

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. Kliegman Bros., Inc., West Side Corp., Diamond Chemical Co., Inc., Cleaners Sales & Equipment Corp., American Chemical & Supply Co., Inc., Mindich Enterprises, Inc., d/b/a L & L Distributors, Perk Chemical Co., Inc., Poles Supply Co., Inc., and Pride Solvents & Chemical Co., Inc., U.S. District Court, E.D. New York, 1979-1 Trade Cases ¶62,428, (Nov. 17, 1978)

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United States v. Kliegman Bros., Inc., West Side Corp., Diamond Chemical Co., Inc., Cleaners Sales & Equipment Corp., American Chemical & Supply Co., Inc., Mindich Enterprises, Inc., d/b/a L & L Distributors, Perk Chemical Co., Inc., Poles Supply Co., Inc., and Pride Solvents & Chemical Co., Inc.

1979-1 Trade Cases ¶62,428. U.S. District Court, E.D. New York, No. 76 C 1885 (JBW), Entered November 17, 1978.

(Competitive impact statement and other matters filed with settlement: 43 *Federal Register* 39190). Case No. 2542, Antitrust Division, Department of Justice.

Sherman Act

Price Fixing: Allocation of Markets: Exchange of Information: Dry-Cleaning Fluid Industry: Consent Decree.— Dry-cleaning fluid wholesalers were barred by a consent decree from fixing prices, allocating customers, markets or territories, and exchanging information in connection with the sale of perchloroethylene, a common dry-cleaning fluid. The decree would remain in effect until November 30, 1984.

For plaintiff: John H. Shenefield, Asst. Atty. Gen., William E. Swope, Richard J. Favretto, Charles F. B. McAleer, Ralph T. Giordano, Melvin Lublinski, and Jacqueline W. Distelman, Attys., Dept. of Justice. **For defendants:** Joseph W. Burns, of Burns, Van Kirk, Greene & Kafer, for Kliegman Bros., Inc.; Samuel Panzer, for Diamond Chemical Co., Inc.; Leonard Lieman, for Cleaners Sales & Equipment Corp.; John J. O'Toole, for American Chemical & Supply Co., Inc.; Stuart A. Schlesinger and Edward J. Sanocki, Jr., of Julien, Schlesinger & Finz, for West Side Corp.; Alan M. Simon, for Mindich Enterprises, Inc.; Robert Tessler, for Perk Chemical Co., Inc.; Bruce M. Pitman, of Diamond Grossman, Pitman & Anzaldi, for Poles Supply Co., Inc.; John Martin, of Martin, Obermaier & Morvillo, for Pride Solvents & Chemical Co., Inc.

Final Judgment

WEINSTEIN, D. J.: Plaintiff, United States of America, having filed its complaint herein on October 14, 1976, and the defendants, by their respective attorneys, having appeared and filed their answers to the complaint denying the material allegations thereof, and the plaintiff and the 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 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 without this Final Judgment constituting any evidence or admission by any party with respect to any such issue and upon the consent of the parties, 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 a claim upon which relief may be granted against the defendants under Section 1 of the Act of Congress of July 2, 1890, commonly known as the Sherman Act, as amended (15 U. S. C. §1).

II

As used in this Final Judgment:

- A. "Persons" shall mean any individual, corporation, partnership, firm, association or other business or legal entity.
- B. "Perchloroethylene" shall mean a clear, nonflammable liquid composed of ethylene dichloride and chlorine.

III

[Applicability]

The provisions of this Final Judgment shall apply to each defendant, to its subsidiaries, affiliates, 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

[Price Fixing; Allocation of Markets]

Each defendant is enjoined and restrained directly or indirectly from entering into, adhering to, maintaining or engaging in any agreement, understanding, arrangement, plan or program with any other person to:

- A. Fix, raise, maintain, stabilize or adhere to prices or other terms or conditions for the sale of perchloroethylene to any third person; or
- B. Allocate, limit, apportion or divide territories, markets or customers for the sale of perchloroethylene.

V

[Exchange of Information]

Each defendant is enjoined and restrained from:

- A. Communicating to or exchanging with any other distributor of perchloroethylene, any information concerning any actual or proposed price, price change or discount at which perchloroethylene is to be or has been sold by said defendant prior to the communication of such information to the public or to customers generally;
- B. Requesting from any other distributor of perchloroethylene any information of a type which said defendant could not communicate to such other distributor of perchloroethylene without violating paragraph (A) of this Section V.

VI

[Notice]

Each defendant is ordered and directed to:

- A. Serve within sixty (60) days after the date of entry of this Final Judgment a conformed copy of this Final Judgment upon each of its officers and directors, and each of its employees who have any responsibility for the sale of perchloroethylene by such defendant;
- B. Serve a conformed copy of this Final Judgment upon each successor officer and director, and each successor employee having any responsibility for the sale of perchloroethylene by such defendant; and

C. Within ninety (90) days after the date of entry of this Final Judgment, to file with this Court and to mail to the plaintiff, an affidavit setting forth the fact and manner of compliance with paragraph (A) of this Section VI.

VII

[*Inspections*]

A. For the purpose of determining or securing compliance with this Final Judgment, any duly authorized representative 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 each such defendant made to its principal office, be permitted, subject to any legally recognized privilege:

(1) Access during the office hours of each defendant, to inspect and copy all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of each defendant, who may have counsel present, relating to any matters contained in this Final Judgment; and

(2) Subject to the reasonable convenience of each defendant and without restraint or interference from it, to interview officers, directors, agents, partners or employees of each defendant any of whom may have counsel present, regarding any such matters.

B. Each defendant, upon the written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, 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 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 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.

VIII

[*Retention of Jurisdiction*]

Jurisdiction of this action 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 thereof, and for the enforcement of compliance therewith and punishment of violations thereof.

IX

[*Term of Judgment*]

This Final Judgment shall remain in effect until November 30, 1984.

X

[*Public Interest*]

Entry of this Final Judgment is in the public interest.