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2 Antitrust Division
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7 Attorney for the Plaintiff

8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA

10 UNITED STATES OF AMERICA,)

11 Plaintiff,)

12 v.)

13 KDI CORPORATION;
14 KDI AQUA SYSTEMS, INC.; and
15 JHO DISSOLUTION CO.,)

16 Defendants.)

Civil Action No. 71-2363-AAH

Filed: October 1, 1971

Clayton Antitrust Act Violation
(15 U.S.C. §§ 18, 25)

17 COMPLAINT

18
19 The United States of America, plaintiff, by its attorneys,
20 acting under the direction of the Attorney General of the United
21 States, brings this civil action to obtain equitable relief against
22 the above-named defendants, and complains and alleges as follows:

23 I

24 JURISDICTION AND VENUE

25 1. This complaint is filed and this action is instituted
26 against the defendants under Section 15 of the Act of Congress of
27 October 15, 1914, as amended (15 U.S.C. § 25), commonly known as
28 the Clayton Act, in order to prevent and restrain the continuing
29 violation by the defendants, as hereinafter alleged, of Section 7
30 of the Clayton Act (15 U.S.C. § 18).

31 2. The defendants transact business and are found within
32 the Central District of California.

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II

DEFINITIONS

3. As used herein:

- (a) "Southern California" means that area of California from the Bakersfield area to the Mexican border, including Kern, Santa Barbara, San Bernardino, Ventura, Los Angeles, Orange, Riverside, San Diego and Imperial Counties;
- (b) "swimming pools" means residential swimming pools constructed of steel-reinforced gunite or concrete and includes the trim, equipment and accessories regularly sold with a finished swimming pool, such as, but not limited to, filtration systems, decking and tile; and
- (c) "franchisee" means a business entity which is licensed by a separate business entity to construct and sell swimming pools under a designated trade name on conditions and terms established by the licensor.

III

DEFENDANTS

4. KDI Corporation (hereinafter referred to as "KDI") is hereby made a defendant herein. KDI is a corporation organized and existing under the laws of the State of Delaware and maintains its principal office in Cincinnati, Ohio.

5. KDI Aqua Systems, Inc. (hereinafter referred to as "KDI Aqua") is hereby made a defendant herein. KDI Aqua is a corporation existing under the laws of the State of Delaware which was organized in 1969 and maintains its principal office in North Hollywood, California. KDI Aqua is a wholly-owned subsidiary of KDI. Each reference to KDI Aqua herein shall include its subsidiary and affiliate corporations.

1 6. JHO Dissolution Co. (hereinafter referred to as "JHO")
2 is hereby made a defendant herein. JHO is a corporation existing
3 under the laws of the State of California for the purpose of
4 winding up the affairs of Aqua Systems, Inc. Aqua Systems, Inc.
5 was organized in 1968 and changed its name to JHO Dissolution
6 Co. on or about January 15, 1970, after transferring substantially
7 all of its assets to KDI Aqua. JHO maintains its principal
8 office in Los Angeles County, California. Each reference to
9 JHO herein shall include Aqua Systems, Inc. and the subsidiary
10 and affiliate corporations of JHO and Aqua Systems, Inc.

11 IV

12 TRADE AND COMMERCE

13 7. Prior to the sale of its assets to KDI, JHO licensed
14 various franchisees to sell and install swimming pools in Southern
15 California under the trade names "Blue Haven Pools" and "Sunset
16 Pools". JHO either owned a controlling stock interest in or
17 exercised control over the business operations of its franchisees
18 through franchise agreements.

19 8. Royal Pools of Orange County (hereinafter referred to
20 as "Royal") is a corporation existing under the laws of the State
21 of California which was organized in 1960 and maintains its
22 principal office in North Hollywood, California. Royal has
23 licensed various franchisees to sell and install swimming pools
24 in Southern California under the trade name "Royal Pools". Royal
25 has owned a controlling stock interest in each of its franchisees.

26 9. In 1969, approximately 11,000 swimming pools were in-
27 stalled in Southern California. The total value of such swimming
28 pools was over \$40 million. Approximately 22 percent of the
29 swimming pools installed in Southern California in 1969 were
30 sold by franchisees of JHO under the Blue Haven Pools or Sunset
31 Pools trade names. Royal franchisees operating under the Royal
32 Pools trade name accounted for an additional 9 percent of such sales.

1 10. Prior to sale of its assets to KDI, JHO was engaged in
2 the sale and installation of swimming pools and in the licensing
3 of franchisees to sell and install swimming pools in various
4 states of the United States.

5 11. Both JHO and Royal, including their subsidiaries and
6 affiliates, have ordered, purchased and received, and have caused
7 to be ordered, purchased and received, substantial quantities of
8 swimming pool equipment and accessories and materials and supplies
9 used in the construction and installation of swimming pools which
10 have been shipped and transported across state lines in interstate
11 and foreign commerce, and have acted as conduits for the regular,
12 continuous and uninterrupted flow of such equipment, accessories,
13 materials and supplies through their warehouses and facilities to
14 purchasers of swimming pools in Southern California.

15 V

16 OFFENSE ALLEGED

17 12. On or about July 10, 1969, JHO acquired substantially
18 all of the outstanding capital stock of Royal. On or about
19 January 9, 1970, at the direction of KDI, KDI Aqua acquired
20 substantially all of the assets of JHO.

21 13. The effect of the transactions described in paragraph
22 12 has been to create and perpetuate a consolidation of business
23 operations which may substantially lessen competition or tend
24 to create a monopoly in the sale of swimming pools in Southern
25 California, in violation of Section 7 of the Clayton Act, in
26 the following ways, among others:

- 27 (a) actual and potential competition between
28 franchisees selling under the Blue Haven
29 Pools and Sunset Pools trade names and
30 franchisees selling under the Royal Pools
31 trade name has been substantially lessened;

32

1 (b) the relative size of KDI Aqua's swimming
2 pool sales and installation operations in
3 Southern California has been increased to
4 such a point that its advantage over
5 competitors threatens to become decisive;
6 and

7 (c) concentration in the sale of swimming
8 pools in Southern California has been
9 increased to the detriment of actual and
10 potential competition.

11 PRAYER

12 WHEREFORE, the plaintiff prays:

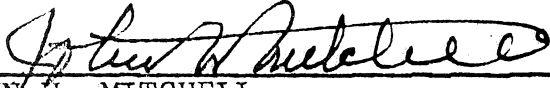
13 1. That the transactions described in paragraph 12 of
14 this complaint be adjudged a violation of Section 7 of the
15 Clayton Act.

16 2. That KDI Aqua be required to divest all of its owner-
17 ship interest in Royal.


18 3. That KDI and KDI Aqua be enjoined for a period of 10
19 years from the date of final judgment in this action from
20 acquiring, directly or indirectly, the stock or assets of
21 any corporation, company or business engaged in the sale or
22 installation of swimming pools in Southern California.

23 4. That the plaintiff have such other and further relief
24 as the nature of the case may require and which the Court may
25 deem just and proper.
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1 5. That the plaintiff recover the costs of this suit.

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6 Attorney General

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