issue and upon the consent of the parties hereto, it is hereby ORDERED, ADJUDGED AND DECREED, as follows:

[*Jurisdiction; Cause of Action*]

I.

This court has jurisdiction of the subject matter of this action and of the parties to this judgment; the complaint states a cause of action against defendant, White Cap Company, under Sections 1 and 2 of the Act of Congress of July 2, 1890, as amended, entitled “An Act to Protect Trade and Commerce Against Unlawful Restraints and Monopolies,” said Act being commonly known as the “Sherman Act” and under Section 3 of the Act of Congress

of October 15, 1914, as amended, entitled “An Act to Supplement Existing Laws Against Unlawful Restraints and Monopolies and for Other Purposes,” said Act being commonly known as the “Clayton Act.”

[*Terms Defined*]

II.

When used in this final judgment, the following terms have the meanings assigned respectively to them below:

(a) “White Cap” means the defendant, White Cap Company, a corporation organized and existing under the laws of the State of Delaware, having its principal office at Chicago, Illinois.

(b) “Closures” means caps for glass jars and containers suitable for vacuum packing.

(c) “Sealing Machinery” means machinery and accessories suitable for applying closures to glass jars and containers for vacuum packing.

(d) “Existing machine patents” means all presently issued United States letters patent, applications for letters patent, and patents on such applications, owned or controlled by defendant, White Cap Company, or under which it has power to issue licenses or sub-licenses, relating to sealing machinery, consisting of the following numbered United States patents:

1,801,062	2,132,335
1,875,789	2,158,675
1,920,539	2,169,973
1,931,911	2,173,602
2,041,891	2,319,213
2,057,464	2,319,214
2,076,052	2,337,032
2,103,051	2,337,033
2,107,237	2,347,668
	2,361,948

and the following numbered applications for United States patents:—

769,624	544,305
483,568	

and renewals, reissues, divisions and extensions thereof.

[*Applicability of judgment*]

III.

The provisions of this judgment applicable to defendant, White Cap Company, shall apply to each of its subsidiaries, successors, and assigns, and to each of its officers, directors, agents, nominees, employees, or any other person acting under, through or for such defendant.

[*Acts Enjoined*]

IV.

Defendant White Cap is hereby enjoined and restrained from:

A. Leasing, selling, or making or adhering to any contract for the sale or lease of, sealing machinery, whether patented or unpatented, or fixing a price charged therefor or discount from or rebate upon such price, on or accompanied by any condition, agreement, or understanding:

(1) That the lessee or purchaser thereof shall not purchase for use in connection with said machinery closures made or sold by any one other than the defendant; or

(2) That the lessee or purchaser shall purchase from the defendant a specified volume, quota, percentage or value of closures.

B. Selling, making or adhering to a contract for the sale of, or otherwise making available closures, whether patented or unpatented, or fixing a price charged therefor or discount from or rebate upon such price, on or accompanied by, any condition, agreement, or understanding;

(1) That the purchaser or recipient thereof shall not use said closures in connection with sealing machinery made or sold by any one other than the defendant; or

(2) That the purchaser or recipient thereof shall use such closures, or any specified volume, quota, percentage or value thereof, in sealing machinery made or sold by the defendant.

C. Entering into, adopting, adhering to, or furthering any agreement or course of conduct for the purpose of, or which in effect constitutes, the leasing, selling, or making or adhering to a contract contrary to the provisions of sub-paragraphs A and B above.

D. Conditioning the availability of sealing machinery or parts or repairs thereof upon the procurement of closures from the defendant White Cap Company or any other designated source, or the availability of closures or services in connection there with upon the procurement of sealing machinery from the defendant White Cap Company or any other designated source.

E. Removing sealing machinery from the premises of any lessee thereof because such lessee purchases, uses, or deals in closures or sealing machinery manufactured or sold by any person other than the defendant.

F. Altering or changing sealing machinery or utilizing patents on such alterations or changes, in such a manner as to prevent the use therein of closures manufactured or sold by anyone other than the defendant, provided, however, that this subsection F shall not apply if the alteration or change improves the operation or efficiency of the machine in applying any closure made by the defendant.

G. Altering or changing closures, or utilizing patents on such alterations or changes, in such a manner as to prevent the use in connection therewith of sealing machinery manufactured or sold by any one other than the defendant, provided, however, that this subsection G shall not apply if the alteration or change results in more efficient operation.

H. Conditioning any license or immunity, expressed or implied, to practice any invention related to sealing machinery or to closures claimed in any United States patent by the tying of any license or immunity for such invention to the purchase or procurement of machinery, closures, or any similar product or article from the defendant White Cap Company or any other designated source.

I. Instituting or threatening to institute or maintaining any suit, counter-claim or proceeding, judicial or administrative, for infringement, or to collect charges, damages, compensation or royalties, alleged to have occurred or accrued prior to the date of this judgment under any existing machine patent, as defined in Section II(d) of this judgment.

[*Licensing Required*]

V.

A. Defendant White Cap is hereby ordered and directed to grant to each applicant therefor a non-exclusive license to make, use, and vend under any, some, or all existing machine patents as herein de fined, and is hereby enjoined and restrained from making any sale or other disposition of any of said patents which deprives it of the power or authority to grant such licenses, unless it sells, transfers or assigns such patents and requires, as a condition of such sale, transfer or assignment, that the purchaser, transferee or assignee shall ob serve the requirements of Sections IV and V of this judgment and the purchaser, transferee or assignee shall file with this Court, prior to consummation of said trans action, an undertaking to be bound by the provisions of said Sections IV and V of this judgment.

B. Defendant White Cap is hereby en joined and restrained from including any restriction or condition whatsoever in any license or sub license granted by it pursuant to the provisions of this section except that (1) the license may be non-transferable; (2) a reasonable nondiscriminatory royalty may be charged; (3) reasonable provision may be made for periodic inspection of the books and records of the licensee, by an independent

auditor or any person accept able to the licensee, who shall report to the licensor only the amount of the royalty due and payable; (4) reasonable provision may be made for cancellation of the license upon failure of the licensee to pay the royalties or to permit the inspection of his books and records as hereinabove provided; (5) the license must provide that the licensee may cancel the license at any time after one year from the initial date thereof by giving thirty days' notice in writing to the licensor.

C. Upon receipt of written request for a license under the provisions of this section, defendant White Cap shall advise the applicant in writing of the royalty which it deems reasonable for the patent or patents to which the request pertains. If the parties are unable to agree upon a reason able royalty within sixty (60) days from the date such request for the license was received by White Cap, the applicant therefor may forthwith apply to this Court for the determination of a reasonable royalty, and White Cap shall, upon receipt of notice of the filing of such application, promptly give notice thereof to the Attorney General. In any such proceeding, the burden of proof shall be on White Cap to establish the reasonableness of the royalty requested by it, and the reasonable royalty rates, if any, determined by the Court shall apply to the applicant and all other licensees under the same patent or patents. Pending the completion of negotiations or any such proceeding, the applicant shall have the right to make, use and vend under the patents to which his application pertains without payment of royalty or other compensation, but subject to the provisions of subsection D of this section.

D. Where the applicant has the right to make, use, and vend under subsection C of this section, defendant White Cap may apply to the Court to fix an interim royalty rate pending final determination of what constitutes a reasonable royalty, if any. If the Court fixes such interim royalty rate, White Cap shall then issue and the applicant shall accept a license, or, as the case may be, a sublicense, providing for the periodic payment of royalties at such interim rate from the date of the filing of such application by the applicant. If the applicant fails to accept such license or fails to pay the interim royalty in accordance therewith, such action shall be ground for the dismissal of his application. Where an interim license or sublicense has been issued pursuant to this subsection, reason able royalty rates, if any, as finally deter mined by the Court shall be retroactive for the applicant and all other licensees under the same patents to the date the applicant files his application with the Court.

E. Nothing herein shall prevent any applicant from attacking, in the aforesaid proceedings or in any other controversy, the validity or scope of any of the patents nor shall this judgment be construed as importing any validity or value to any of said patents.

[*Laws Applicable*]

VI.

Nothing in this judgment shall prevent defendant, White Cap, from availing itself of the benefits of (A) the Act of Congress of April 10, 1918, commonly called the Webb-Pomerene Act, (B) the Act of Congress of 1937, commonly called the Miller-Tydings proviso to Section 1 of the Act of Congress of July 2, 1890, entitled “An Act to Protect Trade and Commerce Against Unlawful Restraints and Monopolies,” or (C) save as elsewhere in this judgment provided of the patent laws.

[*Inspection to Secure Compliance*]

VII.

For the purpose of securing compliance with this judgment and for no other purpose, duly authorized representatives of the Department of Justice shall upon written request of the Attorney General or an Assistant Attorney General, and on reasonable notice to defendant, White Cap, made to its principal office, be permitted subject to any legally recognized privileges: (1) access during the office hours of said defendant, to all books, ledgers, accounts, correspondence, memoranda, and other” records and documents in the possession or under the control of said defendant relating to any matters contained in this judgment; and (2) subject to the reasonable convenience of said defendant and without restraint or interference from it, to interview officers or employees of such defendant, who may have counsel present, regarding any such matters; provided, however, that no information obtained by the means provided in this paragraph shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of such Department except in

the course of legal proceedings to which the United States is a party for the purpose of securing compliance with this judgment, or as otherwise required by law.

[*Jurisdiction Retained*]

VIII.

Jurisdiction of this cause is retained for the purpose of enabling any of the parties to this judgment to apply to the Court at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out of this judgment, for the amendment, modification or termination of any of the provisions thereof, for the enforcement of compliance therewith and for the punishment of violations thereof.

United States v. Phillips Screw Company, et al.

Civil No. 47 C 147

Year Judgment Entered: 1949

Years Judgment Modified: 1950 (modifications in

March, June, September, and December); 1951; 1954

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v, Phillips Screw Company, et al., U.S. District Court, N.D. Illinois, 1948-1949 Trade Cases ¶62,394, 459 F. Supp. 832, (Mar. 28, 1949)

United States v, Phillips Screw Company, et al.

1948-1949 Trade Cases ¶62,394. U.S. District Court, N.D. Illinois, Eastern Division. Civil No. 47C147. March 28, 1949. 459 FSupp 832

Sherman Antitrust Act

Consent Judgment—Patents for Cross-Recessed Screws—Monopoly Practices Enjoined.—A consent judgment entered in an action charging screw and screw driver manufacturing companies and a patent holding company with conspiring to restrain interstate trade enjoins the defendants from making or performing any contract which fixes prices, allocates customers or markets, limits imports or exports, limits production, or restricts sales. The defendants agree to refrain from methods unilaterally dictating the price of cross-recessed head screws or drivers, and from quoting domestic prices on any other basis than F.O.B. at the actual place of manufacture. License agreements relating to patents are terminated and defendants are ordered to grant non-exclusive licenses to manufacture cross-recessed head screws and drivers on a reasonable royalty basis.

For plaintiff: Otto Kerner, Jr., Willis L. Hotchkiss, Jr.

For defendants: T. A. Reynolds, Winston, Strawn & Shaw; John Lord O'Brien; Beverly B. Vedder & Ferris E. Hurd; Pope & Ballard; Cranston Spray; Special Appearance Wm. A. McAffee, Cleveland, Ohio; George J. O'Grady, Daily, Dines, White and Fiedler; Gardner, Carton & Douglas; Moore, Olson & Trexler; Snyder, Chadwill & Fagerburg; Lord, Bissel & Kaydk.

Final Judgment

Plaintiff, United States of America, having filed its complaint herein on January 16, 1947; all the defendants herein (except Scovill Manufacturing Company) having appeared and filed their respective answers to such complaint denying the substantive allegations thereof; and all the parties herein, by their respective attorneys herein, having severally consented to the entry of this final judgment without trial or adjudication of any issue of fact or law herein, and without admission by any party in respect of any such issue,

Now, THEREFORE, without any testimony or evidence having been taken herein, and without trial or adjudication of any issue of fact or law' herein, and on consent of the parties hereto, it is hereby

ORDERED, ADJUDGED AND DECREED as follows:

I.

This Court has jurisdiction of the subject matter herein and of all parties hereto, and the complaint herein states a cause of action against the defendants under Section 1 of the Act of Congress of July 2, 1890, entitled “An Act to Protect Trade and Commerce Against Unlawful. Restraints and Monopolies”, as amended.

II.

[*Definitions*]

The following terms shall, as used in this judgment, have the following meanings.

A. The term “Phillips” means the defendant Phillips Screw Company.

B. The term “American” means the defendant American Screw Company.

C. The term “Cross-recessed Head Screws” means screws and bolts having a cross-shaped recess in the center of the screw or bolt heads. The term includes blanks which have the same type of recess punched into the heads thereof as the completed products but which are not threaded or otherwise completed.

D. The term “Cross-recessed Head Drivers” means driving tools the tips of which are shaped to fit the recesses in the heads of Cross-recessed Head Screws. The term includes such tools either in the form of hand drivers, in the form of detachable bits for use in power drivers, or in the form of blades or bars the tips of which are shaped to fit the recesses in Cross-recessed Head Screws but which have not otherwise been finished into hand drivers or detachable bits.

E. The term “Defined Patents” means United States letters patent and patent ap plications, as follows: (1) the letters patent and patent applications listed in Appendix A hereof; (2) all divisions; continuations, reissues and extensions of any of the foregoing patents and patent applications; (3) all patents issued on such applications; and (4) all patents relating to Cross-recessed Head Screws or Drivers acquired or applied for by Phillips or American within five years from the date of this judgment.

F. The term “Technical Information” means the methods and processes used by American at the date of this judgment in its commercial practice Under the Defined Patents.

G. Reference herein to any defendant shall be deemed to include such defendant, its successors, subsidiaries, assigns, officers, directors, agents, members, employees, and each person acting or claiming to act under, through or for such defendant.

III.

[*Acts Enjoined*]

A. Each defendant is hereby enjoined and restrained from directly or indirectly entering into, adhering to or maintaining any contract, combination, agreement, under taking or arrangement among themselves or with any other manufacturer of Cross-recessed Head Screws or Drivers relating to Cross-recessed Head Screws or Drivers:

(1) to fix, establish, determine or maintain prices or other terms or condi tions of sale with respect either to initial sales or with respect to resales;

(2) to allocate customers, markets, sales quotas or territories;

(3) to limit or prevent imports into or exports from the United States, its terri tories or possessions;

(4) to limit production through quotas or otherwise;

(5) to restrict sales; or

(6) to refrain from manufacturing any type of Cross-recessed Head Screw or Driver.

B. Each defendant is hereby enjoined and restrained for a period of three years from the date of this judgment from:

(1) publishing any price list specifying, or otherwise systematically suggesting, resale prices on Cross-recessed Head Screws or Drivers; and

(2) by any other means or methods unilaterally dictating, regulating or at tempting to dictate or regulate the price or terms or conditions of sale at which any person other than itself sells Cross-recessed Head Screws or Drivers.

C. Each defendant is hereby enjoined and restrained from publishing, printing, quoting or charging domestic prices for Cross-recessed Head Screws or Drivers on any basis other than (1) F.O.B. at the actual place of manufacture or origin of shipment of said products or (2) on a basis, which at destination at no time shall be higher than the said F.O.B. price plus actual transportation and other delivery charges, with every purchaser having an option to purchase F.O.B. at the actual place of manufacture or origin of the product.

IV.

[*Cancellation of License Agreement*]

A. Each of the license agreements between American and any of the defendants relating to any of the Denned Patents is hereby cancelled and terminated, provided, however, that any rights to monetary pay ments which shall have accrued thereunder at the date of the entry of this judgment shall be unimpaired by anything in this judgment.

B. Phillips and American are hereby severally, enjoined and restrained from per forming, enforcing or threatening to enforce any provisions of any license agreement under any of the Denned Patents with any person not a defendant herein (1) prohibit ing export or sale for export, (2) relating to selling prices or other terms or conditions of sale, (3) preventing or impeding the manufacture, use or sale of screws or drivers other than those manufactured pursuant to said agreements, or (4) inconsistent with the provisions of Section A of Article III of this judgment.

C. Phillips and American are hereby sev erally ordered and directed to send, within thirty days after the entry of this judgment, to each person who is not a defendant here in and who is licensed under any Defined Patent or under any foreign patent corressponding thereto, a copy of this judgment.

D. Phillips and American are hereby severally ordered and directed to use rea sonable efforts to cause to be cancelled all existing license agreements under any of the Defined Patents between either of them and any person who is not a defendant herein and to join in the cancellation of any such agreement with any such person desiring same.

V.

A. The license agreements referred to in the complaint herein between Phillips and/or American and Guest, Keen and Nettlefolds, Ltd., and between Phillips and/or American and The Steel Company of Canada, Ltd., are hereby cancelled and terminated. Phillips and American are hereby severally enjoined and restrained from adhering to, performing, reviving or renewing said agreements.

B. Phillips and American are hereby severally ordered and directed forthwith to initiate and carry on in good faith and with diligence negotiations to accomplish, and in fact to accomplish within one year from the date of the entry of this judgment, the cancellation and termination of the license agreements referred to in the complaint herein between Phillips and/or American and J. Osawa & Co.

C. In any event, Phillips and American are hereby severally enjoined and restrained from claiming or asserting that any license or right received by Phillips or American under any of the agreements referred to in this Article V is exclusive, and from per forming, enforcing or attempting to enforce any provisions of any of said agreements which (1) prohibits export or sale for export or (2) relates to selling prices or other terms or conditions of sale.

D. Phillips and American are hereby sev erally enjoined and restrained from enforc ing or attempting or threatening to enforce:

(1) any rights under any foreign patent corresponding to any Defined Patent to prevent the sale or use in or import into another country of Cross-recessed Head Screws or Drivers lawfully made in the United States, its territories or posses sions; and

(2) any rights under any Defined Patent to prevent the sale or use in or import into the United States, its territories or possessions of Cross-recessed Head Screws or Drivers lawfully made in another country under any foreign patent corresponding to such Defined Patent.

VI.

[*Suit for Patent Infringement Enjoined*]

Phillips and American are each hereby enjoined and restrained from instituting or threatening to institute, maintaining or continuing any suit or proceeding for acts of infringement of any of their respective patents or

patent rights relating to Cross-recessed Head Screws or Drivers alleged to have occurred prior to the date of this judgment.

VII.

[*Granting of Non-Exclusive Licenses Ordered*]

A. Phillips and American, depending on which has the right to grant licenses there under, are hereby severally ordered and directed to grant to any applicant therefor, a non-exclusive license to manufacture, use and sell Cross-recessed Head Screws and Drivers under any, some or all of the De fined Patents, without any limitation or con dition whatsoever, except that:

(1) a reasonable charge, in the form of a royalty or otherwise, and non-discriminatory as between such applicants, may be made in respect of any patents so licensed;

(2) reasonable provision may be made for periodic inspection of the books and records of the licensee by an independent auditor or any person acceptable to the licensee who shall report to the licensor only the amount of money due and pay able thereunder;

(3) the license may be non-transferable; and

(4) the license must provide that the licensee may cancel the license at any time after one year from the initial date thereof on sixty days' notice in writing to the licensor.

B. At the request of any applicant for a license under the provisions of paragraph A of this Article VII, the licensor shall include a non-exclusive grant of immunity from suit under every foreign patent, to the extent the licensor has or acquires the power to do so, corresponding to every United States patent included in the license, for any prod uct manufactured, used or sold pursuant to the license.

C. American is hereby ordered and directed on request to supply, without charge, Technical Information to every licensee under this Article VII who shall manufacture under such license.

D. On receipt of a written request for a license or licenses under the provisions of paragraph A of this Article VII, Phillips or American, as the case may be, shall advise the applicant in writing of the royalty or other charge which it deems reasonable for the patent or patents to which the re quest pertains. If the parties are unable to agree on a reasonable royalty or charge within sixty days from the date such request is received, the applicant therefor may forth with apply to this Court for determination of a reasonable royalty or charge, and Phillips or American, as the case may be, shall, on receipt of notice of the filing of such application, promptly give notice thereof to the Assistant Attorney General in charge of the Antitrust Division. Any license granted as a result of an application to the Court, as above provided, shall be retroactive to the date of such application or, at the applicant's option, provided that the applicant is a defendant herein, retro active for any prior unlicensed period. The reasonable royalty rates or charges, if any, as once finally determined by the Court with respect to any Defined Patents shall apply to all licenses of the same patents thereafter granted, and any licensee who, at the date of such determination by the Court holds a license under the same patents, shall have the right, at its option, to have such royalty rates or charges applied retroac tively, with respect to its operations, to the date of the application to the Court which resulted in such determination.'

E. In any such proceeding under para graph D of this Article VII, the burden of proof shall be on Phillips or American, as the case may be, to establish the reasonable ness of the royalty or other charge re quested by it. Nothing in this judgment shall be construed as importing any validity or value to any of the Defined Patents.

F. Nothing in this Article VII shall be deemed to prevent Phillips and American from executing or carrying put an agreement by which either will be permitted to license the patents of both Phillips and American to any applicant who desires to acquire rights under patents belonging to both parties.

G. Phillips and American are each hereby enjoined and restrained from making any disposition of any of the Defined Patents or rights with respect thereto which deprives it of the power or authority to grant licenses as hereinabove in this Article VII provided, unless it requires, as a condition of such disposition, that the purchaser,

transferee, assignee or licensee, as the case may be, shall observe the requirements of Articles VII and VIII hereof and such purchaser, transferee, assignee or licensee shall file with this Court, prior to the consummation of the transaction, an undertaking to be bound by said provisions of this judgment.

H. Phillips and American are hereby severally ordered and directed to send to each applicant for a license under Article VII hereof a copy of this judgment promptly after the application is made.

VIII.

[*Purposes of Compliance*]

A. For the purpose of securing compliance with this judgment, and for no other purpose, and subject to any legally recognized privilege, duly authorized representatives of the Department of Justice shall, on the written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to any defendant, be permitted

(1) access, during the office hours of any such defendant, to all books, ledgers, accounts, correspondence, memoranda, and other records and documents there located relating to any of the matters contained in this judgment; and

(2) subject to the reasonable conven ience of such defendant and without restraint or interference from it, to interview officers or employees of such 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, each defendant shall submit such reports in writing with respect to the matters contained in this judgment as may from time to time be necessary to the enforcement of this judgment.

B. Each of the defendants is hereby sev erally ordered and directed to file with this Court and with the Assistant Attorney General in charge of the Antitrust Division, within ninety days after the date of the entry of this judgment, a report of all action taken by it to comply with or conform to the terms of this judgment.

C. The information obtained by the means permitted by this Article VIII shall not 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 to which the United States of America is a party for the purpose of securing compliance with this judgment, or as otherwise required by law.

IX.

Jurisdiction of this cause is retained for the purpose of enabling the parties to this judgment to appeal to the Court at any time for such further orders or directions as may be necessary or appropriate for the construction or carrying out of this judgment, for the modification or termination of any of the provisions thereof, for the enforcement of compliance therewith, and for the punishment of violations thereof.

APPENDIX A

United States of America Patents and Applications of Phillips Screw Company

Patent Number	Date of Issue
1,908,080	May 9, 1933
1,908,081	May 9, 1933
2,046,343	July 7, 1936
2,046,837	July 7, 1936
2,046,838	July 7, 1936
2,046,839	July 7, 1936
2,046,840	July 7, 1936
2,066,484	January 5, 1937
Des. 104,473	May 11, 1937
2,402,342	June 18, 1946

Application Number	Date of Filing
688,649	August 6, 1946
688,650	August 6, 1946
688,651	August 6, 1946
688,652	August 6, 1946

United States of America Patents and Applications of American Screw Company

Patent Number	Date of Issue
2,022,573	November 26, 1935
2,029,944	February 4, 1936
2,066,372	January 5, 1937
2,082,085	June 1, 1937
2,084,078	June 15, 1937
2,084,079	June 15, 1937
2,090,338	August 17, 1937
2,165,424	July 11, 1939
2,165,425	July 11, 1939
2,322,262	June 22, 1943
2,359,898	October 10, 1944
2,400,684	May 21, 1946

Application Number	Date of Filing
470,671	December 30, 1942
694,715	September 4, 1946
782,875	October 29, 1947

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA, Plaintiff,	)	CIVIL ACTION
Vs.	)	NO. 47C147
PHILLIPS SCREW COMPANY, et al., Defendants.	)	

ORDER MODIFYING AND
AMENDING FINAL JUDGMENT

This matter coming on to be heard on the motion of defendants Phillips Screw Company and American Screw Company for an amendment and modification of paragraph V B of the final judgment entered herein on March 28, 1949, and the Court being fully advised in the premises,

IT IS HEREBY ORDERED that the final judgment entered herein on March 28, 1949, and particularly paragraph V B thereof be and the same is hereby modified and amended by the addition of the words "and 90 days" to paragraph V B thereof immediately following the words "one year" in said paragraph.

ENTER:

s/ LaBuy
Judge

March 28, 1950.

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA, Plaintiff,	)	
v.	)	CIVIL ACTION
PHILLIPS SCREW COMPANY, et al., Defendants.	)	NO. 47 C 147

ORDER MODIFYING AND AMENDING
FINAL JUDGMENT AS AMENDED

This matter coming on to be heard on the stipulation of plaintiff and defendants, Phillips Screw Company and American Screw Company, in the above cause,

IT IS HEREBY ORDERED that the final judgment entered herein on March 28, 1949, as amended by order of this Court entered on March 28, 1950, be and the same is hereby amended by substituting the figure "180" in lieu of the figure "90" in paragraph V B of said final judgment as heretofore amended.

E N T E R:

s/ Walter J. LaBuy
Judge

June 23, 1950.

COPY

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA, Plaintiff,	)	CIVIL ACTION
v.	)	No. 47 C 147
PHILLIPS SCREW COMPANY, et al., Defendants.	)	

ORDER

This cause coming on to be heard on stipulation of plaintiff and of defendants Phillips Screw Company and American Screw Company;

IT IS HEREBY ORDERED that the time within which said defendants are to comply with the requirements of subparagraph B of paragraph V of the final judgment entered in the above entitled cause on March 28, 1949, be and it is hereby extended to and including December 31, 1950.

E N T E R:

s/ Walter J. La Buy

September 18, 1950

COPY

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA, Plaintiff,	)	CIVIL ACTION
v.	)	No. 47 C 147
PHILLIPS SCREW COMPANY, et al., Defendants.	)	

ORDER

This cause coming on to be heard on stipulation of plaintiff and of defendants Phillips Screw Company and American Screw Company;

IT IS HEREBY ORDERED that the time within which said defendants are to comply with the requirements of sub-paragraph B of paragraph V of the final judgment entered in the above entitled cause on March 28, 1949, be and it is hereby extended to and including March 30, 1951.

ENTER:

s/ Walter J. La Buy
Judge

December 28, 1950.

COPY

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA, Plaintiff, v. PHILLIPS SCREW COMPANY, et al., Defendants.	)	CIVIL ACTION No. 47 C 147 [Served with stipulation 3/27/51] [Entered March 28, 1951]

O R D E R

This cause coming on to be heard on stipulation of plaintiff and of defendants Phillips Screw Company and American Screw Company;

IT IS HEREBY ORDERED that the time within which said defendants are to comply with the requirements of subparagraph B of paragraph V of the final judgment entered in the above entitled cause on March 28, 1949, be and it is hereby extended to and including September 28, 1951.

E N T E R

s/ Walter J. LaBuy
Judge

March 28, 1951.

#884

The September 20, 1954 order amends paragraph VII C of the March 28, 1949 decree as follows:

> "C. American is hereby ordered and directed on request to supply Technical Information to every licensee under this Article VII who shall manufacture under such license. Such Technical Information shall be supplied at cost without the allocation of any administration or overhead expense."

United States v. Max Gerber, et al.

Civil Action No. 49 C 1300

Year Judgment Entered: 1951

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. Max Gerber, et al., U.S. District Court, N.D. Illinois, 1950-1951 Trade Cases ¶62,829, (May 4, 1951)

United States v. Max Gerber, et al.

1950-1951 Trade Cases ¶62,829. U.S. District Court, N.D. Illinois, Eastern Division. Civil Action No. 49 C 1300. Filed May 4, 1951.

Sherman Antitrust Act, Clayton Antitrust Act

Consent Decree—Combinations in Restraint of Trade—Exclusive Supply Contracts—Discriminations and Preferences in Selling or Refusing to Sell Plumbing Fixtures and Sanitary Brass Goods.—In an action against defendant manufacturers of plumbing fixtures and sanitary brass goods charging violation of the federal antitrust laws by restraining purchasers from purchasing from other companies, a consent decree has been entered whereby defendant manufacturers were enjoined from selling plumbing fixtures on the condition that the purchasers buy any sanitary brass goods from the defendants; from selling sanitary brass goods on the condition that the purchasers purchase any plumbing fixtures from the defendants; from entering into a contract or agreement preventing purchasers from purchasing any plumbing fixtures or sanitary brass goods from anyone other than the defendants; from selling plumbing fixtures on condition that the purchaser shall not purchase, use, deal in, or sell sanitary brass goods made or sold by anyone other than the defendants; from selling sanitary brass goods on condition that the purchaser shall not purchase, use, deal in, or sell plumbing fixtures made or sold by anyone other than the defendants; from refusing to sell or discriminating in the price of plumbing fixtures because the customer is not purchasing sanitary brass goods from the defendants; or from refusing to sell or discriminating in the price of sanitary brass goods because the customer is not purchasing plumbing fixtures from the defendants.

For the plaintiff: H. G. Morison, Assistant Attorney General; Sigmund Timberg, Willis L. Hotchkiss, and E. Houston Harsha, Special Assistants to the Attorney General; William D. Kilgore, Jr., Special Attorney.

For the defendants: Harold L. Perlman and H. **R.** Begley, of the firm of Gottlieb and Schwartz.

Before Michael L. Igoe, United States District Judge.

Final Judgment

[*In full text*] Plaintiff, United States of America, having filed its complaint herein on October 15, 1948, defendants having appeared and filed their answers denying the substantive allegations thereof, and the plaintiff and defendants by their attorneys having consented to the entry of this Final Judgment,

Now, therefore, without any testimony or evidence having been taken herein and without trial or adjudication of any issue of fact or law herein, and upon the consent of the parties hereto, it is hereby

Ordered, adjudged and decree as follows :

I

[*Sherman, Clayton Acts Involved*]

The Court has jurisdiction of the subject matter herein and of the parties hereto. The complaint states a cause of action against the defendants under Section 1 of the Act of Congress of July 2, 1890, entitled “An Act To protect trade and commerce against unlawful restraints and monopolies,” commonly known as the Sherman Act, and under Section 3 of the Act of Congress of October 15, 1914, commonly known as the Clayton Act.

II

[*Definitions*]

As used in this Final Judgment:

(A) “Defendants” shall mean Max Gerber (operating under the trade name Gerber Enterprises), Kokomo Sanitary Pottery Corporation, Woodbridge Sanitary Corporation, Globe Valve Corporation, and Gerber Industries, Inc., or any of them;

(B) “Plumbing fixtures” shall mean plumbing articles, such as lavatories, water closets and urinals made of vitreous china or pottery, and such plumbing specialties as steel or metal shower stalls, or any one or more items of such fixtures;

(C) “Sanitary brass goods” shall mean bath and shower fittings (such as tub fillers, tub and shower fittings, drains and overflows), lavatory fittings (such as faucets, drains and combination fittings), and sink fittings (such as sink faucets, strainers and combination fittings), and other like items, or any one or more items of such goods.

III

[*Applicability*]

The provisions of this Final Judgment applicable to any defendant shall apply to such defendant, its officers, directors, agents, employees, subsidiaries, successors and assigns, and all other persons acting under, through or for such defendant.

IV

[*Exclusive Supply Contracts Enjoined*]

Defendants are hereby jointly and severally enjoined and restrained from:

(A) Selling or attempting to sell, or making or adhering to any contract for the sale of:

(1) Plumbing fixtures on the condition, express or implied, that the purchaser shall purchase any sanitary brass goods from the defendants, or

(2) Sanitary brass goods on the condition, express or implied, that the purchaser shall purchase any plumbing fixtures from the defendants;

(B) Entering into, adhering to or claiming any rights under contract, agreement or understanding, express or implied, with any purchaser which prevents such purchaser from purchasing, dealing in, using or selling plumbing fixtures or sanitary brass goods from anyone other than the defendants.

V

Defendants are hereby jointly and severally enjoined and restrained from:

(A) Selling or attempting to sell, or making or adhering to any contract for the sale of :

(1) Plumbing fixtures on the condition, express or implied, that the purchaser

(a) shall not purchase sanitary brass goods made or sold by anyone other than the defendants, or

(b) shall not use, deal in or sell sanitary brass goods other than those made or sold by the defendants,

(2) Sanitary brass goods on the condi tion, express or implied, that the purchaser

(a) shall not purchase plumbing fixtures made or sold by anyone other than the defendants, or

(b) shall not use, deal in or sell plumbing fixtures other than those made or sold by the defendants;

(B) Entering into, adopting, adhering to or furthering any agreement or course of conduct for the purpose of, or which in effect constitutes, the selling or making or adhering to a contract for the sale of plumbing fixtures or sanitary brass goods, contrary to the provisions of Paragraph (A) of this Section V.

VI

[*Discriminations and Preferences Prohibited*]

Defendants are jointly and severally enjoined and restrained from:

(A) Refusing to sell or discriminating in the price, term, or condition of sale of plumbing fixtures, or refusing to fill or ship, or discriminating in or delaying the filling or shipping of any order for plumbing fixtures, because the customer has not purchased, is not purchasing, or will not agree to purchase, sanitary brass goods from the defendants;

(B) Refusing to sell or discriminating in the price, term, or condition of sale of sanitary brass goods, or refusing to fill or ship, or discriminating in or delaying the filling or shipping of any order for sanitary brass goods because the customer has not purchased, is not purchasing, or will not agree to purchase, plumbing fixtures from the defendants.

VII

[*Notice to Purchasers*]

Within 60 days after the date of this Judgment, each defendant shall send written notice, in a form approved by the Attorney General, to each person who has purchased or attempted to purchase any plumbing fixtures or sanitary brass goods from such defendant within the 6 months preceding the date of said Judgment, informing such person of the terms of this Judgment.

VIII

[*Examination of Records*]

For the purpose of securing compliance with this Final Judgment, and for no other purpose, duly authorized representatives of the Department of Justice shall upon written request of the Attorney General or an Assistant Attorney General and on reasonable notice to any defendant made to its principal office, and subject to any legally recognized privilege, be permitted (1) access during the office hours of said defend ant to all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of said defendant relating to any matters contained in this Judgment, and (2) subject to the reasonable convenience of said defendant and without restraint or interference from it to interview officers or employees of said defendant, who may have counsel present, regarding any such matters. For the purpose of securing compliance with this Judgment any defendant, upon the written request of the Attorney General or an Assistant Attorney General and on reasonable notice to its principal office, shall submit such written reports with respect to any of the matters contained in this Judgment as from time to time may be necessary for the purpose of enforcement of this Judgment. No information obtained by the means provided in this Section shall be divulged by any repre sentative of the Department of Justice to any person other than a duly authorized representative of such Department, except in the course of legal proceedings to which the United States is a party for the purpose of securing compliance with this Judgment, or as otherwise required by law.

IX

[*Jurisdiction Retained*]

Jurisdiction of this cause is retained for the purpose of enabling any parties to this 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 Judgment or for the modification or terminating of any of the provisions thereof, and for the purpose of the enforcement of compliance therewith and the punishment of violations thereof.

United States v. Bausch & Lomb Optical Company, et al.

Civil Action No. 46 C 1332

Year Judgment Entered: 1951

IN THE DISTRICT COURT OF THE UNITED STATES

FOR THE NORTHERN DISTRICT OF ILLINOIS

EASTERN DIVISION

UNITED STATES OF AMERICA, Plaintiff, v. RAUSCH & LOMB OPTICAL COMPANY, ET AL., Defendants.	)	Civil Action No. 46 C 1332

FINAL JUDGMENT

Plaintiff, United States of America, filed its complaint herein on July 23, 1946, and filed an amendment thereto on October 28, 1946. Thereafter, the corporate defendants and the defendant individual doctors appeared and filed their answers to the amended complaint, denying the substantive allegations thereof and any violations of law.

Subsequent to the filing of the complaint, the corporate defendants, without prior notice to the plaintiff or the Court, discontinued dispensing at all of their branches where such business was carried on and, in connection with such discontinuance in certain locations, sold the dispensing businesses and/or assets relating thereto in such locations to the defendant buyers, who have been and are on the date of entry of this judgment engaged in dispensing on their own behalf.

On July 1, 1949, leave of court having first been obtained, plaintiff filed a supplemental complaint relating to such sales to the defendant buyers.

On February 26, 1948 and July 2, 1948 the Court entered orders directing the defendant class doctors whose names were set forth in exhibits attached to said orders, to appear and show cause why such doctors should not be bound by any judgment entered in this case. (Copies of these orders, omitting the lists of names, are attached hereto as Exhibits 1 and 2.) Exhibit 3, also attached hereto, sets

forth the names of each defendant class doctor who either received mailing and service of the aforesaid orders and failed to show cause why he should not be bound by any judgment entered in this case, or who submitted himself to the jurisdiction of this Court and agreed to be bound by such judgment, whether after trial or by consent of the parties.

Each of the corporate defendants, defendant individual doctors, and defendant buyers hereby consents to the entry of this final judgment. The consent of each defendant individual doctor is made both as an individual and as a representative of the defendant class doctors as hereinafter defined.

NOW, THEREFORE, upon such consents, no testimony having been taken, and without any finding or adjudication of fact or as to past specific transactions, or any admission by reason of such consents or this judgment, excepting only the statements hereinabove set forth, which are made solely for the purpose of this proceeding; it is hereby

ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

I. This Court has jurisdiction of the subject matter and of all defendants named in the complaint, as amended, including the defendant class doctors named in Exhibit 3 and the defendant buyers named in the supplemental complaint herein: any agreement, understanding and concert of action, whether written or oral, express or implied, of the type charged in the complaint, involving payment by any corporate defendant, directly or indirectly, to any of the defendant individual doctors or to defendant class doctors, or to any agent, representative, employee or designee of any such doctor, of the whole or any part of the purchase price of ophthalmic goods collected by any such corporate defendant (whether or not as agent or purported agent of such doctor) from any one or more patients of any such doctor, and whether in the form of, or described or regarded as a rebate, credit, credit balance,

gift, dividend, or participation or share in profits, or otherwise, is hereby adjudged to be in violation of Section 1 of the Sherman Act; and the complaint, as amended, and the supplemental complaint state a cause of action under Section 1 of the Sherman Act (15 U.S.C. Sec. 1), upon which relief may be granted.

II. Wherever used in this judgment:

(a) "Corporate defendants" means Bausch & Lomb Optical Company, Riggs Optical Company-Consolidated, Riggs Optical Company, Inc., McIntyre, Magee & Brown Company, and Southeastern Optical Company, Inc., and their respective successors, assigns, officers, directors, agents, employees and representatives, and each and every other person acting or claiming to act under, through, or for such defendant, excluding, however, the defendant individual doctors, the defendant class doctors and the defendant buyers, as hereinafter respectively defined.

(b) "Defendant individual doctors" means those oculists named in the complaint as individual defendants and as representatives of the defendant class doctors and each person acting or claiming to act under, through, or for any such defendant individual doctor.

(c) "Defendant class doctors" means those oculists whose names are listed in Exhibit 3 attached hereto, and each person acting, or claiming to act, under, through, or for any such doctor.

(d) "Defendant buyers" means those persons who are named as defendants in the supplemental complaint herein and each person acting or claiming to act under, through, or for any such buyer.

(e) "Person" means an individual, proprietorship, partnership, association, joint stock company, business trust, corporation, or any other business organization or enterprise.

(f) "Ophthalmic goods" means ophthalmic lenses, lens blanks, spectacle frames, mountings, eyeglasses, spectacles, and component parts or combinations of any of these articles sold or offered for sale within the United States, its territories and possessions, and as so defined does not include sunglasses or industrial safety equipment not containing lenses ground to prescription.

(g) "Dispensing" means the sale within the United States, its territories and possessions to consumers, of ophthalmic goods, particularly of spectacles and parts thereof, and of repair parts and services in connection therewith, and/or the measurement of facial characteristics for spectacles and the fitting and adjustment of such spectacles to the face.

(h) "Dispenser" means one who engages in dispensing. The term shall not be deemed to apply to a refractionist who engages in dispensing in his own professional offices (either himself or through a bona fide employee) to his own patients only.

(i) "Consumer" means any person who wears spectacles, or any patient for whom spectacles have been prescribed by a refractionist.

III. Each defendant individual doctor and defendant class doctor is hereby perpetually enjoined:

(a) From accepting, directly or indirectly, or designating any other person to thus accept, from any dispenser (whether such dispenser acts or purports to act as an agent of the doctor, or otherwise), any payment arising out of or connected with dispensing to any patient of such defendant doctor, whether such payment is in the form of, or is described or regarded as, a rebate, credit, credit balance, gift, dividend, participation in or share in profits, or otherwise;

(b) Entering into or participating in any plan, arrangement, or scheme whereby said defendant doctor receives from any dispenser (whether such dispenser acts or purports to act as agent of the doctor, or otherwise) directly or indirectly in any form (including any of the forms and methods referred to above) any payment arising out of or connected with dispensing to any patient of such defendant doctor.

IV. Each of the corporate defendants and each of the defendant buyers is hereby perpetually enjoined from making, directly or indirectly, any payment to any refractionist (including any oculist), or any agent, representative, employee or designee of any refractionist, arising out of or connected with dispensing, whether or not such payment is in the form of, or is described or regarded as, a rebate, credit, credit balance, gift, dividend, participation in or share in profits, or otherwise: and whether such payment constitutes an individual transaction, or is part of any plan or program.

V. Each of the corporate defendants is hereby perpetually enjoined from:

(a) Enforcing, performing, or entering into any agreement, contract, or understanding with any defendant buyer by which such defendant buyer agrees to purchase from any corporate defendant the defendant buyer's requirements or substantial requirements of any ophthalmic goods, supplies, or equipment for any designated period of time, or any specified volume of such goods, supplies, or equipment beyond those needed by the defendant buyer for his current business requirements and requested by him in the exercise of his own free choice; or agrees in advance to place orders for any shop work to be done by a corporate defendant.

(b) Enforcing, performing, or entering into any contracts, agreements, or understandings covering, or issuing any schedules fixing, or systematically suggesting, the consumer prices, terms,

or conditions of sale on which any defendant buyer shall sell ophthalmic goods.

(c) Enforcing, performing, or entering into any contract, agreement, or understanding with any defendant buyer dictating, prescribing, or suggesting to any such defendant buyer any arrangement restraining or limiting such defendant buyer as to the territory in which he shall operate or do business, or restraining or limiting the type of business such defendant buyer may engage in or enter into.

(d) Dominating, controlling, or interfering with, or attempting to dominate, control, or interfere with, the purchasing, financial, promotional, or other business policies, practices, operation, management, expansion or other activites of any such defendant buyer.

(e) Enforcing, performing, or entering into any agreement, contract, or understanding under which any corporate defendant grants any credit, discount, rebate, or allowance, based on a percentage or other proportion of the amount of ophthalmic merchandise purchased from such defendant, which credit, discount, rebate, or allowance is applied, or to be applied, in whole or in part, to reduce indebtedness incurred by any defendant buyer in connection with the purchase from any corporate defendant of dispensing assets, or the dispensing business, of one or more of the branches of any corporate defendant.

VI. Each of the corporate defendants is hereby enjoined for a period of ten years from the date of entry of this judgment from engaging in the business of dispensing, and from acquiring or holding any ownership interest, whether through the purchase or ownership of assets, stock or otherwise, in any person who engages in such business of dispensing.

VII. The corporate defendants, each of the defendant individual and class doctors, and each of the defendant buyers, are hereby perpetually enjoined from entering into any agreement, understanding or concert of action with any other person or persons, fixing or attempting to fix the consumer price to be charged for ophthalmic goods or services, and from dictating, prescribing, controlling or interfering with, or attempting to dictate, prescribe, control, or interfere with the consumer prices charged or to be charged by any other person or persons for such ophthalmic goods or services; provided, however, that nothing contained in this judgment shall be deemed to prevent or restrain any of the defendants after the expiration of the injunction contained in Section VI hereof from making such suggestions or making and enforcing such agreements as to prices as may then be lawful.

VIII. The plaintiff shall mail a copy of this judgment to each member of the defendant class doctors whose name is set forth in Exhibit 3, attached hereto and made a part hereof. Such mailing shall be by franked envelope to the last known address of each of such defendant class doctors, and the plaintiff, after making such mailing, shall file an affidavit of mailing with the Clerk of this Court. The plaintiff may transmit with such mailing a letter, in a form to be approved by the Court, covering the transmission of such judgment and explaining the application of the judgment to the doctor.

IX. For the purpose of securing compliance with this judgment, and for no other purpose, duly authorized representatives of the Department of Justice shall upon written request of the Attorney General or an Assistant Attorney General and on reasonable notice to any defendant made to its principal office be permitted, subject to any legally recognized privilege: (1) access during the office hours of said defendant to all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of said defendant relating to any matters contained in this judgment and (2) subject to the reasonable convenience of said

defendant and without restraint or interference from it to interview such defendant, or officers or employees thereof, who may have counsel present, regarding any such matters; provided, however, that no information obtained by the means provided in this paragraph shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of such Department, except in the course of legal proceedings to which the United States is a party for the purpose of securing compliance with this judgment or as otherwise required by law.

X. Jurisdiction of this Court is retained for the purpose of enabling any of the parties to this decree to apply to the Court at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out of this decree, for the modification thereof, or the enforcement of compliance therewith and for the punishment of violations thereof.

Dated: May 16 , 1951.

s/ Walter J. La Buy
United States District Judge

We hereby consent to the entry of the foregoing judgment:

For the plaintiff:

s/ H. G. Morison
Assistant Attorney General

s/ Sigmund Timberg
Special Assistant to the
Attorney General

s/ Willis L. Hotchkiss
Special Assistant to the
Attorney General

s/ Harry R. Talan
Special Attorney

Bausch & Lomb Optical Company

Riggs Optical Company - Consolidated

Riggs Optical Company, Inc.

McIntyre, Magee & Brown Company

Southeastern Optical Company, Inc.

by their attorney

s/ Thomas S. Tyler

Simpson Thacher & Bartlett

Winston Strawn Shaw & Black

of Counsel.

U. S. vs. BAUSCH & LOMB OPTICAL CO., ET AL.

IN THE DISTRICT COURT OF THE UNITED STATES FOR
THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

Civil Action No. 46-C-1332.

UNITED STATES OF AMERICA, PLAINTIFF,

VS.

BAUSCH & LOMB OPTICAL COMPANY, ET AL.,
DEFENDANTS.

FINAL JUDGMENT

This cause having come on to be heard on the stipulation of the plaintiff and of the following doctors:

Name of Doctor	*Address in Order Filed February 26, 1948*	*Present Address*
Carl Apple (Spelled "Capple" in Order of 2-26-48)	*Chicago, Illinois* 55 E. Washington St.	55 E. Washington St.
Louis Bothman	310 S. Michigan Ave.	30 N. Michigan Ave.
Henry Christiansen	2404 W. 63rd St.	2404 W. 63rd St.
Beulah Cushman	25 E. Washington St.	25 E. Washington St.
Emil Deutsch	30 N. Michigan Ave.	30 N. Michigan Ave.
Mary Jane Fowler	6567 Crandon Ave.	2376 E. 71st St.
E. B. Fowler	55 E. Washington St.	55 E. Washington St.
R. C. Gamble	30 N. Michigan Ave.	30 N. Michigan Ave.
M. Galpern		25 E. Washington St.
E. W. Hagens	30 N. Michigan Ave.	30 N. Michigan Ave.
S. I. Kaufman	185 N. Wabash Ave.	185 N. Wabash Ave.
Peter C. Kronfeld	58 E. Washington St.	58 E. Washington St.
Vernon M. Leech	55 E. Washington St.	55 E. Washington St.
John W. McLaughlin	4758 Broadway	4758 Broadway
William A. Mann	30 N. Michigan Ave.	30 N. Michigan Ave.
D. C. Orcutt	55 E. Washington St.	55 E. Washington St.
	Maywood, Illinois	
I. C. Spiesman	1900 St. Charles Road	1900 St. Charles Road
	Oak Park, Illinois	
Georgiana Theobald (Spelled "Theobold" in order of 2-26-48)	715 Lake Street	715 Lake Street
	Waukegan, Illinois	
G. H. Harrison	216 N. Sheridan Road	307 W. Washington St.

NOW, THEREFORE, without any testimony or evidence having been taken herein and upon consent of the foregoing parties, and without admission as to any issue of fact or law herein, it is hereby

ORDERED AND ADJUDGED

I

That this Court has jurisdiction of the subject matter of this cause of action and of the parties hereto, and that the complaint states a cause of action under Section 1 of the Act of Congress of July 2, 1890, entitled, "An Act To Protect Trade and Commerce Against Unlawful Restraints and Monopolies," commonly known as the Sherman Act, and acts amendatory thereof and supplemental thereto.

II

That each of said doctors be and hereby is enjoined perpetually from:

(1) Accepting either directly or indirectly from any dispenser of ophthalmic goods (whether such dispenser acts or purports to act as an agent of the doctor, or otherwise) the payment of any rebates or credit of any part of the purchase price paid by any patient of said doctor for spectacles or parts thereof;

(2) Participating in any plan or program with any dispenser of ophthalmic goods whereby said doctor receives directly or indirectly any part of the purchase price of spectacles or parts thereof sold by said dispenser on prescription to any patient of said doctor.

III

That any doctor, other than those signatory to the accompanying stipulation, who desires voluntarily to be subject to this judgment, be so subject upon subscribing to said stipulation and upon the entry of an order applying the terms of this judgment to such subscribing doctor.

IV

Jurisdiction of this cause is retained by this Court for the purpose of enabling any of the parties to this decree to apply to the Court at any time for such further orders as may be appropriate.

ENTER:

BARNES
District Judge

Dated: July 26, 1948.

United States v. American Optical Company, et al.

Civil Action No. 46 C 1333

Year Judgment Entered: 1951

IN THE DISTRICT COURT OF THE UNITED STATES

FOR THE NORTHERN DISTRICT OF ILLINOIS

EASTERN DIVISION

UNITED STATES OF AMERICA, Plaintiff, v. AMERICAN OPTICAL COMPANY, ET AL., Defendants.	)	Civil Action No. 46 C 1333

FINAL JUDGMENT

Plaintiff, United States of America, filed its complaint herein on July 23, 1946, and filed an amendment thereto on October 28, 1946. Thereafter, the corporate defendants and the defendant individual doctors appeared and filed their answers and amended answers to the amended complaint, denying the substantive allegations thereof and any violations of law.

Subsequent to the filing of the complaint, the corporate defendants, without prior notice to the plaintiff or the Court, discontinued dispensing at all of their branches where such business was carried on and, in connection with such discontinuance in certain locations, transferred the dispensing businesses and/or assets relating thereto in such locations to defendant transferees, who have been and are on the date of entry of this judgment engaged in dispensing on their own behalf.

On September 18, 1950, leave of Court having first been obtained, plaintiff filed a supplemental complaint relating to such transfers to the defendant transferees.

On February 26, 1948, the Court entered an order directing the defendant class doctors whose names were set forth in an exhibit attached to said order, to appear and show cause why such doctors should not be bound by any judgment entered in this case. (A copy of such order, omitting the list of names, is attached hereto as Exhibit 1.)

Exhibit 2, also attached hereto, sets forth the names of each defendant class doctor who either received mailing and service of the aforesaid orders and failed to show cause why he should not be bound by any judgment entered in this case, or who submitted himself to the jurisdiction of this Court and agreed to be bound by such judgment, whether after trial or by consent of the parties.

Each of the corporate defendants, defendant individual doctors, and defendant transferees hereby consents to the entry of this final judgment. The consent of each defendant individual doctor is made both as an individual and as a representative of the defendant class doctors as hereinafter defined.

NOW, THEREFORE, upon such consents, no testimony having been taken, and without any finding or adjudication of fact or as to past specific transactions, or any admission by reason of such consents or this judgment, excepting only the statements hereinabove set forth, which are made solely for the purpose of this proceeding; it is hereby

ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

I. This Court has jurisdiction of the subject matter and of all defendants named in the complaint, as amended, including the defendant class doctors named in Exhibit 2 and the defendant transferees named in the supplemental complaint herein; any agreement, understanding and concert of action, whether written or oral, express or implied, of the type charged in the complaint, involving payment by any corporate defendant, directly or indirectly, to any of the defendant individual doctors or to defendant class doctors, or to any agent, representative, employee or designee of any such doctor, of the whole or any part of the purchase price of ophthalmic goods collected by any such corporate defendant (whether or not as agent or purported agent of such doctor) from any one or more patients of any such doctor, and whether in the form of, or described or regarded as a rebate, credit, credit balance, gift, dividend, or participation or share in profits, or otherwise, is

hereby adjudged to be in violation of Section 1 of the Sherman Act; and the complaint, as amended, and the supplemental complaint state a cause of action under Section 1 of the Sherman Act (15 U.S.C. Sec. 1), upon which relief may be granted.

II. Wherever used in this judgment:

(a) "Corporate defendants" means American Optical Company, an association, American Optical Company, a corporation, and their respective successors, assigns, officers, directors, agents, employees and representatives, and each and every other person acting or claiming to act under, through, or for such defendant, excluding, however, the defendant individual doctors, the defendant class doctors and the defendant transferees, as hereinafter respectively defined.

(b) "Defendant individual doctors" means those oculists named in the complaint as individual defendants and as representatives of the defendant class doctors and each person acting or claiming to act under, through, or for any such defendant individual doctor.

(c) "Defendant class doctors" means those oculists whose names are listed in Exhibit 2 attached hereto, and each person acting, or claiming to act, under, through, or for any such doctor.

(d) "Defendant transferees" means those persons who are named as defendants in the supplemental complaint herein and each person acting or claiming to act under, through, or for any such transferee.

(e) "Person" means an individual, proprietorship, partnership, association, joint stock company, business trust, corporation, or any other business organization or enterprise.

(f) "Ophthalmic goods" means ophthalmic lenses, lens blanks, spectacle frames, mountings, eyeglasses, spectacles, and component parts or combinations of any of these articles sold or offered for sale within the United States, its territories and possessions, and as so defined does not include sunglasses or industrial safety equipment not containing lenses ground to prescription.

(g) "Dispensing" means the sale within the United States, its territories and possessions to consumers, of ophthalmic goods, particularly of spectacles and parts thereof, and of repair parts and services in connection therewith, and/or the measurement of facial characteristics for spectacles and the fitting and adjustment of such spectacles to the face.

(h) "Dispenser" means one who engages in dispensing. The term shall not be deemed to apply to a refractionist who engages in dispensing in his own professional offices (either himself or through a bona fide employee) to his own patients only.

(i) "Consumer" means any person who wears spectacles, or any patient for whom spectacles have been prescribed by a refractionist.

III. Each defendant individual doctor and defendant class doctor is hereby perpetually enjoined:

(a) From accepting, directly or indirectly, or designating any other person to thus accept, from any dispenser (whether such dispenser acts or purports to act as an agent of the doctor, or otherwise), any payment arising out of or connected

with dispensing to any patient of such defendant doctor, whether such payment is in the form of, or is described or regarded as a rebate, credit, credit balance, gift, dividend, participation in or share in profits, or otherwise;

(b) Entering into or participating in any plan, arrangement, or scheme whereby said defendant doctor receives from any dispenser (whether such dispenser acts or purports to act as agent of the doctor, or otherwise) directly or indirectly in any form (including any of the forms and methods referred to above) any payment arising out of or connected with dispensing to any patient of such defendant doctor.

IV. Each of the corporate defendants and each of the defendant transferees is hereby perpetually enjoined from making, directly or indirectly, any payment to any refractionist (including any oculist), or any agent, representative, employee or designee of any refractionist, arising out of or connected with dispensing, whether or not such payment is in the form of, or is described or regarded as, a rebate, credit, credit balance, gift, dividend, participation in or share in profits, or otherwise; and whether such payment constitutes an individual transaction, or is part of any plan or program.

V. Each of the corporate defendants is hereby perpetually enjoined from:

(a) Enforcing, performing, or entering into any agreement, contract, or understanding with any defendant transferee by which such defendant transferee agrees to purchase from any corporate defendant the defendant transferee's requirements or substantial requirements of any ophthalmic goods,

supplies, or equipment for any designated period of time, or any specified volume of such goods, supplies, or equipment beyond those needed by the defendant transferee for his current business requirements and requested by him in the exercise of his own free choice; or agrees in advance to place orders for any shop work to be done by a corporate defendant.

(b) Enforcing, performing, or entering into any contracts, agreements, or understandings covering, or issuing any schedules fixing, or systematically suggesting, the consumer prices, terms, or conditions of sale on which any defendant transferee shall sell ophthalmic goods.

(c) Enforcing, performing, or entering into any contract, agreement, or understanding with any defendant transferee dictating, prescribing, or suggesting to any such defendant transferee any arrangement restraining or limiting such defendant transferee as to the territory in which he shall operate or do business, or restraining or limiting the type of business such defendant transferee may engage in or enter into.

(d) Dominating, controlling, or interfering with, or attempting to dominate, control, or interfere with, the purchasing, financial, promotional, or other business policies, practices, operation, management, expansion or other activities of any such defendant transferee.

(e) Enforcing, performing, or entering into any agreement, contract, or understanding under which

any corporate defendant grants any credit, discount, rebate, or allowance, based on a percentage or other proportion of the amount of ophthalmic merchandise purchased from such defendant, which credit, discount, rebate, or allowance is applied, or to be applied, in whole or in part, to reduce indebtedness incurred by any defendant transferee in connection with the acquisition from any corporate defendant of dispensing assets, or the dispensing business, of one or more of the branches of any corporate defendant.

VI. Each of the corporate defendants is hereby enjoined for a period of ten years from the date of entry of this judgment from engaging in the business of dispensing, and from acquiring or holding any ownership interest, whether through the purchase or ownership of assets, stock or otherwise, in any person who engages in such business of dispensing.

VII. The corporate defendants, each of the defendant individual and class doctors, and each of the defendant transferees, are hereby perpetually enjoined from entering into any agreement, understanding or concert of action with any other person or persons, fixing or attempting to fix the consumer price to be charged for ophthalmic goods or services, and from dictating, prescribing, controlling or interfering with, or attempting to dictate, prescribe, control, or interfere with the consumer prices charged or to be charged by any other person or persons for such ophthalmic goods or services; provided, however, that nothing contained in this judgment shall be deemed to prevent or restrain any of the defendants after the expiration of the injunction contained in Section VI hereof from making such suggestions or making and enforcing such agreements as to prices as may then be lawful.

VIII. The plaintiff shall mail a copy of this judgment to each member of the defendant class doctors whose name is set forth in

Exhibit 2, attached hereto and made a part hereof. Such mailing shall be by franked envelope to the last known address of each of such defendant class doctors, and the plaintiff, after making such mailing, shall file an affidavit of mailing with the Clerk of this Court. The plaintiff may transmit with such mailing a letter, in a form to be approved by the Court, covering the transmission of such judgment and explaining the application of the judgment to the doctor.

IX. For the purpose of securing compliance with this judgment, and for no other purpose, duly authorized representatives of the Department of Justice shall upon written request of the Attorney General or an Assistant Attorney General and on reasonable notice to any defendant made to its principal office be permitted, subject to any legally recognized privilege, (1) access during the office hours of said defendant, to all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of said defendant relating to any matters contained in this judgment and (2) subject to the reasonable convenience of said defendant and without restraint or interference from it to interview such defendant, or officers or employees thereof, who may have counsel present, regarding any such matters; provided, however, that no information obtained by the means provided in this paragraph shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of such Department except in the course of legal proceedings to which the United States is a party for the purpose of securing compliance with this judgment or as otherwise required by law.

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

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

Dated: , 1950.

MAY 16, 1951

s/ Walter J. LaBuy
United States District Judge

We hereby consent to the entry of the foregoing judgment.

For the plaintiff:

s/ H. G. Morison
Assistant Attorney General

s/ Sigmund Timberg
Special Assistant to the
Attorney General

s/ Willis L. Hotchkiss
Special Assistant to the
Attorney General

s/ Harry R. Talan
Special Attorney

For the defendants

American Optical Company
an association

American Optical Company
a corporation

s/ by George A. Ranney, Jr.,
Attorney

[The original separate Consents to the entry of this Final Judgment, as signed by the defendant individual doctors, are on file with the Clerk of Court.]

[The original separate Consents to the entry of this Final Judgment, as signed by the defendant transferees, are on file with the Clerk of Court.]

United States v. Uhlemann Optical Co. of Illinois, et al.

Civil Action No. 48 C 608

Year Judgment Entered: 1951

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF ILLINOIS

EASTERN DIVISION

UNITED STATES OF AMERICA, Plaintiff,	)	
v.	)	CIVIL ACTION
UHLEMANN OPTICAL CO. OF ILLINOIS ET AL., Defendants.	)	NO. 48 C 608

FINAL JUDGMENT

Plaintiff, United States of America, filed its complaint herein on May 4, 1948. Thereafter, the corporate defendants and the defendant individual doctors appeared and filed their answers to the complaint, denying the substantive allegations thereof and any violations of law.

On January 31, 1950, the Court entered an order directing the defendant class doctors, whose names were set forth in exhibits attached to said order, to appear and show cause why such doctors should not be bound by any judgment entered in this case. (A copy of such order, omitting the list of names, is attached hereto as Exhibit 1.) Exhibit 2, attached hereto, also sets forth the names of each defendant class doctor who either received a mailing and service of the aforesaid order and failed to show cause why he should not be bound by any judgment entered in this case, or who submitted himself to the jurisdiction of this Court and agreed to be bound by such judgment, whether after trial or by consent of the parties.

Each of the corporate defendants and the defendant individual doctors hereby consents to the entry of this final judgment. The consent of each defendant individual doctor is made both as an individual and as representative of the defendant class doctors as hereinafter defined.

NOW, THEREFORE, upon such consents, no testimony having been taken, and without any finding or adjudication of fact or as to past specific transactions, or any admission by reason of such consents or this judgment, excepting only the statements hereinabove set forth, which are made solely for the purpose of this proceeding; it is hereby

ORDERED, ADJUDGED, AND DECREED AS FOLLOWS:

I. This Court has jurisdiction of the subject matter and of all defendants named in the complaint, including the defendant class doctors named in Exhibit 2; any agreement, understanding and concert of action, whether written or oral, express or implied, of the type charged in the complaint, involving payment by any corporate defendant, directly or indirectly, to any of the defendant individual doctors or to defendant class doctors, or to any agent, representative, employee or designee of any such doctor, of the whole or any part of the purchase price of ophthalmic goods collected by any such corporate defendant (whether or not as agent or purported agent of such doctor) from any one or more patients of any such doctor, and whether in the form of, or described or regarded as a rebate, credit, credit balance, gift, dividend, or participation or share in profits, or otherwise, is hereby adjudged to be in violation of Section 1 of the Sherman Act; and the complaint states a cause of action under Section 1 of the Sherman Act (15 U.S.C. Sec. 1), upon which relief may be granted.

II. Wherever used in this judgment:

(a) "Corporate defendants" means Uhlemann Optical Co. of Illinois and Uhlemann Optical Co. of Michigan, and their successors, assigns, officers, directors, agents, employees and representatives, and each and every other person acting, or claiming to act, under, through, or for such defendant excluding, however, the defendant individual doctors and the defendant class doctors as hereinafter respectively defined.

(b) "Defendant individual doctors" means those oculists named in the complaint as individual defendants and as representatives of the defendant class doctors and each person acting or claiming to act under, through, or for any such defendant individual doctor.

(c) "Defendant class doctors" means those oculists whose names are listed in Exhibit 2 attached hereto, and each person acting, or claiming to act, under, through, or for any such doctor.

(d) "Person" means an individual, proprietorship, partnership, association, joint stock company, business trust, corporation, or any other business organization or enterprise.

(e) "Ophthalmic goods" means ophthalmic lenses, lens blanks, spectacle frames, mountings, eyeglasses, spectacles, and component parts or combinations of any of these articles sold or offered for sale within the United States, its territories and possessions, and as so defined does not include sunglasses or industrial safety equipment not containing lenses ground to prescription.

(f) "Dispensing" means the sale within the United States, its territories and possessions to consumers, of ophthalmic goods, particularly of spectacles and parts thereof, and of repair parts and services in connection therewith, and/or the measurement of facial characteristics for spectacles and the fitting and adjustment of such spectacles to the face.

(g) "Dispenser" means one who engages in dispensing. The term shall not be deemed to apply to a refractionist who engages in dispensing in his own professional offices (either himself or through a bona fide employee) to his own patients only.

(h) "Consumer" means any person who wears spectacles, or any patient for whom spectacles have been prescribed by a refractionist.

III. Each defendant individual doctor and defendant class doctor is hereby perpetually enjoined:

(a) From accepting, directly or indirectly, or designating any other person to thus accept, from any dispenser (whether such dispenser acts or purports to act as an agent of the doctor, or otherwise), any payment arising out of or connected with dispensing to any patient of such defendant doctor, whether such payment is in the form of, or is described or regarded as, a rebate, credit, credit balance, gift, dividend, participation in or share in profits, or otherwise;

(b) Entering into or participating in any plan, arrangement, or scheme whereby said defendant doctor receives from any dispenser (whether such dispenser acts or purports to act as agent of the doctor, or otherwise), directly or indirectly, in any form (including any of the forms and methods referred to above) any payment arising out of or connected with dispensing to any patient of such defendant doctor.

IV. Each of the corporate defendants is hereby perpetually enjoined from making, directly or indirectly, any payment to any refractionist (including any oculist), or any agent, representative, employee or designee of any refractionist, arising out of or connected with dispensing, whether or not such payment is in the form of, or is described or regarded as, a rebate, credit, credit balance, gift, dividend, participation in or share in profits, or otherwise; and whether such payment constitutes an individual transaction, or is part of any plan or program.

V. The corporate defendants, and each of the defendant individual and class doctors are hereby perpetually enjoined from entering into any agreement, understanding or concert of action with any other person or persons, fixing or attempting to fix the consumer price to be charged for ophthalmic goods or services, and from dictating, prescribing, controlling or interfering with, or attempting to dictate, prescribe,

control, or interfere with the consumer prices charged or to be charged by any other person or persons for such ophthalmic goods or services; provided, however, that nothing contained in this judgment shall be deemed to prevent or restrain any of the defendants, after the expiration of ten years from the date of this judgment, from making such suggestions or making and enforcing such agreements as to prices as may then be lawful.

VI. The plaintiff shall mail a copy of this judgment to each member of the defendant class doctors whose name is set forth in Exhibit 2, attached hereto and made a part hereof. Such mailing shall be by franked envelope to the last known address of each of such defendant class doctors, and the plaintiff, after making such mailing, shall file an affidavit of mailing with the Clerk of this Court. The plaintiff may transmit with such mailing a letter, in a form to be approved by the Court, covering the transmission of such judgment and explaining the application of the judgment to the doctor.

VII. For the purpose of securing compliance with this judgment, and for no other purpose, duly authorized representatives of the Department of Justice shall upon written request of the Attorney General or an Assistant Attorney General and on reasonable notice to any defendant made to its principal office be permitted, subject to any legally recognized privilege: (1) access during the office hours of said defendant to all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of said defendant relating to any matters contained in this judgment and (2) subject to the reasonable convenience of said defendant and without restraint or interference from it to interview such defendant, or officers or employees thereof, who may have counsel present, regarding any such matters; provided, however, that no information obtained by the means provided in this paragraph shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of such Department, except in the course of

legal proceedings to which the United States is a party for the purpose of securing compliance with this judgment or as otherwise required by law.

VIII. Jurisdiction of this Court is retained for the purpose of enabling any of the parties to this decree to apply to the Court at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out of this decree, for the modification thereof, or the enforcement of compliance therewith and for the punishment of violations thereof.

s/ Walter J. La Buy
United States District Judge

Dated: May 16, 1951

We hereby consent to the entry of the foregoing judgment:

For the plaintiff:

s/ H. G. Morison
Assistant Attorney General

s/ Sigmund Timberg
Special Assistant to the
Attorney General

s/ Willis L. Hotchkiss
Special Assistant to
the Attorney General

s/ Harry R. Talan
Special Attorney

Uhlemann Optical Co. of Illinois

by s/ Jack I. Levy
one of its attorneys

For Optical Company
Successor to or formerly known as
Uhlemann Optical Co. of Michigan

by s/ David Paley, its attorney

United States v. Mager & Gougelman, Inc., et al.

Civil Action No. 49 C 1028

Year Judgment Entered: 1952

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF ILLINOIS

EASTERN DIVISION

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	Civil Action
v.	)	No. 49 C 1028
	)	
MAGER & GOUGELMAN, INC.,	)	
PAUL GOUGELMAN COMPANY,	)	
PAUL GOUGELMAN, JR. and	)	
STANLEY W. RYBAK	)	
	)	
Defendants.	)	

FINAL JUDGMENT

Plaintiff, United States of America, having filed its complaint herein on June 23, 1949; and the defendants having appeared and filed their joint answer to said complaint denying any violation of law; and the plaintiff and said defendants, by their respective attorneys, having severally consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein, and without admission by any party in respect of 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 consent as aforesaid of all the parties hereto,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED as follows:

I

This court has jurisdiction of the subject matter hereof and of all parties hereto. The complaint states a cause of action against the defendants under Section 1 of the Act of Congress of July 2, 1890, entitled "An Act to Protect Trade and Commerce Against Unlawful Restraints and Monopolies", as amended.

II

As used in this judgment:

(A) "Artificial eyes" means artificial human eyes.

(B) "Stock eyes" means ready made artificial eyes available to customers on a selection basis.

(C) "Travers Patent" means Patent No. 1,993,121, issued March 5, 1935, by the United States Patent Office to James L. Travers, and which relates to the manufacture of plastic artificial eyes.

III

The provisions of this Judgment applicable to any defendant shall apply to such defendant, its successors, subsidiaries, assigns, officers, directors, agents, employees, and all other persons acting or claiming to act under, through or for such defendant.

IV

Each of the contracts, agreements, arrangements, or understandings, hereinafter described, between the defendant Paul Gougelman Company and Mager & Gougelman, Inc., a New York corporation, is hereby terminated, and each of the defendants is hereby enjoined and restrained from the further performance or enforcement of any of said contracts, agreements or understandings, and from entering into, adopting, adhering to or furthering any course of conduct for the purpose or with the effect of maintaining, reviving or reinstating any of said contracts, agreements, or understandings:

(A) Agreement dated May 10, 1948 relating to the joint operation of a branch office in Philadelphia, Pennsylvania;

(B) Agreement dated June 4, 1948 relating to the joint operation of a branch office in Boston, Massachusetts;

(C) Oral agreement on or about June 1, 1946 relating to the joint operation of a branch office in Washington, D. C.

V

Each of the following agreements, copies of which are contained in Exhibits A, B, and C of the complaint herein, is hereby terminated and cancelled in its entirety; and each of the defendants is hereby enjoined and restrained from the further performance or enforcement of

any of said agreements, and from entering into, adopting, adhering to, or furthering any agreement, arrangement, or course of conduct for the purpose or with the effect of maintaining, reviving or reinstating any of said agreements:

(A) Agreement dated July 1, 1947 between defendant Paul Gougelman Company and Clinton H. Reed;

(B) Agreement dated September 5, 1947 between defendant Paul Gougelman Company and James W. Fitzgerald;

(C) Agreement dated April 6, 1948 between defendant Paul Gougelman Company and Martin Gussman.

VI

Each of the defendants is ordered and directed, within ninety (90) days from the date of entry of this Final Judgment, to dispose of any shares of capital stock or other financial interest now held by it in Mager & Gougelman, Inc., a Delaware corporation, and in Mager & Gougelman, Inc., a New York corporation, to a person or persons other than a defendant herein or a stockholder, officer, director, employee, or agent of any defendant herein, and each of the defendants is enjoined and restrained from thereafter acquiring or holding any shares of capital stock or other financial interest in either of the said corporations.

VII

Each of the defendants is hereby enjoined and restrained from entering into, adhering to, maintaining, furthering, or enforcing, directly or indirectly, any combination, conspiracy, contract, agreement, understanding, plan or program with any other person engaged in the manufacture or sale of artificial eyes for the purpose or with the effect of:

(A) Fixing, establishing or determining the prices, terms or conditions for the sale of artificial eyes;

(B) Allocating or dividing territories or markets for the manufacture, distribution or sale of artificial eyes;

(C) Excluding any third person from any market for artificial eyes or determining the terms or conditions to be imposed upon or required of any person for the manufacture, purchase, sale or distribution of artificial eyes;

(D) Jointly establishing and operating, or continuing to operate jointly, any office or outlet for the sale or distribution of artificial eyes, or sharing the expenses of any office or outlet for the sale or distribution of artificial eyes;

(E) Restricting or limiting the manufacture or sale of artificial eyes;

(F) Requiring, directly or indirectly, that such person or any other person not sell or deal in stock eyes other than those manufactured by a defendant or by any other designated person.

VIII

(A) Defendant Mager & Gougelman, Inc., is hereby ordered and directed, insofar as it now has or may acquire the power or authority to do so, to grant to any applicant making written request therefor a royalty-free, non-exclusive and unrestricted license or sublicense under the Travers Patent.

(B) Defendant Mager & Gougelman, Inc., is hereby enjoined and restrained from instituting or threatening to institute, or maintaining any action or proceeding for acts of infringement for the manufacture or sale of artificial eyes, or to collect damages, compensation or royalties alleged to have occurred or accrued prior to the date of this Final Judgment, under the Travers Patent.

IX

Each of the defendants is enjoined and restrained from acquiring any license, sublicense, grant of immunity or similar right under United States Letters Patent Nos. 2,497,872 and 2,497,873 unless such license, sublicense, grant of immunity or similar right grants to said defendant a full and unrestricted power to sublicense, which power such defendant is hereby ordered and directed to exercise by granting, to any applicant making written request therefor, a non-exclusive and unrestricted sublicense under either or both of said patents upon reasonable and non-discriminatory terms and conditions. In no event shall the royalty charged such applicant exceed that which the defendant is obligated to pay his licensor. Each defendant is further ordered and directed to notify in writing the Attorney General at Washington, D. C. within 30 days after it acquires any such license, sublicense, grant of immunity or similar right under United States Letters Patent Nos. 2,497,872 and 2,497,873.

X

Each defendant is hereby enjoined and restrained from making any disposition of the Travers Patent, or of United States Letters Patent Nos. 2,497,872 and 2,497,873, or rights with respect thereto, which deprives it of the power or authority to grant licenses as hereinbefore provided in Sections VIII and IX unless it requires, as a condition of such disposition, that the purchaser, transferee, assignee or licensee, as the case may be, shall observe the requirements of Sections VIII and IX hereof, as applicable, and such purchaser, transferee, assignee or licensee shall file with this Court, prior to the consummation of said transaction, an undertaking to be bound by said provisions of this Final Judgment.

XI

For the purpose of securing compliance with this Final Judgment and for no other purpose, duly authorized representatives of the

Department of Justice shall, upon written request of the Attorney General, or an Assistant Attorney General, and on reasonable notice to any defendant, made to its principal office, be permitted, subject to any legally recognized privilege, (1) access during the office hours of said defendant to all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of said defendant relating to any matter contained in this Final Judgment, and (2) subject to the reasonable convenience of said defendant and without restraint or interference from it to interview officers or employees of said defendant, who may have counsel present, regarding any such matters, and (3) upon such request the defendant shall submit such reports in writing to the Department of Justice with respect to 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 provided in this Section XI shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of such Department, except in the course of legal proceedings to which the United States is a party for the purpose of securing compliance with this Final Judgment or as otherwise required by law.

XII

Jurisdiction is retained 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 or for the modification or termination of any of the provisions thereof, and for the purpose of enforcement of compliance therewith and the punishment of violations thereof.

Date:

FEB. 15, 1952

WALTER J. LA BUY
United States District Judge

We hereby consent to the entry of the foregoing judgment:

For the Plaintiff:

H. G. MORISON
H. G. MORISON
Assistant Attorney General

SIGMUND TIMBERG
SIGMUND TIMBERG

MARCUS A. HOLLABAUGH
MARCUS A. HOLLABAUGH

Special Assistants to the
Attorney General

EDWIN H. PEWETT
EDWIN H. PEWETT

WILLIS L. HOTCHKISS
WILLIS L. HOTCHKISS

Special Assistants to the
Attorney General

RAYMOND D. HUNTER
RAYMOND D. HUNTER

CHARLES F. B. McALEER
CHARLES F. B. McALEER

JOSEPH A. PRINDAVILLE
JOSEPH A. PRINDAVILLE

Trial Attorneys

For the Defendants:
Mager & Gougelman, Inc.,
Paul Gougelman Company,
Paul Gougelman, Jr. and
Stanley W. Rybak

THOMAS F. McWILLIAMS
THOMAS F. McWILLIAMS

United States v. Outdoor Advertising Association of America, Inc., et al.

Civil Action No. 50 C 935

Year Judgment Entered: 1952

Year Judgment Modified: 1966

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. Outdoor Advertising Association of America, Inc., et al., U.S. District Court, N.D. Illinois, 1952-1953 Trade Cases ¶67,341, (Sept. 9, 1952)

United States v. Outdoor Advertising Association of America, Inc., et al.

1952-1953 Trade Cases ¶67,341. U.S. District Court, N.D. Illinois, Eastern Division. Civil Action No. 50 C 935. Dated September 9, 1952. Case No. 1057 in the Antitrust Division of the Department of Justice.

Sherman Antitrust Act

Consent Decrees—Practices Enjoined—Fixing Rates, Restrictive Practices, Allocating Markets, Refraining from Competition—Outdoor Advertising Associations.— A national outdoor advertising association and local member associations are enjoined by a consent decree from fixing or suggesting the rate or amount of any commission paid by any plant operator to any advertising agency, or from fixing or suggesting the price to be charged by any plant operator for the display of any poster; from limiting or restricting any person from owning or operating any poster panel or display plant in any territory, limiting or restricting any national advertiser from entering into any advertising contract directly with any plant operator, limiting or restricting any plant operator from entering into any advertising contract directly with any national advertiser, or limiting or restricting any plant operator from competing in the same market with any other plant operator; from limiting or designating the persons with whom national advertisers may do business; from allocating markets for the operation of poster panels or display plants by any person; from limiting association membership to one or any particular number of plant operators in any market; from requiring as a condition of membership the payment by the applicant of any dues not legally due from and payable by such applicant; from adopting any plan the purpose of which is to encourage any person to refrain from competition; from granting more than one association voting membership to any plant operator; from authorizing any officer or employee of the national association to serve at the same time as an officer or employee of two named corporations; from arbitrating or holding hearings in connection with any dispute between two or more members where the effect thereof would be inconsistent with this judgment; and from making or adopting any plan or regulation the purpose or effect of which is to recognize or disapprove any national advertiser as a source of business for any plant operator, to condition the availability, of statistical service upon any contract that the recipient shall perform or refrain from performing any act, to hinder or prevent any advertising agency from representing any national advertiser, or to hinder or prevent any member from casting any vote by proxy at any association meeting.

Consent Decrees—Specific Relief—Association Membership, Statistical Service, and Securing Compliance with Decree—Outdoor Advertising Associations.—A national outdoor advertising association and local member associations are required by a consent decree to make and furnish to each of its members and to each applicant for membership a clear and readily understandable statement of its membership requirements, to grant to any plant operator town membership for all markets in which such plant operator maintains a display plant, and to provide for the assessment and collection of all membership clues upon a reasonable, uniform and non-discriminatory basis. The national association is required to include in its statistical service the plant data of any non-member plant operator (upon the request of any non-member plant operator) upon payment of a reasonable and non-discriminatory charge, to furnish its statistical service to any person requesting the same upon the payment of a reasonable, non-discriminatory charge, and to furnish to any person specifications and detailed illustrations of posterpanel structures recommended by such national association. The national association is further required to take all reasonable steps consistent with the provisions of the decree to insure compliance of each of the local member associations with each of the provisions of the decree. If the national association shall have reasonable grounds to believe that any such member association may be violating the provisions of the decree, it shall notify such association of its belief. If the national association is unable to cause such association to cease such violations, it shall cancel its charter and report such action to the Attorney General.

For the plaintiff: Newell A. Clapp, Acting Assistant Attorney General; Willis L. Hotchkiss and Edwin H. Pewett, Special Assistants to the Attorney General; and Raymond D. Hunter, Joseph Prindaville, and Harry N. Burgess, Trial Attorneys.

For the defendants: E. Allen Frost for Outdoor Advertising Ass'n of America, Inc.; Morrison, Hohfeld, Foerster, Shuman and Clark by Roland C. Foerster, for Outdoor Advertising Ass'n of California and Outdoor Advertising Ass'n of Arizona; Richard T. Jones for Outdoor Advertising Ass'n of The Northern States; Phillip J. Fox for Outdoor Advertising Ass'n of Wisconsin; and Otis E. Nelson for Outdoor Advertising Ass'n of Texas, Inc.

Final Judgment

BARNES, District Judge [*In full text*] *:* Plaintiff, United States of America, having filed its complaint herein on June 30, 1950; each of the named defendants having appeared; each of the class defendants having filed its consent to be represented in this action by the defendants named in the complaint in their several and representative capacities, and its consent to be bound by the terms of any final judgment entered herein, and the plaintiff and each of the named defendants, in their several and representative capacities, having consented to the entry of this Final Judgment,

Now, therefore, before any testimony has been taken and without trial or adjudication of any issue of fact or law herein, and upon the consent of all of the parties hereto, and and without any admission by any such party with respect to any such issue;

It is hereby ordered, adjudged, and decreed as follows:

I

[*Sherman Act*]

This Court has jurisdiction of the subject matter herein and of all the parties hereto, including each of the class defendants, and the complaint states a cause of action against each of the defendants, including each of the class defendants, under Section 1 of the Act of Congress of July 2, 1890, entitled “An Act to protect trade and commerce against unlawful restraints and monopolies”, commonly known as the Sherman Act, as amended.

II

[*Definitions*]

As used in this Final Judgment:

(A) “Defendant National Association” means the defendant Outdoor Advertising Association of America, Inc.;

(B) “Defendant associations” means the defendant National Association, each of the named defendants, and each of the state outdoor advertising associations which is a member of the defendant class as defined in the complaint;

(C) “State association” means any association chartered by the defendant National Association;

(D) “National advertiser” means any person whose product or service is advertised generally over a wide geographical area;

(E) “Poster” means the advertising copy of a national advertiser;

(F) “Poster panel” means the physical structure of the type used in connection with outdoor advertising to exhibit a poster;

(G) “Display plant” means the aggregate of poster panels owned, operated, or maintained by any person in any city, town or market;

(H) “Plant operator” means any person, as herein defined, who owns, maintains, or operates poster panels;

(I) “Outdoor advertising” means the display on poster panels of posters, and includes the solicitation of contracts for national outdoor advertising;

(J) “Plant data” means that information with respect to display plants and plant operators which is customarily issued by the defendant National Association in its Statistical Service, and used by advertising agencies and national advertisers in connection with a national outdoor advertising program;

(K) “Advertising agency” means any person engaged in the business of formulating and conducting advertising programs for national advertisers;

(L) “Person” means any individual, corporation, partnership, firm, association, trustee or other fiduciary, or any other legal entity;

(M) “50 showing” means the total number of regular and illuminated poster panels recommended by the defendant National Association as adequate to provide approximately one-half (1/2) complete advertising coverage in any city, town or market;

(N) “Town membership” means a membership which is held by an association member in any defendant association for any city, town or market.

III

[*Applicability of Judgment*]

The provisions of this Final Judgment applicable to any defendant, including any class defendant, shall apply to each such defendant, and to its officers, directors, agents, employees, successors and assigns, and to all other persons when acting under, through or for such defendant.

IV

[*Furnishing of Specifications Required*]

The defendant National Association is ordered and directed to furnish, upon request, to any person specifications and detailed illustrations of poster-panel structures recommended by defendant National Association. Such information shall be furnished by defendant National Association at cost.

V

[*Statement of Membership Requirements Ordered*]

Each defendant association is ordered and directed forthwith to:

(A) Make, publish and furnish to each of its present members, and to each applicant for membership, a clear, concise and readily understandable statement of its membership requirements;

(B) Grant, upon request, to any plant operator, town membership for all cities, towns or markets in which such plant operator owns, operates or maintains a display plant.

(1) In the event any defendant association refuses to grant any application for membership received by it, such refusal shall be by an instrument, in writing, mailed to the applicant, setting forth in detail the reasons for such refusal;

(2) In the event any such application is (a) improperly refused, or (b) is not acted upon within sixty (60) days of its receipt by the recipient defendant association, the applicant may apply to this Court to compel the granting of such membership. In the event of any such application to this Court, the burden of proof shall be upon the defendant association failing to grant such application for membership to show that its failure so to do does not constitute a violation of this subsection (B);

(C) Provide for the assessment and collection of all membership dues upon a reasonable, uniform and non-discriminatory basis, provided that in cities, towns, districts and markets of 75,000 population or over, where a new membership is granted, the dues of the new member shall be in the same proportion of the total dues paid

by the present member or members as the number of showings operated by the new member in such cities, towns, districts or markets bears to the number of showings operated by the present member or members. Such computation shall be made on the number of 50 showings operated by each member on December 1, of each year preceding the year for which dues are levied.

VI

[*Order Inclusion of Plant Data of Non-Members in Statistical Service*]

Defendant National Association is ordered and directed:

(A) Upon the request of any non-member plant operator, to include in its Statistical Service, without discrimination in any manner, the plant data of such plant operator upon payment of a reasonable and non-discriminatory charge. The plant data of any non-member plant operator shall be set forth in such Statistical Service in the same manner as the plant data of member plant operators of the defendant National Association;

(B) To furnish its Statistical Service to any person requesting the same upon the payment of a reasonable, non-discriminatory charge;

(C) Within sixty (60) days after the date of the entry of this Final Judgment, to send a copy of this Final Judgment to:

(1) All plant operators known to the defendant National Association located in the United States, including both members and nonmembers of said Association;

(2) All advertising agencies known to the defendant National Association who, on the date of entry of this Final Judgment, or who within five (5) years prior to said date of entry of this Final Judgment, have placed contracts for outdoor advertising in the United States;

(3) All members of National Outdoor Advertising Bureau, and to the principal officers of American Association of Advertising Agencies and Association of National Advertisers.

(D) To file with this Court, and serve upon the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, within ninety (90) days following the date of the entry of this Final Judgment, an affidavit listing all persons to whom copies of this Final Judgment have been sent pursuant to subsection (C) of this Section VI.

VII

[*Practices Enjoined*]

The defendant associations are jointly and severally enjoined and restrained from directly or indirectly:

(A) Fixing influencing, recommending or suggesting, or attempting to fix, influence, recommend or suggest:

(1) The rate or amount of any com mission or other compensation paid, or to be paid, by any plant operator to any advertising agency;

(2) The price or prices to be charged by any plant operator for the display of any poster or posters, or the price or prices to be paid by any national advertiser, or advertising agency, to any plant operator for the display of any poster or posters.

(B) Limiting, restricting or preventing, or attempting to limit, restrict or prevent:

(1) Any person from owning, operating or maintaining any poster panel or display plant in any territory, city, town, market or other location;

(2) Any national advertiser from entering into any advertising contract directly with any plant operator;

(3) Any plant operator from entering into any advertising contract directly with any national advertiser or advertising agency;

(4) Any plant operator from competing in the same city, town or market with any other plant operator.

(C) Limiting, restricting or designating, or attempting to limit, restrict or designate, the persons with whom national advertisers or advertising agencies may do business in connection with outdoor advertising;

(D) Allocating, limiting or dividing, or attempting to allocate, limit or divide, in any manner, territories, cities, towns or markets for the operation of poster panels or display plants, or the display of posters, by any person;

(E) Limiting or restricting, or attempting to limit or restrict, association membership to one or any particular number of plant operators in any territory, city, town or market;

(F) Requiring as a condition of member ship the payment by the applicant of any dues, fees or other sums of money not legally clue from any payable by such applicant. Without in any manner limiting the generality of the foregoing language of this subsection (F), each defendant association is enjoined and restrained from requiring, as a condition to the granting of member ship, the payment, by any applicant therefor which is a successor to a former member, of any dues or fees assessed, or other sums of money claimed, by any defendant association against such former member;

(G) Adopting or adhering to any under standing, plan, program, bylaw, rule, regulation or recommendation, the purpose or effect of which is to influence, urge or encourage any person to refrain from com petition with any other person in connection with outdoor advertising;

(H) Granting more than one association voting membership to any plant operator;

(I) Authorizing or knowingly permitting any officer, representative, director or employee of the defendant National Association to serve at the same time as an officer, representative, director or employee of both General Outdoor Advertising Company, Inc., and Outdoor Advertising, Incorporated;

(J) Arbitrating, settling or adjusting, or holding hearings in connection with, or establishing any procedures for arbitrating, settling or adjusting, any dispute between two or more members, where the purpose or effect thereof would be violative of or inconsistent with any of the provisions ‘of this Final Judgment;

(K) Making, promulgating, adopting, proposing or continuing in effect any plan, program, by-law, rule, regulation or recommendation, the purpose or effect of which is, or may be:

(1) To recognize, approve or disapprove any national advertiser or advertising agency as a source of business for any plant operator;

(2) To condition the availability of its Statistical Service upon any contract, agreement, or understanding that the recipient of such Statistical Service, or any association member, shall perform, or refrain from performing, any act, other than the payment of a reasonable, non-discriminatory charge therefor;

(3) To hinder, limit, restrict or pre vent any advertising agency from representing, or entering into any contract or agreement with, any national advertiser with respect to outdoor advertising;

(4) To hinder, limit, restrict or prevent any member from casting any vote, by proxy or absentee ballot, at any association meeting.

VIII

[*Taking of Reasonable Steps To Insure Compliance Ordered*]

Defendant National Association is ordered and directed to take all reasonable steps consistent with the provisions of this Final Judgment, to insure compliance by each of the defendant State associations, and the members thereof, with each of the provisions of this Final Judgment. In the event defendant National Association shall have reasonable grounds to believe that any of such State associations, or any of the members thereof, may be violating any of the provisions of this Final Judgment, the defendant National Association shall immediately notify such State association of its belief and the grounds therefor, and give to such State association an opportunity to express its views with respect thereto. If, after a reasonable time, the defendant National Association is unable to cause such State association, or the members thereof, to cease any such

violation, of this Final Judgment, defendant National Association shall thereupon cancel any charter issued by it to such State association and cause the immediate dismissal of such State association from participation in any of the activities of the defendant National Association and immediately report such action to the Attorney General.

IX

[*Inspection and Compliance*]

For the purpose of securing compliance with this Final Judgment duly authorized representatives of the Department of Justice shall, on the written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to any defendant Association, be permitted (a) access, during the office hours of such defendant to all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of such defendant relating to any of the matters contained in this Final Judgment; and (b) subject to the reasonable convenience of such defendant, and without restraint or interference from it, to interview officers or employees of such defendant, who may have counsel present, regarding any such matters. For the purpose of securing compliance with this Final judgment, any defendant, upon the written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and upon reasonable notice, shall submit such written reports with respect to any of the matters contained in this Final Judgment as from time to time may be necessary for the purpose of enforcement of this Final Judgment. No information obtained by the means provided in this Section shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of such Department, except in the course of legal proceedings to which the United States of America is a party for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

X

[*Jurisdiction Retained*]

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

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA, Plaintiff, v. OUTDOOR ADVERTISING ASSOCIATION OF AMERICA, INC., et al, Defendants.	)	Civil Action No. 50 C 935 Entered by the Court on 1/26/66

At Chicago, Illinois, in said District
and Division on

ORDER AMENDING FINAL JUDGMENT

A Final Judgment having been entered herein by this Court on September 9, 1952; and this Court by Section X of said Final Judgment having retained jurisdiction to enter further orders necessary or appropriate for the amendment or modification of any of the provisions of said Final Judgment; plaintiff and defendant Outdoor Advertising Association of America, Inc., by their respective attorneys, having consented to the entry of this Order modifying and amending certain of the provisions of Section V of said Final Judgment; and it appearing to the Court that this Order is appropriate,

IT IS THEREFORE ORDERED, that Section V of said Final Judgment is amended by striking therefrom subsection (C) and inserting the following subsection (C):

"(C) Provide for the assessment and collection of all membership dues upon a reasonable, uniform and non-discriminatory basis, provided that, as to each market of 75,000 population or over, in which two or more members operate poster display plants, that portion of the dues of each member, calculated on a population per thousand basis for such market, shall be adjusted in proportion to relative poster display plant capacities, by multiplying such portion by a fraction, the numerator of which is equal to the poster display plant capacity of such member and the denominator of which is equal to the poster display plant capacity of the member with the largest such capacity in such market. Poster display plant capacity means the total number of poster displays operated by a member in such market on any day between August 31 and December 15 of the year preceding that for which the dues are levied, provided that in any year the same day is used for calculating such capacity for all members."

_____
United States District Judge

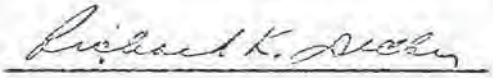
We hereby consent to the making and entry of the foregoing Order Amending Final Judgment:

For the Plaintiff:

_____

_____
Attorneys for Plaintiff

For the Defendant
Outdoor Advertising Association of America, Inc.:



Attorneys for Defendant

LORD, BISSELL & BROOK
135 South LaSalle Street
Chicago, Illinois 60603

Of Counsel

United States v. Allied Florists Association of Illinois, et al.

Civil Action No. 51 C 1036

Year Judgment Entered: 1953

Year Judgment Modified: 1954

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF ILLINOIS

EASTERN DIVISION

UNITED STATES OF AMERICA, Plaintiff,	)	
v.	)	CIVIL ACTION
ALLIED FLORISTS ASSOCIATION OF ILLINOIS ET AL., Defendants.	)	NO. 51 C 1036

FINAL JUDGMENT

The plaintiff, the United States of America, having filed its complaint herein on June 29, 1951, and the defendants having appeared and filed their answers to such complaint denying the substantive allegations thereof, and all of the parties hereto, by their respective attorneys, having severally consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein and without admission by any defendant in respect of any such issue;

NOW, THEREFORE, before any testimony has been taken and without trial or adjudication of any issue of fact or law herein and upon consent of all parties hereto, and without the consent of the parties or this Final Judgment being considered as an admission or adjudication that any of the defendants have performed any of the acts charged in said complaint, it is hereby

ORDERED, ADJUDGED AND DECREED, as follows:

I

This Court has jurisdiction of the subject matter herein and of all the parties hereto. The complaint states a cause of action against the defendants under Sections 1 and 2 of the Act of Congress of July 2,

1890, entitled "An Act to protect trade and commerce against unlawful restraints and monopolies," commonly known as the Sherman Act, as amended.

II

As used in this Final Judgment:

(a) "Allied" shall mean the defendant the Allied Florists Association of Illinois;

(b) "Association" shall mean the defendant the Chicago Wholesale Cut Flower Association;

(c) "News" shall mean the defendant the Central Flower News, Inc.;

(d) "Review" shall mean the defendant The Florist Publishing Company;

(e) "Credit Association" shall mean the defendant the Chicago Association of Credit Men's Service Corporation;

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

(g) "Cut flowers" shall mean those flowers which the grower has cut and shipped to a market for ultimate resale to the consumer;

(h) "Grower" shall mean any person who grows, cuts and ships flowers to a market for ultimate resale to the consumer;

(i) "Retail florist" shall mean any person engaged in the business of selling cut flowers to ultimate consumers;

(j) "Wholesaler" shall mean any person engaged in the business of receiving cut flowers from growers and selling cut flowers to retail florists.

(k) "Defendant wholesalers" shall mean each and all of the following:

Amling Company
Chicago Flower Growers, Incorporated
Louis Hoeckner Company
Eric Johnson, Incorporated
Kennicott Bros. Company
A. T. Pyfer & Company
George Reinberg Company
Peter Reinberg, Incorporated
San Lorenzo & King Co., Inc.
Joseph W. Smith
Agnes P. Smith
Myrtle M. Foerster
Emeline Foerster
Mrs. Helen Erne McSweeney

III

The provisions of this Final Judgment applicable to any defendant shall apply to such defendant, its successors, subsidiaries, assigns, officers, directors, agents, and employees, and to all other persons acting or claiming to act under, through or for such defendant.

IV

Each of the defendants is enjoined and restrained from entering into, adhering to, maintaining or participating in any combination, conspiracy, contract, agreement, understanding, plan or program, directly or indirectly, with any other person which has the purpose or effect of:

(A) Prohibiting, restricting or interfering with, in any manner, the privilege of any person to advertise in the News or the Review or any other similar publication;

(B) Prohibiting, restricting or denying membership in or use of the credit facilities or services of the Credit Association to any wholesaler;

(C) Refusing to purchase cut flowers from, or to handle cut flowers on a consignment basis for, or discriminating against, any grower who has sold, does sell or intends to sell cut flowers directly to any retail florist

(D) Refusing to extend credit to any retail florist in connection with the purchase, sale or consignment of cut flowers.

V

Defendants are jointly and severally enjoined and restrained from entering into, adhering to, maintaining or participating in any combination, conspiracy, contract, agreement, understanding, plan or program, directly or indirectly, with any defendant or any other wholesaler which has the purpose or effect of:

(A) Coercing, persuading or inducing, or attempting to coerce, persuade or induce, any grower to refrain from shipping, selling or consigning cut flowers to any retail florist or any other person;

(B) Refusing to purchase or to handle cut flowers from any grower;

(C) Fixing, determining, establishing or inducing the adherence to prices of, or other terms or conditions of sale for, cut flowers sold to third persons;

(D) Fixing, determining or establishing terms or conditions of credit for the sale of cut flowers to retail florists;

(E) Fixing, determining or establishing commissions to be charged by wholesalers for the sale of cut flowers;

(F) Fixing, determining, or establishing the quantity of cut flowers to be sold or offered for sale;

(G) Allocating, restricting or dividing markets, territories or customers for the growing of flowers or the distribution or sale of cut flowers;

(H) Discriminating as to price, discount, or other term or condition of sale for cut flowers sold to any other wholesaler.

VI

The defendant wholesalers are jointly and severally enjoined and restrained from:

(A) Deducting after July 1, 1953, directly or indirectly, from any remittance made to any grower any portion of such remittance for advertising purposes, without first having notified such grower of this provision of this Final Judgment in a form first approved by the plaintiff,

and without having obtained, annually, the prior written consent of each grower to such deduction;

(B) Collecting or attempting to collect any overdue account from any retail florist for any other wholesaler;

(C) Fixing, determining or establishing prices or other terms or conditions for the resale of cut flowers to third persons.

VII

(A) Defendant Association is ordered and directed to cause, within thirty (30) days after the date of entry of this Final Judgment, the dissolution of the Association and, within sixty (60) days after the date of entry of this Final Judgment its officers and directors shall file an affidavit with this Court, and send a copy thereof to the plaintiff herein, setting forth the steps taken to comply with the above terms of this Section VII;

(B) The defendants are jointly and severally enjoined and restrained from organizing, becoming a member of, or participating in the activities of, directly or indirectly, any trade association or other organization, the activities of which violate or are inconsistent with any provision of this Final Judgment.

VIII

Defendant Allied is ordered and directed to:

(A) Admit to its membership any retail florist, grower or wholesaler on non-discriminatory terms and conditions, but defendant Allied may classify such members solely for the purposes of internal organization and assessing of dues;

(B) Allow each of its members to attend each and every meeting of Allied with the exception of meetings held by its officers and board of directors;

(C) Furnish a copy of this Final Judgment to each of its present members and to each of its future members on their admission to membership.

IX

(A) The defendant Credit Association is hereby ordered and directed to admit to membership in its "Florist Wholesaler Credit Group" any wholesaler making a written request therefor and to make available its services and facilities to all wholesalers upon non-discriminatory terms and conditions

(B) At any time after one year following the date of entry of this Final Judgment plaintiff may apply to this Court for other and further relief with regard to the activities of any of the defendants relating to credit, and such relief may be granted upon proper showing but without the necessity of a showing by the plaintiff of any change of circumstances since the entry of this Final Judgment.

X

The defendants News and Review are jointly and severally enjoined and restrained from refusing to accept for publication or refusing to publish any advertisement, or discriminating as to price, space, arrangement, location, commencement or period of insertion or any terms or conditions of publication of advertisement or advertisements, where the reason for such refusal or discrimination is, in whole or in part, express or implied:

(A) That the grower submitting the advertisement or advertisements has sold, sells or offers to sell cut flowers directly to retail florists or to consumers;

(B) That the person submitting the advertisement or advertisements:

(1) Transacts or does business outside the Chicago area;

(2) Is not a member of or approved by any association or other organization.

XI

For the purpose of securing compliance with this Final Judgment, duly authorized representatives of the Department of Justice shall upon

written request of the Attorney General, or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to any defendant, made to its principal office, be permitted:

(A) Access, during the office hours of such defendant, to all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of such defendant, relating to any of the matters contained in this Final Judgment, and

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

Upon such request the defendant shall submit such reports in writing with respect to any of the matters contained in this Final Judgment as from time to time may be necessary to the enforcement of this Final Judgment. No information obtained by the means permitted in this Section XI shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Department except in the course of legal proceedings to which the United States is a party for the purpose of securing compliance with this Final Judgment or as otherwise required by law.

XII

Jurisdiction is retained for the purpose of enabling any of the parties to this Final Judgment to apply to the 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

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

Dated: February 13, 1953.

United States District Judge

We consent to the entry of the foregoing Final Judgment for the plaintiff.

s/ Edward P. Hodges
EDWARD P. HODGES
Acting Assistant Attorney General

s/ Edwin H. Pewett
EDWIN H. PEWETT
Chief, Judgments & Judgment Enforcement Section

s/ W. D. Kilgore, Jr.
WILLIAM D. KILGORE, JR.

s/ Charles F B. McAleer
CHARLES F. B. McALEER

Attorneys

s/ Ralph M McCareins
RALPH M McCAREINS

s/ Raymond D. Hunter
RAYMOND D. HUNTER

Attorneys for the United States
Room 400, United States Court House
219 South Clark Street
Chicago 4, Illinois
HA rrison 7-4700

We consent to the entry of the foregoing Final Judgment for the defendants.

s/ Lawrence S. Newmark
LAWRENCE S. NEWMARK
Berger & Newmark
10 South LaSalle Street
Chicago 3, Illinois

Attorneys for:
Allied Florists Association of Illinois
Chicago Wholesale Cut Flower Association
Amling Company
Chicago Flower Growers, Incorporated
Louis Hoeckner Company
A. T. Pyfer & Company
George Reinberg Company
Peter Reinberg, Incorporated
San Lorenzo & King Co., Inc.
Mrs. Helen Erne McSweeney
Central Flower News, Inc.

s/ Robert C. Eardley
ROBERT C. EARDLEY
Baker & Eardley
111 West Washington Street
Chicago 2, Illinois

Attorneys for:
Eric Johnson, Incorporated

s/ Morgan & Lanoff
Samuel M. Lanoff
By Edwin A. Halligan
SAMUEL M. LANOFF
Morgan & Lanoff
38 South Dearborn Street
Chicago 3, Illinois

Attorneys for:
Kennicott Bros. Company

s/ Kenneth B. Kirk
KENNETH B. KIRK
Gann, Secord, Stead & McIntosh
135 South LaSalle Street
Chicago 3, Illinois

Attorneys for:
Myrtle M. Foerster
Emeline Foerster

s/ Thomas D. Nash, Jr.
THOMAS D. NASH, JR.
Nash, Ahern & McNally
111 West Washington Street
Chicago 2, Illinois

Attorneys for:
Joseph W. Smith
Agnes P. Smith

s/ Halfpenny & Hahn
By Harold T. Halfpenny
HAROLD T. HALFPENNY
Halfpenny & Hahn
111 West Washington Street
Chicago 2, Illinois

Attorneys for:
Chicago Association of
Credit Men's Service
Corporation

s/ K. Raymond Clark and
James J. Costello, Jr.
by James J Costello, Jr.
K. RAYMOND CLARK and
JAMES J. COSTELLO, JR.
135 South LaSalle Street
Chicago 3, Illinois

Attorneys for:
The Florist Publishing Company

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF ILLINOIS

EASTERN DIVISION

UNITED STATES OF AMERICA, Plaintiff, v. ALLIED FLORISTS ASSOCIATION OF ILLINOIS ET AL., Defendants.	CIVIL ACTION NO. 51 C 1036

ORDER MODIFYING THE FINAL JUDGMENT

Plaintiff, having moved to modify the Final Judgment entered in this cause on February 13, 1953, and plaintiff having duly served notice of said motion on the defendants, and the defendants through their respective attorneys having appeared in court on said motion on June 3, 1954 and the Court being fully advised in the premises:

IT IS HEREBY ORDERED:

That the Final Judgment entered in this cause on February 13, 1953 is hereby modified by striking all of Section VI(A) of said Final Judgment reading as follows:

> (A) Deducting after July 1, 1953, directly or indirectly, from any remittance made to any grower any portion of such remittance for advertising purposes, without first having notified such grower of this provision of this Final Judgment in a form first approved by the plaintiff, and without having obtained, annually, the prior written consent of each grower to such deduction.

and inserting in lieu thereof the following:

> (A) Deducting, directly or indirectly, from any remittance made to any grower any portion of such remittance for advertising purposes, without first having notified such grower of this provision of this Final Judgment in a form first approved by the plaintiff, and without having obtained the prior, written consent of each grower to such deduction, which consent may be withdrawn by such grower at any time.

ENTER:

s/ Philip L. Sullivan

United States District Judge

Date: June 3, 1954

United States v. The Borden Company, et al.

Civil Action No. 51 C 947

Year Judgment Entered: 1953 (various defendants);

1963 (defendants Borden and Bowman)

Year Judgment Superseded: 1966 (defendants covered by 1953 judgment)

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. The Borden Company, et al., U.S. District Court, N.D. Illinois, 1952-1953 Trade Cases ¶67,441, (Feb. 19, 1953)

United States v. The Borden Company, et al.

1952-1953 Trade Cases ¶67,441. U.S. District Court, N.D. Illinois, Eastern Division. Civil Action No. 51 C 947. Dated February 19, 1953. Case No. 1090 in the Antitrust Division of the Department of Justice.

Robinson-Patman Price Discrimination Act and Sherman Antitrust Act

Consent Decrees—Practices Enjoined—Price Discrimination—Meeting Competition —Dairies.—Dairies are enjoined by a consent decree from selling or offering to sell milk of like grade or quality to a wholesale customer, other than a non-profit institution, at prices which discriminate against other customers of the seller or on such terms or conditions as involve lump sum cash payments, interest free loans, store equipment (or non-compensated use thereof), gratuities or other similar inducements, or discriminatory rebates, discounts, or advertising service charges. The decree further provides that, upon proof being made, at a hearing on a complaint by the Government under this provision that a defendant has sold or offered to sell milk at price terms or conditions, as aforesaid, the burden of rebutting the prima facie case thus made shall be upon the defendant so charged; provided, however, that nothing shall prevent such defendant from rebutting the prima facie case by showing that such prices, terms or conditions were made lawfully and in good faith in order to meet equally low prices, terms or conditions offered or given by a competitor, or that the price differentials offered or given made only due allowance for differences in the cost of sale or delivery resulting from differing methods or quantities in which the milk was sold or delivered to such customer.

Consent Decrees—Practices Enjoined—Allocation of Markets-Collusive Bidding.— Dairies are enjoined by a consent decree from entering into any agreement with any other distributor or vendor for the purpose of (1) allocating or dividing customers or markets, (2) adopting rules governing the solicitation of wholesale customers or public institutions by contact men or solicitors, and (3) refusing to submit a bid or making a bid higher than, or identical with, the bid of any other person, or to submit collusively a bid. The decree further provides that nothing contained in the provision shall prevent a defendant from contracting with a vendor to service a particular route, provided that the right of such vendor to sell upon other routes is not restricted.

Consent Decrees—Practices Enjoined—Price Fixing and Related Practices.—Dairies are enjoined by a consent decree from entering into any agreement which has the purpose of fixing or maintaining prices, price lists, differentials, or discounts; from inducing or requesting any labor union to coerce or prevent any wholesale customer from selling milk except at prices established or determined by any person other than said wholesale customer; from compelling or requesting any wholesale customer not to advertise prices for the sale of milk; and from printing or distributing any resale price list containing out-of-store prices to the public, provided that lawful newspaper advertising shall not be prohibited.

Consent Decrees—Practices Enjoined—Selling and Exclusive-Dealing Practices.— Dairies are prohibited by a consent decree from entering into or continuing or claiming any rights for the sale of milk under any contract, the consideration for which was or is a gift, payment or loan of any property of value; from selling milk on the basis that the purchaser shall not purchase or deal in milk obtained from any other source, except in contracts the duration of which does not exceed one year; from refusing to sell milk to any person on the grounds that such person has purchased or is purchasing milk from any other source; from ordering its solicitors not to solicit the milk business of any person because such person is or has been purchasing milk from another source; and from communicating to any other distributor or vendor other than a vendor selling milk purchased from such distributor the name of any person to whom such defendant is or has been selling milk.

Consent Decrees—Specific Relief—Bids, Records, Certified Lists.—Dairies are ordered by a consent decree (1) to submit, as part of any bid for the sale of milk to any public institution, an affidavit certifying that such bid has been compiled and is submitted without discussion or collusion, (2) to keep and maintain, for a period

of three years, a copy of each bid submitted by it to a public institution, (3) to keep and maintain route books, for a period of three years, showing the prices at which milk is sold to each wholesale customer, (4) to keep and maintain, for a period of three years, every permanent record and every record of solicitation of wholesale customers kept in the ordinary course of business, and (5) to file with the Attorney General a duly certified list showing each and every loan by such defendant to its store, restaurant or hotel customers outstanding and unpaid, and each and every transaction of purchase or loan of fixtures, equipment, merchandise, facilities or other property of value entered into with others by a store, restaurant or hotel customer of such defendant where such purchase or loan is outstanding and unpaid and in respect of which such defendant is an accommodation endorser or guarantor.

Consent Decrees—Applicability of Provisions—Area. — A consent decree entered against dairies provides that the provisions of the decree shall apply only to those activities of the defendants in three specified counties in one state and in one specified county in another state.

For the plaintiff: Edward P. Hodges, Acting Assistant Attorney General; Edwin H. Pewett, Trial Attorney; Victor H. Kramer, Special Assistant to the Attorney General; and W. D. Kilgore, Jr., Ralph M. McCareins, and Charles F. B. McAleer, Attorneys for the United States.

For the defendants: Herman A. Fischer for American Processing and Sales Co.; Isidore Fried for Capitol Dairy Co.; Thomas B. Gilmore for Hunding Dairy Co. and Western United Dairy Co.; and Charles W. Schaub for Meadowmoor Dairies, Inc.

Final Judgment

[*Consent to Entry of Judgment*]

CAMPBELL, District Judge [*in full text*]: Plaintiff, United States of America, having filed its complaint herein on June 18, 1951, and the defendants, American Processing and Sales Company, Capitol Dairy Company, Hunding Dairy Company, Meadowmoor Dairies, Inc., and Western United Dairy Co, (which defendants are hereinafter referred to collectively as the “consenting defendants”), and each of them, having appeared and filed their answers to said complaint denying the substantive allegations thereof; and the plaintiff and the consenting defendans, by their respective attorneys, having severally consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein, and without admission by any party in respect of 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 consent as aforesaid of the plaintiff and the consenting defendants,

It is hereby ordered, adjudged and decreed as follows:

I

[*Sherman and Clayton Act Causes of Action*]

This Court has jurisdiction of the subject matter hereof and of the plaintiff and consenting defendants. The complaint states a cause of action against the consenting defendants under Sections 1 and 2 of the Act of Congress of July 2, 1890, entitled “An Act to Protect Trade and Commerce Against Unlawful Acts and Monopolies,” commonly known as the Sherman Act, and under Section 2 (a) of the Act of Congress of October 15, 1914, entitled “An Act to Supplement Existing Laws Against Unlawful Restraints and Monopolies and for Other Purposes,” commonly known as the Clayton Act, and acts amendatory thereof and supplemental thereto.

II

Definitions

As used in this Final Judgment:

(A) “Fluid Milk” means cow's milk sold in fresh fluid form, whether as milk or as cream, or inter-mixtures thereof;

(B) “Distributor” means any person engaged in the business of purchasing, pasteurizing, processing, bottling, and selling fluid milk;

(C) “Vendor means any person engaged in the business of buying fluid milk from a distributor for resale to wholesale customers or others;

(D) “Wholesale customers” means vendors and those customers for fluid milk who buy from a distributor or from a vendor for resale purposes. It also includes hotels, restaurants and other eating places purchasing milk for resale to consumers;

(E) “Public institutions” means any federal, state, county or municipal institution;

(F) “Person” shall mean an individual, partnership, firm, association, corporation, cooperative or any other legal entity.

III

[*Applicability of Provisions*]

The provisions of this Judgment applicable to any consenting defendant shall apply to such defendant, its successors, subsidiaries, assigns, officers, directors, agents and employees, and to all other persons acting or claiming to act under, through or for such defendant. Such provisions shall apply only to those activities of such defendant, in the counties of Cook, DuPage and Lake in Illinois, and Lake County, Indiana.

IV

[*Prohibited Agreements and Practices*]

Each of the consenting defendants is enjoined and restrained from:

(A) Entering into, adhering to or maintaining any combination, conspiracy, contract, agreement, understanding plan or program, directly or indirectly, with any other distributor or vendor for the purpose or with the effect of:

(1) Allocating or dividing customers, territories or markets for the sale of fluid milk;

(2) Adopting, maintaining, enforcing or adhering to rules, instructions or practices governing the solicitation of wholesale customers or public institutions by contact men or solicitors;

(3) Refusing to submit a bid for the sale of fluid milk or making a bid therefor higher than, or identical with, the bid of any other person, or to submit collusively a bid therefor.

Nothing contained in this Section IV (A) shall prevent a consenting defendant from contracting with a vendor to service a particular route or territory, provided that the right of such vendor to sell in other territories or upon other routes is not directly or indirectly restricted thereby.

(B) Selling or offering to sell fluid milk of like grade or quality to a wholesale customer, other than a non-profit institution, at prices which discriminate against other customers of the seller or on such terms or conditions as involve lump sum cash payments, interest free loans, store equipment (or non-compensated use thereof), gratuities or other similar inducements, or discriminatory rebates, discounts or advertising service charges.

Upon proof being made, at any hearing on a complaint by the plaintiff under this Section IV (B) that a defendant has sold or offered to sell fluid milk at prices, terms or conditions, as aforesaid, the burden of rebutting the prima facie case thus made shall be upon the defendant so charged; Provided, however, that nothing herein contained shall prevent such defendant from rebutting the prima facie case thus made by showing that such prices, terms or conditions were made lawfully and in good faith in order to meet equally low prices, terms or conditions offered or given by a competitor, or that the price differentials offered or given made only due allowance for differences in the cost of sale or delivery resulting from differing methods or quantities in which the fluid milk was sold or delivered to such customer.

(C) Entering into, adhering to, continuing or claiming any rights for the sale of fluid milk under any contract agreement or understanding, the consideration for which was or is a gift, payment or loan of any property of value.

(D) Entering into any contract, agreement or understanding which has the purpose or effect of determining, fixing, maintaining, adhering to, or inducing the adherence to, prices, price lists, differentials, discounts or other terms or conditions of sale for fluid milk sold to third persons;

(E) Selling or offering to sell fluid milk on the basis, agreement or understanding that the purchaser thereof shall not purchase or deal in fluid milk obtained from any other source, except in contracts the duration of which does not exceed one year.

(F) Refusing, directly or indirectly, to sell fluid milk to any person on the grounds that such person has purchased or is purchasing fluid milk from any other source.

(G) Ordering, directing or instructing its solicitors or contact men not to solicit the fluid milk business of any person because such person is or has been purchasing fluid milk from another source.

(H) Communicating, directly or indirectly, to any other distributor or vendor other than a vendor selling fluid milk purchased from such distributor the name of any person to whom such defendant is or has been selling fluid milk.

(I) Inducing, attempting to induce, or requesting any labor union, through its officers, members or agents to coerce or prevent, or to attempt to coerce or to prevent any wholesale customer from selling fluid milk except at prices established or determined by any person other than said wholesale customer.

(J) Compelling, inducing or requesting any wholesale customer not to advertise prices for the sale of fluid milk.

(K) Printing, writing or distributing any resale price list containing suggested out-of-store prices to the public for fluid milk, provided that the provisions of this subsection (K) shall not prohibit lawful newspaper advertising.

V.

[*Bids to Public Institutions—Requirements*]

Each of the consenting defendants is hereby ordered and directed:

(A) To submit, as part of any bid for the sale of fluid milk to any public institution, an affidavit of the officer or agent of such defendant signing the bid, certifying that such bid has been compiled and is submitted without discussion, agreement, understanding or collusion on the part of the defendant submitting the same with any other distributor or vendor;

(B) To keep and maintain, in orderly classification, for a period of three (3) years after the date of submission, a copy of each bid for the sale of fluid milk submitted by it to a public institution, and a list of such bids showing the date on which, and the name of the public institution to which, the respective bids were submitted.

VI.

[*Records To Be Maintained*]

Each of the consenting defendants is ordered and directed to:

(A) Keep and maintain route books or other records, for a period of three (3) years after making the entries therein, showing the prices at which fluid milk is sold and delivered to each wholesale customer after the date of entry of this Final Judgment;

(B) Keep and maintain, for a period of three (3) years after the making thereof, every permanent record and every record of solicitation of wholesale customers kept in the ordinary course of business;

(C) Distribute to each of its officers, agents and employees, engaged in selling fluid milk to wholesale customers, a copy of this Final Judgment and to file with the Clerk of this Court and with the Attorney General of the United States within thirty (30) days after the date of entry of this Final Judgment an affidavit of an officer of said defendant to the effect that such distribution has been made.

(D) File with the Attorney General of the United States within thirty (30) days after the entry of this Final Judgment, to be used only for the purpose of securing compliance with this Final Judgment, a duly certified list showing each and every loan by such defendant to its store, restaurant or hotel customers then outstanding and unpaid, in whole or in part, of money, credit, fixtures, equipment, merchandise, facilities or other property of value, and each and every transaction of purchase or loan of fixtures, equipment, merchandise, facilities or other property of value, tangible or intangible, entered into with others by a store, restaurant or hotel customer of such defendant where such purchase or loan is still outstanding and unpaid, in whole or in part, and in respect of which such defendant is an accommodation endorser or guarantor.

VII.

[*Compliance*]

For the purpose of securing compliance with this Final Judgment, duly authorized representatives of the Department of Justice shall upon 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,

(a) Access, during the office hours of such defendant, to all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of such defendant, relating to any of the matters contained in this Final Judgment, and

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

Upon request the defendant shall submit such reports in writing with respect to any of the matters contained in this Final Judgment as from time to time may be necessary to the enforcement of this Final Judgment. No information obtained by the means permitted in this Section VII shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Department except in the course of legal proceedings to which the United States is a party for the purpose of securing compliance with this Final Judgment or as otherwise required by law.

VIII.

[*Jurisdiction Retained*]

Jurisdiction of this action is retained for the purpose of enabling any of the parties to this Final Judgment to apply to the 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 modification of any of the provisions thereof or for the enforcement of compliance therewith and the punishment of violations thereof.

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF ILLINOIS

EASTERN DIVISION

UNITED STATES OF AMERICA, Plaintiff,	)	CIVIL ACTION
v.	)	NO. 51 C 947
THE BORDEN COMPANY, Defendant.	)	

At Chicago, Illinois, in said Division and District on

FINAL JUDGMENT

PRELIMINARY STATEMENT

Plaintiff, United States of America, filed its complaint herein on June 18, 1951 and the defendant, The Borden Company, filed its answer on September 19, 1952. The complaint alleging violations of the Sherman Act and Section 2(a) of the Clayton Act was tried in 1953.

At the conclusion of the Government's case-in-chief, the Sherman Act allegations of the complaint were dismissed by the Court on the ground that the Government had failed to show violations of the Sherman Act. At the same time, the Court also dismissed the Clayton Act allegations holding that, although the Government had shown

prima facie evidence that Borden and Bowman had each discriminated in price among its purchasers, a decree entered by the Court in a private antitrust suit against The Borden Company, Bowman Dairy Company, and others afforded adequate relief and rendered injunctive relief in this suit unnecessary.

On Appeal, the Supreme Court affirmed the Sherman Act phase of the case, but reversed and remanded as to the Clayton Act phase on the sole ground that the existence of a private decree does not in itself deprive the Government of its right to a decree when the need for injunctive relief is shown.

After remand, on the motion of plaintiff on April 18, 1955, the Court reopened the record for the introduction of further evidence: (a) by plaintiff for the purpose of showing the existence of current Clayton Act violations as to prices charged store customers, restaurants, hotels, and other similar wholesale customers, and (b) by the defendant for asserting affirmative defenses. All of the evidence was taken in the form of stipulations embodied in pre-trial orders, and in the form of depositions of expert witnesses.

The District Court entered findings of fact and conclusions of law and held that, while the plaintiff had established a prima facie violation of Section 2(a) of the Clayton Act, the defendant had cost justified the discriminatory prices. On this basis, the Court dismissed the complaint. Plaintiff did not appeal with respect to

the prices charged restaurants, hotels, and other similar wholesale customers. A direct appeal with respect to prices charged store customers was taken from this Final Judgment and the Supreme Court rendered an opinion on June 25, 1962 reversing the District Court's dismissal by holding that the cost justification defense as presented to the Court did not adequately establish a reasonable and proper classification of store customers. The Supreme Court remanded the cause to this Court to determine the need for injunctive relief.

Upon remand this Court held a pre-trial conference where, after due consideration of the mandate of the Supreme Court, it was determined that except as reserved in Article VIII herein further proceedings are unnecessary and that there is a need for injunctive relief.

DECREE

NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED as follows:

ARTICLE I

This Court has jurisdiction of the subject matter hereof and of the party hereto. The complaint states a cause of action under Section 15 of the Act of Congress of October 15, 1914 entitled "An Act to supplement existing laws against unlawful restrictions and monopolies and for other purposes," commonly known as the Clayton Act.

ARTICLE II

Definitions

As used in this Final Judgment:

A. "Fluid milk" means cow's milk sold in fresh fluid form, whether as milk or as cream or intermixtures thereof.

B. "Chicago area" means the territory lying within the corporate limits of the cities of Chicago and Evanston, and the territory lying within the corporate limits of the villages of Wilmette, Kenilworth, Winnetka, Glencoe, and Oak Park, all in the State of Illinois.

C. "Store customer" means any person, firm, or corporation operating one or more grocery stores in the Chicago area which purchases fluid milk for resale purposes and not for consumption on the premises.

D. "Optional method of delivery" is one which by nature is not inherent in defendant's system of distribution of fluid milk, and which a store customer may (in order to obtain a lower price or a larger discount) elect to perform for himself instead of having it performed for him by defendant.

ARTICLE III

The defendant has prima facie discriminated in price in sales of fluid milk of like grade and quality in interstate trade and commerce between different store customers and the effect of such discrimination may have been and may continue to be to substantially lessen competition or tend to create a monopoly in the sale of fluid milk in the Chicago area.

ARTICLE IV

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

ARTICLE V

The defendant is enjoined and restrained from:

A. Selling or offering to sell fluid milk of like grade and quality and in comparable containers to competing store customers in the Chicago area at different prices unless:

(1) Such price differences make due allowance for cost savings resulting from differing methods of manufacture, sale, or delivery, or differing quantities purchased; or

(2) Made in good faith in order to meet equally low prices offered or given by a competitor.

B. Selling or offering to sell fluid milk of like grade and quality and in comparable containers to competing store customers in the Chicago area pursuant to discount or net price schedules based on classifications of store customers on any basis other than those arising from differing methods of manufacture, sale, or delivery or differing quantities purchased; provided that in the event any one or more methods of delivery are optional to the store customers in

any given volume class then all such store customers shall be given the opportunity, in writing, of exercising their choice of such methods of delivery.

ARTICLE VI

The defendant is ordered and directed to keep and maintain route books, price and discount schedules, or other records for a period of five years which will reflect the conditions and terms of purchase of fluid milk, the volume purchased, and the prices charged and discounts granted.

ARTICLE VII

For the purpose of securing compliance with this Final Judgment, duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to the defendant, made to its principal office, be permitted:

A. Access during the office hours of the defendant to, and the right to copy or reproduce, all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of the defendant relating to any of the matters contained in this Final Judgment; and

B. Subject to the reasonable convenience of the 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.

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

ARTICLE VIII

Jurisdiction of this action is retained for the purpose of enabling any of the parties to this Final Judgment to apply to the Court within a reasonable 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 modification of any of the provisions thereof, or for the enforcement of compliance therewith and the punishment of violations thereof, and for the determination of proper costs, if any, in this cause.

ENTER:

4/24/63

s/ Campbell
Chief Judge, United States District Court

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. The Borden Co. et al., U.S. District Court, N.D. Illinois, 1966 Trade Cases ¶71,681, (Jan. 11, 1966)

United States v. The Borden Co. et al.

1966 Trade Cases ¶71,681. U.S. District Court, N.D. Illinois, Eastern Division. Civil Action No. 51 C 947. Dated January 11, 1966. Case No. 1090 in the Antitrust Division of the Department of Justice.

Robinson-Patman Act

Price Discrimination—Classification of Customers—Consent Judgment.—Dairies were prohibited by a consent decree from selling or offering to sell milk, of like grade and quality and in comparable containers, to competing store customers in the Chicago area pursuant to discount or net price schedules based on classifications of store customers on any basis other than those arising from differing methods of manufacture, sale, delivery, or differing quantities purchased. In the event that any one or more methods of delivery are optional to the customers in any given volume class, all such customers must be given the opportunity, in writing, of exercising their choice of such methods of delivery. Generally, sales at different prices were prohibited, except where the price difference reflected cost savings or was made in good faith to meet competition. Also, the dairies were required to keep sales and price records.

For the plaintiff: Donald F. Turner, Assistant Attorney General, William D. Kilgore, Jr., Charles F. B. McAleer, John E. Sarbaugh, and Bertram M. Long, Attorneys, Department of Justice, Chicago, Ill.

For the defendants: John Paul Stevens for Hawthorn-Mellody, Inc., Thomas B. Gilmore for Hunding Dairy Co., Michael G. Stein for Western United Dairy Co., Harold Kruley for Capitol Dairy Co., and Charles W. Schaub for Meadowmoor Dairies, Inc., Division of Scot Lad Foods, Inc.

Final Judgment

Plaintiff, United States of America, filed its complaint herein on June 18, 1951, and the defendants, American Processing and Sales Company, Capitol Dairy Company, Hunding Dairy Company, Meadowmoor Dairies, Inc., and Western United Dairy Co. (which defendants are hereinafter referred to collectively as the “consenting defendants”), and each of them, appeared and filed their answers to said complaint denying the substantive allegations thereof. The plaintiff and the consenting defendants, by their respective attorneys, consented to the entry of a Final Judgment without trial or adjudication of any issue of fact or law herein, and without admission by any party in respect of any such issue and this Court entered the same on February 19, 1953. On October 9, 1953 this Court stayed the operation of the judgment.

On or about April 11, 1960, the dairy operations theretofore conducted by American Processing and Sales Company in the Chicago area were transferred to Hawthorn-Mellody, Inc., a Delaware corporation, which Company thereupon became a successor to the defendant American Processing and Sales Company within the meaning of the judgment entered on February 19,1953.

Now, therefore, before the taking of any testimony and without trial or adjudication of any issue of fact or law therein, and upon consent as aforesaid of the plaintiff and the consenting defendants,

It is hereby ordered, adjudged and decreed as follows:

I

[*Prior Judgment*]

The following judgment supersedes the judgment of February 19, 1953.

I

[*Clayton Act*]

This Court has jurisdiction of the subject matter hereof and of the plaintiff and consenting defendants. The complaint states a cause of action against the consenting defendants under Section 2(a) of the Act of Congress of October 15, 1914, entitled “An Act to Supplement Existing Laws Against Unlawful Restraints and Monopolies and for Other Purposes,” commonly known as the Clayton Act, and acts amendatory thereof and supplemental thereto.

III

Definitions

As used in this Final Judgment:

A. “Fluid milk” means cow's milk sold in fresh fluid form, whether as milk or as cream or intermixtures thereof.

B. “Chicago area” means the territory lying within the corporate limits of the cities of Chicago and Evanston, and the territory lying within the corporate limits of the villages of Wilmette, Kenilworth, Glencoe, Winnetka, and Oak Park, all in the State of Illinois.

C. “Store customer” means any person, firm, or corporation operating one or more grocery stores in the Chicago area which purchases fluid milk for resale purposes and not for consumption on the premises.

D. “Optional method of delivery” is one which by nature is not inherent in defendant's system of distribution of fluid milk, and which a store customer may (in order to obtain a lower price or a larger discount) elect to perform for himself instead of having it performed for him by any defendant.

IV

[*Applicability*]

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

V

[*Discrimination*]

Each defendant is enjoined and restrained from:

A. Selling or offering to sell fluid milk of like grade and quality and in comparable containers to competing store customers in the Chicago area at different prices unless:

(1) Such price differences make due allowance for cost savings resulting from differing methods of manufacture, sale, or delivery, or differing quantities purchased; or

(2) Made in good faith in order to meet equally low prices offered or given by a competitor.

B. Selling or offering to sell fluid milk of like grade and quality and in comparable containers to competing store customers in the Chicago area pursuant to discount or net price schedules based on classifications of store customers on any basis other than those arising from differing methods of manufacture, sale, or delivery or differing quantities purchased; provided that in the event any one or more methods of delivery are optional to the store customers in any given volume class then all such store customers shall be given the opportunity, in writing, of exercising their choice of such methods of delivery.

VI

[*Records*]

Each defendant is ordered and directed to keep and maintain route books, price and discount schedules, or other records until April 24, 1968 which will reflect the conditions and terms of purchase of fluid milk, the volume purchased, and the prices charged and discounts granted.

VII

[*Inspection and Compliance*]

For the purpose of securing compliance with this Final Judgment, duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to the defendant, made to its principal office, be permitted:

A. Access during the office hours of the defendant to, and the right to copy or reproduce, all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of the defendant relating to any of the matters contained in this Final Judgment; and

B. Subject to the reasonable convenience of the 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 request each defendant shall submit such reports in writing with respect to any of the matters contained in this Final Judgment as from time to time may be necessary to the enforcement of this Final Judgment.

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

VIII

[*Jurisdiction Retained*]

Jurisdiction of this action is retained for the purpose of enabling any of the parties to this Final Judgment to apply to the Court within a reasonable 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 modification of any of the provisions thereof, or for the enforcement of compliance therewith and the punishment of violations thereof.

United States v. National City Lines, Inc., et al.

Civil Action No. 49 C 1364

Years Judgment Entered: 1954;

1955 (defendant Standard Oil)

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA, Plaintiff v. NATIONAL CITY LINES, INC.; AMERICAN CITY LINES, INC.; PACIFIC CITY LINES, INC.; FIRESTONE TIRE & RUBBER COMPANY; PHILLIPS PETROLEUM COMPANY; MACK MANUFACTURING CORPORATION; STANDARD OIL COMPANY OF CALIFORNIA; FEDERAL ENGINEERING CORPORATION, Defendants	)	CIVIL ACTION No. 49 C 1364

FINAL JUDGMENT AND DECREE

This cause regularly came on for trial before the Court without a jury on January 19, 1955, and was duly submitted for consideration and decision. Upon consideration of the pleadings, the evidence, and the briefs and arguments of counsel, and pursuant to the Memorandum of Decision heretofore filed on September 19, 1955,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

1. That the Memorandum of Decision of the Court dated September 19, 1955, be, and the same hereby is, adopted as the findings of fact and conclusions of law of the Court herein, and incorporated by reference into this judgment and decree;

2. That the following requirements contracts are illegal, null and void, and the defendant Standard Oil Company

of California is enjoined from enforcing said contracts or any of them:

(a) Contract between Standard Oil Company of California and Pacific City Lines, Inc., dated May 1, 1943, amended May 1, 1946, expiring April 30, 1956, the obligations of Pacific City Lines, Inc., having been assumed by National City Lines, Inc.;

(b) Contract between Standard Oil Company of California and Salt Lake City Lines, Inc., dated July 12, 1944, amended May 1, 1946, and expiring April 30, 1956;

(c) Contract between Standard Oil Company of California and Los Angeles Transit Lines, Inc., dated May 7, 1945, amended May 1, 1946, and expiring April 30, 1956;

3. The issues otherwise having been found for the defendants, that the relief requested by the plaintiff, except as herein granted, be, and the same hereby is, denied, and the action is dismissed, without prejudice to the rights of the plaintiff set forth in the said Memorandum of Decision.

/s/ JULIUS J. HOFFMAN
Judge

Dated: October 31, 1955

IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF ILLINOIS

EASTERN DIVISION

UNITED STATES OF AMERICA, Plaintiff,	)	Civil Action
v.	)	No. 49 C 1364
NATIONAL CITY LINES, INC., ET AL., Defendants.	)	

FINAL JUDGMENT

Plaintiff, United States of America, having filed its complaint herein on April 10, 1947, and all the defendants having severally appeared and filed answers to the complaint denying the substantive allegations thereof, and the defendants National City Lines, Inc. and Pacific City Lines, Inc. by their attorneys, having severally consented to the entry of this Final Judgment without admission by said defendants with respect to any issue of fact or law.

NOW, THEREFORE, no testimony or evidence having been taken herein, and the Court having entered its order herein on February 26, 1954, and upon consent of the plaintiff, United States of America, and defendants National City Lines, Inc. and Pacific City Lines, Inc., it is hereby

ORDERED, ADJUDGED AND DECREED as follows:

I

This Court has jurisdiction of the subject matter herein and of the parties signatory hereto. The complaint states a cause of action against the defendants signatory hereto under Sections 1 and 2 of the Act of Congress of July 2, 1890, entitled "An Act to protect trade and commerce against unlawful restraints and monopolies," commonly known as the Sherman Act, and acts amendatory thereof and supplemental thereto.

II

As used in this Final Judgment:

(A) "National" means National City Lines, Inc., a corporation organized and existing under the laws of the State of Delaware, with its principal place of business in Chicago, Illinois;

(B) "Pacific" means Pacific City Lines, Inc., a corporation organized under the laws of the State of Delaware and dissolved on December 31, 1947, at which time all of its assets were conveyed to and all of its liabilities were assumed by, National;

(C) "Firestone" means The Firestone Tire and Rubber Company, a corporation organized and existing under the laws of the State of Ohio, with its principal place of business in Akron, Ohio;

(D) "Standard" means Standard Oil Company of California, a corporation organized and existing under the laws of the State of Delaware, with its principal place of business in San Francisco, California;

(E) "Person" means any individual, partnership, firm, corporation, association, trustee or any other business or legal entity;

(F) "National Operating Company" means any operating company now controlled by National and which it continues to control and any operating company more than 50% of whose stock entitled to vote upon the election of directors is hereafter acquired by National;

(G) "Operating company" means any person engaged in the business of providing public transit service;

(H) "Operating equipment" means tires, tubes, motor buses and petroleum products or any of them used by operating companies.

III

The provisions of this Final Judgment applicable to any defendant signatory hereto shall apply to such defendant, its officers, directors, agents, servants, employees, subsidiaries, successors and assigns and to

each of those persons in active concert or participation with it who shall have received actual notice of this Final Judgment by personal service or otherwise.

IV

(A) Defendant National is ordered and directed to cancel, upon entry of a Final Judgment against Standard, each of the following contracts:

(1) Agreement between Standard and Pacific, dated May 1, 1943, as amended May 1, 1946;

(2) Agreement between Standard and Salt Lake City Lines, dated July 12, 1944, as amended May 1, 1946.

(B) National is ordered and directed to take, upon the entry of a Final Judgment against Firestone herein, all action within its power to have terminated the agreements between Firestone and Los Angeles Transit Lines and St. Louis Public Service Company for the supply of tires and tubes.

(C) National is ordered and directed to take, upon the entry of a Final Judgment against Standard herein, all action within its power to have terminated the agreement between Standard and Los Angeles Transit Lines for the supply of petroleum products.

(D) Nothing in Sections IV, VI and VII of this Final Judgment shall be construed to limit the right of Firestone to obtain performance of the obligation to purchase tires and tubes on the basis of unused mileage, or other similar provisions of the last agreements in effect prior to the entry of this judgment.

V

Defendant National is enjoined and restrained from doing, or permitting any National operating company to do, any of the following:

(A) Procuring any operating equipment on the condition, agreement or understanding that the supplier thereof purchase capital stock of, or any financial interest in, National, any National operating company or any other operating company;

(B) Entering into any contract, agreement or understanding with any supplier of operating equipment which restricts or limits, in any manner whatsoever, National or any National operating company as to:

(1) Areas or localities in which such companies may operate;

(2) Conversions or changes of operating equipment to any type whatsoever;

(3) Types of transportation services furnished;

(4) Purchases of new operating equipment of any type whatsoever, except that any contract for the supply, service, purchase or rental of tires and tubes may require that new buses be purchased without tires and tubes;

(5) Disposal of any interest in any National operating company or acquisition of any interest in any other operating company;

(C) Entering into any contract, agreement or understanding with any supplier of operating equipment for financing the operations of National, any National operating company or any other operating company, upon or accompanied by any contract, agreement or understanding for the purchase or sale of operating equipment, except contracts, agreements or understandings with respect to terms of payment or price;

(D) Entering into any contract, agreement or understanding with any supplier of operating equipment which is conditioned upon the procurement of other operating equipment from any other supplier.

VI

(A) It is ordered and directed that one and only one new agreement for the supply of petroleum products and one and only one new agreement for the supply and services of tires and tubes to defendant National or to National operating companies (which operating companies are those set forth in paragraphs (B) and (C) below) shall be awarded in accordance with the requirements and procedures set forth in Sections VI and VII of this Final Judgment but as to Los Angeles Transit Lines or St. Louis Public Service Company said agreements shall be subject to the necessary action by said companies. New agreements for the supply of petroleum products to replace those presently outstanding with Standard, or for the supply and service of tires and tubes to replace those presently outstanding with Firestone, shall not be required until entry of a Final Judgment against Standard and Firestone terminating and cancelling said agreements.

(B) The agreements for the supply of petroleum products shall be for a period of no more than one year. A separate agreement may be made for the supply for said year by the companies set forth in each of the following groups of National operating companies (provided, however, that at National's option the companies may be divided into a larger number of groups for such purpose):

"Group I"

Company	Location of Company
Jackson City Lines, Inc.	Jackson, Mich.
Kalamazoo City Lines, Inc.	Kalamazoo, Mich.
Saginaw City Lines, Inc.	Saginaw, Mich.

"Group II"

Company	Location of Company
Aurora City Lines, Inc.	Aurora, Ill.
Bloomington-Normal City Lines, Inc.	Bloomington, Ill.
Burlington City Lines, Inc.	Burlington, Ill.
Champaign-Urbana City Lines, Inc.	Champaign, Ill.

"Group II"

Company	Location of Company
Cedar Rapids City Lines, Inc.	Cedar Rapids, Iowa
Danville City Lines, Inc.	Danville, Ill.
Decatur City Lines, Inc.	Decatur, Ill.
East St. Louis City Lines, Inc.	East St. Louis, Ill.
Elgin City Lines, Inc.	Elgin, Ill.
Joliet City Lines, Inc.	Joliet, Ill.
Lincoln City Lines, Inc.	Lincoln, Neb.
Quincy City Lines, Inc.	Quincy, Ill.
Terre Haute City Lines, Inc.	Terre Haute, Ind.

"Group III"

Company	Location of Company
El Paso City Lines, Inc.	El Paso, Texas
Tulsa City Lines, Inc.	Tulsa, Okla.

"Group IV"

Company	Location of Company
Glendale City Lines, Inc.	Glendale, Cal.
Long Beach City Lines, Inc.	Long Beach, Cal.
Pasadena City Lines, Inc.	Pasadena, Cal.
Sacramento City Lines, Inc.	Sacramento, Cal.
San Jose City Lines, Inc.	San Jose, Cal.
Stockton City Lines, Inc.	Stockton, Cal.

"Group V"

Company	Location of Company
Salt Lake City Lines	Salt Lake City, Utah
Spokane City Lines, Inc.	Spokane, Wash.

A separate agreement shall be made by Los Angeles Transit Lines and a separate one by St. Louis Public Service Company.

(C) The agreements for the supply and service of tires and tubes shall be for a period of no more than three years. A separate agreement may be made for the tires and tubes to be used for said period by the companies set forth in each of the following groups of National operating companies (provided, however, that at National's option the companies may be divided into a larger number of groups for such purpose):

"Group I"

Company	Location of Company
Jackson City Lines, Inc.	Jackson, Mich.
Kalamazoo City Lines, Inc.	Kalamazoo, Mich.
Pontiac City Lines	Pontiac, Mich.
Saginaw City Lines, Inc.	Saginaw, Mich.

"Group II"

Company	Location of Company
Aurora City Lines, Inc.	Aurora, Ill.
Bloomington-Normal City Lines, Inc.	Bloomington, Ill.
Burlington City Lines, Inc.	Burlington, Ill.
Canton City Lines, Inc.	Canton, Ohio
Champaign-Urbana City Lines, Inc.	Champaign, Ill.
Cedar Rapids City Lines, Inc.	Cedar Rapids, Iowa
Danville City Lines, Inc.	Danville, Ill.
Davenport City Lines, Inc.	Davenport, Iowa
Decatur City Lines, Inc.	Decatur, Ill.
East St. Louis City Lines, Inc.	East St. Louis, Ill.
Elgin City Lines, Inc.	Elgin, Ill.
Joliet City Lines, Inc.	Joliet, Ill.
Lincoln City Lines, Inc.	Lincoln, Neb.
Portsmouth City Lines	Portsmouth, Ohio
Quincy City Lines, Inc.	Quincy, Ill.
Rock Island-Moline City Lines	Rock Island, Ill.
Terre Haute City Lines, Inc.	Terre Haute, Ind.

"Group III"

Company	Location of Company
Beaumont City Lines	Beaumont, Texas
El Paso City Lines, Inc.	El Paso, Texas
Mobile City Lines	Mobile, Ala.
Montgomery City Lines	Montgomery, Ala.
Tampa City Lines	Tampa, Fla.
Tulsa City Lines, Inc.	Tulsa, Okla.

"Group IV"

Company	Location of Company
Glendale City Lines, Inc.	Glendale, Cal.
Long Beach City Lines, Inc.	Long Beach, Cal.
Pasadena City Lines, Inc.	Pasadena, Cal.
Sacramento City Lines	Sacramento, Cal.
Salt Lake City Lines	Salt Lake City, Utah
San Jose City Lines, Inc.	San Jose, Cal.
Spokane City Lines, Inc.	Spokane, Wash.
Stockton City Lines, Inc.	Stockton, Cal.

A separate agreement shall be made by Los Angeles Transit Lines and a separate one by St. Louis Public Service Company.

VII

(A) A request for bids by suppliers shall be published once in Bus Transportation and Mass Transportation within 90 days from the date of entry of this Final Judgment except that as to those companies being supplied under contracts with Standard or Firestone, said request shall be so published within 90 days after the effective date of a Final Judgment against Standard and Firestone.

(B) The request for bids, the drawing up and issuance of specifications, the method and time of submission of bids, and the opening of bids shall not give to any supplier or prospective supplier any competitive advantage or preference over any other supplier.

(C) Subject to the right of National, any National operating company, Los Angeles Transit Lines or St. Louis Public Service Company to reject all bids, the agreement shall be awarded to and made with the lowest responsible bidder. By "lowest responsible bidder" is meant (1) a company which is engaged in the business of supplying the operating equipment to be furnished under the agreement, or in performing the work or services to be covered by the agreement, and which has the financial ability, equipment, available supply of service approved operating equipment, and the reliability necessary to furnish said operating equipment, and (2) the company which will supply all of the particular operating equipment at an aggregate price which (after considering any credits or offsets to or by the operating companies) is the lowest dollar amount.

(D) All bids shall be opened at the time and place stated in the request for bids; and the names of the bidders and the prices bid shall be entered in a record which shall be available for inspection by duly authorized representatives of the Department of Justice.

VIII

For the purpose of securing compliance with this Final Judgment and for no other purpose, duly authorized representatives of the Department

of Justice shall, upon written request of the Attorney General, or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to any defendant made to its principal office, be permitted (1) access during the office hours of said defendant to all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of said defendant relating to any matters contained in this Judgment, and (2) subject to the reasonable convenience of said defendant, and without restraint or interference from it, to interview officers or employees of said defendant, who may have counsel present, regarding any such matters, and upon such request the defendant shall submit such reports in writing to the Department of Justice with respect to any 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 provided in this section shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of such Department, except in the course of legal proceedings to which the United States is a party for the purpose of securing compliance with this Final Judgment or as otherwise required by law.

IX

Jurisdiction is retained 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 Judgment

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

Dated: December 14, 1954.

s/ Julius J. Hoffman
Judge, United States District Court.

We hereby consent to the entry of the foregoing Final Judgment:

For the Plaintiff:

s/ Stanley N. Barnes
Assistant Attorney General

s/ Earl A. Jinkinson

s/ W. D. Kilgore, Jr.

s/ Ralph M. McCareins

For the defendants National City Lines, Inc. and Pacific City Lines, Inc.:

s/ John T. Chadwell

s/ C. Frank Reaves

United States v. General Outdoor Advertising Co., Inc.

Civil Action Docket No. 50 C 936

Year Judgment Entered: 1955

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. General Outdoor Advertising Co., Inc., U.S. District Court, N.D. Illinois, 1955 Trade Cases ¶68,169, (Oct. 21, 1955)

United States v. General Outdoor Advertising Co., Inc.

1955 Trade Cases ¶68,169. U.S. District Court, N.D. Illinois, Eastern Division. Civil Action Docket No. 50 C 936, Dated October 21, 1955. Case No. 1058 in the Antitrust Division of the Department of Justice.

Sherman Antitrust Act

Department of Justice Enforcement and Procedure—Consent Decrees—Specific Relief —Divestiture—Outdoor Advertising Facilities.—An outdoor advertising company was ordered by a consent decree to sell or divest itself of its stock or other financial interest in specified outdoor advertising companies. The company was not required to sell such stock or other financial interest at less than a fair market price. In the event of the failure or inability of the company to accomplish the sale or divestiture within a period of two years, the company, would be ordered to transfer to a trustee such stock or other financial interest which it may then own or control. The trustee would be appointed and his duties prescribed by the court, and the company would be ordered to vest in the trustee full power and authority to sell at a fair market price such stock or other financial interest. The company was ordered to submit to the Attorney General a written report each ninety days of its efforts and progress in selling such stock or other financial interest and prohibited from requiring as a condition of sale that the purchaser agree to purchase any of the stock of a specified sales representative for outdoor advertising companies. The stock or other financial interest in the companies could not be sold to any person in which the company shall, after such sale, have any financial interest or to any person who shall then be an officer, director, agent, or employee of the company or shall then hold a financial interest in the company.

Monopolies—Consent Decree—Practices Enjoined—Interlocking Personnel.—An outdoor advertising company was prohibited by a consent decree from permitting more than one person to serve simultaneously as an officer, director, or employee of both the company and a specified sales representative for outdoor advertising companies, and from permitting any officer or employee of the specified sales representative to serve, at the same time, as officer, director, servant, or employee of the company.

Monopolies—Consent Decree—Practices Enjoined—Acquiring or Voting Stock— Acquisitions of Stock and Assets.—An outdoor advertising company was prohibited by a consent decree from acquiring, holding, or voting more than thirty per cent of the common stock of a specified sales representative for outdoor advertising companies. The company was prohibited from acquiring any of the physical assets, business, or good will of, or any stock or other financial interest in, any poster plant in any city, town, or market in which the company then owns or operates a poster plant, except upon application to the, court and a showing that the effect of such acquisition may not be substantially to lessen competition or to tend to create a monopoly in the display of posters in such city, town, Or market.

Monopolies—Consent Decree—Practices Enjoined—Control of Supply.—An outdoor advertising company was prohibited by a consent decree from having under lease at any time in any city, town, or market, wherein the company has twenty-four or more poster panels, unbuilt poster sites,in excess of twelve and one-half per cent of the company's poster panels in such city, town, or market.

Monopolies—Consent Decree—Practices Enjoined—Tying Agreements.—An outdoor advertising company was prohibited by a consent decree from conditioning the sale or use of space on any of its poster panels in any market upon any agreement that the purchaser or user thereof will purchase or use any space on poster panels of the company in any other market. A provision of a consent decree previously entered against the company was made a part of the instant decree. This provision prohibited the company from requiring as a condition to the acceptance of any contract for an outdoor advertising display to be executed in part on the display plants owned and/or operated by the company and in part on display plants owned and/or operated by persons other than the company, that the company shall sublet the part or parts of such contracts to be executed on the display plants owned and/or operated by persons other than the company.

Monopolies—Consent Decree—Practices Enjoined—Interfering with Competitors.—An outdoor advertising company was prohibited by a consent decree from owning, operating, or building any poster panel or panels in such close proximity to a pre-existing poster panel of another plant operator as materially to reduce, impair, or limit the visibility of such pre-existing poster panel; or from knowingly and falsely representing to any person that the services rendered by any other person engaged in the poster advertising business are unsatisfactory or inferior to the services rendered by the company.

Monopolies—Consent Decree—Practices Enjoined—Granting Concessions from Published Rates.—An outdoor advertising company was prohibited by a consent decree from granting or offering to grant, to any person in connection with any poster advertising contract any discount rebate, bonus, or other concession from the published rates of the company. The decree provided that the company was not prohibited from lowering its price or prices in good faith to meet an equally low price or prices of a competing poster plant operator.

Monopolies— Consent Decree—Practices Enjoined—Agreements Not To Compete.— An outdoor advertising, company was prohibited by a consent decree from enforcing any agreement with any other person made in connection with an acquisition by the company of poster display plants or a financial interest therein that such other person will refrain from competing against the company in the business of poster advertising in any city, town, or market unless such agreement is limited to three years or less and to the same geographical area in which the poster display plants so sold, to the company were located.

Monopolies—Consent Decree—Practices Enjoined—Refusal To Sell—Inducing Breach of Contract.—An outdoor advertising company was prohibited by a consent decree from urging, coercing, or inducing any national advertiser, advertising agency, or other similar person to refuse to enter into, breach, or change any contract for poster advertising with any other person. A provision of a consent decree previously entered against the company was made a part of the instant decree. This provision prohibited the company from refusing or failing to furnish or to sell advertising space on the display plants of the company or refusing or failing to permit the employment of such plants, when space thereon is available for sale or employment, with the intent or the effect of preventing competing solicitors from engaging in the solicitation and/or execution of contracts for outdoor advertising displays.

Mohopolies—Consent Decree—Practices Enjoined—Trade Association Membership.—An outdoor advertising company was prohibited by a consent decree from knowingly maintaining membership in any trade association relating to poster advertising which follows any plan either (1) of limiting membership therein to only one poster plant operator in any city; town, or marketer (2) of discouraging its members from competing against each other in the business of poster advertising.

For the plaintiff: Stanley N. Barnes, Assistant Attorney General, W. D. Kilgore, Jr., Joseph Prindaville, Earl A. Jinkinson, Harry N. Burgess, and Willis L. Hotchkiss.

For the defendant: Lord, Bissell & Brook by David M, Gooder.

Final Judgment

WIN G. KNOCH, District Judge [*In full text*] : Plaintiff, United States of America, having filed its complaint herein on June 30, 1950; defendant having appeared and filed its answer to the complaint denying the substantive allegations thereof and any violation of law and asserting affirmative defenses; and plaintiff and defendant, 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 any testimony has been taken and without trial or adjudication of any issue of fact or law herein and upon the consent of the parties hereto, it is hereby

Ordered, adjudged and decreed as follows:

I

[*Sherman Act*]

This Court has jurisdiction of the subject matter herein and of the parties hereto. The complaint states a claim against defendant under Section 2 of the Act of Congress of July 2, 1890 entitled "An act to protect trade and commerce against unlawful restraints and monopolies," commonly known as the Sherman Act, as amended.

II

[*Definitions*]

As used in this Final Judgment:

(A) "Poster" shall mean advertising copy, whether lithographed, printed, processed or hand-painted, made upon multiple sheets of paper for ultimate posting on the surface of a poster panel, customarily measuring approximately 106" x 236" and commonly referred to, in the outdoor advertising industry, as a 24-sheet poster;

(B) "Poster panel" shall mean any physical structure commonly used for the outdoor display of posters of national advertisers;

(C) "Display plant" or "Poster plant" shall mean all the poster panels of a person which are located in any one city, town or market for the outdoor display of posters;

(D) "Poster site" shall mean the real estate or building used for the erection of a poster panel;

(E) "Unbuilt poster site" shall mean a site to be used as a poster site on which no poster panel has been erected for a period of ninety (90) days or more after defendant was entitled to the possession thereof;

(F) "Market" shall mean any two or more cities or towns which for the purpose of selling showings of poster advertising are grouped into a single unit;

(G) "Person" shall mean any individual, partnership, firm, corporation, association whether incorporated or unincorporated or any other business or legal entity.

III

[*Applicability of Judgment*]

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

IV

[*Divestiture Ordered*]

(A) Within two (2) years after the date of the entry of this Final Judgment, defendant is ordered and directed to sell or divest itself of all right, title or interest which it may own or control in or to any of the stock of or other financial interest in any of the following corporations or successors thereto: Alabama Outdoor Advertising Co., Inc.; Central Outdoor Advertising Co., Inc.; Pittsburgh Outdoor Advertising Company; Walker and Company; provided, however, that this Section IV shall not be construed to require defendant to sell or divest such stock or other financial interest at less than a fair market price;

(B) In the event of the failure or inability of defendant fully to accomplish the sale or divestiture required by the foregoing subsection (A) within the time therein prescribed, then and in that event, two (2) years after the date of the entry of this Final Judgment defendant is ordered and directed to transfer to a trustee, as hereinafter provided for, any and all right, title and interest which it may then own or control in or to any of such stock or other financial interest;

(C) The trustee hereinabove provided for shall be appointed and his duties and compensation shall be prescribed by this Court after notice to defendant and the Attorney General and an opportunity by them to be heard with respect thereto; and defendant is further ordered and directed to vest in such trustee full power and authority to offer to sell, and, upon request, to sell at a fair market price and upon terms and conditions to be

determined and approved by this Court, all of such right, title or interest in or to any stock or other financial interest to which this Section IV may apply;

(D) Defendant is ordered and directed, commencing ninety (90) days after the entry of this Final Judgment, and each ninety (90) days thereafter, to submit to the Attorney General a report, in writing, of its efforts and progress in selling or otherwise divesting itself of the stock or other financial interest required by this Section IV to be sold or divested by defendant;

(E) (1) The trusteeship hereinabove provided for shall continue until all of the stock or other financial interest to which this Section IV may apply shall have been sold or otherwise disposed of or the trusteeship shall have been terminated by this Court;

(2) During the existence of said trust defendant shall be entitled to receive all dividends upon said stock (except stock dividends which shall be retained in the trust) and, upon the request of defendant, it shall be the duty of the trustee to bring, maintain or join in, or authorize defendant to bring, maintain or join in, stockholders' actions of any kind;

(F) The stock or financial interest required by this Section IV to be sold or divested shall not be sold or divested by defendant or said trustee to any person in which defendant shall, after such sale or divestiture, have any financial interest, nor shall it be sold or divested, to any person who shall then be an officer, director, agent or employee of defendant, or shall then hold a financial interest in defendant except that defendant or the said trustee may sell or dispose of such stock or other financial interest to the company or its stockholders to which such stock or other financial interest may relate;

(G) Upon the sale or divestiture by defendant or the trustee of any stock or financial interest to which Section IV applies, defendant is enjoined and restrained from reacquiring any such right, title or interest and is enjoined and restrained from exercising or maintaining, and from attempting to exercise or maintain, any control or authority over any of said corporations. Nothing contained in this sub-section (G) shall prevent defendant or the trustee from entering into or exercising any rights under a security instrument, provided that in the event of a reacquisition of any of such stock or financial interest pursuant to a security instrument such reacquired stock or financial interest shall be subject to all of the provisions of this Section IV;

(H) Defendant is enjoined and restrained from requiring as a condition of the sale or divestiture of any stock or financial interest pursuant to this Final Judgment, that the purchaser thereof shall purchase or agree to purchase any of the stock of Outdoor Advertising Incorporated.

V

[*Acquiring or Voting Stock—Interlocking Personnel*]

Defendant is enjoined and restrained from, directly or indirectly:

(A) Acquiring, holding or voting, at any time, more than thirty (30) per cent of the common stock from time to time outstanding of Outdoor Advertising Incorporated;

(B) Permitting more than one person to serve simultaneously as an officer, director, or employee of both defendant and Outdoor Advertising Incorporated;

(C) Permitting any officer or employee of Outdoor Advertising Incorporated to serve, at the same time, as officer, director, servant or employee of defendant.

VI

[*Practices Enjoined*]

Defendant is enjoined and restrained from directly or indirectly:

(A) Conditioning the sale or use of space on any of its poster panels in any market upon any agreement or understanding that the purchaser or user thereof will purchase or use any space on poster panels of defendant in any other market;

(B) Owning, operating, maintaining or building any poster panel or panels in such close proximity to a pre-existing poster panel of another plant operator as materially to reduce, impair or limit the visibility of such pre-existing poster panel;

(C) Knowingly and falsely representing to any person that the services rendered, or to be rendered, by any other person engaged in the poster advertising business, are or will be unsatisfactory or inferior to the services rendered, or to be rendered, by defendant;

(D) Urging, coercing or inducing, or attempting to urge, coerce or induce, any national advertiser, advertising agency or other similar person to refuse to enter into, breach or change any contract or agreement for poster advertising with any other person; provided, however, that this subsection (D) shall not prohibit defendant from (i) making bona fide representations concerning the merits of the services rendered or to be rendered by defendant, or by any other poster plan operator, or (ii) soliciting poster advertising contracts or executing or carrying out such contracts;

(E) Granting or offering or attempting to grant or offer, to any person, in connection with any poster advertising contract, any discount, rebate, bonus or other concession from the published rates of defendant; provided; however, that this subparagraph (E) shall not prevent defendant from lowering its price or prices in good faith to meet an equally low price or prices of a competing poster plant operator; and provided further that in any suit or proceeding instituted by the plaintiff against defendant charging a violation by defendant of this subsection (E) the burden of proof shall be upon defendant to establish that any such discount, rebate, bonus or other concession from its published rates was made or offered by defendant in good faith to meet an equally low price made or offered by a competing poster plant operator;

(F) (1) Enforcing or continuing to enforce any contract, agreement or understanding with any other person made in connection with an acquisition by defendant of poster display plants or a financial interest therein that such other person will refrain from competing against defendant in the business of poster advertising, in any city, town or market unless such contract, agreement or understanding is limited to three (3) years or less and to the same geographical area in which the poster display plants so sold to the defendant were located;

(2) Entering into, adhering to, maintaining or enforcing, or claiming any rights under, any contract, agreement or understanding with any other person that such other person will not engage in the poster advertising business except to the extent permitted in subparagraph (F)(1) above;

(G) Knowingly maintaining membership in any trade association relating to poster advertising which follows any plan or program either (a) of limiting membership therein to only one (1) poster plant operator in any city, town or market or (b) of discouraging its members from competing against each other in the business of poster advertising;

(H) Acquiring in any manner any of the physical assets, business or good will of, or any stock or other financial interest in, any poster plant in any city, town or market in which defendant then owns or operates a poster plant except upon application to this Court, after notice to the Attorney General, and a showing to the satisfaction of this Court that the effect of such acquisition may not be substantially ;to lessen competition or to tend to create a monopoly in the display of posters in such city, town or market;

(I) Having under lease at any time in any city, town or market, wherein defendant has 24 or more poster panels, unbuilt poster sites in excess of twelve and one-half (12 ½) per cent of defendant's poster panels in such city, town or market

VII

[*Prohibitions of Prior Consent Decree*]

The following provisions of paragraph 5 of the Final Decree entered on May 7, 1929 in *United States v. General Outdoor Advertising Co., Inc.,* et al., Equity No. 46-50, in the United States District Court for the Southern District of New York are hereby made a part hereof;

Defendant is enjoined and restrained from directly or indirectly:

(A) Refusing or failing to furnish or to sell advertising space on the display plants owned or operated by defendant or refusing or failing to permit the employment of such plants, when space thereon is available for sale or employment, with the intent or the effect of preventing competing solicitors from engaging in the solicitation and/or execution of contracts for outdoor advertising displays; provided however, that nothing herein shall prevent defendant from refusing to sell advertising space based on bona fide compliance with reasonable requirements as to financial responsibility or business ethics;

(B) Requiring or attempting to require as a condition to the acceptance of any contract for an outdoor advertising display to be executed in part on the display, plants owned and/or operated by defendant and in part on display plants owned and/or operated by persons other than defendant, that defendant shall sublet the part or parts of such contracts, or any of them, to be executed on the display plants owned and/or operated by persons other than defendant; provided, however, that nothing contained in this subparagraph (B) shall prevent defendant from retaining any or all of its property or property rights employed by it in negotiating for a contract for an outdoor advertising, display,

VIII

[*Inspection and Compliance*]

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 the written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to defendant made to its principal office be permitted (a) access, during the office hours of defendant, to all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of defendant relating to any of the matters contained in this Final Judgment; and (b) subject to the reasonable convenience of defendant, and without restraint or interference from it, to interview officers or employees of defendant, who may have counsel present, regarding any such matters. For the purpose of securing compliance with this Final Judgment and for no other purpose, defendant upon the written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, shall submit such written reports with respect to any of the matters contained in this Final Judgment as from time to time may be necessary for the purpose of enforcement of this Final Judgment. No information obtained by the means provided in this Section VIII shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of such Department, except in the course of legal proceedings to which the United States of. America is a party for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

IX

[*Jurisdiction Retained*]

Jurisdiction of this cause is retained 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 hereof, for the enforcement of compliance herewith, and for the punishment of violations hereof.

United States v. Hilton Hotels Corporation, et al.

Civil Action No. 55 C 1658

Year Judgment Entered: 1956

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. Hilton Hotels Corporation and Statler Hotels Delaware Corporation., U.S. District Court, N.D. Illinois, 1956 Trade Cases ¶68,253, (Feb. 6, 1956)

United States v. Hilton Hotels Corporation and Statler Hotels Delaware Corporation.

1956 Trade Cases ¶68,253. U.S. District Court, N.D. Illinois, Eastern Division. Civil Action No. 55 C 1658. Dated February 6, 1956. Case No. 1229 in the Antitrust Division of the Department of Justice.

Clayton Antitrust Act

Acquisitions of Stock or Assets—Consent Decree—Practices Enjoined—Acquisitions of Hotels—Hotel Chain.—A hotel chain and a hotel leasing corporation (the stock of which was owned by the stockholders of the chain) were each prohibited by a consent decree from making any acquisition before a specified date, if the effect of the acquisition would be to increase the number of hotels controlled by either or both of the defendants to more than four in New York, New York, or more than one in Washington, D. C, or more than one in St. Louis, Missouri, or more than one in the composite area of Los Angeles and Beverly Hills, California. However, the decree provided that if either of the defendants desired to make any acquisition prior to that date, such defendant could submit a full disclosure of the facts with respect to the proposed acquisition to the Government for consideration. The decree further provided that if the Government does not object to the proposed acquisition within thirty days, the acquisition would be deemed not to be a violation of the consent decree. In the event the Government objected to the acquisition, the defendant could apply to the court for permission to make the acquisition, which could be granted upon a showing by the defendant that the effect of the acquisition would not be substantially to lessen competition or to tend to create a monopoly in any line of commerce in any section of the country. Also, the decree required the defendants to dispose of specified hotels.

Department of Justice Enforcement and Procedure—Consent Decrees—Specific Relief—Divestiture of Hotels.—A hotel chain and a hotel leasing corporation (the stock of which was owned by the stockholders of the chain) were ordered to dispose of hotels in St. Louis, Missouri, Washington,. D. C., and New York, New York. The decree provided that the properties to be disposed of should not be sold to any person in which either of the defendants owns any stock or financial interest, to any one or more officers, directors, agents, or employees of either defendant, or to any other person acting for or under the control of either defendant. If any property was not sold entirely for cash, the decree permitted either defendant to accept a mortgage, deed of trust, or other form of security for the purpose of securing the full payment of the price at which the property was sold. With respect to one hotel which was to be sold, the decree permitted either defendant to accept, as part of the purchase price, the common stock, in a specified amount, of such hotel. However, the decree required such defendant to dispose of stock so acquired within a reasonable time. If either of the defendants regained ownership of any hotel which it was required to sell, the decree required such defendant to again dispose of the hotel. The defendants were each required to render to the court and to the Government reports stating the efforts made by them to dispose of the hotels.

Department of Justice Enforcement and Procedure—Consent Decrees—Scope of Decree—Activities Outside United States.—A consent decree requiring the sale of certain hotels and prohibiting the acquisition of hotels contained a provision which stated that the complaint in the action not alleging any violation of law with respect to any activities of either defendant outside the continental limits of the United States, this decree shall not affect in any way the past, present, or future acquisition or operation of any hotel outside such continental limits of the United States by either defendant.

Department of Justice Enforcement and Procedure—Consent Decrees—Modification—Proof.—A consent decree which permitted a hotel chain and a hotel leasing corporation (the stock of which was owned by the stockholders of the chain) to apply to the court for permission to acquire hotels provided that no showing of any change of circumstances since the entry of the decree shall be required as a basis for the court's approval of an acquisition.

For the plaintiff: Stanley N. Barnes, Assistant Attorney General, and William D. Kilgore, Jr., Ephraim Jacobs, Harry N. Burgess, Donald F. Melchior, and Earl A. Jinkinson, Attorneys.

For the defendants: Friedman, Zoline & Rosenfield by William J. Friedman, Joseph T. Zoline, and Maurice Rosenfield; and Covington & Burling by John Lord O'Brian, Hugh B. Cox, and James H. McGlothlin.

Final Judgment

JOHN P. BARNES, District Judge [*In full text*]: Plaintiff United States of America having filed its complaint herein; both defendants herein having appeared and filed their respective answers to such complaint denying the substantive allegations thereof and denying any violation of law; and all the parties herein, by their respective attorneys, having severally consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein, and without admission by any party in respect to any such issue of fact or law, and specifically without any admission by either defendant or any determination by this Court that either defendant is engaged in interstate commerce or in commerce among the several states,

Now, therefore, without any testimony having been taken herein, and without trial or adjudication of any issue of fact or law herein and on consent of the parties hereto, it is hereby

Ordered, adjudged and decreed as follows:

I

[*Clayton Act*] This Court has jurisdiction of the subject matter herein and of all parties hereto pursuant to Section 15 of the Act of Congress of October 15, 1914, as amended, entitled “An Act to Supplement Existing Laws Against Unlawful Restraints and Monopolies and For Other Purposes”, commonly known as the Clayton Act; and the complaint states a claim upon which relief may be granted under Section 7 of said Act.

II

[*Definitions*]

As used in this Final Judgment:

(A) “Hilton” means the defendant Hilton Hotels Corporation, a Delaware corporation;

(B) “Statler” means the defendant Statler Hotels Delaware Corporation, a Delaware corporation;

(C) “Defendants” means the defendant Hilton and the defendant Statler;

(D) “Person” means any individual, partnership, corporation, association or other legal entity;

(E) “Listed hotel” means a hotel named in Schedule A attached hereto;

(F) “Acquisition” means any obtaining of control of a listed hotel, directly or indirectly, through purchase of assets, stock or other securities, lease, management contract, statutory consolidation or statutory merger or through any other means. Construction of a hotel or of an addition to a listed hotel is not an acquisition within the meaning of this definition, nor is remodeling or enlargement of any of the facilities of a listed hotel.

III

[*Applicability of Judgment*]

The provisions of this Final Judgment, applicable to a defendant, shall be binding upon said defendant, its officers, agents, servants and employees, and upon those persons in active concert or participation with said defendant who receive actual notice of this Final Judgment by personal service or otherwise.

IV

[*Divestiture of Hotels Ordered*]

(A) Within a reasonable time after December 1, 1955, the defendants shall, pursuant to the terms and conditions of this Section IV, dispose of the Jefferson Hotel located in St. Louis, Missouri; the Mayflower Hotel located in Washington, D. C; and either the New Yorker Hotel or the Roosevelt Hotel located in New York, New York.

(B) The divestments ordered and directed by subsection (A) of this Section IV shall be made in good faith and shall be absolute and unqualified. None of the properties so ordered to be disposed of shall be directly or indirectly sold or disposed of to any person in which either defendant owns any stock or financial interest, to any one or more officers, directors, agents or employees of either defendant or to any person or persons acting for or under the control of either defendant; provided, however, that if any property is not sold or disposed of entirely for cash, nothing herein contained shall be deemed to prohibit any defendant from retaining, accepting and enforcing a bona fide lien, mortgage, deed of trust or other form of security on said property for the purpose of securing to such defendant or defendants full payment of the price at which said property is disposed of or sold; and provided further that in connection with the sale of the Mayflower Hotel either defendant or both defendants may accept as part of the purchase price common stock (or voting trust certificates, hereinafter called common stock) of the purchaser of the Mayflower Hotel, if the total amount of common stock thus acquired by both defendants does not exceed 15 per cent of the then outstanding common stock of the purchaser of the Mayflower Hotel; and provided further that any defendant receiving such common stock of a purchaser in connection with the sale of the Mayflower Hotel shall dispose of all of such stock within a reasonable time;

(C) If after bona fide disposal pursuant to this Section IV of any hotel named in this Section IV, any defendant prior to January 1, 1961 by enforcement or settlement of a bona fide lien, mortgage, deed of trust, or other form of security regains ownership or control of such hotel, the defendants shall again dispose of any such hotel thus regained. Such subsequent disposal shall be made subject to all other provisions of this Final Judgment, and shall be completed within a reasonable time, not to exceed five (5) years from the date that the hotel is thus regained;

(D) Beginning April 30, 1956 and continuing until consummation of the disposals required by this Section IV, defendants shall render to this Court and to the plaintiff a report within 30 days after the end of each quarter, stating the efforts made by defendants to dispose of such properties and interests. If at any time the plaintiff is dissatisfied with the progress being made in the aforementioned disposals, it may file a petition with this Court for such further orders and direction as may be necessary to effect such disposals by the defendants.

V

[*Acquisition of Hotels Prohibited*]

Each defendant is enjoined and restrained from making any acquisition before January 1, 1961 if the effect of such acquisition will be to increase the number of listed hotels controlled by either or both defendants to more than four in New York City, N. Y., or more than one in Washington, D. C, or more than one in St. Louis, Missouri, or more than one in the composite area of Los Angeles and Beverly Hills, California. Provided, however, that if at any time either defendant desires to make any acquisition prior to January 1, 1961 which would be otherwise prohibited by the foregoing, such defendant may submit a full disclosure of the facts with respect to such proposed acquisition and the reason therefor to the plaintiff for consideration. If the plaintiff shall not object to the proposed acquisition within 30 days, such acquisition shall be deemed not to be a violation of this final judgment. In the event the plaintiff shall object, such defendant may apply to this Court for permission to make such acquisition, which may be granted upon a showing by the defendant to the satisfaction of this Court that the effect of such acquisition will not be substantially to lessen competition or to tend to create a monopoly in any line of commerce in any section of the country. No showing of any change of circumstances since the entry of this Final Judgment shall be required as a basis for such approval.

VI

[*Inspection and Compliance*]

For the purpose of securing compliance with this Final Judgment and for no other purpose, and subject to any legally recognized privilege, duly authorized representatives of the Department of Justice shall be permitted, upon written request of the Attorney General, or of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to a defendant at its principal office, (1) to inspect during office hours all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of such defendant relating to any of the subject matters contained in this Final Judgment; and (2) subject to the reasonable convenience of such defendant and without restraint or interference from it, to interview any officer or employee of such defendant, who may have counsel present, regarding any such matters; (3) and to require such defendant to submit such reasonable additional reports in writing to this Court, with copies to the Attorney General, with respect to 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 provided 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, except in the course of court proceedings to which the United States of America is a party for the purpose of securing compliance with this Final Judgment or as otherwise required by law.

VII

[*Foreign Activities*]

The complaint herein not alleging any violation of law with respect to any activities of either defendant outside the continental limits of the United States of America, this Final Judgment shall not affect in any way the past, present or future acquisition or operation of any hotel outside such continental limits of the United States of America by either defendant.

VIII

[*Jurisdiction Retained*]

Jurisdiction is retained for the purpose of enabling any party 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 modification of any of the provisions thereof, and for the enforcement of compliance therewith and punishment of violations thereof.

Schedule A

Los Angeles-Beverly Hills Ambassador Beverly-Wilshire Beverly Hills Biltmore Statler

New York Astor Biltmore Commodore Concourse Plaza Henry Hudson McAlpin New Yorker Park Sheraton Plaza Roosevelt Statler

Waldorf-Astoria

St. Louis

Chase

Coronado

Lennox

Sheraton Jefferson Statler

Washington

Mayflower Raleigh

Sheraton Carlton

Sheraton Park

Shoreham
Statler
Washington
Willard

United States v. American Linen Supply Company

Civil Action No. 55 C 1481

Year Judgment Entered: 1956

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA, Plaintiff,	)	CIVIL ACTION
v.	)	No. 55 C 1481
AMERICAN LINEN SUPPLY COMPANY, Defendant	)	[Entered November 19, 1956] [Judge Julius J. Hoffman]

FINAL JUDGMENT

The plaintiff, UNITED STATES OF AMERICA, having filed its complaint herein on May 12, 1955; the defendant having appeared by its counsel; and the parties hereto, 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 party 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 hereto, it is hereby

ORDERED, ADJUDGED AND DECREED, as follows:

I

The Court has jurisdiction of the subject matter of this action and of the parties hereto. The complaint states a claim against the defendant under Section I of the Act of Congress of

July 2, 1890, entitled "An act to protect trade and commerce against unlawful restraints and monopolies," commonly known as the Sherman Act, as amended, and Section 3 of the Act of Congress of October 15, 1914, entitled "An act to supplement existing laws against unlawful restraints and monopolies and for other purposes," commonly known as the Clayton Act, as amended.

II

As used in this Final Judgment:

(A) "ALSCO" means defendant American Linen Supply Company, a Nevada corporation, having its principal office at Chicago, Illinois;

(B) "Person" means any individual, partnership, firm, corporation, trustee, association or any other business or legal entity;

(C) "Towel Cabinet" means any device, mechanism, machine, or component parts thereof, including ALSCO's patented parts, used for the dispensing of continuous roll cloth or continuous roll Paper Towels;

(D) "Paper Towels" means continuous roll paper towels made or sold for use in paper Towel Cabinets;

(E) "Linen Supply Company" means any Person engaged in the business of supplying on a service basis Towel Cabinets, cloth towels, aprons, uniforms, coats, trousers, caps, tablecloths, napkins, bibs, coveralls or Paper Towels to industrial concerns, stores, restaurants, Government agencies, institutions or other ultimate consumers;

(F) "Paper Jobber" means any Person engaged in the business of leasing and/or purchasing Towel Cabinets, and buying Paper Towels for resale to industrial concerns, stores, restaurants, Government agencies, institutions and other ultimate consumers;

(G) "User licensee" means any Person holding a license from ALSCO, its subsidiaries or predecessors, permitting it to purchase and use continuous roll cloth Towel Cabinets under any Patent owned, applied for, or claimed by the defendant ALSCO, its subsidiaries or predecessors;

(H) "Jobber" means both "Linen Supply Companies" and "Paper Jobbers";

(I) "Patents" means any, some or all claims of the following United States Letters Patent on Towel Cabinets:

(1) Letters Patent owned or controlled by ALSCO on the date of entry of this Final Judgment;

(2) Letters Patent which may be granted on applications for Letters Patent which applications are on file in the United States Patent Office and owned or controlled by ALSCO on the date of entry of this Final Judgment;

(3) Letters Patent which may be granted on applications for Letters Patent which applications are filed and owned or controlled by ALSCO in the United States Patent Office

within a period of five (5) years following the date of entry of this Final Judgment;

(4) Letters Patent which may be acquired by ALSCO or under which ALSCO acquires the right to grant licenses within a period of five (5) years following the date of entry of this Final Judgment;

(5) Divisions, continuations, reissues or extensions of the Letters Patent described above in clauses (1), (2), (3) and (4).

III

The provisions of this Final Judgment applicable to ALSCO shall apply to such defendant, its subsidiaries, successors and assigns, and to each of its officers, agents, servants and employees, and to all Persons in active concert or participation with ALSCO who shall have received actual notice of this Final Judgment by personal service or otherwise.

IV

ALSCO is ordered and directed, within six (6) months from the date of entry of this Final Judgment, to terminate and cancel all such portions of each of its User Licenses and Jobber Agreements as are contrary to or inconsistent with any of the provisions of this Final Judgment, and to notify its User Licensees and Jobbers of such termination and cancellation. ALSCO is enjoined and restrained from thereafter entering into, maintaining, adhering to,

or enforcing any contract, agreement, or understanding contrary to or inconsistent with any of the provisions of this Final Judgment.

V

ALSCO is enjoined and restrained from entering into, adhering to, maintaining, enforcing or claiming any rights under, directly or indirectly, any contract, agreement or understanding, with any Person, the purpose or effect of which is to restrict or limit:

(A) The territory within which any such Person may sell, lease or loan Paper Towels or Towel Cabinets;

(B) Such Person from soliciting or servicing Paper Towel or Towel Cabinet customers being served by any other Person;

(C) Such Person from replacing any Towel Cabinets previously placed with a customer by any other Person.

VI

ALSCO is enjoined and restrained from directly or indirectly:

(A) Inducing or requiring any Paper Jobber or User Licensee to make restitution for Towel Cabinet or Paper Towel business taken from any other person;

(B) Offering to sell or lease or selling or leasing paper Towel Cabinets to Paper Jobbers upon the condition or understanding that such paper Jobbers purchase Paper Towels from ALSCO or any source designated by ALSCO.

VII

ALSCO is enjoined and restrained from entering into, maintaining, adhering to, enforcing or claiming any rights under any contract, agreement or understanding, with any Person that such Person require any third Person to purchase all or any portion of his requirements of Paper Towels from ALSCO or any source designated by ALSCO.

VIII

(A) ALSCO is ordered and directed:

(1) Insofar as it now has or may acquire the power or authority to do so, to grant to any applicant, making written request therefor, a non-exclusive and unrestricted license or sublicense to use and sell Towel Cabinets for the life of the Patent, under any, some or all Patents, without any limitation or condition whatsoever except that:

(a) A reasonable and nondiscriminatory royalty may be charged and collected;

(b) Reasonable provision may be made for periodic inspection of the books and records of the licensee by an independent auditor or other Person acceptable to both the licensee and licensor, who shall report to the licensor only the amount of the royalty due and payable and no other information;

(c) The license may be nontransferable;

(d) Reasonable provision may be made for cancellation of the license upon failure of the licensee to pay the royalties or to permit the inspection of its books and records as hereinabove provided;

(e) The license must provide that the licensee may cancel the license at any time after one (1) year from the initial date thereof by giving thirty (30) days notice in writing to the licensor.

(2) Upon receipt of any written application for a license under any Patent, to advise the applicant of the royalty it deems reasonable for the Patent or Patents to which the application pertains. If ALSCO and the applicant are unable to agree upon what constitutes a reasonable royalty, ALSCO may apply to the Court for a determination of a reasonable royalty, giving notice thereof to the applicant and the Attorney General, and shall make such application forthwith upon request of the applicant. In any such proceeding, the burden of proof shall be upon ALSCO to establish the reasonableness of the royalty requested by it. Pending the completion of any such court proceeding, the applicant shall have the right to use and sell under the Patent or Patents to which its application pertains, without the payment of royalty or other compensation, but subject to the following

provisions: ALSCO may, with notice to the Attorney General, apply to the Court to fix an interim royalty rate pending final determination of what constitutes a reasonable royalty. If the Court fixes such interim royalty rate, a license shall then issue providing for the periodic payment of royalties at such interim rate from the date of the making of such application by the applicant; and whether or not such interim rate is fixed, any final order may provide for such adjustments, including retroactive royalties, as the Court may order after final determination of a reasonable and nondiscriminatory royalty, and such royalty rate shall apply to the applicant and to all other licensees under the same Patent or Patents.

(B) Nothing herein shall prevent any applicant from attacking at any time the validity or scope of any of the Patents nor shall this Final Judgment be construed as imputing any validity or value to any of said Patents;

(C) ALSCO is enjoined and restrained from making any disposition of any Patents which deprives it of the power or authority to issue the licenses required by this Final Judgment unless ALSCO requires as a condition of the sale, assignment or grant that the purchaser, assignee or licensee shall observe the provisions of this Section VIII of this Final Judgment with

respect to the Patents so acquired and that such purchaser, assignee or licensee shall file with this Court prior to the consummation of such transaction a written undertaking to be bound by the provisions of Section VIII of this Final Judgment with respect to the Patents so acquired.

IX

(A) ALSCO is ordered and directed:

(1) To offer to any present User Licensee a settlement of future royalties accruable under any user license agreement and, at the option of such User Licensee, to settle such future royalties accruable under any User Licensee agreement upon reasonable and nondiscriminatory prices, terms and conditions;

(2) To send, within sixty days from the date of entry of this Final Judgment, a letter to each of its User Licensees advising such User Licensee that such royalties may be settled and the price at which ALSCO will settle;

(3) After one (1) year from the date of entry of this Final Judgment, except for a good cause, to sell its cloth Towel Cabinets, with or without royalty payments at the option of the applicant, upon reasonable and nondiscriminatory prices, terms and conditions to any domestic

Linen Supply Company applying in writing to purchase the same; provided, however, that ALSCO is not required to sell cloth Towel Cabinets to any Linen Supply Company not given a favorable credit rating by an independent credit rating company or to sell cloth Towel Cabinets to any Linen Supply Company which has failed to make payment to ALSCO on the date when such payment was due; and provided, further that ALSCO is not required to sell cloth Towel Cabinets of any model not in stock. Nothing in this paragraph IX shall be construed to prevent ALSCO from continuing to offer to sell its cloth Towel Cabinets with royalty payments or from continuing to sell its cloth Towel Cabinets with royalty payments.

X

ALSCO is ordered and directed:

(A) To offer to sell to any present lessee and, at the option of such lessee, to sell its paper Towel Cabinets upon reasonable and nondiscriminatory prices, terms and conditions;

(B) To send, within sixty (60) days from the date of entry of this Final Judgment, a letter to each of its lessees of paper Towel Cabinets advising such lessees (1) that such Towel Cabinets may be purchased and the price at which Alsco will sell and (2) that such lessee is free to purchase Paper Towels for use in such Towel Cabinets from any source he selects;

(C) After one (1) year from the date of entry of this Final Judgment, except for a good cause, to lease and/or sell its paper Towel Cabinets upon reasonable and nondiscriminatory prices, terms and conditions to any domestic Paper Jobber applying in writing to purchase or lease the same; provided, however, that ALSCO is not required to lease and/or sell Paper Towel cabinets to any Paper Jobber not given a favorable credit rating by an independent credit rating company or to lease and/or sell paper Towel Cabinets to any Paper Jobber which has failed to make payment to ALSCO when such payment was due; and provided further that ALSCO is not required to lease and/or sell paper Towel Cabinets of any model not in stock. Nothing in this paragraph X shall be construed to prevent ALSCO from continuing to offer to lease and/or sell its paper Towel Cabinets or from continuing to lease and/or sell its paper Towel Cabinets.

XI

This Final Judgment is not to be construed as relating to commerce outside the United States.

XII

For the purpose of securing compliance with this Final Judgment, duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division,

and on reasonable notice to the defendant, made to its principal office, be permitted, subject to any legally recognized privilege:

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

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

Upon such request the defendant shall submit such reports in writing with respect to any of the matters contained in this Final Judgment as from time to time may be necessary to the enforcement of this Final Judgment. No information obtained by the means permitted in this Section XII shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Department except in the course of legal proceedings to which the United States is a party, for the purpose of securing compliance with this Final Judgment or as otherwise required by law.

XIII

Jurisdiction of this cause is retained by the Court for the purpose of enabling any of the parties to this Final Judgment to

apply to the Court at any time for such further orders and directions as may be necessary or appropriate for the construction, carrying out or modification of this Final Judgment or any of its provisions, or for the enforcement or compliance therewith and for the punishment of violations thereof.

Dated: November 19, 1956

s/ Julius J. Hoffman
United States District Judge

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

For the Plaintiff:

s/ Victor R. Hansen
VICTOR R. HANSEN
Assistant Attorney General

s/ William D. Kilgore, Jr.
WILLIAM D. KILGORE, JR.

s/ Earl A. Jinkinson
EARL A. JINKINSON

s/ Baddia J. Rashid
BADDIA J. RASHID

s/ Harry N. Burgess
HARRY N. BURGESS

s/ Bertram M. Long
BERTRAM M. LONG

s/ Charles F. B. McAleer
CHARLES F. B. McALEER

s/ Francis C. Hoyt
FRANCIS C. HOYT

Attorneys

s/

For the Defendant:

s/ Leo F. Tierney
LEO F. TIERNEY

s/ Roger W. Barrett
ROGER W. BARRETT

s/ Charles L. Stewart, Jr.
CHARLES L. STEWART, JR.

United States v. Chicago Towel Company, et al.

Civil Action No. 56 C 158

Year Judgment Entered: 1956

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. Chicago Towel Company and American Linen Supply Company., U.S. District Court, N.D. Illinois, 1956 Trade Cases ¶68,543, (Nov. 19, 1956)

United States v. Chicago Towel Company and American Linen Supply Company.

1956 Trade Cases ¶68,543. U.S. District Court, N.D. Illinois, Eastern Division. Civil Action No. 56 C 158. Dated November 19, 1956. Case No. 1236 in the Antitrust Division of the Department of Justice.

Sherman Antitrust Act Combinations and Conspiracies—Consent Decree—Practices Enjoined—Allocation of Markets, Agreements Not To Solicit Customers, and Restrictions on Grant of Licenses—Linen Supplies, Dispensing Cabinets, and Industrial Laundries.—Two linen supply companies were .prohibited by a consent decree from entering into any agreement allocating or dividing territories or markets (1) for the rental or service of linen supplies or (2) for industrial laundry. Each of the companies was prohibited from entering into any agreement that it will not solicit for cloth towel cabinets customers of the other or that it will not service or replace cloth towel cabinets used by customers of the other. One of the companies was prohibited from aGording to any third person the approval or disapproval of the application of any person to such company for a cloth towel cabinet license.

Department of Justice Enforcement and Procedure—Consent Decrees—Scope of Decrees—Territorial Limitation.—A consent decree entered against linen supply companies provided that the decree was not to be construed as relating to commerce outside the United States.

For the plaintiff: Victor R. Hansen, Assistant Attorney General, and William D. Kilgore, Jr., Earl A. Jinkinson, Baddia J. Rashid, Harry N. Burgess, Francis C. Hoyt, Bertram M. Long, and Charles F. B. McAleer, Attorneys.

For the defendants: John H. Bishop for Chicago Towel Co.; and Leo F. Tierney, Roger W. Barrett, and Charles L. Stewart, Jr., for American Linen Supply Co.

Final Judgment

JULIUS J. HOFFMAN, District Judge [*In full text*]: The plaintiff, United States of America, having filed its complaint herein on May 17, 1955; the defendants having appeared by their counsel; and the parties hereto, 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 admission by any party 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, or admission by any party in respect of any issue, and upon consent of all parties hereto,

It is hereby ordered, adjudged and decreed, as follows:

I

[*Sherman Act*]

This Court has jurisdiction of the subject matter of this action and of the parties hereto. The complaint states a claim against the defendants under Section 1 of the Act of Congress of July 2, 1890, entitled “An act to protect trade and commerce against unlawful restraints and monopolies,” commonly known as the Sherman Act, as amended.

II

[*Definitions*]

As used in this Final Judgment:

(A) “ALSCO” means defendant American Linen Supply Company, a Nevada

corporation, having its principal office at Chicago, Illinois; “Chicago Towel” means defendant Chicago Towel Company, an Illinois corporation, having its principal office at Chicago, Illinois;

(B) “Linen supplies” means any or all of the following when supplied on a service basis to industrial concerns, stores, restaurants, institutions, Government agencies or other ultimate consumers: Cloth towels, towel cabinets, aprons, uniforms, coats, trousers, caps, tablecloths, napkins, bibs, or coveralls;

(C) “Towel Cabinets” means any device, mechanism, machine or component part thereof used for the dispensing of continuous roll cloth towels;

(D) “Industrial laundry” means the business of cleaning wiping cloths, overalls and other articles owned by an industrial or business establishment;

(E) “Person” means any individual, partnership, firm, corporation, trustee, association or any other business or legal entity.

III

[*Applicability of Judgment*]

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

IV

[*Allocation of Markets*]

ALSCO and Chicago Towel, and each of them, are enjoined and restrained from entering into, maintaining, continuing in effect, adhering to, enforcing or carrying out any agreement or understanding:

(A) Allocating or dividing territories or markets for the rental or service of Linen Supplies;

(B) Allocating or dividing territories or markets for Industrial Laundry.

V

[*Solicitation of Customers*]

(A) ALSCO is enjoined and restrained from entering into, adhering to or maintaining any contract, agreement or understanding with Chicago Towel that it will not solicit for Towel Cabinets customers of Chicago Towel or that it will not service or replace Towel Cabinets used by customers of Chicago Towel;

(B) Chicago Towel is enjoined and restrained from entering into, adhering to or maintaining any contract, agreement or understanding with ALSCO that it will not solicit for Towel Cabinets customers of ALSCO or that it will not service or replace Towel Cabinets used by customers of ALSCO.

VI

[*Licenses*]

Defendant ALSCO is enjoined and restrained from affording to any third Person the approval or disapproval of the application of any Person to ALSCO for a Towel Cabinet license.

VII

[*Commerce Covered*]

This Final Judgment is not to be construed as relating to commerce outside the United States.

VIII

[*Inspection and Compliance*]

For the purpose of securing compliance with this Final Judgment, duly authorized representatives of the Department of Justice shall upon written request of the Attorney General, or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to a defendant, made to its principal office, be permitted, subject to any legally recognized privilege:

(A) Access, during the office hours of such defendant, to all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of such defendant, relating to any of the matters contained in this Final Judgment, and

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

Upon such request the defendant shall submit such reports in writing with respect to any of the matters contained in this Final Judgment as from time to time may be necessary to the enforcement of this Final Judgment. No information obtained by the means permitted in this Section VIII shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Department except in the course of legal proceedings to which the United States is a party, for the purpose of securing compliance with this Final Judgment or as otherwise required by law.

IX

[*Jurisdiction Retained*]

Jurisdiction of this cause is retained by the Court for the purpose of enabling any of the parties to this Final Judgment to apply to the Court at any time for such further orders and directions as may be necessary or appropriate for the construction, carrying out or modification of this Final Judgment or any of its provisions, or for the enforcement of compliance therewith and for the punishment of violations thereof.

United States v. Crown Zellerbach Corporation, et al.

Civil Action No. 55 C 1480

Year Judgment Entered: 1956

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. Crown Zellerbach Corporation and American Linen Supply Company., U.S. District Court, N.D. Illinois, 1956 Trade Cases ¶68,544, (Nov. 19, 1956)

United States v. Crown Zellerbach Corporation and American Linen Supply Company.

1956 Trade Cases ¶68,544. U.S. District Court, N.D. Illinois, Eastern Division. Civil Action No. 55 C 1480. Dated November 19, 1956. Case No. 1237 in the Antitrust Division of the Department of Justice.

Sherman Antitrust Act

Department of Justice Enforcement and Procedure—Consent Decrees—Specific Relief —Licensing of Patents—Towel Dispensing Cabinets.—A company engaged in the manufacture of paper towels and distribution of paper towel dispensing cabinets and a linen supply company, which manufactures paper towels and linen and paper towel dispensing cabinets, were each ordered to grant to any applicant a nonexclusive and unrestricted license or sublicense to make, use, and sell roll supports, used on towel cabinets, for the life of the patent, without any limitation or condition, except that (1) a reasonable and nondiscriminatory royalty could be charged and collected, (2) reasonable provision could be made for periodic inspection of the books and records of the licensee by an independent auditor or other person acceptable to both the licensee and licensor, who should report to the licensor only the amount of the royalty due and payable and no other information, (3) the license could be nontransferable, (4) reasonable provision could be made for the cancellation of the license upon failure of the licensee to pay the royalties or to permit the inspection of its books and records, and (5) the license must provide that the licensee can cancel the license at any time after one year by giving thirty days' notice in writing to the licensor.

Combinations and Conspiracies—Consent Decree—Practices Enjoined—Allocation of Markets and Customers.—A company engaged in the manufacture of paper towels and distribution of paper towel dispensing cabinets and a linen supply company, which manufactures paper towels and linen and paper towel dispensing cabinets, were prohibited from entering into any understanding with each other to allocate or divide customers, territories, or markets for the manufacture, distribution, sale, or lease of paper towel cabinets or paper towels.

Combinations and Conspiracies—Consent Decree—Practices Enjoined—Refusal To Deal.—A company engaged in the manufacture of paper towels and distribution of paper towel dispensing cabinets and a linen supply company, which manufactures paper towels and linen and paper towel dispensing cabinets, were prohibited from entering into any understanding with each other (1) to refuse to sell or lease or otherwise distribute paper towel cabinets or paper towels to any person or class of persons, or (2) to refuse to replace paper towel cabinets installed by any person.

Combinations and Conspiracies—Consent Decree—Practices Enjoined—Restrictive Covenants Between Competitors.—A company engaged in the manufacture of paper towels and distribution of paper towel dispensing cabinets and a linen supply company, which manufactures paper towels and linen and paper towel dispensing cabinets, were prohibited from entering into any understanding with each other (1) to limit or restrict the right of either party to appoint any person as a paper jobber, (2) to prevent their paper jobbers from competing for each other's customers or replacing paper towel cabinets installed by any person, or (3) to prevent the first above company from selling or leasing paper towel cabinets to persons engaged in the linen supply business.

Combinations and Conspiracies—Consent Decree—Practices Enjoined—Agreements Not To Compete.—A company engaged in the manufacture of paper towels and distribution of paper towel dispensing cabinets and a linen supply company, which manufactures paper towels and linen and paper towel dispensing cabinets, were prohibited from entering into any understanding with each other to refrain from competition in the manufacture, sale, or lease of paper towel cabinets.

Combinations and Conspiracies—Consent Decree—Practices Enjoined—Coercion and Intimidation.—A company engaged in the manufacture of paper towels and distribution of paper towel dispensing cabinets and a linen supply company, which manufactures paper towels and linen and paper towel dispensing cabinets were prohibited from inducing or requiring any paper jobber to make restitution for paper towel cabinet or paper towel business taken from any other person.

Combinations and Conspiracies—Consent Decree—Practices Enjoined—Tie-in Sales.—A company engaged in the manufacture of paper towels and distribution of paper towel dispensing cabinets and a linen supply company, which manufactures paper towels and linen and paper towel dispensing cabinets, were prohibited from offering to sell or lease, or selling or leasing, paper towel cabinets to paper jobbers upon the condition or understanding that such paper jobbers purchase paper towels from either of the companies or any source designated by either of the companies.

Combinations and Conspiracies—Consent Decree—Practices Enjoined—Purchase Requirement Contracts.—A company engaged in the manufacture of paper towels and distribution of paper towel dispensing cabinets and a linen supply company, which manufactures paper towels and linen and paper towel dispensing cabinets, were prohibited from entering into any agreement with any person that such person require any third person to purchase all or any portion of his requirements of paper towels from either of the companies or any source designated by either of the companies.

Combinations and Conspiracies—Consent Decree—Practices Enjoined—Agreement Not To Contest Validity of Patents.—A company engaged in the manufacture of paper towels and distribution of paper towel dispensing cabinets and a linen supply company, which manufactures paper towels and linen and paper towel dispensing cabinets, were prohibited from entering into any agreement between each other not. to contest the validity of each other's patents, relating to towel cabinets, not yet issued.

For the plaintiff: Victor R. Hansen, Assistant Attorney General, and William D. Kilgore, Jr., Harry N. Burgess, Bertram M. Long, Earl A. Jinkinson, Baddia J. Rashid, Charles F. B. McAleer, and Francis C. Hoyt, Attorneys.

For the defendants: Philip S. Ehrlich, Philip S. Ehrlich, Jr., and Joseph T. Zoline for Crown Zellerbach Corporation. Leo F. Tierney, Roger W. Barrett, and Charles L. Stewart, Jr., for American Linen Supply Company.

For a prior decision of the U. S. District Court, Northern District of Illinois, Eastern Division, see 1956 Trade Cases ¶ 68,340; for a prior opinion of the U. S. District Court, Eastern District of Wisconsin, see 1955 Trade Cases ¶ 68,149.

Final Judgment

JULIUS J. HOFFMAN, District Judge [*In full text*]: The plaintiff, United States of America, having filed its complaint herein on May 18, 1955; the defendants having appeared by their counsel; and the parties hereto, 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 party 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 hereto, it is hereby

Ordered, adjudged and decreed, as follows:

I

[*Sherman Act*]

The Court has jurisdiction of the subject matter of this action and of the parties hereto. The complaint states a claim against the defendants under Section 1 of the Act of Congress of July 2, 1890, entitled “An act to protect trade and commerce against unlawful restraints and monopolies,” commonly known as the Sherman Act, as amended,

II

[*Definitions*]

As used in this Final Judgment:

(A) “ALSCO” means defendant American Linen Supply Company, a Nevada corporation, having its principal office at Chicago, Illinois;

(B) “Crown” means defendant Crown Zellerbach Corporation, a Nevada corporation, having its principal office at San Francisco, California;

(C) “Person” means any individual, partnership, firm, corporation, trustee, association or any other business or legal entity;

(D) “Towel Cabinet” means any device, mechanism, machine, or component part thereof, containing ALSCO's patented parts used for dispensing continuous roll paper Towels;

(E) “Towels” means continuous roll paper towels made or sold for use in Towel Cabinets;

(F) “Roll Support” means any, some or all patented devices used on Towel Cabinets which limit or restrict or purport to limit or restrict the Towels that can be used in Towel Cabinets;

(G) “Paper Jobber” means any person engaged in the business of leasing and/or purchasing Towel Cabinets, and buying Towels for resale to industrial concerns, stores, restaurants, Government agencies, institutions and other ultimate consumers;

(H) “Linen supply business” means the business of supplying on a service basis cloth towels, cloth towel dispensers, aprons, uniforms, coats, trousers, caps, tablecloths, napkins, bibs, or coveralls, to industrial concerns, stores, restaurants, Government agencies, institutions or other ultimate consumers;

(I) “Patents” mean any, some or all claims of the following United States Letters Patent on Roll Supports:

(1) Letters Patent owned or controlled by any defendant on the date of entry of this Final Judgment;

(2) Letters Patent which may be granted on applications for Letters Patent which applications are on file in the United States Patent Office and owned or controlled by any defendant on the date of entry of this FinalJudgment;

(3) Letters Patent which may be granted on applications for Letters Patent which applications are filed and owned or controlled by any defendant in the United States Patent Office within a period of five (5) years following the date of entry of this Final Judgment;

(4) Letters Patent which may be acquired by any defendant or under which any defendant acquires the right to grant licenses within a period of five (5) years following the date of entry of this Final Judgment;

(5) Divisions, continuations, reissues or extensions of the Letters Patent described above in clauses (1), (2), (3) and (4).

III

[*Applicability of Judgment*]

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

IV

[*Termination of Agreement*]

The defendants and each of them are ordered and directed to terminate and cancel the “Tymatic agreement” dated January 1, 1949 between ALSCO and Crown, and the defendants and each of them are enjoined and restrained from directly or indirectly continuing, maintaining, entering into, adhering to, enforcing or claiming any

rights under any contract, agreement or understanding with each other contrary to or inconsistent with any of the provisions of this Final Judgment.

V

[*Practices Prohibited*]

The defendants and each of them are enjoined and restrained from directly or indirectly maintaining, continuing, entering into, adhering to, enforcing or claiming any right under any contract agreement or understanding with each other to:

(A) Allocate or divide customers, territories or markets for the manufacture, distribution, sale or lease of Towel Cabinets or Towels;

(B) Refuse to sell or lease or otherwise distribute Towel Cabinets or Towels to any Person or class of Persons;

(C) Limit or restrict the right of either party to appoint any Person as a Paper Jobber;

(D) Refrain from competition in the manufacture, sale or lease of Towel Cabinets;

(E) Refuse to replace Towel Cabinets installed by any Person;

(F) Prevent their Paper Jobbers from competing for each other's customers, or replacing Towel Cabinets installed by any Person;

(G) Prevent Crown from selling or leasing Towel Cabinets to Persons engaged in the Linen Supply Business.

VI

[*Tying and Requirement Arrangements*]

Defendants are jointly and severally enjoined and restrained from:

(A) Inducing or requiring any Paper Jobber to make restitution for Towel Cabinet or Towel business taken from any other Person;

(B) Offering to sell or lease, or selling or leasing Towel Cabinets to Paper Jobbers upon the condition or understanding that such Paper Jobbers purchase Towels from a defendant or any source designated by a defendant;

(C) Entering into, maintaining, adhering to, enforcing or claiming any rights under any contract, agreement or understanding with any Person that such Person require any third Person to purchase all or any portion of his requirements of Towels from any defendant or any source designated by any defendant

VII

[*Contesting Validity of Patents*]

Defendants are enjoined and restrained from continuing, entering into, adhering to, enforcing or claiming any rights under any contract, agreement or understanding between each other not to contest the validity of each other's Patents not yet issued.

VIII

[*Licensing of Patents*]

(A) Defendants are each ordered and directed:

(1) Insofar as it now has or may acquire the power or authority to do so, to grant to any applicant, making written request therefor, a nonexclusive and unrestricted license or sublicense to make, use and sell Roll Supports for the life of the Patent, under any, some or all its Patents, without any limitation or condition whatsoever except that:

(a) A reasonable and nondiscriminatory royalty may be charged and collected;

(b) Reasonable provision may be made for periodic inspection of the books and records of the licensee by an independent auditor or other person acceptable to both the licensee and licensor, who shall report to the licensor only the amount of the royalty due and payable and no other information;

(c) The license may be nontransferable;

(d) Reasonable provision may be made for cancellation of the license upon failure of the licensee to pay the royalties or to permit the inspection of its books and records as hereinabove provided;

(e) The license must provide that the licensee may cancel the license at any time after one (1) year from the initial date thereof by giving thirty (30) days notice in writing to the licensor.

(2) Upon receipt of any written application for a license to advise the applicant of the royalty it deems reasonable for the Patent or Patents to which the application pertains. If the defendant and the applicant are unable to agree upon what constitutes a reasonable royalty, the defendant may apply to the Court for a determination of a reasonable royalty, giving notice thereof to the applicant and the Attorney General, and shall make such application forthwith upon request of the applicant. In any such proceeding, the burden of proof shall be upon the defendant to establish the reasonableness of the royalty requested by it. Pending the completion of any such court proceeding, the applicant shall have the right to make, use and sell Roll Supports under the Patent or Patents to which its application pertains, without the payment of royalty or other compensation, but subject to the following provisions: defendant may, with notice to the Attorney General, apply to the Court to fix an interim royalty rate pending final determination of what constitutes a reasonable royalty. If the Court fixes such interim royalty rate, a license shall then issue providing for the periodic payment of royalties at such interim rate from the date of the making of such application by the applicant; and whether or not such interim rate is fixed, any final order may provide for such adjustments, including retroactive royalties, as the Court may order after final determination of a reasonable and nondiscriminatory royalty, and such royalty rate shall apply to the applicant and to all other licensees under the same Patent or Patents.

(B) Nothing herein shall prevent any applicant from attacking at any time the validity or scope of any Patent or Patents nor shall this Final Judgment be construed as imputing any validity or value to any of said Patents;

(C) The defendants are enjoined and restrained from making any disposition of any Patent which deprives it of the power or authority to issue the licenses required by this Final Judgment unless the defendant requires as a condition of the sale, assignment or grant that the purchaser, assignee or licensee shall observe the provisions of this Section VIII of this Final Judgment with respect to the Patent or Patents so acquired and that such purchaser, assignee or licensee shall file with this Court prior to the consummation of such transaction a written undertaking to be bound by the provisions of Section VIII of this Final Judgment with respect to the Patents so acquired.

IX

[*Commerce Covered*]

This Final Judgment is not to be construed as relating to commerce outside the United States.

X

[*Inspection and Compliance*]

For the purpose of securing compliance with this Final Judgment, duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General, or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to any defendant, made to its principal office, be permitted, subject to any legally recognized privilege:

(A) Access, during the office hours of such defendant, to all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of such defendant, relating to any of the matters contained in this Final Judgment; and

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

Upon such request the defendant shall submit such reports in writing with respect to any of the matters contained in this Final Judgment as from time to time may be necessary to the enforcement of this Final Judgment. No information obtained by the means permitted in this Section X shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Department except in the course of legal proceedings to which the United States is a party, for the purpose of securing compliance with this Final Judgment or as otherwise required by law.

XI

[*Jurisdiction Retained*]

Jurisdiction of this cause is retained by the Court for the purpose of enabling any of the parties to this Final Judgment to apply to the Court at any time for such further orders and directions as may be necessary or appropriate for the construction, carrying out or modification of this Final Judgment or any of its provisions, or for the enforcement of compliance therewith and for the punishment of violations thereof.

United States v. J.P. Seeburg Corporation, et al.

Civil Action No. 56 C 419

Year Judgment Entered: 1957

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. J. P. Seeburg Corporation, et al., U.S. District Court, N.D. Illinois, 1957 Trade Cases ¶68,613, (Jan. 31, 1957)

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United States v. J. P. Seeburg Corporation, et al.

1957 Trade Cases ¶68,613. U.S. District Court, N.D. Illinois. Civil Action No. 56 C 419. Dated January 31, 1957. Case No. 1271 in the Antitrust Division of the Department of Justice.

Sherman Antitrust Act

Combinations and Conspiracies—Consent Decree—Practices Enjoined—Allocation of Markets—Refusal to Sell—Coin Operated Phonographs.—A manufacturer of coin operated phonographs was prohibited by a consent decree from (1) limiting or restricting the persons to whom or the territory within which any distributor or operator may choose to sell such phonographs, (2) requiring any distributor to advise it of the name or address of any purchaser of such phonographs, or (3) limiting or restricting the right of any purchaser from any distributor to resell such phonographs after they have been paid for in full. Also, the manufacturer was prohibited from refusing to enter into or canceling any contract with a distributor because of such distributor's refusal to do any of the above acts and from maintaining any index or record of the names or addresses of any purchasers from distributors or the serial numbers of such phonographs. Distributors of such phonographs were prohibited from engaging in similar practices. Subject to the prohibitions of the decree, the manufacturer and distributors were permitted to exercise the right to select their customers.

Department of Justice Enforcement and Procedure—Consent Decrees—Permissive Provisions—Right To Choose Customers.—A consent decree entered against a manufacturer and distributors of coin operated phonographs provided that, subject to the prohibitions of the decree, (1) the manufacturer may exercise its right to choose and select its distributors and customers, to designate geographical areas in which such distributors shall respectively be primarily responsible for distributing its phonographs, and to terminate the franchises of such distributors who do not adequately represent the manufacturer and promote the sale of all coin operated phonographs manufactured by the manufacturer in areas so designated as their primary responsibility, and (2) each of the distributors may, individually, exercise its right to choose and select its customers and to fix the terms and conditions upon which it will make sales of coin operated phonographs.

Department of Justice Enforcement and Procedure—Consent Decrees—Specific Relief—Notice of Judgment.—A manufacturer of coin operated phonographs was required by a consent decree to serve upon each of its distributors a conformed copy of the decree. Also, each of the phonograph distributors which signed the decree was required to furnish a conformed copy of the decree to each of its customers regularly called upon or circularized by mail and required to advise such customers that it (1) is required not to impose any restrictions on the right of purchasers to resell such phonographs, (2) is free to sell such phonographs to any person, and (3) is required not to discriminate against a prospective customer because he may reside or do business outside of a particular territory.

For the plaintiff: Victor R. Hansen, Assistant Attorney General, and William D. Kilgore, Jr., Earl A. Jinkinson, Harold E. Baily, and James E. Mann, Attorneys, Department of Justice.

For the defendants: Thomas M. Thomas and E. Houston Harsha for J. P. Seeburg Corp. Miller, Gorham, Wescott & Adams, by Edward R. Adams, for Ajax Michigan Corporation; American Steel Export Company, Inc.; Atlantic Connecticut Corporation; Atlantic New Jersey Corporation; Atlantic New York Corporation; S. L. London Music Co., Inc.; S. H. Lynch & Co., Inc.; Minthorne Music Company, Inc.; The Musical Sales Co.; Music Systems, Inc., an Ohio corporation; Music Systems, Inc. “Michigan,” an Ohio corporation; Sparks Specialty Company; S. L. Stiebel Co.; W. B. Distributors, Inc.; W. B. Music Company, Inc.; and John H. Lynch and Adrian H. Zander, co-partners d.b.a. Lynch & Zander Co. Daniel D. Carmell for Shafer Music Co.; Dickson Distributing Company; Atlas Music Corporation, an Illinois corporation; Atlas Music Corporation, an Iowa corporation; Atlas

Music Corporation, a corporation of the Commonwealth of Pennsylvanias; Davis Distributing Corporation; Wolfe Distributing Company, Inc., an Alabama corporation; Simon Wolfe and Gordon F. Williams, co-partners, d.b.a. Wolfe Distributing Company; Sammons-Pennington Co.; Trimount Automatic Sales Corp.; Atlantic Pennsylvania Corp.; R. F. Jones Co., a Utah corporation; R. F. Jones Co., a California corporation; R. F. Jones Co., a Delaware corporation; and Music Distributors, Inc.

Final Judgment

JULIUS J. HOFFMAN, District Judge [*In full text*]: The plaintiff, United States of America, having filed its complaint herein on March 2, 1956, the defendants having filed their several answers denying the substantive allegations thereof, and the United States of America, the defendant J. P. Seeburg Corporation, and the distributor defendants signatory hereof, 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 this Final Judgment constituting evidence or an admission by any party signatory 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 consent of the parties signatory hereto, it is hereby ordered, adjudged and decreed as follows:

I

[*Sherman Act*]

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 defendant J. P. See-burg Corporation and the defendant distributors signatory hereto under Section l 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

[*Definitions*]

As used in this Final Judgment:

(A) “Seeburg” shall mean the defendant J. P. Seeburg Corporation, with its principal place of business in Chicago, Illinois;

(B) “Person” shall mean an individual, partnership, firm, corporation, or any other legal entity;

(C) “Distributor” shall mean any person (other than Seeburg and its subsidiaries) engaged in the purchase from Seeburg, for resale, of coin operated phonographs manufactured by it;

(D) “Operator” shall mean any person who owns coin operated phonographs and leases said machines to location owners;

(E) “Location owner” shall mean any person owning or operating a restaurant, tavern or other place of business in the Continental United States where coin operated phonographs are placed for use by the public;

(F) “Coin operated phonographs” shall mean new and used coin operated phonographs manufactured originally by Seeburg.

III

[*Applicability of Judgment*]

The provisions of this Final Judgment shall apply to Seeburg and to the distributor defendants signatory hereto and to each of their subsidiaries, successors, assigns, officers, directors, servants, employees and agents, and to all persons in active concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise.

This Final Judgment is not to be construed as relating to commerce outside the United States.

IV

[*Prohibited Practices—Manufacturer*]

Defendant Seeburg is enjoined and restrained from:

(A)(1) Limiting or restricting, directly or indirectly, the persons to whom or the territory within which any distributor or operator may choose to sell coin operated phonographs;

(2) Requiring any distributor to advise Seeburg of the name or address of any purchaser from such distributor of any coin operated phonographs or the serial number or numbers of such phonographs, except where such name, address and serial number or numbers are necessary to fill an order for repair or maintenance parts, or for services, for maintenance or replacement of parts or components, or to resolve a complaint or inquiry involving loss or theft or the fulfillment or breach of a conditional sales agreement or other credit or collateral agreement;

(3) Limiting or restricting, directly or indirectly, the right of any purchaser from any distributor of coin operated phonographs to resell such phonograph or phonographs after they have been paid for in full.

(B) Entering into, adhering to or enforcing any contract, agreement, or understanding with any distributor:

(1) Limiting or restricting, directly or indirectly, the persons to whom or the territory within which any distributor or operator may choose to sell a coin operated phonograph or phonographs;

(2) Limiting or restricting, directly or indirectly, the right of any purchaser from any distributor of coin operated phonographs to resell such phonograph or phonographs after they have been paid for in full.

(C) Refusing to enter into or canceling any contract with a distributor for the distribution of coin operated phonographs because of such distributor's refusal to do any of the following acts:

(1) Limit or restrict, directly or indirectly, the persons to whom or the territory within which he sells coin operated phonographs;

(2) Advise Seeburg of the name or address of any purchaser from such distributor of any coin operated phonographs or the serial number or numbers of such phonographs, except where such name, address and serial number or numbers are necessary to fill an order for repair or maintenance parts, or for services, for maintenance or replacement of parts or components, or to resolve a complaint or inquiry involving loss or theft or the fulfillment or breach of a conditional sales agreement or other credit or collateral agreement;

(3) Limit or restrict, directly or indirectly, the right of any purchaser of coin operated phonographs to resell such phonographs after they have been paid for in full.

(D)(1) Maintaining any index, catalog or record of the names or addresses of any purchasers from distributors of coin operated phonographs or the serial numbers of such phonographs; provided, however, that any distributor may advise Seeburg and Seeburg may keep an alphabetical record, of the names or addresses of any such purchasers of such phonographs and the serial numbers thereof in connection with an order for repair or maintenance parts, or for services, or in connection with a complaint or inquiry involving loss or theft or fulfillment or breach of a conditional sales agreement or other credit or collateral agreement involving such phonographs;

(2) Using any Seeburg file or record for any purpose contrary to any of the provisions of this Final Judgment.

(E) Subject to subsections (A), (B), (C) and (D) of this Section IV, Seeburg may exercise its right to choose and select its distributors and customers, to designate geographical areas in which such distributors shall respectively be primarily responsible for distributing coin operated phonographs, to terminate the franchises of such distributors who do not adequately represent Seeburg and promote the sale of all coin operated phonographs manufactured by Seeburg in areas so designated as their primary responsibility, and such

designation of suggested geographical areas, standing alone, shall not be considered a violation of this Section IV.

V

[*Prohibit ed Pra dices—Distributors*]

Defendant distributors signatory hereto are enjoined, individually and collectively, from:

(A)(1) Limiting or restricting, directly or indirectly, the person or persons to whom or the territory within which any operator or other purchaser may choose to resell coin operated phonographs after they have been paid for in full;

(2) Limiting or restricting, directly or indirectly, the right of any purchaser or any distributor of coin operated phonographs to resell such phonographs after they have been paid for in full;

(3) Refusing to sell to a person because such person may have resold a coin operated phonograph, after it had been paid for in full, to a person outside a particular territory or to a location owner.

(B) Entering into, adhering to or enforcing any contract, agreement or understanding with Seeburg, any distributor or distributors, or any operator or operators:

(1) Limiting or restricting, directly or indirectly, the persons to whom or the territory within which any distributor or operator may choose to sell coin operated phonographs;

(2) Limiting or restricting, directly or indirectly, the right of any purchaser from any distributor of coin operated phonographs to resell such phonographs after they have been paid for in full.

(C) Refusing to enter into or canceling any contract of sale of coin operated phonographs because of the purchaser's refusal to agree or adhere to any contract, agreement or understanding contrary to the provisions of subsection (B) of this Section V.

(D) Subject to subsections (A), (B) and (C) of this Section V, the distributor defendants signatory hereto may each, individually, exercise its right to choose and select its customers and to fix the terms and conditions upon which it will make sales of coin operated phonographs.

VI

[*Notice of Decree*]

Defendant Seeburg is directed, within sixty (60) days after the entry of this Final Judgment, to serve by mail upon each Seeburg distributor a conformed copy thereof.

Defendant distributors signatory hereto, other than American Steel Export Company, Inc., are directed, within sixty (60) days after the entry of this Final Judgment, to furnish a conformed copy of this Final Judgment to each of the customers regularly called upon or circularized by mail by such distributor, and to advise such customers that such distributor:

(1) Is required not to impose any restrictions on the right of purchasers from such distributor to resell coin operated phonographs after they have been paid for in full;

(2) Is free to sell coin operated phonographs to any person;

(3) Is required not to discriminate against a prospective customer because he may reside or do business outside of a particular territory, subject, however, to the right of any distributor to discriminate between purchasers on the basis of their location as to terms and conditions with respect to service, maintenance, guarantees, warranties, credit, payment and delivery reasonably related to the territory or location in which a customer proposes to use or operate coin operated phonographs if acquired by such customer.

VII

[*Inspection and Compliance*]

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 the signatories hereto, made to the principal office of such signatories, be permitted, subject to any legally recognized privilege:

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

(B) Subject to the reasonable convenience of the signatories hereto, and without restraint or interference from them, to interview their officers or employees, 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, the signatories hereto 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 VII 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.

VIII

[*Jurisdiction Retained*]

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.

IX

[*Effective Date*]

This Final Judgment shall become effective ninety (90) days after entry herein.

United States v. Magnaflux Corporation

Civil Action No. 51 C 859

Year Judgment Entered: 1957

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. Magnaflux Corporation., U.S. District Court, N.D. Illinois, 1957 Trade Cases ¶68,707, (May 6, 1957)

United States v. Magnaflux Corporation.

1957 Trade Cases ¶68,707. U.S. District Court, N.D. Illinois, Eastern Division. Civil Action No. 51-C-859. Dated May 6, 1957. Case No. 879 in the Antitrust Division of the Department of Justice.

Sherman Antitrust Act

Department of Justice Enforcement and Procedure—Consent Decrees—Specific Relief—Dedication of Patents to Public—Conveyance of Patent Rights—Equipment for Detection of Defects in Metals.—A manufacturer of equipment used for the detection of defects in metal parts was required by a consent decree to dedicate to public use specified patents. Also, the manufacturer was required to renounce its exclusive license under a patent and to convey to a specified person its rights under another patent.

For the plaintiff: Victor R. Hansen, Assistant Attorney General, and W. D. Kilgore, Jr., Baddia J. Rashid, and Earl A. Jinkinson, Attorneys, Department of Justice.

For the defendant: Richard K. Decker, Theodore C. Diller, and Carlton Hill.

For an opinion of the U. S. District Court, Southern District of New York, transferring the action to the U. S. District Court, Northern District of Illinois, Eastern Division, see 1950-1951 Trade Cases ¶ 62,836.

Final Judgment

WIN G. KNOCH, District Judge [*In full text*]: The plaintiff, United States of America, having filed its complaint herein on December 11, 1946; the defendant having appeared by its counsel; and the parties hereto, 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 party 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 hereto, it is hereby

Ordered, Adjudged and Decreed, as follows:

I

[*Jurisdiction*]

The Court has jurisdiction of the subject matter of this action and of the parties hereto.

II

[*Dedication of Patents*]

Defendant is directed, within thirty (30) days from the date of entry of this Final Judgment, to:

A. Dedicate to public use the following patents:

U. S. Patent No.	Title	Issued
2,225,179	Magnetic Testing of Turbine Blades	12/17/40
2,236,373	Method of Permanently Recording Defects in Metals	3/25/41
2,257,736	Magnetic Inspection Unit	10/7/41

B. Renounce in writing to the licensor or its successor in interest the exclusive right and license of Defendant under U. S. Patent No. 2,267,999 for Magnetic Testing, issued December 30, 1941, retaining only a non-exclusive license thereunder; and

C. Convey and surrender to John C. Pruitt all right, title and interest and/or license rights now held by Defendant under U. S. Patent No. 2,428,471 for Magnetic Testing Method and Apparatus, issued on October 7, 1947.

III

[*Compliance*]

Defendant is directed, within forty-five (45) days from the date of entry of this Final Judgment, to file with the Court and to furnish to the Attorney General a statement showing compliance with the provisions of Section II of this Final Judgment.

IV

[*No Other Relief*]

Except as hereinabove provided, no further relief is directed.

United States v. Local No. 27 of the Brotherhood of Painters, Decorators and Paperhangers of America (Hamilton Glass Company), et al.

Civil Action No. 57 C 432

Year Judgment Entered: 1958

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. Local No. 27 of the Brotherhood of Painters, Decorators and Paperhangers of America [United States v. Hamilton Glass Company],, U.S. District Court, N.D. Illinois, 1958 Trade Cases ¶69,137, (Sept. 8, 1958)

United States v. Local No. 27 of the Brotherhood of Painters, Decorators and Paperhangers of America [United States v. Hamilton Glass Company],

1958 Trade Cases ¶69,137. U.S. District Court, N.D. Illinois, Eastern Division. Civil Action No. 57 C 432. Dated September 8, 1958. Case No. 1326 in the Antitrust Division of the Department of Justice.

Sherman Antitrust Act

Combinations and Conspiracies—Labor Unions—Consent Decree—Practices Enjoined —Restricting Use of Product.—A labor union was prohibited by a consent decree from (1) adopting any rule having the purpose or effect of hindering the manufacture, use or installation of pre-glazed products, (2) requiring any person to discontinue the installation or use of pre-glazed products, (3) requiring any person to stop work at any job site solely because pre-glazed products were used on such job, (4) withholding labor from any job on which pre-glazed products were used where, the glazing contractor had a contract with the union, (5) refusing to maintain a membership division for manufacturers of pre-glazed products, and (6) limiting to one the number of glazing contractors who could perform work on any one building at any one time. The union was also prohibited from entering into any agreement with any non-labor person or group to refuse to work on any job, or to refuse to install or use glazed products, for the reason that the glazed products were pre-glazed in a shop or factory in which the employees performing the glazing work were represented by a labor union affiliated with the AFL-CIO.
Combinations and Conspiracies—Labor Unions—Consent Decree—Practices Enjoined —Requiring Payment for Work Not Needed.—A labor union was prohibited by a consent decree from (1) requiring, inducing, or compelling any person to pay for glazing work which was not actually needed or which was performed on pre-glazed products, and (2) requiring, inducing, or compelling any person to have pre-glazed products reglazed. The union was also prohibited from entering into any agreement with any non-labor person or group to require payment for work not actually needed or to require reglazing of products which were pre-glazed in a shop or factory in which the employees performing the glazing work were represented by a labor union affiliated with the AFL-CIO.
Department of Justice Enforcement and Procedure—Consent Decrees—Permissive Provisions—Labor Unions—Agreements—Terms of Employment.—A consent decree which prohibited a labor union from engaging in various practices, including the restriction of the use of pre-glazed products and the requirement of payment for work not actually needed, provided that nothing contained therein should prevent the union from (1) seeking, or using lawful means to enforce, agreements with glazing contractors and others with respect to terms or conditions of employment, or (2) from entering into any contract requiring of glazing contractors that the glazing work the contractor agreed to do, on a particular job, be done job site.

For the plaintiff: Victor R. Hansen, Assistant Attorney General; and Charles L. Whittinghill, William D. Kilgore, Jr., Earl A. Jinkinson, Bertram M. Long, Harry H. Faris, Charles F. B. McAleer, and Dorothy M. Hunt, Attorneys, Department of Justice.

For the defendant: Lester Asher, Joseph E. Gubbins, and Leo Segall.

For a prior opinion of the U. S. District Court for the Northern District of Illinois, Eastern Division, see 1957 Trade Cases ¶ 68,837.

Final Judgment

[*Consent Decree*]

JULIUS J. HOFFMAN [*In full text*]: Plaintiff, United States of America, having filed its complaint herein on March 12, 1957; defendant having filed its answer to the complaint denying the material allegations thereof; and plaintiff and defendant by their attorneys having consented to the entry of this Final Judgment, without trial or adjudication of any issue of fact or law herein and without this Final Judgment's constituting evidence or an admission in respect to any such issue;

Now, therefore, before any testimony has been taken herein, and without trial or adjudication of any issue of fact or law herein, and upon consent as aforesaid of each party hereto, it is hereby

Ordered, Adjudged and Decreed as follows:

Article I

[*Jurisdiction*]

The Court has jurisdiction of the subject matter of this action and of the parties hereto, and the complaint states a claim upon which relief can be granted against defendant under Section 1 of the Act of Congress dated July 2, 1890, entitled “An Act to protect trade and commerce against unlawful restraints and monopolies,” commonly known as the Sherman Act, as amended.

Article II

[*Definitions*]

(A) “Person” shall mean any individual, partnership, firm, corporation, or any other business or legal entity.

(B) “Local 27” shall mean the defendant Glaziers' Local No. 27 of the Brotherhood of Painters, Decorators and Paperhangers of America.

(C) “Glazing” shall mean the act, art or trade of installing flat glass or mirorrs.

(D) “Pre-glazed sash” shall mean windows or doors glazed by members of an affiliate of the Brotherhood of Painters, Decorators and Paperhangers of America in factories or at any place other than at the construction job site.

(E) “Pre-glazed products” shall include such items as bathroom, medicine or kitchen cabinets, canisters, show cases, shower doors, shower enclosures, and other similar products, which are glazed by members of an affiliate of the Brotherhood of Painters, Decorators and Paperhangers of America in factories or at any place other than on the construction job site.

(F) “Open sash” shall mean window frames and doors which are constructed at the factories without having the flat glass installed therein.

(G) “Glazing contractor” shall mean any person engaged in entering into and performing contracts for the glazing of open sash and the installation thereof in buildings.

(H) “AFL-CIO” shall mean the American Federation of Labor-Congress of Industrial Organization.

Article III

[*Applicability*]

The provisions of this Final Judgment applicable to defendant Local 27 shall apply to such defendant, its officers, agents, servants, employees, members, successors, and assigns, and to those persons in active concert or participation with it who shall have received actual notice of this Final Judgment by personal service or otherwise.

Article IV

[*Restricting Use of Product*]

Defendant Local 27 is enjoined and restrained from:

(A) Maintaining, adopting, adhering to or enforcing any rule or regulation having the purpose or effect of restricting, hindering, or preventing the manufacture, use or installation of pre-glazed sash or pre-glazed products by any person;

(B) Requiring, inducing, or compelling any person to pay sums of money to any members of Local 27 or any other designated source for glazing work which is not actually needed or performed on pre-glazed sash or pre-glazed products;

(C) Requiring, inducing, or compelling any person to have pre-glazed sash and pre-glazed products reglazed;

(D) Requiring or coercing any person to discontinue the installation or use of pre-glazed sash or pre-glazed products;

(E) Requiring any person to stop work at any job site solely because pre-glazed sash or pre-glazed products have been, are being, or will be installed or used upon such job;

(F) Withholding labor from any job on which pre-glazed sash or pre-glazed products are used or to be used if the glazing contractor has and is adhering to a contract with Local 27;

(G) Refusing to create and maintain a membership classification or membership division for manufacturers of pre-glazed sash or pre-glazed products having factories in the geographical area served by Local 27 and who sell or distribute such sash or products in States other than the State in which manufactured and glazed;

(H) Limiting to one the number of glazing contractors who can contract for and perform glazing work on any one building at any one time.

Article V

[*Prohibited Agreements*]

Defendant Local 27 is enjoined and restrained from entering into, adhering to or maintaining any contract, agreement, understanding, plan, or program with any other person, group or corporation which is a non-labor person, group or corporation to:

(A) Refuse to work on or withhold labor from, any job where the reason for such refusal is that the glazed sash or glazed products were pre-glazed in a shop or factory in which the employees performing the glazing work were represented by a labor union affiliated with the AFL-CIO.

(B) Not install or use glazed sash or glazed products which were pre-glazed in a shop or factory in which the employees performing the glazing work were represented by a labor union affiliated with the AFL-CIO.

(C) Require the payment of sums of money to Local 27 or any other designated source for glazing work not actually needed or performed on glazed sash or glazed products which were pre-glazed in a shop or factory in which the employees performing the glazing work were represented by a labor union affiliated with the AFL-CIO.

(D) Require the reglazing of glazed sash or glazed products which were pre-glazed in a shop or factory in which the employees performing the glazing work were represented by a labor union affiliated with the AFL-CIO.

Article VI

[*Permissive Provisions*]

Nothing contained in this Final Judgment shall prevent defendant Local 27 from:

(A) Seeking, securing, entering into, or using lawful means to enforce agreements with glazing contractors and others with respect to wages, hours, working conditions or any other terms and conditions of employment;

(B) Entering into any contract requiring of glazing contractors that the glazing the contractors have agreed to do on a particular job, be done job site.

Article VII

[*Enforcement and Compliance*]

For the purpose of securing compliance with this Final Judgment and for no other purpose, and subject to any legally recognized privilege, duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General, or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to defendant Local 27 made to its principal office, be permitted (1) access during the office hours of such defendant and the right to copy or reproduce all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of such defendant relating to any of the subject matters contained in this Final Judgment, and (2) subject to the reasonable convenience of such defendant and without restraint or interference from it to interview officers or employees of such defendant who may have counsel present, regarding any such matters. Upon such written request, the defendant shall submit such reports in writing to the Department of Justice with respect to 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 provided in this Section VII shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Department except in the course of legal proceedings to which the United States of America is a party for the purpose of securing compliance with this Final Judgment or as otherwise required by law.

Article VIII

[*Jurisdiction Retained*]

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

United States v. Operative Plasterers and Cement Masons International Association of the United States and Canada, et al.

Civil Action No. 56 C 1096

Year Judgment Entered: 1959

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF ILLINOIS

EASTERN DIVISION

UNITED STATES OF AMERICA, Plaintiff, v. OPERATIVE PLASTERERS AND CEMENT MASONS INTERNATIONAL ASSOCIATION OF THE UNITED STATES AND CANADA; BRICKLAYERS, MASONS AND PLASTERERS INTERNATIONAL UNION OF AMERICA; and PLASTERING DEVELOPMENT CENTER, INC., Defendants.	CIVIL ACTION No. 56 C 1096

At Chicago, Illinois, in said Division and District on January 21, 1959.

FINAL JUDGMENT

The plaintiff, United States of America, having filed its complaint herein on June 29, 1956, the defendant Bricklayers, Masons and Plasterers International Union of America having filed its answer denying the substantive allegations thereof, and the plaintiff and said defendant, 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 this Final Judgment constituting evidence or an admission by any party signatory 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 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 defendant signatory hereto under Section 1 of the Act of Congress of July 2, 1890, entitled "An Act to protect trade and commerce against unlawful restraints and monopolies," commonly known as the Sherman Act, as amended.

II

As used in this Final Judgment:

(A) "Plastering machine" means any mechanical device which is actuated by gas or electricity and sprays a plaster mix on walls or ceilings;

(B) "Contractor" means any person, firm or corporation which regularly enters into contracts for and engages in the performance of plastering work, employing workmen and purchasing equipment and materials therefor;

(C) "Defendant Union" means defendant Bricklayers, Masons and Plasterers International Union of America, with offices located at 815 15th St., N.W., Washington 5, D.C.

III

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

IV

Defendant Union is enjoined and restrained from, directly or indirectly:

(A) Entering into, adhering to, or enforcing any contract, agreement or understanding with any manufacturer of plastering machines which has the purpose or effect of

(1) preventing, limiting or restricting the lease, sale or other disposition of any plastering machines, or

(2) dictating, prescribing, or otherwise regulating the terms or conditions under which any such plastering machines may be leased, sold or otherwise disposed of by any manufacturer or any other person;

(B) Inducing, coercing or permitting any local union affiliated with defendant Union to enter into any contract, agreement or understanding with any contractor having the purpose or effect that the contractor will not lease, purchase, or otherwise acquire a plastering machine manufactured by someone who makes plastering machines available to contractors employing, or not employing members of defendant's Union.

V

Defendant Union is ordered and directed within sixty (60) days after the entry of this Final Judgment, to serve by mail upon each local union affiliated therewith, a conformed copy of this Final Judgment.

VI

Defendant Union is further ordered and directed to publish in Plastering Industries, 215 West Harrison, Seattle 99, Washington, and in all trade journals and publications which have carried advertisements of the defendant at any time between January 1, 1950, and the date of the entry of this judgment, a summary statement of the judgment entered herein; provided, however, that forty-five (45) days prior to said publication, a copy shall be made available to the Midwest Office, Antitrust Division, Department of Justice, who shall have the right to make any reasonable changes as to form and additions or deletions to said summary statement prior to publication.

VII

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 the defendant Union, mailed to its principal office, be permitted, subject to any legally recognized privilege:

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

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

Upon such written request, defendant Union 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 VII 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.

VIII

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.

IX

This Final Judgment shall become effective thirty (30) days after entry herein.

s/ J. S. PERRY
United States District Judge

Dated: January 21, 1959

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

For the Plaintiff:

s/ Victor R. Hansen
VICTOR R. HANSEN
Assistant Attorney General

s/ Earl A. Jinkinson
EARL A. JINKINSON

s/ George H. Schueller
GEORGE H. SCHUELLER

s/ Ned Robertson
NED ROBERTSON

Attorneys, Department of Justice

s/ W. D. Kilgore, Jr.
WILLIAM D. KILGORE, JR.

Attorneys, Department of Justice

Room 404, United States Courthouse
Chicago 4, Illinois
HArrison 7-4700

For the Defendant:
Bricklayers, Masons and
Plasterers International
Union of America

s/ Sherman Carmell
SHERMAN CARMELL
33 North LaSalle Street
Chicago 2, Illinois
CEntral 6-8033

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF ILLINOIS

EASTERN DIVISION

UNITED STATES OF AMERICA, Plaintiff, v. OPERATIVE PLASTERERS AND CEMENT MASONS INTERNATIONAL ASSOCIATION OF THE UNITED STATES AND CANADA; BRICKLAYERS, MASONS AND PLASTERERS INTERNATIONAL UNION OF AMERICA; and PLASTERING DEVELOPMENT CENTER, INC., Defendants.	)	CIVIL ACTION No. 56 C 1096

At Chicago, Illinois, in said Division and District on January 21, 1959.

FINAL JUDGMENT

The plaintiff, United States of America, having filed its complaint herein on June 29, 1956, the defendant Operative Plasterers and Cement Masons International Association of the United States and Canada having filed its answer denying the substantive allegations thereof, and the plaintiff and said defendant, 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 this Final Judgment constituting evidence or an admission by any party signatory 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 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 defendant signatory hereto under Section 1 of the Act of Congress of July 2, 1890, entitled "An Act to protect trade and commerce against unlawful restraints and monopolies," commonly known as the Sherman Act, as amended.

II

As used in this Final Judgment:

(A) "Plastering machine" means any mechanical device which is actuated by gas or electricity and sprays a plaster mix on walls or ceilings;

(B) "Contractor" means any person, firm or corporation which regularly enters into contracts for and engages in the performance of plastering work, employing workmen and purchasing equipment and materials therefor;

(C) "Defendant Union" means defendant Operative Plasterers and Cement Masons International Association of the United States and Canada, with offices located at 335 Euclid Avenue, Cleveland 14, Ohio.

III

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

IV

Defendant Union is enjoined and restrained from, directly or indirectly:

(A) Entering into, adhering to, or enforcing any contract, agreement or understanding with any manufacturer of plastering machines which has the purpose or effect of

(1) preventing, limiting or restricting the lease, sale or other disposition of any plastering machines, or

(2) dictating, prescribing, or otherwise regulating the terms or conditions under which any such plastering machines may be leased, sold or otherwise disposed of by any manufacturer or any other person;

(B) Inducing, coercing or knowingly permitting any local union affiliated with defendant Union to enter into any contract, agreement or understanding with any contractor having the purpose or effect of precluding the contractor from leasing, purchasing or otherwise acquiring a plastering machine manufactured by a person who makes plastering machines available to contractors employing, or not employing members of defendant's Union.

V

Defendant Union is ordered and directed within sixty (60) days after the entry of this Final Judgment, to serve by mail upon each local union affiliated therewith, a conformed copy of this Final Judgment.

VI

Defendant Union is further ordered and directed to publish in The Plasterer and Cement Mason, 335 Euclid Avenue, Cleveland 14, Ohio, and in all trade journals and publications which have carried advertisements of the defendant at any time between January 1, 1950, and the date of the entry of this Judgment, a summary statement of the Judgment entered herein; provided, however, that forty-five (45) days prior to said publication, a copy shall be made available to the Midwest Office, Antitrust Division, Department of Justice, who shall have the right to make any reasonable changes as to form and additions or deletions to said summary statement prior to publication.

VII

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 the defendant Union, mailed to its principal office, be permitted, subject to any legally recognized privilege:

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

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

Upon such written request, defendant Union 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 VII 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.

VIII

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.

IX

This Final Judgment shall become effective thirty (30) days after entry herein.

s/ J. S. PERRY
United States District Judge

Dated: January 21, 1959

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

For the Plaintiff:

s/ Victor R. Hansen
VICTOR R. HANSEN
Assistant Attorney General

s/ George H. Schueller
GEORGE H. SCHUELLER

s/ W. D. Kilgore, Jr.
WILLIAM D. KILGORE, JR.

Attorneys, Department of Justice

s/ Earl A. Jinkinson
EARL A. JINKINSON

s/ Ned Robertson
NED ROBERTSON

Attorneys, Department of Justice

Room 404, United States Courthouse
Chicago 4, Illinois
HArrison 7-4700

For the Defendant:
Operative Plasterers and Cement
Masons International Association
of the United States and Canada

MARTIN F. O'DONOGHUE

By s/ Martin F. O'Donoghue
1401 K Street, N. W.
Washington, D. C.

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF ILLINOIS

EASTERN DIVISION

UNITED STATES OF AMERICA, Plaintiff, v. OPERATIVE PLASTERERS AND CEMENT MASONS INTERNATIONAL ASSOCIATION OF THE UNITED STATES AND CANADA; BRICKLAYERS, MASONS AND PLASTERERS INTERNATIONAL UNION OF AMERICA; and PLASTERING DEVELOPMENT CENTER, INC., Defendants.	)	CIVIL ACTION NO. 56 C 1096

At Chicago, Illinois, in said Division and District on January 21, 1959.

FINAL JUDGMENT

The plaintiff, United States of America, having filed its complaint herein on June 29, 1956, the defendant Plastering Development Center, Inc., formerly E-Z-ON Corporation, having filed its answer denying the substantive allegations thereof, and the plaintiff and said defendant having consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein, and without this Final Judgment constituting evidence or an admission by any party signatory 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 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 defendant signatory hereto under Section 1 of the Act of Congress of July 2, 1890, entitled "An Act to protect trade and commerce against unlawful restraints and monopolies," commonly known as the Sherman Act, as amended.

II

As used in this Final Judgment:

(A) "Plastering machine" means any mechanical device which is actuated by gas or electricity and sprays a plaster mix on walls or ceilings;

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

(C) "Defendant Plastering Development Center, Inc." means defendant Plastering Development Center, Inc., and its predecessor E-Z-ON Corporation, with offices located at 1725 West Pershing Road, Chicago, Illinois.

III

The provisions of this Final Judgment shall apply to defendant Plastering Development Center, Inc., and to its subsidiaries, successors, assigns, officers, directors, servants, employees and

agents, and to all persons in active concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise.

IV

Defendant Plastering Development Center, Inc., is enjoined and restrained from entering into, adhering to or enforcing any contract, agreement or understanding with any other person, directly or indirectly:

(A) Preventing, limiting or restricting the lease, sale or other disposition of any plastering machine, except that as a manufacturing licensee defendant may agree with a patent holding licensor to lease only and not to sell plastering machines produced by it under license agreement with said patent holder;

(B) Requiring said defendant to impose any terms or conditions upon a purchaser, lessee or other transferee of any plastering machine;

(C) Requiring a purchaser, lessee or other transferee of any plastering machine to employ any person or class of persons designated by defendant to operate a plastering machine;

(D) Requiring or attempting to require a purchaser, lessee or other transferee to operate a plastering machine acquired from said defendant in compliance with the working rules and regulations of any labor union or association;

(E) Preventing or attempting to prevent a purchaser, lessee or other transferee after payment of the full sale price of a plastering machine from selling, transferring, assigning, subletting,

or otherwise disposing of said plastering machine.

V

(A) Defendant Plastering Development Center, Inc., is ordered and directed, within sixty (60) days after the entry of this Final Judgment, to send by certified mail to each individual and firm listed in the appendix attached hereto except those who to said defendant's knowledge have disposed of plastering machines listed therein, a bill of sale for no additional consideration (a) conveying to said individual or firm all right, title and interest to said plastering machine; and (b) cancelling all prior agreements between said defendant and said individual or firm, regarding said plastering machine.

(B) Said defendant is further ordered and directed within ninety (90) days from the date of the entry of this Final Judgment to send by certified mail a notification to all persons, firms or corporations to whom said defendant, so far as its records show, refused to sell or lease its plastering machines, at any time since January 1, 1950, offering to sell to said persons, firms or corporations on non-discriminatory terms defendant's plastering machines.

(C) Said defendant is further ordered and directed, within one hundred twenty (120) days from the entry of this Final Judgment to furnish plaintiff a carbon copy of each bill of sale mailed pursuant to this Final Judgment and United States Postal receipts indicating delivery, or attempted delivery, of said bills of sale.

VI

Defendant Plastering Development Center, Inc., is further ordered and directed to publish in all plastering trade journals and publications which have carried said defendant's plastering machine advertisements at any time between January 1, 1950 and the date of the entry of this Final Judgment, a summary statement of the Final Judgment entered herein; provided, however, that not less than forty-five (45) days prior to said publication a copy shall be made available to plaintiff herein who shall have the right to make any reasonable changes as to form and additions or deletions to said summary statement prior to publication, and reasonable directions as to position in said publication.

VII

For the purpose of securing compliance with this Final Judgment and subject to any legally recognized privilege, duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to the defendant Plastering Development Center, Inc., made to its principal offices, be permitted:

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

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

Upon such written request, defendant Plastering Development Center, Inc., shall submit such reports in writing to the Department of Justice with respect to any of 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 provided in this Section VII shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of said Department, except in the course of legal proceedings to which the United States is a party for the purpose of securing compliance with this Final Judgment or as otherwise required by law.

VIII

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.

IX

This Final Judgment shall become effective thirty (30) days after entry herein.

s/ J. S. PERRY
United States District Judge

Dated: January 21, 1959

We hereby consent to the making and entry of this Final Judgment:

For the Plaintiff:

s/ Victor R. Hansen
VICTOR R. HANSEN
Assistant Attorney General

s/ Earl A. Jinkinson
EARL A. JINKINSON

s/ Ned Robertson
NED ROBERTSON

s/ George H. Schueller
GEORGE H. SCHUELLER

Attorneys, Department of Justice

Room 404, United States Courthouse
Chicago 4, Illinois
HArrison 7-4700

s/ W. D. Kilgore, Jr.
WILLIAM D. KILGORE, JR.

Attorneys, Department of Justice

For the Defendant Plastering Development Center, Inc.:

s/ Thomas L. Marshall
THOMAS L. MARSHALL

Bell, Boyd, Marshall & Lloyd
135 South LaSalle Street
Chicago 3, Illinois
ANdover 3-1131

APPENDIX

	Name of Lessor or Lessee	Serial Number of Machine
1.	Acme Maintenance Eng. Co. 801 Union Street Montebello, California	A-1082
2.	S. F. Anderson 642 Cove Road Weirton, West Virginia	A-1183
3.	Alatex Const. Serv. Co. 4516 D'Hemecourt Street New Orleans, Louisiana	A-1140
4.	B & G Lath & Plasterers Contrs. 916 West 15th Street Grand Island, Nebraska	A-1216
5.	Babka Co. 3441 West 24th Chicago, Illinois	A-1357
6.	Henry Bass 422 East Park Avenue San Antonio, Texas	A-1186
7.	Blanchard Plastering Co. 5 Avon Place Portland, Maine	A-1603
8.	Bolton Plastering Contrs. 1530 Florida Street Baton Rouge, Louisiana	A-1353
9.	Boyd & Crockett Plaster & Tile Co. 1224 Briarwood Garland, Texas	A-1211
10.	R. B. Brunemann & Sons, Inc. 3737 Spaeth Street Cincinnati 23, Ohio	A-1156

	Name of Lessor or Lessee	Serial Number of Machine
11.	Builders Material & Supply 501 South Pearl Street Albany, New York	--
12.	Paul C. Calcaterra 12841 Bloomfield North Hollywood, California	A-1155
13.	H. Carr & Sons, Inc. 754 Branch Avenue Providence, Rhode Island	A-1455
14.	E. F. Chapman, Plastering Contractor 4917 McRaven Road Jackson, Mississippi	A-1452
15.	Chris B. Christians 318 Blum Street San Antonio 2, Texas	A-1290
16.	D. Conti & Sons, Inc. 958 Liberty Street Springfield, Massachusetts	A-1513
17.	Edward H. Coon Co. 30 Depot Street Watertown, Connecticut	A-1372
18.	Fred Cooper & Sons 2604 - 7th Avenue Greeley, Colorado	A-1162
19.	John Cortino Baseline and Mile 12 Mercedes, Texas	A-1222
20.	Angelo J. Daneri 1433 Fairfax Avenue San Francisco, California	A-1207
21.	Daugherty Plastering Co. 4906 Stanford Dallas 9, Texas	A-1253

	Name of Lessor or Lessee	Serial Number of Machine
22.	Di Stefano Contracting Co. 18 Scott Drive Bergenfield, New Jersey	A-1168
23.	Estes & Stout Plastering Contractors 923 North Tatum Street Dallas 11, Texas	A-1268
24.	Gables Plastering Co. (Sentell Supply Co.) 250 N.E. 72nd Street Miami, Florida	A-1167
25.	M. T. Gerton & Son, Contractors 2170 South Delaware Street Denver 23, Colorado	A-1323
26.	David Goldman 5634 Dyer Street Dallas, Texas	A-1208
27.	L. S. Goldman 4209 Park Lane Dallas, Texas	A-1170
28.	A. A. Greer, Inc. 3413 McKinney Avenue Dallas, Texas	A-1354
29.	A. A. Greer Same address	A-1029
30.	A. A. Greer Same address	A-1257
31.	A. A. Greer Same address	A-1355
32.	A. A. Greer Same address	A-1200
33.	A. A. Greer Same address	A-1283

	Name of Lessor or Lessee	Serial Number of Machine
34.	A. A. Greer Same address	A-1271
35.	Halde & Fleer, Inc. Box 285 Rapid City, South Dakota	A-1049
36.	Halde & Fleer, Inc. Same address	A-1202
37.	Hancock Plastering Co. 423 Kimball Mesa, Arizona (Subleased to: Arthur J. Hahn Phoenix, Arizona)	A-1089
38.	J. Tom Harrison Company, Inc. P. O. Box 3342 Shreveport, Louisiana	A-1379
39.	J. Tom Harrison Company, Inc. Same address	A-1463
40.	J. Tom Harrison Company, Inc. Same address	A-1604
41.	Floyd Hartshorn Plastering Co., Inc. 2030 Texas Street El Paso, Texas	A-1366
42.	William T. Harvey 4122 Kostner Avenue Dallas, Texas	A-1296
43.	Roy Hedrick 635 Alma Avenue Pueblo, Colorado	A-1348
44.	Henderson-Johnson Co., Inc. 918 Canal Street Syracuse, New York	A-1174

	Name of Lessor or Lessee	Serial Number of Machine
45.	Henderson-Johnson Co., Inc. Same address	A-1182
46.	J. R. Hevener 3741-1/2 - 34th Street Sacramento, California	A-1508
47.	J. R. Hevener Same address	A-1055
48.	Norman T. Hill 4920 - 15th Avenue Sacramento, California	A-1300
49.	William Huff 309 Kistler San Angelo, Texas	A-1221
50.	Al Iezzi 224 Ceymer Street Reading, Pennsylvania	A-1461
51.	C. Bus Iglehart 1325 - 22nd Avenue Rock Island, Illinois	A-1204
52.	Wayne Keller 2811 West Cucharras Street Colorado Springs, Colorado	A-1338
53.	E. E. La Roche Box 12 Grand Prairie, Texas	A-1068
54.	Larson Bros. P. O. Box 1506 San Diego 10, California	A-1056
55.	M. A. Mackay 4142 Tijon Street Denver 11, Colorado	A-1142
56.	M. A. Mackay 4142 Tijon Street Denver 11, Colorado	A-1301

	Name of Lessor or Lessee	Serial Number of Machine
57.	James McAuley, Inc. 705 Burbank Drive Toledo 7, Ohio	A-1181
58.	Chas. McGarvey Co. 927 East Fowler Street Indianapolis, Indiana	A-1358
59.	National Gypsum Co. 325 Delaware Avenue Buffalo, New York	A-1356
60.	C. B. Neudecker 808 Arch Street Alton, Illinois	A-1227
61.	A. E. Parker, Inc. 965 E. San Carlos San Carlos, California	A-1286
62.	Powers Plastering Co. 411 Rusk Building Houston, Texas	A-1601
63.	Powers Plastering Co. 411 Rusk Building Houston, Texas	A-1269
64.	Fred T. Richards 3912 W. Vickery Street Fort Worth, Texas	A-1297
65.	George F. Robertson Plastering Co. 3508 Atlantic Street St. Louis, Missouri	A-1136
66.	Ross & Son Const. Co. Box 446 Brownwood, Texas	A-1464
67.	Jos. E. Rourke Plastering Contr. P. O. Box 989 - 4618 Avenue O Galveston, Texas	A-1310

	Name of Lessor or Lessee	Serial Number of Machine
68.	Patrick J. Ruane, Inc. 44 San Jose Avenue San Francisco, California	A-1233
69.	Patrick J. Ruane, Inc. 44 San Jose Avenue San Francisco, California	A-1336
70.	Gene Scaperotta 271 Castle Drive Stratford, Connecticut	A-1201
71.	Thos. F. Scollan Co. P. O. Box 2125 Sacramento, California	A-1154
72.	J. V. Sgroi Plastering Co., Inc. 2017 Teall Avenue East Syracuse, New York	A-1602
73.	Charles T. Silagy 14817 Catalina Avenue Gardena, California	A-1084
74.	Arthur Silva 311 A Washington Street, SE Albuquerque, New Mexico	A-1302
75.	John O. Sjogren 112 Railroad Avenue Rawlins, Wyoming	A-1337
76.	Smallwood Plastering Co. 1632 E. 39th Street Cleveland 14, Ohio	A-1062
77.	Frank D. Smith 375 Bay Shore Blvd. San Francisco, California	A-1333
78.	George E. Spicer & Son 800 Leonard Avenue Zanesville, Ohio	A-1172

	Name of Lessor or Lessee	Serial Number of Machine
79.	Storbeck & Gregory 137 Pittsburgh Street Dallas 22, Texas	A-1294
80.	Storbeck & Gregory Same address	A-1270
81.	Storbeck & Gregory Same address	A-1099
82.	Phil Sutton 1762 S. E. Hamilton Roseburg, Oregon	A-1383
83.	Swanson & Kraas Plaster Co. Route 1, Box 522 Edinburg, Texas	A-1047
84.	E. L. Thompson 990 Edgewood Avenue, NE Atlanta 7, Georgia	A-1184
85.	Tobin & Rooney P. O. Box 6873 Houston 5, Texas	A-1278
86.	L. G. Turner 1581 Garther Street Memphis, Tennessee	A-1609
87.	Luther M. Warda 375 S. Mayfair Daly City, California	A-1507
88.	Luther M. Warda Same address	A-1193
89.	J. V. Wilson Plastering Co. 12 - 21st Street Sioux City, Iowa (subleased from Derby Plastering Co., Inc., 3000 Crittenden Drive, Louisville, Kentucky, in February 1954)	A-1105

	Name of Lessor or Lessee	Serial Number of Machine
90.	Earl J. Winter 4400 Grove Street Denver, Colorado	A-1328
91.	John H. Wolf Box 2888 Redding, California	A-1087
92.	Bill Wood & Son 4475 Alum Rook Avenue San Jose, California	A-1344
93.	J. A. Moody 12139 Wilson Avenue Compton, California	A-1030
94.	M. A. Santoro, Inc. 6730 E. McNichols Road Detroit 12, Michigan	A-1611

United States v. Maremont Automotive Products, Inc., et al.

Civil Action No. 60-C-1897

Year Judgment Entered: 1960

Year Judgment Modified: 1963

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF ILLINOIS

EASTERN DIVISION

UNITED STATES OF AMERICA, Plaintiff, vs. MAREMONT AUTOMOTIVE PRODUCTS, INC., and SACO-LOWELL SHOPS, Defendants.	)	CIVIL ACTION NO. 60-C-1897 Filed Dec. 9, 1960

FINAL JUDGMENT

Plaintiff, United States of America, having filed its complaint herein on December 9, 1960; defendant Maremont having filed its answer to such complaint, denying the substantive allegations thereof; and plaintiff and defendant Maremont having by their respective attorneys 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 plaintiff or said defendant in respect to any such issue,

NOW, THEREFORE, before any testimony has been taken and without trial or adjudication of any issue of fact or law herein and upon consent of the parties signatory hereto as aforesaid, 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 hereto under Section 15 of the Act of Congress of October 15, 1914, entitled "An act to supplement existing laws against unlawful restraints and monopolies and for other purposes," commonly known as the Clayton Act, as amended, and the complaint sets forth a claim for relief against defendants under Section 7 of said Act.

II

(A) The provisions of this Final Judgment applicable to either defendant shall apply to such defendant, its officers, directors, agents, employees, subsidiaries, affiliates, successors and assigns, and to all persons in active concert or participation with such defendant who receive actual notice of this Final Judgment by personal service or otherwise. None of the provisions of this Final Judgment shall apply or relate to activities or operations outside of the United States, or to any purchaser of the assets as provided in Section IV of this judgment;

(B) The provisions of this Final Judgment applicable to defendant Saco-Lowell shall become effective upon such defendant filing in this action its consent to be bound by the terms of this Final Judgment. Defendant Maremont is ordered and directed to cause defendant Saco-Lowell to file such consent to be bound no later than February 28, 1961.

III

As used in this Final Judgment:

(A) "Maremont" shall mean the defendant Maremont Automotive Products, Inc., with its principal office located at Chicago, Illinois;

(B) "Saco-Lowell" shall mean the defendant Saco-Lowell Shops, with its principal office located at Boston, Massachusetts;

(C) "Nu-Era" shall mean Nu-Era Corporation, with its principal office located at Rochester, Michigan, and being engaged in the sale of automotive mufflers for the replacement market;

(D) "Automotive mufflers" shall mean automotive mufflers for the after market, or original equipment market, or both;

(E) "Person" shall mean any individual, partnership, corporation, association or other legal entity.

IV

(A) Defendant Maremont is ordered and directed forthwith to initiate action to place it in a position to comply with the following

terms of this Section IV, which shall become effective upon the filing by defendant Saco-Lowell of its consent to be bound as required by subsection (B) of Section II herein;

(B) Defendant Saco-Lowell is ordered and directed, and defendant Maremont is ordered and directed to take such steps as may be necessary to cause Saco-Lowell to divest itself, as hereinafter provided, of all assets owned by Saco-Lowell used in or relating to the manufacture of automotive mufflers. Such assets shall consist of those assets itemized or described in Schedule A attached hereto and made a part hereof. Upon such sale, Saco-Lowell shall also transfer and assign all its rights, title and interest in the Nu-Era contract to the purchaser, who shall assume all obligations of Saco-Lowell accruing under the agreement on and after the date of such sale. The obligation of the defendants to transfer the contract between Saco-Lowell and Nu-Era shall be subject to obtaining the consent of Nu-Era (which consent defendants shall use reasonable efforts in good faith to obtain), but upon failure to obtain such consent the Court shall enter appropriate orders with respect to such contract.

Divestiture of such assets shall be (i) to a person (other than A P Parts Corporation of Toledo, Ohio, Walker Manufacturing Company of Racine, Wisconsin, Arvin Industries of Columbus, Indiana, and International Parts Corporation of Chicago, Illinois) approved by this Court who shall have filed an undertaking with this Court that, if approved, those assets will be utilized in the manufacture of automotive mufflers for the replacement market, with preference to be given to the person who expects to market such mufflers in the Eastern and Midwestern areas; and (ii) upon terms and conditions which are acceptable to this Court, having due regard, among other things, for the fair market value of the assets and the necessity of effectuating a prompt divestiture in order to increase competition in the field

of manufacture of mufflers for the replacement market and to free such assets from the control of defendants. Such sale shall be made in good faith and shall be absolute, unqualified and unconditional; provided, however, that if the assets are not sold for cash, nothing herein contained shall be deemed to prohibit the defendant Saco-Lowell from retaining, accepting and enforcing a bona fide lien, mortgage, deed of trust or other form of security (except equity securities of the purchaser) on said assets for the payment of the price at which said assets are sold; provided, further, that should for any reason the assets be returned to the control of Saco-Lowell, defendants shall then dispose of such assets in accordance with the terms of this Section IV, with the time period to be computed from the date of the return of control;

(C) Defendants shall have an exclusive period of six months from the effective date of subsection (B) of this Section IV within which to divest such assets. In the event that defendants have failed to accomplish the required divestiture within the said six months' period, this Court will designate a broker, answerable to the Court and compensated by the defendants as determined by the Court, for the sole purpose of finding a buyer to accomplish the divestiture within six months to a person who qualifies under (i) of (B) above and on such terms and conditions as are approved by the Court. In the event of failure of the broker to find such a purchaser within the time designated, the Court shall extend his designation for a six-month period with instructions to find a purchaser of such assets who qualifies under (i) of (B) above, on such terms as the Court will approve, giving paramount consideration to the objective of this Final Judgment to divest the assets from ownership and control of the defendants, but endeavoring to secure maximum compensation for such assets; provided, however, that if no such sale has been accomplished at the end of the

third six-month period as herein provided, the Court shall enter such further orders as it deems appropriate;

(D) Pending the divestiture of the assets as required by this Section IV, defendants are enjoined from disposing of any machines, equipment or tools listed in Schedule A, and those assets shall be maintained in proper working order and repair;

(E) The defendant Saco-Lowell is ordered and directed to furnish upon request of the purchaser of its muffler-producing facilities such technological information and make available such supervisory personnel and technical assistance as will be necessary to relocate, on premises made available by the purchaser, the machinery and equipment listed in Schedule A and to effectively place such machinery and equipment in production on a going basis. The salary and expenses of such personnel shall be paid by the purchaser;

(F) Defendant Maremont is enjoined and restrained from purchasing or distributing automotive mufflers manufactured by Saco-Lowell or by the purchaser of the assets covered by this Section IV, except that in the event that no other purchaser or distributor is found after compliance with subsection (B) of Section V, defendant Maremont may purchase or distribute mufflers manufactured by Saco-Lowell pending the sale of the assets as directed by Section IV;

(G) Defendant Maremont is enjoined and restrained from refusing to sell on non-discriminatory terms mufflers or other automotive exhaust system parts to any warehouse distributor, jobber, or other purchaser because such purchaser is obtaining any of its requirements for mufflers or other automobile exhaust system parts from the person acquiring the muffler-producing facilities from Saco-Lowell.

V

(A) With respect to any renegotiation of the contract price under paragraph 11 of the agreement between Saco-Lowell and Nu-Era, if Saco-Lowell still has its muffler manufacturing facilities, Saco-Lowell

shall not demand an unreasonably high contract price as a condition of continuance of the agreement for the balance of the term of the agreement; and in the event that Saco-Lowell and Nu-Era are unable to agree upon a fair contract price during any such renegotiation, a fair contract price to be binding on Saco-Lowell for this purpose shall be determined by an arbitrator to be selected by this Court, provided Nu-Era agrees in advance to be bound by the arbitrator's decision and to renew on that basis;

(B) In the event of termination of the Nu-Era contract, under circumstances not inconsistent with this Final Judgment, Saco Lowell shall take such reasonable steps as may be necessary to secure another customer, or customers, for its output of mufflers.

VI

(A) Defendants Maremont and Saco-Lowell are each enjoined and restrained from purchasing any stock or assets (except products in the normal course of business) of Nu-Era or the purchaser of the assets of Saco-Lowell as provided for in Section IV of this Final Judgment;

(B) Defendants Maremont and Saco-Lowell are each enjoined and restrained, for a period of 3 years from the effective date of this Final Judgment as to such defendant, from acquiring any stock or assets (except products purchased in the normal course of business) of any manufacturer of automotive mufflers;

(C) Subject to the foregoing subsections (A) and (B), defendants Maremont and Saco-Lowell are each enjoined and restrained, for a period of five years from the effective date of this Final Judgment as to such defendant, from acquiring any stock or assets (except products purchased in the normal course of business) of any manufacturer or distributor (except at retail) of automotive mufflers without the approval of this Court upon such defendant's establishing to the

satisfaction of the Court that any proposed acquisition will not substantially lessen competition or tend to create a monopoly in the manufacture, distribution or sale of auomotive mufflers. For the purpose of this subsection (C), the word "distributor" shall be deemed to include only those persons who are engaged in the sale of automotive mufflers in two or more metropolitan areas;

(D) Nothing contained in this Final Judgment, however, shall prohibit either defendant from acquiring, directly or indirectly, any or all of the assets or capital stock of any of its subsidiaries, or forming subsidiaries and transferring thereto stock or assets of such defendant or of its subsidiaries.

VII

For the purpose of securing compliance with this Final Judgment and for no other purpose, and subject to all legally recognized privileges, duly authorized representatives of the Department of Justice shall upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division to either defendant at its principal office, be permitted upon reasonable notice to such defendant:

(a) Reasonable access in the presence of defendant's counsel, during the office hours of such defendant, to the correspondence, memoranda and other records and documents in the possession or control of such defendant which relate to any of the matters contained in this Final Judgment;

(b) To interview officers or employees of such defendant, subject to the reasonable convenience of such officers and employees and of such defendant, who may have counsel present regarding any such matters;

(c) To require such defendant to submit such reports in writing with respect to any matters or activities of such defendant as may be necessary for the enforcement of this Final Judgment.

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

VIII

Jurisdiction is retained for the purpose of enabling the parties herein to apply to this Court at any time for such further orders or directions as may be necessary or appropriate in relation to the construction of or carrying out of this Final Judgment, for the modification of any of the provisions thereof, and for the purpose of the enforcement of compliance therewith and the punishment of violations thereof.

Dated: December 9, 1960

Edwin A. Robson
United States District Judge

We consent to the making and entry of the foregoing Final Judgment:

For the Plaintiff:

/s/ ROBERT A. BICKS
ROBERT A. BICKS
Assistant Attorney General

/s/ EARL A. JINKINSON
EARL A. JINKINSON

/s/ W. D. KILGORE, JR.
W. D. KILGORE, JR.

/s/ ROBERT B. HUMMEL
ROBERT B. HUMMEL

/s/ PAUL A. OWENS
PAUL A. OWENS

/s/ ROBERT M. DIXON
ROBERT M. DIXON

/s/ JOHN D. SHAW
JOHN D. SHAW

Attorneys, Department of Justice

For the Defendant Maremont:

Sonnenschein Lautmann Levinson
Rieser Carlin & Nath

By: /s/ EARL E. POLLOCK
A member of the firm

SCHEDULE A

Machinery and Equipment	Invoice Number
Polishing Machine	7003
Chain Hoist 1/2 Ton	3484
Lincoln Arc Welder	3291
Niagara Steel Cutter	9255
Cut Off Saw	9245
Buffing & Polishing Lathe	7290
Cradle Straightening Machine	8802
Heavy Duty Stolp	8699
Hyd. Lift Table	8470
Standard Press	8322
Notching Unit - Double	8228
Cradle Straightening Machine	7863
Flaring Press	7836
Lockseaming Machine	7832
Semi-automatic Double Seamer	7831
" " " "	7829
Multi-Spot Welder	7824
Spot-Welder	7827
Multi-Spot Welder (Spec.)	7812
" " " "	7811
" " " "	7808
" " " "	7806
" " " "	7805
Lockseaming Machine	7804
" "	7803
Inclinable Press - Open Back	7786
Tube End Former - Special	7781
Tube End Former	7780
Tube Cutting Machine	7778
Inclinable Geared Press	7768
" " "	7756
Power Squaring Shear	7752
Slitter	7750
Multi-Spot Welder	4004
Press Brake	7802
Punch Press	7787
V&O Perforating Machine	7655
Double Crank Dieing Machine	4038
Arc. Welder	4033
Hyd. Tube Bending Press	4037
Multi-Spot Welder & Press	4030
" " " " "	4029
Cradle-Straightening Machine	4028
Press Brake	7802
Punch Press	7787
V&O Perforating Machine	7655
Cradle & Straightening Machine	4384
" " " "	4382
Silver Stitcher	4366
" "	4365

Inventories, as of the date of the sale, consisting of materials, components, finished mufflers, and supplies.

All necessary tools, dies, jigs, fixtures, and drawings to manufacture the following automotive mufflers:

Make	Year	Cylinder	Models	Factory Number	Saco-Lowell Number
Chevrolet	1949-52		Pass. & Sedan Dely. except Conv. and Power-Glide	3698040	1
	1949-51		Canadian 10, 12 except Conv. and Power-Glide	3690583	
	1949-51		Canadian Sedan and Dely. 71 Series		
Pontiac	1949-50		(Canadian) 20, 22		
Chevrolet	1950-53		With P/G (Except Conv.)	3698041	2
	1950-53		Canadian with P/G 10, 12 (Except Conv.)	3693457	
Ford	1949-53	6&8	All Models	AB-5230B	3
	1954	6	All Models	AC-5230B AC-5230C A9A-5230A 8A-5230B	
Chevrolet	1955-56	8	A-150, B-210, C-Bel-Air (Exc. Conv.) w/o 4-Barrel Carb.	3714330 3731871 3731872	4
	1956-57	8	All w/4 Barrel Carb. Factory Equipped Duals, Left Side	3704989 3704991	
	1956-57	8	All w/4 Barrel Carb. Factory Equipped Duals, Right Side		
	1954-56	6&8	Pass. & Sta. Wagon (Exc. Conv. & Models w/Dual Exhaust)		
	1954-56		Canadian Models 10, 12		
Pontiac	1955	C	Canadian Models, 20, 22		
Plymouth	1956	8	P29 Plaza, Savoy, Belvedere (exc. Conv. Cpe.) Factory equipped Duals	1673281 1673253 1673282	5
Dodge	1956	8	D63-1, D63-3 Coronet, Custom Royal, Royal Lancer (Exc. Conv. Cpe) Factory Equipped Duals	1553740 1139284 1530698 3145478	
DeSoto	1956	8	S23 Firedome, S24 Fireflite (exc. Conv. Cpe. & Est. Wagon) Factory Equip. Duals		
Chrysler	1949-52		(6) Exc. Conv., Cpe. & 8 Pass. Sedan		
DeSoto	1949-52		(6) Exc. Conv., Cpe. & 8 Pass. Sedan		
Dodge	1949-56		(6) Exc. Roadster, Conv., Cpe. & 8 Pass. Sedan		

Make	Year	Cylinder	Models	Factory Number	Saco-Lowell Number
Plymouth Rambler	1949-56 1956		(6) Exc. Conv. Cpe.		
Pontiac [illegible]	1934-54 1939-52		All Models Canadian Models 25, 26, 27,28,29	500867 200440 Im-5230A	6
Kaiser	1947-48		All Models	IM-5230B	
Frazer	1947-48		All Models	8M-5230A	
Mercury	1949-51		All Models		
Buick	1949 1950-52 1953 1951-52 1949		Series 50, 70 All Models Series 40 Special Canadian 43 Series Canadian 45, 47 Series	1331738 1393856	7
Ford Fairlane	1955-56		All Models & Canadian	AG5230F	8
Mercury	1956	8	Montclair, Monterey ([illegible] (Dual Exhaust System)	B5A-5230E B5A-5230F	
Mercury	1955		MC Montclair, Monterey (Dual Exhaust)	B6A-5230C MC-5230N MC-5230H	
Ford	1955-56	8	Exc. Fairlane, Conv., Station Wagon, Single Exhaust System	B6A-5230A B5A-5230A AE-5230A	9
Ford Mercury	1954 1955	8 8	All Models MC Custom (Single Exhaust System)	MC 5230E	
Mercury	1956	8	MC Custom & Medalist, 2 Dr. Sed., Custom, 4 Dr. Sedan & Hardtop (Single Exhaust)	MC-5230R	10
Plymouth	1956 1955	V8 8	Single Exhaust All Models except Conv. Single Exhaust All Models except Conv.	1673279 1619075	11
Studebaker	1947-54	6	6G, 7G, 8G, 9G, 10G, 12G, 14G, 15G, Champion	532577	12
Willys	1954-54	6	675, 685 Aero, 685B Lark, Ace, Eagle, W/161 Eng.	803478	13
Kaiser	1951-52	6	K511 Special, K512, K521 De Luxe, K522 Manhattan	532576 212315	15
Studebaker	1956 1947-54	8 6&8	56B, Comm., 56 H Pres., 56J Golden H., Single & Dual Exh. (r. & l.) 14A, 15A, 16A, 17A, H, 3H, 4H, 5H Comm.	676955	
Chrysler	1938-48	6	C18, C22, C25, C28, C34, C38 Royal & Windsor		

Make	Year	Cylinder	Models	Factory Number	Saco-Lowell Number
De Soto	1939-48	6	S5, S6, S7, S8, S10, S11, Custom and De Luxe		
Dodge	1939-48	6	D11, D14, D17, D19, D22, D24, Custom and De Luxe		
Plymouth	1939-48	6	P8, P14, P15, De Luxe and Spec. De Luxe		
Chrysler	1954	8	C63 New Yorker (exc. 8 Sed.)	1619026	17
	1953	8	C56 New Yorker (exc. Conv. Cpe. & 8 Sed.); C58 Custom Imperial (exc. Spec. Club Cpe.)		
	1951-52	8	C52 New Yorker; C54 Imperial; C55 Saratoga 4Dr., Sed., Club Cpe. & Spec. Club Cpe.		
De Soto	1952	8	S17 Firedome (Exc. Cov. Cpe. & 8 Sed.)		
Oldsmobile	1951-53	8	Ser. 88, 88 Super, 98	562268	18
Chevrolet Truck	1950-56	6	1/2-2 Ton, All	3693710	19
GMC Truck	1950-53	6	1/2-3/4 Ton, FC100, FC150, 100-22, 150-22, P150-22		
Ford Truck	1948-53	6&8	1/2-2 Ton, All Models	7H5230D	20
Cadillac	1952-56	8	Series 60S, 4 Dr. Sedan, Series 62 All (rear)	1465159	21
Mercury	1954	8	MB (exc. Monterey Conv.), 160 HP	MB5230C	22
Chrysler	1955	8	C67 Windsor (exc. Conv. Cpe.) (Single Exhaust System & Dealer Conversion Duals-Right Side)	1142040	23
De Soto	1955	8	S22 Firedome (exc. Conv. Cpe.)(Single Exhaust System & Dealer Conversion Duals-Right Side)		
Chrysler	1956-57	8	C75-1 Windsor (Single exhaust) C71 Windsor (exc. Conv. Cpe.) (Single Exhaust System & Dealer Conversion Duals-Both Sides)	1673280	24
De Soto	1956-57	8	S25 Firedome, S26 Fireflite (exc. Conv. Cpe.)(Single Exhaust); S23 Firedome, S-24 Fireflite (exc. Conv. Cpe.)(Single Exhaust System & Dealer Conversion Duals-Both Sides)		

Make	Year	Cylinder	Models	Factory Number	Saco-Lowell Number
Dodge	1953-55	8	D44 Coronet; D48, D50 Coronet, Meadowbrook Royal D53 Sierra, Royal, D55 Coronet, Royal, Custom Royal (exc. Conv. Cpe.) (Single Exhaust System & Dealer Conversion Duals - Right Side)	1619076	25
Chrysler	1953-54	6	C60, C62 Windsor (exc. Conv. Cpe. & 8 Sed.)	1532791	26
De Soto	1953-54	6	S18 Powermaster (exc. Conv. Cpe. & Sed.) & S20 Powermaster (exc. 8 Sed.)		
Chrysler	1954-57	8	C67, C71 Windsor (exc. Conv. Cpe.); C63, C72, C76 New Yorker (exc. Conv. Cpe.); C64, C69 C70, C73 Imperial (Factory Equipped Duals-Both Sides)	1619030 1673212	27
De Soto	1955	8	S21, S22 Fireflite, Firedome (exc. Conv. Cpe.)(Factory Equipped Duals - Both Sides)		
Chrysler	1953-54	6	C60, C62 Windsor Conv. Cpe.	1405103	28
De Soto	1953	6	S18 Powermaster Conv. Cpe.		
Cadillac	1952-55	8	All (Up to Eng. No. 82749 only, for 1955), (Front)	1462497	29
Buick	1953-55	8	Ser. 50 Super, 70 Roadmaster	1345878	30
Buick	1954-55	8	Ser. 40 Spec., 60 Century, 100 Skylark	1162303	31
Lincoln	1956-57	8	LD Capri, Premier (Left & Right Side Rear)	LD-5230B	32
Lincoln	1956-57	8	LD Capri, Premier (Right & Left Side Front)	LD-5212B	33
Lincoln	1955	8	LE Lincoln Capri	LE-5230A	34
Lincoln	1955	8	LE Lincoln Capri	LE 5212A	35
Cadillac	1957-58	8	All Models (Right Side Front)	1468027	36

Make	Year	Cylinder	Model	Factory Number	Saco-Lowell Number
Cadillac	1957-58	8	All Models (Rear Right & Left Side)	1466596	37
Cadillac	1955	8	After Engine #104904 Ser. 55-60S Model 6019, 4 Dr. Sedan (Left Side Front, Right Side Front) Engine #82499 to #104903 Ser. 55-60S Model 6019, 4 Dr. Sedan (Left & Right Side) After Engine #82717 Ser. #55-62 Model 6219, 4 Dr. Sedan (Left & Right Side) After Engine #82513 Ser. #55-62 Model 6237, 5 Pass. Cpe. & Model 6267 Conv. Cpe. (Left & Right Side)	1463841	38
Cadillac	1956	8	All Models (Left & Right Side Front)		
Buick	1956	8	Ser. 40 Special, 60 Century Single Exhaust System; Ser. 50 Super. Single Exhaust System	1168536	39
Buick	1956	8	Ser. 40 Special, 60 Century W/Dynaflow, Dual Exhaust System (Left & Right Side) Ser. 50 Super, 70 Roadmaster W/Dynaflow, Dual Exhaust System (Left & Right Side)	1168687	40
Buick	1957-58	8	Ser. 40 Special, 60 Century Single Exhaust System Ser. 50 Super, Single Exhaust System	1175279	41
Buick	1957	8	Ser. 40 Special, 60 Century Ser. 50 Super, 70 Roadmaster Dual Exhaust (Left Side)	1174083	42
	1958	8	Ser. 40 Special, 60 Century Ser. 50 Super, 70 Roadmaster Ser. 700 Limited, Dual Exhaust (Left Side Front)		

Make	Year	Cylinder	Models	Factory Number	Saco-Lowell Number
Chevrolet	1956	8	A-150, B210 C Bel Air Station Wagon & Sedan Delivery w/4 Barrel Carb. Dual Exhaust System (left side)	3731871 3731872	43
Chevrolet	1957	8	A-150, B-210, C Bel Air Station Wagon & Sedan Delivery Dual Exhaust System (Right & Left Side)		
Chevrolet	1955	8	A-150, B-210 C Bel-Air w/4 Barrel Carb (Dual Exhaust) C Bel-Air Conv. w/o 4 Barrel Carb.	3719457 3711286	44
Chevrolet	1956	8	1st Series A-150, B-210 C-Bel-Air also Station Wagon & Sedan Delivery w/4 Barrel Carb. C Bel-Air Conv. Cpe. w/o 4 Barrel Carb.		
Chevrolet	1957	8	C Bel-Air Conv. Cpe. Dual Exhaust (Left Side C Bel-Air Conv. Cpe. Single Exhaust		
Chevrolet	1955-57	6	C Bel-Air Conv. Cpe.		
Ford	1957	8	Custom & Custom 300 Tudor Sedan, Tudor Bus. Sedan, Fordor Sedan with 272" Eng. Ranchero & Sedan Delivery w/272" Engine	B7A-5230G B7A-5230H	45
Ford	1957	8	Fairlane & Fairlane 500 Town Vict., Town Sedan Club Vict. & Club Sedan w/292" Station Wagon & Sedan Delivery w/292" Engine Custom & Custom 300 Tudor Sedan, Tudor Business Sedan & Fordor Sedan. Fairlane & Fairlane 500 Town Vict., Town Sedan, Club Vict. & Club Sedan w/312" Engine Dual Exhaust Left & Right Side) Station Wagon, Police Interceptor w/312" Enging. Dual (Left & Right Side)		

Make	Year	Cylinder	Models	Factory Number	Saco-Lowell Number
Plymouth	1957	8	P31 Belvedere Conv. Cpe., Single Exhaust Rear	1736752	46
Mercury	1957	8	MG Model Single Exhaust	MB 5230B	48
Oldsmobile	1957	8	Ser. 88, Super 88. Ser. 98 Dual Exhaust (left side rear)	570085	49
Oldsmobile	1957-58	8	Ser. 88, Super 88, Single Exhaust	570075	50
Oldsmobile	1957-58	8	Ser. 88, Super 88. Ser. 98 Dual Exhaust (Right Side Front)	570088	51
Oldsmobile	1957-58	8	Ser. 88, Super 88 Ser. 98 Dual Exhaust (Left Side Front)	570089	52
Oldsmobile	1954-55 1956	8 8	All Models All Models, Single Exhaust	564195	53
Oldsmobile	1956	8	Ser. 88, Super 88. Ser. 98 Dual Exhaust (Right Side)	568450	54
Oldsmobile	1956	8	Ser. 88, Super 88. Ser. 98 Dual Exhaust (Left Side)	568451	55
Pontiac	1957	8	27 Chieftain, 27 Super Chief, 27 Star Chief, 28 Star Chief, Single Exhaust	524806	56
Pontiac	1956	8	27 Chieftain, Dual Exhaust (Left Side)	521991	57
Pontiac	1956	8	27 Chieftain, Single exhaust	521677	58
Plymouth	1957	8	P 31 Belvedere Conv. Cpe. Single Exhaust (Front)	1736750	59
Ford	1957	6	All Models	B7A-5230C	60
Pontiac	1956-57	8	P27, P28 Chieftain, Star Chief Super Chief (Dual exh., Both Sides)	524742	62
Pontiac	1955	8	P27 Chieftain, P28 Star Chief, Single Exhaust	518992	
Buick	1957	8	Ser. 40 Special, 60 Century Ser. 50 Super, 70 Roadmaster Dual Exhaust (Right Side)	1174083	63

Make	Year	Cylinder	Models	Factory Number	Sacco-Lowell Number
	1958	8	Ser. 40 Special, 60 Century Ser. 50 Super, 70 Roadmaster Ser. 700 limited, Dual Exhaust (Right Side Front)		
Chevrolet	1954-57	6	Single Exhaust All Models Except Conv. Coupe, Sedan Del. and Station Wagon	3704989	64
Chevrolet	1958-60	6&8	All Models	3731872 3756606 3757708 3756559	65
Buick	1957	8	Ser. 40 Special, 60 Century Ser. 50 Super, 70 Roadmaster Dual Exhaust (Right and Left Sides)	1174083	66
	1958	8	Ser. 40 Special, 60 Century Ser. 50 Super, 70 Roadmaster Ser. 700 Limited, Dual Exhaust (Right and Left Sides)		

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF ILLINOIS

EASTERN DIVISION

UNITED STATES OF AMERICA, Plaintiff, v. MAREMONT AUTOMOTIVE PRODUCTS, INC., and SACO-LOWELL SHOPS, Defendants.	CIVIL ACTION NO. 60-C-1897 Filed December 9, 1960

FINAL JUDGMENT

Plaintiff, United States of America, having filed its complaint herein on December 9, 1960; defendant Saco-Lowell having appeared, and plaintiff and said defendant having by their respective attorneys 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 plaintiff or said defendant in respect to any such issue,

NOW, THEREFORE, before any testimony has been taken and without trial or adjudication of any issue of fact or law herein and upon consent of the parties signatory hereto as aforesaid, 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 hereto under Section 15 of the Act of Congress of October 15, 1914, entitled "An act to supplement existing laws against unlawful restraints and monopolies and for other purposes," commonly known as the Clayton Act, as amended, and the complaint sets forth a claim for relief against defendants under Section 7 of said Act.

II

(A) The provisions of this Final Judgment applicable to defendant Saco-Lowell shall apply also to its officers, directors, agents, employees, subsidiaries, affiliates, successors and assigns, and to all persons in active concert or participation with such defendant who receive actual notice of this Final Judgment by personal service or otherwise;

(B) The provisions of this Final Judgment applicable to defendant Saco-Lowell shall terminate upon such defendant filing in this action its consent to be bound by the terms of the Final Judgment entered herein this date against defendant Maremont.

III

As used in this Final Judgment:

(A) "Maremont" shall mean the defendant Maremont Automotive Products, Inc., with its principal office located at Chicago, Illinois;

(B) "Saco-Lowell" shall mean the defendant Saco-Lowell Shops, with its principal office located at Boston, Massachusetts;

(C) "Nu-Era" shall mean Nu-Era Corporation, with its principal office located at Rochester, Michigan, and being engaged in the sale of automotive mufflers for the replacement market;

(D) "Automotive mufflers" shall mean automotive mufflers for the after market, or original equipment market, or both;

(E) "Person" shall mean any individual, partnership, corporation, association or other legal entity.

IV

Defendant Saco-Lowell is enjoined and restrained from:

(A) Disposing of its automotive muffler business or assets owned by it used in or relating to the manufacture of automotive

mufflers without giving plaintiff sixty (60) days' notice prior to such disposal;

(B) Wilfully breaching the contract between Saco-Lowell and Nu-Era;

(C) Making any unreasonable demands with respect to prices in any negotiations regarding prices under its contract with Nu-Era;

(D) Giving Nu-Era notice, under its contract with Nu-Era, of termination of the contract, in the event of disagreement as to price, unless reasonable notice of such action is first given to the plaintiff.

V

For the purpose of securing compliance with this Final Judgment and for no other purpose, and subject to all legally recognized privileges, duly authorized representatives of the Department of Justice shall upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division to the defendant at its principal office, be permitted upon reasonable notice to such defendant:

(a) Reasonable access in the presence of defendant's counsel, during the office hours of such defendant, to the correspondence, memoranda and other records and documents in the possession or control of such defendant which relate to any of the matters contained in this Final Judgment;

(b) To interview officers or employees of such defendant, subject to the reasonable convenience of such officers and employees and of such defendant, who may have counsel present regarding any such matters;

(c) To require such defendant to submit such reports in writing with respect to any matters or activities of such defendant as may be necessary for the enforcement of this Final Judgment.

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

VI

Jurisdiction is retained for the purpose of enabling the parties herein to apply to this Court at any time for such further orders or directions as may be necessary or appropriate in relation to the construction of or carrying out of this Final Judgment, for the modification of any of the provisions thereof, and for the purpose of the enforcement of compliance therewith and the punishment of violations thereof.

Dated: December 9, 1960

/s/ Edwin A. Robson
United States District Judge

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

For the Plaintiff:

/s/ Robert A. Bicks
ROBERT A. BICKS
Assistant Attorney General

/s/ Earl A. Jinkinson
EARL A. JINKINSON

/s/ W. D. Kilgore, Jr.
W. D. Kilgore, Jr.

/s/ Robert B. Hummel
ROBERT B. HUMMEL

/s/ Paul A. Owens
PAUL A. OWENS

/s/ Robert M. Dixon
ROBERT M. DIXON

For the Defendant:

/s/ John D. Shaw, Jr.
JOHN D. SHAW, JR.

/s/ Roger W. Barrett
ROGER W. BARRETT

Attorneys, Department of Justice

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF ILLINOIS

EASTERN DIVISION

UNITED STATES OF AMERICA, Plaintiff vs. MAREMONT AUTOMOTIVE PRODUCTS, INC., and SACO-LOWELL SHOPS, Defendants	)	CIVIL NO. 60 C 1897

ORDER

At Chicago, Illinois, in said Division and District on January 3, 1963.

WHEREAS, on December 9, 1960, this Court entered its final judgment herein as to defendant Maremont with the consent of the parties and without trial or adjudication of any issue of fact or law;

WHEREAS, on February 17, 1961, defendant Saco-Lowell filed its consent to be bound by the Maremont judgment;

WHEREAS, Section IV of the judgment, in relevant part and subject to certain conditions, provides for the divestiture by the defendants of certain assets owned by defendant Saco-Lowell and relating to the manufacture of automotive mufflers;

WHEREAS, Subsection (C) of Section IV provides that, if divestiture is not accomplished within a period

of eighteen months, the Court shall enter such further orders as it deems appropriate;

WHEREAS, the parties with the aid of a Court-appointed broker, Standard Research Consultants, have made bona fide and exhaustive efforts to carry out the divestiture provision over a period of two years since entry of the judgment;

WHEREAS, it appears that, notwithstanding such efforts, the divestiture provision cannot be carried out;

WHEREAS, it further appears that the assets in question have not been utilized during the two-year period and are rapidly becoming obsolete;

Now, therefore, pursuant to Subsection (C) of Section IV of the judgment, and in the exercise of this Court's equitable powers, it is hereby ordered that the divestiture provision set forth in Section IV shall be deemed null and void from this date, and Standard Research Consultants is discharged from any responsibilities as broker.

ENTER:

/s/ Edwin A. Robson

United States District Judge

Jan. 3, 1963

United States v. Parents Magazine Enterprises, Inc., et al.

62 C 1453

Year Judgment Entered: 1963

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. Parents Magazine Enterprises, Inc. and A. C. McClurg & Co., U.S. District Court, N.D. Illinois, 1963 Trade Cases ¶70,649, (Jan. 28, 1963)

United States v. Parents Magazine Enterprises, Inc. and A. C. McClurg & Co.

1963 Trade Cases ¶70,649. U.S. District Court, N.D. Illinois, Eastern Division. 62 C 1453. Dated January 28, 1963. Case No. 1697 in the Antitrust Division of the Department of Justice.

Clayton Act

Acquiring Competitors—Book Wholesalers—Consent Decree.—A book wholesaler was prohibited for five years, under the terms of a consent decree, from acquiring the stock or assets of another book wholesaler, even though the proposed acquisition had been cancelled. Also, after the initial five-year period, any acquisition within the next ten years was required to be submitted to the Department of Justice for approval.

For the plaintiff:. Earl A. Jinkinson and Howard L. Fink, Department of Justice, Chicago, I11.

For the defendants: Lowenstein, Pitcher, Hotchkiss, Amann & Parr, New York, N. Y.; W. Donald McSweeney, Dallstream, Schiff, Hardin, Inc., Waite and Dorschel, Chicago, I11., for Parents Magazine Enterprises, Inc.; and John Paul Stevens, Rothschild, Hart, Stevens and Barry, Chicago, I11., for A. C. McClurg & Co.

Stipulation and Order

HOFFMAN, District Judge [*In full text*]: Plaintiff, United States of America, having filed its complaint herein on July 27, 1962, and the defendants having appeared by their attorneys and filed their answers to such complaint, denying the substantive allegations therein, the defendants having represented to the Court that the agreements between them whose consummation this action seeks to enjoin were cancelled, rescinded and revoked on December 7, 1962, and plaintiff and defendants having severally consented to the entry of this order, without admission by any party in respect to any issue.

Now, therefore, without trial or adjudication on the merits of any issue of fact or law herein, and upon consent as aforesaid of the parties hereto, it is hereby ordered, adjudged and decreed that:

[*Prohibitions*]

1. For a period of five years from the entry hereof, Parents Magazine Enterprises, Inc., its officers, directors, agents, employees, and all other persons acting on its behalf shall not take or effect any action to acquire all or any part of the stock or assets of the defendant, A. C. McClurg & Co., except for the purchase of commodities in the normal course of business or the purchase of specific items of property the fair market value of which does not exceed $10,000.00.

2. For a period of ten years from the expiration of the provisions of paragraph numbered 1 above, Parents Magazine Enter prises, Inc. and all other persons acting on its behalf shall not take or effect any action to acquire all or any part of the stock or assets of the defendant, A. C. McClurg & Co., except upon ninety (90) days prior written notice informing the plaintiff of the complete details of the terms and conditions of such proposed transaction. Service of such information upon the plaintiff shall be sufficient if sent by certified mail addressed to the Assistant Attorney General in Charge of the Antitrust Division, United States Department of Justice, Washington 25, D. C.

3. The preliminary injunction entered in this cause on August 10, 1962 which was continued by order of this Court on No vember 6, 1962 is hereby dissolved.

[*Jurisdiction Retained*]

4. Jurisdiction is retained for the purpose of enabling the United States or defendants, Parents Magazine Enterprises, Inc. and A. C. McClurg & Co., to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the modification, construction or carrying out of this order and for the enforcement of compliance therewith and punishment of violations thereof; provided, however, that in no event shall this order be enlarged or extended so as to apply to any acquisition other than a direct or indirect acquisition of the stock or assets of defendant, A. C. McClurg & Co.

United States v. Sperry Rand Corporation, et al.

Civil Action No. 63 C 1100

Year Judgment Entered: 1965

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. Sperry Rand Corporation; Art Metal, Inc.; GlobeWernicke Industries, Inc.; and Estey Corporation., U.S. District Court, N.D. Illinois, 1965 Trade Cases ¶71,330, (Jan. 22, 1965)

United States v. Sperry Rand Corporation; Art Metal, Inc.; GlobeWernicke Industries, Inc.; and Estey Corporation.

1965 Trade Cases ¶71,330. U.S. District Court, N.D. Illinois, Eastern Division. Civil Action No. 63 C 1100. Filed January 22, 1965. Case No. 1750 in the Antitrust Division of the Department of Justice.

Sherman Act

Price Fixing—Library Shelving—Consent Decree.—Four library shelving and equipment firms were barred under the terms of a consent judgment from combining or conspiring to eliminate competition, allocate territories or markets, fix prices, rig bids, refrain from competing, or exchange price information with respect to library shelving and related furniture, from exchanging price information with other manufacturers except with or after release of the information to the trade, and from urging other manufacturers to refrain from bidding, competing or selling.

For the plaintiff: William H. Orrick, Jr., Assistant Attorney General, William D. Kilgore, Jr., Gordon B. Spivack, Harry N. Burgess, John E. Sarbaugh, Francis C. Hoyt, and John J. Lannon, Attorneys, Department of Justice.

For the defendants: Bergson & Borkland, by Herbert A. Bergson, Lord, Bissell & Brook, by Richard K. Decker, for Sperry Rand Corp.; William P. Stewart and James O. Smith, for Art Metal, Inc.; Eastman, Stichter, Smith & Bergman,. by Wayne E. Stichter, and Norman, Engelhardt, Zimmerman, Franke & Lauritzen, by Harold W. Norman, for Globe-Wernicke Industries, Inc.; Isham, Lincoln & Beale, by Robert F. Hanley for Estey Corporation.

Final Judgment

MAROWITZ, District Judge: Plaintiff, United States of America, having filed its complaint herein on June 20, 1963 and the defendants, by their respective attorneys, having severally consented to the entry of this final judgment without trial or adjudication of any issue of fact or law herein, and without this final judgment constituting evidence or an admission by any party with respect to any such issue and the Court having considered the matter and being duly advised,

Now, therefore, before the taking of any testimony or adjudication of any issue of fact or law herein and upon consent of all parties hereto, it is hereby

Ordered, adjudged and decreed as follows:

I

This Court has jurisdiction of the subject matter hereof and the parties hereto. The complaint states a claim against the defendants under Section 1 of the Act of Congress of July 2, 1890, entitled “An Act to protect trade and commerce against unlawful restraints and monopolies,” commonly known as the Sherman Act as amended.

II

As used in this Final Judgment, the term “library shelving or related furniture and equipment” means shelves used for storing books in public and private libraries; carrel desks: carrel tables; carrel partitions; roller shelves; document files containing drawers approximately ten inches high by five inches wide for the storage of official documents; and book trucks.

III

The provisions of this Final Judgment applicable to any defendant shall apply to such defendant, and to each of its subsidiaries, successors, and assigns and their respective officers, directors, agents, and employees, and to all persons in active concert or participation with such defendant who receive actual notice of this Final judgment by personal service or otherwise, but shall not apply to transactions solely between such defendant and its said officers, directors, agents, employees, parent company, affiliates and subsidiaries, or any of them.

IV

Defendants are jointly and severally enjoined and restrained from, directly or indirectly, combining or conspiring, or entering into, adhering to, maintaining, enforcing or claiming any rights under, any contract, agreement, arrangement, understanding, plan or program with any other manufacturers or sellers of library shelving or related furniture and equipment to:

(A) Eliminate or suppress unreasonably competition in the manufacture or sale: of library shelving or related furniture and equipment;

(B) Allocate, apportion or divide territories, markets or customers for the manufacture or sale of library shelving or related furniture and equipment;

(C) Fix or maintain prices, formulas for determining prices or any other terms or conditions for the sale of library shelving or related furniture and equipment to any third person;

(D) Refuse to submit a bid, or to submit non-competitive, collusive or rigged bids or quotations, for the sale of library shelving or related furniture and equipment;

(E) Refrain from competing in the sale of library shelving or related furniture and equipment in any market, territory or sale;

(F) Exchange information concerning prices, formulas for determining prices or other terms and conditions for the sale of library shelving or related furniture and equipment to any third person.

V

Defendants are jointly and severally enjoined and restrained from:

(A) Communicating to, exchanging or discussing with, any other manufacturer of library shelving or related furniture and equipment any price or prices or other terms or conditions for the sale of library shelving or related furniture and equipment, except with or after the release of such prices or other terms or conditions of sale to the trade generally and except in connection with any bona fide purchase or sales transaction;

(B) Urging or influencing or attempting to urge or influence any other manufacturer or seller of library shelving or related furniture and equipment

(i) to refrain from submitting a bid or quotation to any other person for the sale of library shelving or related furniture and equipment;

(ii) to refrain from competing with such defendant in the sale of library shelving or related furniture and equipment to any other person; or

(iii) to refrain from selling, or offering to sell, library shelving or related furniture and equipment to any third person.

VI

For the purpose of securing compliance with this Final Judgment, and for no other purpose, and subject to any legally recognized privilege, duly authorized representatives of the Department of Justice shall, upon the written request of the Attorney General, or the Assistant Attorney General in charge of the Antitrust Division, upon reasonable notice to defendants made to their principal offices, be permitted:

(A) Access, during the office hours of defendants, who may have counsel present, to all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession of or under the control of defendants relating to any of the matters contained in this Final Judgment; and

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

Defendants, upon the written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division made to their principal offices, shall submit such written reports with respect to any of the matters contained in this Final Judgment as from time to time may be necessary for the enforcement of this Final Judgment.

No information obtained by the means provided 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 Executive Branch of the Government, except in the course of legal proceedings to 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 for the purpose of enabling any party 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 modification of any of the provisions thereof, and for the enforcement of compliance therewith and punishment of violations thereof.

United States v. Chicago Title and Trust Company, et al.

No. 63 C 2025

Year Judgment Entered: 1966

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. Chicago Title and Trust Company, and Kansas City Title Insurance Company., U.S. District Court, N.D. Illinois, 1966 Trade Cases ¶71,745, (May 23, 1966)

United States v. Chicago Title and Trust Company, and Kansas City Title Insurance Company.

1966 Trade Cases ¶71,745. U.S. District Court, N.D. Illinois, Eastern Division. No. 63 C 2025, Entered May 23, 1966. Case No. 1717 in the Antitrust Division of the Department of Justice.

Clayton Act

Acquiring Competitors—Acquisitions Prohibited—Title Insurance—Consent Judgment.—A title insurance company was prohibited by a consent judgment from acquiring, for a period of five years, any title insurance company qualified and engaged in business in Missouri, Wisconsin, or Illinois. For an additional period of five years as to such states and for a period of ten years as to all other states, the company was prohibited from acquiring any title insurance company, except with the permission of the government or the court if the acquisition is objected to by the government.

Acquiring Competitors—Relief—Divestiture—Consent Judgment—A title insurance company was required, within 18 months, to divest itself of all stock in three title insurance companies and the title plants of two other abstract companies, and, if the company failed to dispose of the stock of the three companies within that period, it would be required, within one year, to divest itself of the stock of a co-defendent title insurance company, in lieu thereof.

Acquiring Competitors—Relief—Exclusive Contracts—Consent Judgment.—A title insurance company which was required to divest itself of stock and assets in other such companies also was required to cancel all exclusive contracts with abstracters in Illinois within 30 days after entry of the judgment.

Department of Justice Enforcement—Injunctive Relief—Applicability of Consent Judgment—Purchasers of Divested Property.—A consent judgment, which required a title insurance company to dispose of stock and assets in other such companies, did not apply to any person who acquired any of the assets disposed of pursuant to the judgment.

For the plaintiff: D. F. Turner, Assistant Attorney General, Antitrust Division, and Gordon B. Spivack, W. D. Kilgore, Jr., John E. Sarbaugh, Ralph M. McCareins, Leon E. Lindenbaum, and Leonard A. Tokus, Attorneys, Department of Justice.

For the defendant: Bell, Boyd, Lloyd, John T. Loughlin.

Final Judgment

ROBSON, District Judge: Plaintiff, United States of America, having filed its complaint herein on November 9, 1962, defendant, Chicago Title and Trust Company, having appeared and filed its answer to such complaint denying the substantive allegations thereof, and asserting that Section 7 of the Clayton Act was inapplicable due to the McCarran-Ferguson Act, 15 U. S. C. Section 1011, the plaintiff having moved pursuant to Rule 56 of the Federal Rules of Civil Procedure for a partial summary judgment striking the McCarran-Ferguson Act defense, the Court having heard the arguments and considered the brief of counsel, having filed on June 10, 1965, a memorandum opinion [1965 TRADE CASES ¶ 71,472] granting the motion of the plaintiff and on June 23, 1965 having filed an order striking the McCarran-Ferguson Act defense; and

Plaintiff and defendant having each consented to the making and entry of this Final Judgment without trial or adjudication of any issue of fact or law herein other than the adjudication as to the McCarran-Ferguson Act defense, and without this Final Judgment constituting any evidence or an admission by either party hereto with respect to any such issue, and the Court having considered the matter and being duly advised,

Now, therefore, before the taking of any testimony and without trial or adjudication of any issue of fact or law herein, except that as to the McCarran-Ferguson Act defense, and upon consent of the parties hereto, it is hereby

Ordered, Adjudged and Decreed, as follows:

I.

[*Clayton Act, Sec. 7*]

This Court has jurisdiction of the subject matter of this action and of the parties hereto. The complaint states a claim upon which relief may be granted against the defendant under Section 7 of the Act of Congress of October 15, 1914, (15 U. S. C. Section 18), commonly known as the Clayton Act, as amended.

II.

[*Definitions*]

As used in this Final Judgment:

(A) “Chicago Title” shall mean defendant Chicago Title and Trust Company, a corporation organized and existing under the laws of the State of Illinois, with its principal offices at Chicago, Illinois;

(B) “TIC” shall mean Title Insurance Corporation of St. Louis, a corporation organized and existing under the laws of the State of Missouri, with its principal offices at St. Louis, Missouri;

(C) “KCT” shall mean Kansas City Title Insurance Company, a corporation organized and existing under the laws of the State of Missouri, with its principal offices at Kansas City, Missouri;

(D) “Capital Abstract Company” shall mean the wholly owned subsidiary of KCT, Capital Abstract and Title Co., a Kansas corporation, located in Topeka, Kansas;

(E) “Memphis Title Company” shall mean the subsidiary of KCT, Memphis Title Company, a Tennessee corporation, located in Memphis, Tennessee;

(F) “Title insurance company” shall mean any corporation, association or other legal entity which is qualified, licensed and engaged in issuing its policies insuring titles to real estate;

(G) “Person” shall mean any individual, partnership, corporation, association or any other legal entity.

III.

[*Applicability*]

The provisions of this Final Judgment applicable to defendant shall also apply to its officers, directors, and employees, and to its subsidiaries, successors and assigns, and to all other persons in active concert or participation with defendant who have received actual notice of this Final Judgment by personal service or otherwise. None of the provisions of this Final Judgment shall apply to any person or persons who acquire any of the assets disposed of pursuant to this Final Judgment.

IV.

[*Future Acquisitions*]

For a period of five (5) years from the date of this Final Judgment, defendant Chicago Title is enjoined and restrained from acquiring directly or indirectly, whether by way of acquisition of assets or capital stock, any title insurance company which at the time of acquisition is qualified and engaged in the title insurance business in the States of Missouri, Wisconsin or Illinois.

For an additional period of five (5) years as to said three States and for a period of ten (10) years from the date of this Final Judgment: with respect to all States other than Missouri, Wisconsin and Illinois, defendant Chicago Title is enjoined and restrained from acquiring directly or indirectly, whether by way of acquisition of assets

or capital stock, any title insurance company which at the time of acquisition is qualified and engaged in the title insurance business in any of said States. Provided, however, that if at any time defendant Chicago Title desires to make any acquisition which would be otherwise prohibited by the foregoing sentence, such defendant may submit a full disclosure of the facts with respect to such proposed acquisition and the reason therefor to the plaintiff for consideration. If the plaintiff shall not object to the proposed acquisition within thirty (30) days, such acquisition shall be deemed not to be a violation of this Final Judgment. In the event that the plaintiff shall object, defendant may apply to this Court for permission to make such acquisition, which may be granted upon a showing by the defendant to the satisfaction of this Court that such acquisition does not violate Section 7 of the Clayton Act.

V.

[*Divestiture*]

Chicago Title is ordered and directed within eighteen (18) months from the date of entry of this Final Judgment to sell or otherwise divest itself of the following:

(A) All of the stock of the Capital Abstract and Title Company of Topeka, Kansas;

(B) All of its stock in the Memphis Title Company of Memphis, Tennessee;

(C) All of the shares of stock of TIC;

(D) All of the Missouri Abstract Company title plant owned by KCT in Kansas City, Missouri, covering the property in West Jackson County, Missouri;

(E) All of the Citizens and Securities Abstract Companies title plant owned by a subsidiary of Chicago Title in Milwaukee, Wisconsin, covering the property located in Milwaukee County, Wisconsin;

The purchaser of TIC shall, if such purchaser desires, be accorded an option to purchase the stock and assets described in (A), (B), (D) and (E) of Section V. The purchaser or purchasers of the properties described in (D) and (E) of Section V shall be accorded an option, if so desired, to bring any plant purchased up to date on reasonable terms.

At the request of the purchaser of TIC, Chicago Title shall enter into a contract with such purchaser providing that for a term of ten (10) years and upon payment of the charges hereinafter set forth Chicago Title shall furnish to said purchaser a complete report containing all relevant material consisting of minutes or copies or abstracts of recorded instruments or a chain of title, tax searches, special assessment searches, judgment searches, chancery searches, miscellaneous searches (which include estates of minors, incompetents, decedents, etc.) and copies or abstracts of any other recorded title evidence from its Cook County title plant concerning any tract or parcel of Cook County, Illinois real estate with respect to which the purchaser of TIC or TIC has an order for and desires to issue its own title insurance policy. The charges for such title evidence shall be a reasonable amount and if the parties are unable to agree on the charges either party may apply to the Court for a determination of reasonable charges.

If defendant Chicago Title has not sold or otherwise divested itself of the stock of TIC, the stock of Capital Abstract and Title Company and the stock of Memphis Title Company at the expiration of the said eighteen (18) month period, then in lieu of the divestiture provided in V hereof defendant Chicago Title is ordered and directed to sell or otherwise divest itself of the stock of KCT within one (1) year.

VI.

[*Sale Conditions*]

The divestitures ordered and directed by Section V of this Final Judgment shall be made in good faith and shall be absolute and unqualified. None of the properties so ordered to be disposed of shall be directly or indirectly sold or disposed of to any person who, at the time of disposition, is an officer, director, or employee of defendant, or is acting for or under the control of defendant, or in which defendant owns any stock or financial interest;

provided, however, that nothing herein shall prevent sale to officers, directors or employees of the corporations to> be divested hereunder if at the time of sale such persons have terminated any employment with defendant; provided further that if any property is not sold or disposed of entirely for cash, nothing herein contained shall be deemed to prohibit defendant from retaining, accepting and enforcing a bona fide lien, mortgage, deed of trust or other form of security on said property for the purpose of securing to defendant full payment of the price at which said property is disposed of or sold; and provided further that if, after bona fide disposal pursuant to Section V, defendant by enforcement or settlement of a bona fide lien, mortgage, deed of trust, or other form of security regains ownership or control of any of the property disposed of, defendant shall, subject to the provisions of this Final Judgment, dispose of any such property thus regained within eighteen (18) months from the time of reacquisition.

No divestiture of any of the said companies or plants shall be made except upon notice to the plaintiff. If the plaintiff shall not object within thirty (30) days such divestiture shall be deemed approved. If the plaintiff shall object, defendant may apply to this Court for approval.

VII.

[*Agency Contracts*]

Chicago Title is further ordered and directed within a reasonable time after the divestiture of TIC to effect termination of the agency contracts of all KCT agents in Wisconsin. Each termination may be separately negotiated. Chicago Title may assist in arranging new representation for each affected agent prior to the final termination of the agency contract and agrees to use its best efforts to persuade each such cancelled agent to represent TIC if desired by TIC. In the event of the alternate divestiture provided in the last paragraph of Section V above, the provisions of this section shall not be applicable.

VIII.

[*Exclusive Contracts*]

Chicago Title is further ordered and directed to cancel all exclusive contracts with abstracters in Illinois within thirty (30) days after the entry of this order.

IX.

[*Inspection and Compliance*]

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

(A) Access, during the office hours of said defendant, who may have counsel present, to those books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of said defendant regarding the subject matters contained in this Final Judgment; and

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

Upon such 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 provided for in this Section shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of a legal proceeding to which the United States is a party for the purpose of securing compliance with this Final Judgment or as otherwise required by law.

X.

[*Jurisdiction Retained*]

Jurisdiction is retained for the purpose of enabling any of the parties to this Final Judgment to apply to the Court at any time for such further orders or directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the modification of any of the provisions thereof, and for the enforcement of compliance therewith and the punishment of violations thereof.

United States v. Chicago Linen Supply Association, et al.

Civil Action No. 66 C 1652

Year Judgment Entered: 1967 (various defendants);

1968 (Defendant Steiner American Corporation)

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. Chicago Linen Supply Assn. et al., U.S. District Court, N.D. Illinois, 1967 Trade Cases ¶72,033, (Apr. 7, 1967)

United States v. Chicago Linen Supply Assn. et al.

1967 Trade Cases ¶72,033. U.S. District Court, N.D. Illinois, Eastern Division. Civil Action No. 66 C 1652. Entered April 7, 1967. Case No. 1908 in the Antitrust Division of the Department of Justice.

Sherman Act

Injunctive Relief—Dissolution of Trade Association—Consent Judgment.—Under the terms of a consent judgment, a linen supply association was required to dissolve itself, and its members were forbidden to stabilize prices or allocate markets or customers.

For the plaintiff: Donald F. Turner, Assistant Attorney General, and Gordon B. Spivack, William D. Kilgore, Jr., John E. Sarbaugh, Joseph Prindaville, John J. Lannon, and Leonard A. Tokus, Attorneys, Department of Justice.

For the defendants: E. P. Harvey, Treasurer, for Chicago Linen Supply Co.; Robert T. De Normandie, Assistant Treasurer, for De Normandie Towel & Linen Supply Co.; Peter A. Kyros, President, for Garfield Linen Supply, Inc.; Albert K. Orschel for Great Lakes Linen Supply Co.; Jack A. Quigley, President, for F. W. Means & Co.; (Mrs.) F. K. Eagle, Secretary, for Chicago Linen Supply Assn.; Peter G. Brown, President, for Mickey's Linen & Towel Supply, Inc.; W. C. Graham, Vice President, for Morgan Linen Service, Inc.; Burton Ditkowsky, President, for Society Linen & Towel Supply Co.; A. C. Horman, Vice President, for Superior Laundry & Linen Supply Co.; Winard G. Olsen, President, for Union Linen Supply Co.; Milton Goldman d/b/a Congress Linen Supply Co.; and Sam Stavrakas, d/b/a Cosmopolitan Linen & Towel Supply.

Final Judgment

PARSONS, District Judge: Plaintiff, United States of America, having filed its complaint herein on September 12, 1966, and defendants Chicago Linen Supply Association, F. W. Means & Company, Chicago Linen Supply Company, De Normandie Towel & Linen Supply Company, Garfield Linen Supply, Inc., Great Lakes Linen Supply Company, Mickey's Linen & Towel Supply, Inc., Morgan Linen Service, Inc., Society Linen & Towel Supply Co., Superior Laundry & Linen Supply Co., Union Linen Supply Company, Sam Stavrakas, and Milton Goldman having appeared, the defendant F. W. Means & Company having filed its answer denying the substantive allegations of the complaint, and the plaintiff and each of the said defendants, either personally or by their respective attorneys, having consented to the entry of this Final Judgment without trial or adjudication of any issues of fact or law herein, and without said judgment constituting evidence or an admission by any party 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 consent of the plaintiff and each said defendant;

It is hereby ordered, adjudged, and decreed as follows:

I

[*Jurisdiction*]

This Court has jurisdiction of the subject matter of this action and of the parties hereto. The complaint states claims against the defendants Chicago Linen Supply Association, F. W. Means & Company, Chicago Linen Supply Company, De Normandie Towel & Linen Supply Company, Garfield Linen Supply, Inc., Great Lakes Linen Supply Company, Mickey's Linen & Towel Supply, Inc., Morgan Linen Service, Inc., Society Linen & Towel Supply Co., Superior Laundry & Linen Supply Co., Union Linen Supply Company, Sam Stavrakas, and Milton

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

II

[*Definitions*]

As used in this Final Judgment:

A "Consenting defendant" means Chicago Linen Supply Association, F. W. Means & Company, Chicago Linen Supply Company, De Norman die Towel & Linen Supply Company, Garfield Linen Supply, Inc., Great Lakes Linen Supply Company, Mickey's Linen & Towel Supply, Inc., Morgan Linen Service, Inc., Society Linen & Towel Supply Co., Superior Laundry & Linen Supply Co., Union Linen Supply Company, Sam Stavrakas, and Milton Goldman or each of them.

B "Person" means any individual, partnership, firm, association, corporation, or other legal entity.

C "Linen supply" or "linen supplies" means such items as coats, aprons, hand towels, dish towels, sheets, pillow cases, tablecloths, napkins, and uniforms customarily in the trade furnished by a linen supplier to users thereof.

D "Linen supplier" means any person engaged in the business of furnishing linen supplies to users thereof.

E "Customer" means a user of linen supplies.

F "The Association" means the defendant Chicago Linen Supply Association.

III

[*Applicability*]

The provisions of this Final Judgment applicable to any consenting defendant shall apply to each of its officers, directors, agents, employees, subsidiaries, successors and assigns, and to all other persons in active concert or participation with any such consenting defendant who shall have received actual notice of this Final Judgment by personal service or otherwise. For the purposes of this Final Judgment, each consenting defendant and its officers, directors, servants, employees, partners, and subsidiaries shall be deemed to be one person.

IV

[*Prices and Markets*]

The consenting defendants and each of them are enjoined and restrained from directly or indirectly entering into, adhering to, enforcing, or claiming any rights under any agreement, understanding, plan, or program with any other linen supplier or with any central agency or association of or for linen suppliers to:

(a) Establish, maintain, stabilize, or adhere to prices, discounts, or other terms or conditions for the furnishing of linen supplies to customers;

(b) Divide or allocate markets, territories, or customers for the furnishing of linen supplies.

V

[*Dissolution*]

A. The consenting defendants and each of them are ordered and directed, within 60 days after the entry of this Final Judgment, to institute and to prosecute with due diligence appropriate proceedings to wind up the affairs of and to terminate the existence of the defendant Association; provided, however, that subject to the other provisions of this Final Judgment, nothing contained in this Section V shall prohibit the defendants, or any of them, from organizing or joining any lawful association.

B. The defendant Association is ordered and directed, within 60 days after the entry of this Final Judgment, to destroy its existing file of price lists, customer registrations, complaints, investigations, awards, and all other books and records which refer to the arbitration of disputes over customers for furnishing linen supplies and to

file with this Court (with a copy to the Assistant Attorney General in charge of the Antitrust Division) an affidavit of such destruction.

C Each consenting defendant except defendant Association is ordered and directed, within 60 days after the entry of this Final Judgment, to destroy its books and records of price lists, customer registrations, complaints, investigations, awards, and arbitration of disputes which refer or relate to the activities of the defendant Association.

VI

[*Notice*]

The defendant Association is ordered and directed within 30 days after the entry of this Final Judgment to serve by mail upon each of its present members a conformed copy of this Final Judgment and to file with this Court and with the plaintiff proof by affidavit of such service.

VII

[*Inspection and Compliance*]

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

A. Reasonable access, during the office hours of consenting defendant, to all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or control of consenting defendant relating to any of the matters contained in this Final Judgment.

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

For the purpose of determining or securing compliance with this Final Judgment and for no other purpose, each consenting defendant, upon the written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, shall submit such written reports with respect to any of the matters contained in this Final Judgment as from time to time may be requested for the enforcement of this Final Judgment. No information obtained by the means provided in this Section VII shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the plaintiff except in the course of legal proceedings to which the United States is a party for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

VIII

[*Jurisdiction Retained*]

Jurisdiction is retained for the purpose of enabling any of the parties of 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, carrying out or modification of this Final Judgment and for the enforcement of compliance therewith and the punishment of the violation of any of the provisions contained herein.

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. Chicago Linen Supply Assn.; Steiner American Corp.; F. W. Means & Co.; Chicago Linen Supply Co.; De Normandie Towel & Linen Supply Co.; Garfield Linen Supply, Inc.; Great Lakes Linen Supply Co.; Mickey's Linen & Towel Supply, Inc.; Morgan Linen Service, Inc.; Society Linen & Towel Supply Co.; Superior Laundry & Linen Supply Co.; Union Linen Supply Co.; Sam Stavrakas; and Milton Goldman., U.S. District Court, N.D. Illinois, 1968 Trade Cases ¶72,463, (Jul. 24, 1968)

United States v. Chicago Linen Supply Assn.; Steiner American Corp.; F. W. Means & Co.; Chicago Linen Supply Co.; De Normandie Towel & Linen Supply Co.; Garfield Linen Supply, Inc.; Great Lakes Linen Supply Co.; Mickey's Linen & Towel Supply, Inc.; Morgan Linen Service, Inc.; Society Linen & Towel Supply Co.; Superior Laundry & Linen Supply Co.; Union Linen Supply Co.; Sam Stavrakas; and Milton Goldman.

1968 Trade Cases ¶72,463. U.S. District Court, N.D. Illinois, Eastern Division. Civil Action No. 66 C 1652. Entered July 24, 1968. Case No. 1908 in the Antitrust Division of the Department of Justice.

Sherman Act

Price Fixing—Linen Supplies—Dissolution of Trade Association—Consent Judgment.—A linen supply firm was required by a consent judgment to consent to dissolution of a trade association and forbidden to agree on prices or to allocate markets or customers.

For the plaintiff: Edwin M. Zimmerman, Robert B. Hummel, John E. Sarbaugh, and Ralph M. McCareins.

For the defendants: E. C. Heininger and Roger J. Kiley, Jr. (Mayer, Friedlich, Spiess, Tierney, Brown & Piatt, Chicago', Illinois, of counsel).

Final Judgment—Defendant Steiner American Corporation

PARSONS, D. J.: Plaintiff, United States of America, having filed its complaint herein on September 12, 1966, and the remaining defendant, Steiner American Corporation, having appeared and having filed its answer denying the substantive allegations of the complaint, and the plaintiff and said defendant, by their respective attorneys, having consented to the entry of this Final Judgment without trial or adjudication of any issues of fact or law herein, and without said judgment constituting evidence or an admission by any party with respect to any such issue:

Now, Therefore, before the taking of any testimony, without trial or adjudication of any issue of fact or law herein, and upon consent of the plaintiff and said defendant;

It Is Hereby Ordered, Adjudged, And Decreed as follows:

I

[*Jurisdiction*]

This Court has jurisdiction of the subject matter of this action and of the parties hereto. The complaint states claims against the defendant Steiner American Corporation under Section 1 of the Act of Congress of July 2, 1890, as amended, entitled “An Act to protect trade and commerce against un lawful restraints and monopolies,” commonly known as the Sherman Act.

II

[Definitions]

As used in this Final Judgment:

A. "Consenting defendant" means Steiner American Corporation.

B. "Person" means any individual, partnership, firm, association, corporation, or other legal entity.

C. "Linen supply" or "linen supplies" means such items as coats, aprons, hand towels, dish towels, sheets, pillow cases, tablecloths, napkins, and uniforms customarily in the trade furnished by a linen supplier to users thereof.

D. "Linen supplier" means any person engaged in the business of furnishing linen supplies to users thereof.

E. "Customer" means a user of linen supplies.

F. "The Association" means the defendant Chicago Linen Supply Association.

III

[*Applicability*]

The provisions of this Final Judgment applicable to the consenting defendant shall apply to each of its officers, directors, agents, employees, subsidiaries, successors and assigns, and to all other persons in active concert or participation with such consenting defendant who shall have received actual notice of this Final Judgment by personal service or otherwise. For the purposes of this Final Judgment, the consenting defendant and its officers, directors, servants, employees, partners, and subsidiaries shall be deemed to be one person.

IV

[*Prices and Markets*]

The consenting defendant is enjoined and restrained from directly or indirectly entering into, adhering to, enforcing, or claiming any rights under any agreement, understanding, plan, or program with any other linen supplier or with any central agency or association of or for linen suppliers to:

(a) Establish, maintain, stabilize, or adhere to prices, discounts, or other terms or conditions for the furnishing of linen supplies to customers;

(b) Divide or allocate markets, territories, or customers for the furnishing of linen supplies.

V

[*Dissolution of Association—Document Destruction*]

A. The consenting defendant is ordered and directed to consent to the institution and prosecution of proceedings to wind up the affairs of and to terminate the existence of the defendant Association; provided, however, that subject to the other provisions of this Final Judgment, nothing contained in this Section V shall prohibit the defendants, or any of them, from organizing or joining any lawful association.

B. The consenting defendant is ordered and directed, within 60 days after the entry of this Final Judgment, to destroy its books and records of price lists, customer registrations, complaints, investigations, awards, and arbitration of disputes which refer or relate to the activities of the defendant Association.

VI

[*Inspection and Compliance*]

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

A. Reasonable access, during the office hours of consenting defendant, to all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or control of consenting defendant relating to any of the matters contained in this Final Judgment.

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

For the purpose of determining or securing compliance with this Final Judgment and for no other purpose, the consenting defendant, upon the written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, shall submit such written reports with respect to any of the matters contained in this Final Judgment as from time to time may be requested for the enforcement of this Final Judgment. No information obtained by the means provided 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 Executive Branch of the plaintiff except in the course of legal proceedings to 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 Retained*]

Jurisdiction is retained for the purpose of enabling any of the parties of 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, carrying out or modification of this Final Judgment and for the enforcement of compliance therewith and the punishment of the violation of any of the provisions contained herein.

United States v. Peabody Coal Company, et al.

Civil No. 67-C-1621

Year Judgment Entered: 1967

Years Judgment Modified: 1969; 1970

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

- X

UNITED STATES OF AMERICA, :

Plaintiff, : Civil No. 67-C-1621

-against- : FINAL JUDGMENT

PEABODY COAL COMPANY, et al., :

Defendants. : Entered: October 23, 1967

- X

Plaintiff, United States of America, having filed its complaint herein on September 21, 1967, and plaintiff and 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 this Final Judgment constituting any evidence or admission by either party hereto with respect to any such issue;

Now, therefore, without any testimony having been taken, without trial or adjudication of or finding on any issue of fact or law, and on consent of the parties hereto, it is hereby

Ordered, adjudged and decreed:

I.

This Court has jurisdiction of the subject matter of this action and of the parties hereto. The complaint states claims upon which relief may be granted under Section 7 of the Clayton Act, 15 U.S.C. § 18.

II.

As used in this Final Judgment:

A. "Peabody" means the defendant Peabody Coal Company, an Illinois corporation, and any other person owned or controlled by defendant Peabody or owned or controlled by any person owning 50% or more of the voting stock of defendant Peabody;

B. "Stock" means capital stock and any other share capital;

C. "Person" means any individual, partnership, corporation, association or other business or legal entity;

D. "Eastern Interior Coal Province" means the bituminous coal field which underlies approximately 67% of the State of Illinois and a substantial portion of southwestern Indiana and western Kentucky;

E. "Eastern Interior Coal Province Sales Area" means the area of the State of Illinois, western Indiana, western Kentucky, western Tennessee, eastern Missouri, eastern Iowa, southwestern and central Wisconsin, and southeastern Minnesota;

F. "Operating Coal Company" means any person operating one or more bituminous coal mines, or selling any bituminous coal, in the eastern interior coal province sales area;

G. "Coal Reserves" means fee ownership of, or leasehold interest in, or rights to mine under royalty arrangements, or options or contracts to acquire, strip or underground bituminous coal reserves located in the eastern interior coal province sales area.

III.

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

IV.

A. After two years from the date of entry of this Final Judgment, defendant Peabody is enjoined and restrained from having as an officer or director any person who is at the same time an officer or director of Southwestern Illinois Coal Corporation, an Indiana corporation.

B. Defendant Peabody is enjoined and restrained from having as an officer or director any person who is at the same time an officer or director of any other operating coal company. This provision shall not apply to separately organized joint ventures to which defendant Peabody is a party.

V.

Defendant Peabody is enjoined and restrained for a period of ten years from acquiring, except upon prior approval of the plaintiff, (a) any part of the stock of, or any financial or managerial interest in, any operating coal company, or (b) any coal mine located in the eastern interior coal province sales area.

VI.

Defendant Peabody is hereby enjoined and restrained for a period of five years from the date of entry of this Final Judgment from acquiring in any year commencing on said date or the first four anniversaries thereof, more than five million tons of coal reserves from any other operating coal company or companies except upon prior approval of the plaintiff. The swapping or exchange of coal reserves for coal reserves, without any other payment or consideration, shall be disregarded for purposes of this provision.

VII.

A. Defendant Peabody is ordered and directed, within six months after the entry of this Final Judgment, to organize a separate, viable operating coal business (with adequate strip and/or underground coal mine or mines and coal reserves in the eastern interior coal province, mining and processing machinery and equipment and all facilities used in connection therewith, and managerial, supervisory, technical and other personnel and customer accounts) either as a subsidiary corporation or as a separate division of defendant Peabody, and defendant Peabody is further ordered and directed within two years after the date of entry of this Final Judgment to divest itself, absolutely and in good faith, of said coal business and any financial or managerial interest therein, by one of the following methods:

a. Sale thereof as a viable operating business to a purchaser or purchasers approved by the plaintiff, or

b. Sale of all of the stock thereof by one or more sales to the public through an underwriter or underwriters.

B. The operating coal business required to be established and divested by defendant Peabody under Paragraph A hereof shall, at the time of such divestiture, actually be engaged in the production and sale of bituminous coal at the rate of not less than six million tons per annum, and shall have sufficient assets and earning power, and shall have or shall reasonably be expected to be able to obtain sufficient coal reserves for continued production and sale of bituminous coal at said rate of not less than six million tons per year for twenty years.

C. Plaintiff, prior to the final divestiture of said coal business as provided for in the foregoing Paragraph A, shall have opportunity to approve or disapprove of the assets thereof and, in the event of disagreement with defendant Peabody with respect thereto, plaintiff may petition the Court to determine the matter and enter such order as the Court may deem appropriate to insure fulfillment of the above requirements.

VIII.

A. Defendant Peabody shall make known the availability of said coal business for sale by ordinary and usual means for a sale of a business. Defendant Peabody shall furnish bona fide prospective purchasers all necessary information, including pro forma statements, regarding the same and the operation thereof and shall permit them to make such inspections as may be necessary for the above purpose.

B. Defendant Peabody shall not acquire any long-term debt obligation or stock of, or any equity interest in, the purchaser or purchasers of said coal business except on such terms as may be approved by the plaintiff.

C. At the election of the purchaser or purchasers and with the prior approval of the plaintiff, defendant Peabody may lease, rather than sell or transfer absolutely, the coal reserves to be included in the assets of said coal business.

D. Without the prior approval of the plaintiff, none of the stock of said coal business shall knowingly be disposed of to any person who is an officer, director or executive employee of defendant Peabody, any person in which defendant Peabody owns any material amount of stock or other material financial interest or any person beneficially owning or having unrestricted discretionary power to vote common stock of Peabody in excess of two percent of the shares outstanding, except for an institutional investor acting on behalf of its own members, depositors or shareholders or an underwriter or dealer acting as such.

IX.

For the purpose of determining or securing compliance with this Final Judgment and subject to any legally recognized privilege, duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to defendant Peabody made to its principal office, be permitted (1) reasonable access during the office hours of Peabody to all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession, custody and control of defendant Peabody relating to any of the matters contained in this Final Judgment, and (2) subject to the

reasonable convenience of defendant Peabody, but without restraint or interference from it, to interview officers, directors, agents or employees of defendant Peabody, who may have counsel present, regarding any such matters; and, upon such request, defendant Peabody shall submit such reports in writing to the Department of Justice with respect to the matters contained in this Final Judgment as may from time to time be requested. No information obtained by the means provided in this Section IX shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of plaintiff, except in the course of legal proceedings in which the Department of Justice is a party for the purpose of determining or securing compliance with this Final Judgment, or as otherwise required by law.

X.

Jurisdiction of this cause is retained by this Court for the purpose of enabling any party 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 modification, termination, construction or carrying out of the provisions of this Final Judgment and for the enforcement of compliance therewith and punishment of violation thereof.

/s/ Julius J. Hoffman
United States District Judge

Dated: October 23, 1967

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DISTRICT

UNITED STATES OF AMERICA, Plaintiff,	)	Civil No. 67 C 1621
vs.	)	ORDER AMENDING FINAL JUDGMENT
PEABODY COAL COMPANY, et al., Defendants.	)	

The time for compliance with Section VII of the Final Judgment herein entered on consent of the parties on October 23, 1967, having been extended to April 21, 1970, by Order herein dated January 13, 1970, and further having been extended to July 20, 1970, by Order herein dated April 17, 1970, and

The parties hereto having consented to extend by a further ninety (90) days from July 20, 1970, the time for compliance of Section VII of the Final Judgment, it is hereby

ORDERED that the time for compliance with Section VII of the Final Judgment herein entered October 23, 1967, is hereby extended to October 19, 1970.

/s/ Daniel B Parsons
United States District Judge

Dated: July 20, 1970

Consented to:

John E Lobaugh
Attorney for plaintiff

Earle Jenkinson
Attorney for defendant
PEABODY COAL COMPANY

Of Counsel:

Sullivan & Cromwell
48 Wall Street
New York, New York 10005

United States v. Harper & Row, Publishers Inc.

Civil Action No. 67 C 612

Year Judgment Entered: 1967

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. Harper & Row, Publishers, Inc., The Bobbs-Merrill Co., Inc., Childrens Press, Inc., Thomas Y. Crowell Co., Dodd, Mead & Co., Inc., E. P. Dutton & Co., Inc., Golden Press, Inc., Grosset & Dunlap, Inc., Holt, Rinehart and Winston, Inc., Little, Brown & Co., Inc., The Macmillan Co., William Morrow & Co., Inc., G. P. Putnam's Sons, Random House, Inc., Charles Scribner's Sons, The Viking Press, Inc., Henry Z. Walck, Inc., and Franklin Watts, Inc., U.S. District Court, N.D. Illinois, 1967 Trade Cases ¶72,256, (Nov. 27, 1967)

Federal Antitrust Cases
Trade Regulation Reporter - Trade Cases (1932 - 1992) ¶72,256

United States v. Harper & Row, Publishers, Inc., The Bobbs-Merrill Co., Inc., Childrens Press, Inc., Thomas Y. Crowell Co., Dodd, Mead & Co., Inc., E. P. Dutton & Co., Inc., Golden Press, Inc., Grosset & Dunlap, Inc., Holt, Rinehart and Winston, Inc., Little, Brown & Co., Inc., The Macmillan Co., William Morrow & Co., Inc., G. P. Putnam's Sons, Random House, Inc., Charles Scribner's Sons, The Viking Press, Inc., Henry Z. Walck, Inc., and Franklin Watts, Inc.

1967 Trade Cases ¶72,256. U.S. District Court, N.D. Illinois, Eastern Division. Civil Action Nos. 67 C 612—67 C 629. Entered November 27, 1967. Case Nos. 1933—1950 in the Antitrust Division of the Department of Justice.

Headnote

Sherman Act

Resale Price Fixing—Children's Books—Consent Decrees.—Each of defendant book publishers, charged in separate suits with fixing the prices of library editions of children's books with its wholesalers, was prohibited by consent decrees from attempting to maintain the resale price of its books (without regard to rights under fair trade laws for a period of five years) and from entering into agreements with its wholesalers to fix the resale price of books or to submit rigged bids. In its final form, the decree (para. X) also required the Department of Justice, if it discovers violations of the decree affecting local governments, to retain the evidence for a year for use in damage suits.

For the plaintiff: Donald F. Turner, Assistant Attorney General, Baddia J. Rashid, Harry N. Burgess, John E. Sarbaugh, William T. Huyck, John Edward Burke, and David J. Berman, Attorneys, Department of Justice.

For the defendants: Ira M. Millstein and Donald J. Williamson, of Weil, Gotshal & Manges, New York, N. Y., for Harper & Row, Publishers, Inc., Charles Scribner's Sons, E. P. Dutton & Co., Inc., Henry Z. Walck, Inc., and Grosset & Dunlap, Inc.; W. Donald McSweeney and William A. Montgomery, of Schiff Hardin Waite Dorschel & Britton, Chicago, Ill., for G. P. Putnam's Sons, The Viking Press, Inc., and The Bobbs-Merrill Co., Inc.; Don H. Reuben and Fred H. Bartlit, Jr., of Kirkland, Ellis, Hodson, Chaffetz & Masters, Chicago, 111., for Childrens Press, Inc.; Of counsel: H. Templeton Brown, of Mayer, Friedlich, Spiess, Tierney, Brown & Piatt, Chicago, III, for Thomas Y. Crowell Co., Holt, Rinehart and Winston, Inc., and William Morrow & Co., Inc.; Of counsel: Leo Rosen, of Greenbaum, Wolff & Ernst, New York, N. Y., for Thomas Y. Crowell Co., and William Morrow & Co., Inc.; Harry Buchman, of Stern & Reubens, for Dodd, Mead & Co., Inc.; Samuel Weisbard, of McDermott, Will & Emery, Chicago, 111., for Golden Press, Inc.; Robert H. Davison, of Hausserman, Davison & Shattuck, Boston, Mass., for Little, Brown & Co., Inc.; Robert C. Keck, of Spray, Price, Hough & Cushman, Chicago, 111.,

for The Macmillan Co.; Albert E. Jenner, Jr. and Philip W. Tone, of Raymond, Mayer, Jenner & Block, Chicago, 111., and Bernard G. Segal, Edward W. Mullinix, and Arthur H. Kahn, of Schnader, Harrison, Segal & Lewis, Philadelphia, Pa., for Random House, Inc.; Of counsel: Earl A. Jinkinson and John W. Stack, of Winston, Strawn, Smith & Patterson, for Franklin Watts, Inc.

Final Judgment as to Harper & Row, Publishers, Inc (Civ. No. 67 C 612; Case No. 1933)

MAROVITZ, Judge: Plaintiff, United States of America, having filed its complaint herein on April 18, 1967, and defendant having filed its answer thereto denying the substantive allegations thereof, and plaintiff and defendant by their respective attorneys having consented to the making and entry of this Final Judgment without admission, by either party in respect to any issue;

Now, Therefore, before any testimony has been taken herein, without trial or adjudication of any issue of fact or law herein, and upon consent of the parties 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 hereto. The complaint states claims for relief against the defendant under Section 1 of the Act of Congress of July 2, 1890, entitled “An act to protect trade and commerce against unlawful restraints and monopolies,” commonly known as the Sherman Act, as amended.

II

As used herein:

(A) “Defendant” means the defendant Harper & Row Publishers, Inc., a corporation organized and existing under the laws of Illinois and each of its domestic subsidiaries and each of its foreign subsidiaries when doing business through or with any reseller in the United States;

(B) “Person” means any individual, corporation, partnership, firm or other legal entity and includes wherever applicable any Federal, State or local or other governmental agency or instrumentality thereof;

(C) Customer” means any school, library or governmental agency or instrumentality thereof;

(D) “Reseller” means any person who is engaged in the business of buying books for resale and includes any such person when acting as an agent or consignee of defendant; and

(E) Solely for purposes of Section VII(A) and (B), the term “any person engaged in the resale of books purchased from defendant” shall not be deemed to include the national distributor of paperbacks who functions as defendant's sole national distributor.

III

The provisions of this Final Judgment applicable to the defendant shall also apply to each of its officers, directors, agents and employees and to each of its successors and assigns, and to all other persons in active concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise. This Final Judgment shall not apply to sales for use outside the United States, except for sales to or for the use of the plaintiff or any instrumentality or agency thereof.

IV

Defendant is ordered and directed:

(A) Within ninety (90) days after entry of this Final Judgment, to mail a copy thereof to each of its currently active wholesale accounts which sells to customers; for a period of five (5) years after such entry to mail a copy to

each such additional wholesale account to whom it sells books; and to maintain for such five (5) year period a complete list of all such wholesale accounts to whom defendant has so mailed copies;

(B) To issue a written statement to the effect that this Final Judgment prohibits the defendant from fixing, determining, dictating, approving or disapproving the customers to whom or the prices at which any reseller may sell or advertise defendant's books to any school, library or governmental agency or instrumentality, the statement to be circulated by either one of the following means:

(1) By mailing, within six (6) months after entry of this Final Judgment, to the currently active list of schools, libraries and governmental agencies and instrumentalities to whom it mails catalogues; or

(2) By publication in an issue of School Library *Journal* published not later than two (2) months after entry of this Final Judgment.

(C) Within six (6) months after entry of this Final Judgment, to furnish plaintiff with a written statement of the form and manner of compliance with the provisions of subsection (B) of this Section IV;

(D) For a period of one (1) year after entry of this Final Judgment, to furnish a copy thereof to any school, library or governmental agency or instrumentality requesting it.

V

For a period of five (5) years after the date set forth in this Section V, defendant is enjoined and restrained, in connection with the pricing of its books, except textbooks, from directly or indirectly, in any manner, using the words “net” or “net price” in or on such books or in any catalogue, price list, circular or other bulletin when referring to such books; provided, however, that this Section V shall not apply to any now-existing copies of such catalogues, price lists, circulars or other bulletins until July 1, 1968 or to now-existing copies of such books.

VI

Defendant is enjoined and restrained from, directly or indirectly, in any manner:

(A) Fixing, determining, dictating, approving, disapproving, or policing the customers to whom, or the prices or related terms and conditions of sale at or upon which any reseller may have sold, sells, advertises or offers to sell any books to any customer;

(B) Suggesting (otherwise than by imprinting any price, without more, on a book or book jacket) to any reseller the prices or related terms and conditions of sale at which said reseller should sell, advertise or offer to sell any books to any customer;

(C) Hindering, restricting, limiting or preventing, or attempting to hinder, restrict, limit or prevent any reseller from advertising for sale, selling or offering to sell any books (1) to any customer or (2) to any customer at any price or related terms and conditions of sale individually determined by such reseller;

(D) So long as defendant sells books to resellers, refusing to sell or offer to sell or threatening to refuse to sell or offer to sell such books to, or coercing, or discriminating in the sale or shipment of any books to, any reseller because of the prices at which said reseller intends to sell or has sold any books to any customer;

(E) Inducing or suggesting to any reseller that such reseller refuse to deal with or discriminate against any third person with respect to the sale, distribution, purchase or shipment of any books to any customer; and

(F) Issuing or disseminating defendant's customer prices in any promotional material directed to resellers or in any price catalogues, lists, circulars or bulletins with respect to books sold by resellers unless such material contains a statement, in easily legible type, that any reseller is free to charge whatever price he wishes for defendant's books; provided, however, that this Section (F) shall not apply to any now-existing copies of such promotional material, catalogues, lists, circulars or bulletins until July 1, 1968.

Provided that, upon the expiration of a period of five (5) years following the date of entry of this Final Judgment, nothing contained in Section VI of this Final Judgment shall prohibit the defendant from lawfully exercising such rights, if any, or performing such obligations, if any, as it may have arising under the Miller-Tydings Act and the McGuire Act.

VII

In addition to the prohibitions of Section VI, above, defendant is enjoined and restrained from entering into, adhering to, maintaining, enforcing or claiming any rights under any contract, agreement, understanding, plan or program with any person engaged in the resale of books purchased from defendant to:

(A) Fix, establish, maintain or adhere to prices in the sale of its books to any third person;

(B) Refuse to sell its books to any third person because of the price or prices at which, or persons to whom such third person intends to sell, advertise, or display or may have sold, advertised or displayed such books;

(C) Submit collusive or rigged bids or quotes for supplying any of its books to any third person; or

(D) Bid or quote a specific price, or refrain from bidding or quoting, on any of its books to be sold to any third person;

Provided that, subject to Section VI of this Final Judgment, nothing contained in this Section VII shall prohibit the defendant from lawfully exercising such rights, if any, or performing such obligations, if any, as it may have arising under the Miller-Tydings Act and the McGuire Act.

VIII

Nothing contained in this Final Judgment shall be deemed to prohibit the defendant from complying with requirements imposed upon it by State or local law or by any governmental agency or instrumentality acting pursuant to State or local law.

IX

For a period of five (5) years following the date of the entry of this Final Judgment, defendant is ordered and directed to furnish simultaneously with each sealed bid and sealed quotation (other than a bid or quotation for a sale which will involve less than $100) submitted by it to any customer for the sale of books, other than textbooks, a written certification by the official of defendant having authority to determine the price or prices bid or quoted that said bid or quotation was not the result, directly or indirectly, of any agreement, understanding, plan, or program between defendant and any other person.

X

For the purpose of securing compliance with this Final Judgment, and for no other purpose, duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to defendant (which may have counsel present), made through its principal office, be permitted, subject to any legally recognized privilege, (1) access during reasonable office hours to all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of the defendant relating to any of the subject matters contained in this Final Judgment, and (2) subject to the reasonable convenience of 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; and upon such request, defendant shall submit such reports in writing, under oath if so requested, to the Department of Justice with respect to any of the matters contained in this Final Judgment as may from time to time be requested for the enforcement of this Final Judgment. No information obtained by the means provided in this Section X shall be divulged by any representative of the Department of Justice to any person, other than a duly authorized representative of the Executive Branch of plaintiff, except in the course of legal proceedings to which the United States of America is a party for the purpose of securing compliance with this Final Judgment or as otherwise required by law.

Any such information evidencing a violation of this Final Judgment which adversely affects the interest of any State or local governmental agency or instrumentality shall be retained by plaintiff for a period of one (1) year from the time when it is obtained and shall be treated as impounded subject to further order of this Court which, on motion and notice to the parties and a showing of good cause by the principal law officer of any State or local

governmental agency or instrumentality, may order disclosure to such officer of any part or all of such information as the Court deems proper for use by such agency or instrumentality preliminarily to or in connection with an action under the federal antitrust laws.

XI

Jurisdiction is retained for the purpose of enabling either 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 or for the modification or termination of any of the provisions thereof, and for the enforcement of compliance therewith and punishment of violations thereof.

Final Judgments as to The Bobbs-Merrill Co,, Inc., Childrens Press, Inc., Thomas Y. Crowell Co., Dodd, Mead & Co., Inc., E. P. Dutton & Co., Inc., Golden Press, Inc., Grosset & Dunlap, Inc., Holt, Rinehart and Winston, Inc., Little, Brown & Co., Inc., The Macmillan Co., William Morrow & Co., Inc., G. P. Putnam's Sons, Random House, Inc., Charles Scribner's Sons, The Viking Press, Inc., Henry Z. Walck, Inc., and Franklin Watts, Inc.

The judgments are the same as in Harper & Row, Publishers, Inc., above (Case No. 1933, Civil Action No. 67C 612), except for (1) the use of the phrase “defendant having appeared herein” in lieu of “defendant having filed its answer thereto denying the substantive allegations thereof” in the introductory paragraph of the Little, Brown & Co., Inc. and Franklin Watts, Inc. judgments, (2) the substitution of the name of the defendant and its state of incorporation (see below in paragraph 11(A), and (3) the substitution of the dates in paragraphs V and VI(F) as follows:

Case No.	Civil Action No.	Defendant	Par. IIA	Par. V	Par. VI(F)
1934	67 C 613	The Bobbs-Merrill Co., Inc.	Indiana	Jan. 1, 1968	June 30, 1968
1935	67 C 614	Childrens Press, Inc.	Illinois	Nov. 30, 1967	Aug. 15, 1968
1936	67 C 615	Thomas Y. Crowell Co.	New York	June 30, 1968	Jan. 1, 1968
1937	67 C 616	Dodd, Mead & Co., Inc.	New York	Sept. 22, 1968	Sept. 22, 1968
1938	67 C 617	E. P. Dutton & Co., Inc.	New York	Sept. 1, 1968	Sept. 1, 1968
1939	67 C 618	Golden Press, Inc.	New York	Dec. 31, 1967	June 30, 1968
1940	67 C 619	Grosset & Dunlap, Inc.	New York	Jan. 1, 1968	Jan. 1, 1968
1941	67 C 620	Holt, Rinehart and Winston, Inc.	New York	Sept. 30, 1968	Sept. 30, 1968
1942	67 C 621	Little, Brown & Co., Inc.	Massachusetts	July 1, 1968	July 1, 1968
1943	67 C 622	The Macmillan Co.	Delaware	Oct. 31, 1968	Oct. 31, 1968
1944	67 C 623	William Morrow & Co., Inc.	New York	Apr. 30. 1968	Apr. 30, 1968
1945	67 C 624	G. P. Putnam's Sons	New York	Feb. 29, 1968	Feb. 29, 1968
1946	67 C 625	Random House, Inc.	New York	June 30, 1968	June 30, 1968
1947	67 C 626	Charles Scribner's Sons	New York	Aug. 1, 1968	Aug. 1, 1968
1948	67 C 627	The Viking Press, Inc.	New York	Aug. 31. 1968	Aug. 31, 1968
1949	67 C 628	Henry Z. Walck, Inc.	New York	Sept. 30, 1968	Sept. 30. 1968
1950	67 C 629	Franklin Watts, Inc.	New York	Dec. 31, 1967	Dec. 31, 1967

United States v. The Bobbs-Merrill Company, Inc.

Civil Action No. 67 C 613

Year Judgment Entered: 1967

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. Harper & Row, Publishers, Inc., The Bobbs-Merrill Co., Inc., Childrens Press, Inc., Thomas Y. Crowell Co., Dodd, Mead & Co., Inc., E. P. Dutton & Co., Inc., Golden Press, Inc., Grosset & Dunlap, Inc., Holt, Rinehart and Winston, Inc., Little, Brown & Co., Inc., The Macmillan Co., William Morrow & Co., Inc., G. P. Putnam's Sons, Random House, Inc., Charles Scribner's Sons, The Viking Press, Inc., Henry Z. Walck, Inc., and Franklin Watts, Inc., U.S. District Court, N.D. Illinois, 1967 Trade Cases ¶72,256, (Nov. 27, 1967)

Federal Antitrust Cases
Trade Regulation Reporter - Trade Cases (1932 - 1992) ¶72,256

United States v. Harper & Row, Publishers, Inc., The Bobbs-Merrill Co., Inc., Childrens Press, Inc., Thomas Y. Crowell Co., Dodd, Mead & Co., Inc., E. P. Dutton & Co., Inc., Golden Press, Inc., Grosset & Dunlap, Inc., Holt, Rinehart and Winston, Inc., Little, Brown & Co., Inc., The Macmillan Co., William Morrow & Co., Inc., G. P. Putnam's Sons, Random House, Inc., Charles Scribner's Sons, The Viking Press, Inc., Henry Z. Walck, Inc., and Franklin Watts, Inc.

1967 Trade Cases ¶72,256. U.S. District Court, N.D. Illinois, Eastern Division. Civil Action Nos. 67 C 612—67 C 629. Entered November 27, 1967. Case Nos. 1933—1950 in the Antitrust Division of the Department of Justice.

Headnote

Sherman Act

Resale Price Fixing—Children's Books—Consent Decrees.—Each of defendant book publishers, charged in separate suits with fixing the prices of library editions of children's books with its wholesalers, was prohibited by consent decrees from attempting to maintain the resale price of its books (without regard to rights under fair trade laws for a period of five years) and from entering into agreements with its wholesalers to fix the resale price of books or to submit rigged bids. In its final form, the decree (para. X) also required the Department of Justice, if it discovers violations of the decree affecting local governments, to retain the evidence for a year for use in damage suits.

For the plaintiff: Donald F. Turner, Assistant Attorney General, Baddia J. Rashid, Harry N. Burgess, John E. Sarbaugh, William T. Huyck, John Edward Burke, and David J. Berman, Attorneys, Department of Justice.

For the defendants: Ira M. Millstein and Donald J. Williamson, of Weil, Gotshal & Manges, New York, N. Y., for Harper & Row, Publishers, Inc., Charles Scribner's Sons, E. P. Dutton & Co., Inc., Henry Z. Walck, Inc., and Grosset & Dunlap, Inc.; W. Donald McSweeney and William A. Montgomery, of Schiff Hardin Waite Dorschel & Britton, Chicago, Ill., for G. P. Putnam's Sons, The Viking Press, Inc., and The Bobbs-Merrill Co., Inc.; Don H. Reuben and Fred H. Bartlit, Jr., of Kirkland, Ellis, Hodson, Chaffetz & Masters, Chicago, 111., for Childrens Press, Inc.; Of counsel: H. Templeton Brown, of Mayer, Friedlich, Spiess, Tierney, Brown & Piatt, Chicago, III, for Thomas Y. Crowell Co., Holt, Rinehart and Winston, Inc., and William Morrow & Co., Inc.; Of counsel: Leo Rosen, of Greenbaum, Wolff & Ernst, New York, N. Y., for Thomas Y. Crowell Co., and William Morrow & Co., Inc.; Harry Buchman, of Stern & Reubens, for Dodd, Mead & Co., Inc.; Samuel Weisbard, of McDermott, Will & Emery, Chicago, 111., for Golden Press, Inc.; Robert H. Davison, of Hausserman, Davison & Shattuck, Boston, Mass., for Little, Brown & Co., Inc.; Robert C. Keck, of Spray, Price, Hough & Cushman, Chicago, 111.,

for The Macmillan Co.; Albert E. Jenner, Jr. and Philip W. Tone, of Raymond, Mayer, Jenner & Block, Chicago, 111., and Bernard G. Segal, Edward W. Mullinix, and Arthur H. Kahn, of Schnader, Harrison, Segal & Lewis, Philadelphia, Pa., for Random House, Inc.; Of counsel: Earl A. Jinkinson and John W. Stack, of Winston, Strawn, Smith & Patterson, for Franklin Watts, Inc.

Final Judgment as to Harper & Row, Publishers, Inc (Civ. No. 67 C 612; Case No. 1933)

MAROVITZ, Judge: Plaintiff, United States of America, having filed its complaint herein on April 18, 1967, and defendant having filed its answer thereto denying the substantive allegations thereof, and plaintiff and defendant by their respective attorneys having consented to the making and entry of this Final Judgment without admission, by either party in respect to any issue;

Now, Therefore, before any testimony has been taken herein, without trial or adjudication of any issue of fact or law herein, and upon consent of the parties 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 hereto. The complaint states claims for relief against the defendant under Section 1 of the Act of Congress of July 2, 1890, entitled “An act to protect trade and commerce against unlawful restraints and monopolies,” commonly known as the Sherman Act, as amended.

II

As used herein:

(A) “Defendant” means the defendant Harper & Row Publishers, Inc., a corporation organized and existing under the laws of Illinois and each of its domestic subsidiaries and each of its foreign subsidiaries when doing business through or with any reseller in the United States;

(B) “Person” means any individual, corporation, partnership, firm or other legal entity and includes wherever applicable any Federal, State or local or other governmental agency or instrumentality thereof;

(C) Customer” means any school, library or governmental agency or instrumentality thereof;

(D) “Reseller” means any person who is engaged in the business of buying books for resale and includes any such person when acting as an agent or consignee of defendant; and

(E) Solely for purposes of Section VII(A) and (B), the term “any person engaged in the resale of books purchased from defendant” shall not be deemed to include the national distributor of paperbacks who functions as defendant's sole national distributor.

III

The provisions of this Final Judgment applicable to the defendant shall also apply to each of its officers, directors, agents and employees and to each of its successors and assigns, and to all other persons in active concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise. This Final Judgment shall not apply to sales for use outside the United States, except for sales to or for the use of the plaintiff or any instrumentality or agency thereof.

IV

Defendant is ordered and directed:

(A) Within ninety (90) days after entry of this Final Judgment, to mail a copy thereof to each of its currently active wholesale accounts which sells to customers; for a period of five (5) years after such entry to mail a copy to

each such additional wholesale account to whom it sells books; and to maintain for such five (5) year period a complete list of all such wholesale accounts to whom defendant has so mailed copies;

(B) To issue a written statement to the effect that this Final Judgment prohibits the defendant from fixing, determining, dictating, approving or disapproving the customers to whom or the prices at which any reseller may sell or advertise defendant's books to any school, library or governmental agency or instrumentality, the statement to be circulated by either one of the following means:

(1) By mailing, within six (6) months after entry of this Final Judgment, to the currently active list of schools, libraries and governmental agencies and instrumentalities to whom it mails catalogues; or

(2) By publication in an issue of School Library *Journal* published not later than two (2) months after entry of this Final Judgment.

(C) Within six (6) months after entry of this Final Judgment, to furnish plaintiff with a written statement of the form and manner of compliance with the provisions of subsection (B) of this Section IV;

(D) For a period of one (1) year after entry of this Final Judgment, to furnish a copy thereof to any school, library or governmental agency or instrumentality requesting it.

V

For a period of five (5) years after the date set forth in this Section V, defendant is enjoined and restrained, in connection with the pricing of its books, except textbooks, from directly or indirectly, in any manner, using the words “net” or “net price” in or on such books or in any catalogue, price list, circular or other bulletin when referring to such books; provided, however, that this Section V shall not apply to any now-existing copies of such catalogues, price lists, circulars or other bulletins until July 1, 1968 or to now-existing copies of such books.

VI

Defendant is enjoined and restrained from, directly or indirectly, in any manner:

(A) Fixing, determining, dictating, approving, disapproving, or policing the customers to whom, or the prices or related terms and conditions of sale at or upon which any reseller may have sold, sells, advertises or offers to sell any books to any customer;

(B) Suggesting (otherwise than by imprinting any price, without more, on a book or book jacket) to any reseller the prices or related terms and conditions of sale at which said reseller should sell, advertise or offer to sell any books to any customer;

(C) Hindering, restricting, limiting or preventing, or attempting to hinder, restrict, limit or prevent any reseller from advertising for sale, selling or offering to sell any books (1) to any customer or (2) to any customer at any price or related terms and conditions of sale individually determined by such reseller;

(D) So long as defendant sells books to resellers, refusing to sell or offer to sell or threatening to refuse to sell or offer to sell such books to, or coercing, or discriminating in the sale or shipment of any books to, any reseller because of the prices at which said reseller intends to sell or has sold any books to any customer;

(E) Inducing or suggesting to any reseller that such reseller refuse to deal with or discriminate against any third person with respect to the sale, distribution, purchase or shipment of any books to any customer; and

(F) Issuing or disseminating defendant's customer prices in any promotional material directed to resellers or in any price catalogues, lists, circulars or bulletins with respect to books sold by resellers unless such material contains a statement, in easily legible type, that any reseller is free to charge whatever price he wishes for defendant's books; provided, however, that this Section (F) shall not apply to any now-existing copies of such promotional material, catalogues, lists, circulars or bulletins until July 1, 1968.

Provided that, upon the expiration of a period of five (5) years following the date of entry of this Final Judgment, nothing contained in Section VI of this Final Judgment shall prohibit the defendant from lawfully exercising such rights, if any, or performing such obligations, if any, as it may have arising under the Miller-Tydings Act and the McGuire Act.

VII

In addition to the prohibitions of Section VI, above, defendant is enjoined and restrained from entering into, adhering to, maintaining, enforcing or claiming any rights under any contract, agreement, understanding, plan or program with any person engaged in the resale of books purchased from defendant to:

(A) Fix, establish, maintain or adhere to prices in the sale of its books to any third person;

(B) Refuse to sell its books to any third person because of the price or prices at which, or persons to whom such third person intends to sell, advertise, or display or may have sold, advertised or displayed such books;

(C) Submit collusive or rigged bids or quotes for supplying any of its books to any third person; or

(D) Bid or quote a specific price, or refrain from bidding or quoting, on any of its books to be sold to any third person;

Provided that, subject to Section VI of this Final Judgment, nothing contained in this Section VII shall prohibit the defendant from lawfully exercising such rights, if any, or performing such obligations, if any, as it may have arising under the Miller-Tydings Act and the McGuire Act.

VIII

Nothing contained in this Final Judgment shall be deemed to prohibit the defendant from complying with requirements imposed upon it by State or local law or by any governmental agency or instrumentality acting pursuant to State or local law.

IX

For a period of five (5) years following the date of the entry of this Final Judgment, defendant is ordered and directed to furnish simultaneously with each sealed bid and sealed quotation (other than a bid or quotation for a sale which will involve less than $100) submitted by it to any customer for the sale of books, other than textbooks, a written certification by the official of defendant having authority to determine the price or prices bid or quoted that said bid or quotation was not the result, directly or indirectly, of any agreement, understanding, plan, or program between defendant and any other person.

X

For the purpose of securing compliance with this Final Judgment, and for no other purpose, duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to defendant (which may have counsel present), made through its principal office, be permitted, subject to any legally recognized privilege, (1) access during reasonable office hours to all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of the defendant relating to any of the subject matters contained in this Final Judgment, and (2) subject to the reasonable convenience of 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; and upon such request, defendant shall submit such reports in writing, under oath if so requested, to the Department of Justice with respect to any of the matters contained in this Final Judgment as may from time to time be requested for the enforcement of this Final Judgment. No information obtained by the means provided in this Section X shall be divulged by any representative of the Department of Justice to any person, other than a duly authorized representative of the Executive Branch of plaintiff, except in the course of legal proceedings to which the United States of America is a party for the purpose of securing compliance with this Final Judgment or as otherwise required by law.

Any such information evidencing a violation of this Final Judgment which adversely affects the interest of any State or local governmental agency or instrumentality shall be retained by plaintiff for a period of one (1) year from the time when it is obtained and shall be treated as impounded subject to further order of this Court which, on motion and notice to the parties and a showing of good cause by the principal law officer of any State or local

governmental agency or instrumentality, may order disclosure to such officer of any part or all of such information as the Court deems proper for use by such agency or instrumentality preliminarily to or in connection with an action under the federal antitrust laws.

XI

Jurisdiction is retained for the purpose of enabling either 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 or for the modification or termination of any of the provisions thereof, and for the enforcement of compliance therewith and punishment of violations thereof.

Final Judgments as to The Bobbs-Merrill Co,, Inc., Childrens Press, Inc., Thomas Y. Crowell Co., Dodd, Mead & Co., Inc., E. P. Dutton & Co., Inc., Golden Press, Inc., Grosset & Dunlap, Inc., Holt, Rinehart and Winston, Inc., Little, Brown & Co., Inc., The Macmillan Co., William Morrow & Co., Inc., G. P. Putnam's Sons, Random House, Inc., Charles Scribner's Sons, The Viking Press, Inc., Henry Z. Walck, Inc., and Franklin Watts, Inc.

The judgments are the same as in Harper & Row, Publishers, Inc., above (Case No. 1933, Civil Action No. 67C 612), except for (1) the use of the phrase “defendant having appeared herein” in lieu of “defendant having filed its answer thereto denying the substantive allegations thereof” in the introductory paragraph of the Little, Brown & Co., Inc. and Franklin Watts, Inc. judgments, (2) the substitution of the name of the defendant and its state of incorporation (see below in paragraph 11(A), and (3) the substitution of the dates in paragraphs V and VI(F) as follows:

Case No.	Civil Action No.	Defendant	Par. IIA	Par. V	Par. VI(F)
1934	67 C 613	The Bobbs-Merrill Co., Inc.	Indiana	Jan. 1, 1968	June 30, 1968
1935	67 C 614	Childrens Press, Inc.	Illinois	Nov. 30, 1967	Aug. 15, 1968
1936	67 C 615	Thomas Y. Crowell Co.	New York	June 30, 1968	Jan. 1, 1968
1937	67 C 616	Dodd, Mead & Co., Inc.	New York	Sept. 22, 1968	Sept. 22, 1968
1938	67 C 617	E. P. Dutton & Co., Inc.	New York	Sept. 1, 1968	Sept. 1, 1968
1939	67 C 618	Golden Press, Inc.	New York	Dec. 31, 1967	June 30, 1968
1940	67 C 619	Grosset & Dunlap, Inc.	New York	Jan. 1, 1968	Jan. 1, 1968
1941	67 C 620	Holt, Rinehart and Winston, Inc.	New York	Sept. 30, 1968	Sept. 30, 1968
1942	67 C 621	Little, Brown & Co., Inc.	Massachusetts	July 1, 1968	July 1, 1968
1943	67 C 622	The Macmillan Co.	Delaware	Oct. 31, 1968	Oct. 31, 1968
1944	67 C 623	William Morrow & Co., Inc.	New York	Apr. 30. 1968	Apr. 30, 1968
1945	67 C 624	G. P. Putnam's Sons	New York	Feb. 29, 1968	Feb. 29, 1968
1946	67 C 625	Random House, Inc.	New York	June 30, 1968	June 30, 1968
1947	67 C 626	Charles Scribner's Sons	New York	Aug. 1, 1968	Aug. 1, 1968
1948	67 C 627	The Viking Press, Inc.	New York	Aug. 31. 1968	Aug. 31, 1968
1949	67 C 628	Henry Z. Walck, Inc.	New York	Sept. 30, 1968	Sept. 30. 1968
1950	67 C 629	Franklin Watts, Inc.	New York	Dec. 31, 1967	Dec. 31, 1967

United States v. Childrens Press, Inc.

Civil Action No. 67 C 614

Year Judgment Entered: 1967

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. Harper & Row, Publishers, Inc., The Bobbs-Merrill Co., Inc., Childrens Press, Inc., Thomas Y. Crowell Co., Dodd, Mead & Co., Inc., E. P. Dutton & Co., Inc., Golden Press, Inc., Grosset & Dunlap, Inc., Holt, Rinehart and Winston, Inc., Little, Brown & Co., Inc., The Macmillan Co., William Morrow & Co., Inc., G. P. Putnam's Sons, Random House, Inc., Charles Scribner's Sons, The Viking Press, Inc., Henry Z. Walck, Inc., and Franklin Watts, Inc., U.S. District Court, N.D. Illinois, 1967 Trade Cases ¶72,256, (Nov. 27, 1967)

Federal Antitrust Cases
Trade Regulation Reporter - Trade Cases (1932 - 1992) ¶72,256

United States v. Harper & Row, Publishers, Inc., The Bobbs-Merrill Co., Inc., Childrens Press, Inc., Thomas Y. Crowell Co., Dodd, Mead & Co., Inc., E. P. Dutton & Co., Inc., Golden Press, Inc., Grosset & Dunlap, Inc., Holt, Rinehart and Winston, Inc., Little, Brown & Co., Inc., The Macmillan Co., William Morrow & Co., Inc., G. P. Putnam's Sons, Random House, Inc., Charles Scribner's Sons, The Viking Press, Inc., Henry Z. Walck, Inc., and Franklin Watts, Inc.

1967 Trade Cases ¶72,256. U.S. District Court, N.D. Illinois, Eastern Division. Civil Action Nos. 67 C 612—67 C 629. Entered November 27, 1967. Case Nos. 1933—1950 in the Antitrust Division of the Department of Justice.

Headnote

Sherman Act

Resale Price Fixing—Children's Books—Consent Decrees.—Each of defendant book publishers, charged in separate suits with fixing the prices of library editions of children's books with its wholesalers, was prohibited by consent decrees from attempting to maintain the resale price of its books (without regard to rights under fair trade laws for a period of five years) and from entering into agreements with its wholesalers to fix the resale price of books or to submit rigged bids. In its final form, the decree (para. X) also required the Department of Justice, if it discovers violations of the decree affecting local governments, to retain the evidence for a year for use in damage suits.

For the plaintiff: Donald F. Turner, Assistant Attorney General, Baddia J. Rashid, Harry N. Burgess, John E. Sarbaugh, William T. Huyck, John Edward Burke, and David J. Berman, Attorneys, Department of Justice.

For the defendants: Ira M. Millstein and Donald J. Williamson, of Weil, Gotshal & Manges, New York, N. Y., for Harper & Row, Publishers, Inc., Charles Scribner's Sons, E. P. Dutton & Co., Inc., Henry Z. Walck, Inc., and Grosset & Dunlap, Inc.; W. Donald McSweeney and William A. Montgomery, of Schiff Hardin Waite Dorschel & Britton, Chicago, Ill., for G. P. Putnam's Sons, The Viking Press, Inc., and The Bobbs-Merrill Co., Inc.; Don H. Reuben and Fred H. Bartlit, Jr., of Kirkland, Ellis, Hodson, Chaffetz & Masters, Chicago, 111., for Childrens Press, Inc.; Of counsel: H. Templeton Brown, of Mayer, Friedlich, Spiess, Tierney, Brown & Piatt, Chicago, III, for Thomas Y. Crowell Co., Holt, Rinehart and Winston, Inc., and William Morrow & Co., Inc.; Of counsel: Leo Rosen, of Greenbaum, Wolff & Ernst, New York, N. Y., for Thomas Y. Crowell Co., and William Morrow & Co., Inc.; Harry Buchman, of Stern & Reubens, for Dodd, Mead & Co., Inc.; Samuel Weisbard, of McDermott, Will & Emery, Chicago, 111., for Golden Press, Inc.; Robert H. Davison, of Hausserman, Davison & Shattuck, Boston, Mass., for Little, Brown & Co., Inc.; Robert C. Keck, of Spray, Price, Hough & Cushman, Chicago, 111.,

for The Macmillan Co.; Albert E. Jenner, Jr. and Philip W. Tone, of Raymond, Mayer, Jenner & Block, Chicago, 111., and Bernard G. Segal, Edward W. Mullinix, and Arthur H. Kahn, of Schnader, Harrison, Segal & Lewis, Philadelphia, Pa., for Random House, Inc.; Of counsel: Earl A. Jinkinson and John W. Stack, of Winston, Strawn, Smith & Patterson, for Franklin Watts, Inc.

Final Judgment as to Harper & Row, Publishers, Inc (Civ. No. 67 C 612; Case No. 1933)

MAROVITZ, Judge: Plaintiff, United States of America, having filed its complaint herein on April 18, 1967, and defendant having filed its answer thereto denying the substantive allegations thereof, and plaintiff and defendant by their respective attorneys having consented to the making and entry of this Final Judgment without admission, by either party in respect to any issue;

Now, Therefore, before any testimony has been taken herein, without trial or adjudication of any issue of fact or law herein, and upon consent of the parties 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 hereto. The complaint states claims for relief against the defendant under Section 1 of the Act of Congress of July 2, 1890, entitled “An act to protect trade and commerce against unlawful restraints and monopolies,” commonly known as the Sherman Act, as amended.

II

As used herein:

(A) “Defendant” means the defendant Harper & Row Publishers, Inc., a corporation organized and existing under the laws of Illinois and each of its domestic subsidiaries and each of its foreign subsidiaries when doing business through or with any reseller in the United States;

(B) “Person” means any individual, corporation, partnership, firm or other legal entity and includes wherever applicable any Federal, State or local or other governmental agency or instrumentality thereof;

(C) Customer” means any school, library or governmental agency or instrumentality thereof;

(D) “Reseller” means any person who is engaged in the business of buying books for resale and includes any such person when acting as an agent or consignee of defendant; and

(E) Solely for purposes of Section VII(A) and (B), the term “any person engaged in the resale of books purchased from defendant” shall not be deemed to include the national distributor of paperbacks who functions as defendant's sole national distributor.

III

The provisions of this Final Judgment applicable to the defendant shall also apply to each of its officers, directors, agents and employees and to each of its successors and assigns, and to all other persons in active concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise. This Final Judgment shall not apply to sales for use outside the United States, except for sales to or for the use of the plaintiff or any instrumentality or agency thereof.

IV

Defendant is ordered and directed:

(A) Within ninety (90) days after entry of this Final Judgment, to mail a copy thereof to each of its currently active wholesale accounts which sells to customers; for a period of five (5) years after such entry to mail a copy to

each such additional wholesale account to whom it sells books; and to maintain for such five (5) year period a complete list of all such wholesale accounts to whom defendant has so mailed copies;

(B) To issue a written statement to the effect that this Final Judgment prohibits the defendant from fixing, determining, dictating, approving or disapproving the customers to whom or the prices at which any reseller may sell or advertise defendant's books to any school, library or governmental agency or instrumentality, the statement to be circulated by either one of the following means:

(1) By mailing, within six (6) months after entry of this Final Judgment, to the currently active list of schools, libraries and governmental agencies and instrumentalities to whom it mails catalogues; or

(2) By publication in an issue of School Library *Journal* published not later than two (2) months after entry of this Final Judgment.

(C) Within six (6) months after entry of this Final Judgment, to furnish plaintiff with a written statement of the form and manner of compliance with the provisions of subsection (B) of this Section IV;

(D) For a period of one (1) year after entry of this Final Judgment, to furnish a copy thereof to any school, library or governmental agency or instrumentality requesting it.

V

For a period of five (5) years after the date set forth in this Section V, defendant is enjoined and restrained, in connection with the pricing of its books, except textbooks, from directly or indirectly, in any manner, using the words “net” or “net price” in or on such books or in any catalogue, price list, circular or other bulletin when referring to such books; provided, however, that this Section V shall not apply to any now-existing copies of such catalogues, price lists, circulars or other bulletins until July 1, 1968 or to now-existing copies of such books.

VI

Defendant is enjoined and restrained from, directly or indirectly, in any manner:

(A) Fixing, determining, dictating, approving, disapproving, or policing the customers to whom, or the prices or related terms and conditions of sale at or upon which any reseller may have sold, sells, advertises or offers to sell any books to any customer;

(B) Suggesting (otherwise than by imprinting any price, without more, on a book or book jacket) to any reseller the prices or related terms and conditions of sale at which said reseller should sell, advertise or offer to sell any books to any customer;

(C) Hindering, restricting, limiting or preventing, or attempting to hinder, restrict, limit or prevent any reseller from advertising for sale, selling or offering to sell any books (1) to any customer or (2) to any customer at any price or related terms and conditions of sale individually determined by such reseller;

(D) So long as defendant sells books to resellers, refusing to sell or offer to sell or threatening to refuse to sell or offer to sell such books to, or coercing, or discriminating in the sale or shipment of any books to, any reseller because of the prices at which said reseller intends to sell or has sold any books to any customer;

(E) Inducing or suggesting to any reseller that such reseller refuse to deal with or discriminate against any third person with respect to the sale, distribution, purchase or shipment of any books to any customer; and

(F) Issuing or disseminating defendant's customer prices in any promotional material directed to resellers or in any price catalogues, lists, circulars or bulletins with respect to books sold by resellers unless such material contains a statement, in easily legible type, that any reseller is free to charge whatever price he wishes for defendant's books; provided, however, that this Section (F) shall not apply to any now-existing copies of such promotional material, catalogues, lists, circulars or bulletins until July 1, 1968.

Provided that, upon the expiration of a period of five (5) years following the date of entry of this Final Judgment, nothing contained in Section VI of this Final Judgment shall prohibit the defendant from lawfully exercising such rights, if any, or performing such obligations, if any, as it may have arising under the Miller-Tydings Act and the McGuire Act.

VII

In addition to the prohibitions of Section VI, above, defendant is enjoined and restrained from entering into, adhering to, maintaining, enforcing or claiming any rights under any contract, agreement, understanding, plan or program with any person engaged in the resale of books purchased from defendant to:

(A) Fix, establish, maintain or adhere to prices in the sale of its books to any third person;

(B) Refuse to sell its books to any third person because of the price or prices at which, or persons to whom such third person intends to sell, advertise, or display or may have sold, advertised or displayed such books;

(C) Submit collusive or rigged bids or quotes for supplying any of its books to any third person; or

(D) Bid or quote a specific price, or refrain from bidding or quoting, on any of its books to be sold to any third person;

Provided that, subject to Section VI of this Final Judgment, nothing contained in this Section VII shall prohibit the defendant from lawfully exercising such rights, if any, or performing such obligations, if any, as it may have arising under the Miller-Tydings Act and the McGuire Act.

VIII

Nothing contained in this Final Judgment shall be deemed to prohibit the defendant from complying with requirements imposed upon it by State or local law or by any governmental agency or instrumentality acting pursuant to State or local law.

IX

For a period of five (5) years following the date of the entry of this Final Judgment, defendant is ordered and directed to furnish simultaneously with each sealed bid and sealed quotation (other than a bid or quotation for a sale which will involve less than $100) submitted by it to any customer for the sale of books, other than textbooks, a written certification by the official of defendant having authority to determine the price or prices bid or quoted that said bid or quotation was not the result, directly or indirectly, of any agreement, understanding, plan, or program between defendant and any other person.

X

For the purpose of securing compliance with this Final Judgment, and for no other purpose, duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to defendant (which may have counsel present), made through its principal office, be permitted, subject to any legally recognized privilege, (1) access during reasonable office hours to all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of the defendant relating to any of the subject matters contained in this Final Judgment, and (2) subject to the reasonable convenience of 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; and upon such request, defendant shall submit such reports in writing, under oath if so requested, to the Department of Justice with respect to any of the matters contained in this Final Judgment as may from time to time be requested for the enforcement of this Final Judgment. No information obtained by the means provided in this Section X shall be divulged by any representative of the Department of Justice to any person, other than a duly authorized representative of the Executive Branch of plaintiff, except in the course of legal proceedings to which the United States of America is a party for the purpose of securing compliance with this Final Judgment or as otherwise required by law.

Any such information evidencing a violation of this Final Judgment which adversely affects the interest of any State or local governmental agency or instrumentality shall be retained by plaintiff for a period of one (1) year from the time when it is obtained and shall be treated as impounded subject to further order of this Court which, on motion and notice to the parties and a showing of good cause by the principal law officer of any State or local

governmental agency or instrumentality, may order disclosure to such officer of any part or all of such information as the Court deems proper for use by such agency or instrumentality preliminarily to or in connection with an action under the federal antitrust laws.

XI

Jurisdiction is retained for the purpose of enabling either 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 or for the modification or termination of any of the provisions thereof, and for the enforcement of compliance therewith and punishment of violations thereof.

Final Judgments as to The Bobbs-Merrill Co,, Inc., Childrens Press, Inc., Thomas Y. Crowell Co., Dodd, Mead & Co., Inc., E. P. Dutton & Co., Inc., Golden Press, Inc., Grosset & Dunlap, Inc., Holt, Rinehart and Winston, Inc., Little, Brown & Co., Inc., The Macmillan Co., William Morrow & Co., Inc., G. P. Putnam's Sons, Random House, Inc., Charles Scribner's Sons, The Viking Press, Inc., Henry Z. Walck, Inc., and Franklin Watts, Inc.

The judgments are the same as in Harper & Row, Publishers, Inc., above (Case No. 1933, Civil Action No. 67C 612), except for (1) the use of the phrase “defendant having appeared herein” in lieu of “defendant having filed its answer thereto denying the substantive allegations thereof” in the introductory paragraph of the Little, Brown & Co., Inc. and Franklin Watts, Inc. judgments, (2) the substitution of the name of the defendant and its state of incorporation (see below in paragraph 11(A), and (3) the substitution of the dates in paragraphs V and VI(F) as follows:

Case No.	Civil Action No.	Defendant	Par. IIA	Par. V	Par. VI(F)
1934	67 C 613	The Bobbs-Merrill Co., Inc.	Indiana	Jan. 1, 1968	June 30, 1968
1935	67 C 614	Childrens Press, Inc.	Illinois	Nov. 30, 1967	Aug. 15, 1968
1936	67 C 615	Thomas Y. Crowell Co.	New York	June 30, 1968	Jan. 1, 1968
1937	67 C 616	Dodd, Mead & Co., Inc.	New York	Sept. 22, 1968	Sept. 22, 1968
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1939	67 C 618	Golden Press, Inc.	New York	Dec. 31, 1967	June 30, 1968
1940	67 C 619	Grosset & Dunlap, Inc.	New York	Jan. 1, 1968	Jan. 1, 1968
1941	67 C 620	Holt, Rinehart and Winston, Inc.	New York	Sept. 30, 1968	Sept. 30, 1968
1942	67 C 621	Little, Brown & Co., Inc.	Massachusetts	July 1, 1968	July 1, 1968
1943	67 C 622	The Macmillan Co.	Delaware	Oct. 31, 1968	Oct. 31, 1968
1944	67 C 623	William Morrow & Co., Inc.	New York	Apr. 30. 1968	Apr. 30, 1968
1945	67 C 624	G. P. Putnam's Sons	New York	Feb. 29, 1968	Feb. 29, 1968
1946	67 C 625	Random House, Inc.	New York	June 30, 1968	June 30, 1968
1947	67 C 626	Charles Scribner's Sons	New York	Aug. 1, 1968	Aug. 1, 1968
1948	67 C 627	The Viking Press, Inc.	New York	Aug. 31. 1968	Aug. 31, 1968
1949	67 C 628	Henry Z. Walck, Inc.	New York	Sept. 30, 1968	Sept. 30. 1968
1950	67 C 629	Franklin Watts, Inc.	New York	Dec. 31, 1967	Dec. 31, 1967

United States v. Thomas Y. Crowell Company

Civil Action No. 67 C 615

Year Judgment Entered: 1967

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. Harper & Row, Publishers, Inc., The Bobbs-Merrill Co., Inc., Childrens Press, Inc., Thomas Y. Crowell Co., Dodd, Mead & Co., Inc., E. P. Dutton & Co., Inc., Golden Press, Inc., Grosset & Dunlap, Inc., Holt, Rinehart and Winston, Inc., Little, Brown & Co., Inc., The Macmillan Co., William Morrow & Co., Inc., G. P. Putnam's Sons, Random House, Inc., Charles Scribner's Sons, The Viking Press, Inc., Henry Z. Walck, Inc., and Franklin Watts, Inc., U.S. District Court, N.D. Illinois, 1967 Trade Cases ¶72,256, (Nov. 27, 1967)

Federal Antitrust Cases
Trade Regulation Reporter - Trade Cases (1932 - 1992) ¶72,256

United States v. Harper & Row, Publishers, Inc., The Bobbs-Merrill Co., Inc., Childrens Press, Inc., Thomas Y. Crowell Co., Dodd, Mead & Co., Inc., E. P. Dutton & Co., Inc., Golden Press, Inc., Grosset & Dunlap, Inc., Holt, Rinehart and Winston, Inc., Little, Brown & Co., Inc., The Macmillan Co., William Morrow & Co., Inc., G. P. Putnam's Sons, Random House, Inc., Charles Scribner's Sons, The Viking Press, Inc., Henry Z. Walck, Inc., and Franklin Watts, Inc.

1967 Trade Cases ¶72,256. U.S. District Court, N.D. Illinois, Eastern Division. Civil Action Nos. 67 C 612—67 C 629. Entered November 27, 1967. Case Nos. 1933—1950 in the Antitrust Division of the Department of Justice.

Headnote

Sherman Act

Resale Price Fixing—Children's Books—Consent Decrees.—Each of defendant book publishers, charged in separate suits with fixing the prices of library editions of children's books with its wholesalers, was prohibited by consent decrees from attempting to maintain the resale price of its books (without regard to rights under fair trade laws for a period of five years) and from entering into agreements with its wholesalers to fix the resale price of books or to submit rigged bids. In its final form, the decree (para. X) also required the Department of Justice, if it discovers violations of the decree affecting local governments, to retain the evidence for a year for use in damage suits.

For the plaintiff: Donald F. Turner, Assistant Attorney General, Baddia J. Rashid, Harry N. Burgess, John E. Sarbaugh, William T. Huyck, John Edward Burke, and David J. Berman, Attorneys, Department of Justice.

For the defendants: Ira M. Millstein and Donald J. Williamson, of Weil, Gotshal & Manges, New York, N. Y., for Harper & Row, Publishers, Inc., Charles Scribner's Sons, E. P. Dutton & Co., Inc., Henry Z. Walck, Inc., and Grosset & Dunlap, Inc.; W. Donald McSweeney and William A. Montgomery, of Schiff Hardin Waite Dorschel & Britton, Chicago, Ill., for G. P. Putnam's Sons, The Viking Press, Inc., and The Bobbs-Merrill Co., Inc.; Don H. Reuben and Fred H. Bartlit, Jr., of Kirkland, Ellis, Hodson, Chaffetz & Masters, Chicago, 111., for Childrens Press, Inc.; Of counsel: H. Templeton Brown, of Mayer, Friedlich, Spiess, Tierney, Brown & Piatt, Chicago, III, for Thomas Y. Crowell Co., Holt, Rinehart and Winston, Inc., and William Morrow & Co., Inc.; Of counsel: Leo Rosen, of Greenbaum, Wolff & Ernst, New York, N. Y., for Thomas Y. Crowell Co., and William Morrow & Co., Inc.; Harry Buchman, of Stern & Reubens, for Dodd, Mead & Co., Inc.; Samuel Weisbard, of McDermott, Will & Emery, Chicago, 111., for Golden Press, Inc.; Robert H. Davison, of Hausserman, Davison & Shattuck, Boston, Mass., for Little, Brown & Co., Inc.; Robert C. Keck, of Spray, Price, Hough & Cushman, Chicago, 111.,

for The Macmillan Co.; Albert E. Jenner, Jr. and Philip W. Tone, of Raymond, Mayer, Jenner & Block, Chicago, 111., and Bernard G. Segal, Edward W. Mullinix, and Arthur H. Kahn, of Schnader, Harrison, Segal & Lewis, Philadelphia, Pa., for Random House, Inc.; Of counsel: Earl A. Jinkinson and John W. Stack, of Winston, Strawn, Smith & Patterson, for Franklin Watts, Inc.

Final Judgment as to Harper & Row, Publishers, Inc (Civ. No. 67 C 612; Case No. 1933)

MAROVITZ, Judge: Plaintiff, United States of America, having filed its complaint herein on April 18, 1967, and defendant having filed its answer thereto denying the substantive allegations thereof, and plaintiff and defendant by their respective attorneys having consented to the making and entry of this Final Judgment without admission, by either party in respect to any issue;

Now, Therefore, before any testimony has been taken herein, without trial or adjudication of any issue of fact or law herein, and upon consent of the parties 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 hereto. The complaint states claims for relief against the defendant under Section 1 of the Act of Congress of July 2, 1890, entitled “An act to protect trade and commerce against unlawful restraints and monopolies,” commonly known as the Sherman Act, as amended.

II

As used herein:

(A) “Defendant” means the defendant Harper & Row Publishers, Inc., a corporation organized and existing under the laws of Illinois and each of its domestic subsidiaries and each of its foreign subsidiaries when doing business through or with any reseller in the United States;

(B) “Person” means any individual, corporation, partnership, firm or other legal entity and includes wherever applicable any Federal, State or local or other governmental agency or instrumentality thereof;

(C) Customer” means any school, library or governmental agency or instrumentality thereof;

(D) “Reseller” means any person who is engaged in the business of buying books for resale and includes any such person when acting as an agent or consignee of defendant; and

(E) Solely for purposes of Section VII(A) and (B), the term “any person engaged in the resale of books purchased from defendant” shall not be deemed to include the national distributor of paperbacks who functions as defendant's sole national distributor.

III

The provisions of this Final Judgment applicable to the defendant shall also apply to each of its officers, directors, agents and employees and to each of its successors and assigns, and to all other persons in active concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise. This Final Judgment shall not apply to sales for use outside the United States, except for sales to or for the use of the plaintiff or any instrumentality or agency thereof.

IV

Defendant is ordered and directed:

(A) Within ninety (90) days after entry of this Final Judgment, to mail a copy thereof to each of its currently active wholesale accounts which sells to customers; for a period of five (5) years after such entry to mail a copy to

each such additional wholesale account to whom it sells books; and to maintain for such five (5) year period a complete list of all such wholesale accounts to whom defendant has so mailed copies;

(B) To issue a written statement to the effect that this Final Judgment prohibits the defendant from fixing, determining, dictating, approving or disapproving the customers to whom or the prices at which any reseller may sell or advertise defendant's books to any school, library or governmental agency or instrumentality, the statement to be circulated by either one of the following means:

(1) By mailing, within six (6) months after entry of this Final Judgment, to the currently active list of schools, libraries and governmental agencies and instrumentalities to whom it mails catalogues; or

(2) By publication in an issue of School Library *Journal* published not later than two (2) months after entry of this Final Judgment.

(C) Within six (6) months after entry of this Final Judgment, to furnish plaintiff with a written statement of the form and manner of compliance with the provisions of subsection (B) of this Section IV;

(D) For a period of one (1) year after entry of this Final Judgment, to furnish a copy thereof to any school, library or governmental agency or instrumentality requesting it.

V

For a period of five (5) years after the date set forth in this Section V, defendant is enjoined and restrained, in connection with the pricing of its books, except textbooks, from directly or indirectly, in any manner, using the words “net” or “net price” in or on such books or in any catalogue, price list, circular or other bulletin when referring to such books; provided, however, that this Section V shall not apply to any now-existing copies of such catalogues, price lists, circulars or other bulletins until July 1, 1968 or to now-existing copies of such books.

VI

Defendant is enjoined and restrained from, directly or indirectly, in any manner:

(A) Fixing, determining, dictating, approving, disapproving, or policing the customers to whom, or the prices or related terms and conditions of sale at or upon which any reseller may have sold, sells, advertises or offers to sell any books to any customer;

(B) Suggesting (otherwise than by imprinting any price, without more, on a book or book jacket) to any reseller the prices or related terms and conditions of sale at which said reseller should sell, advertise or offer to sell any books to any customer;

(C) Hindering, restricting, limiting or preventing, or attempting to hinder, restrict, limit or prevent any reseller from advertising for sale, selling or offering to sell any books (1) to any customer or (2) to any customer at any price or related terms and conditions of sale individually determined by such reseller;

(D) So long as defendant sells books to resellers, refusing to sell or offer to sell or threatening to refuse to sell or offer to sell such books to, or coercing, or discriminating in the sale or shipment of any books to, any reseller because of the prices at which said reseller intends to sell or has sold any books to any customer;

(E) Inducing or suggesting to any reseller that such reseller refuse to deal with or discriminate against any third person with respect to the sale, distribution, purchase or shipment of any books to any customer; and

(F) Issuing or disseminating defendant's customer prices in any promotional material directed to resellers or in any price catalogues, lists, circulars or bulletins with respect to books sold by resellers unless such material contains a statement, in easily legible type, that any reseller is free to charge whatever price he wishes for defendant's books; provided, however, that this Section (F) shall not apply to any now-existing copies of such promotional material, catalogues, lists, circulars or bulletins until July 1, 1968.

Provided that, upon the expiration of a period of five (5) years following the date of entry of this Final Judgment, nothing contained in Section VI of this Final Judgment shall prohibit the defendant from lawfully exercising such rights, if any, or performing such obligations, if any, as it may have arising under the Miller-Tydings Act and the McGuire Act.

VII

In addition to the prohibitions of Section VI, above, defendant is enjoined and restrained from entering into, adhering to, maintaining, enforcing or claiming any rights under any contract, agreement, understanding, plan or program with any person engaged in the resale of books purchased from defendant to:

(A) Fix, establish, maintain or adhere to prices in the sale of its books to any third person;

(B) Refuse to sell its books to any third person because of the price or prices at which, or persons to whom such third person intends to sell, advertise, or display or may have sold, advertised or displayed such books;

(C) Submit collusive or rigged bids or quotes for supplying any of its books to any third person; or

(D) Bid or quote a specific price, or refrain from bidding or quoting, on any of its books to be sold to any third person;

Provided that, subject to Section VI of this Final Judgment, nothing contained in this Section VII shall prohibit the defendant from lawfully exercising such rights, if any, or performing such obligations, if any, as it may have arising under the Miller-Tydings Act and the McGuire Act.

VIII

Nothing contained in this Final Judgment shall be deemed to prohibit the defendant from complying with requirements imposed upon it by State or local law or by any governmental agency or instrumentality acting pursuant to State or local law.

IX

For a period of five (5) years following the date of the entry of this Final Judgment, defendant is ordered and directed to furnish simultaneously with each sealed bid and sealed quotation (other than a bid or quotation for a sale which will involve less than $100) submitted by it to any customer for the sale of books, other than textbooks, a written certification by the official of defendant having authority to determine the price or prices bid or quoted that said bid or quotation was not the result, directly or indirectly, of any agreement, understanding, plan, or program between defendant and any other person.

X

For the purpose of securing compliance with this Final Judgment, and for no other purpose, duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to defendant (which may have counsel present), made through its principal office, be permitted, subject to any legally recognized privilege, (1) access during reasonable office hours to all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of the defendant relating to any of the subject matters contained in this Final Judgment, and (2) subject to the reasonable convenience of 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; and upon such request, defendant shall submit such reports in writing, under oath if so requested, to the Department of Justice with respect to any of the matters contained in this Final Judgment as may from time to time be requested for the enforcement of this Final Judgment. No information obtained by the means provided in this Section X shall be divulged by any representative of the Department of Justice to any person, other than a duly authorized representative of the Executive Branch of plaintiff, except in the course of legal proceedings to which the United States of America is a party for the purpose of securing compliance with this Final Judgment or as otherwise required by law.

Any such information evidencing a violation of this Final Judgment which adversely affects the interest of any State or local governmental agency or instrumentality shall be retained by plaintiff for a period of one (1) year from the time when it is obtained and shall be treated as impounded subject to further order of this Court which, on motion and notice to the parties and a showing of good cause by the principal law officer of any State or local

governmental agency or instrumentality, may order disclosure to such officer of any part or all of such information as the Court deems proper for use by such agency or instrumentality preliminarily to or in connection with an action under the federal antitrust laws.

XI

Jurisdiction is retained for the purpose of enabling either 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 or for the modification or termination of any of the provisions thereof, and for the enforcement of compliance therewith and punishment of violations thereof.

Final Judgments as to The Bobbs-Merrill Co,, Inc., Childrens Press, Inc., Thomas Y. Crowell Co., Dodd, Mead & Co., Inc., E. P. Dutton & Co., Inc., Golden Press, Inc., Grosset & Dunlap, Inc., Holt, Rinehart and Winston, Inc., Little, Brown & Co., Inc., The Macmillan Co., William Morrow & Co., Inc., G. P. Putnam's Sons, Random House, Inc., Charles Scribner's Sons, The Viking Press, Inc., Henry Z. Walck, Inc., and Franklin Watts, Inc.

The judgments are the same as in Harper & Row, Publishers, Inc., above (Case No. 1933, Civil Action No. 67C 612), except for (1) the use of the phrase “defendant having appeared herein” in lieu of “defendant having filed its answer thereto denying the substantive allegations thereof” in the introductory paragraph of the Little, Brown & Co., Inc. and Franklin Watts, Inc. judgments, (2) the substitution of the name of the defendant and its state of incorporation (see below in paragraph 11(A), and (3) the substitution of the dates in paragraphs V and VI(F) as follows:

Case No.	Civil Action No.	Defendant	Par. IIA	Par. V	Par. VI(F)
1934	67 C 613	The Bobbs-Merrill Co., Inc.	Indiana	Jan. 1, 1968	June 30, 1968
1935	67 C 614	Childrens Press, Inc.	Illinois	Nov. 30, 1967	Aug. 15, 1968
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1937	67 C 616	Dodd, Mead & Co., Inc.	New York	Sept. 22, 1968	Sept. 22, 1968
1938	67 C 617	E. P. Dutton & Co., Inc.	New York	Sept. 1, 1968	Sept. 1, 1968
1939	67 C 618	Golden Press, Inc.	New York	Dec. 31, 1967	June 30, 1968
1940	67 C 619	Grosset & Dunlap, Inc.	New York	Jan. 1, 1968	Jan. 1, 1968
1941	67 C 620	Holt, Rinehart and Winston, Inc.	New York	Sept. 30, 1968	Sept. 30, 1968
1942	67 C 621	Little, Brown & Co., Inc.	Massachusetts	July 1, 1968	July 1, 1968
1943	67 C 622	The Macmillan Co.	Delaware	Oct. 31, 1968	Oct. 31, 1968
1944	67 C 623	William Morrow & Co., Inc.	New York	Apr. 30. 1968	Apr. 30, 1968
1945	67 C 624	G. P. Putnam's Sons	New York	Feb. 29, 1968	Feb. 29, 1968
1946	67 C 625	Random House, Inc.	New York	June 30, 1968	June 30, 1968
1947	67 C 626	Charles Scribner's Sons	New York	Aug. 1, 1968	Aug. 1, 1968
1948	67 C 627	The Viking Press, Inc.	New York	Aug. 31. 1968	Aug. 31, 1968
1949	67 C 628	Henry Z. Walck, Inc.	New York	Sept. 30, 1968	Sept. 30. 1968
1950	67 C 629	Franklin Watts, Inc.	New York	Dec. 31, 1967	Dec. 31, 1967

United States v. Dodd, Mead & Company, Inc.

Civil Action No. 67 C 616

Year Judgment Entered: 1967

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. Harper & Row, Publishers, Inc., The Bobbs-Merrill Co., Inc., Childrens Press, Inc., Thomas Y. Crowell Co., Dodd, Mead & Co., Inc., E. P. Dutton & Co., Inc., Golden Press, Inc., Grosset & Dunlap, Inc., Holt, Rinehart and Winston, Inc., Little, Brown & Co., Inc., The Macmillan Co., William Morrow & Co., Inc., G. P. Putnam's Sons, Random House, Inc., Charles Scribner's Sons, The Viking Press, Inc., Henry Z. Walck, Inc., and Franklin Watts, Inc., U.S. District Court, N.D. Illinois, 1967 Trade Cases ¶72,256, (Nov. 27, 1967)

Federal Antitrust Cases
Trade Regulation Reporter - Trade Cases (1932 - 1992) ¶72,256

United States v. Harper & Row, Publishers, Inc., The Bobbs-Merrill Co., Inc., Childrens Press, Inc., Thomas Y. Crowell Co., Dodd, Mead & Co., Inc., E. P. Dutton & Co., Inc., Golden Press, Inc., Grosset & Dunlap, Inc., Holt, Rinehart and Winston, Inc., Little, Brown & Co., Inc., The Macmillan Co., William Morrow & Co., Inc., G. P. Putnam's Sons, Random House, Inc., Charles Scribner's Sons, The Viking Press, Inc., Henry Z. Walck, Inc., and Franklin Watts, Inc.

1967 Trade Cases ¶72,256. U.S. District Court, N.D. Illinois, Eastern Division. Civil Action Nos. 67 C 612—67 C 629. Entered November 27, 1967. Case Nos. 1933—1950 in the Antitrust Division of the Department of Justice.

Headnote

Sherman Act

Resale Price Fixing—Children's Books—Consent Decrees.—Each of defendant book publishers, charged in separate suits with fixing the prices of library editions of children's books with its wholesalers, was prohibited by consent decrees from attempting to maintain the resale price of its books (without regard to rights under fair trade laws for a period of five years) and from entering into agreements with its wholesalers to fix the resale price of books or to submit rigged bids. In its final form, the decree (para. X) also required the Department of Justice, if it discovers violations of the decree affecting local governments, to retain the evidence for a year for use in damage suits.

For the plaintiff: Donald F. Turner, Assistant Attorney General, Baddia J. Rashid, Harry N. Burgess, John E. Sarbaugh, William T. Huyck, John Edward Burke, and David J. Berman, Attorneys, Department of Justice.

For the defendants: Ira M. Millstein and Donald J. Williamson, of Weil, Gotshal & Manges, New York, N. Y., for Harper & Row, Publishers, Inc., Charles Scribner's Sons, E. P. Dutton & Co., Inc., Henry Z. Walck, Inc., and Grosset & Dunlap, Inc.; W. Donald McSweeney and William A. Montgomery, of Schiff Hardin Waite Dorschel & Britton, Chicago, Ill., for G. P. Putnam's Sons, The Viking Press, Inc., and The Bobbs-Merrill Co., Inc.; Don H. Reuben and Fred H. Bartlit, Jr., of Kirkland, Ellis, Hodson, Chaffetz & Masters, Chicago, 111., for Childrens Press, Inc.; Of counsel: H. Templeton Brown, of Mayer, Friedlich, Spiess, Tierney, Brown & Piatt, Chicago, III, for Thomas Y. Crowell Co., Holt, Rinehart and Winston, Inc., and William Morrow & Co., Inc.; Of counsel: Leo Rosen, of Greenbaum, Wolff & Ernst, New York, N. Y., for Thomas Y. Crowell Co., and William Morrow & Co., Inc.; Harry Buchman, of Stern & Reubens, for Dodd, Mead & Co., Inc.; Samuel Weisbard, of McDermott, Will & Emery, Chicago, 111., for Golden Press, Inc.; Robert H. Davison, of Hausserman, Davison & Shattuck, Boston, Mass., for Little, Brown & Co., Inc.; Robert C. Keck, of Spray, Price, Hough & Cushman, Chicago, 111.,

for The Macmillan Co.; Albert E. Jenner, Jr. and Philip W. Tone, of Raymond, Mayer, Jenner & Block, Chicago, 111., and Bernard G. Segal, Edward W. Mullinix, and Arthur H. Kahn, of Schnader, Harrison, Segal & Lewis, Philadelphia, Pa., for Random House, Inc.; Of counsel: Earl A. Jinkinson and John W. Stack, of Winston, Strawn, Smith & Patterson, for Franklin Watts, Inc.

Final Judgment as to Harper & Row, Publishers, Inc (Civ. No. 67 C 612; Case No. 1933)

MAROVITZ, Judge: Plaintiff, United States of America, having filed its complaint herein on April 18, 1967, and defendant having filed its answer thereto denying the substantive allegations thereof, and plaintiff and defendant by their respective attorneys having consented to the making and entry of this Final Judgment without admission, by either party in respect to any issue;

Now, Therefore, before any testimony has been taken herein, without trial or adjudication of any issue of fact or law herein, and upon consent of the parties 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 hereto. The complaint states claims for relief against the defendant under Section 1 of the Act of Congress of July 2, 1890, entitled “An act to protect trade and commerce against unlawful restraints and monopolies,” commonly known as the Sherman Act, as amended.

II

As used herein:

(A) “Defendant” means the defendant Harper & Row Publishers, Inc., a corporation organized and existing under the laws of Illinois and each of its domestic subsidiaries and each of its foreign subsidiaries when doing business through or with any reseller in the United States;

(B) “Person” means any individual, corporation, partnership, firm or other legal entity and includes wherever applicable any Federal, State or local or other governmental agency or instrumentality thereof;

(C) Customer” means any school, library or governmental agency or instrumentality thereof;

(D) “Reseller” means any person who is engaged in the business of buying books for resale and includes any such person when acting as an agent or consignee of defendant; and

(E) Solely for purposes of Section VII(A) and (B), the term “any person engaged in the resale of books purchased from defendant” shall not be deemed to include the national distributor of paperbacks who functions as defendant's sole national distributor.

III

The provisions of this Final Judgment applicable to the defendant shall also apply to each of its officers, directors, agents and employees and to each of its successors and assigns, and to all other persons in active concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise. This Final Judgment shall not apply to sales for use outside the United States, except for sales to or for the use of the plaintiff or any instrumentality or agency thereof.

IV

Defendant is ordered and directed:

(A) Within ninety (90) days after entry of this Final Judgment, to mail a copy thereof to each of its currently active wholesale accounts which sells to customers; for a period of five (5) years after such entry to mail a copy to

each such additional wholesale account to whom it sells books; and to maintain for such five (5) year period a complete list of all such wholesale accounts to whom defendant has so mailed copies;

(B) To issue a written statement to the effect that this Final Judgment prohibits the defendant from fixing, determining, dictating, approving or disapproving the customers to whom or the prices at which any reseller may sell or advertise defendant's books to any school, library or governmental agency or instrumentality, the statement to be circulated by either one of the following means:

(1) By mailing, within six (6) months after entry of this Final Judgment, to the currently active list of schools, libraries and governmental agencies and instrumentalities to whom it mails catalogues; or

(2) By publication in an issue of School Library *Journal* published not later than two (2) months after entry of this Final Judgment.

(C) Within six (6) months after entry of this Final Judgment, to furnish plaintiff with a written statement of the form and manner of compliance with the provisions of subsection (B) of this Section IV;

(D) For a period of one (1) year after entry of this Final Judgment, to furnish a copy thereof to any school, library or governmental agency or instrumentality requesting it.

V

For a period of five (5) years after the date set forth in this Section V, defendant is enjoined and restrained, in connection with the pricing of its books, except textbooks, from directly or indirectly, in any manner, using the words “net” or “net price” in or on such books or in any catalogue, price list, circular or other bulletin when referring to such books; provided, however, that this Section V shall not apply to any now-existing copies of such catalogues, price lists, circulars or other bulletins until July 1, 1968 or to now-existing copies of such books.

VI

Defendant is enjoined and restrained from, directly or indirectly, in any manner:

(A) Fixing, determining, dictating, approving, disapproving, or policing the customers to whom, or the prices or related terms and conditions of sale at or upon which any reseller may have sold, sells, advertises or offers to sell any books to any customer;

(B) Suggesting (otherwise than by imprinting any price, without more, on a book or book jacket) to any reseller the prices or related terms and conditions of sale at which said reseller should sell, advertise or offer to sell any books to any customer;

(C) Hindering, restricting, limiting or preventing, or attempting to hinder, restrict, limit or prevent any reseller from advertising for sale, selling or offering to sell any books (1) to any customer or (2) to any customer at any price or related terms and conditions of sale individually determined by such reseller;

(D) So long as defendant sells books to resellers, refusing to sell or offer to sell or threatening to refuse to sell or offer to sell such books to, or coercing, or discriminating in the sale or shipment of any books to, any reseller because of the prices at which said reseller intends to sell or has sold any books to any customer;

(E) Inducing or suggesting to any reseller that such reseller refuse to deal with or discriminate against any third person with respect to the sale, distribution, purchase or shipment of any books to any customer; and

(F) Issuing or disseminating defendant's customer prices in any promotional material directed to resellers or in any price catalogues, lists, circulars or bulletins with respect to books sold by resellers unless such material contains a statement, in easily legible type, that any reseller is free to charge whatever price he wishes for defendant's books; provided, however, that this Section (F) shall not apply to any now-existing copies of such promotional material, catalogues, lists, circulars or bulletins until July 1, 1968.

Provided that, upon the expiration of a period of five (5) years following the date of entry of this Final Judgment, nothing contained in Section VI of this Final Judgment shall prohibit the defendant from lawfully exercising such rights, if any, or performing such obligations, if any, as it may have arising under the Miller-Tydings Act and the McGuire Act.

VII

In addition to the prohibitions of Section VI, above, defendant is enjoined and restrained from entering into, adhering to, maintaining, enforcing or claiming any rights under any contract, agreement, understanding, plan or program with any person engaged in the resale of books purchased from defendant to:

(A) Fix, establish, maintain or adhere to prices in the sale of its books to any third person;

(B) Refuse to sell its books to any third person because of the price or prices at which, or persons to whom such third person intends to sell, advertise, or display or may have sold, advertised or displayed such books;

(C) Submit collusive or rigged bids or quotes for supplying any of its books to any third person; or

(D) Bid or quote a specific price, or refrain from bidding or quoting, on any of its books to be sold to any third person;

Provided that, subject to Section VI of this Final Judgment, nothing contained in this Section VII shall prohibit the defendant from lawfully exercising such rights, if any, or performing such obligations, if any, as it may have arising under the Miller-Tydings Act and the McGuire Act.

VIII

Nothing contained in this Final Judgment shall be deemed to prohibit the defendant from complying with requirements imposed upon it by State or local law or by any governmental agency or instrumentality acting pursuant to State or local law.

IX

For a period of five (5) years following the date of the entry of this Final Judgment, defendant is ordered and directed to furnish simultaneously with each sealed bid and sealed quotation (other than a bid or quotation for a sale which will involve less than $100) submitted by it to any customer for the sale of books, other than textbooks, a written certification by the official of defendant having authority to determine the price or prices bid or quoted that said bid or quotation was not the result, directly or indirectly, of any agreement, understanding, plan, or program between defendant and any other person.

X

For the purpose of securing compliance with this Final Judgment, and for no other purpose, duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to defendant (which may have counsel present), made through its principal office, be permitted, subject to any legally recognized privilege, (1) access during reasonable office hours to all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of the defendant relating to any of the subject matters contained in this Final Judgment, and (2) subject to the reasonable convenience of 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; and upon such request, defendant shall submit such reports in writing, under oath if so requested, to the Department of Justice with respect to any of the matters contained in this Final Judgment as may from time to time be requested for the enforcement of this Final Judgment. No information obtained by the means provided in this Section X shall be divulged by any representative of the Department of Justice to any person, other than a duly authorized representative of the Executive Branch of plaintiff, except in the course of legal proceedings to which the United States of America is a party for the purpose of securing compliance with this Final Judgment or as otherwise required by law.

Any such information evidencing a violation of this Final Judgment which adversely affects the interest of any State or local governmental agency or instrumentality shall be retained by plaintiff for a period of one (1) year from the time when it is obtained and shall be treated as impounded subject to further order of this Court which, on motion and notice to the parties and a showing of good cause by the principal law officer of any State or local

governmental agency or instrumentality, may order disclosure to such officer of any part or all of such information as the Court deems proper for use by such agency or instrumentality preliminarily to or in connection with an action under the federal antitrust laws.

XI

Jurisdiction is retained for the purpose of enabling either 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 or for the modification or termination of any of the provisions thereof, and for the enforcement of compliance therewith and punishment of violations thereof.

Final Judgments as to The Bobbs-Merrill Co,, Inc., Childrens Press, Inc., Thomas Y. Crowell Co., Dodd, Mead & Co., Inc., E. P. Dutton & Co., Inc., Golden Press, Inc., Grosset & Dunlap, Inc., Holt, Rinehart and Winston, Inc., Little, Brown & Co., Inc., The Macmillan Co., William Morrow & Co., Inc., G. P. Putnam's Sons, Random House, Inc., Charles Scribner's Sons, The Viking Press, Inc., Henry Z. Walck, Inc., and Franklin Watts, Inc.

The judgments are the same as in Harper & Row, Publishers, Inc., above (Case No. 1933, Civil Action No. 67C 612), except for (1) the use of the phrase “defendant having appeared herein” in lieu of “defendant having filed its answer thereto denying the substantive allegations thereof” in the introductory paragraph of the Little, Brown & Co., Inc. and Franklin Watts, Inc. judgments, (2) the substitution of the name of the defendant and its state of incorporation (see below in paragraph 11(A), and (3) the substitution of the dates in paragraphs V and VI(F) as follows:

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1939	67 C 618	Golden Press, Inc.	New York	Dec. 31, 1967	June 30, 1968
1940	67 C 619	Grosset & Dunlap, Inc.	New York	Jan. 1, 1968	Jan. 1, 1968
1941	67 C 620	Holt, Rinehart and Winston, Inc.	New York	Sept. 30, 1968	Sept. 30, 1968
1942	67 C 621	Little, Brown & Co., Inc.	Massachusetts	July 1, 1968	July 1, 1968
1943	67 C 622	The Macmillan Co.	Delaware	Oct. 31, 1968	Oct. 31, 1968
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1947	67 C 626	Charles Scribner's Sons	New York	Aug. 1, 1968	Aug. 1, 1968
1948	67 C 627	The Viking Press, Inc.	New York	Aug. 31. 1968	Aug. 31, 1968
1949	67 C 628	Henry Z. Walck, Inc.	New York	Sept. 30, 1968	Sept. 30. 1968
1950	67 C 629	Franklin Watts, Inc.	New York	Dec. 31, 1967	Dec. 31, 1967

United States v. E. P. Dutton & Company, Inc.

Civil Action No. 67 C 617

Year Judgment Entered: 1967

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. Harper & Row, Publishers, Inc., The Bobbs-Merrill Co., Inc., Childrens Press, Inc., Thomas Y. Crowell Co., Dodd, Mead & Co., Inc., E. P. Dutton & Co., Inc., Golden Press, Inc., Grosset & Dunlap, Inc., Holt, Rinehart and Winston, Inc., Little, Brown & Co., Inc., The Macmillan Co., William Morrow & Co., Inc., G. P. Putnam's Sons, Random House, Inc., Charles Scribner's Sons, The Viking Press, Inc., Henry Z. Walck, Inc., and Franklin Watts, Inc., U.S. District Court, N.D. Illinois, 1967 Trade Cases ¶72,256, (Nov. 27, 1967)

Federal Antitrust Cases
Trade Regulation Reporter - Trade Cases (1932 - 1992) ¶72,256

United States v. Harper & Row, Publishers, Inc., The Bobbs-Merrill Co., Inc., Childrens Press, Inc., Thomas Y. Crowell Co., Dodd, Mead & Co., Inc., E. P. Dutton & Co., Inc., Golden Press, Inc., Grosset & Dunlap, Inc., Holt, Rinehart and Winston, Inc., Little, Brown & Co., Inc., The Macmillan Co., William Morrow & Co., Inc., G. P. Putnam's Sons, Random House, Inc., Charles Scribner's Sons, The Viking Press, Inc., Henry Z. Walck, Inc., and Franklin Watts, Inc.

1967 Trade Cases ¶72,256. U.S. District Court, N.D. Illinois, Eastern Division. Civil Action Nos. 67 C 612—67 C 629. Entered November 27, 1967. Case Nos. 1933—1950 in the Antitrust Division of the Department of Justice.

Headnote

Sherman Act

Resale Price Fixing—Children's Books—Consent Decrees.—Each of defendant book publishers, charged in separate suits with fixing the prices of library editions of children's books with its wholesalers, was prohibited by consent decrees from attempting to maintain the resale price of its books (without regard to rights under fair trade laws for a period of five years) and from entering into agreements with its wholesalers to fix the resale price of books or to submit rigged bids. In its final form, the decree (para. X) also required the Department of Justice, if it discovers violations of the decree affecting local governments, to retain the evidence for a year for use in damage suits.

For the plaintiff: Donald F. Turner, Assistant Attorney General, Baddia J. Rashid, Harry N. Burgess, John E. Sarbaugh, William T. Huyck, John Edward Burke, and David J. Berman, Attorneys, Department of Justice.

For the defendants: Ira M. Millstein and Donald J. Williamson, of Weil, Gotshal & Manges, New York, N. Y., for Harper & Row, Publishers, Inc., Charles Scribner's Sons, E. P. Dutton & Co., Inc., Henry Z. Walck, Inc., and Grosset & Dunlap, Inc.; W. Donald McSweeney and William A. Montgomery, of Schiff Hardin Waite Dorschel & Britton, Chicago, Ill., for G. P. Putnam's Sons, The Viking Press, Inc., and The Bobbs-Merrill Co., Inc.; Don H. Reuben and Fred H. Bartlit, Jr., of Kirkland, Ellis, Hodson, Chaffetz & Masters, Chicago, 111., for Childrens Press, Inc.; Of counsel: H. Templeton Brown, of Mayer, Friedlich, Spiess, Tierney, Brown & Piatt, Chicago, III, for Thomas Y. Crowell Co., Holt, Rinehart and Winston, Inc., and William Morrow & Co., Inc.; Of counsel: Leo Rosen, of Greenbaum, Wolff & Ernst, New York, N. Y., for Thomas Y. Crowell Co., and William Morrow & Co., Inc.; Harry Buchman, of Stern & Reubens, for Dodd, Mead & Co., Inc.; Samuel Weisbard, of McDermott, Will & Emery, Chicago, 111., for Golden Press, Inc.; Robert H. Davison, of Hausserman, Davison & Shattuck, Boston, Mass., for Little, Brown & Co., Inc.; Robert C. Keck, of Spray, Price, Hough & Cushman, Chicago, 111.,

for The Macmillan Co.; Albert E. Jenner, Jr. and Philip W. Tone, of Raymond, Mayer, Jenner & Block, Chicago, 111., and Bernard G. Segal, Edward W. Mullinix, and Arthur H. Kahn, of Schnader, Harrison, Segal & Lewis, Philadelphia, Pa., for Random House, Inc.; Of counsel: Earl A. Jinkinson and John W. Stack, of Winston, Strawn, Smith & Patterson, for Franklin Watts, Inc.

Final Judgment as to Harper & Row, Publishers, Inc (Civ. No. 67 C 612; Case No. 1933)

MAROVITZ, Judge: Plaintiff, United States of America, having filed its complaint herein on April 18, 1967, and defendant having filed its answer thereto denying the substantive allegations thereof, and plaintiff and defendant by their respective attorneys having consented to the making and entry of this Final Judgment without admission, by either party in respect to any issue;

Now, Therefore, before any testimony has been taken herein, without trial or adjudication of any issue of fact or law herein, and upon consent of the parties 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 hereto. The complaint states claims for relief against the defendant under Section 1 of the Act of Congress of July 2, 1890, entitled “An act to protect trade and commerce against unlawful restraints and monopolies,” commonly known as the Sherman Act, as amended.

II

As used herein:

(A) “Defendant” means the defendant Harper & Row Publishers, Inc., a corporation organized and existing under the laws of Illinois and each of its domestic subsidiaries and each of its foreign subsidiaries when doing business through or with any reseller in the United States;

(B) “Person” means any individual, corporation, partnership, firm or other legal entity and includes wherever applicable any Federal, State or local or other governmental agency or instrumentality thereof;

(C) Customer” means any school, library or governmental agency or instrumentality thereof;

(D) “Reseller” means any person who is engaged in the business of buying books for resale and includes any such person when acting as an agent or consignee of defendant; and

(E) Solely for purposes of Section VII(A) and (B), the term “any person engaged in the resale of books purchased from defendant” shall not be deemed to include the national distributor of paperbacks who functions as defendant's sole national distributor.

III

The provisions of this Final Judgment applicable to the defendant shall also apply to each of its officers, directors, agents and employees and to each of its successors and assigns, and to all other persons in active concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise. This Final Judgment shall not apply to sales for use outside the United States, except for sales to or for the use of the plaintiff or any instrumentality or agency thereof.

IV

Defendant is ordered and directed:

(A) Within ninety (90) days after entry of this Final Judgment, to mail a copy thereof to each of its currently active wholesale accounts which sells to customers; for a period of five (5) years after such entry to mail a copy to

each such additional wholesale account to whom it sells books; and to maintain for such five (5) year period a complete list of all such wholesale accounts to whom defendant has so mailed copies;

(B) To issue a written statement to the effect that this Final Judgment prohibits the defendant from fixing, determining, dictating, approving or disapproving the customers to whom or the prices at which any reseller may sell or advertise defendant's books to any school, library or governmental agency or instrumentality, the statement to be circulated by either one of the following means:

(1) By mailing, within six (6) months after entry of this Final Judgment, to the currently active list of schools, libraries and governmental agencies and instrumentalities to whom it mails catalogues; or

(2) By publication in an issue of School Library *Journal* published not later than two (2) months after entry of this Final Judgment.

(C) Within six (6) months after entry of this Final Judgment, to furnish plaintiff with a written statement of the form and manner of compliance with the provisions of subsection (B) of this Section IV;

(D) For a period of one (1) year after entry of this Final Judgment, to furnish a copy thereof to any school, library or governmental agency or instrumentality requesting it.

V

For a period of five (5) years after the date set forth in this Section V, defendant is enjoined and restrained, in connection with the pricing of its books, except textbooks, from directly or indirectly, in any manner, using the words “net” or “net price” in or on such books or in any catalogue, price list, circular or other bulletin when referring to such books; provided, however, that this Section V shall not apply to any now-existing copies of such catalogues, price lists, circulars or other bulletins until July 1, 1968 or to now-existing copies of such books.

VI

Defendant is enjoined and restrained from, directly or indirectly, in any manner:

(A) Fixing, determining, dictating, approving, disapproving, or policing the customers to whom, or the prices or related terms and conditions of sale at or upon which any reseller may have sold, sells, advertises or offers to sell any books to any customer;

(B) Suggesting (otherwise than by imprinting any price, without more, on a book or book jacket) to any reseller the prices or related terms and conditions of sale at which said reseller should sell, advertise or offer to sell any books to any customer;

(C) Hindering, restricting, limiting or preventing, or attempting to hinder, restrict, limit or prevent any reseller from advertising for sale, selling or offering to sell any books (1) to any customer or (2) to any customer at any price or related terms and conditions of sale individually determined by such reseller;

(D) So long as defendant sells books to resellers, refusing to sell or offer to sell or threatening to refuse to sell or offer to sell such books to, or coercing, or discriminating in the sale or shipment of any books to, any reseller because of the prices at which said reseller intends to sell or has sold any books to any customer;

(E) Inducing or suggesting to any reseller that such reseller refuse to deal with or discriminate against any third person with respect to the sale, distribution, purchase or shipment of any books to any customer; and

(F) Issuing or disseminating defendant's customer prices in any promotional material directed to resellers or in any price catalogues, lists, circulars or bulletins with respect to books sold by resellers unless such material contains a statement, in easily legible type, that any reseller is free to charge whatever price he wishes for defendant's books; provided, however, that this Section (F) shall not apply to any now-existing copies of such promotional material, catalogues, lists, circulars or bulletins until July 1, 1968.

Provided that, upon the expiration of a period of five (5) years following the date of entry of this Final Judgment, nothing contained in Section VI of this Final Judgment shall prohibit the defendant from lawfully exercising such rights, if any, or performing such obligations, if any, as it may have arising under the Miller-Tydings Act and the McGuire Act.

VII

In addition to the prohibitions of Section VI, above, defendant is enjoined and restrained from entering into, adhering to, maintaining, enforcing or claiming any rights under any contract, agreement, understanding, plan or program with any person engaged in the resale of books purchased from defendant to:

(A) Fix, establish, maintain or adhere to prices in the sale of its books to any third person;

(B) Refuse to sell its books to any third person because of the price or prices at which, or persons to whom such third person intends to sell, advertise, or display or may have sold, advertised or displayed such books;

(C) Submit collusive or rigged bids or quotes for supplying any of its books to any third person; or

(D) Bid or quote a specific price, or refrain from bidding or quoting, on any of its books to be sold to any third person;

Provided that, subject to Section VI of this Final Judgment, nothing contained in this Section VII shall prohibit the defendant from lawfully exercising such rights, if any, or performing such obligations, if any, as it may have arising under the Miller-Tydings Act and the McGuire Act.

VIII

Nothing contained in this Final Judgment shall be deemed to prohibit the defendant from complying with requirements imposed upon it by State or local law or by any governmental agency or instrumentality acting pursuant to State or local law.

IX

For a period of five (5) years following the date of the entry of this Final Judgment, defendant is ordered and directed to furnish simultaneously with each sealed bid and sealed quotation (other than a bid or quotation for a sale which will involve less than $100) submitted by it to any customer for the sale of books, other than textbooks, a written certification by the official of defendant having authority to determine the price or prices bid or quoted that said bid or quotation was not the result, directly or indirectly, of any agreement, understanding, plan, or program between defendant and any other person.

X

For the purpose of securing compliance with this Final Judgment, and for no other purpose, duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to defendant (which may have counsel present), made through its principal office, be permitted, subject to any legally recognized privilege, (1) access during reasonable office hours to all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of the defendant relating to any of the subject matters contained in this Final Judgment, and (2) subject to the reasonable convenience of 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; and upon such request, defendant shall submit such reports in writing, under oath if so requested, to the Department of Justice with respect to any of the matters contained in this Final Judgment as may from time to time be requested for the enforcement of this Final Judgment. No information obtained by the means provided in this Section X shall be divulged by any representative of the Department of Justice to any person, other than a duly authorized representative of the Executive Branch of plaintiff, except in the course of legal proceedings to which the United States of America is a party for the purpose of securing compliance with this Final Judgment or as otherwise required by law.

Any such information evidencing a violation of this Final Judgment which adversely affects the interest of any State or local governmental agency or instrumentality shall be retained by plaintiff for a period of one (1) year from the time when it is obtained and shall be treated as impounded subject to further order of this Court which, on motion and notice to the parties and a showing of good cause by the principal law officer of any State or local

governmental agency or instrumentality, may order disclosure to such officer of any part or all of such information as the Court deems proper for use by such agency or instrumentality preliminarily to or in connection with an action under the federal antitrust laws.

XI

Jurisdiction is retained for the purpose of enabling either 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 or for the modification or termination of any of the provisions thereof, and for the enforcement of compliance therewith and punishment of violations thereof.

Final Judgments as to The Bobbs-Merrill Co,, Inc., Childrens Press, Inc., Thomas Y. Crowell Co., Dodd, Mead & Co., Inc., E. P. Dutton & Co., Inc., Golden Press, Inc., Grosset & Dunlap, Inc., Holt, Rinehart and Winston, Inc., Little, Brown & Co., Inc., The Macmillan Co., William Morrow & Co., Inc., G. P. Putnam's Sons, Random House, Inc., Charles Scribner's Sons, The Viking Press, Inc., Henry Z. Walck, Inc., and Franklin Watts, Inc.

The judgments are the same as in Harper & Row, Publishers, Inc., above (Case No. 1933, Civil Action No. 67C 612), except for (1) the use of the phrase “defendant having appeared herein” in lieu of “defendant having filed its answer thereto denying the substantive allegations thereof” in the introductory paragraph of the Little, Brown & Co., Inc. and Franklin Watts, Inc. judgments, (2) the substitution of the name of the defendant and its state of incorporation (see below in paragraph 11(A), and (3) the substitution of the dates in paragraphs V and VI(F) as follows:

Case No.	Civil Action No.	Defendant	Par. IIA	Par. V	Par. VI(F)
1934	67 C 613	The Bobbs-Merrill Co., Inc.	Indiana	Jan. 1, 1968	June 30, 1968
1935	67 C 614	Childrens Press, Inc.	Illinois	Nov. 30, 1967	Aug. 15, 1968
1936	67 C 615	Thomas Y. Crowell Co.	New York	June 30, 1968	Jan. 1, 1968
1937	67 C 616	Dodd, Mead & Co., Inc.	New York	Sept. 22, 1968	Sept. 22, 1968
1938	67 C 617	E. P. Dutton & Co., Inc.	New York	Sept. 1, 1968	Sept. 1, 1968
1939	67 C 618	Golden Press, Inc.	New York	Dec. 31, 1967	June 30, 1968
1940	67 C 619	Grosset & Dunlap, Inc.	New York	Jan. 1, 1968	Jan. 1, 1968
1941	67 C 620	Holt, Rinehart and Winston, Inc.	New York	Sept. 30, 1968	Sept. 30, 1968
1942	67 C 621	Little, Brown & Co., Inc.	Massachusetts	July 1, 1968	July 1, 1968
1943	67 C 622	The Macmillan Co.	Delaware	Oct. 31, 1968	Oct. 31, 1968
1944	67 C 623	William Morrow & Co., Inc.	New York	Apr. 30. 1968	Apr. 30, 1968
1945	67 C 624	G. P. Putnam's Sons	New York	Feb. 29, 1968	Feb. 29, 1968
1946	67 C 625	Random House, Inc.	New York	June 30, 1968	June 30, 1968
1947	67 C 626	Charles Scribner's Sons	New York	Aug. 1, 1968	Aug. 1, 1968
1948	67 C 627	The Viking Press, Inc.	New York	Aug. 31. 1968	Aug. 31, 1968
1949	67 C 628	Henry Z. Walck, Inc.	New York	Sept. 30, 1968	Sept. 30. 1968
1950	67 C 629	Franklin Watts, Inc.	New York	Dec. 31, 1967	Dec. 31, 1967

United States v. Golden Press, Inc.

Civil Action No. 67 C 618

Year Judgment Entered: 1967

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. Harper & Row, Publishers, Inc., The Bobbs-Merrill Co., Inc., Childrens Press, Inc., Thomas Y. Crowell Co., Dodd, Mead & Co., Inc., E. P. Dutton & Co., Inc., Golden Press, Inc., Grosset & Dunlap, Inc., Holt, Rinehart and Winston, Inc., Little, Brown & Co., Inc., The Macmillan Co., William Morrow & Co., Inc., G. P. Putnam's Sons, Random House, Inc., Charles Scribner's Sons, The Viking Press, Inc., Henry Z. Walck, Inc., and Franklin Watts, Inc., U.S. District Court, N.D. Illinois, 1967 Trade Cases ¶72,256, (Nov. 27, 1967)

Federal Antitrust Cases
Trade Regulation Reporter - Trade Cases (1932 - 1992) ¶72,256

United States v. Harper & Row, Publishers, Inc., The Bobbs-Merrill Co., Inc., Childrens Press, Inc., Thomas Y. Crowell Co., Dodd, Mead & Co., Inc., E. P. Dutton & Co., Inc., Golden Press, Inc., Grosset & Dunlap, Inc., Holt, Rinehart and Winston, Inc., Little, Brown & Co., Inc., The Macmillan Co., William Morrow & Co., Inc., G. P. Putnam's Sons, Random House, Inc., Charles Scribner's Sons, The Viking Press, Inc., Henry Z. Walck, Inc., and Franklin Watts, Inc.

1967 Trade Cases ¶72,256. U.S. District Court, N.D. Illinois, Eastern Division. Civil Action Nos. 67 C 612—67 C 629. Entered November 27, 1967. Case Nos. 1933—1950 in the Antitrust Division of the Department of Justice.

Headnote

Sherman Act

Resale Price Fixing—Children's Books—Consent Decrees.—Each of defendant book publishers, charged in separate suits with fixing the prices of library editions of children's books with its wholesalers, was prohibited by consent decrees from attempting to maintain the resale price of its books (without regard to rights under fair trade laws for a period of five years) and from entering into agreements with its wholesalers to fix the resale price of books or to submit rigged bids. In its final form, the decree (para. X) also required the Department of Justice, if it discovers violations of the decree affecting local governments, to retain the evidence for a year for use in damage suits.

For the plaintiff: Donald F. Turner, Assistant Attorney General, Baddia J. Rashid, Harry N. Burgess, John E. Sarbaugh, William T. Huyck, John Edward Burke, and David J. Berman, Attorneys, Department of Justice.

For the defendants: Ira M. Millstein and Donald J. Williamson, of Weil, Gotshal & Manges, New York, N. Y., for Harper & Row, Publishers, Inc., Charles Scribner's Sons, E. P. Dutton & Co., Inc., Henry Z. Walck, Inc., and Grosset & Dunlap, Inc.; W. Donald McSweeney and William A. Montgomery, of Schiff Hardin Waite Dorschel & Britton, Chicago, Ill., for G. P. Putnam's Sons, The Viking Press, Inc., and The Bobbs-Merrill Co., Inc.; Don H. Reuben and Fred H. Bartlit, Jr., of Kirkland, Ellis, Hodson, Chaffetz & Masters, Chicago, 111., for Childrens Press, Inc.; Of counsel: H. Templeton Brown, of Mayer, Friedlich, Spiess, Tierney, Brown & Piatt, Chicago, III, for Thomas Y. Crowell Co., Holt, Rinehart and Winston, Inc., and William Morrow & Co., Inc.; Of counsel: Leo Rosen, of Greenbaum, Wolff & Ernst, New York, N. Y., for Thomas Y. Crowell Co., and William Morrow & Co., Inc.; Harry Buchman, of Stern & Reubens, for Dodd, Mead & Co., Inc.; Samuel Weisbard, of McDermott, Will & Emery, Chicago, 111., for Golden Press, Inc.; Robert H. Davison, of Hausserman, Davison & Shattuck, Boston, Mass., for Little, Brown & Co., Inc.; Robert C. Keck, of Spray, Price, Hough & Cushman, Chicago, 111.,

for The Macmillan Co.; Albert E. Jenner, Jr. and Philip W. Tone, of Raymond, Mayer, Jenner & Block, Chicago, 111., and Bernard G. Segal, Edward W. Mullinix, and Arthur H. Kahn, of Schnader, Harrison, Segal & Lewis, Philadelphia, Pa., for Random House, Inc.; Of counsel: Earl A. Jinkinson and John W. Stack, of Winston, Strawn, Smith & Patterson, for Franklin Watts, Inc.

Final Judgment as to Harper & Row, Publishers, Inc (Civ. No. 67 C 612; Case No. 1933)

MAROVITZ, Judge: Plaintiff, United States of America, having filed its complaint herein on April 18, 1967, and defendant having filed its answer thereto denying the substantive allegations thereof, and plaintiff and defendant by their respective attorneys having consented to the making and entry of this Final Judgment without admission, by either party in respect to any issue;

Now, Therefore, before any testimony has been taken herein, without trial or adjudication of any issue of fact or law herein, and upon consent of the parties 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 hereto. The complaint states claims for relief against the defendant under Section 1 of the Act of Congress of July 2, 1890, entitled “An act to protect trade and commerce against unlawful restraints and monopolies,” commonly known as the Sherman Act, as amended.

II

As used herein:

(A) “Defendant” means the defendant Harper & Row Publishers, Inc., a corporation organized and existing under the laws of Illinois and each of its domestic subsidiaries and each of its foreign subsidiaries when doing business through or with any reseller in the United States;

(B) “Person” means any individual, corporation, partnership, firm or other legal entity and includes wherever applicable any Federal, State or local or other governmental agency or instrumentality thereof;

(C) Customer” means any school, library or governmental agency or instrumentality thereof;

(D) “Reseller” means any person who is engaged in the business of buying books for resale and includes any such person when acting as an agent or consignee of defendant; and

(E) Solely for purposes of Section VII(A) and (B), the term “any person engaged in the resale of books purchased from defendant” shall not be deemed to include the national distributor of paperbacks who functions as defendant's sole national distributor.

III

The provisions of this Final Judgment applicable to the defendant shall also apply to each of its officers, directors, agents and employees and to each of its successors and assigns, and to all other persons in active concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise. This Final Judgment shall not apply to sales for use outside the United States, except for sales to or for the use of the plaintiff or any instrumentality or agency thereof.

IV

Defendant is ordered and directed:

(A) Within ninety (90) days after entry of this Final Judgment, to mail a copy thereof to each of its currently active wholesale accounts which sells to customers; for a period of five (5) years after such entry to mail a copy to

each such additional wholesale account to whom it sells books; and to maintain for such five (5) year period a complete list of all such wholesale accounts to whom defendant has so mailed copies;

(B) To issue a written statement to the effect that this Final Judgment prohibits the defendant from fixing, determining, dictating, approving or disapproving the customers to whom or the prices at which any reseller may sell or advertise defendant's books to any school, library or governmental agency or instrumentality, the statement to be circulated by either one of the following means:

(1) By mailing, within six (6) months after entry of this Final Judgment, to the currently active list of schools, libraries and governmental agencies and instrumentalities to whom it mails catalogues; or

(2) By publication in an issue of School Library *Journal* published not later than two (2) months after entry of this Final Judgment.

(C) Within six (6) months after entry of this Final Judgment, to furnish plaintiff with a written statement of the form and manner of compliance with the provisions of subsection (B) of this Section IV;

(D) For a period of one (1) year after entry of this Final Judgment, to furnish a copy thereof to any school, library or governmental agency or instrumentality requesting it.

V

For a period of five (5) years after the date set forth in this Section V, defendant is enjoined and restrained, in connection with the pricing of its books, except textbooks, from directly or indirectly, in any manner, using the words “net” or “net price” in or on such books or in any catalogue, price list, circular or other bulletin when referring to such books; provided, however, that this Section V shall not apply to any now-existing copies of such catalogues, price lists, circulars or other bulletins until July 1, 1968 or to now-existing copies of such books.

VI

Defendant is enjoined and restrained from, directly or indirectly, in any manner:

(A) Fixing, determining, dictating, approving, disapproving, or policing the customers to whom, or the prices or related terms and conditions of sale at or upon which any reseller may have sold, sells, advertises or offers to sell any books to any customer;

(B) Suggesting (otherwise than by imprinting any price, without more, on a book or book jacket) to any reseller the prices or related terms and conditions of sale at which said reseller should sell, advertise or offer to sell any books to any customer;

(C) Hindering, restricting, limiting or preventing, or attempting to hinder, restrict, limit or prevent any reseller from advertising for sale, selling or offering to sell any books (1) to any customer or (2) to any customer at any price or related terms and conditions of sale individually determined by such reseller;

(D) So long as defendant sells books to resellers, refusing to sell or offer to sell or threatening to refuse to sell or offer to sell such books to, or coercing, or discriminating in the sale or shipment of any books to, any reseller because of the prices at which said reseller intends to sell or has sold any books to any customer;

(E) Inducing or suggesting to any reseller that such reseller refuse to deal with or discriminate against any third person with respect to the sale, distribution, purchase or shipment of any books to any customer; and

(F) Issuing or disseminating defendant's customer prices in any promotional material directed to resellers or in any price catalogues, lists, circulars or bulletins with respect to books sold by resellers unless such material contains a statement, in easily legible type, that any reseller is free to charge whatever price he wishes for defendant's books; provided, however, that this Section (F) shall not apply to any now-existing copies of such promotional material, catalogues, lists, circulars or bulletins until July 1, 1968.

Provided that, upon the expiration of a period of five (5) years following the date of entry of this Final Judgment, nothing contained in Section VI of this Final Judgment shall prohibit the defendant from lawfully exercising such rights, if any, or performing such obligations, if any, as it may have arising under the Miller-Tydings Act and the McGuire Act.

VII

In addition to the prohibitions of Section VI, above, defendant is enjoined and restrained from entering into, adhering to, maintaining, enforcing or claiming any rights under any contract, agreement, understanding, plan or program with any person engaged in the resale of books purchased from defendant to:

(A) Fix, establish, maintain or adhere to prices in the sale of its books to any third person;

(B) Refuse to sell its books to any third person because of the price or prices at which, or persons to whom such third person intends to sell, advertise, or display or may have sold, advertised or displayed such books;

(C) Submit collusive or rigged bids or quotes for supplying any of its books to any third person; or

(D) Bid or quote a specific price, or refrain from bidding or quoting, on any of its books to be sold to any third person;

Provided that, subject to Section VI of this Final Judgment, nothing contained in this Section VII shall prohibit the defendant from lawfully exercising such rights, if any, or performing such obligations, if any, as it may have arising under the Miller-Tydings Act and the McGuire Act.

VIII

Nothing contained in this Final Judgment shall be deemed to prohibit the defendant from complying with requirements imposed upon it by State or local law or by any governmental agency or instrumentality acting pursuant to State or local law.

IX

For a period of five (5) years following the date of the entry of this Final Judgment, defendant is ordered and directed to furnish simultaneously with each sealed bid and sealed quotation (other than a bid or quotation for a sale which will involve less than $100) submitted by it to any customer for the sale of books, other than textbooks, a written certification by the official of defendant having authority to determine the price or prices bid or quoted that said bid or quotation was not the result, directly or indirectly, of any agreement, understanding, plan, or program between defendant and any other person.

X

For the purpose of securing compliance with this Final Judgment, and for no other purpose, duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to defendant (which may have counsel present), made through its principal office, be permitted, subject to any legally recognized privilege, (1) access during reasonable office hours to all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of the defendant relating to any of the subject matters contained in this Final Judgment, and (2) subject to the reasonable convenience of 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; and upon such request, defendant shall submit such reports in writing, under oath if so requested, to the Department of Justice with respect to any of the matters contained in this Final Judgment as may from time to time be requested for the enforcement of this Final Judgment. No information obtained by the means provided in this Section X shall be divulged by any representative of the Department of Justice to any person, other than a duly authorized representative of the Executive Branch of plaintiff, except in the course of legal proceedings to which the United States of America is a party for the purpose of securing compliance with this Final Judgment or as otherwise required by law.

Any such information evidencing a violation of this Final Judgment which adversely affects the interest of any State or local governmental agency or instrumentality shall be retained by plaintiff for a period of one (1) year from the time when it is obtained and shall be treated as impounded subject to further order of this Court which, on motion and notice to the parties and a showing of good cause by the principal law officer of any State or local

governmental agency or instrumentality, may order disclosure to such officer of any part or all of such information as the Court deems proper for use by such agency or instrumentality preliminarily to or in connection with an action under the federal antitrust laws.

XI

Jurisdiction is retained for the purpose of enabling either 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 or for the modification or termination of any of the provisions thereof, and for the enforcement of compliance therewith and punishment of violations thereof.

Final Judgments as to The Bobbs-Merrill Co,, Inc., Childrens Press, Inc., Thomas Y. Crowell Co., Dodd, Mead & Co., Inc., E. P. Dutton & Co., Inc., Golden Press, Inc., Grosset & Dunlap, Inc., Holt, Rinehart and Winston, Inc., Little, Brown & Co., Inc., The Macmillan Co., William Morrow & Co., Inc., G. P. Putnam's Sons, Random House, Inc., Charles Scribner's Sons, The Viking Press, Inc., Henry Z. Walck, Inc., and Franklin Watts, Inc.

The judgments are the same as in Harper & Row, Publishers, Inc., above (Case No. 1933, Civil Action No. 67C 612), except for (1) the use of the phrase “defendant having appeared herein” in lieu of “defendant having filed its answer thereto denying the substantive allegations thereof” in the introductory paragraph of the Little, Brown & Co., Inc. and Franklin Watts, Inc. judgments, (2) the substitution of the name of the defendant and its state of incorporation (see below in paragraph 11(A), and (3) the substitution of the dates in paragraphs V and VI(F) as follows:

Case No.	Civil Action No.	Defendant	Par. IIA	Par. V	Par. VI(F)
1934	67 C 613	The Bobbs-Merrill Co., Inc.	Indiana	Jan. 1, 1968	June 30, 1968
1935	67 C 614	Childrens Press, Inc.	Illinois	Nov. 30, 1967	Aug. 15, 1968
1936	67 C 615	Thomas Y. Crowell Co.	New York	June 30, 1968	Jan. 1, 1968
1937	67 C 616	Dodd, Mead & Co., Inc.	New York	Sept. 22, 1968	Sept. 22, 1968
1938	67 C 617	E. P. Dutton & Co., Inc.	New York	Sept. 1, 1968	Sept. 1, 1968
1939	67 C 618	Golden Press, Inc.	New York	Dec. 31, 1967	June 30, 1968
1940	67 C 619	Grosset & Dunlap, Inc.	New York	Jan. 1, 1968	Jan. 1, 1968
1941	67 C 620	Holt, Rinehart and Winston, Inc.	New York	Sept. 30, 1968	Sept. 30, 1968
1942	67 C 621	Little, Brown & Co., Inc.	Massachusetts	July 1, 1968	July 1, 1968
1943	67 C 622	The Macmillan Co.	Delaware	Oct. 31, 1968	Oct. 31, 1968
1944	67 C 623	William Morrow & Co., Inc.	New York	Apr. 30. 1968	Apr. 30, 1968
1945	67 C 624	G. P. Putnam's Sons	New York	Feb. 29, 1968	Feb. 29, 1968
1946	67 C 625	Random House, Inc.	New York	June 30, 1968	June 30, 1968
1947	67 C 626	Charles Scribner's Sons	New York	Aug. 1, 1968	Aug. 1, 1968
1948	67 C 627	The Viking Press, Inc.	New York	Aug. 31. 1968	Aug. 31, 1968
1949	67 C 628	Henry Z. Walck, Inc.	New York	Sept. 30, 1968	Sept. 30. 1968
1950	67 C 629	Franklin Watts, Inc.	New York	Dec. 31, 1967	Dec. 31, 1967

United States v. Grosset & Dunlap, Inc.

Civil Action No. 67 C 619

Year Judgment Entered: 1967

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. Harper & Row, Publishers, Inc., The Bobbs-Merrill Co., Inc., Childrens Press, Inc., Thomas Y. Crowell Co., Dodd, Mead & Co., Inc., E. P. Dutton & Co., Inc., Golden Press, Inc., Grosset & Dunlap, Inc., Holt, Rinehart and Winston, Inc., Little, Brown & Co., Inc., The Macmillan Co., William Morrow & Co., Inc., G. P. Putnam's Sons, Random House, Inc., Charles Scribner's Sons, The Viking Press, Inc., Henry Z. Walck, Inc., and Franklin Watts, Inc., U.S. District Court, N.D. Illinois, 1967 Trade Cases ¶72,256, (Nov. 27, 1967)

Federal Antitrust Cases
Trade Regulation Reporter - Trade Cases (1932 - 1992) ¶72,256

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United States v. Harper & Row, Publishers, Inc., The Bobbs-Merrill Co., Inc., Childrens Press, Inc., Thomas Y. Crowell Co., Dodd, Mead & Co., Inc., E. P. Dutton & Co., Inc., Golden Press, Inc., Grosset & Dunlap, Inc., Holt, Rinehart and Winston, Inc., Little, Brown & Co., Inc., The Macmillan Co., William Morrow & Co., Inc., G. P. Putnam's Sons, Random House, Inc., Charles Scribner's Sons, The Viking Press, Inc., Henry Z. Walck, Inc., and Franklin Watts, Inc.

1967 Trade Cases ¶72,256. U.S. District Court, N.D. Illinois, Eastern Division. Civil Action Nos. 67 C 612—67 C 629. Entered November 27, 1967. Case Nos. 1933—1950 in the Antitrust Division of the Department of Justice.

Headnote

Sherman Act

Resale Price Fixing—Children's Books—Consent Decrees.—Each of defendant book publishers, charged in separate suits with fixing the prices of library editions of children's books with its wholesalers, was prohibited by consent decrees from attempting to maintain the resale price of its books (without regard to rights under fair trade laws for a period of five years) and from entering into agreements with its wholesalers to fix the resale price of books or to submit rigged bids. In its final form, the decree (para. X) also required the Department of Justice, if it discovers violations of the decree affecting local governments, to retain the evidence for a year for use in damage suits.

For the plaintiff: Donald F. Turner, Assistant Attorney General, Baddia J. Rashid, Harry N. Burgess, John E. Sarbaugh, William T. Huyck, John Edward Burke, and David J. Berman, Attorneys, Department of Justice.

For the defendants: Ira M. Millstein and Donald J. Williamson, of Weil, Gotshal & Manges, New York, N. Y., for Harper & Row, Publishers, Inc., Charles Scribner's Sons, E. P. Dutton & Co., Inc., Henry Z. Walck, Inc., and Grosset & Dunlap, Inc.; W. Donald McSweeney and William A. Montgomery, of Schiff Hardin Waite Dorschel & Britton, Chicago, Ill., for G. P. Putnam's Sons, The Viking Press, Inc., and The Bobbs-Merrill Co., Inc.; Don H. Reuben and Fred H. Bartlit, Jr., of Kirkland, Ellis, Hodson, Chaffetz & Masters, Chicago, 111., for Childrens Press, Inc.; Of counsel: H. Templeton Brown, of Mayer, Friedlich, Spiess, Tierney, Brown & Piatt, Chicago, III, for Thomas Y. Crowell Co., Holt, Rinehart and Winston, Inc., and William Morrow & Co., Inc.; Of counsel: Leo Rosen, of Greenbaum, Wolff & Ernst, New York, N. Y., for Thomas Y. Crowell Co., and William Morrow & Co., Inc.; Harry Buchman, of Stern & Reubens, for Dodd, Mead & Co., Inc.; Samuel Weisbard, of McDermott, Will & Emery, Chicago, 111., for Golden Press, Inc.; Robert H. Davison, of Hausserman, Davison & Shattuck, Boston, Mass., for Little, Brown & Co., Inc.; Robert C. Keck, of Spray, Price, Hough & Cushman, Chicago, 111.,

for The Macmillan Co.; Albert E. Jenner, Jr. and Philip W. Tone, of Raymond, Mayer, Jenner & Block, Chicago, 111., and Bernard G. Segal, Edward W. Mullinix, and Arthur H. Kahn, of Schnader, Harrison, Segal & Lewis, Philadelphia, Pa., for Random House, Inc.; Of counsel: Earl A. Jinkinson and John W. Stack, of Winston, Strawn, Smith & Patterson, for Franklin Watts, Inc.

Final Judgment as to Harper & Row, Publishers, Inc (Civ. No. 67 C 612; Case No. 1933)

MAROVITZ, Judge: Plaintiff, United States of America, having filed its complaint herein on April 18, 1967, and defendant having filed its answer thereto denying the substantive allegations thereof, and plaintiff and defendant by their respective attorneys having consented to the making and entry of this Final Judgment without admission, by either party in respect to any issue;

Now, Therefore, before any testimony has been taken herein, without trial or adjudication of any issue of fact or law herein, and upon consent of the parties 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 hereto. The complaint states claims for relief against the defendant under Section 1 of the Act of Congress of July 2, 1890, entitled “An act to protect trade and commerce against unlawful restraints and monopolies,” commonly known as the Sherman Act, as amended.

II

As used herein:

(A) “Defendant” means the defendant Harper & Row Publishers, Inc., a corporation organized and existing under the laws of Illinois and each of its domestic subsidiaries and each of its foreign subsidiaries when doing business through or with any reseller in the United States;

(B) “Person” means any individual, corporation, partnership, firm or other legal entity and includes wherever applicable any Federal, State or local or other governmental agency or instrumentality thereof;

(C) Customer” means any school, library or governmental agency or instrumentality thereof;

(D) “Reseller” means any person who is engaged in the business of buying books for resale and includes any such person when acting as an agent or consignee of defendant; and

(E) Solely for purposes of Section VII(A) and (B), the term “any person engaged in the resale of books purchased from defendant” shall not be deemed to include the national distributor of paperbacks who functions as defendant's sole national distributor.

III

The provisions of this Final Judgment applicable to the defendant shall also apply to each of its officers, directors, agents and employees and to each of its successors and assigns, and to all other persons in active concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise. This Final Judgment shall not apply to sales for use outside the United States, except for sales to or for the use of the plaintiff or any instrumentality or agency thereof.

IV

Defendant is ordered and directed:

(A) Within ninety (90) days after entry of this Final Judgment, to mail a copy thereof to each of its currently active wholesale accounts which sells to customers; for a period of five (5) years after such entry to mail a copy to

each such additional wholesale account to whom it sells books; and to maintain for such five (5) year period a complete list of all such wholesale accounts to whom defendant has so mailed copies;

(B) To issue a written statement to the effect that this Final Judgment prohibits the defendant from fixing, determining, dictating, approving or disapproving the customers to whom or the prices at which any reseller may sell or advertise defendant's books to any school, library or governmental agency or instrumentality, the statement to be circulated by either one of the following means:

(1) By mailing, within six (6) months after entry of this Final Judgment, to the currently active list of schools, libraries and governmental agencies and instrumentalities to whom it mails catalogues; or

(2) By publication in an issue of School Library *Journal* published not later than two (2) months after entry of this Final Judgment.

(C) Within six (6) months after entry of this Final Judgment, to furnish plaintiff with a written statement of the form and manner of compliance with the provisions of subsection (B) of this Section IV;

(D) For a period of one (1) year after entry of this Final Judgment, to furnish a copy thereof to any school, library or governmental agency or instrumentality requesting it.

V

For a period of five (5) years after the date set forth in this Section V, defendant is enjoined and restrained, in connection with the pricing of its books, except textbooks, from directly or indirectly, in any manner, using the words “net” or “net price” in or on such books or in any catalogue, price list, circular or other bulletin when referring to such books; provided, however, that this Section V shall not apply to any now-existing copies of such catalogues, price lists, circulars or other bulletins until July 1, 1968 or to now-existing copies of such books.

VI

Defendant is enjoined and restrained from, directly or indirectly, in any manner:

(A) Fixing, determining, dictating, approving, disapproving, or policing the customers to whom, or the prices or related terms and conditions of sale at or upon which any reseller may have sold, sells, advertises or offers to sell any books to any customer;

(B) Suggesting (otherwise than by imprinting any price, without more, on a book or book jacket) to any reseller the prices or related terms and conditions of sale at which said reseller should sell, advertise or offer to sell any books to any customer;

(C) Hindering, restricting, limiting or preventing, or attempting to hinder, restrict, limit or prevent any reseller from advertising for sale, selling or offering to sell any books (1) to any customer or (2) to any customer at any price or related terms and conditions of sale individually determined by such reseller;

(D) So long as defendant sells books to resellers, refusing to sell or offer to sell or threatening to refuse to sell or offer to sell such books to, or coercing, or discriminating in the sale or shipment of any books to, any reseller because of the prices at which said reseller intends to sell or has sold any books to any customer;

(E) Inducing or suggesting to any reseller that such reseller refuse to deal with or discriminate against any third person with respect to the sale, distribution, purchase or shipment of any books to any customer; and

(F) Issuing or disseminating defendant's customer prices in any promotional material directed to resellers or in any price catalogues, lists, circulars or bulletins with respect to books sold by resellers unless such material contains a statement, in easily legible type, that any reseller is free to charge whatever price he wishes for defendant's books; provided, however, that this Section (F) shall not apply to any now-existing copies of such promotional material, catalogues, lists, circulars or bulletins until July 1, 1968.

Provided that, upon the expiration of a period of five (5) years following the date of entry of this Final Judgment, nothing contained in Section VI of this Final Judgment shall prohibit the defendant from lawfully exercising such rights, if any, or performing such obligations, if any, as it may have arising under the Miller-Tydings Act and the McGuire Act.

VII

In addition to the prohibitions of Section VI, above, defendant is enjoined and restrained from entering into, adhering to, maintaining, enforcing or claiming any rights under any contract, agreement, understanding, plan or program with any person engaged in the resale of books purchased from defendant to:

(A) Fix, establish, maintain or adhere to prices in the sale of its books to any third person;

(B) Refuse to sell its books to any third person because of the price or prices at which, or persons to whom such third person intends to sell, advertise, or display or may have sold, advertised or displayed such books;

(C) Submit collusive or rigged bids or quotes for supplying any of its books to any third person; or

(D) Bid or quote a specific price, or refrain from bidding or quoting, on any of its books to be sold to any third person;

Provided that, subject to Section VI of this Final Judgment, nothing contained in this Section VII shall prohibit the defendant from lawfully exercising such rights, if any, or performing such obligations, if any, as it may have arising under the Miller-Tydings Act and the McGuire Act.

VIII

Nothing contained in this Final Judgment shall be deemed to prohibit the defendant from complying with requirements imposed upon it by State or local law or by any governmental agency or instrumentality acting pursuant to State or local law.

IX

For a period of five (5) years following the date of the entry of this Final Judgment, defendant is ordered and directed to furnish simultaneously with each sealed bid and sealed quotation (other than a bid or quotation for a sale which will involve less than $100) submitted by it to any customer for the sale of books, other than textbooks, a written certification by the official of defendant having authority to determine the price or prices bid or quoted that said bid or quotation was not the result, directly or indirectly, of any agreement, understanding, plan, or program between defendant and any other person.

X

For the purpose of securing compliance with this Final Judgment, and for no other purpose, duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to defendant (which may have counsel present), made through its principal office, be permitted, subject to any legally recognized privilege, (1) access during reasonable office hours to all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of the defendant relating to any of the subject matters contained in this Final Judgment, and (2) subject to the reasonable convenience of 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; and upon such request, defendant shall submit such reports in writing, under oath if so requested, to the Department of Justice with respect to any of the matters contained in this Final Judgment as may from time to time be requested for the enforcement of this Final Judgment. No information obtained by the means provided in this Section X shall be divulged by any representative of the Department of Justice to any person, other than a duly authorized representative of the Executive Branch of plaintiff, except in the course of legal proceedings to which the United States of America is a party for the purpose of securing compliance with this Final Judgment or as otherwise required by law.

Any such information evidencing a violation of this Final Judgment which adversely affects the interest of any State or local governmental agency or instrumentality shall be retained by plaintiff for a period of one (1) year from the time when it is obtained and shall be treated as impounded subject to further order of this Court which, on motion and notice to the parties and a showing of good cause by the principal law officer of any State or local

governmental agency or instrumentality, may order disclosure to such officer of any part or all of such information as the Court deems proper for use by such agency or instrumentality preliminarily to or in connection with an action under the federal antitrust laws.

XI

Jurisdiction is retained for the purpose of enabling either 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 or for the modification or termination of any of the provisions thereof, and for the enforcement of compliance therewith and punishment of violations thereof.

Final Judgments as to The Bobbs-Merrill Co,, Inc., Childrens Press, Inc., Thomas Y. Crowell Co., Dodd, Mead & Co., Inc., E. P. Dutton & Co., Inc., Golden Press, Inc., Grosset & Dunlap, Inc., Holt, Rinehart and Winston, Inc., Little, Brown & Co., Inc., The Macmillan Co., William Morrow & Co., Inc., G. P. Putnam's Sons, Random House, Inc., Charles Scribner's Sons, The Viking Press, Inc., Henry Z. Walck, Inc., and Franklin Watts, Inc.

The judgments are the same as in Harper & Row, Publishers, Inc., above (Case No. 1933, Civil Action No. 67C 612), except for (1) the use of the phrase “defendant having appeared herein” in lieu of “defendant having filed its answer thereto denying the substantive allegations thereof” in the introductory paragraph of the Little, Brown & Co., Inc. and Franklin Watts, Inc. judgments, (2) the substitution of the name of the defendant and its state of incorporation (see below in paragraph 11(A), and (3) the substitution of the dates in paragraphs V and VI(F) as follows:

Case No.	Civil Action No.	Defendant	Par. IIA	Par. V	Par. VI(F)
1934	67 C 613	The Bobbs-Merrill Co., Inc.	Indiana	Jan. 1, 1968	June 30, 1968
1935	67 C 614	Childrens Press, Inc.	Illinois	Nov. 30, 1967	Aug. 15, 1968
1936	67 C 615	Thomas Y. Crowell Co.	New York	June 30, 1968	Jan. 1, 1968
1937	67 C 616	Dodd, Mead & Co., Inc.	New York	Sept. 22, 1968	Sept. 22, 1968
1938	67 C 617	E. P. Dutton & Co., Inc.	New York	Sept. 1, 1968	Sept. 1, 1968
1939	67 C 618	Golden Press, Inc.	New York	Dec. 31, 1967	June 30, 1968
1940	67 C 619	Grosset & Dunlap, Inc.	New York	Jan. 1, 1968	Jan. 1, 1968
1941	67 C 620	Holt, Rinehart and Winston, Inc.	New York	Sept. 30, 1968	Sept. 30, 1968
1942	67 C 621	Little, Brown & Co., Inc.	Massachusetts	July 1, 1968	July 1, 1968
1943	67 C 622	The Macmillan Co.	Delaware	Oct. 31, 1968	Oct. 31, 1968
1944	67 C 623	William Morrow & Co., Inc.	New York	Apr. 30. 1968	Apr. 30, 1968
1945	67 C 624	G. P. Putnam's Sons	New York	Feb. 29, 1968	Feb. 29, 1968
1946	67 C 625	Random House, Inc.	New York	June 30, 1968	June 30, 1968
1947	67 C 626	Charles Scribner's Sons	New York	Aug. 1, 1968	Aug. 1, 1968
1948	67 C 627	The Viking Press, Inc.	New York	Aug. 31. 1968	Aug. 31, 1968
1949	67 C 628	Henry Z. Walck, Inc.	New York	Sept. 30, 1968	Sept. 30. 1968
1950	67 C 629	Franklin Watts, Inc.	New York	Dec. 31, 1967	Dec. 31, 1967

United States v. Holt, Rinehart and Winston, Inc.

Civil Action No. 67 C 620

Year Judgment Entered: 1967

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. Harper & Row, Publishers, Inc., The Bobbs-Merrill Co., Inc., Childrens Press, Inc., Thomas Y. Crowell Co., Dodd, Mead & Co., Inc., E. P. Dutton & Co., Inc., Golden Press, Inc., Grosset & Dunlap, Inc., Holt, Rinehart and Winston, Inc., Little, Brown & Co., Inc., The Macmillan Co., William Morrow & Co., Inc., G. P. Putnam's Sons, Random House, Inc., Charles Scribner's Sons, The Viking Press, Inc., Henry Z. Walck, Inc., and Franklin Watts, Inc., U.S. District Court, N.D. Illinois, 1967 Trade Cases ¶72,256, (Nov. 27, 1967)

Federal Antitrust Cases
Trade Regulation Reporter - Trade Cases (1932 - 1992) ¶72,256

United States v. Harper & Row, Publishers, Inc., The Bobbs-Merrill Co., Inc., Childrens Press, Inc., Thomas Y. Crowell Co., Dodd, Mead & Co., Inc., E. P. Dutton & Co., Inc., Golden Press, Inc., Grosset & Dunlap, Inc., Holt, Rinehart and Winston, Inc., Little, Brown & Co., Inc., The Macmillan Co., William Morrow & Co., Inc., G. P. Putnam's Sons, Random House, Inc., Charles Scribner's Sons, The Viking Press, Inc., Henry Z. Walck, Inc., and Franklin Watts, Inc.

1967 Trade Cases ¶72,256. U.S. District Court, N.D. Illinois, Eastern Division. Civil Action Nos. 67 C 612—67 C 629. Entered November 27, 1967. Case Nos. 1933—1950 in the Antitrust Division of the Department of Justice.

Headnote

Sherman Act

Resale Price Fixing—Children's Books—Consent Decrees.—Each of defendant book publishers, charged in separate suits with fixing the prices of library editions of children's books with its wholesalers, was prohibited by consent decrees from attempting to maintain the resale price of its books (without regard to rights under fair trade laws for a period of five years) and from entering into agreements with its wholesalers to fix the resale price of books or to submit rigged bids. In its final form, the decree (para. X) also required the Department of Justice, if it discovers violations of the decree affecting local governments, to retain the evidence for a year for use in damage suits.

For the plaintiff: Donald F. Turner, Assistant Attorney General, Baddia J. Rashid, Harry N. Burgess, John E. Sarbaugh, William T. Huyck, John Edward Burke, and David J. Berman, Attorneys, Department of Justice.

For the defendants: Ira M. Millstein and Donald J. Williamson, of Weil, Gotshal & Manges, New York, N. Y., for Harper & Row, Publishers, Inc., Charles Scribner's Sons, E. P. Dutton & Co., Inc., Henry Z. Walck, Inc., and Grosset & Dunlap, Inc.; W. Donald McSweeney and William A. Montgomery, of Schiff Hardin Waite Dorschel & Britton, Chicago, Ill., for G. P. Putnam's Sons, The Viking Press, Inc., and The Bobbs-Merrill Co., Inc.; Don H. Reuben and Fred H. Bartlit, Jr., of Kirkland, Ellis, Hodson, Chaffetz & Masters, Chicago, 111., for Childrens Press, Inc.; Of counsel: H. Templeton Brown, of Mayer, Friedlich, Spiess, Tierney, Brown & Piatt, Chicago, III, for Thomas Y. Crowell Co., Holt, Rinehart and Winston, Inc., and William Morrow & Co., Inc.; Of counsel: Leo Rosen, of Greenbaum, Wolff & Ernst, New York, N. Y., for Thomas Y. Crowell Co., and William Morrow & Co., Inc.; Harry Buchman, of Stern & Reubens, for Dodd, Mead & Co., Inc.; Samuel Weisbard, of McDermott, Will & Emery, Chicago, 111., for Golden Press, Inc.; Robert H. Davison, of Hausserman, Davison & Shattuck, Boston, Mass., for Little, Brown & Co., Inc.; Robert C. Keck, of Spray, Price, Hough & Cushman, Chicago, 111.,

for The Macmillan Co.; Albert E. Jenner, Jr. and Philip W. Tone, of Raymond, Mayer, Jenner & Block, Chicago, 111., and Bernard G. Segal, Edward W. Mullinix, and Arthur H. Kahn, of Schnader, Harrison, Segal & Lewis, Philadelphia, Pa., for Random House, Inc.; Of counsel: Earl A. Jinkinson and John W. Stack, of Winston, Strawn, Smith & Patterson, for Franklin Watts, Inc.

Final Judgment as to Harper & Row, Publishers, Inc (Civ. No. 67 C 612; Case No. 1933)

MAROVITZ, Judge: Plaintiff, United States of America, having filed its complaint herein on April 18, 1967, and defendant having filed its answer thereto denying the substantive allegations thereof, and plaintiff and defendant by their respective attorneys having consented to the making and entry of this Final Judgment without admission, by either party in respect to any issue;

Now, Therefore, before any testimony has been taken herein, without trial or adjudication of any issue of fact or law herein, and upon consent of the parties 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 hereto. The complaint states claims for relief against the defendant under Section 1 of the Act of Congress of July 2, 1890, entitled “An act to protect trade and commerce against unlawful restraints and monopolies,” commonly known as the Sherman Act, as amended.

II

As used herein:

(A) “Defendant” means the defendant Harper & Row Publishers, Inc., a corporation organized and existing under the laws of Illinois and each of its domestic subsidiaries and each of its foreign subsidiaries when doing business through or with any reseller in the United States;

(B) “Person” means any individual, corporation, partnership, firm or other legal entity and includes wherever applicable any Federal, State or local or other governmental agency or instrumentality thereof;

(C) Customer” means any school, library or governmental agency or instrumentality thereof;

(D) “Reseller” means any person who is engaged in the business of buying books for resale and includes any such person when acting as an agent or consignee of defendant; and

(E) Solely for purposes of Section VII(A) and (B), the term “any person engaged in the resale of books purchased from defendant” shall not be deemed to include the national distributor of paperbacks who functions as defendant's sole national distributor.

III

The provisions of this Final Judgment applicable to the defendant shall also apply to each of its officers, directors, agents and employees and to each of its successors and assigns, and to all other persons in active concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise. This Final Judgment shall not apply to sales for use outside the United States, except for sales to or for the use of the plaintiff or any instrumentality or agency thereof.

IV

Defendant is ordered and directed:

(A) Within ninety (90) days after entry of this Final Judgment, to mail a copy thereof to each of its currently active wholesale accounts which sells to customers; for a period of five (5) years after such entry to mail a copy to

each such additional wholesale account to whom it sells books; and to maintain for such five (5) year period a complete list of all such wholesale accounts to whom defendant has so mailed copies;

(B) To issue a written statement to the effect that this Final Judgment prohibits the defendant from fixing, determining, dictating, approving or disapproving the customers to whom or the prices at which any reseller may sell or advertise defendant's books to any school, library or governmental agency or instrumentality, the statement to be circulated by either one of the following means:

(1) By mailing, within six (6) months after entry of this Final Judgment, to the currently active list of schools, libraries and governmental agencies and instrumentalities to whom it mails catalogues; or

(2) By publication in an issue of School Library *Journal* published not later than two (2) months after entry of this Final Judgment.

(C) Within six (6) months after entry of this Final Judgment, to furnish plaintiff with a written statement of the form and manner of compliance with the provisions of subsection (B) of this Section IV;

(D) For a period of one (1) year after entry of this Final Judgment, to furnish a copy thereof to any school, library or governmental agency or instrumentality requesting it.

V

For a period of five (5) years after the date set forth in this Section V, defendant is enjoined and restrained, in connection with the pricing of its books, except textbooks, from directly or indirectly, in any manner, using the words “net” or “net price” in or on such books or in any catalogue, price list, circular or other bulletin when referring to such books; provided, however, that this Section V shall not apply to any now-existing copies of such catalogues, price lists, circulars or other bulletins until July 1, 1968 or to now-existing copies of such books.

VI

Defendant is enjoined and restrained from, directly or indirectly, in any manner:

(A) Fixing, determining, dictating, approving, disapproving, or policing the customers to whom, or the prices or related terms and conditions of sale at or upon which any reseller may have sold, sells, advertises or offers to sell any books to any customer;

(B) Suggesting (otherwise than by imprinting any price, without more, on a book or book jacket) to any reseller the prices or related terms and conditions of sale at which said reseller should sell, advertise or offer to sell any books to any customer;

(C) Hindering, restricting, limiting or preventing, or attempting to hinder, restrict, limit or prevent any reseller from advertising for sale, selling or offering to sell any books (1) to any customer or (2) to any customer at any price or related terms and conditions of sale individually determined by such reseller;

(D) So long as defendant sells books to resellers, refusing to sell or offer to sell or threatening to refuse to sell or offer to sell such books to, or coercing, or discriminating in the sale or shipment of any books to, any reseller because of the prices at which said reseller intends to sell or has sold any books to any customer;

(E) Inducing or suggesting to any reseller that such reseller refuse to deal with or discriminate against any third person with respect to the sale, distribution, purchase or shipment of any books to any customer; and

(F) Issuing or disseminating defendant's customer prices in any promotional material directed to resellers or in any price catalogues, lists, circulars or bulletins with respect to books sold by resellers unless such material contains a statement, in easily legible type, that any reseller is free to charge whatever price he wishes for defendant's books; provided, however, that this Section (F) shall not apply to any now-existing copies of such promotional material, catalogues, lists, circulars or bulletins until July 1, 1968.

Provided that, upon the expiration of a period of five (5) years following the date of entry of this Final Judgment, nothing contained in Section VI of this Final Judgment shall prohibit the defendant from lawfully exercising such rights, if any, or performing such obligations, if any, as it may have arising under the Miller-Tydings Act and the McGuire Act.

VII

In addition to the prohibitions of Section VI, above, defendant is enjoined and restrained from entering into, adhering to, maintaining, enforcing or claiming any rights under any contract, agreement, understanding, plan or program with any person engaged in the resale of books purchased from defendant to:

(A) Fix, establish, maintain or adhere to prices in the sale of its books to any third person;

(B) Refuse to sell its books to any third person because of the price or prices at which, or persons to whom such third person intends to sell, advertise, or display or may have sold, advertised or displayed such books;

(C) Submit collusive or rigged bids or quotes for supplying any of its books to any third person; or

(D) Bid or quote a specific price, or refrain from bidding or quoting, on any of its books to be sold to any third person;

Provided that, subject to Section VI of this Final Judgment, nothing contained in this Section VII shall prohibit the defendant from lawfully exercising such rights, if any, or performing such obligations, if any, as it may have arising under the Miller-Tydings Act and the McGuire Act.

VIII

Nothing contained in this Final Judgment shall be deemed to prohibit the defendant from complying with requirements imposed upon it by State or local law or by any governmental agency or instrumentality acting pursuant to State or local law.

IX

For a period of five (5) years following the date of the entry of this Final Judgment, defendant is ordered and directed to furnish simultaneously with each sealed bid and sealed quotation (other than a bid or quotation for a sale which will involve less than $100) submitted by it to any customer for the sale of books, other than textbooks, a written certification by the official of defendant having authority to determine the price or prices bid or quoted that said bid or quotation was not the result, directly or indirectly, of any agreement, understanding, plan, or program between defendant and any other person.

X

For the purpose of securing compliance with this Final Judgment, and for no other purpose, duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to defendant (which may have counsel present), made through its principal office, be permitted, subject to any legally recognized privilege, (1) access during reasonable office hours to all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of the defendant relating to any of the subject matters contained in this Final Judgment, and (2) subject to the reasonable convenience of 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; and upon such request, defendant shall submit such reports in writing, under oath if so requested, to the Department of Justice with respect to any of the matters contained in this Final Judgment as may from time to time be requested for the enforcement of this Final Judgment. No information obtained by the means provided in this Section X shall be divulged by any representative of the Department of Justice to any person, other than a duly authorized representative of the Executive Branch of plaintiff, except in the course of legal proceedings to which the United States of America is a party for the purpose of securing compliance with this Final Judgment or as otherwise required by law.

Any such information evidencing a violation of this Final Judgment which adversely affects the interest of any State or local governmental agency or instrumentality shall be retained by plaintiff for a period of one (1) year from the time when it is obtained and shall be treated as impounded subject to further order of this Court which, on motion and notice to the parties and a showing of good cause by the principal law officer of any State or local

governmental agency or instrumentality, may order disclosure to such officer of any part or all of such information as the Court deems proper for use by such agency or instrumentality preliminarily to or in connection with an action under the federal antitrust laws.

XI

Jurisdiction is retained for the purpose of enabling either 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 or for the modification or termination of any of the provisions thereof, and for the enforcement of compliance therewith and punishment of violations thereof.

Final Judgments as to The Bobbs-Merrill Co,, Inc., Childrens Press, Inc., Thomas Y. Crowell Co., Dodd, Mead & Co., Inc., E. P. Dutton & Co., Inc., Golden Press, Inc., Grosset & Dunlap, Inc., Holt, Rinehart and Winston, Inc., Little, Brown & Co., Inc., The Macmillan Co., William Morrow & Co., Inc., G. P. Putnam's Sons, Random House, Inc., Charles Scribner's Sons, The Viking Press, Inc., Henry Z. Walck, Inc., and Franklin Watts, Inc.

The judgments are the same as in Harper & Row, Publishers, Inc., above (Case No. 1933, Civil Action No. 67C 612), except for (1) the use of the phrase “defendant having appeared herein” in lieu of “defendant having filed its answer thereto denying the substantive allegations thereof” in the introductory paragraph of the Little, Brown & Co., Inc. and Franklin Watts, Inc. judgments, (2) the substitution of the name of the defendant and its state of incorporation (see below in paragraph 11(A), and (3) the substitution of the dates in paragraphs V and VI(F) as follows:

Case No.	Civil Action No.	Defendant	Par. IIA	Par. V	Par. VI(F)
1934	67 C 613	The Bobbs-Merrill Co., Inc.	Indiana	Jan. 1, 1968	June 30, 1968
1935	67 C 614	Childrens Press, Inc.	Illinois	Nov. 30, 1967	Aug. 15, 1968
1936	67 C 615	Thomas Y. Crowell Co.	New York	June 30, 1968	Jan. 1, 1968
1937	67 C 616	Dodd, Mead & Co., Inc.	New York	Sept. 22, 1968	Sept. 22, 1968
1938	67 C 617	E. P. Dutton & Co., Inc.	New York	Sept. 1, 1968	Sept. 1, 1968
1939	67 C 618	Golden Press, Inc.	New York	Dec. 31, 1967	June 30, 1968
1940	67 C 619	Grosset & Dunlap, Inc.	New York	Jan. 1, 1968	Jan. 1, 1968
1941	67 C 620	Holt, Rinehart and Winston, Inc.	New York	Sept. 30, 1968	Sept. 30, 1968
1942	67 C 621	Little, Brown & Co., Inc.	Massachusetts	July 1, 1968	July 1, 1968
1943	67 C 622	The Macmillan Co.	Delaware	Oct. 31, 1968	Oct. 31, 1968
1944	67 C 623	William Morrow & Co., Inc.	New York	Apr. 30. 1968	Apr. 30, 1968
1945	67 C 624	G. P. Putnam's Sons	New York	Feb. 29, 1968	Feb. 29, 1968
1946	67 C 625	Random House, Inc.	New York	June 30, 1968	June 30, 1968
1947	67 C 626	Charles Scribner's Sons	New York	Aug. 1, 1968	Aug. 1, 1968
1948	67 C 627	The Viking Press, Inc.	New York	Aug. 31. 1968	Aug. 31, 1968
1949	67 C 628	Henry Z. Walck, Inc.	New York	Sept. 30, 1968	Sept. 30. 1968
1950	67 C 629	Franklin Watts, Inc.	New York	Dec. 31, 1967	Dec. 31, 1967

United States v. Little, Brown & Company, Inc.

Civil Action No. 67 C 621

Year Judgment Entered: 1967

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. Harper & Row, Publishers, Inc., The Bobbs-Merrill Co., Inc., Childrens Press, Inc., Thomas Y. Crowell Co., Dodd, Mead & Co., Inc., E. P. Dutton & Co., Inc., Golden Press, Inc., Grosset & Dunlap, Inc., Holt, Rinehart and Winston, Inc., Little, Brown & Co., Inc., The Macmillan Co., William Morrow & Co., Inc., G. P. Putnam's Sons, Random House, Inc., Charles Scribner's Sons, The Viking Press, Inc., Henry Z. Walck, Inc., and Franklin Watts, Inc., U.S. District Court, N.D. Illinois, 1967 Trade Cases ¶72,256, (Nov. 27, 1967)

Federal Antitrust Cases
Trade Regulation Reporter - Trade Cases (1932 - 1992) ¶72,256

United States v. Harper & Row, Publishers, Inc., The Bobbs-Merrill Co., Inc., Childrens Press, Inc., Thomas Y. Crowell Co., Dodd, Mead & Co., Inc., E. P. Dutton & Co., Inc., Golden Press, Inc., Grosset & Dunlap, Inc., Holt, Rinehart and Winston, Inc., Little, Brown & Co., Inc., The Macmillan Co., William Morrow & Co., Inc., G. P. Putnam's Sons, Random House, Inc., Charles Scribner's Sons, The Viking Press, Inc., Henry Z. Walck, Inc., and Franklin Watts, Inc.

1967 Trade Cases ¶72,256. U.S. District Court, N.D. Illinois, Eastern Division. Civil Action Nos. 67 C 612—67 C 629. Entered November 27, 1967. Case Nos. 1933—1950 in the Antitrust Division of the Department of Justice.

Headnote

Sherman Act

Resale Price Fixing—Children's Books—Consent Decrees.—Each of defendant book publishers, charged in separate suits with fixing the prices of library editions of children's books with its wholesalers, was prohibited by consent decrees from attempting to maintain the resale price of its books (without regard to rights under fair trade laws for a period of five years) and from entering into agreements with its wholesalers to fix the resale price of books or to submit rigged bids. In its final form, the decree (para. X) also required the Department of Justice, if it discovers violations of the decree affecting local governments, to retain the evidence for a year for use in damage suits.

For the plaintiff: Donald F. Turner, Assistant Attorney General, Baddia J. Rashid, Harry N. Burgess, John E. Sarbaugh, William T. Huyck, John Edward Burke, and David J. Berman, Attorneys, Department of Justice.

For the defendants: Ira M. Millstein and Donald J. Williamson, of Weil, Gotshal & Manges, New York, N. Y., for Harper & Row, Publishers, Inc., Charles Scribner's Sons, E. P. Dutton & Co., Inc., Henry Z. Walck, Inc., and Grosset & Dunlap, Inc.; W. Donald McSweeney and William A. Montgomery, of Schiff Hardin Waite Dorschel & Britton, Chicago, Ill., for G. P. Putnam's Sons, The Viking Press, Inc., and The Bobbs-Merrill Co., Inc.; Don H. Reuben and Fred H. Bartlit, Jr., of Kirkland, Ellis, Hodson, Chaffetz & Masters, Chicago, 111., for Childrens Press, Inc.; Of counsel: H. Templeton Brown, of Mayer, Friedlich, Spiess, Tierney, Brown & Piatt, Chicago, III, for Thomas Y. Crowell Co., Holt, Rinehart and Winston, Inc., and William Morrow & Co., Inc.; Of counsel: Leo Rosen, of Greenbaum, Wolff & Ernst, New York, N. Y., for Thomas Y. Crowell Co., and William Morrow & Co., Inc.; Harry Buchman, of Stern & Reubens, for Dodd, Mead & Co., Inc.; Samuel Weisbard, of McDermott, Will & Emery, Chicago, 111., for Golden Press, Inc.; Robert H. Davison, of Hausserman, Davison & Shattuck, Boston, Mass., for Little, Brown & Co., Inc.; Robert C. Keck, of Spray, Price, Hough & Cushman, Chicago, 111.,

for The Macmillan Co.; Albert E. Jenner, Jr. and Philip W. Tone, of Raymond, Mayer, Jenner & Block, Chicago, 111., and Bernard G. Segal, Edward W. Mullinix, and Arthur H. Kahn, of Schnader, Harrison, Segal & Lewis, Philadelphia, Pa., for Random House, Inc.; Of counsel: Earl A. Jinkinson and John W. Stack, of Winston, Strawn, Smith & Patterson, for Franklin Watts, Inc.

Final Judgment as to Harper & Row, Publishers, Inc (Civ. No. 67 C 612; Case No. 1933)

MAROVITZ, Judge: Plaintiff, United States of America, having filed its complaint herein on April 18, 1967, and defendant having filed its answer thereto denying the substantive allegations thereof, and plaintiff and defendant by their respective attorneys having consented to the making and entry of this Final Judgment without admission, by either party in respect to any issue;

Now, Therefore, before any testimony has been taken herein, without trial or adjudication of any issue of fact or law herein, and upon consent of the parties 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 hereto. The complaint states claims for relief against the defendant under Section 1 of the Act of Congress of July 2, 1890, entitled “An act to protect trade and commerce against unlawful restraints and monopolies,” commonly known as the Sherman Act, as amended.

II

As used herein:

(A) “Defendant” means the defendant Harper & Row Publishers, Inc., a corporation organized and existing under the laws of Illinois and each of its domestic subsidiaries and each of its foreign subsidiaries when doing business through or with any reseller in the United States;

(B) “Person” means any individual, corporation, partnership, firm or other legal entity and includes wherever applicable any Federal, State or local or other governmental agency or instrumentality thereof;

(C) Customer” means any school, library or governmental agency or instrumentality thereof;

(D) “Reseller” means any person who is engaged in the business of buying books for resale and includes any such person when acting as an agent or consignee of defendant; and

(E) Solely for purposes of Section VII(A) and (B), the term “any person engaged in the resale of books purchased from defendant” shall not be deemed to include the national distributor of paperbacks who functions as defendant's sole national distributor.

III

The provisions of this Final Judgment applicable to the defendant shall also apply to each of its officers, directors, agents and employees and to each of its successors and assigns, and to all other persons in active concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise. This Final Judgment shall not apply to sales for use outside the United States, except for sales to or for the use of the plaintiff or any instrumentality or agency thereof.

IV

Defendant is ordered and directed:

(A) Within ninety (90) days after entry of this Final Judgment, to mail a copy thereof to each of its currently active wholesale accounts which sells to customers; for a period of five (5) years after such entry to mail a copy to

each such additional wholesale account to whom it sells books; and to maintain for such five (5) year period a complete list of all such wholesale accounts to whom defendant has so mailed copies;

(B) To issue a written statement to the effect that this Final Judgment prohibits the defendant from fixing, determining, dictating, approving or disapproving the customers to whom or the prices at which any reseller may sell or advertise defendant's books to any school, library or governmental agency or instrumentality, the statement to be circulated by either one of the following means:

(1) By mailing, within six (6) months after entry of this Final Judgment, to the currently active list of schools, libraries and governmental agencies and instrumentalities to whom it mails catalogues; or

(2) By publication in an issue of School Library *Journal* published not later than two (2) months after entry of this Final Judgment.

(C) Within six (6) months after entry of this Final Judgment, to furnish plaintiff with a written statement of the form and manner of compliance with the provisions of subsection (B) of this Section IV;

(D) For a period of one (1) year after entry of this Final Judgment, to furnish a copy thereof to any school, library or governmental agency or instrumentality requesting it.

V

For a period of five (5) years after the date set forth in this Section V, defendant is enjoined and restrained, in connection with the pricing of its books, except textbooks, from directly or indirectly, in any manner, using the words “net” or “net price” in or on such books or in any catalogue, price list, circular or other bulletin when referring to such books; provided, however, that this Section V shall not apply to any now-existing copies of such catalogues, price lists, circulars or other bulletins until July 1, 1968 or to now-existing copies of such books.

VI

Defendant is enjoined and restrained from, directly or indirectly, in any manner:

(A) Fixing, determining, dictating, approving, disapproving, or policing the customers to whom, or the prices or related terms and conditions of sale at or upon which any reseller may have sold, sells, advertises or offers to sell any books to any customer;

(B) Suggesting (otherwise than by imprinting any price, without more, on a book or book jacket) to any reseller the prices or related terms and conditions of sale at which said reseller should sell, advertise or offer to sell any books to any customer;

(C) Hindering, restricting, limiting or preventing, or attempting to hinder, restrict, limit or prevent any reseller from advertising for sale, selling or offering to sell any books (1) to any customer or (2) to any customer at any price or related terms and conditions of sale individually determined by such reseller;

(D) So long as defendant sells books to resellers, refusing to sell or offer to sell or threatening to refuse to sell or offer to sell such books to, or coercing, or discriminating in the sale or shipment of any books to, any reseller because of the prices at which said reseller intends to sell or has sold any books to any customer;

(E) Inducing or suggesting to any reseller that such reseller refuse to deal with or discriminate against any third person with respect to the sale, distribution, purchase or shipment of any books to any customer; and

(F) Issuing or disseminating defendant's customer prices in any promotional material directed to resellers or in any price catalogues, lists, circulars or bulletins with respect to books sold by resellers unless such material contains a statement, in easily legible type, that any reseller is free to charge whatever price he wishes for defendant's books; provided, however, that this Section (F) shall not apply to any now-existing copies of such promotional material, catalogues, lists, circulars or bulletins until July 1, 1968.

Provided that, upon the expiration of a period of five (5) years following the date of entry of this Final Judgment, nothing contained in Section VI of this Final Judgment shall prohibit the defendant from lawfully exercising such rights, if any, or performing such obligations, if any, as it may have arising under the Miller-Tydings Act and the McGuire Act.

VII

In addition to the prohibitions of Section VI, above, defendant is enjoined and restrained from entering into, adhering to, maintaining, enforcing or claiming any rights under any contract, agreement, understanding, plan or program with any person engaged in the resale of books purchased from defendant to:

(A) Fix, establish, maintain or adhere to prices in the sale of its books to any third person;

(B) Refuse to sell its books to any third person because of the price or prices at which, or persons to whom such third person intends to sell, advertise, or display or may have sold, advertised or displayed such books;

(C) Submit collusive or rigged bids or quotes for supplying any of its books to any third person; or

(D) Bid or quote a specific price, or refrain from bidding or quoting, on any of its books to be sold to any third person;

Provided that, subject to Section VI of this Final Judgment, nothing contained in this Section VII shall prohibit the defendant from lawfully exercising such rights, if any, or performing such obligations, if any, as it may have arising under the Miller-Tydings Act and the McGuire Act.

VIII

Nothing contained in this Final Judgment shall be deemed to prohibit the defendant from complying with requirements imposed upon it by State or local law or by any governmental agency or instrumentality acting pursuant to State or local law.

IX

For a period of five (5) years following the date of the entry of this Final Judgment, defendant is ordered and directed to furnish simultaneously with each sealed bid and sealed quotation (other than a bid or quotation for a sale which will involve less than $100) submitted by it to any customer for the sale of books, other than textbooks, a written certification by the official of defendant having authority to determine the price or prices bid or quoted that said bid or quotation was not the result, directly or indirectly, of any agreement, understanding, plan, or program between defendant and any other person.

X

For the purpose of securing compliance with this Final Judgment, and for no other purpose, duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to defendant (which may have counsel present), made through its principal office, be permitted, subject to any legally recognized privilege, (1) access during reasonable office hours to all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of the defendant relating to any of the subject matters contained in this Final Judgment, and (2) subject to the reasonable convenience of 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; and upon such request, defendant shall submit such reports in writing, under oath if so requested, to the Department of Justice with respect to any of the matters contained in this Final Judgment as may from time to time be requested for the enforcement of this Final Judgment. No information obtained by the means provided in this Section X shall be divulged by any representative of the Department of Justice to any person, other than a duly authorized representative of the Executive Branch of plaintiff, except in the course of legal proceedings to which the United States of America is a party for the purpose of securing compliance with this Final Judgment or as otherwise required by law.

Any such information evidencing a violation of this Final Judgment which adversely affects the interest of any State or local governmental agency or instrumentality shall be retained by plaintiff for a period of one (1) year from the time when it is obtained and shall be treated as impounded subject to further order of this Court which, on motion and notice to the parties and a showing of good cause by the principal law officer of any State or local

governmental agency or instrumentality, may order disclosure to such officer of any part or all of such information as the Court deems proper for use by such agency or instrumentality preliminarily to or in connection with an action under the federal antitrust laws.

XI

Jurisdiction is retained for the purpose of enabling either 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 or for the modification or termination of any of the provisions thereof, and for the enforcement of compliance therewith and punishment of violations thereof.

Final Judgments as to The Bobbs-Merrill Co,, Inc., Childrens Press, Inc., Thomas Y. Crowell Co., Dodd, Mead & Co., Inc., E. P. Dutton & Co., Inc., Golden Press, Inc., Grosset & Dunlap, Inc., Holt, Rinehart and Winston, Inc., Little, Brown & Co., Inc., The Macmillan Co., William Morrow & Co., Inc., G. P. Putnam's Sons, Random House, Inc., Charles Scribner's Sons, The Viking Press, Inc., Henry Z. Walck, Inc., and Franklin Watts, Inc.

The judgments are the same as in Harper & Row, Publishers, Inc., above (Case No. 1933, Civil Action No. 67C 612), except for (1) the use of the phrase “defendant having appeared herein” in lieu of “defendant having filed its answer thereto denying the substantive allegations thereof” in the introductory paragraph of the Little, Brown & Co., Inc. and Franklin Watts, Inc. judgments, (2) the substitution of the name of the defendant and its state of incorporation (see below in paragraph 11(A), and (3) the substitution of the dates in paragraphs V and VI(F) as follows:

Case No.	Civil Action No.	Defendant	Par. IIA	Par. V	Par. VI(F)
1934	67 C 613	The Bobbs-Merrill Co., Inc.	Indiana	Jan. 1, 1968	June 30, 1968
1935	67 C 614	Childrens Press, Inc.	Illinois	Nov. 30, 1967	Aug. 15, 1968
1936	67 C 615	Thomas Y. Crowell Co.	New York	June 30, 1968	Jan. 1, 1968
1937	67 C 616	Dodd, Mead & Co., Inc.	New York	Sept. 22, 1968	Sept. 22, 1968
1938	67 C 617	E. P. Dutton & Co., Inc.	New York	Sept. 1, 1968	Sept. 1, 1968
1939	67 C 618	Golden Press, Inc.	New York	Dec. 31, 1967	June 30, 1968
1940	67 C 619	Grosset & Dunlap, Inc.	New York	Jan. 1, 1968	Jan. 1, 1968
1941	67 C 620	Holt, Rinehart and Winston, Inc.	New York	Sept. 30, 1968	Sept. 30, 1968
1942	67 C 621	Little, Brown & Co., Inc.	Massachusetts	July 1, 1968	July 1, 1968
1943	67 C 622	The Macmillan Co.	Delaware	Oct. 31, 1968	Oct. 31, 1968
1944	67 C 623	William Morrow & Co., Inc.	New York	Apr. 30. 1968	Apr. 30, 1968
1945	67 C 624	G. P. Putnam's Sons	New York	Feb. 29, 1968	Feb. 29, 1968
1946	67 C 625	Random House, Inc.	New York	June 30, 1968	June 30, 1968
1947	67 C 626	Charles Scribner's Sons	New York	Aug. 1, 1968	Aug. 1, 1968
1948	67 C 627	The Viking Press, Inc.	New York	Aug. 31. 1968	Aug. 31, 1968
1949	67 C 628	Henry Z. Walck, Inc.	New York	Sept. 30, 1968	Sept. 30. 1968
1950	67 C 629	Franklin Watts, Inc.	New York	Dec. 31, 1967	Dec. 31, 1967

United States v. The Macmilan Company

Civil Action No. 67 C 622

Year Judgment Entered: 1967

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. Harper & Row, Publishers, Inc., The Bobbs-Merrill Co., Inc., Childrens Press, Inc., Thomas Y. Crowell Co., Dodd, Mead & Co., Inc., E. P. Dutton & Co., Inc., Golden Press, Inc., Grosset & Dunlap, Inc., Holt, Rinehart and Winston, Inc., Little, Brown & Co., Inc., The Macmillan Co., William Morrow & Co., Inc., G. P. Putnam's Sons, Random House, Inc., Charles Scribner's Sons, The Viking Press, Inc., Henry Z. Walck, Inc., and Franklin Watts, Inc., U.S. District Court, N.D. Illinois, 1967 Trade Cases ¶72,256, (Nov. 27, 1967)

Federal Antitrust Cases
Trade Regulation Reporter - Trade Cases (1932 - 1992) ¶72,256

United States v. Harper & Row, Publishers, Inc., The Bobbs-Merrill Co., Inc., Childrens Press, Inc., Thomas Y. Crowell Co., Dodd, Mead & Co., Inc., E. P. Dutton & Co., Inc., Golden Press, Inc., Grosset & Dunlap, Inc., Holt, Rinehart and Winston, Inc., Little, Brown & Co., Inc., The Macmillan Co., William Morrow & Co., Inc., G. P. Putnam's Sons, Random House, Inc., Charles Scribner's Sons, The Viking Press, Inc., Henry Z. Walck, Inc., and Franklin Watts, Inc.

1967 Trade Cases ¶72,256. U.S. District Court, N.D. Illinois, Eastern Division. Civil Action Nos. 67 C 612—67 C 629. Entered November 27, 1967. Case Nos. 1933—1950 in the Antitrust Division of the Department of Justice.

Headnote

Sherman Act

Resale Price Fixing—Children's Books—Consent Decrees.—Each of defendant book publishers, charged in separate suits with fixing the prices of library editions of children's books with its wholesalers, was prohibited by consent decrees from attempting to maintain the resale price of its books (without regard to rights under fair trade laws for a period of five years) and from entering into agreements with its wholesalers to fix the resale price of books or to submit rigged bids. In its final form, the decree (para. X) also required the Department of Justice, if it discovers violations of the decree affecting local governments, to retain the evidence for a year for use in damage suits.

For the plaintiff: Donald F. Turner, Assistant Attorney General, Baddia J. Rashid, Harry N. Burgess, John E. Sarbaugh, William T. Huyck, John Edward Burke, and David J. Berman, Attorneys, Department of Justice.

For the defendants: Ira M. Millstein and Donald J. Williamson, of Weil, Gotshal & Manges, New York, N. Y., for Harper & Row, Publishers, Inc., Charles Scribner's Sons, E. P. Dutton & Co., Inc., Henry Z. Walck, Inc., and Grosset & Dunlap, Inc.; W. Donald McSweeney and William A. Montgomery, of Schiff Hardin Waite Dorschel & Britton, Chicago, Ill., for G. P. Putnam's Sons, The Viking Press, Inc., and The Bobbs-Merrill Co., Inc.; Don H. Reuben and Fred H. Bartlit, Jr., of Kirkland, Ellis, Hodson, Chaffetz & Masters, Chicago, 111., for Childrens Press, Inc.; Of counsel: H. Templeton Brown, of Mayer, Friedlich, Spiess, Tierney, Brown & Piatt, Chicago, III, for Thomas Y. Crowell Co., Holt, Rinehart and Winston, Inc., and William Morrow & Co., Inc.; Of counsel: Leo Rosen, of Greenbaum, Wolff & Ernst, New York, N. Y., for Thomas Y. Crowell Co., and William Morrow & Co., Inc.; Harry Buchman, of Stern & Reubens, for Dodd, Mead & Co., Inc.; Samuel Weisbard, of McDermott, Will & Emery, Chicago, 111., for Golden Press, Inc.; Robert H. Davison, of Hausserman, Davison & Shattuck, Boston, Mass., for Little, Brown & Co., Inc.; Robert C. Keck, of Spray, Price, Hough & Cushman, Chicago, 111.,

for The Macmillan Co.; Albert E. Jenner, Jr. and Philip W. Tone, of Raymond, Mayer, Jenner & Block, Chicago, 111., and Bernard G. Segal, Edward W. Mullinix, and Arthur H. Kahn, of Schnader, Harrison, Segal & Lewis, Philadelphia, Pa., for Random House, Inc.; Of counsel: Earl A. Jinkinson and John W. Stack, of Winston, Strawn, Smith & Patterson, for Franklin Watts, Inc.

Final Judgment as to Harper & Row, Publishers, Inc (Civ. No. 67 C 612; Case No. 1933)

MAROVITZ, Judge: Plaintiff, United States of America, having filed its complaint herein on April 18, 1967, and defendant having filed its answer thereto denying the substantive allegations thereof, and plaintiff and defendant by their respective attorneys having consented to the making and entry of this Final Judgment without admission, by either party in respect to any issue;

Now, Therefore, before any testimony has been taken herein, without trial or adjudication of any issue of fact or law herein, and upon consent of the parties 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 hereto. The complaint states claims for relief against the defendant under Section 1 of the Act of Congress of July 2, 1890, entitled “An act to protect trade and commerce against unlawful restraints and monopolies,” commonly known as the Sherman Act, as amended.

II

As used herein:

(A) “Defendant” means the defendant Harper & Row Publishers, Inc., a corporation organized and existing under the laws of Illinois and each of its domestic subsidiaries and each of its foreign subsidiaries when doing business through or with any reseller in the United States;

(B) “Person” means any individual, corporation, partnership, firm or other legal entity and includes wherever applicable any Federal, State or local or other governmental agency or instrumentality thereof;

(C) Customer” means any school, library or governmental agency or instrumentality thereof;

(D) “Reseller” means any person who is engaged in the business of buying books for resale and includes any such person when acting as an agent or consignee of defendant; and

(E) Solely for purposes of Section VII(A) and (B), the term “any person engaged in the resale of books purchased from defendant” shall not be deemed to include the national distributor of paperbacks who functions as defendant's sole national distributor.

III

The provisions of this Final Judgment applicable to the defendant shall also apply to each of its officers, directors, agents and employees and to each of its successors and assigns, and to all other persons in active concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise. This Final Judgment shall not apply to sales for use outside the United States, except for sales to or for the use of the plaintiff or any instrumentality or agency thereof.

IV

Defendant is ordered and directed:

(A) Within ninety (90) days after entry of this Final Judgment, to mail a copy thereof to each of its currently active wholesale accounts which sells to customers; for a period of five (5) years after such entry to mail a copy to

each such additional wholesale account to whom it sells books; and to maintain for such five (5) year period a complete list of all such wholesale accounts to whom defendant has so mailed copies;

(B) To issue a written statement to the effect that this Final Judgment prohibits the defendant from fixing, determining, dictating, approving or disapproving the customers to whom or the prices at which any reseller may sell or advertise defendant's books to any school, library or governmental agency or instrumentality, the statement to be circulated by either one of the following means:

(1) By mailing, within six (6) months after entry of this Final Judgment, to the currently active list of schools, libraries and governmental agencies and instrumentalities to whom it mails catalogues; or

(2) By publication in an issue of School Library *Journal* published not later than two (2) months after entry of this Final Judgment.

(C) Within six (6) months after entry of this Final Judgment, to furnish plaintiff with a written statement of the form and manner of compliance with the provisions of subsection (B) of this Section IV;

(D) For a period of one (1) year after entry of this Final Judgment, to furnish a copy thereof to any school, library or governmental agency or instrumentality requesting it.

V

For a period of five (5) years after the date set forth in this Section V, defendant is enjoined and restrained, in connection with the pricing of its books, except textbooks, from directly or indirectly, in any manner, using the words “net” or “net price” in or on such books or in any catalogue, price list, circular or other bulletin when referring to such books; provided, however, that this Section V shall not apply to any now-existing copies of such catalogues, price lists, circulars or other bulletins until July 1, 1968 or to now-existing copies of such books.

VI

Defendant is enjoined and restrained from, directly or indirectly, in any manner:

(A) Fixing, determining, dictating, approving, disapproving, or policing the customers to whom, or the prices or related terms and conditions of sale at or upon which any reseller may have sold, sells, advertises or offers to sell any books to any customer;

(B) Suggesting (otherwise than by imprinting any price, without more, on a book or book jacket) to any reseller the prices or related terms and conditions of sale at which said reseller should sell, advertise or offer to sell any books to any customer;

(C) Hindering, restricting, limiting or preventing, or attempting to hinder, restrict, limit or prevent any reseller from advertising for sale, selling or offering to sell any books (1) to any customer or (2) to any customer at any price or related terms and conditions of sale individually determined by such reseller;

(D) So long as defendant sells books to resellers, refusing to sell or offer to sell or threatening to refuse to sell or offer to sell such books to, or coercing, or discriminating in the sale or shipment of any books to, any reseller because of the prices at which said reseller intends to sell or has sold any books to any customer;

(E) Inducing or suggesting to any reseller that such reseller refuse to deal with or discriminate against any third person with respect to the sale, distribution, purchase or shipment of any books to any customer; and

(F) Issuing or disseminating defendant's customer prices in any promotional material directed to resellers or in any price catalogues, lists, circulars or bulletins with respect to books sold by resellers unless such material contains a statement, in easily legible type, that any reseller is free to charge whatever price he wishes for defendant's books; provided, however, that this Section (F) shall not apply to any now-existing copies of such promotional material, catalogues, lists, circulars or bulletins until July 1, 1968.

Provided that, upon the expiration of a period of five (5) years following the date of entry of this Final Judgment, nothing contained in Section VI of this Final Judgment shall prohibit the defendant from lawfully exercising such rights, if any, or performing such obligations, if any, as it may have arising under the Miller-Tydings Act and the McGuire Act.

VII

In addition to the prohibitions of Section VI, above, defendant is enjoined and restrained from entering into, adhering to, maintaining, enforcing or claiming any rights under any contract, agreement, understanding, plan or program with any person engaged in the resale of books purchased from defendant to:

(A) Fix, establish, maintain or adhere to prices in the sale of its books to any third person;

(B) Refuse to sell its books to any third person because of the price or prices at which, or persons to whom such third person intends to sell, advertise, or display or may have sold, advertised or displayed such books;

(C) Submit collusive or rigged bids or quotes for supplying any of its books to any third person; or

(D) Bid or quote a specific price, or refrain from bidding or quoting, on any of its books to be sold to any third person;

Provided that, subject to Section VI of this Final Judgment, nothing contained in this Section VII shall prohibit the defendant from lawfully exercising such rights, if any, or performing such obligations, if any, as it may have arising under the Miller-Tydings Act and the McGuire Act.

VIII

Nothing contained in this Final Judgment shall be deemed to prohibit the defendant from complying with requirements imposed upon it by State or local law or by any governmental agency or instrumentality acting pursuant to State or local law.

IX

For a period of five (5) years following the date of the entry of this Final Judgment, defendant is ordered and directed to furnish simultaneously with each sealed bid and sealed quotation (other than a bid or quotation for a sale which will involve less than $100) submitted by it to any customer for the sale of books, other than textbooks, a written certification by the official of defendant having authority to determine the price or prices bid or quoted that said bid or quotation was not the result, directly or indirectly, of any agreement, understanding, plan, or program between defendant and any other person.

X

For the purpose of securing compliance with this Final Judgment, and for no other purpose, duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to defendant (which may have counsel present), made through its principal office, be permitted, subject to any legally recognized privilege, (1) access during reasonable office hours to all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of the defendant relating to any of the subject matters contained in this Final Judgment, and (2) subject to the reasonable convenience of 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; and upon such request, defendant shall submit such reports in writing, under oath if so requested, to the Department of Justice with respect to any of the matters contained in this Final Judgment as may from time to time be requested for the enforcement of this Final Judgment. No information obtained by the means provided in this Section X shall be divulged by any representative of the Department of Justice to any person, other than a duly authorized representative of the Executive Branch of plaintiff, except in the course of legal proceedings to which the United States of America is a party for the purpose of securing compliance with this Final Judgment or as otherwise required by law.

Any such information evidencing a violation of this Final Judgment which adversely affects the interest of any State or local governmental agency or instrumentality shall be retained by plaintiff for a period of one (1) year from the time when it is obtained and shall be treated as impounded subject to further order of this Court which, on motion and notice to the parties and a showing of good cause by the principal law officer of any State or local

governmental agency or instrumentality, may order disclosure to such officer of any part or all of such information as the Court deems proper for use by such agency or instrumentality preliminarily to or in connection with an action under the federal antitrust laws.

XI

Jurisdiction is retained for the purpose of enabling either 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 or for the modification or termination of any of the provisions thereof, and for the enforcement of compliance therewith and punishment of violations thereof.

Final Judgments as to The Bobbs-Merrill Co,, Inc., Childrens Press, Inc., Thomas Y. Crowell Co., Dodd, Mead & Co., Inc., E. P. Dutton & Co., Inc., Golden Press, Inc., Grosset & Dunlap, Inc., Holt, Rinehart and Winston, Inc., Little, Brown & Co., Inc., The Macmillan Co., William Morrow & Co., Inc., G. P. Putnam's Sons, Random House, Inc., Charles Scribner's Sons, The Viking Press, Inc., Henry Z. Walck, Inc., and Franklin Watts, Inc.

The judgments are the same as in Harper & Row, Publishers, Inc., above (Case No. 1933, Civil Action No. 67C 612), except for (1) the use of the phrase “defendant having appeared herein” in lieu of “defendant having filed its answer thereto denying the substantive allegations thereof” in the introductory paragraph of the Little, Brown & Co., Inc. and Franklin Watts, Inc. judgments, (2) the substitution of the name of the defendant and its state of incorporation (see below in paragraph 11(A), and (3) the substitution of the dates in paragraphs V and VI(F) as follows:

Case No.	Civil Action No.	Defendant	Par. IIA	Par. V	Par. VI(F)
1934	67 C 613	The Bobbs-Merrill Co., Inc.	Indiana	Jan. 1, 1968	June 30, 1968
1935	67 C 614	Childrens Press, Inc.	Illinois	Nov. 30, 1967	Aug. 15, 1968
1936	67 C 615	Thomas Y. Crowell Co.	New York	June 30, 1968	Jan. 1, 1968
1937	67 C 616	Dodd, Mead & Co., Inc.	New York	Sept. 22, 1968	Sept. 22, 1968
1938	67 C 617	E. P. Dutton & Co., Inc.	New York	Sept. 1, 1968	Sept. 1, 1968
1939	67 C 618	Golden Press, Inc.	New York	Dec. 31, 1967	June 30, 1968
1940	67 C 619	Grosset & Dunlap, Inc.	New York	Jan. 1, 1968	Jan. 1, 1968
1941	67 C 620	Holt, Rinehart and Winston, Inc.	New York	Sept. 30, 1968	Sept. 30, 1968
1942	67 C 621	Little, Brown & Co., Inc.	Massachusetts	July 1, 1968	July 1, 1968
1943	67 C 622	The Macmillan Co.	Delaware	Oct. 31, 1968	Oct. 31, 1968
1944	67 C 623	William Morrow & Co., Inc.	New York	Apr. 30. 1968	Apr. 30, 1968
1945	67 C 624	G. P. Putnam's Sons	New York	Feb. 29, 1968	Feb. 29, 1968
1946	67 C 625	Random House, Inc.	New York	June 30, 1968	June 30, 1968
1947	67 C 626	Charles Scribner's Sons	New York	Aug. 1, 1968	Aug. 1, 1968
1948	67 C 627	The Viking Press, Inc.	New York	Aug. 31. 1968	Aug. 31, 1968
1949	67 C 628	Henry Z. Walck, Inc.	New York	Sept. 30, 1968	Sept. 30. 1968
1950	67 C 629	Franklin Watts, Inc.	New York	Dec. 31, 1967	Dec. 31, 1967

United States v. William Morrow & Company, Inc.

Civil Action No. 67 C 623

Year Judgment Entered: 1967

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. Harper & Row, Publishers, Inc., The Bobbs-Merrill Co., Inc., Childrens Press, Inc., Thomas Y. Crowell Co., Dodd, Mead & Co., Inc., E. P. Dutton & Co., Inc., Golden Press, Inc., Grosset & Dunlap, Inc., Holt, Rinehart and Winston, Inc., Little, Brown & Co., Inc., The Macmillan Co., William Morrow & Co., Inc., G. P. Putnam's Sons, Random House, Inc., Charles Scribner's Sons, The Viking Press, Inc., Henry Z. Walck, Inc., and Franklin Watts, Inc., U.S. District Court, N.D. Illinois, 1967 Trade Cases ¶72,256, (Nov. 27, 1967)

Federal Antitrust Cases
Trade Regulation Reporter - Trade Cases (1932 - 1992) ¶72,256

United States v. Harper & Row, Publishers, Inc., The Bobbs-Merrill Co., Inc., Childrens Press, Inc., Thomas Y. Crowell Co., Dodd, Mead & Co., Inc., E. P. Dutton & Co., Inc., Golden Press, Inc., Grosset & Dunlap, Inc., Holt, Rinehart and Winston, Inc., Little, Brown & Co., Inc., The Macmillan Co., William Morrow & Co., Inc., G. P. Putnam's Sons, Random House, Inc., Charles Scribner's Sons, The Viking Press, Inc., Henry Z. Walck, Inc., and Franklin Watts, Inc.

1967 Trade Cases ¶72,256. U.S. District Court, N.D. Illinois, Eastern Division. Civil Action Nos. 67 C 612—67 C 629. Entered November 27, 1967. Case Nos. 1933—1950 in the Antitrust Division of the Department of Justice.

Headnote

Sherman Act

Resale Price Fixing—Children's Books—Consent Decrees.—Each of defendant book publishers, charged in separate suits with fixing the prices of library editions of children's books with its wholesalers, was prohibited by consent decrees from attempting to maintain the resale price of its books (without regard to rights under fair trade laws for a period of five years) and from entering into agreements with its wholesalers to fix the resale price of books or to submit rigged bids. In its final form, the decree (para. X) also required the Department of Justice, if it discovers violations of the decree affecting local governments, to retain the evidence for a year for use in damage suits.

For the plaintiff: Donald F. Turner, Assistant Attorney General, Baddia J. Rashid, Harry N. Burgess, John E. Sarbaugh, William T. Huyck, John Edward Burke, and David J. Berman, Attorneys, Department of Justice.

For the defendants: Ira M. Millstein and Donald J. Williamson, of Weil, Gotshal & Manges, New York, N. Y., for Harper & Row, Publishers, Inc., Charles Scribner's Sons, E. P. Dutton & Co., Inc., Henry Z. Walck, Inc., and Grosset & Dunlap, Inc.; W. Donald McSweeney and William A. Montgomery, of Schiff Hardin Waite Dorschel & Britton, Chicago, Ill., for G. P. Putnam's Sons, The Viking Press, Inc., and The Bobbs-Merrill Co., Inc.; Don H. Reuben and Fred H. Bartlit, Jr., of Kirkland, Ellis, Hodson, Chaffetz & Masters, Chicago, 111., for Childrens Press, Inc.; Of counsel: H. Templeton Brown, of Mayer, Friedlich, Spiess, Tierney, Brown & Piatt, Chicago, III, for Thomas Y. Crowell Co., Holt, Rinehart and Winston, Inc., and William Morrow & Co., Inc.; Of counsel: Leo Rosen, of Greenbaum, Wolff & Ernst, New York, N. Y., for Thomas Y. Crowell Co., and William Morrow & Co., Inc.; Harry Buchman, of Stern & Reubens, for Dodd, Mead & Co., Inc.; Samuel Weisbard, of McDermott, Will & Emery, Chicago, 111., for Golden Press, Inc.; Robert H. Davison, of Hausserman, Davison & Shattuck, Boston, Mass., for Little, Brown & Co., Inc.; Robert C. Keck, of Spray, Price, Hough & Cushman, Chicago, 111.,

for The Macmillan Co.; Albert E. Jenner, Jr. and Philip W. Tone, of Raymond, Mayer, Jenner & Block, Chicago, 111., and Bernard G. Segal, Edward W. Mullinix, and Arthur H. Kahn, of Schnader, Harrison, Segal & Lewis, Philadelphia, Pa., for Random House, Inc.; Of counsel: Earl A. Jinkinson and John W. Stack, of Winston, Strawn, Smith & Patterson, for Franklin Watts, Inc.

Final Judgment as to Harper & Row, Publishers, Inc (Civ. No. 67 C 612; Case No. 1933)

MAROVITZ, Judge: Plaintiff, United States of America, having filed its complaint herein on April 18, 1967, and defendant having filed its answer thereto denying the substantive allegations thereof, and plaintiff and defendant by their respective attorneys having consented to the making and entry of this Final Judgment without admission, by either party in respect to any issue;

Now, Therefore, before any testimony has been taken herein, without trial or adjudication of any issue of fact or law herein, and upon consent of the parties 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 hereto. The complaint states claims for relief against the defendant under Section 1 of the Act of Congress of July 2, 1890, entitled “An act to protect trade and commerce against unlawful restraints and monopolies,” commonly known as the Sherman Act, as amended.

II

As used herein:

(A) “Defendant” means the defendant Harper & Row Publishers, Inc., a corporation organized and existing under the laws of Illinois and each of its domestic subsidiaries and each of its foreign subsidiaries when doing business through or with any reseller in the United States;

(B) “Person” means any individual, corporation, partnership, firm or other legal entity and includes wherever applicable any Federal, State or local or other governmental agency or instrumentality thereof;

(C) Customer” means any school, library or governmental agency or instrumentality thereof;

(D) “Reseller” means any person who is engaged in the business of buying books for resale and includes any such person when acting as an agent or consignee of defendant; and

(E) Solely for purposes of Section VII(A) and (B), the term “any person engaged in the resale of books purchased from defendant” shall not be deemed to include the national distributor of paperbacks who functions as defendant's sole national distributor.

III

The provisions of this Final Judgment applicable to the defendant shall also apply to each of its officers, directors, agents and employees and to each of its successors and assigns, and to all other persons in active concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise. This Final Judgment shall not apply to sales for use outside the United States, except for sales to or for the use of the plaintiff or any instrumentality or agency thereof.

IV

Defendant is ordered and directed:

(A) Within ninety (90) days after entry of this Final Judgment, to mail a copy thereof to each of its currently active wholesale accounts which sells to customers; for a period of five (5) years after such entry to mail a copy to

each such additional wholesale account to whom it sells books; and to maintain for such five (5) year period a complete list of all such wholesale accounts to whom defendant has so mailed copies;

(B) To issue a written statement to the effect that this Final Judgment prohibits the defendant from fixing, determining, dictating, approving or disapproving the customers to whom or the prices at which any reseller may sell or advertise defendant's books to any school, library or governmental agency or instrumentality, the statement to be circulated by either one of the following means:

(1) By mailing, within six (6) months after entry of this Final Judgment, to the currently active list of schools, libraries and governmental agencies and instrumentalities to whom it mails catalogues; or

(2) By publication in an issue of School Library *Journal* published not later than two (2) months after entry of this Final Judgment.

(C) Within six (6) months after entry of this Final Judgment, to furnish plaintiff with a written statement of the form and manner of compliance with the provisions of subsection (B) of this Section IV;

(D) For a period of one (1) year after entry of this Final Judgment, to furnish a copy thereof to any school, library or governmental agency or instrumentality requesting it.

V

For a period of five (5) years after the date set forth in this Section V, defendant is enjoined and restrained, in connection with the pricing of its books, except textbooks, from directly or indirectly, in any manner, using the words “net” or “net price” in or on such books or in any catalogue, price list, circular or other bulletin when referring to such books; provided, however, that this Section V shall not apply to any now-existing copies of such catalogues, price lists, circulars or other bulletins until July 1, 1968 or to now-existing copies of such books.

VI

Defendant is enjoined and restrained from, directly or indirectly, in any manner:

(A) Fixing, determining, dictating, approving, disapproving, or policing the customers to whom, or the prices or related terms and conditions of sale at or upon which any reseller may have sold, sells, advertises or offers to sell any books to any customer;

(B) Suggesting (otherwise than by imprinting any price, without more, on a book or book jacket) to any reseller the prices or related terms and conditions of sale at which said reseller should sell, advertise or offer to sell any books to any customer;

(C) Hindering, restricting, limiting or preventing, or attempting to hinder, restrict, limit or prevent any reseller from advertising for sale, selling or offering to sell any books (1) to any customer or (2) to any customer at any price or related terms and conditions of sale individually determined by such reseller;

(D) So long as defendant sells books to resellers, refusing to sell or offer to sell or threatening to refuse to sell or offer to sell such books to, or coercing, or discriminating in the sale or shipment of any books to, any reseller because of the prices at which said reseller intends to sell or has sold any books to any customer;

(E) Inducing or suggesting to any reseller that such reseller refuse to deal with or discriminate against any third person with respect to the sale, distribution, purchase or shipment of any books to any customer; and

(F) Issuing or disseminating defendant's customer prices in any promotional material directed to resellers or in any price catalogues, lists, circulars or bulletins with respect to books sold by resellers unless such material contains a statement, in easily legible type, that any reseller is free to charge whatever price he wishes for defendant's books; provided, however, that this Section (F) shall not apply to any now-existing copies of such promotional material, catalogues, lists, circulars or bulletins until July 1, 1968.

Provided that, upon the expiration of a period of five (5) years following the date of entry of this Final Judgment, nothing contained in Section VI of this Final Judgment shall prohibit the defendant from lawfully exercising such rights, if any, or performing such obligations, if any, as it may have arising under the Miller-Tydings Act and the McGuire Act.

VII

In addition to the prohibitions of Section VI, above, defendant is enjoined and restrained from entering into, adhering to, maintaining, enforcing or claiming any rights under any contract, agreement, understanding, plan or program with any person engaged in the resale of books purchased from defendant to:

(A) Fix, establish, maintain or adhere to prices in the sale of its books to any third person;

(B) Refuse to sell its books to any third person because of the price or prices at which, or persons to whom such third person intends to sell, advertise, or display or may have sold, advertised or displayed such books;

(C) Submit collusive or rigged bids or quotes for supplying any of its books to any third person; or

(D) Bid or quote a specific price, or refrain from bidding or quoting, on any of its books to be sold to any third person;

Provided that, subject to Section VI of this Final Judgment, nothing contained in this Section VII shall prohibit the defendant from lawfully exercising such rights, if any, or performing such obligations, if any, as it may have arising under the Miller-Tydings Act and the McGuire Act.

VIII

Nothing contained in this Final Judgment shall be deemed to prohibit the defendant from complying with requirements imposed upon it by State or local law or by any governmental agency or instrumentality acting pursuant to State or local law.

IX

For a period of five (5) years following the date of the entry of this Final Judgment, defendant is ordered and directed to furnish simultaneously with each sealed bid and sealed quotation (other than a bid or quotation for a sale which will involve less than $100) submitted by it to any customer for the sale of books, other than textbooks, a written certification by the official of defendant having authority to determine the price or prices bid or quoted that said bid or quotation was not the result, directly or indirectly, of any agreement, understanding, plan, or program between defendant and any other person.

X

For the purpose of securing compliance with this Final Judgment, and for no other purpose, duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to defendant (which may have counsel present), made through its principal office, be permitted, subject to any legally recognized privilege, (1) access during reasonable office hours to all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of the defendant relating to any of the subject matters contained in this Final Judgment, and (2) subject to the reasonable convenience of 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; and upon such request, defendant shall submit such reports in writing, under oath if so requested, to the Department of Justice with respect to any of the matters contained in this Final Judgment as may from time to time be requested for the enforcement of this Final Judgment. No information obtained by the means provided in this Section X shall be divulged by any representative of the Department of Justice to any person, other than a duly authorized representative of the Executive Branch of plaintiff, except in the course of legal proceedings to which the United States of America is a party for the purpose of securing compliance with this Final Judgment or as otherwise required by law.

Any such information evidencing a violation of this Final Judgment which adversely affects the interest of any State or local governmental agency or instrumentality shall be retained by plaintiff for a period of one (1) year from the time when it is obtained and shall be treated as impounded subject to further order of this Court which, on motion and notice to the parties and a showing of good cause by the principal law officer of any State or local

governmental agency or instrumentality, may order disclosure to such officer of any part or all of such information as the Court deems proper for use by such agency or instrumentality preliminarily to or in connection with an action under the federal antitrust laws.

XI

Jurisdiction is retained for the purpose of enabling either 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 or for the modification or termination of any of the provisions thereof, and for the enforcement of compliance therewith and punishment of violations thereof.

Final Judgments as to The Bobbs-Merrill Co,, Inc., Childrens Press, Inc., Thomas Y. Crowell Co., Dodd, Mead & Co., Inc., E. P. Dutton & Co., Inc., Golden Press, Inc., Grosset & Dunlap, Inc., Holt, Rinehart and Winston, Inc., Little, Brown & Co., Inc., The Macmillan Co., William Morrow & Co., Inc., G. P. Putnam's Sons, Random House, Inc., Charles Scribner's Sons, The Viking Press, Inc., Henry Z. Walck, Inc., and Franklin Watts, Inc.

The judgments are the same as in Harper & Row, Publishers, Inc., above (Case No. 1933, Civil Action No. 67C 612), except for (1) the use of the phrase “defendant having appeared herein” in lieu of “defendant having filed its answer thereto denying the substantive allegations thereof” in the introductory paragraph of the Little, Brown & Co., Inc. and Franklin Watts, Inc. judgments, (2) the substitution of the name of the defendant and its state of incorporation (see below in paragraph 11(A), and (3) the substitution of the dates in paragraphs V and VI(F) as follows:

Case No.	Civil Action No.	Defendant	Par. IIA	Par. V	Par. VI(F)
1934	67 C 613	The Bobbs-Merrill Co., Inc.	Indiana	Jan. 1, 1968	June 30, 1968
1935	67 C 614	Childrens Press, Inc.	Illinois	Nov. 30, 1967	Aug. 15, 1968
1936	67 C 615	Thomas Y. Crowell Co.	New York	June 30, 1968	Jan. 1, 1968
1937	67 C 616	Dodd, Mead & Co., Inc.	New York	Sept. 22, 1968	Sept. 22, 1968
1938	67 C 617	E. P. Dutton & Co., Inc.	New York	Sept. 1, 1968	Sept. 1, 1968
1939	67 C 618	Golden Press, Inc.	New York	Dec. 31, 1967	June 30, 1968
1940	67 C 619	Grosset & Dunlap, Inc.	New York	Jan. 1, 1968	Jan. 1, 1968
1941	67 C 620	Holt, Rinehart and Winston, Inc.	New York	Sept. 30, 1968	Sept. 30, 1968
1942	67 C 621	Little, Brown & Co., Inc.	Massachusetts	July 1, 1968	July 1, 1968
1943	67 C 622	The Macmillan Co.	Delaware	Oct. 31, 1968	Oct. 31, 1968
1944	67 C 623	William Morrow & Co., Inc.	New York	Apr. 30. 1968	Apr. 30, 1968
1945	67 C 624	G. P. Putnam's Sons	New York	Feb. 29, 1968	Feb. 29, 1968
1946	67 C 625	Random House, Inc.	New York	June 30, 1968	June 30, 1968
1947	67 C 626	Charles Scribner's Sons	New York	Aug. 1, 1968	Aug. 1, 1968
1948	67 C 627	The Viking Press, Inc.	New York	Aug. 31. 1968	Aug. 31, 1968
1949	67 C 628	Henry Z. Walck, Inc.	New York	Sept. 30, 1968	Sept. 30. 1968
1950	67 C 629	Franklin Watts, Inc.	New York	Dec. 31, 1967	Dec. 31, 1967

United States v. G. P. Putnam's Sons

Civil Action No. 67 C 624

Year Judgment Entered: 1967

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. Harper & Row, Publishers, Inc., The Bobbs-Merrill Co., Inc., Childrens Press, Inc., Thomas Y. Crowell Co., Dodd, Mead & Co., Inc., E. P. Dutton & Co., Inc., Golden Press, Inc., Grosset & Dunlap, Inc., Holt, Rinehart and Winston, Inc., Little, Brown & Co., Inc., The Macmillan Co., William Morrow & Co., Inc., G. P. Putnam's Sons, Random House, Inc., Charles Scribner's Sons, The Viking Press, Inc., Henry Z. Walck, Inc., and Franklin Watts, Inc., U.S. District Court, N.D. Illinois, 1967 Trade Cases ¶72,256, (Nov. 27, 1967)

Federal Antitrust Cases
Trade Regulation Reporter - Trade Cases (1932 - 1992) ¶72,256

United States v. Harper & Row, Publishers, Inc., The Bobbs-Merrill Co., Inc., Childrens Press, Inc., Thomas Y. Crowell Co., Dodd, Mead & Co., Inc., E. P. Dutton & Co., Inc., Golden Press, Inc., Grosset & Dunlap, Inc., Holt, Rinehart and Winston, Inc., Little, Brown & Co., Inc., The Macmillan Co., William Morrow & Co., Inc., G. P. Putnam's Sons, Random House, Inc., Charles Scribner's Sons, The Viking Press, Inc., Henry Z. Walck, Inc., and Franklin Watts, Inc.

1967 Trade Cases ¶72,256. U.S. District Court, N.D. Illinois, Eastern Division. Civil Action Nos. 67 C 612—67 C 629. Entered November 27, 1967. Case Nos. 1933—1950 in the Antitrust Division of the Department of Justice.

Headnote

Sherman Act

Resale Price Fixing—Children's Books—Consent Decrees.—Each of defendant book publishers, charged in separate suits with fixing the prices of library editions of children's books with its wholesalers, was prohibited by consent decrees from attempting to maintain the resale price of its books (without regard to rights under fair trade laws for a period of five years) and from entering into agreements with its wholesalers to fix the resale price of books or to submit rigged bids. In its final form, the decree (para. X) also required the Department of Justice, if it discovers violations of the decree affecting local governments, to retain the evidence for a year for use in damage suits.

For the plaintiff: Donald F. Turner, Assistant Attorney General, Baddia J. Rashid, Harry N. Burgess, John E. Sarbaugh, William T. Huyck, John Edward Burke, and David J. Berman, Attorneys, Department of Justice.

For the defendants: Ira M. Millstein and Donald J. Williamson, of Weil, Gotshal & Manges, New York, N. Y., for Harper & Row, Publishers, Inc., Charles Scribner's Sons, E. P. Dutton & Co., Inc., Henry Z. Walck, Inc., and Grosset & Dunlap, Inc.; W. Donald McSweeney and William A. Montgomery, of Schiff Hardin Waite Dorschel & Britton, Chicago, Ill., for G. P. Putnam's Sons, The Viking Press, Inc., and The Bobbs-Merrill Co., Inc.; Don H. Reuben and Fred H. Bartlit, Jr., of Kirkland, Ellis, Hodson, Chaffetz & Masters, Chicago, 111., for Childrens Press, Inc.; Of counsel: H. Templeton Brown, of Mayer, Friedlich, Spiess, Tierney, Brown & Piatt, Chicago, III, for Thomas Y. Crowell Co., Holt, Rinehart and Winston, Inc., and William Morrow & Co., Inc.; Of counsel: Leo Rosen, of Greenbaum, Wolff & Ernst, New York, N. Y., for Thomas Y. Crowell Co., and William Morrow & Co., Inc.; Harry Buchman, of Stern & Reubens, for Dodd, Mead & Co., Inc.; Samuel Weisbard, of McDermott, Will & Emery, Chicago, 111., for Golden Press, Inc.; Robert H. Davison, of Hausserman, Davison & Shattuck, Boston, Mass., for Little, Brown & Co., Inc.; Robert C. Keck, of Spray, Price, Hough & Cushman, Chicago, 111.,

for The Macmillan Co.; Albert E. Jenner, Jr. and Philip W. Tone, of Raymond, Mayer, Jenner & Block, Chicago, 111., and Bernard G. Segal, Edward W. Mullinix, and Arthur H. Kahn, of Schnader, Harrison, Segal & Lewis, Philadelphia, Pa., for Random House, Inc.; Of counsel: Earl A. Jinkinson and John W. Stack, of Winston, Strawn, Smith & Patterson, for Franklin Watts, Inc.

Final Judgment as to Harper & Row, Publishers, Inc (Civ. No. 67 C 612; Case No. 1933)

MAROVITZ, Judge: Plaintiff, United States of America, having filed its complaint herein on April 18, 1967, and defendant having filed its answer thereto denying the substantive allegations thereof, and plaintiff and defendant by their respective attorneys having consented to the making and entry of this Final Judgment without admission, by either party in respect to any issue;

Now, Therefore, before any testimony has been taken herein, without trial or adjudication of any issue of fact or law herein, and upon consent of the parties 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 hereto. The complaint states claims for relief against the defendant under Section 1 of the Act of Congress of July 2, 1890, entitled “An act to protect trade and commerce against unlawful restraints and monopolies,” commonly known as the Sherman Act, as amended.

II

As used herein:

(A) “Defendant” means the defendant Harper & Row Publishers, Inc., a corporation organized and existing under the laws of Illinois and each of its domestic subsidiaries and each of its foreign subsidiaries when doing business through or with any reseller in the United States;

(B) “Person” means any individual, corporation, partnership, firm or other legal entity and includes wherever applicable any Federal, State or local or other governmental agency or instrumentality thereof;

(C) Customer” means any school, library or governmental agency or instrumentality thereof;

(D) “Reseller” means any person who is engaged in the business of buying books for resale and includes any such person when acting as an agent or consignee of defendant; and

(E) Solely for purposes of Section VII(A) and (B), the term “any person engaged in the resale of books purchased from defendant” shall not be deemed to include the national distributor of paperbacks who functions as defendant's sole national distributor.

III

The provisions of this Final Judgment applicable to the defendant shall also apply to each of its officers, directors, agents and employees and to each of its successors and assigns, and to all other persons in active concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise. This Final Judgment shall not apply to sales for use outside the United States, except for sales to or for the use of the plaintiff or any instrumentality or agency thereof.

IV

Defendant is ordered and directed:

(A) Within ninety (90) days after entry of this Final Judgment, to mail a copy thereof to each of its currently active wholesale accounts which sells to customers; for a period of five (5) years after such entry to mail a copy to

each such additional wholesale account to whom it sells books; and to maintain for such five (5) year period a complete list of all such wholesale accounts to whom defendant has so mailed copies;

(B) To issue a written statement to the effect that this Final Judgment prohibits the defendant from fixing, determining, dictating, approving or disapproving the customers to whom or the prices at which any reseller may sell or advertise defendant's books to any school, library or governmental agency or instrumentality, the statement to be circulated by either one of the following means:

(1) By mailing, within six (6) months after entry of this Final Judgment, to the currently active list of schools, libraries and governmental agencies and instrumentalities to whom it mails catalogues; or

(2) By publication in an issue of School Library *Journal* published not later than two (2) months after entry of this Final Judgment.

(C) Within six (6) months after entry of this Final Judgment, to furnish plaintiff with a written statement of the form and manner of compliance with the provisions of subsection (B) of this Section IV;

(D) For a period of one (1) year after entry of this Final Judgment, to furnish a copy thereof to any school, library or governmental agency or instrumentality requesting it.

V

For a period of five (5) years after the date set forth in this Section V, defendant is enjoined and restrained, in connection with the pricing of its books, except textbooks, from directly or indirectly, in any manner, using the words “net” or “net price” in or on such books or in any catalogue, price list, circular or other bulletin when referring to such books; provided, however, that this Section V shall not apply to any now-existing copies of such catalogues, price lists, circulars or other bulletins until July 1, 1968 or to now-existing copies of such books.

VI

Defendant is enjoined and restrained from, directly or indirectly, in any manner:

(A) Fixing, determining, dictating, approving, disapproving, or policing the customers to whom, or the prices or related terms and conditions of sale at or upon which any reseller may have sold, sells, advertises or offers to sell any books to any customer;

(B) Suggesting (otherwise than by imprinting any price, without more, on a book or book jacket) to any reseller the prices or related terms and conditions of sale at which said reseller should sell, advertise or offer to sell any books to any customer;

(C) Hindering, restricting, limiting or preventing, or attempting to hinder, restrict, limit or prevent any reseller from advertising for sale, selling or offering to sell any books (1) to any customer or (2) to any customer at any price or related terms and conditions of sale individually determined by such reseller;

(D) So long as defendant sells books to resellers, refusing to sell or offer to sell or threatening to refuse to sell or offer to sell such books to, or coercing, or discriminating in the sale or shipment of any books to, any reseller because of the prices at which said reseller intends to sell or has sold any books to any customer;

(E) Inducing or suggesting to any reseller that such reseller refuse to deal with or discriminate against any third person with respect to the sale, distribution, purchase or shipment of any books to any customer; and

(F) Issuing or disseminating defendant's customer prices in any promotional material directed to resellers or in any price catalogues, lists, circulars or bulletins with respect to books sold by resellers unless such material contains a statement, in easily legible type, that any reseller is free to charge whatever price he wishes for defendant's books; provided, however, that this Section (F) shall not apply to any now-existing copies of such promotional material, catalogues, lists, circulars or bulletins until July 1, 1968.

Provided that, upon the expiration of a period of five (5) years following the date of entry of this Final Judgment, nothing contained in Section VI of this Final Judgment shall prohibit the defendant from lawfully exercising such rights, if any, or performing such obligations, if any, as it may have arising under the Miller-Tydings Act and the McGuire Act.

VII

In addition to the prohibitions of Section VI, above, defendant is enjoined and restrained from entering into, adhering to, maintaining, enforcing or claiming any rights under any contract, agreement, understanding, plan or program with any person engaged in the resale of books purchased from defendant to:

(A) Fix, establish, maintain or adhere to prices in the sale of its books to any third person;

(B) Refuse to sell its books to any third person because of the price or prices at which, or persons to whom such third person intends to sell, advertise, or display or may have sold, advertised or displayed such books;

(C) Submit collusive or rigged bids or quotes for supplying any of its books to any third person; or

(D) Bid or quote a specific price, or refrain from bidding or quoting, on any of its books to be sold to any third person;

Provided that, subject to Section VI of this Final Judgment, nothing contained in this Section VII shall prohibit the defendant from lawfully exercising such rights, if any, or performing such obligations, if any, as it may have arising under the Miller-Tydings Act and the McGuire Act.

VIII

Nothing contained in this Final Judgment shall be deemed to prohibit the defendant from complying with requirements imposed upon it by State or local law or by any governmental agency or instrumentality acting pursuant to State or local law.

IX

For a period of five (5) years following the date of the entry of this Final Judgment, defendant is ordered and directed to furnish simultaneously with each sealed bid and sealed quotation (other than a bid or quotation for a sale which will involve less than $100) submitted by it to any customer for the sale of books, other than textbooks, a written certification by the official of defendant having authority to determine the price or prices bid or quoted that said bid or quotation was not the result, directly or indirectly, of any agreement, understanding, plan, or program between defendant and any other person.

X

For the purpose of securing compliance with this Final Judgment, and for no other purpose, duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to defendant (which may have counsel present), made through its principal office, be permitted, subject to any legally recognized privilege, (1) access during reasonable office hours to all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of the defendant relating to any of the subject matters contained in this Final Judgment, and (2) subject to the reasonable convenience of 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; and upon such request, defendant shall submit such reports in writing, under oath if so requested, to the Department of Justice with respect to any of the matters contained in this Final Judgment as may from time to time be requested for the enforcement of this Final Judgment. No information obtained by the means provided in this Section X shall be divulged by any representative of the Department of Justice to any person, other than a duly authorized representative of the Executive Branch of plaintiff, except in the course of legal proceedings to which the United States of America is a party for the purpose of securing compliance with this Final Judgment or as otherwise required by law.

Any such information evidencing a violation of this Final Judgment which adversely affects the interest of any State or local governmental agency or instrumentality shall be retained by plaintiff for a period of one (1) year from the time when it is obtained and shall be treated as impounded subject to further order of this Court which, on motion and notice to the parties and a showing of good cause by the principal law officer of any State or local

governmental agency or instrumentality, may order disclosure to such officer of any part or all of such information as the Court deems proper for use by such agency or instrumentality preliminarily to or in connection with an action under the federal antitrust laws.

XI

Jurisdiction is retained for the purpose of enabling either 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 or for the modification or termination of any of the provisions thereof, and for the enforcement of compliance therewith and punishment of violations thereof.

Final Judgments as to The Bobbs-Merrill Co,, Inc., Childrens Press, Inc., Thomas Y. Crowell Co., Dodd, Mead & Co., Inc., E. P. Dutton & Co., Inc., Golden Press, Inc., Grosset & Dunlap, Inc., Holt, Rinehart and Winston, Inc., Little, Brown & Co., Inc., The Macmillan Co., William Morrow & Co., Inc., G. P. Putnam's Sons, Random House, Inc., Charles Scribner's Sons, The Viking Press, Inc., Henry Z. Walck, Inc., and Franklin Watts, Inc.

The judgments are the same as in Harper & Row, Publishers, Inc., above (Case No. 1933, Civil Action No. 67C 612), except for (1) the use of the phrase “defendant having appeared herein” in lieu of “defendant having filed its answer thereto denying the substantive allegations thereof” in the introductory paragraph of the Little, Brown & Co., Inc. and Franklin Watts, Inc. judgments, (2) the substitution of the name of the defendant and its state of incorporation (see below in paragraph 11(A), and (3) the substitution of the dates in paragraphs V and VI(F) as follows:

Case No.	Civil Action No.	Defendant	Par. IIA	Par. V	Par. VI(F)
1934	67 C 613	The Bobbs-Merrill Co., Inc.	Indiana	Jan. 1, 1968	June 30, 1968
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1938	67 C 617	E. P. Dutton & Co., Inc.	New York	Sept. 1, 1968	Sept. 1, 1968
1939	67 C 618	Golden Press, Inc.	New York	Dec. 31, 1967	June 30, 1968
1940	67 C 619	Grosset & Dunlap, Inc.	New York	Jan. 1, 1968	Jan. 1, 1968
1941	67 C 620	Holt, Rinehart and Winston, Inc.	New York	Sept. 30, 1968	Sept. 30, 1968
1942	67 C 621	Little, Brown & Co., Inc.	Massachusetts	July 1, 1968	July 1, 1968
1943	67 C 622	The Macmillan Co.	Delaware	Oct. 31, 1968	Oct. 31, 1968
1944	67 C 623	William Morrow & Co., Inc.	New York	Apr. 30. 1968	Apr. 30, 1968
1945	67 C 624	G. P. Putnam's Sons	New York	Feb. 29, 1968	Feb. 29, 1968
1946	67 C 625	Random House, Inc.	New York	June 30, 1968	June 30, 1968
1947	67 C 626	Charles Scribner's Sons	New York	Aug. 1, 1968	Aug. 1, 1968
1948	67 C 627	The Viking Press, Inc.	New York	Aug. 31. 1968	Aug. 31, 1968
1949	67 C 628	Henry Z. Walck, Inc.	New York	Sept. 30, 1968	Sept. 30. 1968
1950	67 C 629	Franklin Watts, Inc.	New York	Dec. 31, 1967	Dec. 31, 1967

United States v. Random House, Inc.

Civil Action No. 67 C 625

Year Judgment Entered: 1967

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. Harper & Row, Publishers, Inc., The Bobbs-Merrill Co., Inc., Childrens Press, Inc., Thomas Y. Crowell Co., Dodd, Mead & Co., Inc., E. P. Dutton & Co., Inc., Golden Press, Inc., Grosset & Dunlap, Inc., Holt, Rinehart and Winston, Inc., Little, Brown & Co., Inc., The Macmillan Co., William Morrow & Co., Inc., G. P. Putnam's Sons, Random House, Inc., Charles Scribner's Sons, The Viking Press, Inc., Henry Z. Walck, Inc., and Franklin Watts, Inc., U.S. District Court, N.D. Illinois, 1967 Trade Cases ¶72,256, (Nov. 27, 1967)

Federal Antitrust Cases
Trade Regulation Reporter - Trade Cases (1932 - 1992) ¶72,256

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United States v. Harper & Row, Publishers, Inc., The Bobbs-Merrill Co., Inc., Childrens Press, Inc., Thomas Y. Crowell Co., Dodd, Mead & Co., Inc., E. P. Dutton & Co., Inc., Golden Press, Inc., Grosset & Dunlap, Inc., Holt, Rinehart and Winston, Inc., Little, Brown & Co., Inc., The Macmillan Co., William Morrow & Co., Inc., G. P. Putnam's Sons, Random House, Inc., Charles Scribner's Sons, The Viking Press, Inc., Henry Z. Walck, Inc., and Franklin Watts, Inc.

1967 Trade Cases ¶72,256. U.S. District Court, N.D. Illinois, Eastern Division. Civil Action Nos. 67 C 612—67 C 629. Entered November 27, 1967. Case Nos. 1933—1950 in the Antitrust Division of the Department of Justice.

Headnote

Sherman Act

Resale Price Fixing—Children's Books—Consent Decrees.—Each of defendant book publishers, charged in separate suits with fixing the prices of library editions of children's books with its wholesalers, was prohibited by consent decrees from attempting to maintain the resale price of its books (without regard to rights under fair trade laws for a period of five years) and from entering into agreements with its wholesalers to fix the resale price of books or to submit rigged bids. In its final form, the decree (para. X) also required the Department of Justice, if it discovers violations of the decree affecting local governments, to retain the evidence for a year for use in damage suits.

For the plaintiff: Donald F. Turner, Assistant Attorney General, Baddia J. Rashid, Harry N. Burgess, John E. Sarbaugh, William T. Huyck, John Edward Burke, and David J. Berman, Attorneys, Department of Justice.

For the defendants: Ira M. Millstein and Donald J. Williamson, of Weil, Gotshal & Manges, New York, N. Y., for Harper & Row, Publishers, Inc., Charles Scribner's Sons, E. P. Dutton & Co., Inc., Henry Z. Walck, Inc., and Grosset & Dunlap, Inc.; W. Donald McSweeney and William A. Montgomery, of Schiff Hardin Waite Dorschel & Britton, Chicago, Ill., for G. P. Putnam's Sons, The Viking Press, Inc., and The Bobbs-Merrill Co., Inc.; Don H. Reuben and Fred H. Bartlit, Jr., of Kirkland, Ellis, Hodson, Chaffetz & Masters, Chicago, 111., for Childrens Press, Inc.; Of counsel: H. Templeton Brown, of Mayer, Friedlich, Spiess, Tierney, Brown & Piatt, Chicago, III, for Thomas Y. Crowell Co., Holt, Rinehart and Winston, Inc., and William Morrow & Co., Inc.; Of counsel: Leo Rosen, of Greenbaum, Wolff & Ernst, New York, N. Y., for Thomas Y. Crowell Co., and William Morrow & Co., Inc.; Harry Buchman, of Stern & Reubens, for Dodd, Mead & Co., Inc.; Samuel Weisbard, of McDermott, Will & Emery, Chicago, 111., for Golden Press, Inc.; Robert H. Davison, of Hausserman, Davison & Shattuck, Boston, Mass., for Little, Brown & Co., Inc.; Robert C. Keck, of Spray, Price, Hough & Cushman, Chicago, 111.,

for The Macmillan Co.; Albert E. Jenner, Jr. and Philip W. Tone, of Raymond, Mayer, Jenner & Block, Chicago, 111., and Bernard G. Segal, Edward W. Mullinix, and Arthur H. Kahn, of Schnader, Harrison, Segal & Lewis, Philadelphia, Pa., for Random House, Inc.; Of counsel: Earl A. Jinkinson and John W. Stack, of Winston, Strawn, Smith & Patterson, for Franklin Watts, Inc.

Final Judgment as to Harper & Row, Publishers, Inc (Civ. No. 67 C 612; Case No. 1933)

MAROVITZ, Judge: Plaintiff, United States of America, having filed its complaint herein on April 18, 1967, and defendant having filed its answer thereto denying the substantive allegations thereof, and plaintiff and defendant by their respective attorneys having consented to the making and entry of this Final Judgment without admission, by either party in respect to any issue;

Now, Therefore, before any testimony has been taken herein, without trial or adjudication of any issue of fact or law herein, and upon consent of the parties 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 hereto. The complaint states claims for relief against the defendant under Section 1 of the Act of Congress of July 2, 1890, entitled “An act to protect trade and commerce against unlawful restraints and monopolies,” commonly known as the Sherman Act, as amended.

II

As used herein:

(A) “Defendant” means the defendant Harper & Row Publishers, Inc., a corporation organized and existing under the laws of Illinois and each of its domestic subsidiaries and each of its foreign subsidiaries when doing business through or with any reseller in the United States;

(B) “Person” means any individual, corporation, partnership, firm or other legal entity and includes wherever applicable any Federal, State or local or other governmental agency or instrumentality thereof;

(C) Customer” means any school, library or governmental agency or instrumentality thereof;

(D) “Reseller” means any person who is engaged in the business of buying books for resale and includes any such person when acting as an agent or consignee of defendant; and

(E) Solely for purposes of Section VII(A) and (B), the term “any person engaged in the resale of books purchased from defendant” shall not be deemed to include the national distributor of paperbacks who functions as defendant's sole national distributor.

III

The provisions of this Final Judgment applicable to the defendant shall also apply to each of its officers, directors, agents and employees and to each of its successors and assigns, and to all other persons in active concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise. This Final Judgment shall not apply to sales for use outside the United States, except for sales to or for the use of the plaintiff or any instrumentality or agency thereof.

IV

Defendant is ordered and directed:

(A) Within ninety (90) days after entry of this Final Judgment, to mail a copy thereof to each of its currently active wholesale accounts which sells to customers; for a period of five (5) years after such entry to mail a copy to

each such additional wholesale account to whom it sells books; and to maintain for such five (5) year period a complete list of all such wholesale accounts to whom defendant has so mailed copies;

(B) To issue a written statement to the effect that this Final Judgment prohibits the defendant from fixing, determining, dictating, approving or disapproving the customers to whom or the prices at which any reseller may sell or advertise defendant's books to any school, library or governmental agency or instrumentality, the statement to be circulated by either one of the following means:

(1) By mailing, within six (6) months after entry of this Final Judgment, to the currently active list of schools, libraries and governmental agencies and instrumentalities to whom it mails catalogues; or

(2) By publication in an issue of School Library *Journal* published not later than two (2) months after entry of this Final Judgment.

(C) Within six (6) months after entry of this Final Judgment, to furnish plaintiff with a written statement of the form and manner of compliance with the provisions of subsection (B) of this Section IV;

(D) For a period of one (1) year after entry of this Final Judgment, to furnish a copy thereof to any school, library or governmental agency or instrumentality requesting it.

V

For a period of five (5) years after the date set forth in this Section V, defendant is enjoined and restrained, in connection with the pricing of its books, except textbooks, from directly or indirectly, in any manner, using the words “net” or “net price” in or on such books or in any catalogue, price list, circular or other bulletin when referring to such books; provided, however, that this Section V shall not apply to any now-existing copies of such catalogues, price lists, circulars or other bulletins until July 1, 1968 or to now-existing copies of such books.

VI

Defendant is enjoined and restrained from, directly or indirectly, in any manner:

(A) Fixing, determining, dictating, approving, disapproving, or policing the customers to whom, or the prices or related terms and conditions of sale at or upon which any reseller may have sold, sells, advertises or offers to sell any books to any customer;

(B) Suggesting (otherwise than by imprinting any price, without more, on a book or book jacket) to any reseller the prices or related terms and conditions of sale at which said reseller should sell, advertise or offer to sell any books to any customer;

(C) Hindering, restricting, limiting or preventing, or attempting to hinder, restrict, limit or prevent any reseller from advertising for sale, selling or offering to sell any books (1) to any customer or (2) to any customer at any price or related terms and conditions of sale individually determined by such reseller;

(D) So long as defendant sells books to resellers, refusing to sell or offer to sell or threatening to refuse to sell or offer to sell such books to, or coercing, or discriminating in the sale or shipment of any books to, any reseller because of the prices at which said reseller intends to sell or has sold any books to any customer;

(E) Inducing or suggesting to any reseller that such reseller refuse to deal with or discriminate against any third person with respect to the sale, distribution, purchase or shipment of any books to any customer; and

(F) Issuing or disseminating defendant's customer prices in any promotional material directed to resellers or in any price catalogues, lists, circulars or bulletins with respect to books sold by resellers unless such material contains a statement, in easily legible type, that any reseller is free to charge whatever price he wishes for defendant's books; provided, however, that this Section (F) shall not apply to any now-existing copies of such promotional material, catalogues, lists, circulars or bulletins until July 1, 1968.

Provided that, upon the expiration of a period of five (5) years following the date of entry of this Final Judgment, nothing contained in Section VI of this Final Judgment shall prohibit the defendant from lawfully exercising such rights, if any, or performing such obligations, if any, as it may have arising under the Miller-Tydings Act and the McGuire Act.

VII

In addition to the prohibitions of Section VI, above, defendant is enjoined and restrained from entering into, adhering to, maintaining, enforcing or claiming any rights under any contract, agreement, understanding, plan or program with any person engaged in the resale of books purchased from defendant to:

(A) Fix, establish, maintain or adhere to prices in the sale of its books to any third person;

(B) Refuse to sell its books to any third person because of the price or prices at which, or persons to whom such third person intends to sell, advertise, or display or may have sold, advertised or displayed such books;

(C) Submit collusive or rigged bids or quotes for supplying any of its books to any third person; or

(D) Bid or quote a specific price, or refrain from bidding or quoting, on any of its books to be sold to any third person;

Provided that, subject to Section VI of this Final Judgment, nothing contained in this Section VII shall prohibit the defendant from lawfully exercising such rights, if any, or performing such obligations, if any, as it may have arising under the Miller-Tydings Act and the McGuire Act.

VIII

Nothing contained in this Final Judgment shall be deemed to prohibit the defendant from complying with requirements imposed upon it by State or local law or by any governmental agency or instrumentality acting pursuant to State or local law.

IX

For a period of five (5) years following the date of the entry of this Final Judgment, defendant is ordered and directed to furnish simultaneously with each sealed bid and sealed quotation (other than a bid or quotation for a sale which will involve less than $100) submitted by it to any customer for the sale of books, other than textbooks, a written certification by the official of defendant having authority to determine the price or prices bid or quoted that said bid or quotation was not the result, directly or indirectly, of any agreement, understanding, plan, or program between defendant and any other person.

X

For the purpose of securing compliance with this Final Judgment, and for no other purpose, duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to defendant (which may have counsel present), made through its principal office, be permitted, subject to any legally recognized privilege, (1) access during reasonable office hours to all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of the defendant relating to any of the subject matters contained in this Final Judgment, and (2) subject to the reasonable convenience of 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; and upon such request, defendant shall submit such reports in writing, under oath if so requested, to the Department of Justice with respect to any of the matters contained in this Final Judgment as may from time to time be requested for the enforcement of this Final Judgment. No information obtained by the means provided in this Section X shall be divulged by any representative of the Department of Justice to any person, other than a duly authorized representative of the Executive Branch of plaintiff, except in the course of legal proceedings to which the United States of America is a party for the purpose of securing compliance with this Final Judgment or as otherwise required by law.

Any such information evidencing a violation of this Final Judgment which adversely affects the interest of any State or local governmental agency or instrumentality shall be retained by plaintiff for a period of one (1) year from the time when it is obtained and shall be treated as impounded subject to further order of this Court which, on motion and notice to the parties and a showing of good cause by the principal law officer of any State or local

governmental agency or instrumentality, may order disclosure to such officer of any part or all of such information as the Court deems proper for use by such agency or instrumentality preliminarily to or in connection with an action under the federal antitrust laws.

XI

Jurisdiction is retained for the purpose of enabling either 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 or for the modification or termination of any of the provisions thereof, and for the enforcement of compliance therewith and punishment of violations thereof.

Final Judgments as to The Bobbs-Merrill Co,, Inc., Childrens Press, Inc., Thomas Y. Crowell Co., Dodd, Mead & Co., Inc., E. P. Dutton & Co., Inc., Golden Press, Inc., Grosset & Dunlap, Inc., Holt, Rinehart and Winston, Inc., Little, Brown & Co., Inc., The Macmillan Co., William Morrow & Co., Inc., G. P. Putnam's Sons, Random House, Inc., Charles Scribner's Sons, The Viking Press, Inc., Henry Z. Walck, Inc., and Franklin Watts, Inc.

The judgments are the same as in Harper & Row, Publishers, Inc., above (Case No. 1933, Civil Action No. 67C 612), except for (1) the use of the phrase “defendant having appeared herein” in lieu of “defendant having filed its answer thereto denying the substantive allegations thereof” in the introductory paragraph of the Little, Brown & Co., Inc. and Franklin Watts, Inc. judgments, (2) the substitution of the name of the defendant and its state of incorporation (see below in paragraph 11(A), and (3) the substitution of the dates in paragraphs V and VI(F) as follows:

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1939	67 C 618	Golden Press, Inc.	New York	Dec. 31, 1967	June 30, 1968
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1947	67 C 626	Charles Scribner's Sons	New York	Aug. 1, 1968	Aug. 1, 1968
1948	67 C 627	The Viking Press, Inc.	New York	Aug. 31. 1968	Aug. 31, 1968
1949	67 C 628	Henry Z. Walck, Inc.	New York	Sept. 30, 1968	Sept. 30. 1968
1950	67 C 629	Franklin Watts, Inc.	New York	Dec. 31, 1967	Dec. 31, 1967

United States v. Charles Scribner's Sons

Civil Action No. 67 C 626

Year Judgment Entered: 1967

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. Harper & Row, Publishers, Inc., The Bobbs-Merrill Co., Inc., Childrens Press, Inc., Thomas Y. Crowell Co., Dodd, Mead & Co., Inc., E. P. Dutton & Co., Inc., Golden Press, Inc., Grosset & Dunlap, Inc., Holt, Rinehart and Winston, Inc., Little, Brown & Co., Inc., The Macmillan Co., William Morrow & Co., Inc., G. P. Putnam's Sons, Random House, Inc., Charles Scribner's Sons, The Viking Press, Inc., Henry Z. Walck, Inc., and Franklin Watts, Inc., U.S. District Court, N.D. Illinois, 1967 Trade Cases ¶72,256, (Nov. 27, 1967)

Federal Antitrust Cases
Trade Regulation Reporter - Trade Cases (1932 - 1992) ¶72,256

United States v. Harper & Row, Publishers, Inc., The Bobbs-Merrill Co., Inc., Childrens Press, Inc., Thomas Y. Crowell Co., Dodd, Mead & Co., Inc., E. P. Dutton & Co., Inc., Golden Press, Inc., Grosset & Dunlap, Inc., Holt, Rinehart and Winston, Inc., Little, Brown & Co., Inc., The Macmillan Co., William Morrow & Co., Inc., G. P. Putnam's Sons, Random House, Inc., Charles Scribner's Sons, The Viking Press, Inc., Henry Z. Walck, Inc., and Franklin Watts, Inc.

1967 Trade Cases ¶72,256. U.S. District Court, N.D. Illinois, Eastern Division. Civil Action Nos. 67 C 612—67 C 629. Entered November 27, 1967. Case Nos. 1933—1950 in the Antitrust Division of the Department of Justice.

Headnote

Sherman Act

Resale Price Fixing—Children's Books—Consent Decrees.—Each of defendant book publishers, charged in separate suits with fixing the prices of library editions of children's books with its wholesalers, was prohibited by consent decrees from attempting to maintain the resale price of its books (without regard to rights under fair trade laws for a period of five years) and from entering into agreements with its wholesalers to fix the resale price of books or to submit rigged bids. In its final form, the decree (para. X) also required the Department of Justice, if it discovers violations of the decree affecting local governments, to retain the evidence for a year for use in damage suits.

For the plaintiff: Donald F. Turner, Assistant Attorney General, Baddia J. Rashid, Harry N. Burgess, John E. Sarbaugh, William T. Huyck, John Edward Burke, and David J. Berman, Attorneys, Department of Justice.

For the defendants: Ira M. Millstein and Donald J. Williamson, of Weil, Gotshal & Manges, New York, N. Y., for Harper & Row, Publishers, Inc., Charles Scribner's Sons, E. P. Dutton & Co., Inc., Henry Z. Walck, Inc., and Grosset & Dunlap, Inc.; W. Donald McSweeney and William A. Montgomery, of Schiff Hardin Waite Dorschel & Britton, Chicago, Ill., for G. P. Putnam's Sons, The Viking Press, Inc., and The Bobbs-Merrill Co., Inc.; Don H. Reuben and Fred H. Bartlit, Jr., of Kirkland, Ellis, Hodson, Chaffetz & Masters, Chicago, 111., for Childrens Press, Inc.; Of counsel: H. Templeton Brown, of Mayer, Friedlich, Spiess, Tierney, Brown & Piatt, Chicago, III, for Thomas Y. Crowell Co., Holt, Rinehart and Winston, Inc., and William Morrow & Co., Inc.; Of counsel: Leo Rosen, of Greenbaum, Wolff & Ernst, New York, N. Y., for Thomas Y. Crowell Co., and William Morrow & Co., Inc.; Harry Buchman, of Stern & Reubens, for Dodd, Mead & Co., Inc.; Samuel Weisbard, of McDermott, Will & Emery, Chicago, 111., for Golden Press, Inc.; Robert H. Davison, of Hausserman, Davison & Shattuck, Boston, Mass., for Little, Brown & Co., Inc.; Robert C. Keck, of Spray, Price, Hough & Cushman, Chicago, 111.,

for The Macmillan Co.; Albert E. Jenner, Jr. and Philip W. Tone, of Raymond, Mayer, Jenner & Block, Chicago, 111., and Bernard G. Segal, Edward W. Mullinix, and Arthur H. Kahn, of Schnader, Harrison, Segal & Lewis, Philadelphia, Pa., for Random House, Inc.; Of counsel: Earl A. Jinkinson and John W. Stack, of Winston, Strawn, Smith & Patterson, for Franklin Watts, Inc.

Final Judgment as to Harper & Row, Publishers, Inc (Civ. No. 67 C 612; Case No. 1933)

MAROVITZ, Judge: Plaintiff, United States of America, having filed its complaint herein on April 18, 1967, and defendant having filed its answer thereto denying the substantive allegations thereof, and plaintiff and defendant by their respective attorneys having consented to the making and entry of this Final Judgment without admission, by either party in respect to any issue;

Now, Therefore, before any testimony has been taken herein, without trial or adjudication of any issue of fact or law herein, and upon consent of the parties 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 hereto. The complaint states claims for relief against the defendant under Section 1 of the Act of Congress of July 2, 1890, entitled “An act to protect trade and commerce against unlawful restraints and monopolies,” commonly known as the Sherman Act, as amended.

II

As used herein:

(A) “Defendant” means the defendant Harper & Row Publishers, Inc., a corporation organized and existing under the laws of Illinois and each of its domestic subsidiaries and each of its foreign subsidiaries when doing business through or with any reseller in the United States;

(B) “Person” means any individual, corporation, partnership, firm or other legal entity and includes wherever applicable any Federal, State or local or other governmental agency or instrumentality thereof;

(C) Customer” means any school, library or governmental agency or instrumentality thereof;

(D) “Reseller” means any person who is engaged in the business of buying books for resale and includes any such person when acting as an agent or consignee of defendant; and

(E) Solely for purposes of Section VII(A) and (B), the term “any person engaged in the resale of books purchased from defendant” shall not be deemed to include the national distributor of paperbacks who functions as defendant's sole national distributor.

III

The provisions of this Final Judgment applicable to the defendant shall also apply to each of its officers, directors, agents and employees and to each of its successors and assigns, and to all other persons in active concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise. This Final Judgment shall not apply to sales for use outside the United States, except for sales to or for the use of the plaintiff or any instrumentality or agency thereof.

IV

Defendant is ordered and directed:

(A) Within ninety (90) days after entry of this Final Judgment, to mail a copy thereof to each of its currently active wholesale accounts which sells to customers; for a period of five (5) years after such entry to mail a copy to

each such additional wholesale account to whom it sells books; and to maintain for such five (5) year period a complete list of all such wholesale accounts to whom defendant has so mailed copies;

(B) To issue a written statement to the effect that this Final Judgment prohibits the defendant from fixing, determining, dictating, approving or disapproving the customers to whom or the prices at which any reseller may sell or advertise defendant's books to any school, library or governmental agency or instrumentality, the statement to be circulated by either one of the following means:

(1) By mailing, within six (6) months after entry of this Final Judgment, to the currently active list of schools, libraries and governmental agencies and instrumentalities to whom it mails catalogues; or

(2) By publication in an issue of School Library *Journal* published not later than two (2) months after entry of this Final Judgment.

(C) Within six (6) months after entry of this Final Judgment, to furnish plaintiff with a written statement of the form and manner of compliance with the provisions of subsection (B) of this Section IV;

(D) For a period of one (1) year after entry of this Final Judgment, to furnish a copy thereof to any school, library or governmental agency or instrumentality requesting it.

V

For a period of five (5) years after the date set forth in this Section V, defendant is enjoined and restrained, in connection with the pricing of its books, except textbooks, from directly or indirectly, in any manner, using the words “net” or “net price” in or on such books or in any catalogue, price list, circular or other bulletin when referring to such books; provided, however, that this Section V shall not apply to any now-existing copies of such catalogues, price lists, circulars or other bulletins until July 1, 1968 or to now-existing copies of such books.

VI

Defendant is enjoined and restrained from, directly or indirectly, in any manner:

(A) Fixing, determining, dictating, approving, disapproving, or policing the customers to whom, or the prices or related terms and conditions of sale at or upon which any reseller may have sold, sells, advertises or offers to sell any books to any customer;

(B) Suggesting (otherwise than by imprinting any price, without more, on a book or book jacket) to any reseller the prices or related terms and conditions of sale at which said reseller should sell, advertise or offer to sell any books to any customer;

(C) Hindering, restricting, limiting or preventing, or attempting to hinder, restrict, limit or prevent any reseller from advertising for sale, selling or offering to sell any books (1) to any customer or (2) to any customer at any price or related terms and conditions of sale individually determined by such reseller;

(D) So long as defendant sells books to resellers, refusing to sell or offer to sell or threatening to refuse to sell or offer to sell such books to, or coercing, or discriminating in the sale or shipment of any books to, any reseller because of the prices at which said reseller intends to sell or has sold any books to any customer;

(E) Inducing or suggesting to any reseller that such reseller refuse to deal with or discriminate against any third person with respect to the sale, distribution, purchase or shipment of any books to any customer; and

(F) Issuing or disseminating defendant's customer prices in any promotional material directed to resellers or in any price catalogues, lists, circulars or bulletins with respect to books sold by resellers unless such material contains a statement, in easily legible type, that any reseller is free to charge whatever price he wishes for defendant's books; provided, however, that this Section (F) shall not apply to any now-existing copies of such promotional material, catalogues, lists, circulars or bulletins until July 1, 1968.

Provided that, upon the expiration of a period of five (5) years following the date of entry of this Final Judgment, nothing contained in Section VI of this Final Judgment shall prohibit the defendant from lawfully exercising such rights, if any, or performing such obligations, if any, as it may have arising under the Miller-Tydings Act and the McGuire Act.

VII

In addition to the prohibitions of Section VI, above, defendant is enjoined and restrained from entering into, adhering to, maintaining, enforcing or claiming any rights under any contract, agreement, understanding, plan or program with any person engaged in the resale of books purchased from defendant to:

(A) Fix, establish, maintain or adhere to prices in the sale of its books to any third person;

(B) Refuse to sell its books to any third person because of the price or prices at which, or persons to whom such third person intends to sell, advertise, or display or may have sold, advertised or displayed such books;

(C) Submit collusive or rigged bids or quotes for supplying any of its books to any third person; or

(D) Bid or quote a specific price, or refrain from bidding or quoting, on any of its books to be sold to any third person;

Provided that, subject to Section VI of this Final Judgment, nothing contained in this Section VII shall prohibit the defendant from lawfully exercising such rights, if any, or performing such obligations, if any, as it may have arising under the Miller-Tydings Act and the McGuire Act.

VIII

Nothing contained in this Final Judgment shall be deemed to prohibit the defendant from complying with requirements imposed upon it by State or local law or by any governmental agency or instrumentality acting pursuant to State or local law.

IX

For a period of five (5) years following the date of the entry of this Final Judgment, defendant is ordered and directed to furnish simultaneously with each sealed bid and sealed quotation (other than a bid or quotation for a sale which will involve less than $100) submitted by it to any customer for the sale of books, other than textbooks, a written certification by the official of defendant having authority to determine the price or prices bid or quoted that said bid or quotation was not the result, directly or indirectly, of any agreement, understanding, plan, or program between defendant and any other person.

X

For the purpose of securing compliance with this Final Judgment, and for no other purpose, duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to defendant (which may have counsel present), made through its principal office, be permitted, subject to any legally recognized privilege, (1) access during reasonable office hours to all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of the defendant relating to any of the subject matters contained in this Final Judgment, and (2) subject to the reasonable convenience of 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; and upon such request, defendant shall submit such reports in writing, under oath if so requested, to the Department of Justice with respect to any of the matters contained in this Final Judgment as may from time to time be requested for the enforcement of this Final Judgment. No information obtained by the means provided in this Section X shall be divulged by any representative of the Department of Justice to any person, other than a duly authorized representative of the Executive Branch of plaintiff, except in the course of legal proceedings to which the United States of America is a party for the purpose of securing compliance with this Final Judgment or as otherwise required by law.

Any such information evidencing a violation of this Final Judgment which adversely affects the interest of any State or local governmental agency or instrumentality shall be retained by plaintiff for a period of one (1) year from the time when it is obtained and shall be treated as impounded subject to further order of this Court which, on motion and notice to the parties and a showing of good cause by the principal law officer of any State or local

governmental agency or instrumentality, may order disclosure to such officer of any part or all of such information as the Court deems proper for use by such agency or instrumentality preliminarily to or in connection with an action under the federal antitrust laws.

XI

Jurisdiction is retained for the purpose of enabling either 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 or for the modification or termination of any of the provisions thereof, and for the enforcement of compliance therewith and punishment of violations thereof.

Final Judgments as to The Bobbs-Merrill Co,, Inc., Childrens Press, Inc., Thomas Y. Crowell Co., Dodd, Mead & Co., Inc., E. P. Dutton & Co., Inc., Golden Press, Inc., Grosset & Dunlap, Inc., Holt, Rinehart and Winston, Inc., Little, Brown & Co., Inc., The Macmillan Co., William Morrow & Co., Inc., G. P. Putnam's Sons, Random House, Inc., Charles Scribner's Sons, The Viking Press, Inc., Henry Z. Walck, Inc., and Franklin Watts, Inc.

The judgments are the same as in Harper & Row, Publishers, Inc., above (Case No. 1933, Civil Action No. 67C 612), except for (1) the use of the phrase “defendant having appeared herein” in lieu of “defendant having filed its answer thereto denying the substantive allegations thereof” in the introductory paragraph of the Little, Brown & Co., Inc. and Franklin Watts, Inc. judgments, (2) the substitution of the name of the defendant and its state of incorporation (see below in paragraph 11(A), and (3) the substitution of the dates in paragraphs V and VI(F) as follows:

Case No.	Civil Action No.	Defendant	Par. IIA	Par. V	Par. VI(F)
1934	67 C 613	The Bobbs-Merrill Co., Inc.	Indiana	Jan. 1, 1968	June 30, 1968
1935	67 C 614	Childrens Press, Inc.	Illinois	Nov. 30, 1967	Aug. 15, 1968
1936	67 C 615	Thomas Y. Crowell Co.	New York	June 30, 1968	Jan. 1, 1968
1937	67 C 616	Dodd, Mead & Co., Inc.	New York	Sept. 22, 1968	Sept. 22, 1968
1938	67 C 617	E. P. Dutton & Co., Inc.	New York	Sept. 1, 1968	Sept. 1, 1968
1939	67 C 618	Golden Press, Inc.	New York	Dec. 31, 1967	June 30, 1968
1940	67 C 619	Grosset & Dunlap, Inc.	New York	Jan. 1, 1968	Jan. 1, 1968
1941	67 C 620	Holt, Rinehart and Winston, Inc.	New York	Sept. 30, 1968	Sept. 30, 1968
1942	67 C 621	Little, Brown & Co., Inc.	Massachusetts	July 1, 1968	July 1, 1968
1943	67 C 622	The Macmillan Co.	Delaware	Oct. 31, 1968	Oct. 31, 1968
1944	67 C 623	William Morrow & Co., Inc.	New York	Apr. 30. 1968	Apr. 30, 1968
1945	67 C 624	G. P. Putnam's Sons	New York	Feb. 29, 1968	Feb. 29, 1968
1946	67 C 625	Random House, Inc.	New York	June 30, 1968	June 30, 1968
1947	67 C 626	Charles Scribner's Sons	New York	Aug. 1, 1968	Aug. 1, 1968
1948	67 C 627	The Viking Press, Inc.	New York	Aug. 31. 1968	Aug. 31, 1968
1949	67 C 628	Henry Z. Walck, Inc.	New York	Sept. 30, 1968	Sept. 30. 1968
1950	67 C 629	Franklin Watts, Inc.	New York	Dec. 31, 1967	Dec. 31, 1967

United States v. The Viking Press, Inc.

Civil Action No. 67 C 627

Year Judgment Entered: 1967

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. Harper & Row, Publishers, Inc., The Bobbs-Merrill Co., Inc., Childrens Press, Inc., Thomas Y. Crowell Co., Dodd, Mead & Co., Inc., E. P. Dutton & Co., Inc., Golden Press, Inc., Grosset & Dunlap, Inc., Holt, Rinehart and Winston, Inc., Little, Brown & Co., Inc., The Macmillan Co., William Morrow & Co., Inc., G. P. Putnam's Sons, Random House, Inc., Charles Scribner's Sons, The Viking Press, Inc., Henry Z. Walck, Inc., and Franklin Watts, Inc., U.S. District Court, N.D. Illinois, 1967 Trade Cases ¶72,256, (Nov. 27, 1967)

Federal Antitrust Cases
Trade Regulation Reporter - Trade Cases (1932 - 1992) ¶72,256

United States v. Harper & Row, Publishers, Inc., The Bobbs-Merrill Co., Inc., Childrens Press, Inc., Thomas Y. Crowell Co., Dodd, Mead & Co., Inc., E. P. Dutton & Co., Inc., Golden Press, Inc., Grosset & Dunlap, Inc., Holt, Rinehart and Winston, Inc., Little, Brown & Co., Inc., The Macmillan Co., William Morrow & Co., Inc., G. P. Putnam's Sons, Random House, Inc., Charles Scribner's Sons, The Viking Press, Inc., Henry Z. Walck, Inc., and Franklin Watts, Inc.

1967 Trade Cases ¶72,256. U.S. District Court, N.D. Illinois, Eastern Division. Civil Action Nos. 67 C 612—67 C 629. Entered November 27, 1967. Case Nos. 1933—1950 in the Antitrust Division of the Department of Justice.

Headnote

Sherman Act

Resale Price Fixing—Children's Books—Consent Decrees.—Each of defendant book publishers, charged in separate suits with fixing the prices of library editions of children's books with its wholesalers, was prohibited by consent decrees from attempting to maintain the resale price of its books (without regard to rights under fair trade laws for a period of five years) and from entering into agreements with its wholesalers to fix the resale price of books or to submit rigged bids. In its final form, the decree (para. X) also required the Department of Justice, if it discovers violations of the decree affecting local governments, to retain the evidence for a year for use in damage suits.

For the plaintiff: Donald F. Turner, Assistant Attorney General, Baddia J. Rashid, Harry N. Burgess, John E. Sarbaugh, William T. Huyck, John Edward Burke, and David J. Berman, Attorneys, Department of Justice.

For the defendants: Ira M. Millstein and Donald J. Williamson, of Weil, Gotshal & Manges, New York, N. Y., for Harper & Row, Publishers, Inc., Charles Scribner's Sons, E. P. Dutton & Co., Inc., Henry Z. Walck, Inc., and Grosset & Dunlap, Inc.; W. Donald McSweeney and William A. Montgomery, of Schiff Hardin Waite Dorschel & Britton, Chicago, Ill., for G. P. Putnam's Sons, The Viking Press, Inc., and The Bobbs-Merrill Co., Inc.; Don H. Reuben and Fred H. Bartlit, Jr., of Kirkland, Ellis, Hodson, Chaffetz & Masters, Chicago, 111., for Childrens Press, Inc.; Of counsel: H. Templeton Brown, of Mayer, Friedlich, Spiess, Tierney, Brown & Piatt, Chicago, III, for Thomas Y. Crowell Co., Holt, Rinehart and Winston, Inc., and William Morrow & Co., Inc.; Of counsel: Leo Rosen, of Greenbaum, Wolff & Ernst, New York, N. Y., for Thomas Y. Crowell Co., and William Morrow & Co., Inc.; Harry Buchman, of Stern & Reubens, for Dodd, Mead & Co., Inc.; Samuel Weisbard, of McDermott, Will & Emery, Chicago, 111., for Golden Press, Inc.; Robert H. Davison, of Hausserman, Davison & Shattuck, Boston, Mass., for Little, Brown & Co., Inc.; Robert C. Keck, of Spray, Price, Hough & Cushman, Chicago, 111.,

for The Macmillan Co.; Albert E. Jenner, Jr. and Philip W. Tone, of Raymond, Mayer, Jenner & Block, Chicago, 111., and Bernard G. Segal, Edward W. Mullinix, and Arthur H. Kahn, of Schnader, Harrison, Segal & Lewis, Philadelphia, Pa., for Random House, Inc.; Of counsel: Earl A. Jinkinson and John W. Stack, of Winston, Strawn, Smith & Patterson, for Franklin Watts, Inc.

Final Judgment as to Harper & Row, Publishers, Inc (Civ. No. 67 C 612; Case No. 1933)

MAROVITZ, Judge: Plaintiff, United States of America, having filed its complaint herein on April 18, 1967, and defendant having filed its answer thereto denying the substantive allegations thereof, and plaintiff and defendant by their respective attorneys having consented to the making and entry of this Final Judgment without admission, by either party in respect to any issue;

Now, Therefore, before any testimony has been taken herein, without trial or adjudication of any issue of fact or law herein, and upon consent of the parties 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 hereto. The complaint states claims for relief against the defendant under Section 1 of the Act of Congress of July 2, 1890, entitled “An act to protect trade and commerce against unlawful restraints and monopolies,” commonly known as the Sherman Act, as amended.

II

As used herein:

(A) “Defendant” means the defendant Harper & Row Publishers, Inc., a corporation organized and existing under the laws of Illinois and each of its domestic subsidiaries and each of its foreign subsidiaries when doing business through or with any reseller in the United States;

(B) “Person” means any individual, corporation, partnership, firm or other legal entity and includes wherever applicable any Federal, State or local or other governmental agency or instrumentality thereof;

(C) Customer” means any school, library or governmental agency or instrumentality thereof;

(D) “Reseller” means any person who is engaged in the business of buying books for resale and includes any such person when acting as an agent or consignee of defendant; and

(E) Solely for purposes of Section VII(A) and (B), the term “any person engaged in the resale of books purchased from defendant” shall not be deemed to include the national distributor of paperbacks who functions as defendant's sole national distributor.

III

The provisions of this Final Judgment applicable to the defendant shall also apply to each of its officers, directors, agents and employees and to each of its successors and assigns, and to all other persons in active concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise. This Final Judgment shall not apply to sales for use outside the United States, except for sales to or for the use of the plaintiff or any instrumentality or agency thereof.

IV

Defendant is ordered and directed:

(A) Within ninety (90) days after entry of this Final Judgment, to mail a copy thereof to each of its currently active wholesale accounts which sells to customers; for a period of five (5) years after such entry to mail a copy to

each such additional wholesale account to whom it sells books; and to maintain for such five (5) year period a complete list of all such wholesale accounts to whom defendant has so mailed copies;

(B) To issue a written statement to the effect that this Final Judgment prohibits the defendant from fixing, determining, dictating, approving or disapproving the customers to whom or the prices at which any reseller may sell or advertise defendant's books to any school, library or governmental agency or instrumentality, the statement to be circulated by either one of the following means:

(1) By mailing, within six (6) months after entry of this Final Judgment, to the currently active list of schools, libraries and governmental agencies and instrumentalities to whom it mails catalogues; or

(2) By publication in an issue of School Library *Journal* published not later than two (2) months after entry of this Final Judgment.

(C) Within six (6) months after entry of this Final Judgment, to furnish plaintiff with a written statement of the form and manner of compliance with the provisions of subsection (B) of this Section IV;

(D) For a period of one (1) year after entry of this Final Judgment, to furnish a copy thereof to any school, library or governmental agency or instrumentality requesting it.

V

For a period of five (5) years after the date set forth in this Section V, defendant is enjoined and restrained, in connection with the pricing of its books, except textbooks, from directly or indirectly, in any manner, using the words “net” or “net price” in or on such books or in any catalogue, price list, circular or other bulletin when referring to such books; provided, however, that this Section V shall not apply to any now-existing copies of such catalogues, price lists, circulars or other bulletins until July 1, 1968 or to now-existing copies of such books.

VI

Defendant is enjoined and restrained from, directly or indirectly, in any manner:

(A) Fixing, determining, dictating, approving, disapproving, or policing the customers to whom, or the prices or related terms and conditions of sale at or upon which any reseller may have sold, sells, advertises or offers to sell any books to any customer;

(B) Suggesting (otherwise than by imprinting any price, without more, on a book or book jacket) to any reseller the prices or related terms and conditions of sale at which said reseller should sell, advertise or offer to sell any books to any customer;

(C) Hindering, restricting, limiting or preventing, or attempting to hinder, restrict, limit or prevent any reseller from advertising for sale, selling or offering to sell any books (1) to any customer or (2) to any customer at any price or related terms and conditions of sale individually determined by such reseller;

(D) So long as defendant sells books to resellers, refusing to sell or offer to sell or threatening to refuse to sell or offer to sell such books to, or coercing, or discriminating in the sale or shipment of any books to, any reseller because of the prices at which said reseller intends to sell or has sold any books to any customer;

(E) Inducing or suggesting to any reseller that such reseller refuse to deal with or discriminate against any third person with respect to the sale, distribution, purchase or shipment of any books to any customer; and

(F) Issuing or disseminating defendant's customer prices in any promotional material directed to resellers or in any price catalogues, lists, circulars or bulletins with respect to books sold by resellers unless such material contains a statement, in easily legible type, that any reseller is free to charge whatever price he wishes for defendant's books; provided, however, that this Section (F) shall not apply to any now-existing copies of such promotional material, catalogues, lists, circulars or bulletins until July 1, 1968.

Provided that, upon the expiration of a period of five (5) years following the date of entry of this Final Judgment, nothing contained in Section VI of this Final Judgment shall prohibit the defendant from lawfully exercising such rights, if any, or performing such obligations, if any, as it may have arising under the Miller-Tydings Act and the McGuire Act.

VII

In addition to the prohibitions of Section VI, above, defendant is enjoined and restrained from entering into, adhering to, maintaining, enforcing or claiming any rights under any contract, agreement, understanding, plan or program with any person engaged in the resale of books purchased from defendant to:

(A) Fix, establish, maintain or adhere to prices in the sale of its books to any third person;

(B) Refuse to sell its books to any third person because of the price or prices at which, or persons to whom such third person intends to sell, advertise, or display or may have sold, advertised or displayed such books;

(C) Submit collusive or rigged bids or quotes for supplying any of its books to any third person; or

(D) Bid or quote a specific price, or refrain from bidding or quoting, on any of its books to be sold to any third person;

Provided that, subject to Section VI of this Final Judgment, nothing contained in this Section VII shall prohibit the defendant from lawfully exercising such rights, if any, or performing such obligations, if any, as it may have arising under the Miller-Tydings Act and the McGuire Act.

VIII

Nothing contained in this Final Judgment shall be deemed to prohibit the defendant from complying with requirements imposed upon it by State or local law or by any governmental agency or instrumentality acting pursuant to State or local law.

IX

For a period of five (5) years following the date of the entry of this Final Judgment, defendant is ordered and directed to furnish simultaneously with each sealed bid and sealed quotation (other than a bid or quotation for a sale which will involve less than $100) submitted by it to any customer for the sale of books, other than textbooks, a written certification by the official of defendant having authority to determine the price or prices bid or quoted that said bid or quotation was not the result, directly or indirectly, of any agreement, understanding, plan, or program between defendant and any other person.

X

For the purpose of securing compliance with this Final Judgment, and for no other purpose, duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to defendant (which may have counsel present), made through its principal office, be permitted, subject to any legally recognized privilege, (1) access during reasonable office hours to all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of the defendant relating to any of the subject matters contained in this Final Judgment, and (2) subject to the reasonable convenience of 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; and upon such request, defendant shall submit such reports in writing, under oath if so requested, to the Department of Justice with respect to any of the matters contained in this Final Judgment as may from time to time be requested for the enforcement of this Final Judgment. No information obtained by the means provided in this Section X shall be divulged by any representative of the Department of Justice to any person, other than a duly authorized representative of the Executive Branch of plaintiff, except in the course of legal proceedings to which the United States of America is a party for the purpose of securing compliance with this Final Judgment or as otherwise required by law.

Any such information evidencing a violation of this Final Judgment which adversely affects the interest of any State or local governmental agency or instrumentality shall be retained by plaintiff for a period of one (1) year from the time when it is obtained and shall be treated as impounded subject to further order of this Court which, on motion and notice to the parties and a showing of good cause by the principal law officer of any State or local

governmental agency or instrumentality, may order disclosure to such officer of any part or all of such information as the Court deems proper for use by such agency or instrumentality preliminarily to or in connection with an action under the federal antitrust laws.

XI

Jurisdiction is retained for the purpose of enabling either 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 or for the modification or termination of any of the provisions thereof, and for the enforcement of compliance therewith and punishment of violations thereof.

Final Judgments as to The Bobbs-Merrill Co,, Inc., Childrens Press, Inc., Thomas Y. Crowell Co., Dodd, Mead & Co., Inc., E. P. Dutton & Co., Inc., Golden Press, Inc., Grosset & Dunlap, Inc., Holt, Rinehart and Winston, Inc., Little, Brown & Co., Inc., The Macmillan Co., William Morrow & Co., Inc., G. P. Putnam's Sons, Random House, Inc., Charles Scribner's Sons, The Viking Press, Inc., Henry Z. Walck, Inc., and Franklin Watts, Inc.

The judgments are the same as in Harper & Row, Publishers, Inc., above (Case No. 1933, Civil Action No. 67C 612), except for (1) the use of the phrase “defendant having appeared herein” in lieu of “defendant having filed its answer thereto denying the substantive allegations thereof” in the introductory paragraph of the Little, Brown & Co., Inc. and Franklin Watts, Inc. judgments, (2) the substitution of the name of the defendant and its state of incorporation (see below in paragraph 11(A), and (3) the substitution of the dates in paragraphs V and VI(F) as follows:

Case No.	Civil Action No.	Defendant	Par. IIA	Par. V	Par. VI(F)
1934	67 C 613	The Bobbs-Merrill Co., Inc.	Indiana	Jan. 1, 1968	June 30, 1968
1935	67 C 614	Childrens Press, Inc.	Illinois	Nov. 30, 1967	Aug. 15, 1968
1936	67 C 615	Thomas Y. Crowell Co.	New York	June 30, 1968	Jan. 1, 1968
1937	67 C 616	Dodd, Mead & Co., Inc.	New York	Sept. 22, 1968	Sept. 22, 1968
1938	67 C 617	E. P. Dutton & Co., Inc.	New York	Sept. 1, 1968	Sept. 1, 1968
1939	67 C 618	Golden Press, Inc.	New York	Dec. 31, 1967	June 30, 1968
1940	67 C 619	Grosset & Dunlap, Inc.	New York	Jan. 1, 1968	Jan. 1, 1968
1941	67 C 620	Holt, Rinehart and Winston, Inc.	New York	Sept. 30, 1968	Sept. 30, 1968
1942	67 C 621	Little, Brown & Co., Inc.	Massachusetts	July 1, 1968	July 1, 1968
1943	67 C 622	The Macmillan Co.	Delaware	Oct. 31, 1968	Oct. 31, 1968
1944	67 C 623	William Morrow & Co., Inc.	New York	Apr. 30. 1968	Apr. 30, 1968
1945	67 C 624	G. P. Putnam's Sons	New York	Feb. 29, 1968	Feb. 29, 1968
1946	67 C 625	Random House, Inc.	New York	June 30, 1968	June 30, 1968
1947	67 C 626	Charles Scribner's Sons	New York	Aug. 1, 1968	Aug. 1, 1968
1948	67 C 627	The Viking Press, Inc.	New York	Aug. 31. 1968	Aug. 31, 1968
1949	67 C 628	Henry Z. Walck, Inc.	New York	Sept. 30, 1968	Sept. 30. 1968
1950	67 C 629	Franklin Watts, Inc.	New York	Dec. 31, 1967	Dec. 31, 1967

United States v. Henry Z. Walck, Inc.

Civil Action No. 67 C 628

Year Judgment Entered: 1967

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. Harper & Row, Publishers, Inc., The Bobbs-Merrill Co., Inc., Childrens Press, Inc., Thomas Y. Crowell Co., Dodd, Mead & Co., Inc., E. P. Dutton & Co., Inc., Golden Press, Inc., Grosset & Dunlap, Inc., Holt, Rinehart and Winston, Inc., Little, Brown & Co., Inc., The Macmillan Co., William Morrow & Co., Inc., G. P. Putnam's Sons, Random House, Inc., Charles Scribner's Sons, The Viking Press, Inc., Henry Z. Walck, Inc., and Franklin Watts, Inc., U.S. District Court, N.D. Illinois, 1967 Trade Cases ¶72,256, (Nov. 27, 1967)

Federal Antitrust Cases
Trade Regulation Reporter - Trade Cases (1932 - 1992) ¶72,256

United States v. Harper & Row, Publishers, Inc., The Bobbs-Merrill Co., Inc., Childrens Press, Inc., Thomas Y. Crowell Co., Dodd, Mead & Co., Inc., E. P. Dutton & Co., Inc., Golden Press, Inc., Grosset & Dunlap, Inc., Holt, Rinehart and Winston, Inc., Little, Brown & Co., Inc., The Macmillan Co., William Morrow & Co., Inc., G. P. Putnam's Sons, Random House, Inc., Charles Scribner's Sons, The Viking Press, Inc., Henry Z. Walck, Inc., and Franklin Watts, Inc.

1967 Trade Cases ¶72,256. U.S. District Court, N.D. Illinois, Eastern Division. Civil Action Nos. 67 C 612—67 C 629. Entered November 27, 1967. Case Nos. 1933—1950 in the Antitrust Division of the Department of Justice.

Headnote

Sherman Act

Resale Price Fixing—Children's Books—Consent Decrees.—Each of defendant book publishers, charged in separate suits with fixing the prices of library editions of children's books with its wholesalers, was prohibited by consent decrees from attempting to maintain the resale price of its books (without regard to rights under fair trade laws for a period of five years) and from entering into agreements with its wholesalers to fix the resale price of books or to submit rigged bids. In its final form, the decree (para. X) also required the Department of Justice, if it discovers violations of the decree affecting local governments, to retain the evidence for a year for use in damage suits.

For the plaintiff: Donald F. Turner, Assistant Attorney General, Baddia J. Rashid, Harry N. Burgess, John E. Sarbaugh, William T. Huyck, John Edward Burke, and David J. Berman, Attorneys, Department of Justice.

For the defendants: Ira M. Millstein and Donald J. Williamson, of Weil, Gotshal & Manges, New York, N. Y., for Harper & Row, Publishers, Inc., Charles Scribner's Sons, E. P. Dutton & Co., Inc., Henry Z. Walck, Inc., and Grosset & Dunlap, Inc.; W. Donald McSweeney and William A. Montgomery, of Schiff Hardin Waite Dorschel & Britton, Chicago, Ill., for G. P. Putnam's Sons, The Viking Press, Inc., and The Bobbs-Merrill Co., Inc.; Don H. Reuben and Fred H. Bartlit, Jr., of Kirkland, Ellis, Hodson, Chaffetz & Masters, Chicago, 111., for Childrens Press, Inc.; Of counsel: H. Templeton Brown, of Mayer, Friedlich, Spiess, Tierney, Brown & Piatt, Chicago, III, for Thomas Y. Crowell Co., Holt, Rinehart and Winston, Inc., and William Morrow & Co., Inc.; Of counsel: Leo Rosen, of Greenbaum, Wolff & Ernst, New York, N. Y., for Thomas Y. Crowell Co., and William Morrow & Co., Inc.; Harry Buchman, of Stern & Reubens, for Dodd, Mead & Co., Inc.; Samuel Weisbard, of McDermott, Will & Emery, Chicago, 111., for Golden Press, Inc.; Robert H. Davison, of Hausserman, Davison & Shattuck, Boston, Mass., for Little, Brown & Co., Inc.; Robert C. Keck, of Spray, Price, Hough & Cushman, Chicago, 111.,

for The Macmillan Co.; Albert E. Jenner, Jr. and Philip W. Tone, of Raymond, Mayer, Jenner & Block, Chicago, 111., and Bernard G. Segal, Edward W. Mullinix, and Arthur H. Kahn, of Schnader, Harrison, Segal & Lewis, Philadelphia, Pa., for Random House, Inc.; Of counsel: Earl A. Jinkinson and John W. Stack, of Winston, Strawn, Smith & Patterson, for Franklin Watts, Inc.

Final Judgment as to Harper & Row, Publishers, Inc (Civ. No. 67 C 612; Case No. 1933)

MAROVITZ, Judge: Plaintiff, United States of America, having filed its complaint herein on April 18, 1967, and defendant having filed its answer thereto denying the substantive allegations thereof, and plaintiff and defendant by their respective attorneys having consented to the making and entry of this Final Judgment without admission, by either party in respect to any issue;

Now, Therefore, before any testimony has been taken herein, without trial or adjudication of any issue of fact or law herein, and upon consent of the parties 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 hereto. The complaint states claims for relief against the defendant under Section 1 of the Act of Congress of July 2, 1890, entitled “An act to protect trade and commerce against unlawful restraints and monopolies,” commonly known as the Sherman Act, as amended.

II

As used herein:

(A) “Defendant” means the defendant Harper & Row Publishers, Inc., a corporation organized and existing under the laws of Illinois and each of its domestic subsidiaries and each of its foreign subsidiaries when doing business through or with any reseller in the United States;

(B) “Person” means any individual, corporation, partnership, firm or other legal entity and includes wherever applicable any Federal, State or local or other governmental agency or instrumentality thereof;

(C) Customer” means any school, library or governmental agency or instrumentality thereof;

(D) “Reseller” means any person who is engaged in the business of buying books for resale and includes any such person when acting as an agent or consignee of defendant; and

(E) Solely for purposes of Section VII(A) and (B), the term “any person engaged in the resale of books purchased from defendant” shall not be deemed to include the national distributor of paperbacks who functions as defendant's sole national distributor.

III

The provisions of this Final Judgment applicable to the defendant shall also apply to each of its officers, directors, agents and employees and to each of its successors and assigns, and to all other persons in active concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise. This Final Judgment shall not apply to sales for use outside the United States, except for sales to or for the use of the plaintiff or any instrumentality or agency thereof.

IV

Defendant is ordered and directed:

(A) Within ninety (90) days after entry of this Final Judgment, to mail a copy thereof to each of its currently active wholesale accounts which sells to customers; for a period of five (5) years after such entry to mail a copy to

each such additional wholesale account to whom it sells books; and to maintain for such five (5) year period a complete list of all such wholesale accounts to whom defendant has so mailed copies;

(B) To issue a written statement to the effect that this Final Judgment prohibits the defendant from fixing, determining, dictating, approving or disapproving the customers to whom or the prices at which any reseller may sell or advertise defendant's books to any school, library or governmental agency or instrumentality, the statement to be circulated by either one of the following means:

(1) By mailing, within six (6) months after entry of this Final Judgment, to the currently active list of schools, libraries and governmental agencies and instrumentalities to whom it mails catalogues; or

(2) By publication in an issue of School Library *Journal* published not later than two (2) months after entry of this Final Judgment.

(C) Within six (6) months after entry of this Final Judgment, to furnish plaintiff with a written statement of the form and manner of compliance with the provisions of subsection (B) of this Section IV;

(D) For a period of one (1) year after entry of this Final Judgment, to furnish a copy thereof to any school, library or governmental agency or instrumentality requesting it.

V

For a period of five (5) years after the date set forth in this Section V, defendant is enjoined and restrained, in connection with the pricing of its books, except textbooks, from directly or indirectly, in any manner, using the words “net” or “net price” in or on such books or in any catalogue, price list, circular or other bulletin when referring to such books; provided, however, that this Section V shall not apply to any now-existing copies of such catalogues, price lists, circulars or other bulletins until July 1, 1968 or to now-existing copies of such books.

VI

Defendant is enjoined and restrained from, directly or indirectly, in any manner:

(A) Fixing, determining, dictating, approving, disapproving, or policing the customers to whom, or the prices or related terms and conditions of sale at or upon which any reseller may have sold, sells, advertises or offers to sell any books to any customer;

(B) Suggesting (otherwise than by imprinting any price, without more, on a book or book jacket) to any reseller the prices or related terms and conditions of sale at which said reseller should sell, advertise or offer to sell any books to any customer;

(C) Hindering, restricting, limiting or preventing, or attempting to hinder, restrict, limit or prevent any reseller from advertising for sale, selling or offering to sell any books (1) to any customer or (2) to any customer at any price or related terms and conditions of sale individually determined by such reseller;

(D) So long as defendant sells books to resellers, refusing to sell or offer to sell or threatening to refuse to sell or offer to sell such books to, or coercing, or discriminating in the sale or shipment of any books to, any reseller because of the prices at which said reseller intends to sell or has sold any books to any customer;

(E) Inducing or suggesting to any reseller that such reseller refuse to deal with or discriminate against any third person with respect to the sale, distribution, purchase or shipment of any books to any customer; and

(F) Issuing or disseminating defendant's customer prices in any promotional material directed to resellers or in any price catalogues, lists, circulars or bulletins with respect to books sold by resellers unless such material contains a statement, in easily legible type, that any reseller is free to charge whatever price he wishes for defendant's books; provided, however, that this Section (F) shall not apply to any now-existing copies of such promotional material, catalogues, lists, circulars or bulletins until July 1, 1968.

Provided that, upon the expiration of a period of five (5) years following the date of entry of this Final Judgment, nothing contained in Section VI of this Final Judgment shall prohibit the defendant from lawfully exercising such rights, if any, or performing such obligations, if any, as it may have arising under the Miller-Tydings Act and the McGuire Act.

VII

In addition to the prohibitions of Section VI, above, defendant is enjoined and restrained from entering into, adhering to, maintaining, enforcing or claiming any rights under any contract, agreement, understanding, plan or program with any person engaged in the resale of books purchased from defendant to:

(A) Fix, establish, maintain or adhere to prices in the sale of its books to any third person;

(B) Refuse to sell its books to any third person because of the price or prices at which, or persons to whom such third person intends to sell, advertise, or display or may have sold, advertised or displayed such books;

(C) Submit collusive or rigged bids or quotes for supplying any of its books to any third person; or

(D) Bid or quote a specific price, or refrain from bidding or quoting, on any of its books to be sold to any third person;

Provided that, subject to Section VI of this Final Judgment, nothing contained in this Section VII shall prohibit the defendant from lawfully exercising such rights, if any, or performing such obligations, if any, as it may have arising under the Miller-Tydings Act and the McGuire Act.

VIII

Nothing contained in this Final Judgment shall be deemed to prohibit the defendant from complying with requirements imposed upon it by State or local law or by any governmental agency or instrumentality acting pursuant to State or local law.

IX

For a period of five (5) years following the date of the entry of this Final Judgment, defendant is ordered and directed to furnish simultaneously with each sealed bid and sealed quotation (other than a bid or quotation for a sale which will involve less than $100) submitted by it to any customer for the sale of books, other than textbooks, a written certification by the official of defendant having authority to determine the price or prices bid or quoted that said bid or quotation was not the result, directly or indirectly, of any agreement, understanding, plan, or program between defendant and any other person.

X

For the purpose of securing compliance with this Final Judgment, and for no other purpose, duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to defendant (which may have counsel present), made through its principal office, be permitted, subject to any legally recognized privilege, (1) access during reasonable office hours to all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of the defendant relating to any of the subject matters contained in this Final Judgment, and (2) subject to the reasonable convenience of 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; and upon such request, defendant shall submit such reports in writing, under oath if so requested, to the Department of Justice with respect to any of the matters contained in this Final Judgment as may from time to time be requested for the enforcement of this Final Judgment. No information obtained by the means provided in this Section X shall be divulged by any representative of the Department of Justice to any person, other than a duly authorized representative of the Executive Branch of plaintiff, except in the course of legal proceedings to which the United States of America is a party for the purpose of securing compliance with this Final Judgment or as otherwise required by law.

Any such information evidencing a violation of this Final Judgment which adversely affects the interest of any State or local governmental agency or instrumentality shall be retained by plaintiff for a period of one (1) year from the time when it is obtained and shall be treated as impounded subject to further order of this Court which, on motion and notice to the parties and a showing of good cause by the principal law officer of any State or local

governmental agency or instrumentality, may order disclosure to such officer of any part or all of such information as the Court deems proper for use by such agency or instrumentality preliminarily to or in connection with an action under the federal antitrust laws.

XI

Jurisdiction is retained for the purpose of enabling either 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 or for the modification or termination of any of the provisions thereof, and for the enforcement of compliance therewith and punishment of violations thereof.

Final Judgments as to The Bobbs-Merrill Co,, Inc., Childrens Press, Inc., Thomas Y. Crowell Co., Dodd, Mead & Co., Inc., E. P. Dutton & Co., Inc., Golden Press, Inc., Grosset & Dunlap, Inc., Holt, Rinehart and Winston, Inc., Little, Brown & Co., Inc., The Macmillan Co., William Morrow & Co., Inc., G. P. Putnam's Sons, Random House, Inc., Charles Scribner's Sons, The Viking Press, Inc., Henry Z. Walck, Inc., and Franklin Watts, Inc.

The judgments are the same as in Harper & Row, Publishers, Inc., above (Case No. 1933, Civil Action No. 67C 612), except for (1) the use of the phrase “defendant having appeared herein” in lieu of “defendant having filed its answer thereto denying the substantive allegations thereof” in the introductory paragraph of the Little, Brown & Co., Inc. and Franklin Watts, Inc. judgments, (2) the substitution of the name of the defendant and its state of incorporation (see below in paragraph 11(A), and (3) the substitution of the dates in paragraphs V and VI(F) as follows:

Case No.	Civil Action No.	Defendant	Par. IIA	Par. V	Par. VI(F)
1934	67 C 613	The Bobbs-Merrill Co., Inc.	Indiana	Jan. 1, 1968	June 30, 1968
1935	67 C 614	Childrens Press, Inc.	Illinois	Nov. 30, 1967	Aug. 15, 1968
1936	67 C 615	Thomas Y. Crowell Co.	New York	June 30, 1968	Jan. 1, 1968
1937	67 C 616	Dodd, Mead & Co., Inc.	New York	Sept. 22, 1968	Sept. 22, 1968
1938	67 C 617	E. P. Dutton & Co., Inc.	New York	Sept. 1, 1968	Sept. 1, 1968
1939	67 C 618	Golden Press, Inc.	New York	Dec. 31, 1967	June 30, 1968
1940	67 C 619	Grosset & Dunlap, Inc.	New York	Jan. 1, 1968	Jan. 1, 1968
1941	67 C 620	Holt, Rinehart and Winston, Inc.	New York	Sept. 30, 1968	Sept. 30, 1968
1942	67 C 621	Little, Brown & Co., Inc.	Massachusetts	July 1, 1968	July 1, 1968
1943	67 C 622	The Macmillan Co.	Delaware	Oct. 31, 1968	Oct. 31, 1968
1944	67 C 623	William Morrow & Co., Inc.	New York	Apr. 30. 1968	Apr. 30, 1968
1945	67 C 624	G. P. Putnam's Sons	New York	Feb. 29, 1968	Feb. 29, 1968
1946	67 C 625	Random House, Inc.	New York	June 30, 1968	June 30, 1968
1947	67 C 626	Charles Scribner's Sons	New York	Aug. 1, 1968	Aug. 1, 1968
1948	67 C 627	The Viking Press, Inc.	New York	Aug. 31. 1968	Aug. 31, 1968
1949	67 C 628	Henry Z. Walck, Inc.	New York	Sept. 30, 1968	Sept. 30. 1968
1950	67 C 629	Franklin Watts, Inc.	New York	Dec. 31, 1967	Dec. 31, 1967

United States v. Franklin Watts, Inc.

Civil Action No. 67 C 629

Year Judgment Entered: 1967

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. Harper & Row, Publishers, Inc., The Bobbs-Merrill Co., Inc., Childrens Press, Inc., Thomas Y. Crowell Co., Dodd, Mead & Co., Inc., E. P. Dutton & Co., Inc., Golden Press, Inc., Grosset & Dunlap, Inc., Holt, Rinehart and Winston, Inc., Little, Brown & Co., Inc., The Macmillan Co., William Morrow & Co., Inc., G. P. Putnam's Sons, Random House, Inc., Charles Scribner's Sons, The Viking Press, Inc., Henry Z. Walck, Inc., and Franklin Watts, Inc., U.S. District Court, N.D. Illinois, 1967 Trade Cases ¶72,256, (Nov. 27, 1967)

Federal Antitrust Cases
Trade Regulation Reporter - Trade Cases (1932 - 1992) ¶72,256

United States v. Harper & Row, Publishers, Inc., The Bobbs-Merrill Co., Inc., Childrens Press, Inc., Thomas Y. Crowell Co., Dodd, Mead & Co., Inc., E. P. Dutton & Co., Inc., Golden Press, Inc., Grosset & Dunlap, Inc., Holt, Rinehart and Winston, Inc., Little, Brown & Co., Inc., The Macmillan Co., William Morrow & Co., Inc., G. P. Putnam's Sons, Random House, Inc., Charles Scribner's Sons, The Viking Press, Inc., Henry Z. Walck, Inc., and Franklin Watts, Inc.

1967 Trade Cases ¶72,256. U.S. District Court, N.D. Illinois, Eastern Division. Civil Action Nos. 67 C 612—67 C 629. Entered November 27, 1967. Case Nos. 1933—1950 in the Antitrust Division of the Department of Justice.

Headnote

Sherman Act

Resale Price Fixing—Children's Books—Consent Decrees.—Each of defendant book publishers, charged in separate suits with fixing the prices of library editions of children's books with its wholesalers, was prohibited by consent decrees from attempting to maintain the resale price of its books (without regard to rights under fair trade laws for a period of five years) and from entering into agreements with its wholesalers to fix the resale price of books or to submit rigged bids. In its final form, the decree (para. X) also required the Department of Justice, if it discovers violations of the decree affecting local governments, to retain the evidence for a year for use in damage suits.

For the plaintiff: Donald F. Turner, Assistant Attorney General, Baddia J. Rashid, Harry N. Burgess, John E. Sarbaugh, William T. Huyck, John Edward Burke, and David J. Berman, Attorneys, Department of Justice.

For the defendants: Ira M. Millstein and Donald J. Williamson, of Weil, Gotshal & Manges, New York, N. Y., for Harper & Row, Publishers, Inc., Charles Scribner's Sons, E. P. Dutton & Co., Inc., Henry Z. Walck, Inc., and Grosset & Dunlap, Inc.; W. Donald McSweeney and William A. Montgomery, of Schiff Hardin Waite Dorschel & Britton, Chicago, Ill., for G. P. Putnam's Sons, The Viking Press, Inc., and The Bobbs-Merrill Co., Inc.; Don H. Reuben and Fred H. Bartlit, Jr., of Kirkland, Ellis, Hodson, Chaffetz & Masters, Chicago, 111., for Childrens Press, Inc.; Of counsel: H. Templeton Brown, of Mayer, Friedlich, Spiess, Tierney, Brown & Piatt, Chicago, III, for Thomas Y. Crowell Co., Holt, Rinehart and Winston, Inc., and William Morrow & Co., Inc.; Of counsel: Leo Rosen, of Greenbaum, Wolff & Ernst, New York, N. Y., for Thomas Y. Crowell Co., and William Morrow & Co., Inc.; Harry Buchman, of Stern & Reubens, for Dodd, Mead & Co., Inc.; Samuel Weisbard, of McDermott, Will & Emery, Chicago, 111., for Golden Press, Inc.; Robert H. Davison, of Hausserman, Davison & Shattuck, Boston, Mass., for Little, Brown & Co., Inc.; Robert C. Keck, of Spray, Price, Hough & Cushman, Chicago, 111.,

for The Macmillan Co.; Albert E. Jenner, Jr. and Philip W. Tone, of Raymond, Mayer, Jenner & Block, Chicago, 111., and Bernard G. Segal, Edward W. Mullinix, and Arthur H. Kahn, of Schnader, Harrison, Segal & Lewis, Philadelphia, Pa., for Random House, Inc.; Of counsel: Earl A. Jinkinson and John W. Stack, of Winston, Strawn, Smith & Patterson, for Franklin Watts, Inc.

Final Judgment as to Harper & Row, Publishers, Inc (Civ. No. 67 C 612; Case No. 1933)

MAROVITZ, Judge: Plaintiff, United States of America, having filed its complaint herein on April 18, 1967, and defendant having filed its answer thereto denying the substantive allegations thereof, and plaintiff and defendant by their respective attorneys having consented to the making and entry of this Final Judgment without admission, by either party in respect to any issue;

Now, Therefore, before any testimony has been taken herein, without trial or adjudication of any issue of fact or law herein, and upon consent of the parties 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 hereto. The complaint states claims for relief against the defendant under Section 1 of the Act of Congress of July 2, 1890, entitled “An act to protect trade and commerce against unlawful restraints and monopolies,” commonly known as the Sherman Act, as amended.

II

As used herein:

(A) “Defendant” means the defendant Harper & Row Publishers, Inc., a corporation organized and existing under the laws of Illinois and each of its domestic subsidiaries and each of its foreign subsidiaries when doing business through or with any reseller in the United States;

(B) “Person” means any individual, corporation, partnership, firm or other legal entity and includes wherever applicable any Federal, State or local or other governmental agency or instrumentality thereof;

(C) Customer” means any school, library or governmental agency or instrumentality thereof;

(D) “Reseller” means any person who is engaged in the business of buying books for resale and includes any such person when acting as an agent or consignee of defendant; and

(E) Solely for purposes of Section VII(A) and (B), the term “any person engaged in the resale of books purchased from defendant” shall not be deemed to include the national distributor of paperbacks who functions as defendant's sole national distributor.

III

The provisions of this Final Judgment applicable to the defendant shall also apply to each of its officers, directors, agents and employees and to each of its successors and assigns, and to all other persons in active concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise. This Final Judgment shall not apply to sales for use outside the United States, except for sales to or for the use of the plaintiff or any instrumentality or agency thereof.

IV

Defendant is ordered and directed:

(A) Within ninety (90) days after entry of this Final Judgment, to mail a copy thereof to each of its currently active wholesale accounts which sells to customers; for a period of five (5) years after such entry to mail a copy to

each such additional wholesale account to whom it sells books; and to maintain for such five (5) year period a complete list of all such wholesale accounts to whom defendant has so mailed copies;

(B) To issue a written statement to the effect that this Final Judgment prohibits the defendant from fixing, determining, dictating, approving or disapproving the customers to whom or the prices at which any reseller may sell or advertise defendant's books to any school, library or governmental agency or instrumentality, the statement to be circulated by either one of the following means:

(1) By mailing, within six (6) months after entry of this Final Judgment, to the currently active list of schools, libraries and governmental agencies and instrumentalities to whom it mails catalogues; or

(2) By publication in an issue of School Library *Journal* published not later than two (2) months after entry of this Final Judgment.

(C) Within six (6) months after entry of this Final Judgment, to furnish plaintiff with a written statement of the form and manner of compliance with the provisions of subsection (B) of this Section IV;

(D) For a period of one (1) year after entry of this Final Judgment, to furnish a copy thereof to any school, library or governmental agency or instrumentality requesting it.

V

For a period of five (5) years after the date set forth in this Section V, defendant is enjoined and restrained, in connection with the pricing of its books, except textbooks, from directly or indirectly, in any manner, using the words “net” or “net price” in or on such books or in any catalogue, price list, circular or other bulletin when referring to such books; provided, however, that this Section V shall not apply to any now-existing copies of such catalogues, price lists, circulars or other bulletins until July 1, 1968 or to now-existing copies of such books.

VI

Defendant is enjoined and restrained from, directly or indirectly, in any manner:

(A) Fixing, determining, dictating, approving, disapproving, or policing the customers to whom, or the prices or related terms and conditions of sale at or upon which any reseller may have sold, sells, advertises or offers to sell any books to any customer;

(B) Suggesting (otherwise than by imprinting any price, without more, on a book or book jacket) to any reseller the prices or related terms and conditions of sale at which said reseller should sell, advertise or offer to sell any books to any customer;

(C) Hindering, restricting, limiting or preventing, or attempting to hinder, restrict, limit or prevent any reseller from advertising for sale, selling or offering to sell any books (1) to any customer or (2) to any customer at any price or related terms and conditions of sale individually determined by such reseller;

(D) So long as defendant sells books to resellers, refusing to sell or offer to sell or threatening to refuse to sell or offer to sell such books to, or coercing, or discriminating in the sale or shipment of any books to, any reseller because of the prices at which said reseller intends to sell or has sold any books to any customer;

(E) Inducing or suggesting to any reseller that such reseller refuse to deal with or discriminate against any third person with respect to the sale, distribution, purchase or shipment of any books to any customer; and

(F) Issuing or disseminating defendant's customer prices in any promotional material directed to resellers or in any price catalogues, lists, circulars or bulletins with respect to books sold by resellers unless such material contains a statement, in easily legible type, that any reseller is free to charge whatever price he wishes for defendant's books; provided, however, that this Section (F) shall not apply to any now-existing copies of such promotional material, catalogues, lists, circulars or bulletins until July 1, 1968.

Provided that, upon the expiration of a period of five (5) years following the date of entry of this Final Judgment, nothing contained in Section VI of this Final Judgment shall prohibit the defendant from lawfully exercising such rights, if any, or performing such obligations, if any, as it may have arising under the Miller-Tydings Act and the McGuire Act.

VII

In addition to the prohibitions of Section VI, above, defendant is enjoined and restrained from entering into, adhering to, maintaining, enforcing or claiming any rights under any contract, agreement, understanding, plan or program with any person engaged in the resale of books purchased from defendant to:

(A) Fix, establish, maintain or adhere to prices in the sale of its books to any third person;

(B) Refuse to sell its books to any third person because of the price or prices at which, or persons to whom such third person intends to sell, advertise, or display or may have sold, advertised or displayed such books;

(C) Submit collusive or rigged bids or quotes for supplying any of its books to any third person; or

(D) Bid or quote a specific price, or refrain from bidding or quoting, on any of its books to be sold to any third person;

Provided that, subject to Section VI of this Final Judgment, nothing contained in this Section VII shall prohibit the defendant from lawfully exercising such rights, if any, or performing such obligations, if any, as it may have arising under the Miller-Tydings Act and the McGuire Act.

VIII

Nothing contained in this Final Judgment shall be deemed to prohibit the defendant from complying with requirements imposed upon it by State or local law or by any governmental agency or instrumentality acting pursuant to State or local law.

IX

For a period of five (5) years following the date of the entry of this Final Judgment, defendant is ordered and directed to furnish simultaneously with each sealed bid and sealed quotation (other than a bid or quotation for a sale which will involve less than $100) submitted by it to any customer for the sale of books, other than textbooks, a written certification by the official of defendant having authority to determine the price or prices bid or quoted that said bid or quotation was not the result, directly or indirectly, of any agreement, understanding, plan, or program between defendant and any other person.

X

For the purpose of securing compliance with this Final Judgment, and for no other purpose, duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to defendant (which may have counsel present), made through its principal office, be permitted, subject to any legally recognized privilege, (1) access during reasonable office hours to all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of the defendant relating to any of the subject matters contained in this Final Judgment, and (2) subject to the reasonable convenience of 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; and upon such request, defendant shall submit such reports in writing, under oath if so requested, to the Department of Justice with respect to any of the matters contained in this Final Judgment as may from time to time be requested for the enforcement of this Final Judgment. No information obtained by the means provided in this Section X shall be divulged by any representative of the Department of Justice to any person, other than a duly authorized representative of the Executive Branch of plaintiff, except in the course of legal proceedings to which the United States of America is a party for the purpose of securing compliance with this Final Judgment or as otherwise required by law.

Any such information evidencing a violation of this Final Judgment which adversely affects the interest of any State or local governmental agency or instrumentality shall be retained by plaintiff for a period of one (1) year from the time when it is obtained and shall be treated as impounded subject to further order of this Court which, on motion and notice to the parties and a showing of good cause by the principal law officer of any State or local

governmental agency or instrumentality, may order disclosure to such officer of any part or all of such information as the Court deems proper for use by such agency or instrumentality preliminarily to or in connection with an action under the federal antitrust laws.

XI

Jurisdiction is retained for the purpose of enabling either 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 or for the modification or termination of any of the provisions thereof, and for the enforcement of compliance therewith and punishment of violations thereof.

Final Judgments as to The Bobbs-Merrill Co,, Inc., Childrens Press, Inc., Thomas Y. Crowell Co., Dodd, Mead & Co., Inc., E. P. Dutton & Co., Inc., Golden Press, Inc., Grosset & Dunlap, Inc., Holt, Rinehart and Winston, Inc., Little, Brown & Co., Inc., The Macmillan Co., William Morrow & Co., Inc., G. P. Putnam's Sons, Random House, Inc., Charles Scribner's Sons, The Viking Press, Inc., Henry Z. Walck, Inc., and Franklin Watts, Inc.

The judgments are the same as in Harper & Row, Publishers, Inc., above (Case No. 1933, Civil Action No. 67C 612), except for (1) the use of the phrase “defendant having appeared herein” in lieu of “defendant having filed its answer thereto denying the substantive allegations thereof” in the introductory paragraph of the Little, Brown & Co., Inc. and Franklin Watts, Inc. judgments, (2) the substitution of the name of the defendant and its state of incorporation (see below in paragraph 11(A), and (3) the substitution of the dates in paragraphs V and VI(F) as follows:

Case No.	Civil Action No.	Defendant	Par. IIA	Par. V	Par. VI(F)
1934	67 C 613	The Bobbs-Merrill Co., Inc.	Indiana	Jan. 1, 1968	June 30, 1968
1935	67 C 614	Childrens Press, Inc.	Illinois	Nov. 30, 1967	Aug. 15, 1968
1936	67 C 615	Thomas Y. Crowell Co.	New York	June 30, 1968	Jan. 1, 1968
1937	67 C 616	Dodd, Mead & Co., Inc.	New York	Sept. 22, 1968	Sept. 22, 1968
1938	67 C 617	E. P. Dutton & Co., Inc.	New York	Sept. 1, 1968	Sept. 1, 1968
1939	67 C 618	Golden Press, Inc.	New York	Dec. 31, 1967	June 30, 1968
1940	67 C 619	Grosset & Dunlap, Inc.	New York	Jan. 1, 1968	Jan. 1, 1968
1941	67 C 620	Holt, Rinehart and Winston, Inc.	New York	Sept. 30, 1968	Sept. 30, 1968
1942	67 C 621	Little, Brown & Co., Inc.	Massachusetts	July 1, 1968	July 1, 1968
1943	67 C 622	The Macmillan Co.	Delaware	Oct. 31, 1968	Oct. 31, 1968
1944	67 C 623	William Morrow & Co., Inc.	New York	Apr. 30. 1968	Apr. 30, 1968
1945	67 C 624	G. P. Putnam's Sons	New York	Feb. 29, 1968	Feb. 29, 1968
1946	67 C 625	Random House, Inc.	New York	June 30, 1968	June 30, 1968
1947	67 C 626	Charles Scribner's Sons	New York	Aug. 1, 1968	Aug. 1, 1968
1948	67 C 627	The Viking Press, Inc.	New York	Aug. 31. 1968	Aug. 31, 1968
1949	67 C 628	Henry Z. Walck, Inc.	New York	Sept. 30, 1968	Sept. 30. 1968
1950	67 C 629	Franklin Watts, Inc.	New York	Dec. 31, 1967	Dec. 31, 1967

United States v. Wilson Sporting Goods Company, et al.

Civil Action No. 68 C 549

Year Judgment Entered: 1968

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. Wilson Sporting Goods Co. and Nissen Corp., U.S. District Court, N.D. Illinois, 1968 Trade Cases ¶72,585, (Oct. 28, 1968)

United States v. Wilson Sporting Goods Co. and Nissen Corp.

1968 Trade Cases ¶72,585. U.S. District Court, N.D. Illinois, Eastern Division. Civil Action No. 68 C 549. Entered October 28, 1968. Case No. 2000 in the Antitrust Division of the Department of Justice.

Clayton Act

Acquisition—Sporting Goods Company—Gymnastic Equipment Company—Injunction —Consent Decree.—A broad line sporting goods company was prohibited by a consent decree from acquiring a leading manufacturer of gymnastic equipment, the decree superseding a preliminary injunction barring the merger pending adjudication. The decree also prohibited the sporting goods firm from acquiring gymnastic equipment manufacturers for five years except upon 60 days' prior written notice to the government.

For the plaintiff: Edwin M. Zimmerman, Asst. Atty. Gen.; Baddia J. Rashid, Joel Davidow, John E. Sarbaugh and Kenneth H. Hanson, Antitrust Div., Dept. of Justice, Chicago, Ill.

For the defendants: Richard K. Decker, of Lord, “Bissell & Brook, Chicago, Ill.; Howard Adler, Jr., of Bergson, Borkland, Margolis & Adler, Washington, D. C.; Haven E. Simmons, of Simmons, Perrine, Albright & Ellwood, Cedar Rapids, Ia.

Final Judgment

MAROVITZ, J.: Plaintiff, United States of America, having filed its complaint herein on March 27, 1968 seeking to enjoin the merger of Nissen Corporation (Nissen) with and into Wilson Sporting Goods Company (Wilson); the Court on the following day having granted an order temporarily restraining consummation of the proposed merger; the Court on July 8, 1968 having entered an Order for preliminary injunction granted after hearing and consideration of both written and oral evidence, and based upon the findings of fact and conclusions of law stated in the Memorandum Opinion of the Court dated July 2, 1968; and the defendants, by Abandonment Agreement dated as of July 31, 1968, having agreed to abandon the merger and to terminate the Plan and Agreement of Merger previously executed by the said defendants; and the plaintiff and Wilson having consented to the entry of this Final Judgment,

It Is Hereby Ordered, Adjudged and Decreed as follows:

I

[*Jurisdiction*]

This Court has jurisdiction of the subject matter herein and of the parties hereto. The complaint states a claim upon which relief may be granted against Wilson under Section 7 of the Act of Congress of October 15, 1914 (15 U. S. C. § 18) as amended, commonly known as the Clayton Act.

II

[*Applicability*]

The provisions of this Final Judgment applicable to Wilson shall apply also to each of its subsidiaries, successors, and assigns, and to its officers, directors, agents, servants, and employees, and to all other persons acting in concert or participation with such defendant who shall have received actual notice of this Final Judgment by personal service or otherwise.

III

[*Merger Prohibition*]

Wilson and all persons acting on its behalf are hereby enjoined from taking any action, directly or indirectly, to purchase or acquire the stock, assets, properties, or businesses of Nissen, or from merging and consolidating such assets, properties, or businesses, or acquiring any financial or other interest in Nissen, except that nothing herein shall preclude Wilson from purchasing or acquiring goods, wares, and merchandise in connection with a bona fide purchase or sale in the regular course of business from Nissen.

IV

[*Definitions*]

As used herein:

"Gymnastic Equipment" means apparatus and equipment sold for use in the sport of gymnastics, including such items as trampolines, parallel bars, side horses, balance beams, horizontal bars and gymnastic apparel.

V

[*Future Mergers*]

For a period of five (5) years from and after the date of entry of this Final Judgment, Wilson and all persons acting on its behalf shall not directly or indirectly complete the purchase or acquire the stock, assets, properties, or businesses, or any part thereof (excepting purchases of goods, wares, and merchandise in connection with a bona fide purchase or sale in the regular course of business), or merge with, any manufacturer of gymnastic equipment in the United States except upon sixty (60) days' prior written notice to the plaintiff, informing plaintiff as to the relevant facts of such proposed transaction.

VI

[*Preliminary Injunction Superseded*]

This Final Judgment and the terms and conditions contained herein shall supersede the aforesaid Order of preliminary injunction entered July 8, 1968.

VII

[*Inspection and Compliance*]

For the purpose of determining and securing compliance with this Final Judgment, and for no other purposes, 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 Wilson made to its principal office, be permitted, subject to any legally recognized privilege:

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

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

Upon such written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, Wilson shall submit such reports in writing with respect to the matters contained in this Final Judgment as from time to time may be necessary for the enforcement of this Final Judgment. No information obtained by the means provided for in this Section VII shall be divulged by any representative of the Department of Justice

to any person other than a duly authorized representative of the Executive Branch of the United States except in the course of legal proceedings to which the United States is a party for the purpose of securing compliance with this Final Judgment or as otherwise required by law.

VIII

[*Jurisdiction Retained*]

Jurisdiction is retained 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 or directions as may be necessary or appropriate for the of the provisions thereof, and for the construction or carrying out of this Final enforcement of compliance therewith and Judgment, or for the modification of any punishment of violations thereof.

United States v. Gannett Company, Inc., et al.

Civil Action No. 68 C 48

Year Judgment Entered: 1969

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. Gannett Co., Inc., WREX-TV, Inc., and Rockford Newspapers, Inc., U.S. District Court, N.D. Illinois, 1968 Trade Cases ¶72,644, (Jan. 6, 1969)

United States v. Gannett Co., Inc., WREX-TV, Inc., and Rockford Newspapers, Inc.

1968 Trade Cases ¶72,644. U.S. District Court, N.D. Illinois. Civil Action No. 68 C 48. Entered January 6, 1969. Case No. 2029 in the Antitrust Division of the Department of Justice.

Clayton Act

Acquisitions and Mergers—Newspapers—Acquisition by Television Interests—Divestiture.—The owner of the dominant television station in a metropolitan area was required by a consent decree to divest either an acquainted publisher of the two major newspapers in the area or the television station, pursuant to settlement of antimerger charges against the acquisition of the newspapers. Anticompetitive effects alleged were the elimination of competition between the newspapers and the television station and increased concentration in the sale of advertising and the dissemination of news and advertising by local mass media.

For the plaintiff: Edwin M. Zimmerman, Asst. Atty. Gen., Baddia J. Rashid, and William D. Kilgore, Jr., Attys., Department of Justice, Washington, D. C; Robert L. Eisen, Atty., Dept. of Justice, Chicago, Ill.

For the defendants: Nixon, Hargrave, Devans & Doyle, by Arthur L. Stern.

Final Judgment

AUSTIN, D. J.: Plaintiff, United States of America, having filed its complaint herein on December 5, 1968; and defendants having filed their answers denying the substantive allegations of such complaint, and the parties 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 admission by any party with respect to any such issue;

Now, Therefore, without trial or adjudication of any issue of fact or law, and upon the consent of the parties hereto, it is hereby

Ordered, Adjudged and Decreed as follows:

I

[*Jurisdiction*]

This Court has jurisdiction of the subject matter hereof and of the parties hereto. The complaint states claims upon which relief may be granted against said defendants under Section 7 of the Act of Congress of October 15, 1914, (15 U. S. C. 18) entitled “An act to supplement existing laws against unlawful restraints and monopolies and for other purposes,” commonly known as the Clayton Act, as amended.

II

[*Definitions*]

As used in this Final Judgment:

(A) “Person” shall mean any individual, partnership, firm, corporation, association or other business or legal entity;

(B) “Gannett” shall mean Gannett Co., Inc. and its subsidiaries and affiliates;

(C) “WREX” shall mean WREX-TV, Inc., as acquired by Gannett in 1963, together with all additions and accretions thereto since such acquisition;

(D)"Rockford Newspapers" shall mean Rockford Newspapers, Inc., as acquired by Gannett in 1967, together with all additions and accretions thereto since such acquisition;

(E) "Rockford metropolitan area" shall mean Winnebago and Boone Counties, Illinois.

III

[*Applicability*]

The provisions of this Final Judgment applicable to Gannett shall apply also to each of its officers, agents, servants, employees, subsidiaries, successors and assigns, and to those persons in active concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise.

IV

[*Divestiture*]

Gannett is ordered and directed to divest itself of all of its equity interest in either WREX or Rockford Newspapers, at defendant Gannett's option, within eighteen (18) months from the date of this Final Judgment in accordance with the following plan for divestiture:

(A) Until the time of such divestiture, Gannett shall continue to operate the company to be divested, as it has in the past, as a single, strong and viable company. The entire business of the company to be divested shall be divested by a good-faith, absolute and unqualified sale to a person who

(1) Does not own, control, or have any material interest in any newspaper, radio station or television station serving the Rockford metropolitan area;

(2) Is not eligible as a purchaser by virtue of Section V of this Final Judgment;

(3) Does not control, or is not controlled by, and is not under common control with, any person who would be ineligible as a purchaser under subsections (1) or (2) above.

(B) Gannett shall furnish to bona fide prospective purchasers all appropriate information regarding the company to be divested and shall permit them to make such inspection of the facilities and operations of such company as is reasonably necessary for a prospective purchaser to properly advise himself.

(C) At least sixty (60) days in advance of the closing date specified in any contract for the sale of the company to be divested, Gannett shall supply the plaintiff with the name and address of the proposed purchaser and with the complete details concerning the terms and conditions of the proposed sale, together with any other pertinent information requested by the plaintiff. At the same time, Gannett shall make known to the plaintiff the names and addresses of all other persons who have made an offer of purchase, together with the terms and conditions thereof. Not more than thirty (30) days after its receipt of the name and address of the proposed purchaser, plaintiff shall advise Gannett and the Court of any objection it may have to the consummation of the proposed sale. If no such objection is made known to Gannett and to the Court within such period, plaintiff shall be deemed to have approved such sale. If such an objection is made by plaintiff, then the proposed sale shall not be consummated unless approved by the Court or unless plaintiff's objection is withdrawn.

(D) If divestiture is accomplished in whole or in part by an exchange of the stock of the divested company, or its assets, for the stock of the person who will thereafter own or control the divested company, Gannett is enjoined from voting such stock and Gannett will divest itself of such stock within three (3) years from its acquisition either by way of public offering or to a person or persons who would otherwise have been eligible under this Final Judgment to have purchased the stock of the divested company. In the event such divestiture of stock is not accomplished by a public offering, Gannett shall notify plaintiff of the name of the prospective purchaser at least thirty (30) days in advance of the sale of the shares.

(E) No divestiture under this Final Judgment shall be upon terms and conditions or to a person not first approved by the plaintiff, or failing such approval, by the Court.

V

[*Disposition of Stock*]

Gannett is enjoined and restrained from knowingly disposing of any shares of stock in the divested company or any of its assets to any person

(A) Who is an officer or director of Gannett, or who is related to anyone holding such office;

(B) In which Gannett owns any material amount of capital stock or any material financial interest except as may arise out of divestiture under Paragraph IV of this Final Judgment; or

(C) Beneficially owning or having an unrestricted discretionary power to vote common stock of Gannett in excess of five (S) percent of the total shares outstanding.

VI

[*Ineligibility of Purchaser*]

If for any reason, the purchaser of the divested company under this Final Judgment should become ineligible or unable to complete the contract for the purchase of the divested company, defendant Gannett shall regain control over said company, advertise it for sale and sell it pursuant to the terms of this Final Judgment.

VII

[*Inspection and Compliance*]

For the purpose of determining or securing compliance with this Final Judgment and for no other purpose:

(A) Duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to Gannett made to its principal office, be permitted, subject to any legally recognized privilege:

1. Access during the office hours of Gannett to all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession, custody or control of Gannett which relate to any matters contained in this Final Judgment; and

2. Subject to the reasonable convenience of Gannett, but without restraint or interference from it, to interview officers, directors, agents or employees of Gannett, who may have counsel present, regarding any such matters.

(B) Upon such written request, Gannett shall submit such reports in writing with respect to the matters contained in this Final Judgment as may from time to time be requested; provided, however, that no information obtained by the means provided in this Section VII shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of plaintiff, except in the course of legal proceedings in which the United States of America is a party for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

VIII

[*Jurisdiction Retained*]

Jurisdiction of this cause is retained by this Court for the purpose of enabling either party 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 modidification, construction, or carrying out of the provisions of this Final Judgment, for the enforcement of compliance therewith and the punishment of violations thereof.

United States v. The College of American Pathologists

Civil Action No. 66 C 1253

Year Judgment Entered: 1969

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. The College of American Pathologists, U.S. District Court, N.D. Illinois, 1969 Trade Cases ¶72,825, (Jul. 14, 1969)

United States v. The College of American Pathologists

1969 Trade Cases ¶72,825. U.S. District Court, N.D. Illinois. Civil Action No.66 C 1253. Entered July 14, 1969. Case No. 1902 in the Antitrust Division of the Department of Justice

Sherman Act

Conspiracy to Monopolize—Commercial Medical Laboratories.—An association of pathologists was barred by the terms of a consent decree from attempting to prevent other persons from entering or conducting a commercial medical laboratory business. The decree prohibits the defendant, and any persons acting with it, from restricting or preventing any person from organizing, owning or operating any laboratory, from referring specimens or patients to any laboratory, from performing laboratory services for any person, or from associating or affiliating with any laboratory or being employed by any laboratory. The decree also prohibits the association from attempting to control or influence prices for medical laboratory services.

For the plaintiff: Richard W. McLaren, Asst. Atty. Gen., Baddia J. Rashid, William D. Kilgore, Jr., Lewis Bernstein, Burton R. Thorman, Jerry Z. Pruzan, Kathleen Devine, and Donald J. Frickel, Attys., Dept. of Justice.

For the defendant: Vedder, Price, Kaufman & Kammholz, by Paul G. Gebhard, Chicago, Ill.; Hogan & Hartson, by George W. Wise, Washington, D. C.

Final Judgment

PARSONS, D. J.: Plaintiff, United States of America, having filed its complaint herein on July 7, 1966 and its amended complaint on January 23, 1967, and defendant having filed its answer to said amended complaint denying the substantive allegations thereof, and plaintiff and defendant by their respective attorneys having consented to the making and entry of this Final Judgment without admission by either party in respect to any issue;

Now, Therefore, before any testimony has been taken herein, without trial or adjudication of any issue of fact or law herein, and upon consent of the parties hereto, it is hereby,

Ordered, Adjudged and Decreed, as follows:

I

[*Jurisdiction*]

This Court has jurisdiction of the subject matter of this action and of the parties hereto. The complaint states claims for relief against the defendant under Sections 1, 2 and 3 of the Act of Congress of July 2, 1890, entitled "An act to protect trade and commerce against unlawful restraints and monopolies," commonly known as the Sherman Act, as amended.

II

[*Definitions*]

As used in this Final Judgment:

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

(B) “Laboratory” shall mean any person lawfully engaged under either Federal or any state law and/or regulation in conducting bioanalytical tests on material obtained from the human body and rendering reports on the findings of such tests for physicians to utilize as an aid to diagnosis and treatment of their patients;

(C) “Laboratory services” shall mean the bioanalytical testing of material obtained from the human body and the preparation of reports on the findings of such tests by a laboratory.

III

[*Applicability*]

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

IV

[*Restraint of Trade*]

The defendant, whether acting alone, or in concert, agreement or understanding with any other person, is enjoined and restrained from, directly or indirectly:

(A) Restricting, or preventing, or attempting to restrict or prevent any person from

1. organizing, owning or operating any laboratory;

2. referring any specimen or patient to any laboratory or obtaining laboratory services from any laboratory;

3. performing laboratory services for any person;

4. associating or affiliating with any laboratory, or being employed by, any laboratory.

(B) Requiring or coercing any other person to (i) refrain from accepting advertising from any person, or (ii) refuse to permit any person to exhibit at any medical or scientific meeting;

(C) Boycotting or otherwise refusing to do business with or imposing any sanction or penalty upon any person because such person does business or associates or affiliates with or is employed by any laboratory;

(D) Requiring or coercing or attempting to require or coerce any person to adopt, adhere to or enforce any criteria established by defendant with respect to (i) the compensation to be paid by any hospital to any laboratory or laboratory director, or (ii) the purchase or rental by a laboratory or laboratory director from a hospital of space, services, supplies or equipment.

V

[*Price Fixing*]

Defendant is enjoined and restrained from, directly or indirectly

(A) Requiring or suggesting that the fee schedules of any laboratory in a given locality must be the same or substantially the same as the fee schedules of any other laboratory doing business in the same locality;

(B) Preventing or restricting any laboratory from establishing or adhering to its own independently established price or prices for any laboratory service rendered by it.

VI

[*Amendment of By-Laws*]

(A) Defendant is ordered and directed within six (6) months from the date of entry of this Final Judgment to amend its bylaws, rules and regulations by eliminating therefrom any provision which is contrary to or inconsistent with any provision of this Final Judgment.

(B) Upon amendment of its bylaws, rules and regulations as aforesaid, the defendant is thereafter enjoined and restrained from adopting, adhering to, enforcing or claiming any rights under any bylaw, rule or regulation having any purpose or effect contrary to or inconsistent with any of the provisions of this Final Judgment.

VII

[*Reasonable Restrictions*]

Unless precluded by other provisions of this Final Judgment, the defendant may

(A) Recommend or adopt lawful, reasonable and non-discriminatory technical or performance standards for the operation or accreditation of laboratories and maintain a program of inspection and accreditation of laboratories, which program shall be made available upon an impartial basis to all laboratories desiring to participate;

(B) Impose sanctions upon any of its members if, after investigation, defendant has grounds to believe that such member is deficient in moral character or professional competence, or that he has been guilty of professional misconduct;

(C) Require any of its members to report the results of laboratory tests only to physicians and others permitted by law to receive such results.

VIII

[*Publication of Judgment*]

Defendant is ordered and directed to mail, within sixty (60) days after the date of entry of this Final Judgment, a copy thereof to each of its members and to each person listed in Schedule (A) attached to this Final Judgment and within ninety (90) days from the aforesaid date of entry to file with the Clerk of this Court, an affidavit setting forth the fact and manner of compliance with this Section VIII.

IX

[*Compliance*]

For the purpose of determining or securing compliance with this Final Judgment, and for no other purpose, duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to defendant, made to its principal office, be permitted, subject to any legally recognized privilege, (1) access during reasonable office hours to all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession of or under the control of the defendant relating to any matters contained in this Final Judgment, and (2) subject to the reasonable convenience of 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; and upon such request, defendant shall submit such reports in writing, under oath if so requested, to the Department of Justice with respect to any of the matters contained in this Final Judgment as may from time to time be requested. No information obtained by the means provided in this Section IX shall be divulged by any representative of the Department of Justice to any person, other than a duly authorized representative of the Executive Branch of plaintiff, except in the course of legal proceedings to which the United States of America is a party for the purpose of securing compliance with this Final Judgment or as otherwise required by law.

X

[*Jurisdiction Retained*]

Jurisdiction is retained for the purpose of enabling either 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 or for the modification of any of the provisions thereof, and for the enforcement of compliance therewith and punishment of violations thereof.

Schedule (A)

(1) American Medical Association

(2) American Hospital Association

(3) American Academy of Microbiology, Inc.

(4) American Association of Bioanalysts

(5) American Association of Clinical Chemists

(6) American Association of Immunologists

(7) American Board of Clinical Chemistry

(8) American Chemical Society

(9) American Institute of Biological Sciences

(10) American Institute of Chemists

(11) American Society of Biological Chemists, Inc.

(12) American Society of Clinical Pathologists

(13) American Society of Medical Technologists

(14) American Society of Professional Biologists, Inc.

(15) American Society for Microbiology

(16) Joint Commission on Accreditation of Hospitals

(17) American College of Physicians

(18) American College of Surgeons

(19) American Society of Internal Medicine

(20) American Cancer Society

(21) American Cytology Society

(22) American Board of Pathology

(23) The society or association of pathologists in the District of Columbia, and each state and territory in the United States;

(24) The medical society or association of the District of Columbia, and each state and territory of the United States;

(25) Los Angeles Society of Pathologists

(26) San Diego Society of Pathologists

(27) Los Angeles County Medical Association

United States v. Minnesota Mining and Manufacturing Company

Civil Action No. 66 C 627

Year Judgment Entered: 1969

Year Modification Entered: 1969 (additional documentation added)

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF ILLINOIS

EASTERN DIVISION

UNITED STATES OF AMERICA, Plaintiff, v. MINNESOTA MINING AND MANUFACTURING COMPANY, Defendant.	)	CIVIL ACTION NO. 66 C 627 Entered: September 2, 1969

At Chicago, Illinois, in said Division and District on

FINAL JUDGMENT

Plaintiff, United States of America, having filed its complaint herein on April 7, 1966, the defendant having appeared and filed its answer to the complaint denying the substantive allegations thereof, and the parties hereto, by their respective attorneys, having consented to the entry of this Final Judgment;

NOW, THEREFORE, before the taking of any testimony and without trial or adjudication of any issue of fact or law herein and without said judgment constituting evidence or an

admission by any party hereto with respect to any such issue and upon consent of all parties 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 hereto. The complaint states claims against the defendant under Sections 1 and 2 of the Act of Congress of July 2, 1890, entitled "An Act to protect trade and commerce against unlawful restraints and monopolies," commonly known as the Sherman Act, as amended.

II

DEFINITIONS

As used in this Final Judgment:

(a) "Person" shall mean an individual, partnership, firm, corporation or any other legal entity.

(b) "Defendant" shall mean the defendant, Minnesota Mining and Manufacturing Company, sometimes referred to as 3M.

(c) "Pressure-sensitive tape" (herein also sometimes referred to as "tape") shall mean any adhesive product normally usable for adhesive tape purposes, such as sealing, masking, mending, holding, insulating, labeling, identifying and

reinforcing and which includes a backing sheet or film of nonfibrous or unwoven fibrous material, or both, with a pressure-sensitive adhesive material applied to at least one side of said sheet or film. Such term shall include the adhesive tape products sold by the Industrial Tape, Electrical Products and Retail Tape divisions of defendant but shall not include the following tapes sold by the Decorative Products, Reflective Products divisions and Industrial Special Products Department of defendant: reflective film and tape (such as are now sold by defendant under its trade-marks "Scotchlite", "Reflectolite" or "Scotchlane") or decorative and marking film mounted upon a releasable liner such as are now sold by defendant under its trade-marks "Scotchcal", "Sprint", "Di-Noc" or "Tartan-Clad", or solar control film sold by defendant under its trade-mark "Scotchtint", or products manufactured and distributed for surgical or medical purposes.

(d) "Magnetic recording media" (herein also sometimes referred to as "magnetic media") shall mean any product composed of magnetically susceptible ferromagnetic material coated on, dispersed on or in, or otherwise disposed in contact with non-magnetic material, such as plastics, paper, cloth or any other non-magnetic sold material.

(e) "Aluminum presensitized lithographic plates" (herein also sometimes referred to as "plates") shall mean any product composed of a thin substantially flat sheet of aluminum containing at least one surface of a light sensitive coating and wherein, upon exposure and development, the product contains a hydrophobic printing image, and a hydrophilic background.

(f) "The three industries" shall mean the tape, magnetic media and plate industries.

(g) "Existing Patents" means those patents listed in Exhibits 1, 2, and 3 attached hereto which defendant represents are all United States patents owned or controlled by defendant on the date of entry of this Final Judgment relating to pressure-sensitive tape, magnetic recording media and aluminum presensitized lithographic plates, or machinery or processes for manufacturing such products.

(h) "Future Tape Patent" shall mean any United States patent owned or controlled by defendant issued within the period of five (5) years after the date of entry of this Final Judgment relating to pressure-sensitive tape or machinery or processes for manufacturing such tape(s).

(i) "Existing Tape Products" shall mean the tape products manufactured and sold by the defendant on the date of entry of this Final Judgment.

(j) "United States" shall mean the fifty States, the District of Columbia, and all United States territories and possessions.

III

The provisions of this Final Judgment applicable to defendant shall also apply to its officers, directors, agents, employees, subsidiaries, successors and assigns, and to those persons in active concert or participation with defendant who receive actual notice of this Final Judgment by personal service or otherwise, but shall not apply to any activities of the defendant outside the United States unless such activities substantially limit or restrict imports to or exports from the United States.

IV

Defendant is enjoined and restrained from, directly or indirectly:

(a) Claiming any damages in any pending or future patent litigation for any act of infringement of defendant's Existing Patents in the three industries alleged to have occurred prior to the date of entry of this Final Judgment.

(b) Entering into, adhering to, enforcing or claiming any rights under any term or provision of any contract, agreement, or understanding between or among actual or potential competitors in the three industries (other than a patent license), which term or provision or understanding:

(1) allocates territories, customers or markets; or

(2) establishes prices or terms for the manufacture, use or sale of any product in any of the three industries, other than purchase or sale transactions between competitors in the normal course of business.

V

With respect only to the three industries:

(a) For a period of ten (10) years from the date of entry of this Final Judgment defendant is enjoined from suing, threatening to sue, or continuing to sue, any person for alleged infringement of any United States patent relating to the manufacture, use or sale of tape, magnetic media or plates after a final judgment not subject to further appeal has been entered in a court of competent jurisdiction determining that the pertinent claim or claims of the patent involved is invalid,

and from suing, threatening to sue or continuing to sue for infringement by a particular product or process after a final judgment not subject to further appeal has been entered in a court of competent jurisdiction determining that such product or process does not infringe the patent claims involved in the lawsuit.

(b) Within sixty (60) days from the date of entry of this Final Judgment, defendant is ordered and directed to cancel any of the following provisions from any license agreement to which defendant is a party, and is enjoined and restrained, for a period of ten (10) years from the date of entry of this Final Judgment from entering into any license agreement, which contains any of the following clauses:

(1) Allowing a licensor to fix the selling price or most favorable terms of sale, or to establish classes of buyers, or to specify the method or materials for packaging or the manner of merchandising the product(s);

(2) Providing that the percentage rate of royalty payable shall increase as licensee's sales increase;

(3) Providing that the licensee may not export the product nor sell to persons knowing that they will export the product;

(4) Prohibiting a licensee from selling products under a brand name other than its own or from selling to a customer knowing that the product would be resold under a private brand name;

(5) In agreements where defendant is the licensee, requiring that the licensor, on demand by defendant, sue another person for patent infringement;

(6) Requiring the licensee to assist the licensor in litigation; provided, however, that the licensor, when a party to a legal proceeding, may exercise the legal rights of a party with respect to compelling production of documents or testimony; and

(7) In agreements where defendant is the licensor, prohibiting the licensee from manufacturing or selling the product for specified uses or applications, or permitting the allocation of territories, customers or markets.

(c) For a period of ten (10) years from the date of entry of this Final Judgment, defendant is ordered and directed to make new products, or products under new names, fully available on non-discriminatory terms to all customers of the same general category located in the United States; provided, however, that such customers must comply with defendant's reasonable and uniform standards of credit, technical customer service, and warehousing which may be required for the merchandising of such products, and provided further that this provision shall not prevent defendant for reasonable periods of time from using any customers it may select to test-market such products in limited geographic areas.

(d) For a period of ten (10) years from the date of entry of this Final Judgment defendant is enjoined and restrained from acquiring from any other person any United States patent or any exclusive rights, exclusive license or exclusive immunity under any such patent relating to tape, magnetic recording media, or plates or machinery or processes for the manufacture thereof; provided, however, that this provision shall not apply to patents covering the inventions of bona fide employees of defendant or to patents covering the inventions of professional research consultants engaged for research and compensated by defendant.

(e) For a period of ten (10) years from the date of entry of this Final Judgment defendant is enjoined and restrained from:

(1) Selling or contracting to sell on the condition or understanding that the purchaser shall not buy from a competitor of the defendant;

(2) Entering into, adhering to, or claiming or maintaining any right under any contract, agreement, arrangement, understanding, plan or program with any person who owns, or controls the licensing rights under, a United States patent to the effect that higher royalty rates will be charged to other manufacturers than are being, or will be, charged to 3M;

(3) Selling any product in the United States which is not identified through means such as packaging or advertising as a product manufactured and/or sold by the defendant; provided, however, that such prohibition shall not prevent defendant from manufacturing and selling such products unidentified to persons who intend to resell them under another name.

(f) For a period of five (5) years from the date of entry of this Final Judgment defendant is enjoined from acquiring in the United States the whole or any part of the stock or other share capital, or the whole or any part of the tape, magentic media or plate assets, other than products purchased in the normal course of business, (a) of a manufacturer or wholesaler of pressure-sensitive tape, magnetic recording media or pre-sensitized aluminum lithographic plates; (b) of a direct supplier of raw materials to manufacturers for the manufacture of tape, magnetic media or plates; or (c) of a direct customer of manufacturers of tape, magnetic media or plates; provided, however, that defendant may acquire all or any part of the stock or other share capital or the whole or any part of the tape, magnetic media or plate assets of such a direct supplier or such a direct customer of such manufacturers, if defendant demonstrates beforehand to this Court that the effect of such acquisition would not be substantially to lessen competition or tend to create a monopoly in the relevant line of commerce in any section of the country.

(g) For a period of three (3) years from the date of entry of this Final Judgment, defendant is ordered and directed to

include with any bid or quotation to a federal, state or local governmental agency in the United States (whether requested or not by such agency) a certificate of a responsible officer or agent of defendant stating that the prices included in such bid are being submitted on the basis of the independent determination of the defendant and are not the result, directly or indirectly, of any agreement, plan or program between the defendant and any other manufacturer or supplier of such product.

VI

(a) Defendant is ordered and directed to grant to each person in the United States making written application therefor an unrestricted, nonexclusive, non-discriminatory license to make, have made, use and vend under and for the full unexpired term of, any, some or all of defendant's Existing Patents and Future Tape Patents; provided that the license so granted may be conditioned as permitted by this Section VI.

(b) Defendant is hereby enjoined and restrained from making any sale or other disposition of any Existing Patent or Future Tape Patent which deprives it of the power or authority to grant such licenses, unless the purchaser, transferee or assignee shall file with this Court, prior to consummation of said transaction, and undertaking to be bound by the provisions of this Section with respect to such patent.

(c) Defendant and its subsidiaries are ordered and directed, insofar as they have power and right to do so, to grant upon written request and without compensation to a person licensed under any of defendant's Existing Patent(s) or Future Tape Patent(s) pursuant to this Final Judgment, with respect to any products manufactured in the United States pursuant to such license, a nonexclusive grant of immunity from suit under any corresponding foreign patent or application owned or controlled by defendant.

(d) Defendant is hereby enjoined and restrained from including any restriction whatsoever in any license granted by it pursuant to the provisions of this Section, except as hereinafter provided:

(1) the license may be non-transferable;

(2) a reasonable royalty may be charged and such royalty shall be non-discriminatory as among licensees procuring the same rights under the same patents;

(3) reasonable provision may be made for periodic royalty reports by the licensee and inspection of the books and records of the licensee by any

person acceptable to both licensor and licensee, who shall report to the licensor only the amount of the royalty due and payable;

(4) reasonable provision may be made for cancellation of the license upon failure of the licensee to make the reports, pay the royalties or permit the inspection of his books and records, as hereinabove provided;

(5) the license must provide that the licensee may cancel the license in whole or as to any specified patents at any time after one (1) year from the initial date thereof by giving thirty (30) days' notice in writing to the licensor; and

(6) the license may require such patent markings as may be required by statute.

(e) Within thirty (30) days of receipt of a written application for a license under the provisions of this Section, defendant shall advise the applicant in writing of the royalty which it deems reasonable for the patent or patents to which the request pertains. If the applicant rejects the royalty proposed

by defendant and if the parties are unable to agree upon a reasonable royalty within 120 days from the date such rejection is communicated in writing to defendant, the applicant or defendant may, upon notice to the Attorney General, apply to this Court for the determination of a reasonable royalty. In any such proceeding defendant shall bear the burden of proof in establishing the reasonableness of the rate of royalty requested. Pending the completion of negotiations or any such proceedings, the applicant shall have the right to make, have made, use and vend under the patents to which his application pertains without payment of royalty or other compensation but subject to the following provisions: defendant may, with notice to the applicant and the plaintiff, apply to the Court to fix an interim royalty rate pending final determination of what constitutes a reasonable royalty. If the Court fixes such interim royalty rate, a license shall then issue providing for the periodic payment of royalties at such interim rate from the date of the making of such application by the applicant; and whether or not such interim rate is fixed, any final order may provide for such adjustments, including royalties retroactively applicable to the date of application for a license as the Court may order

after final determination of a reasonable and non-discriminatory royalty. Such determination shall also be applicable to any other licensee in that industry then having or thereafter obtaining the same rights under the same patents, at the option of such other licensee for the period of the license. If the applicant fails to accept a license, such applicant shall pay the court costs in such proceedings. Defendant may bring suit against any person, including any applicant, for infringement of any Existing Patent or Future Tape Patent if such action is not otherwise prohibited by any provision of this Final Judgment.

(f) Nothing herein shall prevent any applicant from attacking the validity or scope of any of the patents in the aforesaid proceedings, nor shall this Final Judgment be construed as imputing any validity to any of said patents.

(g) Defendant shall not be required to grant a license under its Future Tape Patents to any applicant under the provisions of subsection (a) hereof or continue such a license in effect unless such applicant agrees, upon written request made at the time of his application or at any other time thereafter during the term of the license, to grant to defendant, to the extent

to which such applicant has the power to do so, a nonexclusive license under all claims of any domestic patents subservient to the licensed Future Tape Patents then in existence or which issue during the period for which applicant has been granted a license by the defendant, to make, have made, use or sell pressure-sensitive tape of the same general character or kind as that for which a license from defendant is applied for or granted. Such grant back may be conditioned as provided for in paragraph (d) and the reasonableness of the royalty shall be determined as provided for in paragraph (e) of this Section, except defendant shall be required to reimburse the applicant for any royalties which he is required to pay his licensor by reason of defendant's use of the patent involved, if any.

(h) Within thirty (30) days after defendant obtains any Futur Tape Patent it shall file a notice thereof with a copy of the patent attached with this Court sending also a copy thereof

to the plaintiff and to each person then licensed by defendant in the tape industry under the provisions of Section VI (a) hereof.

VII

(a) Defendant is hereby ordered and directed to furnish technical information relating only to pressure-sensitive tape in connection with Existing Tape Product(s) or Future Tape Patent(s) as set forth below to any eligible applicant.

(b) To be eligible, an applicant must:

(1) deposit an initial fee of $5,000 for each group of tapes described in Exhibit 4 attached hereto, it being understood that only one fee shall be required for all types of tape listed in said group on said exhibit;

(2) be an actual or potential manufacturer of tape in the United States; and

(3) make written application to defendant within five (5) years of the date of entry of this Final Judgment for technical information in connection with Existing Tape Products and within five (5) years and six (6) months of said date for technical information in connection with Future Tape Patents.

(c) In the event of a dispute as to whether any applicant is eligible, the burden shall be on the defendant to demonstrate to the satisfaction of the Court that the applicant is not eligible.

(d) Technical information in connection with Existing Tape Products shall consist of tape production manuals which shall describe, as of the date of this Final Judgment, the materials, formulations, processing methods, and equipment employed by the defendant in making the type(s) of pressure-sensitive tape for which application is made, including within such description blueprints, drawings and specifications of defendant's most modern treaters, coaters, and ovens used in

making such tape at defendant's plants in the United States, sufficient to enable applicant to make pressure-sensitive tape of the type(s) for which application is made. As used herein, "making" of tape shall mean and include only the processing which began with the component backing and the ingredients for making primers, backsizing treatment, and adhesives and shall end with the finished jumbo rolls of pressure-sensitive tape. Additionally, with respect only to vinyl electrical tape, if requested by applicant, defendant will supply the brand and model number of the most modern slitters it employs in the United States and will describe in detail the manner and methods it uses to slit the tape. Tape production manuals shall be prepared and furnished to any eligible applicant upon his request for each type of pressure-sensitive tape sold by the defendant at the date of this Final Judgment and shall be substantially in the form of the manual for cellophane pressure-sensitive tape, a copy of which has been furnished to counsel for the plaintiff, and need not contain any additional types of technical information other than those types set forth above.

(e) Technical information in connection with a Future Tape Patent(s) shall consist of the technical information owned by or subject to the control of the defendant at the date of issuance of such Future Tape Patent as shall be necessary to enable the licensee to practice the invention defined in the claims of that Future Tape Patent and no other technical information of any kind need be furnished by defendant in connection with any Future Tape Patent except to the extent that defendant may be required to furnish technical information under paragraph (g) of this section.

(f) Defendant may require each applicant for technical information to enter into a technical information agreement for a term of not less than five nor more than ten years. The agreement may provide for payment of a reasonable royalty in the event the applicant is not already obligated to pay royalties under a patent license granted hereunder for the sale of tapes covered by the technical information obtained, or in the event of cancellation by the licensee of any such patent license. No additional deposit will be required if an applicant requests technical information on two or more types of tape within the same group as listed in Exhibit 4, but in addition to said deposit defendant shall be

entitled to receive, before delivery of any production manual, reimbursement for its cost of reproducing each manual requested by the applicant. The deposit shall be applied against any future royalty payments from the applicant on account of such technical information or on account of patent license royalties due under the provisions of Section VI of this Judgment. Any amounts not so applied shall be retained by the defendant. Royalties shall be determined in accordance with the provisions of paragraph (e) of Section VI hereof. The agreement may also provide at defendant's option for periodic royalty reports by the applicant and upon reasonable request by the defendant for inspection of the books, records, plants and processes of the applicant by any person(s) acceptable to both defendant and applicant, who shall report to the defendant only the amount of royalty due and payable. Reasonable provision may also be made for cancellation of the agreement by defendant: (1) after three years from the date of the agreement, if defendant establishes to the satisfaction of the Court that the applicant has not used the technical information in the business of manufacturing or attempting to manufacture pressure-sensitive tape and returns the deposit to the applicant upon surrender by the applicant

of the manual(s) obtained and any copies made thereof; and (2) at any time upon failure of the applicant to make the reports, pay the royalties or permit the inspection of his books, records, plants and processes as hereinabove provided.

(g) In the event that, within three (3) years from the date of receipt of the defendant's technical information, an applicant represents to defendant in writing that the technical information furnished by defendant is inadequate to enable him satisfactorily to produce pressure-sensitive tape of the type to which the application pertains in connection with Existing Tape Products or to practice the invention as defined in the claims of the Future Tape Patent, and specifies in reasonable detail the difficulties experienced, the defendant shall supply such further information owned or subject to the control of the defendant as of the dates specified for Existing Tape Products and for Future Tape Patents in paragraphs (d) and (e) respectivaly of this Section VII, as shall be reasonably necessary to enable skilled personnel of such applicant to produce the type of pressure-sensitive tape or to practice the invention as defined in the claims of the Future Tape Patent for which application had been made. Such further information shall include, if

requested by applicant, that defendant make available a technically qualified person or persons from among its own employees to disclose at the applicant's principal place of manufacture further technical information to enable the applicant to manufacture such pressure-sensitive tape or to practice the invention as defined in the claims as the case may be. Such counseling shall be at reasonable times and for reasonable periods but shall not require more than two (2) visits to such principal place of manufacture for a maximum period of seven (7) days each. Defendant may make reasonable and non-discriminatory charges for further technical information furnished pursuant to this paragraph (g), including compensation for consultation and services and advice given at a rate not to exceed $200 per day per person, plus actual living and travel expenses.

(h) No technical information need be furnished by the defendant with respect to any product other than pressure-sensitive tapes irrespective of the claims of the patent under which the applicant may be licensed. Every agreement under which technical information is furnished pursuant to this Section VII shall contain, if defendant shall so request,

reasonable provisions requiring the recipient of such information and its subsidiaries to keep such technical information confidential and use the same only for their own manufacture of pressure-sensitive tape in the United States. Defendant by furnishing technical information shall not warrant nor be deemed to have warranted that the technical information does not infringe the patents or trade secrets of any other person.

VIII

Nothing in this Final Judgment shall be construed to prevent the defendant from exercising any right it may have pursuant to the Act of Congress of August 17, 1937, commonly called the Miller-Tydings Act, or the Act of Congress of July 14,1952, commonly known as the McGuire Act.

IX

(a) 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 defendant made to its principal office be permitted, subject to any legally recognized privilege:

(1) 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 defendant which relate to any matter contained in this Final Judgment; and

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

(b) Upon written request of the Attorney General, or the Assistant Attorney General in charge of the Antitrust Division, defendant shall submit such reports in writing and under oath or affirmation if so requested, with respect to the matters contained in this Final Judgment, as may from time to time be requested.

(c) No information obtained by the means provided in this Section shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the plaintiff except in the

course of legal proceedings to which the United States is a party for the purpose of securing compliance with this Final Judgment or as otherwise required by law.

X

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

XI

Except for Sections IV, VI, VII(f), IX, X and the additional provisions of the decree necessary to make said provisions effective (viz. Sections I, II and III), and, unless otherwise specifically limited to a shorter period of time, the provisions of this Final Judgment will not be binding upon the defendant after ten (10) years from the date of entry of this Final Judgment.

/s/ Richard B. Austin
United States District Judge

Dated: September 2, 1969

U. S. v. 3M Co. EXHIBIT 1

(Civil Action No. 66 C 627)

3M PATENTS RELATING TO
PRESSURE-SENSITIVE ADHESIVE TAPES
(OTHER THAN SURGICAL TAPE),
UNEXPIRED AS OF JULY 28, 1969

Patent No.	Date Issued	Inventor(s)
2,607,711	Aug. 19, 1952	Hendricks
2,633,430	Mar. 31, 1953	Kellgren-Marschall
2,651,408	Sept. 8, 1953	Engberg-Norton
2,657,795	Nov. 3, 1953	Calabrese
2,693,918	Nov. 9, 1954	Bretson-Wistrand
2,706,191	Apr. 12, 1955	Holmen
2,708,192	May 10, 1955	Joesting-Ethier
2,725,142	Nov. 9, 1955	Davis
2,725,981	Dec. 6, 1955	Abere-Schmelzle-Murray
2,730,459	Jan. 10, 1956	Holmen-Lundquist
2,733,169	Jan. 31, 1956	Holmen-Lundquist
2,746,696	May 22, 1956	Tierney
2,750,304	June 12, 1956	Hendricks-Lundquist-Schmelzle
2,771,385	Nov. 20, 1956	Humphner
2,772,774	Dec. 4, 1956	Rabuse
2,785,087	Mar. 12, 1957	Franer-Steinhauser
2,838,421	June 10, 1958	Sohl
Re. 24,906	Original patent Apr. 28, 1959	Ulrich
2,876,894	Mar. 10, 1959	Dahlquist-Ahlbrecht-Dixon
2,882,183	Apr. 14, 1959	Bond-Groff
2,889,038	June 2, 1959	Kalleberg
2,897,960	Aug. 4, 1959	Revoir

Patent No.	Date Issued	Inventor(s)
2,925,174	Feb. 16, 1960	Stow
2,926,105	Feb. 23, 1960	Steinhauser-Revoir
2,927,868	Mar. 8, 1960	Revoir
2,940,591	June 14, 1960	Swedish-O'Brien-Picard
2,941,661	June 21, 1960	Picard-Swedish
2,954,868	Oct. 4, 1960	Swedish-Picard-Drew
2,956,904	Oct. 18, 1960	Hendricks
2,965,592	Dec. 20, 1960	Ethier-Auger
2,973,286	Feb. 28, 1961	Ulrich
2,984,596	May 16, 1961	Franer
3,003,981	Oct. 10, 1961	Wear
3,006,464	Oct. 31, 1961	Snell
3,008,850	Nov. 14, 1961	Ulrich
3,015,597	Jan. 2, 1962	Lambert
3,017,989	Jan. 23, 1962	Swenson
3,025,015	Mar. 13, 1962	Mix
3,027,279	Mar. 27, 1962	Kurka-Bond
3,062,683	Nov. 6, 1962	Kalleberg
3,089,786	May 14, 1963	Nachtsheim
3,092,250	June 4, 1963	Knutson
3,115,246	Dec. 24, 1963	Wicklund
3,118,534	Jan. 21, 1964	Groff-Bond
3,124,558	Mar. 10, 1964	Stucker
3,128,202	Apr. 7, 1964	Schilling
3,129,816	Apr. 21, 1964	Bond
3,144,430	Aug. 11, 1964	Schaffhausen

Patent No.	Date Issued	Inventor(s)
3,146,882	Sept. 1, 1964	Wallner-Sterling
3,152,950	Oct. 13, 1964	Palmquist-Erwin
3,154,461	Oct. 27, 1964	Johnson
3,158,494	Nov. 24, 1964	Eikvar-Krogh-Luecke
3,160,549	Dec. 8, 1964	Caldwell-Brown-Lavigne
3,179,552	Apr. 20, 1965	Hauser-Brown
3,188,266	June 8, 1965	Charbonneau-Abere
3,204,763	Sept. 7, 1965	Gustafson
3,205,088	Sept. 7, 1965	Lambert-Smith
3,223,661	Dec. 14, 1965	Bond
3,232,785	Feb. 1, 1966	Smith
3,248,254	Apr. 26, 1966	Zenk-Lundquist
3,251,809	May 17, 1966	Lockwood
3,265,769	Aug. 9, 1966	Schaffhausen
3,307,690	Mar. 7, 1967	Bond-Tomita
3,309,221	Mar. 14, 1967	Smith
3,318,852	May 9, 1967	Dixon
3,347,362	Oct. 17, 1967	Rabuse-Wallner-Sterling
3,364,955	Jan. 23, 1968	Gustafson
3,368,669	Feb. 13, 1968	Anderson-Swanson
3,372,049	Mar. 5, 1968	Schaffhausen
3,372,852	Mar. 12, 1968	Cornell
3,376,278	Apr. 2, 1968	Morgan-Swenson
3,396,837	Aug. 13, 1968	Schmelzle-Sauer
3,406,820	Oct. 22, 1968	Bond
3,441,430	Apr. 29, 1969	Peterson
3,451,537	June 24, 1969	Freeman

Exhibit 2

Patent No.	Date Issued	Inventor(s)	Subject
2,607,710	Aug. 19, 1952	Schmelzle-Eastwold	Abrasion-Resistant Magnetic Recording Tape
2,628,929	Feb. 17, 1953	Persoon-Stebbins	Method and Apparatus for Transferring a Magnetic Sound Track to Movie Film
2,654,681	Oct. 6, 1953	Lueck	Magnetic Recording Tape
2,711,901	June 28, 1955	Von Behren	Magnetic Recording Tape and Method of Making Same
2,909,442	Oct. 20, 1959	Persoon	Transfer Ribbon
2,911,317	Nov. 3, 1959	Gabor	Magnetic Recording Media
3,243,375	Mar. 29, 1966	Jeschke	Precipitation Process for Preparing Acicular Magnetic Metal Oxide Particles
3,269,854	Aug. 30, 1966	Hei	Process of Rendering Substrates Catalytic to Electroless Cobalt Deposition and Article Produced

Exhibit 3

Patent No.	Date Issued	Inventor(s)	Subject
2,714,066	July 26, 1955	Jewett-Case	Planographic Printing Plate
3,074,869	Jan. 22, 1963	Workman	Photo-Sensitive Compositions
3,085,008	Apr. 9, 1963	Case	Positively-Acting Diazo Planographic Printing Plate
3,136,636	June 9, 1964	Dowdall-Case	Planographic Printing Plate Comprising a Polyacid Organic Intermediate Layer
3,136,637	June 9, 1964	Larson	Presensitized Lithographic Light-Sensitive Sheet Construction
3,211,553	Oct. 12, 1965	Ito	Presensitized Positive-Acting Diazotype Printing Plate
3,295,977	Jan. 3, 1967	Deziel	Photolithographic Plate Having a Composite Backing

Exhibit 4

Group 1 - Paper Backed Tapes

Crepe Masking
Stain Resistant Masking
Hi-Temperature Masking
Black Door Sealer
Polyethylene Masking
Flatback Masking
Drafting Tape
General Purpose Masking
Photographic Tape
Hi-Temperature Masking
Freezer Tape
Colored Produce
White Crepe
Flatback Masking
Textile Tape
Colored Flatback
Carton Sealing
Paint Striping
Printable Flatback
Colored Flatback
Thin Flatback
Extra Strength Flatback
Super Strength Flatback
Protective

Group 2 - Double Coated Tapes

Double-Coated Tissue
Double-Coated Paper
Repulpable Splicing
Double-Coated Tissue
Adhesive Transfer
Adhesive Transfer
With Extended Liner
Double-Coated Film

Group 3 - Foam Tapes

Double-Coated Foam
Single-Coated Foam

Group 4 - Reinforced Tapes

Paper Filament
Tear Strip
Glass Filament
Ammo. Container Sealing
Rayon Filament
Glass Filament

Group 5 - Film Backed Tapes

Electroplating
Colored Plastic
Black Plastic
Transparent Plastic
Duct Sealing
Printable Plastic
Polyethylene
Preservation Sealing
Cellophane
High Tack Cellophane
Printable Cellophane
Hi-Tack Transparent Film
Red Lithographers
Colored Cellophane
Cellophane Fibre
Transparent Film
Low-Tack Film
Colored Film
Acetate Fibre
Magic Transparent
Polyester
Tire Label

Exhibit 4 (Cont'd.)

Group 6 - Electrical Tapes

Vinyl Plastic Backing
Paper Backing
Cloth Backing
Film Backings
Combinations of above Backings

Group 7 - Miscellaneous

Glass Cloth
Cotton Cloth
Lead Foil
Linerless Lead Foil
Aluminum Foil
Sandblast Stencil
"Teflon" Film
Bonding Tape
Riveters Tape

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. Minnesota Mining and Manufacturing Co., U.S. District Court, N.D. Illinois, 1969 Trade Cases ¶72,909, (Sept. 2, 1969)

Federal Antitrust Cases
Trade Regulation Reporter - Trade Cases (1932 - 1992) ¶72,909

United States v. Minnesota Mining and Manufacturing Co.

1969 Trade Cases ¶72,909. U.S. District Court, N.D. Illinois, Eastern Division. No. 66 C 627. Dated September 2, 1969. Case No. 1896 in the Antitrust Division of the Department of Justice.

Headnote

Sherman Act

Patents—Compulsory Supplying of Information—Raw Material Specifications, Suppliers and Brand Names—Manufacturing Instructions to Operators—Quality Control Tests and Procedures—Production Line Layout.—A consent decree requiring the furnishing of technical information and know-how also required the defendant to furnish (1) raw material specifications (including alternate materials where available), including the names of approved suppliers and the brand names or numbers of the products used by the defendant; (2) complete manufacturing instructions to operators; (3) complete quality control tests and procedures for raw materials, for in-process products and materials, and for finished products; and (4) production line layout. **Consent Decree—Scope—Listed Patents—Limitation on Contest.—**A company subject to a consent decree affecting specified patents agreed, when other patents were not included, not to defend later efforts to include them on the ground that it was too late to apply or to contend that the patents should have been included.

Amending 1969 Trade Cases ¶ 72,865**.**

For the plaintiff: Raymond P. Hernacki, Atty., Antitrust Div., Dept. of Justice, Chicago, Ill.

For the defendant: John T. Chadwell, of Chadwell, Keck, Kayser & Ruggles, Chicago, Ill.

Stipulation

It is stipulated by and between the undersigned parties by their respective attorneys, that:

1. The attached Supplements [not reproduced] to Exhibits 1, 2 and 3 be added to Exhibits 1, 2 and 3, respectively, of the Final Judgment filed in this cause on August 1, 1969.

2. The attached two letters

(a) from John T. Chadwell, counsel for defendant, to Raymond P. Hernacki, counsel for plaintiff, dated August 22, 1969, and

(b) from William H. Abbott, counsel for defendant, to Raymond P. Hernacki, dated August 26, 1969, representing further agreements reached between the parties with respect to the Final Judgment filed in this cause on August 1, 1969, be filed with the other records in this cause.

Text of Letter

Dear Mr. Hernacki: In the proposed final consent judgment filed in the above case on August 1, 1969, it is provided in Paragraph VII (d), page 20, that Minnesota Mining & Mfg. Co. will furnish to counsel for the government a copy of a tape production manual for cellophane pressure sensitive tape then currently made

by the defendant. Such tape production manual has been furnished to you as counsel for the government. It is understood and agreed that in addition the following materials which 3M has prepared for its internal use will be furnished to any qualified licensee subject to payment of advance royalties and cost of reproduction and to other provisions of the decree, to be of assistance to such qualified licensee in producing tape in accordance with the manual:

(1) raw material specifications (including alternate materials where available), including names of approved suppliers and the brand names or numbers of the products 3M uses or could use;

(2) complete manufacturing instructions to operators;

(3) complete quality control tests and procedures for raw materials, for in-process product and materials, and for finished products;

(4) production line layout.

We have furnished to you samples of items (1), (2) and (3) listed above. The production line layout materials are included in the blueprints and drawings, which are very voluminous, and are at the St. Paul plant. [Signed] John T. Chadwell

Text of Letter

Dear Mr. Hernacki: In respect to your letter of August 20th listing a number of 3M patents which you believe should be included in the Exhibits to the proposed Final Judgment in the above suit, it is understood that as a result of our discussion in Mr. Chadwell's office on Friday, August 22nd that you are withdrawing the request in respect to the following patents:

3,006,463 ..... Bond

3,032,541 ..... Errede

3,055,931 ..... Davis

3,379,562 ..... Freeman

3,052,567 ..... Gabor

3,361,109 ..... King

In respect to the Olson patent No. 3,326,741, it is our position that this patent relates to a thermo-setting adhesive tape rather than to a pressure-sensitive tape in that the degree of “tack” in the tape prior to heat setting is so slight that it would not function as a pressure-sensitive adhesive tape. You have stated that you do not feel qualified to evaluate the patent or the construction of the product covered by the patent.

Accordingly we have agreed that if any qualified applicant for a license should be refused a license under the Olson patent or any other U. S. patent presently issued to 3M Company that should have been listed in Exhibits 1, 2 or 3 of the proposed Final Judgment and if said applicant should later apply to the court for a license under such patent upon the ground that the patent in question should have been included in Exhibits 1, 2 or 3 because the product covered by said patent comes within the definition of pressure-sensitive tape, magnetic recording media or aluminum presensitized plates in paragraphs (c), (d) and (e) of Article II of the proposed Final Judgment in the above case, we will not object to said application upon the ground that it was too late to make the application or too late to contend that the patent should have been listed in Exhibits 1, 2 or 3; provided the applicant exercises due diligence in filing the application upon learning the facts upon which the application is based. We reserve the right to object upon any other ground and to defend upon the ground that the patent in question does not come within the definition of the three products. [Signed] William H. Abbott

United States v. Tandy Corporation, et al.

Civil Action No. 71 C 1167

Year Judgment Entered: 1972

Year Judgment Modified: 1974

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF ILLINOIS

EASTERN DIVISION

UNITED STATES OF AMERICA, Plaintiff, v. TANDY CORPORATION and ALLIED RADIO CORPORATION, Defendants.	)	Civil Action NO. 71 C 1167 Entered: January 28, 1972

FINAL JUDGMENT

Plaintiff, United States of America, having filed its Complaint herein on May 14, 1971 and defendants having appeared and filed their Answer to the Complaint denying the substantive allegations thereof, and the plaintiff and the defendants, Tandy Corporation and Allied Radio Corporation, by their respective attorneys, having severally consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein, and without this Final Judgment constituting any evidence against or any admission by any party hereto with respect

to any such issue,

Now, Therefore, before the taking of any testimony, without trial or adjudication of any issue of fact or law herein, and upon consent of the parties 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 hereto. The Complaint states a claim upon which relief may be granted against the defendants under Section 7 of the Act of Congress of October 15, 1914 (15 U.S.C. § 18), commonly known as the Clayton Act, as amended.

II

As used in this Final Judgment:

(A) "Person" means any individual, partnership, firm, corporation, association, or other business or legal entity;

(B) "Tandy" means the defendant Tandy Corporation, a Delaware Corporation, and includes any other person owned or controlled by Tandy;

(C) "Electronic Specialty Store" means a retail store, including any mail order operations, engaged primarily in selling

electronic products that primarily attract high-fidelity enthusiasts, short-wave and citizens band radio users, engineers, ham radio operators, home hobbyists, and do-it-yourself electronic consumers, and which carries a wide range of electronic products, equipment, accessories, components and parts, which generally include stereophonic and monaural receivers, tuners, speakers, amplifiers and record changers; tape and disc recorders; short-wave and citizens band transmitters and receivers; walkie-talkie equipment, intercommunication systems, and items used principally to construct, maintain and repair such equipment.

III

The provisions of this Final Judgment shall apply to Tandy and to its subsidiaries, successors and assigns, and to each of their respective officers, directors, agents and employees, and to all other persons in active concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise.

IV

(A) Within two years from the date of entry of this Final Judgment, defendant Tandy Corporation shall divest, to a single person, 36 electronic specialty stores as going concerns which it

acquired from Allied Radio Corporation (Delaware). Such divestiture shall include the transfer of the right to use all trade names which Tandy acquired from Allied and all assets, including but not limited to inventory, equipment and furnishings, of such stores. At the option of the purchaser, such divestiture shall include all presently existing Allied customer lists, including the updated list of each divested store.

(B) Tandy shall assign all assignable leases of each store to the purchaser and shall use due diligence and all reasonable effort to secure the assignment of each lease which requires the landlord's approval where such approval may be required by the purchaser. If Tandy does not obtain the required landlord's approval of the assignment of any such lease, Tandy may retain any such lease and shall divest, as a going concern, to such purchaser one of its other electronic specialty stores for each such retained store.

(C) Tandy shall make known the availability of the assets for sale by ordinary and usual means for the sale of a business. Tandy shall furnish to bona fide prospective purchasers on an equal and non-discriminatory basis all reasonably necessary information, including business records, regarding the assets, and shall permit them to have such access to and make such

inspections of said assets as are reasonably necessary for the above purpose.

(D) Prior to the closing of any divestiture transaction hereunder, Tandy shall furnish in writing to the Assistant Attorney General in charge of the Antitrust Division the terms of the proposed divestiture transaction. Within thirty (30) days of the receipt of these details, the Assistant Attorney General may request in writing supplementary information concerning the transaction, which shall also be furnished in writing. If plaintiff objects to any provision of the proposed divestiture transaction, it shall notify Tandy in writing of its reasons therefor within forty-five (45) days of the receipt of the supplementary information submitted pursuant to plaintiff's last request for such information made pursuant to this paragraph, or within forty-five (45) days after the receipt of a statement from Tandy, if applicable, that it does not have the requested information. If no request for supplementary information is received, said notice of objection shall be given within forty-five (45) days of receipt of the originally submitted terms of the

proposed divestiture transaction. If no such notice of objection is received the plaintiff shall be deemed to have waived its right to object to the proposed divestiture transaction, in which event the consummation of such transaction by Tandy shall constitute compliance by it with the divestiture provisions of this Final Judgment. In the event of such notice of objection by the plaintiff, the sale shall not be closed unless plaintiff's objection is withdrawn or unless the Court approves.

(E) Following the entry of this Final Judgment and continuing until the divestiture of the assets, Tandy shall

(1) Render reports to the Assistant Attorney General in charge of the Antitrust Division every ninety (90) days, outlining in detail the efforts made by it to accomplish said divestiture and setting forth the name of any person making written inquiry whom Tandy does not believe to be a bona fide prospective purchaser contemplated by paragraph IV (C). The first such report shall be rendered within ninety (90) days after entry of this Final Judgment; and

(2) Maintain the assets to be divested separate and apart from the business of Radio Shack to the extent provided by the agreed order entered in this action on October 12, 1971, a copy of which is attached hereto and hereby made a part of this Final Judgment.

V

The divestiture ordered and directed by this Final Judgment, when made, shall be made in good faith and shall be absolute and unqualified and the divested assets shall not be reacquired by Tandy; provided, however, that Tandy may acquire and enforce any bona fide lien, mortgage, deed of trust, or other form of security on all or any of the divested assets given for the purpose of securing to Tandy payment of any unpaid portion of the purchase price thereof or performance of any part of the sale transaction.

In the event and only in the event that Tandy, as a result of the enforcement of any contract provision, lien, mortgage, deed of trust, or other form of security arrangement, reacquires

possession of all or substantially all of the divested assets, Tandy shall notify plaintiff and the Court in writing of such repossession within thirty (30) days thereof. Within such further period and upon such terms as the Court shall then prescribe, Tandy shall again offer for sale such portion of said repossessed assets as the Court may order.

VI

Tandy is enjoined and restrained for a period of five (5) years from the date of entry of this Final Judgment, from acquiring within the continental United States, without prior approval of plaintiff (1) the capital stock, (2) assets (except products purchased in the normal course of business), (3) business, or (4) good will of any person operating Electronic Specialty Stores, except nothing herein contained shall be construed to prohibit Tandy from acquiring (1) the capital stock, (2) assets, (3) business, or (4) good will of any Electronic Specialty Store:

(A) operated at the time of the entry of this Final Judgment under a Tandy franchise or joint venture agreement; or

(B) operated under a Tandy franchise or joint venture agreement which agreement was entered into after the entry of this Final Judgment, where the franchisee or joint venturer is a new entrant in the operation of an Electronic Specialty Store; or

(C) to the extent permitted in Section V hereof; or

(D) acquired in satisfaction in whole or in part of any indebtedness due or to become due under any note now held by Tandy.

VII

For the purpose of determining or securing compliance with this Final Judgment, and subject to any legally recognizable privilege:

(A) Duly authorized representatives of the Department of Justice shall, upon written request of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to Tandy made to its principal office, be permitted

(1) reasonable access, during the office hours of Tandy, to all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of Tandy relating to any of the matters contained in this Final Judgment, and (2) subject to the reasonable convenience of Tandy and without restraint or interference from Tandy, to interview officers or employees of Tandy, each of whom may have counsel present, regarding any such matters.

(B) Tandy, upon such written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, shall submit such reports in writing to the Department of Justice with respect to matters contained in this Final Judgment as may from time to time be requested. No information obtained by the means provided in this Section VII shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the plaintiff, except in the course of legal proceedings to which the United States of America is a party for the purpose of determining or securing compliance with this Final Judgment or as otherwise required by law.

VIII

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 hereof, for the enforcement of compliance therewith, and for the punishment of violations thereof.

ENTER:

/s/ HUBERT L. WILL
United States District Judge

Dated: January 28, 1972

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF ILLINOIS

EASTERN DIVISION

UNITED STATES OF AMERICA Plaintiff, v. TANDY CORPORATION and ALLIED RADIO CORPORATION Defendants.	)	CIVIL ACTION NO. 71 C 1167

AGREED ORDER

Pursuant to the stipulation of the parties by their respective attorneys and pending the entry of a Final Judgment in this litigation.

IT IS HEREBY ORDERED that:

1. Tandy Corporation, no later than 45 days from the day of entry of this Agreed Order, shall remove from the exterior and interior of each Allied Radio Corporation retail outlet acquired from LTV-Ling Altec, Inc. any and all signs advertising the name Radio Shack. In retail stores hereafter opened by Tandy Corporation there shall be no advertising signs commingling

the names Allied and Radio Shack.

2. Tandy Corporation shall continue in good faith, and to the extent feasible, to advertise and promote products bearing the Allied Radio brand names. Commencing no later than 45 days from the date of entry of this Order, Tandy Corporation, in all Radio Shack and Allied Radio joint advertising hereafter prepared and run in cities having Allied Radio retail outlets acquired from LTV-Ling Altec, Inc., shall separately identify the Allied and Radio Shack outlets and indicate that all products advertised are available in both Allied and Radio Shack outlets.

3. Tandy Corporation shall furnish monthly to the Department of Justice the following operation and financial information pertaining to each Allied Radio store:

Amount of sales;

Net profits;

Sales projections, if any;

Merchandise inventories; and

Net fixed assets.

4. Tandy Corporation shall notify the Department of Justice within thirty days of any proposed Allied store closing,

change of any Allied store lease, or change in any Allied store operation which may materially affect the profitability of such store.

5. Except to the extent that such activities are presently carried on in separate subdivided and appropriately designated space therein, Tandy Corporation shall not sell in Allied retail outlets in the regular course of business any non-electronic products manufactured or sold by Tandy Corporation or any of its subsidiaries, divisions and affiliates.

6. Tandy Corporation will keep and maintain all presently existing Allied customer lists, including its list of mail order customers as the same existed in April, 1970, and all lists of customers to whom mailing pieces are hereafter sent in states where Allied retail stores are located and shall make such lists available to the Department of Justice on request.

7. In all new catalogs and mailing pieces hereafter prepared and distributed by Tandy Corporation, and listing retail outlets in cities having Allied stores, Tandy Corporation shall list separately the Allied and Radio Shack retail stores, and shall indicate that all products listed are available in both Allied and Radio Shack outlets.

8. Tandy Corporation shall not commingle the business operation of Allied Industrial Electronics with the Allied retail consumer business operation.

9. This Order is intended solely for interim use in the captioned action, and shall not constitute any admission by any party, nor constitute any finding of fact nor any substitute therefor, and no part of this Order shall constitute competent, relevant or admissible evidence in any other action at law or proceeding in equity.

10. The foregoing is all subject to the right of any party hereto, upon 30 days prior written notice to the Court and to the other party hereto, to make application to the Court to have this Order vacated, changed or modified.

s/ Hubert L. Will
United States District Judge

Dated: Oct 12, 1971

Agreed:

Attorneys for Plaintiff

Ralph W. McCarelns

Ronald L. Futterman

James W. Ritt

Attorneys
Department of Justice
Room 2634
219 South Dearborn
Chicago, Illinois 60604

Attorneys for Defendants

George I. Harris

J. Frederic Taylor

Burke & Burke
One Wall Street
New York, New York 10005

John F. Flannery

135 South LaSalle Street
Chicago, Illinois 60603

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF ILLINOIS

EASTERN DIVISION

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action
	)	
TANDY CORPORATION and ALLIED RADIO CORPORATION,	)	No. 71 C 1167
	)	
	)	
Defendants.	)	

AMENDMENT TO THE FINAL JUDGMENT

The Final Judgment of this Court in the above entitled action having been made and entered on the 28th day of January, 1972 (hereafter the "Decree") and the Defendants by their attorneys having moved, by notice of motion dated and served January 4, 1974 with affidavit of Herschel C. Winn, Esq., sworn to January 3, 1974 and exhibits attached, pursuant to Article VIII of said Decree, for the modification and amendment thereof and the Plaintiff, United States of America, by its attorneys having consented to the entry of this Amendment to the Final Judgment without trial or adjudication of any issue of fact or law herein, and without this Amendment to the Final Judgment constituting any evidence against or admission by any party hereto with respect to any such issue,

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

ORDERED, ADJUDGED AND DECREED as follows:

I.

This Court has retained jurisdiction of the subject matter of this action and of the parties hereto pursuant to Article VIII of the Decree.

II.

The Decree is modified and amended by deleting Article IV thereof and substituting the following:

A. Pursuant to the terms of a certain contract of sale between Tandy and Allied Radio Stores, Inc. (Tandy), as sellers, and Schaak Electronics, Inc., (Schaak) as buyer. dated the 4th day of December, 1973 (hereafter the contract), a copy of which is attached to the Defendants' moving affidavit on file herein and marked Exhibit "F", Tandy shall divest to Schaak on or before June 10, 1974 not less than 25 electronic specialty stores as going concerns, said stores being either Allied Radio stores acquired by Tandy from Allied Radio Corporation (Delaware) or Tandy Radio Schack stores, substituted therefor pursuant to the terms of said Contract.

B. Tandy in good faith shall carry out and perform the terms and conditions of the Contract and such performance shall constitute full and complete compliance by Tandy with the Decree as hereby modified and amended, subject to the following terms and conditions:

1. Tandy will use its best efforts to divest to Schaak a total of 27 electronic specialty stores, the maximum as provided in the Contract.

2. With respect to those of the original 37 electronic stores acquired by Tandy from Allied Radio Corporation (Delaware) and operated by Tandy on January 28, 1972 and hereafter referred to herein as "Allied Radio" stores, of which 36 were required to be divested to a single purchaser pursuant to the Decree of that date, Tandy:

(a) Shall furnish to the Assistant Attorney General in charge of the Antitrust Division, within 20 days after the entry of this Amendment to the Final Judgment, a list of those former "Allied Radio" stores which are not divested to Schaak pursuant to the Contract, such list initially to include the 10 former "Allied Radio" stores [designated and described by Tandy store number, location and dates of lease termination, in chronological order] excluded from the Contract, together with those former "Allied Radio" stores, if any, for which Tandy "Radio Shack" stores are substituted as of the date of the first closing pursuant to the Contract (presently scheduled to take place January 10, 1974), and such list shall thereafter be

supplemented by the addition thereto of all such former "Allied Radio" stores, if any, for which "Radio Shack" stores may be substituted as of the dates of the second and third closings pursuant to the Contract, presently scheduled to take place March 10 and June 10, 1974 respectively (all "Allied Radio" stores so listed are hereafter referred to as "Listed Stores");

(b) Shall thereafter divest itself of such number of "Listed Stores" as taken together with the number of such former "Allied Radio" stores and "Radio Shack" stores divested by sale and assignment of their leases to Schaak pursuant to the Contract, as will aggregate a total of 36 stores. Such divestiture shall be accomplished in as expeditious a manner as possible;

(c) Shall have the right to choose the particular "Listed Stores" to be divested and, in divesting itself of them, shall be free to divest by any of the following methods:

(i) by sale and assignment of lease to any third party not controlled by Tandy, either as an electronic specialty store, or otherwise: (ii) by termination of lease; (iii) by

sub-lease, (iv) by ceasing to operate the store as an electronic specialty store, (v) by closing the store, (vi) by lease expiration, or (vii) by other means;

provided only that Tandy shall not renew the lease of any "Listed Store" until it shall have divested the total number of "Listed Stores" required by (b), above.

(d) Shall report each divestiture made pursuant to (b) and (c) above to the Assistant Attorney General in charge of the Antitrust Division within 30 days after it occurs.

III.

The decree is modified and amended by deleting Article V thereof and substituting the following:

A. With respect to any "Allied Radio" or substituted "Radio Shack" store the lease of which is assigned to Schaak pursuant to the Contract, as to which Tandy shall hereafter be required to perform any lease guarantee it makes to any landlord thereof prior to January 28, 1977, Tandy:

1. Shall promptly offer the landlord the right within not less than 10 days to terminate the lease forthwith without further obligation by Tandy, and if such offer be accepted shall terminate such lease;

2. With respect to any such store, the lease of which is not so terminated and which has a remaining term of less than 1 year, Tandy shall not operate the same as an electronic specialty store;

3. With respect to any such store, the lease of which is not so terminated and which has a remaining term of more than 1 year, Tandy shall list the same with an independent broker for not less than 30 days for assignment, without recourse, on the same terms and conditions and, with the consent of the landlord, if required, shall assign said lease to the first party agreeing to accept the lease on such terms and conditions and failing to secure such assignee, Tandy shall be free to use or otherwise dispose of such store premises in such manner as it may deem advisable.

IV.

Except as herein modified and amended all the terms and conditions of the Decree entered January 28, 1972 shall remain in full force and effect.

E N T E R:

United States District Judge

Dated: January 9, 1974

United States v. Fisons Limited, et al.

Civil No. 69 C 1530

Year Judgment Entered: 1972

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA, Plaintiff, v. FISONS LIMITED, FISONS PHARMACEUTICALS, LTD., COLGATE-PALMOLIVE COMPANY, ARMOUR AND COMPANY, and AMERICAN HOME PRODUCTS CORPORATION, Defendants.	Civil No. 69 C 1530 Entered: February 18, 1972

FINAL JUDGMENT AGAINST DEFENDANT COLGATE-PALMOLIVE COMPANY

Plaintiff, United States of America, having filed its Complaint herein on July 23, 1969, and the Defendant Colgate-Palmolive Company (hereinafter Colgate) having appeared by its attorneys and having filed its answer to such Complaint denying the substantive allegations thereof; the parties hereto by their attorneys having consented to the making and entry of this Final Judgment; and this Court having determined pursuant to Rule 54(b) of the Federal Rules of Civil Procedure that there is no just reason for delay in entering a Final Judgment as to all of the Plaintiff's claims asserted in such Complaint against defendant Colgate;

NOW, THEREFORE, before the taking of any testimony, and without trial or adjudication of any issue of fact or law herein; without any admission by, or estoppel in any other action of, any party as to any such issue; and upon the consent of the United States of America and the defendant Colgate, the Court hereby determines that the proceeding herein is hereby terminated as to such defendant and directs entry of Final Judgment as to all of plaintiff's claims herein against said defendant, and as to said defendant, it is hereby

ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

I.

This Court has jurisdiction of the subject matter herein and of the parties hereto. The Complaint states claims upon which relief may be granted against the defendant Colgate under Section 1 of the Act of Congress of July 2, 1890, entitled "An Act to protect trade and commerce against unlawful restraints and monopolies," as amended, commonly known as the Sherman Act (15 U.S.C. §1).

II.

As used in this Final Judgment:

A. "Person" means any individual, corporation, association, firm,partnership, or other business or legal entity;

B. "Patent" shall include patents, patent applications, and continuations, continuations-in-part, reissues, or divisions of any patent or patent application;

C. "Iron Dextran" means any colloidal ferric hydroxide complexed with depolymerized dextran, and any product in which the same is a therapeutically active ingredient;

D. "Preparation" means any product, or intermediate therefor, containing any inorganic substance administered by injection, including but not limited to iron dextran, which is intended, prepared, or available for use in the cure, medication, treatment, or the prevention of any bodily abnormality, deficiency or disease caused by an insufficiency of such inorganic substance;

E. "United States" means the United States, any territory or possession thereof, the District of Columbia, the Commonwealth of Puerto Rico and any other place under the jurisdiction of the United States;

F. "Technical Assistance" shall include descriptions in writing of manufacturing, processing, and packaging information, and copies of all then current manuals, blueprints, drawings, specifications and instructions relating to machines, devices, or processes;

G. "Dosage Form" means capsules, tablets, ampules, vials and other forms of packaging pharmaceutical products for administration to the customer or ultimate recipient thereof;

H. "Bulk Form" means any form of chemical product prepared for pharmaceutical use, prior to its being packaged into dosage form;

I. "Ethical Sale" means the marketing, distribution or sale of products by prescription for human use or through licensed veterinarians for animal use;

J. "Proprietary Sale" means the marketing, distribution, or sale of products other than by ethical sale;

K. "Animal Use" means the use of products for animals;

L. "Human Use" means the use of products for humans.

III.

The provisions of this Final Judgment applicable to defendant Colgate shall also apply to each of its officers, directors, agents and employees, its subsidiaries, successors and assigns, and to all other persons in active concert or participation with any of them who shall have received actual notice of this Final Judgment by personal service or otherwise. Except for sales to the plaintiff or to any agency or instrumentality thereof, wherever located, this Final Judgment shall not apply to activities of defendant Colgate outside the United States which do not substantially affect the foreign or domestic commerce of the United States.

IV.

Defendant Colgate is enjoined and restrained from directly or indirectly in any manner entering into, adhering to, or enforcing any contract, agreement, arrangement, understanding, or plan:

A. Pursuant to which any party thereto undertakes not to resell any preparation, or is in any way limited, prohibited or restrained in the use, manner or form in which, or the persons to whom, it resells in or for the United States, any preparation.

B. Relating to any preparation, pursuant to which any party thereto undertakes not to contest the registration or validity of any trademark or the exclusive right of the registered owner or assignee to use any trademark.

C. Pursuant to which any party thereto is in any way limited, restrained, or prohibited from selling any preparation under a trademark other than a specified trademark.

D. In connection with any license, agreement, or understanding relating to any United States patent which claims any preparation or any process or device for making, selling or using any preparation:

(1) Pursuant to which any party thereto is in any way limited, restrained, or prohibited from making, using or selling any such preparation in bulk or dosage form, or for proprietary or ethical sale, or for animal or human use.

(2) To assign to any grantor or licensor under any such patent any trademark owned or registered by the licensee or grantee on or in connection with the sale or distribution of any such preparation.

(3) Pursuant to which any party thereto is in any way limited, restrained, or prohibited from licensing such United States patent; but, subject to the provisions of Section VI D hereof, nothing contained

in this Final Judgment shall prevent the granting or acceptance of a non-exclusive license with or without sublicensing rights, or the granting or acceptance of an exclusive license with sublicensing rights.

E. In connection with any agreement or understanding relating to any United States patent which claims iron dextran or any process or device for making, selling, or using iron dextran, pursuant to which any party thereto is in any way limited, restrained, or prohibited from making, using, or selling iron dextran for all uses thereof.

V.

Defendant Colgate is ordered and directed to:

A. Grant to each bona fide applicant therefor, including any other defendant named in the complaint herein, a non-exclusive license to make, have made, use, and sell iron dextran under any, some or all, as the applicant may from time to time specify, United States patent or patents which are owned or controlled by defendant Colgate (or under which such defendant has the power to grant a license), on the date of the entry of this Final Judgment or within five years from the date of this Final Judgment, or which issue thereafter on the basis of applications filed prior to the expiration of such five-year period, which patents claim or relate to iron dextran or to

inventions used in the making, processing, using or selling of iron dextran; in granting any sublicense hereunder, defendant Colgate shall not require any of its licensees to pay a royalty higher than the royalty defendant Colgate pays to its licensor on such subject matter.

B. Take, for each patent issued on or before the date of entry of this Final Judgment, which is required to be licensed hereunder, within thirty days after such date, all appropriate action to secure the publication in the Official Gazette of the United States Patent Office, of notice that such patent, is, in accordance with this Final Judgment, available for licensing at reasonable royalties, and for each patent issued after the date of entry of this Final Judgment, which is required to be licensed hereunder, to take such action within thirty days after the date of issuance of such patent, and for each such patent whenever issued, to file with the Assistant Attorney General in charge of the Antitrust Division a copy of such publication.

C. Furnish, to the extent defendant Colgate has the power to do so, to each applicant therefor under Paragraph A of this Section, including any other defendant named in the complaint herein, technical assistance and information, including data relevant to or required for any application

to the Food and Drug Administration, disclosing any, some, or all, as the applicant may specify, of the commercial practices and technical information used by defendant Colgate relating to the manufacture, processing or using of iron dextran or which is useable in the manufacture, processing or using of iron dextran; provided, however, that such technical assistance and information may be limited to that reasonably necessary to the making, processing, using, or selling of the subject matter (or the product thereof, in the case of a process patent or claim) of any license granted under Paragraph A of this Section.

D. Sell iron dextran to any United States applicant therefor, on nondiscriminatory prices, terms, and conditions, during the period of five years from the date of the entry of this Final Judgment and while defendant Colgate is selling iron dextran; provided, however, that discounts otherwise lawful under the antitrust laws shall not constitute a violation of this paragraph.

VI.

A. Upon receipt of a written application under Section V-A or V-C herein, the defendant Colgate shall

advise the applicant in writing and within 30 days of such receipt, of the royalty or compensation which it deems reasonable for a license under the patent or patents, or for the technical assistance and information, to which the application pertains. If the defendant and applicant are unable to agree upon the reasonable royalty or compensation, either may, after 60 days from the date such applicant communicates its rejection of the royalty or compensation requested by defendant Colgate, upon notice to the Plaintiff, forthwith apply to this Court for the determination of any, some or all of (1) reasonable royalty or compensation, and (2) such reasonable interim royalty or compensation (pending the completion of any such proceeding), as the Court may deem appropriate. In any such proceeding, the burden of proof shall be on such defendant to

establish the reasonableness of the royalty or compensation requested by it. Pending the completion of negotiations or any such proceedings, the applicant shall have the right to make, have made, use, and sell under the patents to which his application pertains, subject to the payment of the reasonable interim royalties fixed by the Court. A final Court determination of a reasonable royalty shall be applicable to the applicant from the date upon which the applicant made his application, and, after such a final determination of reasonable royalty or compensation, respectively, be applicable to such applicant and unless otherwise ordered by this Court in such proceeding or in any other proceeding instituted under this Section, be applicable to any other applicant then having or thereafter obtaining the same rights under the same patent or patents, or technical assistance and information. Any such license shall be at any time terminable at the option of the licensee but this provision shall not affect whatever obligations he may have to pay royalty or compensation accrued before termination.

B. Defendant Colgate is hereby enjoined and restrained, in complying with Section V-A or V-C hereof, from including in, or imposing, in connection with any patent license or the furnishing of technical assistance or information, any restriction or condition, except that nothing contained herein, however, shall prohibit:

(1) a nondiscriminatory and reasonable royalty or compensation,

(2) reasonable provisions for nondisclosure to others of the technical assistance and information, furnished by the defendant,

(3) reasonable provisions for patent markings,

(4) reasonable provisions for periodic inspection of the books and records of a patent licensee or recipient of technical assistance or information, by an independent auditor or other person acceptable to the parties, who shall report to the defendant only the amounts of royalty or compensation due or payable (or other reasonable provisions for the applicant to make periodic reports of such amounts), or

(5) reasonable provisions for the cancellation or termination of the use of and for the return of any transcribed furnished technical assistance or information, upon failure of the licensee or recipient to pay royalties or compensation, or to make required reports or permit required inspection of books as hereinabove provided.

C. Nothing herein shall prevent any applicant or licensee under Section V herein, from attacking in any proceeding thereunder or in any other proceeding or controversy, the validity, scope, or enforceability of any patent required to be licensed hereunder, nor shall this Final Judgment be construed as imputing any validity, enforceability, scope or value to any such patent.

D. Defendant Colgate is hereby enjoined and restrained from taking or accepting any license or right or accepting any technical assistance or information upon any term or condition or with any restriction which would prevent or limit it from complying with any of the provisions of this Final Judgment, or with its power or control to do so; and from making any sale or other disposition of any patent, right, or license, or any sale or other disposition of technical assistance or information, which limits, restricts or deprives it of the power or control to comply with such provisions of this Final Judgment, unless the purchaser, transferee or assignee shall file with this Court, prior to the consummation of such a sale or other disposition, an undertaking to be bound by and to comply with such provisions of this Final Judgment.

VII.

For the purpose of determining or securing compliance with this Final Judgment, and for no other purpose:

A. Any duly authorized representative or representatives of the Department of Justice shall, upon written request of the Attorney General, or of the Assistant Attorney General in charge of the Antitrust Division, upon reasonable notice to defendant Colgate made to such defendant's principal office, be permitted, subject to any legally recognized privilege:

(1) Access during the office hours of such defendant to books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession, custody or under the control of such defendant as relate to any matters contained in this Final Judgment;

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

B. Defendant Colgate on the written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division, shall submit such written reports, under oath if requested, with respect to any matters contained in this Final Judgment as may from time to time be requested.

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

VIII.

Jurisdiction is retained by this Court for the purpose of enabling any party to this Final Judgment to apply to the Court at any time for such further orders or directions as may be necessary or appropriate for the construction of or carrying out of this Final Judgment, or for the amendment or modification of any of the provisions contained herein, and for the purpose of compliance therewith and the punishment of violations thereof.

/s/ JOSEPH SAM PERRY
United States District Judge

Dated: February 18, 1972

United States v. Topco Associates, Inc.

Civil Action No. 68 C 76

Year Judgment Entered: 1972

Year Judgment Modified: 1973

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF ILLINOIS

EASTERN DIVISION

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	CIVIL ACTION
-vs-	)	
	)	NO. 68 C 76
EDPCO ASSOCIATES, INC.,	)	
	)	
Defendant.	)	

FINAL JUDGMENT

Plaintiff filed its Complaint in this action on January 15, 1968. On November 16, 1970, after a trial on the merits, this Court entered Findings of Fact, Conclusions of Law and a Final Judgment dismissing the Complaint. On appeal by plaintiff, the Supreme Court of the United States reversed the Judgment of this Court and remanded this case for the entry of a decree in conformity with its Opinion.

NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED, in compliance with the mandate of the Supreme Court:

I

The defendant and its member firms have engaged in a combination and conspiracy in unreasonable restraint of

interstate trade and commerce in violation of Section 1 of the Sherman Act (15 U.S.C. §1) by restricting the territories within which or the customers to whom the member firms may sell Topco brand products.

II

The provisions of this Final Judgment shall apply to the defendant and to its officers, directors, agents, employees, successors and assigns, and to all other persons in active concert or participation with any of them who receive notice of this Final Judgment by personal service or otherwise.

III

Defendant is ordered and directed, within 210 days from the entry of this Final Judgment, to amend its bylaws, Membership and Licensing Agreements, resolutions, rules and regulations to eliminate therefrom any provision which in any way limits or restricts the territories within which or the persons to whom any member firm may sell Topco brand products.

IV

Defendant is enjoined and restrained from adopting any bylaw, resolution, rule or regulation and from maintaining,

adhering to, entering into or enforcing any contract, agreement, arrangement, understanding, plan or program in which Topco limits or restricts the territories within which or the persons to whom any member firm may sell products procured from or through Topco.

V

Notwithstanding the foregoing provisions, nothing in this Final Judgment shall prevent defendant from creating or eliminating areas or territories of prime responsibility of member firms; from designating the location of the place or places of business for which a trademark license is issued; from determining warehouse locations to which it will ship products; from terminating the membership of any organization which does not adequately promote the sale of Topco brand products; from formulating and implementing passovers or other procedures for reasonable compensation for good will developed for defendant's trademarks in geographic areas in which another member firm begins to sell trademarked products; or from engaging in any activity rendered lawful by subsequent legislation enacted by the Congress of the United States.

VI

Defendant is ordered and directed, within 60 days from the entry of this Final Judgment, to send a copy of this

Final Judgment to each member firm and, for a period of 10 years following the date of this decree, to send a copy of this Final Judgment to each new member and to each person making application for membership.

VII

Defendant is ordered to file with the plaintiff, on the anniversary date of the entry of this Final Judgment for a period of ten years, a report setting forth the steps it has taken during the prior year to advise its appropriate officers, directors and employees of its and their obligations under this Final Judgment.

VIII

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

(A) access during the office hours of said defendant to all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or control of defendant relating to any of the matters contained in this Final Judgment; and

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

For the purpose of securing compliance with this Final Judgment, defendant upon the written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, shall submit such written reports relating to any of the matters contained in this Final Judgment as may from time to time be reasonably requested. No information obtained by the means provided in this Section

shall be disclosed by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the plaintiff except in the course of legal proceedings to which the United States is a party for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

IX

Jurisdiction is retained 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, or the modification or termination of any of the provisions thereof or for the enforcement of compliance therewith, and for the punishment of violations of any of the provisions contained herein.

Dated: Oct. 26, 1972

United States District Judge

That Paragraph V of the Court's Final Judgment of September 26, 1972, be amended to read as follows:

V. Notwithstanding the foregoing provisions, nothing in this Final Judgment shall prevent defendant 1) from creating or eliminating areas or territories of prime responsibility of member firms so long as such designation or elimination is not directly or indirectly used to achieve or maintain territorial exclusivity in any member firm; 2) from designating the location of the place or places of business for which a trademark license is issued, provided that defendant shall not refuse to grant a trademark license to any member or withdraw a license from any member, except any withdrawal incidental to the bona fide termination of any member firm's membership in Topco, if such action would achieve or maintain territorial exclusivity in any member firm; 3) from determining warehouse locations to which it will ship products, provided that such determination shall be based solely on sound business considerations and will not achieve effects prohibited by paragraph IV hereof; 4) from terminating the membership of any organization which does not adequately promote the sale of Topco brand products, provided that any such termination shall be based solely on the member's failure of performance and not be for the purpose of achieving territorial exclusivity in another member; 5) from formulating and implementing pass-overs or other procedures or arrangements for reasonable compensation for good will developed for defendants' trademarks in a geographic area in which another member firm begins to sell defendant's trademarked products, provided that any such procedures or arrangements shall be limited in amount and duration as is inappropriate to the facts and circumstances of the particular situation and, provided further, that no such procedure or arrangement shall be used to achieve or maintain territorial exclusivity for any member firm; 6) or from engaging in any activity rendered lawful by subsequent legislation enacted by the Congress of the United States

IT IS FURTHER ORDERED AND ADJUDGED,

That the Final Judgment entered by this Court on September 26, 1972, remain as entered except as amended herein.

Dated at Chicago, Illinois, this 31st day of January, 1973.

United States District Judge

United States v. Technical Tape, Inc., et al.

Civil Action No. 72 C 1602

Year Judgment Entered: 1973

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF ILLINOIS

EASTERN DIVISION

UNITED STATES OF AMERICA, Plaintiff, v. TECHNICAL TAPE, INC.; TECHNICAL TAPE CORPORATION; STEADLEY COMPANY, INC.; NACHMAN CORPORATION; HALFRED, INC. and LAWRENCE N. HURWITZ, Defendants.	)	CIVIL ACTION NO. 72 C 1602 Entered: August 28, 1973

FINAL JUDGMENT

Plaintiff, United States of America, having filed its complaint herein on June 29, 1972 against the defendants Technical Tape, Inc., Technical Tape Corporation, Steadley Company, Inc. and Nachman Corporation, and the Complaint having been amended to add Halfred, Inc. and Lawrence N. Hurwitz as defendants on March 13, 1973, and plaintiff and defendants, Technical Tape, Inc., Technical Tape Corporation, Steadley Company, Inc., Halfred, Inc. and Lawrence N. Hurwitz, by their respective attorneys, having each consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein, and without this Final Judgment constituting any evidence against or any admission by any party hereto with respect to any such issue;

Now, therefore, before the taking of any testimony, without trial or adjudication of any issue of fact or law herein, and upon consent of the parties as aforesaid, 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 consenting hereto. The complaint states a claim upon which relief may be granted against the defendants under Section 7 of the Act of Congress of October 15, 1914 (15 U.S.C. § 18), commonly known as the Clayton Act, as amended.

II

As used in this Final Judgment:

A. "Person" means any individual, partnership, firm, corporation, association or other business or legal entity.

B. "Financial interest" means any legal or equitable ownership; any income, pension, employment or creditor interest; or any other monetary interest, whether absolute, conditional, beneficial, direct or indirect, except such interest as arises out of a bona fide purchase or sale of products or services in the ordinary course of business.

C. "Gerald Sprayregen" means the individual who is Chairman of the Board of both the defendant Technical Tape, Inc. and of The Stratton Group, Ltd.

D. "Nachman Corporation" means the corporation named as a defendant in the complaint and its successors and assigns.

E. "Consenting defendants" means Technical Tape, Inc., Technical Tape Corporation, Steadley Company, Inc., Halfred, Inc. and Lawrence N. Hurwitz.

F. "Innerspring" means a non-upholstered wire unit which consists, essentially, of a number of connected high carbon steel coil springs tied together with and in a border of high carbon steel wire.

G. "Box spring" means a non-upholstered wire unit which consists, essentially, of a number of connected high carbon steel coil springs tied together with and in a border of low carbon steel wire. Box springs may be either mounted in a wood frame or unmounted.

III

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

IV

The defendant Technical Tape, Inc., is ordered and directed:

A. To interpose no objection to the sale, pledge, transfer or assignment of all or any part of the

stock of Nachman Corporation which was transferred to Halfred, Inc., by Technical Tape, Inc., pursuant to the sales agreement of December 18, 1972, to any financially able person who is willing to assume payments due, or to become due to Technical Tape, Inc., from Halfred, Inc. under said agreement;

B. To refrain from acquiring or retaining any financial interest in Nachman Corporation or any person having a financial interest in Nachman Corporation.

V

Defendant Steadley Company, Inc. and Technical Tape Corporation are jointly and severally ordered and directed to refrain from acquiring or retaining any financial interest in Nachman Corporation or any person having a financial interest in Nachman Corporation.

VI

Defendant Lawrence N. Hurwitz is ordered and directed:

A. To sell within 12 months from the date of this Final Judgment all financial interest in The Stratton Group, Ltd. and Sprayregen & Company; and to refrain from voting any Stratton stock as long as Lawrence N. Hurwitz or any nominee of Halfred, Inc. is a director, officer, or employee of Nachman Corporation or may otherwise exercise control or substantial influence over the operations of the Nachman Corporation;

B. To notify in writing the Assistant Attorney General in charge of the Antitrust Division of any default by Halfred, Inc. in payments to Technical Tape, Inc., pursuant to the sales agreement of December 18, 1972, and to resign as an officer, director or employee of the Nachman Corporation, if requested to do so by the Assistant Attorney General;

C. To condition the designation of any nominee of Halfred, Inc. to serve as an officer, director, or employee of Nachman Corporation that such nominee notify in writing the Assistant Attorney General in charge of the Antitrust Division of any default by Halfred, Inc. of payments to Technical Tape, Inc., pursuant to the sales agreement of December 18, 1972, and to resign if requested to do so by the Assistant Attorney General;

D. To refrain from acquiring any financial interest or from retaining any future financial interest in Technical Tape, Inc., Technical Tape Corporation, Steadley Company, Inc., The Stratton Group, Ltd., or Sprayregen & Company, or any parent or subsidiary thereof, or engage in any business operation as a partner or business associate with any officer, director or employee of any of the aforesaid persons as long as Lawrence N. Hurwitz or any nominee of Halfred, Inc. is an officer, director or employee of Nachman Corporation or may otherwise exercise control or substantial influence over the operations of Nachman Corporation.

VII

Defendant Halfred, Inc. is ordered and directed:

A. To notify in writing the Assistant Attorney General in charge of the Antitrust Division of any default in payments by Halfred, Inc. to Technical Tape, Inc., pursuant to the sales agreement of December 18, 1972;

B. To condition the designation of any nominee of Halfred, Inc. to serve as an officer, director, or employee of Nachman Corporation that such nominee notify in writing the Assistant Attorney General in charge of the Antitrust Division of any default by Halfred, Inc. of payments to Technical Tape, Inc., pursuant to the sales agreement of December 18, 1972, and to resign if requested to do so by the Assistant Attorney General;

C. To refrain from acquiring any financial interest in Technical Tape, Inc., Technical Tape Corporation, Steadley Company, Inc., The Stratton Group, Ltd., or Sprayregen & Company, or any parent or subsidiary thereof or engage in any business operation as a partner or business associate with any officer, director or employee of any of the aforesaid persons as long as Lawrence N. Hurwitz or any nominee of Halfred, Inc. is an officer, director or employee of Nachman Corporation or may otherwise exercise control or substantial influence over the operations of Nachman Corporation.

VIII

Except as may be provided in the sales agreement of December 18, 1972, as limited by this Final Judgment, or as may be permitted by this Final Judgment, defendants Technical Tape, Inc., Technical Tape Corporation and Steadley Company, Inc. are severally and jointly enjoined from retaining or acquiring any financial interest in Nachman Corporation, Halfred, Inc., National Computer Corporation, Computer Power International Corporation or Nachman Power, Inc., or any parent or subsidiary thereof, or be associated in business with any such person or with Lawrence N. Hurwitz as long as any such person or Lawrence N. Hurwitz has a financial interest in Nachman Corporation.

IX

Except as may be provided in the sales agreement of December 18, 1972, as limited by this Final Judgment, or as may be permitted by this Final Judgment, defendants Lawrence N. Hurwitz and Halfred, Inc. are jointly and severally enjoined from retaining or acquiring any financial interest in Technical Tape, Inc., Technical Tape Corporation, Steadley Company, Inc., The Stratton Group, Ltd., Sprayregen & Company or any parent or subsidiary thereof, or be associated in business with any such person or with Gerald Sprayregen as long as any such person or Gerald Sprayregen has a financial interest in Steadley Company, Inc.

X

Defendants Technical Tape, Inc., Technical Tape Corporation and Steadley Company, Inc. are jointly and severally enjoined, for a period of five (5) years from the date of entry of this Final Judgment, from acquiring all or any part of the stock or assets, other than goods or services in the normal course of business, of any person engaged in the manufacture, distribution or sale of innersprings or box springs except upon sixty (60) days prior written notice to the plaintiff and full disclosure of the facts with respect to each such proposed acquisition and the reasons therefor.

XI

Provided that nothing contained in this Final Judgment constitutes a waiver or release of any claim or cause of action between or among any consenting party hereto or other persons relating to any financial interest of any person in any other person.

XII

For the purpose of determining or securing compliance with this Final Judgment and for no other purpose, duly authorized representatives of the Department of Justice shall, upon 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) reasonable access during the office hours of such defendant to all books

ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of such defendant relating to any matters contained in this Final Judgment, and (b) subject to the reasonable convenience of such defendant and without restraint or interference from it, to interview officers, directors, agents, servants or employees of such defendant, who may have counsel present, regarding any such matters. Any consenting defendant, upon such written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, made to its principal office, shall submit such reports in writing with respect to any of the matters contained in this Final Judgment as may from time to time be requested. No information obtained by the means provided in this Section XII shall be divulged by any representative of the Department of Justice to any person other than a fully authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

XIII

Jurisdiction is retained 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 or directions as may be necessary or appropriate for the construction or the carrying out of this

Final Judgment, for the modification of any of the provisions thereof, for the enforcement of compliance therewith and for the punishment of violations hereof.

Dated: August 28, 1973

/s/ PHILIP W. TONE
United States District Judge

United States v. Ampress Brick Company, Inc., et al.

Civil Action No. 73 C 1016

Year Judgment Entered: 1974

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF ILLINOIS

EASTERN DIVISION

UNITED STATES OF AMERICA, Plaintiff, v. AMPRESS BRICK COMPANY, INC.; AMERICAN BRICK COMPANY; E. L. RAMM COMPANY; CHICAGO BLOCK CO., INC.; ILLINOIS BRICK COMPANY; HEIGHTS BLOCK INC.; SGM CORPORATION; NORTHFIELD BLOCK CO.; VALLEY BLOCK & SUPPLY COMPANY; JOLIET CONCRETE PRODUCTS, INC.; and JOSEPH METZ & SONS, INC., Defendants.	)	CIVIL ACTION NO. 73 C 1016 Filed: May 21, 1974 Entered: June 21, 1974

FINAL JUDGMENT

The Plaintiff, United States of America, having filed its Complaint herein on April 19, 1973, and Plaintiff and Defendants, by their respective attorneys, having consented to the making and entry of this Final Judgment herein, without trial or adjudication of any issues of fact or law herein and without this Final Judgment constituting any evidence against or admission by any party with respect to any such issues;

NOW, THEREFORE, without any testimony having been taken herein, and without trial or adjudication of any issue of fact or law herein, and upon consent of the parties hereto, it is hereby

ORDERED, ADJUDGED AND DECREED, as follows:

I

This Court has jurisdiction of the subject matter herein and of the parties hereto, and the Complaint states claims upon which relief may be granted against the Defendants under Section 1 of the Act of Congress of July 2, 1890 entitled "An Act to protect trade and commerce against unlawful restraints and monopolies," (15 U.S.C. §1) commonly known as the Sherman Act, as amended.

II

As used in this Final Judgment:

(A) "Person" means any individual, corporation, partnership, firm, association or other business or legal entity;

(B) "Concrete block" means a mixture of cement, water and aggregates, with or without the inclusion of other materials, which are molded and formed by machine into units for use primarily in the building construction business.

III

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

IV

Each Defendant is enjoined and restrained, individually and collectively, from entering into, adhering to, participating in, maintaining, furthering, enforcing or claiming, either directly or indirectly, any rights under any contract, agreement, understanding, arrangement, plan or program with any other person, to:

(A) Fix, maintain, establish, determine, stabilize or adhere to prices, discounts or other terms or conditions at which concrete block is sold, or is to be sold, to any third person;

(B) Allocate or divide customers, territories or markets relating to the sale of concrete block.

V

Each of the defendants is enjoined and restrained from:

(A) Communicating to or exchanging with any other person selling concrete block any information concerning any actual or proposed prices, discounts, markups or other terms or conditions at which concrete block is to be, or has been, sold to any third person, prior to the communication of such information to the public or to non-defendant customers generally.

(B) Nothing in this paragraph V shall be construed to enjoin or restrain any defendant from communicating to or exchanging with any other person selling concrete block any information concerning prices, terms or conditions of sale of bona fide sales of concrete block between said defendant and such other person; provided, however, that any such transactions shall be subject to the prohibitions of Section IV above.

VI

The defendants are each enjoined and restrained from joining, belonging to or participating in any activities of any trade association, organization or industry group with knowledge that the activities or objectives of any such trade association, organization or industry group are inconsistent with any of the terms of this Final Judgment.

VII

Each defendant is ordered and directed to:

(A) Furnish within sixty (60) days after the entry of this Final Judgment a conformed copy of this Final Judgment to each of its respective officers, directors, managing agents and employees who have any responsibility for establishing prices or bids for the sale of concrete block by said defendant;

(B) Furnish a conformed copy of this Final Judgment to each successor officer, director, managing agent and employee having any responsibility for establishing prices or bids for the sale of concrete block by said defendant;

(C) Advise and inform each such officer, director, managing agent and employee to whom this Final Judgment has been furnished as described in subparagraphs (A) and (B) above, that violation by him of the terms of this Final Judgment could result in a conviction for contempt of court and could subject him to imprisonment and/or fine;

(D) Either distribute within sixty (60) days of the entry of this Final Judgment a conformed copy of this Final Judgment to each of its customers who is engaged in the construction business, and who has established credit with, or has purchased concrete block from, such defendant within the past twelve (12) months;

or publish within 30 days after the entry of this Final Judgment in one of the following newspapers, to wit, the Chicago Tribune, the Chicago Sun-Times, the Chicago Daily News or the Chicago Today, in a reasonably noticeable place, in the homebuilders or real estate section, in article size print, a summary of the substantive terms of this Final Judgment or the Final Judgment in its entirety. The above described summary of the substantive terms of the Final Judgment shall, in a form acceptable to the plaintiff, include the prohibitions and proscriptions of paragraphs IV, V, VI and VIII of this Final Judgment.

(E) Within ninety (90) days after the entry of this Final Judgment, to file with this Court and with the plaintiff affidavits concerning the fact and manner of compliance with subsections (A), (C) and (D) of this Section VII.

VIII

For a period of ten (10) years from the date of entry of this Final Judgment, each defendant is ordered to file with the plaintiff, on each anniversary date of such entry, a report setting forth the steps which it has taken during the prior year to advise the defendant's appropriate officers, directors and employees of its and their obligations under this Final Judgment.

IX

A. For the purpose of determining or securing compliance with this Final Judgment, duly authorized representatives of the Department of Justice shall, upon the written request of the Attorney General, or the Assistant Attorney General in charge of the Antitrust Division, and upon reasonable notice to any defendant made to its principal office, be permitted, subject to any legally recognized privilege:

(a) Access, during office hours of each defendant, to all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession of or under the control of said defendant relating to any of the matters contained in this Final Judgment; and

(b) Subject to the reasonable convenience of each defendant to interview the officers, directors, agents, and employees of said defendant, who may have counsel present, regarding any such matters.

B. Each defendant shall submit such reports in writing, under oath if so requested, to the Department of Justice with respect to any of the matters contained in this Final Judgment as from time to time may be requested.

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

X

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

DATED this 21st day of June 1974

/s/ WILLIAM J. BAUER
UNITED STATES DISTRICT JUDGE

United States v. Board of Trade of the City of Chicago, Inc.

Civil Action No. 71 C 2875

Year Judgment Entered: 1974

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA, Plaintiff,	)	
v.	)	Civil Action No. 71C 2875
BOARD OF TRADE OF THE CITY OF CHICAGO, INC., Defendant.	)	Filed: May 28, 1974 Entered: June 28, 1974

FINAL JUDGMENT

Plaintiff, United States of America, having filed its Complaint herein on December 1, 1971, and Plaintiff and Defendant by their respective attorneys, having consented to the making and entry of this Final Judgment, without admission by any party in respect to any issue and without this Final Judgment constituting evidence or an admission by any party hereto with respect to any such issue;

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

ORDERED, ADJUDGED AND DECREED as follows:

I

This Court has jurisdiction over the subject matter of this action and of the parties hereto. The Complaint states claims upon which relief may be granted against the Defendant under Section 1 of the Act of Congress of July 2, 1890, as amended (15 U.S.C. Sec. 1), commonly known as the Sherman Act.

II

As used in this Final Judgment:

A. "Board" shall mean the defendant, Board of Trade of the City of Chicago;

B. "Contract" shall mean: 1) a commodity futures contract made on the Board for the purchase or sale of a unit of commodity for future delivery as specified in the Rules and Regulations of the Board, or 2) an amount of cash commodity purchased or sold on the Board equal to a single futures contract in the same commodity;

C. "Commodity Transaction" shall mean the placing of an order for the purchase or sale of one or more contracts, which order is thereafter executed;

D. "Non-Member Commission Rates" shall mean the rates of commission to be charged by the Board's members to non-members for commodity transactions;

E. "Member Commission Rates" shall mean the rates of commission to be charged by the Board's members to other members for commodity transactions;

F. "Floor Brokerage Rates" shall mean the rates of brokerage to be charged by the Board's members who are floor brokers to other members for the execution of commodity transactions on the Board's trading floor;

G. "Commission Rates" shall include any fees charged by Board members for services rendered in connection with commodity transactions on the Board and any such fees charged by the Board and distributed, in whole or in part, to the Board's members; and

H. "Person" shall mean any individual, partnership, firm, corporation or any other legal entity.

III

The provisions of this Final Judgment applicable to the Board shall also apply to its subsidiaries, successors, and assigns, to each of its directors, officers, agents and employees, when acting in such respective capacities, and to members when acting in concert with them, and to all other persons in active concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise.

IV

The purpose of this Judgment is to provide for an orderly transition to freely competitive commission and floor brokerage rates on the Board. The transition shall be accomplished so as to minimize the disruption of commodity futures trading, giving due regard to the interest of the public in maintaining a sound, viable, and competitive commodity futures trading market.

V

(A) The Board is enjoined and restrained from, directly or indirectly fixing, establishing, determining, recommending, suggesting or adhering to, from and after each below-specified date, any non-member commission rate on that portion of each commodity transaction exceeding the number of contracts appearing opposite the specified date:

Schedule of Dates	That Portion of Each Transaction Exceeding
The date of entry of this Final Judgment	24 Contracts
September 4, 1974	19 Contracts
September 4, 1975	14 Contracts
September 4, 1976	9 Contracts
September 4, 1977	4 Contracts

(B) From and after March 4, 1978, the Board is permanently enjoined and restrained from directly or indirectly fixing, establishing, determining, recommending, suggesting, or adhering to any member or non-member commission rate or floor brokerage rate for commodity transactions on the Board, or from taking any other action restricting, directly or indirectly, the right of any member or of any non-member broker to agree with his customer on any commission or fee on any commodity transaction.

(C) Nothing contained herein shall prevent the Board from phasing out fixed rates in a lesser period of time than that provided for by this Judgment.

(D) Nothing contained herein shall prohibit the Board from levying or imposing any fee, charge, or assessment to be used by the Board solely to meet its current and future financial needs.

VI

Within ninety (90) days from the date of entry of this Final Judgment, the Board is ordered and directed to amend its rules, regulations, and by-laws by incorporating therein either the schedule set forth in Section V

hereof, or any schedule which results in the elimination of the respective fixed rates in a lesser period of time, and by eliminating therefrom any provision which is inconsistent with this Final Judgment.

VII

The Board is ordered and directed to mail, within sixty (60) days after the date of entry of this Final Judgment, a copy of this Final Judgment to each of its members, and within one hundred and twenty (120) days from the aforesaid date of entry, to file with the Clerk of this Court, with a copy to the Plaintiff, an affidavit setting forth the fact and manner of compliance with this Section VII and Section V of this Final Judgment.

VIII

For a period of ten (10) years from the date of entry of this Final Judgment, the Board is ordered to file with the Plaintiff on each anniversary date of such entry, a report setting forth the steps which it has taken during the prior year to advise its appropriate officers, directors, agents and employees of its and their obligations under this Final Judgment. The Board is also ordered to file with the Plaintiff reports on its compliance with the schedule set forth in Section V of this Final Judgment not later than ten (10) days after each date specified therein.

IX

The Board may petition the Court for relief from Sections V and VI of this Judgment, and the Court shall grant such relief upon the Board's establishing, by a preponderance of the evidence, that (i) relief from those Sections is essential to the continued functioning of the Board as a commodity futures trading market, and (ii) the relief petitioned for represents the least restrictive way in time and scope, of preserving the Board as a commodity futures trading market. If the Court grants such a petition, the plaintiff shall at any future time obtain modification or elimination of such relief upon a showing, by a preponderance of the evidence, that such relief is no longer required pursuant to the standards in this Section.

X

For the purpose of determining or securing compliance with this Final Judgment:

Duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to the Board made to its

principal office, be permitted, subject to any legally recognized privilege, and subject to the presence of counsel if so desired:

(1) Access during its office hours to all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession of or under the control of the Board relating to any matter contained in this Final Judgment; and

(2) Subject to the reasonable convenience of the Board, and without restraint or interference from it, to interview officers or employees of the Board regarding any such matters.

Upon such written request, the Board shall submit such reports in writing, under oath if so requested, to the Department of Justice with respect to any of the matters contained in this Final Judgment as may from time to time be requested. No information obtained by the means provided in this Section X shall be divulged by any representative of the Department of Justice to any person, other than a duly authorized representative of the Executive Branch of Plaintiff, except in the course of legal proceedings to which the United States of America is a party for the purpose of securing compliance with this Final Judgment or as otherwise required by law.

XI

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 the purposes and provisions of this Final Judgment, for the modification of any of the provisions thereof, for the enforcement of compliance therewith, and for the punishment of violations thereof.

Dated: June 28, 1974

/s/ RICHARD B. AUSTIN
UNITED STATES DISTRICT JUDGE

United States v. Gonnella Baking Company, et al.

Civil Action No. 72 C 2484

Year Judgment Entered: 1974

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF ILLINOIS

EASTERN DIVISION

UNITED STATES OF AMERICA, Plaintiff, v. GONNELLA BAKING CO. and TORINO BAKING CO., Defendants.	)	CIVIL ACTION NO. 72 C 2484 Filed: August 20, 1974 Entered: September 19, 1974

FINAL JUDGMENT

Plaintiff, United States of America, having filed its Complaint herein on October 4, 1972, and the plaintiff and the defendants, Gonnella Baking Co. and Torino Baking Co., by their respective attorneys each having consented to the entry of this Final Judgment without trial or adjudication of any issues of fact or law herein and without this Final Judgment constituting evidence or admission by plaintiff or defendants, or any of them, 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 consent of the parties as aforesaid, it is hereby

ORDERED, ADJUDGED AND DECREED as follows:

I

This Court has jurisdiction of the subject matter of this action and of each of the parties consenting hereto, and the complaint states claims upon which relief may be granted against the defendants and each of them under Section 1 of the Act of Congress of July 2, 1890, entitled "An Act to protect trade and commerce against unlawful restraints and monopolies," commonly known as the Sherman Act, as amended.

II

As used in this Final Judgment:

(A) "Person" means any individual, corporation, partnership, association, firm, or other business or legal entity;

(B) "Bread" means any Italian, French or Vienna style bread or other bread product by whatever name known or sold.

III

The provisions of this Final Judgment applicable to each of the defendants shall also apply to each of its officers, directors, agents, servants and employees, subsidiaries, successors and assigns, and to all other persons in active concert or participation with any such defendant who shall have received actual notice of this Final Judgment by personal service or otherwise, but shall not apply to activities between (i) a defendant, its officers, directors, agents, servants or employees and (ii) its subsidiaries or an affiliated corporation in which 50% or more of the voting stock of such defendant and such affiliated corporation are commonly owned.

IV

Each defendant is enjoined and restrained from entering into, adhering to, enforcing or claiming any rights under, maintaining or furthering any contract, agreement, understanding, plan or program with any other person, directly or indirectly to:

(A) Fix, determine, maintain or stabilize prices, discounts or other terms or conditions for the sale of bread to any third person;

(B) Divide, allocate or apportion markets, territories or customers, or refrain from soliciting or accepting bread business from customers doing business with any other person engaged in the baking or sale of bread;

V

Each defendant is enjoined and restrained from, directly or indirectly:

(A) Using threats, coercion or persuasion to prevent or to attempt to prevent any person engaged in the baking or sale of bread from soliciting any customer of another person engaged in the baking or sale of bread or from otherwise expanding its business;

(B) Using threats or coercion to prevent any person from discontinuing the purchase or use of bread of any person engaged in the baking or sale of bread;

(C) Using threats, coercion or persuasion to induce any person to adhere to or maintain any wholesale or retail bread price;

(D) Threatening to injure any person engaged in the baking or sale of bread or to put any such person out of business;

(E) Communicating to or exchanging with any other baker or seller of bread any actual or proposed price, price change, discount, or other term or condition of sale at or upon which bread is to be, or has been, sold to any third person prior to the communication of such information to the public or trade generally (except in the course of negotiating for, entering into, maintaining or carrying out bonafide purchase or sales transactions, subject to the prohibitions of Section IV(A) and (B) above).

(F) Joining, participating in, or belonging to any trade association, organization, or other baking industry group with knowledge that the activities, policies, or objectives of any such trade association, organization or baking industry group are inconsistent with any of the terms of this Final Judgment.

VI

Each defendant is ordered and directed to:

(A) Either distribute within sixty (60) days of the entry of this Final Judgment a conformed copy of this Final Judgment to each of its wholesale customers who has purchased bread from such defendant within the past twelve (12) months immediately preceding the entry of said Final Judgment; or publish within 30 days after the entry of this Final Judgment in one of the following newspapers, to wit, the Chicago Tribune, the Chicago Sun-Times, the Chicago Daily News or the Chicago Today, in a reasonably noticeable place, in the food advertisement section, in article size print, a summary of the substantive terms of this Final Judgment or the Final Judgment in its entirety. The above described summary of the substantive terms of the Final Judgment shall, in a form acceptable to the plaintiff, include the prohibitions and proscriptions of Sections IV and V of this Final Judgment.

(B) Within ninety (90) days after the entry of this Final Judgment, to file with this Court and with the Plaintiff an affidavit concerning the fact and manner of compliance with subsection (A) of this Section VI.

VII

Within ninety (90) days after the entry of this Final Judgment, each defendant is ordered to furnish a copy thereof to each of its officers and directors and to each of its plant managers, and to file with this Court and serve upon the plaintiff an affidavit as to the fact and manner of its compliance with this Section VII.

VIII

Each defendant is ordered to file with the plaintiff annually for a period of ten (10) years on the anniversary of the entry of this Final Judgment, a report setting forth the steps taken by it to advise its officers, directors, and employees of its and their obligation under this Final Judgment.

IX

For the purpose of determining or securing compliance with this Final Judgment and for no other purpose, duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust

Division, and on reasonable notice to any defendant made to its principal office, be permitted, subject to any legally recognized privilege (a) access during the office hours of such defendant to all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of such defendant relating to any matters contained in this Final Judgment, and (b) subject to the reasonable convenience of such defendant and without restraint or interference from it, to interview officers, directors, agents, servants or employees of such defendant, who may have counsel present, regarding any such matters. Any defendant, upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, made to its principal office, shall submit such reports in writing with respect to any of the matters contained in this Final Judgment as may from time to time be requested. No information obtained by the means provided in this Section IX shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

X

Jurisdiction is retained 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 or directions as may be necessary or appropriate for the construction or the carrying out of this Final Judgment, for the modification of any of the provisions thereof, for the enforcement of compliance therewith and for the punishment of violations thereof.

Dated: September 19, 1974

/s/ WILLIAM J. LYNCH
United States District Judge

United States v. Lake County Contractors Association, Inc., et al.

Civil Action No. 76 C 1860

Year Judgment Entered: 1977

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF ILLINOIS

EASTERN DIVISION

UNITED STATES OF AMERICA, Plaintiff,	)	CIVIL ACTION
v.	)	NO. 76 C 1860
LAKE COUNTY CONTRACTORS ASSOCIATION, INC. and LAKE COUNTY CONTRACTORS DEVELOPMENT ASSOCIATION, INC., Defendants.	)	

A [illegible] COUNTY ARREST
E. [illegible] CUNNINGHAM, CLERK
By [signature] DEPUTY CLERK
U.S. DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
DATE: SEP 21 1977

FINAL JUDGMENT

Plaintiff, United States of America, having filed its Complaint herein on May 19, 1976, and defendants having appeared and filed jointly their Answer to the Complaint denying the substantive allegations thereof, and the plaintiff and defendants, by their respective attorneys, each having consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein, and without this Final Judgment constituting evidence against or an admission by any party hereto with respect to any such issue;

NOW, THEREFORE, before the taking of any testimony, without trial or adjudication of any issue of fact or law

herein, and upon consent of the parties aforesaid, it is hereby Ordered, Adjudged, and Decreed as follows:

I

This Court has jurisdiction of the subject matter of this action and of each of the parties consenting hereto. The Complaint states a claim upon which relief may be granted against each defendant under Section 1 of the Sherman Act.

II

As used in this Final Judgment:

(A) "Person" means any individual, partnership, firm, corporation, association or other business or legal entity;

(B) "Association Support Agreement" means an agreement or contract between a defendant and a General Contractor whereby the latter agrees that if it is the successful bidder on a construction project or projects in Lake County, Illinois, it will pay a fee to the defendant, one portion of said fee to be retained by the defendant and the other portion to be refunded or distributed by the defendant to the unsuccessful bidders on the construction project or projects to which the agreement or contract is applicable; and

(C) "General Contractor" means a person engaged in the business of constructing, altering, remodeling, building additions to, renovating, reconstructing or repairing governmental

and commercial buildings under direct contract with the owner or architect.

III

The provisions of this Final Judgment apply to the defendants and to their officers, directors, members, agents and employees, successors and assigns, and to all other persons in active concert or participation with any of them who shall have received actual notice of this Final Judgment by personal service or otherwise.

IV

Each defendant is hereby:

(A) Required to eliminate all provisions that refer or relate to an Association Support Agreement from its constitution, by-laws, code of ethics or other rules and regulations;

(B) Enjoined from entering into, adhering to, enforcing, claiming any right under, or furthering an Association Support Agreement or any other agreement having similar terms or provisions, or following any practice, plan or program having a similar purpose or effect.

(C) Enjoined from collecting a fee, in the form of dues or otherwise, from a General Contractor based on the General Contractor's successful participation in the bidding on a

construction project or projects (provided, however, that nothing in this paragraph shall prevent a defendant from collecting a fee from a successful bidder in return for the performance of bona fide services to the bidder); and

(D) Enjoined from paying money to a General Contractor based on the General Contractor's unsuccessful participation in the bidding on a construction project or projects.

V

Each defendant is ordered and directed to:

(A) Serve a copy of this Final Judgment upon its officers, directors, employees, and members within thirty (30) days after the date of entry of this Final Judgment;

(B) File an Affidiavit of Compliance with the Court, copy to plaintiff's attorneys, within sixty (60) days after the date of entry of this Final Judgment stating the fact and manner of compliance with paragraph V(A) above;

(C) Publish once a week for a period of six weeks in the Dodge Construction News, beginning within sixty (60) days after the entry of this Final Judgment, a notice which shall fairly and fully apprise the readers thereof of the substantive terms of this Final Judgment; and

(D) File an Affidavit of Compliance with the Court, copy to plaintiff's attorneys, within one hundred and twenty (120) days after the date of entry of this Final Judgment

stating the fact and manner of compliance with paragraph V(C) above.

VI

For a period of five (5) years from the date of entry of this Final Judgment, each defendant is ordered to file with the plaintiff, on the anniversary date of this Final Judgment, a report setting forth the steps it has taken during the prior year to advise its members and its appropriate officers, directors, and employees of its and their obligations under this Final Judgment.

VII

(A) For the sole purpose of determining or securing compliance with this Final Judgment and for no other purpose:

(1) Duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to a defendant made to its principal office, be permitted, subject to any legally recognized privilege:

(a) Access during the office hours of such defendant to inspect and copy all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of the defendant relating to any matters contained in this Final Judgment; and

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

(2) Any defendant, upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division made to its principal office, shall submit such reports in writing, under oath if requested, with respect to any of the matters contained in this Final Judgment as may from time to time be requested.

(B) No information or documents obtained by the means provided in this paragraph VII shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

(C) If at the time information or documents are furnished by a defendant to plaintiff, the defendant represents and identifies in writing the material in any such information or documents which is of a type described in Rule 26(c)(7) of the Federal Rules of Civil Procedure, and the defendant marks

each pertinent page of such material, "Subject to Claim of Protection under the Federal Rules of Civil Procedure," then ten (10) days notice shall be given by plaintiff to the defendant prior to divulging such material in any legal proceeding (other than a Grand Jury proceeding) to which the defendant is not a party.

VIII

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 or directions as may be necessary or appropriate for the construction or the carrying out of this Final Judgment, for the modification of any of the provisions thereof, for the enforcement of compliance therewith and for the punishment of violations thereof.

IX

The entry of this Final Judgment is in the public interest.

Thomas P. MacMillan
United States District Judge

Dated: SEP 19 1977

United States v. Illinois Podiatry Society, Inc.

Civil Action No. 77 C 501

Year Judgment Entered: 1977

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. Illinois Podiatry Society, Inc., U.S. District Court, N.D. Illinois, 1977-2 Trade Cases ¶61,767, (Dec. 6, 1977)

United States v. Illinois Podiatry Society, Inc.

1977-2 Trade Cases ¶61,767. U.S. District Court, N.D. Illinois, Eastern Division, Civil Action No. 77 C 501, Entered December 6, 1977, (Competitive impact statement and other matters filed with settlement: 42 *Federal Register* 47890).

Case No. 2563, Antitrust Division, Department of Justice.

Sherman Act

Price Fixing: Podiatrists: Relative Value Scales: Consent Decree.– An association of Illinois podiatrists was barred by a consent decree from using relative value studies or guides in settling fee disputes between podiatrists and their patients, between podiatrists and insurers, or between podiatrists and governmental reimbursement agencies; or from suggesting that any of its members use such studies or guides.

For plaintiG: John H. Shenefield, Actg. Asst. Atty. Gen., William E. Swope, John E. Sarbaugh, William H. Page, Steven M. Kowal, and Ruth Dicker, Attys., Dept. of Justice, Chicago, Ill. **For defendant:** Saul A. Epton and Russel S. Barone, Chicago, Ill.

Final Judgment

Grady, D. J.: Plaintiff, United States of America, having filed its complaint herein on February 14, 1977, and defendant Illinois Podiatry Society, Inc. having filed its answer to said complaint and plaintiff and defendant, by their respective attorneys, having consented to the making and entry of this Final Judgment without admission by any party in respect to any issue and without this Final Judgment constituting evidence or an admission by any party thereto with respect to any issue;

Now, therefore, before any testimony has been taken herein, without trial or adjudication of any issue of fact or law herein, and upon consent of the parties hereto, it is hereby

Ordered, Adjudged, and Decreed as follows:

I.

[*Jurisdiction*]

This court has jurisdiction over the subject matter of this action and of the parties hereto. The complaint states claims upon which relief may be granted against the defendant under Section 1 of the Sherman Act. 15 U. S. C. §1.

II.

[*Definitions*]

As used in this Final Judgment:

(A) “Defendant” shall mean the Illinois Podiatry Society, Inc.;

(B) “Person” shall mean any individual, partnership, firm, association, corporation, or other business or legal entity;

(C) “Relative Value Study” shall mean any list or compilation of surgical, medical or other procedures or services that sets comparative values for such procedures or services, whether or not those values are expressed in monetary terms; and

(D) “Appeals, Controls, and Review Commission” shall mean defendant's commission which arbitrates and settles fee disputes between podiatrists and their patients; between podiatrists and the insurers of such patients; or between podiatrists and the governmental agencies who reimburse them for rendering services to such patients.

III.

[*Applicability*]

The provisions of the Final Judgment applicable to defendant shall apply to its officers, directors, members, agents, servants, employees, subsidiaries, successors and assigns, and to all persons in active concert or participation with defendant who shall have received actual notice of this Final Judgment by personal service or otherwise.

IV.

[*Relative Value Guides*]

Defendant, whether acting unilaterally or pursuant to an agreement or understanding with any other person, is enjoined and restrained from directly or indirectly:

(A) initiating, developing, maintaining, publishing, or circulating any relative value study or any other similar guide;

(B) urging, recommending, or suggesting that any of its members adhere to or use any relative value study or any other similar guide; and

(C) employing or referring to any relative value study or similar guide in performing the functions of its Appeals, Controls, and Review Commission.

Nothing in this Final Judgment shall prohibit defendant or its Appeals, Controls, and Review Commission from furnishing testimony or information to any government agency or to any third party directly engaged in the provision, reimbursement, indemnification or pre-payment of the costs of health services; to the extent, however, that such information or testimony may bear directly or indirectly on compensation levels for podiatric services or procedures it shall be limited to information or testimony derived solely from the professional experience of the individual members of defendant without reference to any relative value study or similar compilation.

V.

[*Cancellation of Guides*]

Defendant is ordered and directed within thirty (30) days from the date of entry of this Final Judgment:

(A) to cancel, repeal, abrogate, and withdraw permanently any and all relative value studies that it has initiated, developed, maintained, published, or circulated; and

(B) to amend its rules, bylaws, resolutions, code of ethics, and policy statements in the manner necessary to comply with this paragraph V and to eliminate any provision which is contrary to or inconsistent with any provision of this Final Judgment.

VI.

[*Notice*]

Defendant is ordered and directed:

(A) to distribute by first class mail within thirty (30) days from the date of entry of this Final Judgment a copy of this Final Judgment, together with a letter identical in text to that attached to this Final Judgment as Appendix "A", to all podiatrists who at any time since January 1, 1973 have been members of defendant, instructing them to return to defendant all copies of defendant's relative value studies in their possession;

(B) to file with the Court, and with plaintiff herein, within ten (10) days of its compliance with Section VI(A) a report setting forth the fact and manner of its compliance with Section VI(A), together with the name and address of each person to whom a copy of this Final Judgment and a letter identical in text to that attached to this Final Judgment as Appendix "A" have been mailed in compliance herewith; and

(C) to file with the Court, and with the plaintiff herein, within sixty (60) days of its compliance with Section VI(A) a report setting forth the name and address of each person from whom a copy of a relative value study has been received in response to the letters of instruction mailed by defendant in compliance with paragraph VI(A).

VII.

[*Inspection*]

For the purpose of determining or securing compliance with this Final Judgment and subject to any legally recognized privilege, from time to time:

(A) Duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to the defendant made to its principal office, be permitted:

(1) Access during office hours of the defendant to inspect and copy all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of the defendant, who may have counsel present, relating to any matters contained in this Final Judgment; and

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

(B) Upon the written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division made to the defendant's principal office, the defendant shall submit such written reports, under oath if requested, with respect to any of the matters contained in this Final Judgment as may be requested.

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

If at the time information or documents are furnished by the defendant to plaintiff, the defendant represents and identifies in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and the defendant marks each pertinent page of such material, "Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure," then 10 days notice shall be given by plaintiff to the defendant prior to divulging such material in any legal proceeding (other than a Grand Jury proceeding) to which the defendant is not a party.

VIII.

[*Retention of Jurisdiction*]

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 modification of any of the provisions hereof, for the enforcement of compliance herewith, and for the punishment of violations hereof.

IX.

[*Public Interest*]

The entry of this Final Judgment is in the public interest.

United States v. Martin Marietta Corporation, et al.

Civil Action No. 79-C-3626

Year Judgment Entered: 1979

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA, Plaintiff, vs. MARTIN MARIETTA CORPORATION, et al., Defendant.	CIVIL ACTION NO. 79C-3626 Filed: September 11, 1979 Entered: December 14, 1979

FINAL JUDGMENT WITH RESPECT TO
MARTIN MARIETTA CORPORATION

Plaintiff, United States of America, having filed its complaint herein on August 31, 1979, and Martin Marietta Corporation ("defendant") having appeared, and the plaintiff and defendant, 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 this Final Judgment constituting any evidence against or any admission by any party with respect to any issue of fact or law herein;

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

I.

This Court has jurisdiction over the subject matter herein and the parties hereto. The Complaint states claims upon which relief may be granted against the defendant under Section 7 of the Act of Congress of October 15, 1914, as amended (15 U.S.C. § 18), commonly known as the Clayton Act.

II.

A. The "Oregon plant" means the high-silica sand production facility located in Oregon, Illinois and includes approximately 676 acres of real property owned by defendant in fee and the plant, capital equipment, and any other interests or assets associated with the facility.

B. The "Prairie State plant" means the high-silica sand production facility located near Troy Grove, Illinois and includes approximately 228 acres of real property leasehold interest and the plant, capital equipment, and any other interests or assets associated with the facility.

III.

The provisions of this Final Judgment shall apply to the defendant and to each of its subsidiaries, successors and assigns, and to each of their officers, directors, agents, employees and attorneys, and upon those persons in active concert or participation with them who receive actual notice of this Final Judgment by personal service or otherwise.

IV.

A. Defendant is hereby ordered and directed to divest itself within twelve (12) months of the date of this Final Judgment of all of its interest in the Oregon plant and the Prairie State plant. Divestiture shall be accomplished in such a way as to ensure that each plant will operate, either individually or as a combined unit, as an effective competitor in the production and sale of high-silica sand. Divestiture shall be made to a person or persons approved by the plaintiff or, failing such approval, by the court.

B. In the event defendant has not accomplished said divestiture within twelve (12) months, it may petition the Court, prior to the expiration of said twelve (12) months, for an additional period not to exceed six (6) months within which to consummate said divestiture. If defendant files such a petition, plaintiff may petition the Court at that time

to appoint a trustee to effect said divestiture. The provisions of IV(C) shall apply to a trustee appointed under this paragraph.

C. If a petition by defendant pursuant to IV(B) is granted by the Court and divestiture is not effected within the period allowed, the Court, upon application of the plaintiff, shall appoint a trustee to effect divestiture in accordance with the provisions of this Final Judgment. The trustee shall have full power and authority to dispose of both plants at whatever price and terms obtainable, subject to the approval of this Court. The trustee shall serve at the cost and expense of defendant.

V.

A. Defendant shall promptly report the details of any proposed sale of either the Oregon or Prairie State plants, or both, to the plaintiff.

B. Following the receipt of any plan of sale, plaintiff shall have ten (10) business days in which to object to the proposed sale by written notice to defendant. If plaintiff does not object to the proposed sale, it may be consummated after notice of the proposed sale is given to the Court. If plaintiff does object, the proposed sale shall not

be consummated until defendant obtains the Court's approval of the proposed sale or until plaintiff withdraws its objection.

VI.

Each sixty (60) days from entry of this Final Judgment until divestiture has been completed, defendant shall file with this Court and serve on the plaintiff an affidavit together with relevant documentation (including the names of parties who have been contacted) as to the fact and manner of compliance with Section IV of this Final Judgment.

VII.

For the purpose of securing or determining compliance with this Final Judgment, and subject to any legally recognized privilege:

A. Any duly authorized representative or representatives of the Department of Justice shall, upon written request by the Attorney General or the Assistant Attorney General in charge of the Antitrust Division and on reasonable notice to defendant made to its principal office, be permitted:

(1) Access during the office hours of the defendant, which may have counsel present, to all books, ledgers, accounts, correspondence, memoranda, and other

records and documents in the possession or under the control of defendant relating to any matters contained in this Final Judgment; and

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

B. No information or documents obtained by the means provided in Sections VI and VII hereof shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

C. If at the time information or documents are furnished by defendant to plaintiff, defendant represents and identifies in writing the material in any such information or documents of a type described in Rule 26(c)(7) of the Federal Rules of Civil Procedure, and said defendant marks

each pertinent page of such material, "Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure," then ten (10) days' notice shall be given by plaintiff to such defendant prior to divulging such material in any legal proceeding (other than a Grand Jury proceeding) to which that defendant is not a party.

VIII.

It is further ordered that defendant shall not cause or permit the destruction, removal or impairment of any of the assets to be divested in accordance with paragraph IV of the Final Judgment except in the ordinary course and operation of defendant's business and except for normal wear and tear.

IX.

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

Entry of this Final Judgment is in the public interest.

/s/ John Powers Crowley
United States District Judge

DATED: 12/14/79

United States v. Beneficial Corporation, et al.

Civil Action No. 79 C 3550

Year Judgment Entered: 1979

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	Civil Action No. 79C 3550
	)	
V.	)	Entered: December 17, 1979
	)	
BENEFICIAL CORPORATION;	)	
HLG INC;	)	
BEATRICE FOODS CO.; and	)	
SOUTHWESTERN INVESTMENT CO.,	)	
	)	
Defendants.	)	

FINAL JUDGMENT

Plaintiff, United States of America, having filed its complaint herein on August 29, 1979, and the plaintiff and the defendants, Beneficial Corporation, HLG Inc., Beatrice Foods Co., and Southwestern Investment Co., by their respective attorneys, having consented to the making and entry of this Final Judgment, without trial or adjudication of any issue of fact or law herein and without this Final Judgment constituting any evidence against or admission by any party with respect to any such issue;

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

ORDERED, ADJUDGED, AND DECREED as follows:

I.

This Court has jurisdiction of the subject matter of this action and of each of the parties consenting hereto. The

complaint states a claim upon which relief may be granted against the defendants under Section 7 of the Clayton Act, 15 U.S.C. § 18.

II.

As used in this Final Judgment:

(A) "Beneficial" shall mean Beneficial Corporation and HLG Inc.

(B) "Southwestern" shall mean Southwestern Investment Co., a subsidiary of Beatrice Foods Co.

(C) "Office" shall mean, with respect to each of the Southwestern offices listed in Appendix A, all receivables and customer lists, and, at the option of the buyer, leases, leasehold improvements, furniture, fixtures, office equipment, supplies and other material located or used in such office.

(D) "Receivables" shall mean all indebtedness and promises to pay for direct cash loans to individual customers, and, if the buyer of an office elects, "receivables" shall also include all installment notes purchased from dealers arising from the retail or wholesale sale of goods or from the rendering of services, in each case with all documents, information, and collateral related thereto. The term "receivables" shall not include notes secured by first mortgages on real estate, contracts for the leasing of equipment, or contracts of insurance.

(E) "Customer Lists" shall mean all lists of present and potential customers for direct cash loans, but shall not include the identity of potential customers generated from the purchase

of installment notes from dealers arising out of the retail or wholesale sale of goods or from the rendering of services, unless the buyer of an office elects to purchase such receivables.

III.

(A) This Final Judgment applies to the defendants and to their officers, directors, agents, employees, subsidiaries, successors and assigns, and to all other persons in active concert or participation with any of them who shall have received actual notice of this Final Judgment by personal service or otherwise.

(B) Beneficial shall require, as a condition of the sale or other disposition of all, or substantially all, of its finance company business, that the acquiring party agree to be bound by the provisions of this Final Judgment and that such agreement be filed with the Court and be served upon the plaintiff.

IV.

Beneficial is ordered and directed to divest itself of each Southwestern office listed in Appendix A of this Final Judgment.

(A) Beneficial shall enter into a contract for the sale of each such office within six months from the date of entry of this Final Judgment

(B) Beneficial shall consummate the sale of each such office within one year from the date it enters into the contract for sale required by paragraph (A).

(C) Beneficial shall not reacquire any of the offices sold pursuant to this Final Judgment; except, that Beneficial may

acquire and enforce any bona fide security interest on any of all of the offices divested given to secure payment of any unpaid portion of the purchase price or performance of any term of the contracts required by paragraph (A) of this Section IV. If Beneficial reacquires any office pursuant to this paragraph (C) it shall promptly notify the plaintiff. Any office so reacquired shall be divested within one year of such reacquisition in accordance with the provisions of this Final Judgment.

V.

(A) Beneficial shall promptly submit to plaintiff a copy of each contract required by paragraph (A) of Section IV.

(B) Following the receipt of such contract, plaintiff shall have 30 days within which to object to the proposed sale by written notice to Beneficial, unless within 10 days plaintiff requests additional information regarding the proposed sale, in which case plaintiff shall have 30 days following the receipt of the information requested to object. If plaintiff does not object to the proposed sale, it may be consummated. If plaintiff does object, the proposed sale shall not be consummated until Beneficial obtains the Court's approval of the sale or until plaintiff withdraws its objection.

(C) If plaintiff objects to the proposed sale of any office listed in Appendix A, Beneficial shall have six months from the date of the objection, or, if the Court sustains the objection, from the date of the Court's ruling, within which to enter into another contract of sale with a different purchaser.

VI.

(A) If at the end of six months from the date of entry of this Final Judgment the contract of sale required by paragraph (A) of Section IV has not been entered into by Beneficial for any office, this Court shall upon application of the plaintiff appoint a trustee for the purpose of selling that office in accordance with the provisions of this Final Judgment.

(B) If any contract of sale required by paragraph (A) of Section IV has not been consummated within one year from the date it was entered into, this Court shall upon application of the plaintiff appoint a trustee for the purpose of selling the office or offices subject to that contract in accordance with the provisions of this Final Judgment.

(C) The trustee shall have full power and authority to dispose of any office, at whatever price and terms obtainable, subject to the approval of this Court. The trustee shall serve at the cost and expense of Beneficial, on such terms and conditions as this Court may set, and shall account for all monies derived from the disposal of the offices and all expenses so incurred. After approval by this Court of the trustee's account, including fees for his services, all remaining monies shall be paid to Beneficial, and the trust shall be terminated. Each sale by the trustee shall be in accordance with the provisions of this Final Judgment.

VII.

(A) Beneficial is ordered and directed to maintain the Southwestern offices listed in Appendix A as separate, going businesses and to continue normal business operations under the "Southwestern" name pending their sale. Beneficial shall provide such financial, business, promotion and management assistance necessary to maintain such offices as separate, going businesses.

(B) Beneficial is enjoined from knowingly taking any action which would reduce the amount of receivables in any office listed in Appendix A outstanding on the date this Final Judgment is submitted to the Court except that nothing in this paragraph shall prevent Beneficial from continuing normal operations at any of its other consumer finance offices. Beneficial is enjoined from hiring any office manager or other employee of any of the Southwestern offices listed in Appendix A for a period of six months from the sale of that office.

(C) Beneficial is ordered and directed to provide to plaintiff within 15 days from the date this Final Judgment is entered a tabulation showing the amount of receivables outstanding at each office listed in Appendix A on the last business day of the preceding month. Beneficial is further ordered and directed to provide to plaintiff a tabulation showing the amount of receivables outstanding at each office listed in Appendix A on the last business day of each month after this Final Judgment is entered until the sale of the office is accomplished. Beneficial shall provide such tabulation to plaintiff within 15 days from the date for which the tabulation is made.

VIII.

Beneficial is ordered and directed to compile a record, to be provided to the plaintiff starting five days after entry of this Final Judgment and every sixty days thereafter until the sales required by Section IV are accomplished, of its efforts to sell each office listed in Appendix A, including identification of any person or persons to whom the office is or has been offered, the terms and conditions of each offer to sell, the identification of any person or persons expressing interest in acquiring each office, and the terms and conditions of each offer to purchase.

IX.

For the purpose of determining or securing compliance with this Final Judgment, and subject to any legally recognized privilege, from time to time:

(A) Duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to a defendant made to its principal office, be permitted:

(1) Access during office hours of such defendant to inspect and copy all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of such defendant, who may have counsel present, relating to any matters contained in this Final Judgment; and

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

(B) Upon the written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division made to a defendant's principal office, such defendant shall submit such written reports, under oath if requested, with respect to any of the matters contained in this Final Judgment as may be requested.

No information or documents obtained by the means provided in Sections VIII and IX shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

(C) If at the time information or documents are furnished by a defendant to plaintiff, such defendant represents and identifies in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and said defendant marks each pertinent page of such material, "Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure", then 10 days notice shall be given by plaintiff to such defendant prior to divulging such material in any legal proceeding (other than a grand jury proceeding) to which that defendant is not a party.

X.

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 or directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the modification of any of the provisions hereof, for the enforcement of compliance herewith, and for the punishment of any violation hereof.

XI.

Entry of this Final Judgment is in the public interest.

Dated:

12/17/79

UNITED STATES DISTRICT JUDGE

APPENDIX A

OFFICES OF SOUTHWESTERN INVESTMENT COMPANY

Kansas

Leavenworth
331 Delaware, 66048

Junction City
111 West 7th St., 66441

New Mexico

Albuquerque
4711 Lomas Blvd. NE, 87103

Alamogordo
702 Tenth Street, 88310

Artesia
212 South 4th, 88210

Carlsbad
213 North Canyon, 88220

Clovis
800 Mitchell, 88101

Farmington
634 W. Main Street, 87401

Farmington
3030 E. Main St., A-4, 87401

Hobbs
324 North Turner, 88240

Lovington
819 South Main, 88260

Oklahoma

Bartlesville
1200 SE Frank Phillips

South Dakota

Brookings
1453 6th Street, 57006

Huron
1835 Dakota Ave. S.
Box 35, 57350

South Dakota

Madison
122 West Center St., 57042

Rapid City
520 6th Street, 57701

Sioux Falls
2808 West 41st St., 57101

Texas

Amarillo
905 Taylor, 79105

Amarillo
832 Martin Rd., 79107

Borger
924 N. Main Street, 79007

Corpus Christi
4518 Autotown Drive, 78412

Houston
1116 N. Shepherd, 77009

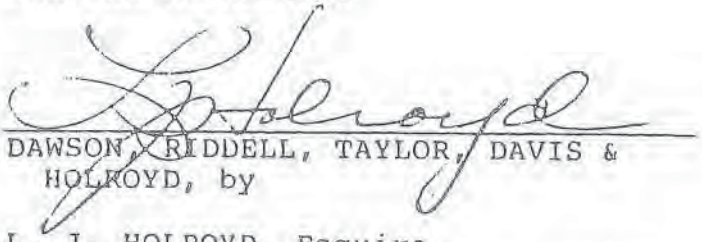
Kingsville
429 East Kleberg, 78363

Midland
1101 N. Midkiff St., 79701

San Antonio
1010 SW Military Drive, 78221

San Antonio
225 East Elmira, 78293

FOR THE DEFENDANTS

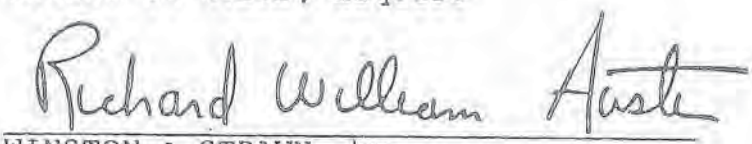


DAWSON, RIDDELL, TAYLOR, DAVIS &
HOLROYD, by

L. J. HOLROYD, Esquire
Counsel for Beneficial Corporation
and HLG Inc.

Of Counsel
DEWEY, BALLANTINE, BUSHBY,
PALMER & WOOD, by

EDWARD N. SHERRY, Esquire
ROBERT C. MYERS, Esquire



WINSTON & STRAWN, by

RICHARD WILLIAM AUSTIN, Esquire
Counsel for Beatrice Foods Co.
and Southwestern Investment Co.

United States v. Beneficial Corporation, et al.

Civil Action No. 79 C 3551

Year Judgment Entered: 1979

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA, Plaintiff, v. BENEFICIAL CORPORATION; BENEFICIAL FINANCE CO. OF OHIO; THE CONTINENTAL CORPORATION; THE BUCKEYE UNION INSURANCE CO.; and CAPITAL FINANCIAL SERVICES INC., Defendants.	)	Civil Action No. 79C 3551

FINAL JUDGMENT

Plaintiff, United States of America, having filed its complair herein on August 29, 1979, and the plaintiff and the defendants, Beneficial Corporation, Beneficial Finance Co. of Ohio, The Continental Corporation, The Buckeye Union Insurance Co., and Capital Financial Services Inc., by their respective attorneys, having consented to the making and entry of this Final Judgment, without trial or adjudication of any issue of fact or law herein and without this Final Judgment constituting any evidence against or admission by any party with respect to any such issue;

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

ORDERED, ADJUDGED, AND DECREED as follows:

I.

This Court has jurisdiction of the subject matter of this action and of each of the parties consenting hereto. The complaint states a claim upon which relief may be granted against the defendants under Section 7 of the Clayton Act, 15 U.S.C. § 18.

II.

As used in this Final Judgment:

(A) "Beneficial" shall mean Beneficial Corporation and Beneficial Finance Co. of Ohio.

(B) "Capital" shall mean Capital Financial Services. Inc., a subsidiary of The Continental Corporation.

(C) "Office" shall mean, with respect to each of the Capital offices listed in Appendix A, all receivables and customer lists, and, at the option of the buyer, leases, leasehold improvements, furniture, fixtures, office equipment, supplies and other material located or used in such office.

(D) "Receivables" shall mean all indebtedness and promises to pay for direct cash loans to individual customers, and, if the buyer of an office elects, "receivables" shall also include all installment notes purchased from dealers arising from the retail or wholesale sale of goods or from the rendering of services, in each case with all documents, information, and collateral related thereto. The term "receivables" shall not include notes secured by first mortgages on real estate, contracts for the leasing of equipment, or contracts of insurance.

(E) "Customer Lists" shall mean all lists of present and potential customers for direct cash loans, but shall not include the identity of potential customers generated from the purchase of installment notes from dealers arising out of the retail or wholesale sale of goods or from the rendering of services, unless the buyer of an office elects to purchase such receivables.

III.

(A) This Final Judgment applies to the defendants and to their officers, directors, agents, employees, subsidiaries, successors and assigns, and to all other persons in active concert or participation with any of them who shall have received actual notice of this Final Judgment by personal service or otherwise.

(B) Beneficial shall require, as a condition of the sale or other disposition of all, or substantially all, of its finance company business, that the acquiring party agree to be bound by the provisions of this Final Judgment and that such agreement be filed with the Court and be served upon the plaintiff.

IV.

Beneficial is ordered and directed to divest itself of each Capital office listed in Appendix A of this Final Judgment.

(A) Beneficial shall enter into a contract for the sale of each such office within six months from the date of entry of this Final Judgment.

(B) Beneficial shall consummate the sale of each such office within one year from the date it enters into the contract for sale required by paragraph (A).

(C) Beneficial shall not reacquire any of the offices sold pursuant to this Final Judgment; except, that Beneficial may acquire and enforce any bona fide security interest on any or all of the offices divested given to secure payment of any unpaid portion of the purchase price or performance of any term of the contracts required by paragraph (A) of this Section IV. If Beneficial reacquires any office pursuant to this paragraph (C) it shall promptly notify the plaintiff. Any office so reacquired shall be divested within one year of such reacquisition in accordance with the provisions of this Final Judgment.

V.

(A) Beneficial shall promptly submit to plaintiff a copy of each contract required by paragraph (A) of Section IV.

(B) Following the receipt of such contract, plaintiff shall have 30 days within which to object to the proposed sale by written notice to Beneficial, unless within 10 days plaintiff requests additional information regarding the proposed sale, in which case plaintiff shall have 30 days following the receipt of the information requested to object. If plaintiff does not object to the proposed sale, it may be consummated. If plaintiff does object, the proposed sale shall not be consummated until

Beneficial obtains the Court's approval of the sale or until plaintiff withdraws its objection.

(C) If plaintiff objects to the proposed sale of any office listed in Appendix A, Beneficial shall have six months from the date of the objection, or, if the Court sustains the objection, from the date of the Court's ruling, within which to enter into another contract of sale with a different purchaser.

VI.

(A) If at the end of six months from the date of entry of this Final Judgment the contract of sale required by paragraph (A) of Section IV has not been entered into by Beneficial for any office, this Court shall upon application of the plaintiff appoint a trustee for the purpose of selling that office in accordance with the provisions of this Final Judgment.

(B) If any contract of sale required by paragraph (A) of Section IV has not been consummated within one year from the date it was entered into, this Court shall upon application of the plaintiff appoint a trustee for the purpose of selling the office or offices subject to that contract in accordance with the provisions of this Final Judgment.

(C) The trustee shall have full power and authority to dispose of any office, at whatever price and terms obtainable, subject to the approval of this Court. The trustee shall serve at the cost and expense of Beneficial, on such terms and conditions as this Court may set, and shall account for all monies derived from

the disposal of the offices and all expenses so incurred. After approval by this Court of the trustee's account, including fees for his services, all remaining monies shall be paid to Beneficial and the trust shall be terminated. Each sale by the trustee shall be in accordance with the provisions of this Final Judgment.

VII.

(A) Beneficial is ordered and directed to maintain the Capital offices listed in Appendix A as separate, going businesses and to continue normal business operations under the "Capital" name pending their sale. Beneficial shall provide such financial, business, promotion and management assistance necessary to maintain such offices as separate, going businesses.

(B) Beneficial is enjoined from knowingly taking any action which would reduce the amount of receivables in any office listed in Appendix A outstanding on the date this Final Judgment is submitted to the Court except that nothing in this paragraph shall prevent Beneficial from continuing normal operations at any of its other consumer finance offices. Beneficial is enjoined from hiring any office manager or other employee of any of the Capital offices listed in Appendix A for a period of six months from the sale of that office.

(C) Beneficial is ordered and directed to provide to plaintiff within 15 days from the date this Final Judgment is entered a tabulation showing the amount of receivables outstanding at each office listed in Appendix A on the last business day of the preceding

month. Beneficial is further ordered and directed to provide to plaintiff a tabulation showing the amount of receivables outstanding at each office listed in Appendix A on the last business day of each month after this Final Judgment is entered until the sale of the office is accomplished. Beneficial shall provide such tabulation to plaintiff within 15 days from the date for which the tabulation is made.

VIII.

Beneficial is ordered and directed to compile a record, to be provided to the plaintiff starting five days after entry of this Final Judgment and every sixty days thereafter until the sales required by Section IV are accomplished, of its efforts to sell each office listed in Appendix A, including identification of any person or persons to whom the office is or has been offered, the terms and conditions of each offer to sell, the identification of any person or persons expressing interest in acquiring each office, and the terms and conditions of each offer to purchase.

IX.

For the purpose of determining or securing compliance with this Final Judgment, and subject to any legally recognized privileg from time to time:

(A) Duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust

Division, and on reasonable notice to a defendant made to its principal office, be permitted:

(1) Access during office hours of such defendant to inspect and copy all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of such defendant, who may have counsel present, relating to any matters contained in this Final Judgment; and

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

(B) Upon the written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division made to a defendant's principal office, such defendant shall submit such written reports, under oath if requested, with respect to any of the matters contained in this Final Judgment as may be requested.

No information or documents obtained by the means provided in Sections VIII and IX shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

(C) If at the time information or documents are furnished by a defendant to plaintiff, such defendant represents and identifies in writing the material in any such information or documents to whi a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and said defendant marks each pertinent page of such material, "Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure," then 10 days notice shall be given by plaintiff to such defendant prior to divulging such material in any legal proceeding (other than a grand jury proceeding) to which that defendant is not a party.

X.

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 or directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the modification of any of the provisions hereof, for the enforcement of compliance herewith, and for the punishment of any violation hereof.

XI.

Entry of this Final Judgment is in the public interest.

Dated:

12/17/79

UNITED STATES DISTRICT JUDGE

OFFICES OF CAPITAL FINANCIAL SERVICES, INC.

IDAHO

Moscow
118 E. Third St., 83843

Idaho Falls
692 E. Anderson, 83401

Boise
1317 W. Idaho St., 83707

Boise
5 Mile Plaza
10418 Overland Road, 83705

Nampa
213 11th Ave., South, 83651

Payette
39 S. 8th St., 83661

(6 Offices)

MICHIGAN

Detroit
19700 W. 7 Mile Road, 48219

Flint
G4296 Corunna Road, 48504

Saginaw
3057 Bay Plaza
4607 Bay Road, 48608

Battle Creek
4 E. Michigan Mall, 49017

(4 Offices)

NEW YORK

Corning
20 Denison Pkwy, W. 14830

Cortland
28 N. Main St., 13045

Canandaigua
123 S. Main St., 14424

NEW YORK (Cont'd.)

Glens Falls
164 Glen St., 12801

Middletown
26 North Street, 10940

Newburgh
380 Broadway, 12550

Oswego
Midtown Shpg. Center, 13126

Rochester
1694 Penfield Road, 14625

Rome
110 W. Liberty St., 13440

Seneca Falls
102 Fall Street, 13148

Shrub Oak
Shrub Oak Shopping Center
1342 E. Main St., 10588

Syracuse
Storeroom A Valley Plaza Shpg. Ctr.
4141 S. Salina Street, 13205

(12 Offices)

OHIO

Ashtabula
4702 Main St., 44004

Findlay
321 S. Main St., 45840

Canton
401 Tuscarawas St., West 44702

North Canton
792 North Main St., 44720

Alliance
2115 W. State St., 44601

OHIO (Cont'd)

Massillon
46 N. Erie St., 44646

Orrville
116 E. Market St., 44667

Kettering
Woodlane Plaza Shopping Ctr.
3024 Woodman Dr., 45420

Miamisburg
45 S. Main St., 45342

Youngstown
6949 Market St., 44512

Newark
17 W. Main St., 43055

Hamilton
633 High Street, 45012

Hamilton-Plaza
Hamilton Plaza Shopping Center
2550 Dixie Highway, 45012

Springfield
72 W. Main St., 45501

Reynoldsburg
1812 Brice Road, 43068

Steubenville
123 S. Fourth St., 43952

Lorain
42783 N. Ridge Road, 44055

London
167 W. High St., 43140

Zanesville
36 N. Fourth St., 43701

Fostoria
111 Main St., 44830

Hilliard
3636 Main St., 43026

OHIO (Cont'd)

Grove City
3076 Southwest Blvd., 43123

Cleveland

Euclid
22504 Lake Shore Blvd. 44123

Fairview Park
Fairview Shopping Center
21895 Lorain Ave., 44126

Maple Heights
5304 Warrensville Center Road, 44137

Painesville
1472 Mentor Ave., 44077

Parma
5333 Ridge Road, 44129

Parma Heights
6769 W. 130th St., 44130

Akron

Akron-Square
Akron Square Shopping Center
1615 S. Arlington St., 44306

Akron-Chapel Hill
Ste. 101, 1717 Brittain Rd., 44310

Akron-W Market
1650 W. Market St., 44313

Barberton
155 Wooster Road, N, 44203

Kent
1108 S. Water St., 44240

Toledo

Bowling Green
153 E. Wooster St., 43402

Maumee
127 W. Wayne St., 43537

OHIO (Cont'd)

Toledo (Cont'd)

Toledo-Byrne Road
1560 S. Byrne Road, 43614

Toledo-West
2503 Sylvania Ave., 43613

Cincinnati

Batavia
503 W. Main St., 45103

Cincinnati-Delhi
4950 Delhi Road, 45238

Cincinnati
6259 Glenway Ave., 45211

Cincinnati-Cherry Grove
88 Cherry Grove Plaza, 45230

Cincinnati-Colerain
9806 Colerain Ave., 45239

Cincinnati-Kenwood
7525 Kenwood Road

Cincinnati-Springfield Pike
11622 Springfield Pike, 45246

Loveland
400 Loveland Madeira Rd., 4514

Milford
Milford Shopping Center
963 Lila Ave., 45150

Northwood
2912 Woodville Road, 43616

Columbus

Columbus-S. High
1286 S. High St. 43206

Columbus-Arlington
5025 Arlington Centre Blvd.
Ste. 100, 43220

Columbus-Graceland
Graceland Shoppers Mart
5055-59 N. High St., 43214

OHIO (Cont'd)

Columbus

Columbus-Revolving
5025 Arlington Centre Blvd.
Ste. 275, 43220

Columbus-Great Western
Great Western Shprs. Mart
3425 South Blvd., 43204

(52 Offices)

OREGON

Salem Candalaria
2655 Commercial St., SE 97302

Salem
455 High St., NE, 97308

Salem-Keizer
4780 River Road, N., 97303

Portland

Portland-4th Ave.
512 S. W. 4th Ave., 97204

Portland-82nd Ave.
326 SE 82nd Ave., 97266

Portland-Rockwood
18615 E. Burnside St., 97233

Portland-Barbur Blvd.
8201 S. W. Barbur Blvd. 97223

Portland-Weatherly
502 S.E. Morrison St., 97214

Portland-St. Jones
8523 N. Lombard St., 97203

Portland-Walnut Park
5305 NE Union Ave., 97211

Bend
1199 N.W. Wall St., 97701

Albany
208 W. 2nd Ave., 97321

OREGON (Cont 'd)

Eugene
804 Olive St., 97401

Corvallis
310 SW 2nd St., 97330

Milwaukie
10817 SE Main St., 97222

Baker
1932 First St., 97814

Redmond
425 S. Sixth St., 97756

Hillsboro
333 SE Third St., 97123

Gresham
439 Powell Blvd., 97030

(19 Offices)

PENNSYLVANIA

Jeannette
513 Clay Avenue, 15644

Hanover
24 Baltimore St., 17331

Baden
Penn Northern Lights
Shprs. City, Inc.
1677 State Street, W., 15005

Lower Burrell
Stewart Plaza,
2879 Leechburg Road, 15068

Tyrone
Washington Ave. at Third St.,
16686

(5 Offices)

WASHINGTON

Seattle-Lake City
12708 Lake City Way, N.E. 98125

Seattle-Westlake
536 Westlake Ave., N, 98109

WASHINGTON

Seattle- Westwood
9155 Westwood Village Court,
SW, 98126

Auburn
104 E. Main St., 98002

Bellingham
1409 Cornwall Ave., 98225

Ellensburg
405 N. Pearl St., 98926

Kirkland
128 Central Way, 98033

Port Angeles
120 W. First St., 98362

Puyallup
2705 E. Main, 98371

Tacoma-Broadway
922 Broadway, 98402

Vancouver
1306 Main St., 98666

Wenatchee
113 Palouse St., 98801

(12 Offices)

United States v. Household Finance Corporation, et al.

Civil Action No. 79 C 80

Year Judgment Entered: 1980

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. Household Finance Corp., HFC American, Inc., and American Investment Co., U.S. District Court, N.D. Illinois, 1981-2 Trade Cases ¶64,301, (Mar. 26, 1980)

United States v. Household Finance Corp., HFC American, Inc., and American Investment Co.

1981-2 Trade Cases ¶64,301. U.S. District Court, N.D. Illinois, Eastern Division, Civil Action No. 79 C 80, Entered, March 26, 1980.

Case No. 2684, Antitrust Division, Department of Justice.

Clayton Act

Acquisition: Divestiture: Finance Companies: Consent Decree.– A finance company was enjoined by a consent decree from acquiring any shares of stock or other financial interest in another finance company directly or indirectly. The firm was ordered to divest all of the shares of stock in the other company it owned or controlled within 180 days from the date of entry of the decree and was directed not to exercise the right to vote said stock during the divestiture period. It was also enjoined from acquiring any finance company assets of the other firm directly or indirectly without the prior written consent of the government or approval of the court.

For plaintiG: U. S. Atty., Seymour H. Dussman, and James H. Phillips, Antitrust Div., Dept. of Justice, Washington, D. C. **For defendants:** George W. Rauch, of Hubachek, Kelly, Rauch & Kirby, Chicago, Ill., for Household Finance Corp.; George D. Reycraft, J. David Officer, Thomas J. O'Connell, and Haven C. Roosevelt, of Cadwalader, Wickersham & Taft, New York, N. Y., for Household Finance Corp. and HFC American, Inc.; George A. Jensen, of Pepper, Martin, Jensen, Maichel & Hetlage, St. Louis, Mo., for American Investment Co.

Final Judgment

McGarr, D. J.: Plaintiff, United States of America, having filed its complaint on January 9, 1979, defendants having filed their respective answers thereto, the parties having entered into a stipulation that the only issue to be tried is whether the business of making direct cash loans by finance companies is a line of commerce within the meaning of Section 7 of the Clayton Act (15 U. S. C. §18), trial having been held, this Court having entered findings of fact and conclusions of law, the United States Court of Appeals having entered its decision and Order on August 10, 1979, and the United States Supreme Court having denied a petition for a writ of certiorari on January 21, 1980;

It Is Hereby Ordered, Adjudged and Decreed as follows:

I

[*Jurisdiction*]

This Court has jurisdiction of the subject matter of this action and the parties hereto. The complaint states a claim upon which relief may be granted against the defendants under Section 7 of the Clayton Act (15 U. S. C. ¶18).

II

[*Definitions*]

As used in this Final Judgment:

(A) “HFC” means defendants Household Finance Corporation and HFC American, Inc., and each of their subsidiaries and affiliates.

(B) “AIC” means defendant American Investment Company and each of its subsidiaries and affiliates.

(C) “Finance company assets” means any account receivables, loan agreements, loan contracts, notes, customer lists, office licenses, tradenames, leaseholds, real property, goodwill, and any other property used in connection with the extension of credit to any person or legal entity.

III

[*Applicability*]

The provisions of this Final Judgment applicable to defendants shall apply to each of their directors, officers, employees, agents, subsidiaries, affiliates, successors, and assigns, and to all other persons in active concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise.

IV

[*Acquisition Ban*]

HFC is permanently enjoined from acquiring any shares of stock or other financial interest in AIC directly or indirectly.

V

[*Divestiture*]

HFC is ordered and directed to divest all of the shares of stock in AIC which it currently owns or controls within 180 days from the date of entry of this Final Judgment, and is directed not to exercise the right to vote said stock during the divestiture period.

VI

[*Assets Acquisition Ban*]

HFC is permanently enjoined from acquiring any finance company assets of AIC directly or indirectly without the prior written consent of the plaintiff or approval of the Court.

VII

[*Compliance*]

For the purpose of determining or securing compliance with this Final Judgment, and subject to any legally recognized privilege, from time to time:

(A) Duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to a defendant made to its principal office, be permitted:

(1) Access during office hours of such defendant to inspect and copy all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of such defendant, who may have counsel present, relating to any matters contained in this Final Judgment; and

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

(B) Upon the written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, made to a defendant's principal office, such defendant shall submit such written reports, under oath if requested, with respect to any of the matters contained in this Final Judgment as may be requested.

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

VIII

[*Retainer of Jurisdiction*]

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

United States v. Emerson Electric Co., et al.

Civil Action No. 79-C-1144

Year Judgment Entered: 1980

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA,	:	
Plaintiff,	:	
-against-	:	Filed: February 20, 1980
EMERSON ELECTRIC CO. and SKIL CORPORATION,	:	Entered: 5/5/80
Defendants.	:	

FINAL JUDGMENT

Plaintiff, the United States of America, having filed its Complaint herein on March 22, 1979, and defendants Emerson Electric Co. and Skil Corporation, having appeared, and the parties hereto, by their respective attorneys, having consented to the entry of this Final Judgment without trial or adjudication of any issue of law or fact and without this Final Judgment constituting any evidence or an admission by any party with respect to any such issue,

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

ORDERED, ADJUDGED AND DECREED as follows:

I

This Court has jurisdiction over the subject matter of this action and the parties consenting hereto. The Complaint states claims upon which relief may be granted against the defendants under Section 7 of the Clayton Act, as amended, (15 U.S.C. § 18).

II

As used in this Final Judgment, the term:

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

(B) "Portable Electric Tool" shall mean a portable hand held tool powered by an electric motor, such as circular saws, drills, sanders, polishers, grinders, reciprocating saws, jig saws, routers, planers, rotary hammers, and screwdrivers. For purposes of this Final Judgment, Portable Electric Tools shall include, and be limited to, the products contained in Standard Industrial Classification Codes 3546101, 3546103, 3546104, 3546105, 3546107, 3546109, 3546112, 3546115, 3546116, 3546117, 3546118, 3546119, 3546121, 3546122, 3546123, 3546125, 3546126, 3546127, 3546128, 3546129, 3546133, 3546134, and 3546135 of the 1977 Census of Manufacturing Numerical List of Manufactured Products (Oct. 1978).

(C) "Gasoline Powered Chain Saw" shall mean a portable hand held chain saw powered by a gasoline engine.

(D) "Ridge Portable Electric Tool Assets" shall mean the physical assets (such as tools, dies, jigs, component parts and inventory) acquired for, and design and development drawings and other documents relating to, the design, development, production, sale or marketing of Portable Electric Tools by or for Ridge Tool Company (a subsidiary of Emerson Electric Co.) pursuant to the Ridge Tool Company's Portable Electric Tool internal development program, and the trademark "Ritco."

(E) "United States" shall mean the United States of America, the District of Columbia, any territory, insular possession or other place under the jurisdiction of the United States of America.

(F) "Emerson Electric Co." shall mean Emerson Electric Co. and its divisions, subsidiaries and affiliated companies.

(G) "Manufacturer" shall mean any person who manufactures or assembles Portable Electric Tools or Gasoline Powered Chain Saws for sale in the United States, and any non-manufacturing sales subsidiary or division thereof which is engaged in the sale of Portable Electric Tools or Gasoline Powered Chain Saws in the United States.

III

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

IV

(A) Defendant Emerson Electric Co. shall transfer the Ridge Portable Electric Tool Assets to Allegretti & Company in accordance with the terms of the agreement dated October 29, 1979 between Emerson Electric Co. and Allegretti & Company. The contract of sale entered into pursuant to this Final Judgment shall require Allegretti & Company to file with this Court an affidavit to the effect that it intends to use the Ridge Portable Electric Tool Assets to manufacture and sell Portable Electric Tools in the United States.

(B) Defendant Skil Corporation shall give up the non-exclusive license to United States Patent No. 4,121,339 granted to it by the agreement between Skil Corporation and National Union Electric Corporation dated January 12, 1979, and, for a period of three years from the date of this Final Judgment: (1) shall provide service through the Skil-owned United States service facilities, on reasonable commercial terms, for all chain saws manufactured for sale in the United States or sold in the United States by Electrolux AB or any of its subsidiaries; (2) shall extend the present right of National Union Electric Corporation to use the Skil name in connection with its advertising of chain saws; and (3) shall make available to National Union Electric Corporation, on reasonable commercial terms, technical assistance and marketing advice by Skil Corporation personnel with respect to the production and marketing of Gasoline Powered Chain Saws in the United States.

V

Defendant Emerson Electric Co. is enjoined and restrained from acquiring within the United States, directly or indirectly, for a period of ten (10) years from the date of entry of this Final Judgment, any of the business or assets of (other than products, inventory, equipment, licenses or services acquired in the ordinary course of business), or more than one (1) percent of the equity interest in, any Manufacturer of Portable Electric Tools or Gasoline Powered Chain Saws without either (1) the prior written consent of the plaintiff, or (2) if such consent is not given within thirty (30) days after receipt by plaintiff of a written request therefor and a submission of facts with respect to such proposed acquisition, the prior approval of this Court. This injunction shall not be construed to prohibit either defendant from acquiring any business or assets of any such Manufacturer where the acquired portion of such business or assets was neither operated nor otherwise employed within either of said Manufacturer's five most recently completed fiscal years in manufacturing for sale in the United States, or selling in the United States, Portable Electric Tools or Gasoline Powered Chain Saws.

VI

For the purpose of securing or determining compliance with this Final Judgment, and subject to any legally recognized privilege:

(A) Any duly authorized representative or representatives of the Department of Justice shall, upon written request by the Attorney General or the Assistant Attorney General in charge of the Antitrust Division and on reasonable notice to defendant made to its principal office, be permitted:

(1) Access during the office hours of each defendant, which may have counsel present, to all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of defendant relating to any matters contained in this Final Judgment; and

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

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

(C) If at the time information or documents are furnished by a defendant to plaintiff, defendant represents and identifies in writing the material in any such information or documents of a type described in Rule 26(c)(7) of the Federal Rules of Civil Procedure, and said defendant marks each pertinent page of such material, "Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure," then ten (10) days' notice shall be given by plaintiff to such defendant prior to divulging such material in any legal proceeding (other than a Grand Jury proceeding) to which that defendant is not a party.

VII

Jurisdiction is retained 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 modification of any of the provisions hereof, for the enforcement of compliance herewith, or for the punishment of the violation of any of the provisions contained herein.

VIII

Entry of this Final Judgment is in the public interest.

Dated:
May 5, 1980

Judge James J. Moran
United States District Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	No. 79 C 1144
	)	
-against-	)	AFFIDAVIT
	)	
EMERSON ELECTRIC CO. and SKIL CORPORATION,	)	
	)	
	)	
Defendants.	)	

STATE OF MISSOURI)
) SS:
COUNTY OF ST. LOUIS)

JOSEPH B. ALLEGRETTI, being duly sworn, says:

1. I am the President of Allegretti & Company, whose principal place of business is located at 9200 Mason Avenue, Chatsworth, California. I submit this affidavit in accordance with the requirements of Article IV(A) of the Final Judgment in the above matter and Paragraph 5.1(d) of the agreement between Allegretti & Company and Emerson Electric Co. dated October 29, 1979. That agreement accurately sets forth the terms and conditions of the purchase by Allegretti & Company of the Ridge Portable Electric Tool Assets (as that term is defined in Article II(D) of the Final Judgment).

2. Allegretti & Company has negotiated with Emerson on an arm's length basis for the purchase of the Ridge Portable Electric Tool Assets and intends to use those Assets to manufacture and sell portable electric tools in the United States. Allegretti & Company intends to commence the manufacture and sale of portable electric tools as soon as practicable once the transfer of the Ridge Portable Electric Tool Assets to Allegretti & Company by Emerson, and the proposed Final Judgment, are approved by the Court and become effective.

Joseph B. Allegretti

Subscribed and sworn to before me this 29th day of October, 1979.

Notary Public