

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	CIVIL ACTION
v.)	
)	NO. 79 C 1144
EMERSON ELECTRIC CO. and)	
SKIL CORPORATION,)	Filed: 20 FEB 1980
)	
Defendants.)	

COMPETITIVE IMPACT STATEMENT

Pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act, 15 U.S.C. Sec. 16(b)-(h), the United States files this Competitive Impact Statement relating to the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

I

NATURE OF THE PROCEEDINGS

On March 22, 1979, the United States filed a five count civil antitrust complaint alleging that the proposed acquisition by Emerson Electric Co. (Emerson) of the capital stock of Skil Corporation (Skil) would violate Section 7 of the Clayton Act. Counts I, II, and III of the complaint alleged, respectively, that the proposed acquisition would eliminate Emerson as a

significant potential competitor in the manufacture and sale of portable electric tools, portable electric tools for industrial use, and portable electric tools for consumer use; that concentration in the manufacture and sale of portable electric tools, portable electric tools for industrial use, and portable electric tools for consumer use may be substantially increased; and that competition generally in the manufacture and sale of portable electric tools, portable electric tools for industrial use, and portable electric tools for consumer use may be substantially lessened.

As defined in the proposed Final Judgment, the term "portable electric tool" means 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.

Counts IV and V of the complaint alleged, respectively, that the proposed acquisition would eliminate competition between Emerson and Skil in the manufacture and sale of gasoline chain saws and gasoline chain saws for occasional use; that competition generally in the manufacture and sale of gasoline chain saws and gasoline chain saws for occasional use may be substantially lessened; and that concentration in the manufacture and sale of gasoline chain saws and gasoline chain saws for occasional use would be significantly increased.

The complaint sought relief from the violations alleged in the form of a temporary restraining order and a preliminary injunction enjoining the defendants and all persons acting on their behalf from taking action to consummate the proposed acquisition, the effect of which would be to consolidate the business of Skil with Emerson. The complaint also sought to prevent this result by a permanent injunction against the defendants.

On March 22, 1979 a hearing was held on the United States' request for a temporary restraining order. The order was denied. The Court did order that the assets of Skil be kept separate from those of Emerson to enable defendants to comply with any future divestiture order of the Court should the United States prevail in the case. The acquisition was consummated on March 23, 1979.

II

DESCRIPTION OF PRACTICES INVOLVED IN THE ALLEGED VIOLATION

In the years preceding the acquisition, Skil engaged in the manufacture and sale of portable electric tools for industrial and consumer use as well as accessories used with such tools. These products were sold throughout the United States. In 1977, Skil had sales of portable electric tools of approximately \$67 million, had a 13 percent share of the national market, and ranked third among firms manufacturing and selling portable electric tools. Total sales of portable electric tools in the United States in 1977 amounted to \$525 million. The market for the

manufacture and sale of portable electric tools in the United States is concentrated with the two largest firms having approximately 47 percent and the four largest firms having approximately 72 percent of total dollar sales in 1977.

Prior to its acquisition by Emerson, Skil also manufactured and sold gasoline chain saws in the United States. In 1977, Skil had approximately \$10.4 million in gasoline chain saw sales, comprising a 4 percent share of the national market. Emerson, through its Beaird-Poulan division, ranked third among firms manufacturing and selling gasoline chain saws with sales in excess of \$36.4 million comprising over 14 percent of the national market. Total sales of gasoline chain saws in the United States in 1977 were approximately \$260 million. The market for the manufacture and sale of gasoline chain saws in the United States is concentrated with the two largest firms having approximately 37 percent and the four largest firms having over 62 percent of total dollar sales in 1977. Pursuant to the agreement of purchase and sale between Emerson and Skil, Skil divested assets connected with its chain saw business to National Union Electric Corporation (National), but the United States alleged in its complaint that Skil retained sufficient technical and production capabilities to resume the manufacture and sale of gasoline chain saws.

Emerson is engaged in the business of designing, manufacturing, and selling a wide range of electric motors and products powered by electric motors, professional and hardware tools and equipment including gasoline chain saws, and numerous other electrical - electronic products for commercial, industrial and consumer uses. Emerson's fiscal 1978 sales were approximately \$2.17 billion. Although Emerson was not manufacturing portable electric tools at

the time it acquired Skil, it was selling a limited line of such tools through its Ridge Tool Co. subsidiary and was in the process of designing and developing a full line of portable electric tools of its own manufacture for sale in the United States market. In addition, Emerson manufactures and sells a wide variety of hand tools, stationary power tools, shop vacuum cleaners, hobbyist tools and accessories, and monofilament line lawn trimmers which are complementary to and may be marketed through some of the same distribution channels and advertised in the same media as Skil's portable electric tool line.

In the plaintiff's view of the case, Emerson is one of only a few companies with the financial resources, technical expertise, existing channels of distribution, and incentive to expand its product line into the manufacture and sale of portable electric tools and was perceived as a likely entrant by other persons and firms in this industry. Therefore, the suit was filed to prevent the elimination of Emerson as a potential competitor in the manufacture and sale of portable electric tools and to prevent the lessening of actual competition in the manufacture and sale of gasoline chain saws in the United States.

III

EXPLANATION OF THE PROPOSED FINAL JUDGMENT

Under the provisions of Section 2(e) of the Antitrust Procedures and Penalties Act, entry of the proposed Final Judgment by the Court is conditioned upon a determination by the Court that the proposed Final Judgment is in the public interest.

A. Divestiture

The terms of the Final Judgment require Emerson to divest the assets of its Ridge Tool Co. connected with the design and development of a portable electric tool program to Allegretti & Company in accordance with the terms of a contract dated October 29, 1979. This contract, attached to this Competitive Impact Statement, requires Allegretti to file an affidavit with the Court stating its intention to use the acquired assets to manufacture and sell portable electric tools in the United States.

The Final Judgment further enjoins Emerson for a period of 10 years from acquiring the business or assets of, or more than a one percent equity interest in, any manufacturer of portable electric tools or gasoline chain saws without the prior consent of the plaintiff or approval of the Court.

The Judgment also requires Skil to divest the non-exclusive patent license which it retained under its agreement of sale with National.

B. Required Conduct

Skil is required for a period of three years from the date of the Final Judgment: (1) to provide service in Skil-owned facilities for chain saws sold by National; (2) to extend from its current one year term, National's right to use the Skil name in connection with National's chain saw advertising; and (3) to make available technical assistance and marketing advice regarding the production or marketing of gasoline chain saws in the United States.

Also under the proposed Judgment, the Department of Justice is given access for ten years to the files and records of the defendants Emerson and Skil in order to examine such records for compliance or noncompliance with the Judgment. The Department is also granted access to interview employees of both defendants to determine whether defendants are complying with the Judgment.

C. Effect of the Proposed Final Judgment
on Competition

The relief encompassed in the proposed Final Judgment will restore the competition eliminated as a result of the acquisition. The proposed Final Judgment requires Emerson to divest all business assets connected with its portable electric tool program to Allegretti & Company, a purchaser with the capability to manufacture and sell portable electric tools in the United States in competition with Skil and other leading portable electric tool manufacturers. Allegretti, a manufacturer of electric motors, shop vacuum cleaners, and monofilament line lawn trimmers, has the plastic molding capability, electric motor technology, and channels of distribution necessary to be a successful entrant into this market. Allegretti has approximately \$50 million in annual sales and is in sound financial condition.

The conduct required of Skil in the proposed Final Judgment is designed to assist National to operate as a viable, competitive substitute for Skil in the manufacture and sale of gasoline chain saws.

Accordingly, it is the opinion of the Department of Justice that the proposed Final Judgment is adequate to remedy the anticompetitive effects of the acquisition. Disposition of the matter without further litigation is desirable in view of the fact that the proposed Final Judgment constitutes relief that is consistent with the objectives of this lawsuit, i.e., to maintain potential competition in the portable electric tool market and to restore the competition in the gasoline chain saw market eliminated by the acquisition.

IV

REMEDIES AVAILABLE TO POTENTIAL PRIVATE LITIGANTS

Section 4 of the Clayton Act (15 U.S.C. Sec. 15) provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in Federal Court to recover three times the damages such person has suffered, as well as costs and reasonable attorney's fees. Entry of the proposed Final Judgment in this proceeding will neither impair nor assist the bringing of any such private antitrust actions. Under the provisions of Section 5(a) of the Clayton Act (15 U.S.C. Sec. 16(a)), the proposed Final Judgment has no prima facie effect in any subsequent private lawsuits which may be brought against these defendants.

V

PROCEDURES AVAILABLE FOR THE MODIFICATION
OF THE PROPOSED FINAL JUDGMENT

As provided by the Antitrust Procedures and Penalties Act, any person who wishes to comment upon the proposed Final Judgment may submit written comments to John E. Sarbaugh, Chief, Chicago Field Office, Antitrust Division, United States Department of Justice, Room 2634, 219 South Dearborn Street, Chicago, Illinois 60604, within the 60-day period provided by the Act. These comments and the government's responses to them will be filed with the Court and published in the Federal Register. All comments will be given due consideration by the Department of Justice, which remains free to withdraw its consent to the proposed Final Judgment at any time prior to its entry should the government determine that some modification of the Final Judgment is necessary. Section VII of the proposed Judgment provides that the Court retains jurisdiction over this action and that the parties may apply to the Court for such orders as may be necessary or appropriate for its modification, interpretation or enforcement.

VI

ALTERNATIVE TO THE PROPOSED FINAL JUDGMENT

The alternative to the proposed Final Judgment considered by the Antitrust Division was a full trial of the issues on the merits and on relief. The Division considers the substantive language of the proposed Judgment to be of sufficient scope and

effectiveness to make litigation on the issues unnecessary, as the Judgment provides appropriate relief for the violation alleged in the complaint.

VII

OTHER MATERIALS

Aside from the contract of sale between Emerson and Allegretti attached to this Competitive Impact Statement and dated October 29, 1979, there are no materials or documents which the government considered determinative in formulating this proposed Final Judgment.

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Department of Justice

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(312) 353-7537

AGREEMENT

This Agreement made this 29th day of October, 1979, between EMERSON ELECTRIC CO., a Missouri corporation, hereinafter referred to as "Emerson," and ALLEGRETTI & COMPANY, a California corporation, located at 9200 Mason Avenue, Chatsworth, California, hereinafter referred to as "Allegretti,"

WHEREAS, Emerson through its wholly owned subsidiary Ridge Tool Company ("Ridge"), has undertaken a program to design and manufacture portable electric tools, and

WHEREAS, Emerson desires to sell the drawings, technical information and assets regarding the manufacture of such portable electric tools, and

WHEREAS, Allegretti represents that it desires to enter the portable electric tool business, and has the capability and interest to continue to develop the Ridge portable electric tool program and sell portable electric tools in the United States and elsewhere, and

WHEREAS, Allegretti desires to purchase the assets related to the Ridge portable electric tool program to enable Allegretti to manufacture and sell portable electric tools in the United States and elsewhere.

In consideration of the mutual promises and covenants set forth herein, the parties agree as follows:

ARTICLE I

Purchase and Sale

1.1 Subject to the terms and conditions hereof on the closing date as defined in Section 6.1 hereof, Emerson agrees to cause

Ridge to transfer to Allegretti and Allegretti agrees to purchase from Ridge the following described assets of Ridge (hereinafter sometimes referred to as "Assets"):

(a) Ridge's tooling, jigs, dies, fixtures, gauges and patterns, molds, test fixtures utilized by Ridge and related to Ridge's portable electric tool program as more specifically set forth in Schedule 1(a) hereof;

(b) Ridge's portable tool program's blueprints, drawings, designs, bills of material, engineering change notices, inspection reports, purchasing and manufacturing specifications, and other related technical manufacturing information, including inventions, patents and patent applications or marketing information as more specifically set forth on Schedule 1(b);

(c) All machinery and equipment utilized in Ridge's portable electric tool program as more specifically set forth on Schedule 1(c) hereof;

(d) All inventories related to Ridge's portable electric tool program, including all raw materials, all finished goods, and all work in process (hereinafter referred to as "Inventory") as more specifically set forth on Schedule 1(d) hereof;

(e) All vendors and purchase quotes and orders and other commitments related to Ridge's portable electric tool program as more specifically set forth on Schedule 1(e) hereof.

1.2 Allegretti shall not purchase and Emerson shall retain any and all cash, accounts receivable, prepaid insurance, prepaid expenses, payroll advances, real estate, income tax refunds, trademarks, tradenames and copyrights, patents not related to the Ridge

portable electric tool program, if any, except Allegretti may, prior to closing, elect to include Ridge's trademark "Ritco".

1.3 In consideration thereof, Allegretti will purchase all inventory and Assets utilized by Ridge in the portable electric tool program at Ridge's book value. The purchase price of the above Assets will be paid as follows: \$500,000.00 to be paid at closing of the contract to purchase the Assets and the balance eighteen (18) months after closing. Allegretti shall, in addition, pay the following:

a. The sum of \$250,000 when gross annual sales of the product line described on Schedule 1.3 hereof reach \$5,000,000.

b. The sum of \$250,000 when gross annual sales reach \$10,000,000.

c. The sum of \$250,000 when gross annual sales reach \$15,000,000.

d. A final sum of \$250,000 when gross annual sales reach \$20,000,000.

The purchase price shall be allocated to the assets as indicated on Schedule 1.3.

1.4 In consideration of this Agreement, on the closing date Emerson shall transfer and deliver to Allegretti all business records pertaining to the Ridge portable electric tool program, including all of the assets described in Article I and as scheduled hereunder.

1.5 Emerson will pack and ship to Allegretti all of the assets to be transferrred hereunder within a reasonable time of the closing date and as requested by Allegretti, but no later than one year following closing.. Emerson will pack and ship to Allegretti

all of the inventory to be transferred hereunder within a reasonable time of the closing date and as requested by Allegretti but no later than one year following closing. To be included with the shipment will be an invoice setting forth the inventory shipped and the value of each item. Upon receipt of such shipment, Allegretti will inspect the inventory and review the purchase price and pay for the inventory within thirty days of receipt of the inventory. Prior to closing Emerson and Allegretti will agree upon the book value of the assets to be purchased by Allegretti.

1.6 Emerson will provide to Allegretti information regarding vendors and suppliers of parts to manufacture tools which have been designed under Ridge's portable electric tool program. Emerson will cooperate and assist Allegretti in assigning existing purchase orders from Emerson to Allegretti or in obtaining purchase orders between Allegretti and such vendors or suppliers. In the event parts are not available from other vendors or suppliers, Emerson will supply Allegretti such parts on terms and conditions to be agreed upon prior to closing. Such assistance shall only be given to Allegretti on those products in Ridge's portable electric tool program that have been designated as Group 1 products on the attached Schedule 1.6. No cancellation charges will apply.

1.7 In order to facilitate Allegretti's entry into the portable electric tool market, Emerson will, for a period of two (2) years following the closing date, make available to Allegretti for purchase, at Allegretti's request, private brand portable electric tools currently sold through Emerson's Skil Corporation subsidiary on terms and conditions mutually agreed to by the parties. The period

that such tools will be made so available to Allegretti may be extended for such additional periods that may be acceptable to the parties.

ARTICLE II

Technical Assistance

2.1 Emerson will provide technical assistance to Allegretti in the design or manufacture of tools in the Ridge portable tool program being purchased herein. After signing of this Agreement, Emerson will permit a reasonable number of Allegretti's representatives at Allegretti's expense to visit Ridge's plant to study the Ridge portable electric tool program. For a period of thirty-six (36) months following closing of this transaction, Emerson agrees to furnish technical personnel to the extent that Emerson has the same available who are familiar with the Ridge portable electric tool program to aid Allegretti in the development, manufacture or sale of the Ridge portable electric tools. Such technical personnel shall be made available upon request of Allegretti and shall provide the services needed at Emerson's business location. Such technical personnel will be made available at no cost to Allegretti during the first year following closing of this transaction, up to a maximum of 120 man days. If 120 man days have been utilized during the first year following closing, Allegretti will reimburse Emerson for the salary, fringe benefits and expenses of any technical personnel furnished to Allegretti at Emerson's business location. In the event Allegretti requests that Ridge technical personnel be made available at Allegretti's business location or

elsewhere, Allegretti agrees to reimburse Emerson for the reasonable business expenses of such employee during the time the employee is performing such services for Allegretti. After the first year following closing of this transaction, such technical personnel will be made available to the extent that they are available at a cost of \$250.00 per day, plus the expenses of such employee. This paragraph shall not require Emerson or Ridge to keep any person in its employ.

Emerson agrees that it will identify the current employees who are working on the Ridge portable electric tool program and agrees that Allegretti may offer employment to such employees on terms and conditions mutually agreed upon by Allegretti and employee.

2.2 Emerson represents that it has manufactured and tested prototypes, but not marketed any of the tools being sold pursuant to this Agreement. Emerson makes no representation as to the potential profitability of the manufacture or sale of such tools. Emerson will allow Allegretti to have access to any market research related to the Ridge portable electric tool program. In addition, Emerson will allow Allegretti to have access to Ridge's marketing and sales personnel to consult with Allegretti regarding advertising, packaging, service, and product promotional techniques for such products. To the extent they are available, such personnel shall be made available to Allegretti for a period of thirty-six (36) months following closing of this transaction. Such personnel shall be provided at Ridge's business locations during reasonable business hours. Such marketing personnel will be made available at no charge to Allegretti during the first three months following closing of this transaction up to a maximum of 120 man days. If 120 man days

are utilized during the first three months following closing, Allegretti will reimburse Emerson for the salary, fringe benefits and expenses of any marketing personnel furnished to Allegretti. In the event Allegretti requests that Ridge marketing personnel be made available at Allegretti's business location or elsewhere, Allegretti agrees to reimburse Emerson for the reasonable business expenses of such employee during the time the employee is performing such services for Allegretti. After the first three months following closing of this transaction, such marketing personnel will be available to Allegretti (to the extent that they are available) at a cost of \$250.00 per day plus the expenses of such employee. This paragraph shall not require Emerson or any of its subsidiaries to keep any person in its employ.

2.3 Emerson makes no representations regarding the designs or technical information being sold herein. Emerson has not made a complete patent search to determine if the portable electric tools infringe any applicable patent, but to the best of the knowledge of Ridge and Emerson officers, the portable electric tools do not infringe any known United States Patent. Emerson or Ridge will assist Allegretti in applying for product certifications under applicable governmental or industry product standards.

2.4 Emerson represents that it is transferring to Allegretti all of the tangible and intangible personal property utilized by Ridge or Emerson related to the Ridge portable electric tool program. Emerson makes no representation that this will be all of the property or technical information necessary for the conduct of the portable electric tool business. Allegretti acknowledges that Allegretti

may have to secure additional sources of supply or purchase machines, tools, patterns, or test fixtures to manufacture the portable electric tools. In addition, Allegretti acknowledges that it may have to continue to design and develop information regarding the manufacture and sale of portable electric tools. Emerson agrees to assist Allegretti in locating vendors' and suppliers' parts to enable Allegretti to promptly distribute and sell portable electric tools.

ARTICLE III

Representations and Warranties

3.1 Emerson represents and warrants that:

(a) Emerson is a corporation duly organized pursuant to the laws of Missouri and is in good standing thereunder;

(b) This Agreement, the execution and delivery hereof by Emerson and the sale and transfer of assets to Allegretti, and the performance by Emerson of its obligations and undertakings hereunder do not violate the provisions of any other agreement or instrument by which Emerson may be bound and has been properly authorized by all necessary corporate action;

(c) Emerson has and will have at time of delivery of the assets purchased by Allegretti hereunder, good and marketable title to the assets free and clear of all liens, claims, mortgages, charges or other encumbrances.

(d) The book value of the assets purchased hereunder shall be determined in accordance with generally accepted accounting principles applied on a basis consistent with prior periods and all obsolete or unusable items of inventory shall be written down to realizable scrap value. All items of inventory as to which a value is assigned shall be usable in the ongoing operations of the business purchased hereunder.

(e) All machinery and equipment is in good order, condition and repair.

(f) Emerson will indemnify and hold Allegretti free and harmless from any claim which may be made by any creditor of Emerson or Ridge against any of the assets purchased by Allegretti hereunder.

3.2 Allegretti represents and warrants that:

(a) Allegretti is a corporation fully organized pursuant to the laws of California and is in good standing thereunder;

(b) This Agreement, the execution and delivery hereof by Allegretti and the consummation of the transaction contemplated hereby has been properly authorized by all necessary corporate action;

(c) It is Allegretti's intention to design, manufacture, and sell portable electric tools in the United States and elsewhere.

ARTICLE IV

Miscellaneous

4.1 It is understood and agreed that Emerson is not selling any right, title or interest in or to any trademark,

service mark or tradename of Emerson or its subsidiaries, except that Emerson and Ridge will agree to transfer to Allegretti, upon request of Allegretti prior to closing, the trademark "Ritco."

4.2 Allegretti agrees to hold Emerson harmless from all product liability claims arising from injuries or damages sustained from products manufactured and sold by Allegretti pursuant to the Ridge portable electric tool program provided, however, that this provision shall not apply to any product liability claim arising from negligence of Emerson or its wholly owned subsidiaries in the repair or modification of such product.

4.3 Emerson will provide for a period of thirty-six (36) months following closing warranty or service repair on products manufactured or sold by Allegretti under the Ridge portable electric tool program at Emerson's cost plus five percent. Such agreement may be extended from time to time on terms and conditions mutually agreed upon.

4.4 It is understood that no outside parties have participated in respect to the negotiations of this transaction on behalf of Allegretti and that Allegretti will indemnify and hold Emerson harmless in respect to any claim for any promotion fee or commission with respect to the transaction contemplated. It is understood that no outside parties have participated in respect to the negotiations of this transaction on behalf of Emerson and Emerson will indemnify and hold Allegretti harmless in respect to any claim for any promotion fee or commission with respect to the transaction contemplated.

ARTICLE V

Conditions Precedent to Closing

5.1 All obligations of Emerson under this Agreement are subject to the fulfillment on or before closing date of each of the following conditions, subject, however, to the right of Emerson to waive any one or more of such conditions:

(a) that the Board of Directors of Emerson has approved this contract and the sale and transfer of the assets contemplated by this Agreement;

(b) the prior approval of the Antitrust Division of the United States Department of Justice of this Agreement and of Allegretti as an acceptable purchaser of the Assets;

(c) the prior approval and execution by Emerson, the Antitrust Division and the United States District Court for the Northern District of Illinois of a Final Judgment (from which no further appeal may be taken), in form and substance satisfactory to Emerson, that would terminate as to all parties with prejudice so that it cannot be renewed, the litigation between Emerson, Skil and the United States (which bears the caption United States of America vs. Emerson Electric Co. and Skil Corporation, (79C 1144) N.D. Il) now pending in the aforesaid court;

(d) Allegretti will file with the United States District Court for the Northern District of Illinois an affidavit in the form satisfactory to Allegretti, the Antitrust Division, United States Department of Justice, and the Court to the effect that Allegretti intends to use the Ridge portable electric tool assets to manufacture and sell portable electric tools in the United States.

(e) That Allegretti shall have performed and complied with all of its obligations under this Agreement which are to be performed or complied with prior to the closing date.

(f) Allegretti shall have delivered to Emerson a certificate signed by its President and Secretary certifying that the Agreement has been duly authorized and delivered on behalf of Allegretti and is binding and enforceable against it in accordance with its terms.

ARTICLE VI

Closing

6.1 The closing of the transaction contemplated hereby shall take place at the offices of Emerson Electric Co., 8100 W. Florissant Avenue, St. Louis, Missouri, at 10:00 a.m. on the 15th day of November, 1979, (the "closing date") provided that all conditions precedent to the closing shall have been satisfied. In the event that the conditions precedent have not been satisfied by the closing date, the closing date shall be as soon thereafter as all such conditions shall have been satisfied.

6.2 On the closing date, Emerson shall execute and deliver to Allegretti appropriate instruments of assignment, transfer and conveyance of the assets in such form as Emerson or its counsel shall determine and Allegretti shall deliver to Emerson the purchase price pursuant hereto and such instruments and assumptions as may be appropriate hereunder in such form as Emerson or its counsel shall reasonably request.

ARTICLE VII

Entire Agreement, Instruction, Government Law, Counterparts

7.1 This Agreement, including the schedules delivered pursuant hereto, constitute the entire agreement of the parties and may not be changed, terminated, or discharged orally. The Table of Contents and Headings appearing in this Agreement have been inserted solely for the benefit of the parties and shall be of no force or effect in the construction of the provisions of this Agreement. This Agreement shall be construed under the laws of the State of Missouri, shall be binding upon and inure to the benefit of the parties hereof, their respective successors and assigns. This Agreement may be executed in several counterparts, such executed counterparts shall be considered an original of this Agreement.

7.2 Neither this Agreement nor any right hereunder may be assigned by any of the parties hereto provided that nothing herein shall prohibit Emerson from assigning the assets and liabilities hereto to a subsidiary of Emerson.

7.3 Notices hereunder shall be effective if deposited in the United States mail, postage prepaid, certified, return receipt requested as follows:

To: Emerson Electric Co.
8100 W. Florissant Avenue
St. Louis, Missouri 63136

Attention: Senior Vice President, Law

To: Allegretti & Company
9200 Mason Avenue
Chatsworth, California 91311

Attention: President

Any party may change the address to which notices are to be addressed by giving the other notice in the manner herein set forth.

7.4 In any action brought to enforce any provision hereof, the prevailing party shall be entitled to recover costs of suit and reasonable attorney's fees.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on and as of the 29th day of October, 1979.

EMERSON ELECTRIC CO.

ATTEST:

By: _____

ALLEGRETTI & COMPANY

ATTEST:

By: _____

Joseph B. Allegretti

PARAMOUNT

Allegretti & Company

9200 MASON AVENUE • CHATSWORTH, CALIFORNIA 91311
TELEPHONE AREA CODE: 213 • 341-4800

October 31, 1979

Re: United States v. Emerson Electric Co.
Civ. No. 79 C 1144

John L. Burley, Esq.
Assistant Chief, Midwest Office
United States Department of Justice
Antitrust Division
219 South Dearborn Street
Chicago, Illinois 60604

Dear Mr. Burley:

At the request of Emerson Electric Co., I am writing to provide you with background information and a description of the business of Allegretti & Company to assist you in evaluating my Company as a prospective purchaser of the Ridge Portable Electric Tool Assets.

Prior to its incorporation as Allegretti & Company on April 20, 1960, the business was conducted as a partnership between my father, Albert J. Allegretti, and my uncle, Joseph A. Allegretti. The original partnership was formed in 1934, but it was not until 1947 that it became engaged in what can be described as its present business. In that year, the firm entered the lawn and garden business with the production of a hand edger.

In 1954 the firm produced its first electric product, also a lawn edger. We began making our own electric motors in 1958 and continue to do so today. Although our original production of motors was limited to universal motors for our own requirements, we have since expanded our motor operations to include the production of permanent magnet motors and in addition to our own motor requirements, the supply of electric motors (of both types) to other firms.

For example, between 1965 and 1971 we supplied motors to Roper Corporation for use in electric lawnmowers which Roper manufactured for Sears, Roebuck & Company. We have supplied motors and finished product on a private label basis (since 1973) for Weed Eater, Inc. (which was acquired by Emerson Electric Co. in 1977). We presently supply motors for use in food processors manufactured by

the Hamilton Beach Division of Scovill; for use in vacuum cleaners, and are in the process of developing motors for use in garbage disposal units. To facilitate the continued expansion of our motor business, we increased our physical capabilities for the production of electric motors by purchasing three facilities from a subsidiary of Nabisco in 1978.

The electric motors produced by Allegretti are either usable or readily adaptable for use in portable electric tools and it is our intention to produce at Allegretti motors for use in the products that will be manufactured as a result of the purchase by Allegretti of the Ridge Portable Electric Tool program.

In 1974 Allegretti purchased an injection molding company (which we have since greatly expanded), which provides us with plastic molding capability of the type used in the portable electric tool business. It is our intention to use our internal plastic molding capabilities in the portable electric tool business.

In addition to having manufacturing experience and capabilities necessary to complete the Ridge Portable Electric Tool program, I believe that Allegretti is financially capable of undertaking the venture. I have reviewed the Ridge Portable Electric Tool program and am aware of the remaining commitments (both financial and otherwise) that are necessary to its completion.

Although I understand your interest in determining our financial capabilities, Allegretti is a closely held, family-owned corporation. The financial statements of the Company are not publicly available and are highly confidential. Therefore, I am extremely reluctant to supply you with a copy of our financial statements. However, we do make our financial statements available to Dun & Bradstreet and that organization can (with the exception of certain financial items which we regard as highly sensitive and which should not be relevant here) supply you with accurate financial information about Allegretti.

In addition to the financial information obtainable through Dun & Bradstreet, the following financial information with regard to our sales and assets may be helpful to you. Sales of Allegretti have progressed as follows since 1971:

<u>Year</u>	<u>Approximate Sales*</u>
1971	\$ 2,000,000
1972	4,000,000
1973	5,000,000
1974	7,000,000
1975	10,000,000
1976	22,000,000
1977	45,000,000
1978	53,000,000
1979	50,000,000

* The Company operates on a September 30th fiscal year basis.

The current book value of the Company's assets are approximately \$21,000,000 - 22,000,000. (Replacement value is, of course, much higher). Allegretti presently has no outstanding debt and has a cash position of approximately \$6,000,000.

In terms of physical facilities, Allegretti is located in Chatsworth, California (our principal operations), El Paso, Texas and Juarez, Mexico. We have recently purchased substantial additional land in El Paso, Texas in order to be able to expand that facility. Allegretti employs between 1200 and 1400 people.

With respect to engineering and product design and development capabilities, Allegretti employs approximately 12 engineers, some of whom have electric motor capability. Some of these people have had prior experience with companies such as Black and Decker and Sunbeam and, in my opinion, provide Allegretti with an effective engineering department that is well suited to work on portable electric tools. I believe that Allegretti has the design and development capabilities to continue the Ridge Portable Electric Tool program.

Allegretti sells its products to a variety of customers and through various channels of distribution. Sears, Roebuck & Company is a very large customer of Allegretti and has been since 1948. Over the years Allegretti has sold hand edgers, electric edgers, electric leaf blowers and electric string trimmers to Sears. The products sold to Sears are private label products which are re-sold by Sears under its own brand names.

Allegretti also sells lawn and garden products under its own "Paramount" brand to other large retailers, including K Mart, Treasury (a division of J.C. Penney), and Home Center Hardware subsidiaries of W. R. Grace. In addition, Allegretti sells its products to lawn and garden distributors throughout the country including such major distributor cooperatives as Liberty and Allied, and major retailer cooperatives such as Ace and Cotter (True Value).

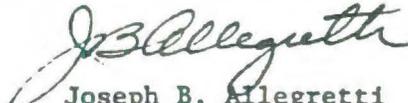
The Allegretti sales effort is spearheaded by five sales executives who travel across the country for the Company and who work with approximately 50 independent sales representatives who sell Allegretti's products throughout the world.

Although Allegretti presently sells products under its Paramount brand, it may not be our intention to sell portable electric tools under that brand. (Neither do we have any present interest in using the Ritco

trademark.) We believe that Allegretti enjoys an excellent reputation for the motors and products it produces and that Allegretti is known by its company name as a producer of such products. Therefore, it is our proposed intention to market the portable electric tools, which we believe can produce substantial revenues for Allegretti.

I hope the foregoing information is helpful and is sufficient for your needs. If you have any further questions, please feel free to contact me.

Very truly yours,


Joseph B. Allegretti
President

/me