

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	Civil No. C-76-566
	)	
v.	)	Judge John M. Manos
	)	
E. I. DU PONT DE NEMOURS &	)	Filed: July 14, 1980
CO., INC.,	)	
	)	Entered: SEP 29 1980
Defendant.	)	

STIPULATION

It is stipulated by and between the undersigned parties,  
by their respective attorneys, that:

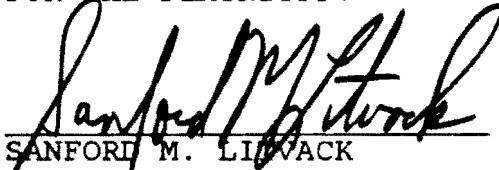
1. The parties consent that a Final Judgment in the form hereto attached may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. § 16), and without further notice to any party or other proceedings, provided that plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on defendant and by filing that notice with the Court.

2. In the event plaintiff withdraws its consent or if the proposed Final Judgment is not entered pursuant to this Stipulation, this Stipulation shall be of no effect

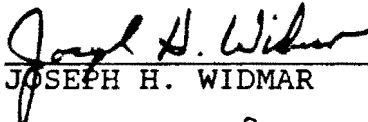
whatever and the making of this Stipulation shall be without prejudice to any party in this or any other proceeding.

Dated: July 14, 1980

FOR THE PLAINTIFF:

  
SANFORD M. LITVACK  
Assistant Attorney General

/s/ Edmund Round  
EDMUND ROUND

  
JOSEPH H. WIDMAR

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United States Attorney

FOR THE DEFENDANT:

  
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HARRY C. NESTER

Attorneys for E.I. Du Pont  
de Nemours & Co., Inc.

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UNITED STATES OF AMERICA,	)	
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Plaintiff,	)	
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	)	
Defendant.	)	Entered: SEP 29 1980

FINAL JUDGMENT

Plaintiff, United States of America, having filed its Complaint herein on June 7, 1976, 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 this Final Judgment constituting any evidence against 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 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 defendant under Section 1 of the Sherman Act (15 U.S.C. § 1).

## II

As used in this Final Judgment, the term:

(A) "Lucite consumer paint" shall mean the paint that Du Pont manufactures and sells to consumers under the trademark "Lucite" (which is a registered trademark of the defendant), and includes, but is not limited to, the products "Lucite" House Paint and "Lucite" Wall Paint;

(B) "Person" shall mean any individual, corporation, partnership, firm, association or other business or legal entity;

(C) "Retailer" shall mean a person other than Du Pont that sells Lucite consumer paint in the United States of America.

## III

This Final Judgment applies to the defendant and to 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.

## IV

Defendant is enjoined and restrained from, in any manner, directly or indirectly, entering into, adhering to, maintaining, furthering, enforcing or claiming any right under any contract, agreement, understanding, or concert of action, under which the retailer is reimbursed by defendant for advertising "Lucite" consumer paint and defendant conditions the retailer's reimbursement by defendant on the retailer's advertising "Lucite" consumer paint either at or above minimum prices set by defendant, or without stating any price in the advertisement.

V

Defendant is ordered and directed to:

(A) Within sixty (60) days after the date of entry of this Final Judgment, furnish a conformed copy of this Final Judgment to (1) each of its directors and (2) each of its officers and employees who has managerial or supervisory authority for the pricing or sale of "Lucite" consumer paint to retailers or for any cooperative retailer advertising plan for "Lucite" consumer paint;

(B) Furnish a conformed copy of this Final Judgment to each person who becomes a director or an officer or employee described in subparagraph (A) hereof, within thirty (30) days after each such person becomes a director, or such an officer or employee;

(C) At the time the conformed copy of this Final Judgment is furnished to those persons described in subparagraphs (A)(1), (A)(2) and (B) hereof, advise each person of his obligations and of defendant's obligations under this Final Judgment, and of the penalties that may be imposed upon him and upon defendant for violation of this Final Judgment. Substantially similar advice shall be given to those officers and employees described in subparagraphs (A)(2) and (B) hereof at least once a year for a period of five (5) years after the date of entry of this Final Judgment;

(D) Include in any cooperative retailer advertising plan that may be put into effect during the period this Final Judgment remains in effect a statement that reimbursement under the plan is not conditioned upon the retailer's advertising "Lucite" consumer paint either at or above minimum prices set by defendant, or upon the absence of price in any advertisement;

(E) File with this Court and serve upon the plaintiff within thirty (30) days after its compliance with subparagraph (A) hereof, an affidavit as to the fact and manner of such compliance;

(F) File with this Court and serve upon the plaintiff, within thirty (30) days after its compliance with subparagraph (C) hereof, an affidavit as to the fact and manner of such compliance. Such affidavit shall be filed at least once in each of the five (5) years during which compliance with subparagraph (C) hereof is required.

## VI

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 defendant made to its principal office, be permitted:

(1) Access during office hours of defendant to inspect and copy all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of defendant, who may have counsel present, 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, employees and agents of 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 defendant's 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.

No information or documents 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 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 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 ten (10) days notice shall be given by plaintiff to 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 by this Court 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 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.

VIII

Defendant shall require, as a condition of the sale or disposition of all, or substantially all, of the assets used by it in the manufacture and sale of "Lucite" consumer paint, that the acquiring party agree to be bound by the provisions of this Final Judgment, and that such agreement be filed with the Court.

IX

This Final Judgment shall terminate and cease to be effective ten (10) years from the date of its entry.

X

Entry of this Final Judgment is in the public interest.

/s/ John M. Manos  
UNITED STATES DISTRICT JUDGE

Dated: SEP 29 1980