

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF VERMONT

UNITED STATES OF AMERICA,)	
)	
PLAINTIFF,)	CIVIL ACTION NO.
)	
v.)	Filed: March 17, 1993
)	
)	Judge Parker
)	
CANSTAR SPORTS USA, INC.,)	
)	
Defendant.)	

FINAL JUDGMENT

Plaintiff, United States of America, having filed its complaint herein on March 17, 1993, and plaintiff and defendant, CANSTAR SPORTS USA, INC., 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 an admission by any party with respect to any such issue;

And whereas defendant has agreed to be bound by the provisions of this Final Judgment pending its approval by the Court;

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 as follows:

This Court has jurisdiction of the subject matter of this action and of the party consenting hereto. The complaint states a claim upon which relief may be granted against defendant under Section 1 of the Sherman Act (15 U.S.C. § 1).

II

As used in this Final Judgment:

(A) "Person" means any individual, corporation, partnership, company, sole proprietorship, firm or other legal entity.

(B) "Retail Dealer" means any person, not wholly owned by Canstar, who purchases or acquires hockey skates manufactured or sold by Canstar for resale.

(C) "Resale price" means any price, price floor, price ceiling, price range, or any mark-up formula or margin of profit relating to hockey skates sold by retail dealers.

III

(A) This Final Judgment applies to defendant and to each of its 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) Defendant shall require, as a condition of the sale of all or substantially all of its assets or stock, that the acquiring party agree to be bound by the provision of this Final Judgment.

IV

Defendant is hereby enjoined and restrained from directly or indirectly entering into, adhering to, maintaining, furthering, enforcing or claiming any right under any contract, agreement, understanding, plan or program with any retail dealer to fix, stabilize, or maintain the resale prices at which hockey skates sold or distributed by defendant may be sold or offered for sale in the United States by any retail dealer; provided that nothing in this paragraph shall be deemed to prohibit defendant from adopting suggested resale prices of hockey skates, communicating such prices to retail dealers or terminating, unilaterally and without any agreement or understanding with any other person, any dealer that departs from the suggested resale price.

V

Defendant is ordered and directed:

(A) to send a written notice, in the form attached as Appendix A to this Final Judgment, and a copy of this Final Judgment, within sixty (60) days of the entry of this Final Judgment, to 1) each retail dealer who participated in or received information from defendant regarding defendant's 1990 Advertising and Distribution Policy for Select Professional Products and 2) each retail dealer who purchased hockey skates with V2 blades from defendant in either 1991 or 1992;

(B) to send a written notice, in the form attached as Appendix A to this Final Judgment, and a copy of this Final

Judgment, to each retail dealer who purchases hockey skates with V2 blades from defendant within three (3) years of entry of this Final Judgment and who was not previously given such notice. Such notice shall be sent within thirty (30) days after the shipment of hockey skates with V2 blades is made to such dealer by the defendant; and

(C) to furnish a copy of this Final Judgment within thirty (30) days of entry of the Final Judgment to each to its officers and directors and each of its employees, representatives, or agents whose duties include supervisory or direct responsibility for the sale or advertising of hockey skates in the United States, except those employees whose functions are purely clerical or manual.

VI

For the purpose of determining or securing compliance with this Final Judgment, and subject to any legally recognized privilege or any order issued under Section VI (E), 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 defendant at its principal office, be permitted:

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

(2) Subject to the reasonable convenience of defendant and without restraint or interference by it, to interview officers, employees and agents of 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 defendant at its principal office, 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.

(C) No information or documents obtained by the means provided in this Section VI shall be divulged by any person other than a duly authorized representative of the Executive Branch of the United States, except in the course or 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.

(D) 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 to which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and 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 or defendant prior to divulging such material in any legal proceeding (other than a grand jury proceeding).

(E) Within ten (10) days after receiving any request under Sections VI(A) or VI(B), defendant may apply to this Court for an order to quash or limit the scope of the request, and after providing plaintiff with an opportunity to respond to such application, this Court shall enter such order or directions as may be necessary or appropriate for carrying out and ensuring compliance with this Final Judgment.

VII

This Final Judgment shall remain in effect until 10 years from the date of entry.

VIII

Jurisdiction is retained by the 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 its provisions, for its enforcement or compliance, and for the punishment of any violation of its provisions.

IX

Entry of this Final Judgment is in the public interest.

Entered: _____

UNITED STATES DISTRICT COURT JUDGE

APPENDIX A

Dear Retailer:

In March 1990, Canstar announced its 1990 Advertising and Distribution Policy for Select Professional Products ("the Policy") which applied to the marketing of its new V-2 blades. The policy was ultimately not enforced, and was withdrawn in the fall of 1990.

The Antitrust Division of the United States Department of Justice filed a civil suit, alleging that the policy violated the antitrust laws. Canstar has agreed, without admitting any violation of the law and without being subject to any monetary penalties, to the entry of a civil Consent Order prohibiting certain retail pricing practices in the United States. A copy of the Order is enclosed.

Should you have any questions concerning this letter, please feel free to contact me.

Sincerely,

Phil Chiarella, President
Canstar Sports USA, Inc.
50 Jonergin Drive
Swanton, VT 05488