

**Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. Oregon Athletic Equipment Co., Inc., Portland Athletic Supply Co., Wilson Sporting Goods Co., Frank Bashor Supplies, Inc., Bill Beard Sporting Goods, Inc., and Caplan's Sport Shop., U.S. District Court, D. Oregon, 1969 Trade Cases ¶72,794, (Jun. 12, 1969)**

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United States v. Oregon Athletic Equipment Co., Inc., Portland Athletic Supply Co., Wilson Sporting Goods Co., Frank Bashor Supplies, Inc., Bill Beard Sporting Goods, Inc., and Caplan's Sport Shop.

1969 Trade Cases ¶72,794. U.S. District Court, D. Oregon. Civil No. 68-424. Entered June 12, 1969. Case No. 2010 in the Antitrust Division of the Department of Justice.

**Sherman Act**

**Conspiracy—Collusive and Rigged Bids—Athletic Equipment.**—Athletic equipment distributors and a manufacturer were barred by the terms of a consent decree from conspiring to submit collusive and rigged bids on athletic equipment. Additionally, the decree set limitations on exchanges of price information between the companies and other sellers of athletic supplies.

For the plaintiff: Richard W. McLaren, Asst. Atty. Gen., Baddia I. Rashid, William D. Kilgore, Jr., Marquis L. Smith, Gilbert Pavlovsky, and J. Frederick Malakoff, Attys., Dept. of Justice.

For the defendants: William F. Bernard, of Bernard, Bernard & Hurley, Portland, Ore., for Oregon Athletic Equipment Co., Inc.; Herbert W. Winfree, of Winfree, Latourette, Murphy & Bayless, Portland, Ore., for Portland Athletic Supply Co.; Howard Adler, Jr., of Bergson, Borkland, Margolis & Adler, Washington, D. C. and Allan Hart, of Lindsay, Nahstoll, Hart, Dafoe & Krause, Portland, Ore., for Wilson Sporting Goods Co.; Glen McCarty, of McCarty & Rosacker, Portland, Ore., for Frank Bashor Supplies, Inc.; Bruce W. Williams, of Williams, Skopil, Miller & Beck, Salem, Ore., for Bill Beard Sporting Goods, Inc.; Charles V. Elliott, of Elliott & Davis, Portland, Ore., for Caplan's Sport Shop.

SOLOMON, D. J.: Plaintiff, United States of America, having filed its complaint herein on August 1, 1968, and the defendants and the plaintiff, 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 evidence of an admission by plaintiff or defendants 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

**[ Jurisdiction ]**

This Court has jurisdiction of the subject matter hereof 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, as amended (15 U. S. C. § 1), commonly known as the Sherman Act.

II

**[ Definitions ]**

As used in this Final Judgment:

(A) "Person" means an individual, partnership, firm, association, corporation or other legal or business entity.

- (B) "Athletic equipment" means equipment and apparel designed for use by participants in sporting and athletic events and by students in physical education classes.
- (C) "United States" means the United States of America, its territories and possessions.
- (D) "Seller" means any manufacturer, distributor, dealer, or retailer engaged in the sale of athletic equipment.
- (E) "Competing seller" means any seller as defined in 11(D) herein who sells athletic equipment, either directly or through an agent or other representative, in the City of Portland, Oregon, or within a 500-mile radius thereof.

### III

#### **[ Applicability ]**

The provisions of this Final Judgment applicable to defendants shall also apply to each of their respective subsidiaries, successors, assigns, officers, directors, agents and employees, and to all other persons acting in concert or participation with any defendant who shall have received actual notice of this Final Judgment by personal service or otherwise.

### IV

#### **[ Scope ]**

The provisions of this Final Judgment shall, unless otherwise indicated, apply to each of the defendants in their activities throughout the United States.

### V

#### **[ Rigged Bids ]**

Each of the defendants is enjoined and restrained from, in any manner, directly or indirectly, continuing, maintaining, or entering into any agreement, understanding, combination or conspiracy to submit collusive or rigged bids to purchasers of athletic equipment, and from engaging in any other agreement, understanding, combination, conspiracy or concert of action having a similar purpose and effect with respect to the sale of athletic equipment.

### VI

#### **[ Communicating Prices ]**

The defendants Oregon Athletic Equipment Co., Inc., Portland Athletic Supply Company, Frank Bashor Supplies, Inc., Bill Beard Sporting Goods, Inc., and Caplan's Sport Shop are each enjoined and restrained from, directly or indirectly, communicating to any competing seller the prices, pricing methods, or terms or conditions of sale at which athletic equipment is offered for sale to any third person.

### VII

#### **[ Other Defendant ]**

The defendant Wilson Sporting Goods Co. is enjoined and restrained from, directly or indirectly, communicating to any seller the prices, pricing methods or terms or conditions of sale at which athletic equipment is offered for sale to any third person. Nothing in this Final Judgment shall preclude the defendant Wilson Sporting Goods Co., a manufacturer and distributor of athletic equipment, from issuing catalogs or price lists and distributing them to the trade generally.

### VIII

#### **[ Bona Fide Purchase or Sale ]**

Nothing in this Final Judgment shall preclude bona fide purchase or sale negotiations between any defendant and any other seller.

**IX**

**[ Inspection and Compliance]**

For the purposes of determining or of securing compliance with this Final Judgment and for no other purposes, duly authorized representatives 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 any defendant made to its principal office, be permitted, subject to any legally recognized privilege:

(A) Access, during the office hours of such defendant, which may have counsel present, to those books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of such defendant regarding any subject matter contained in this Final Judgment; and

(B) Subject to the reasonable convenience of the defendant and without restraint or interference from it, to interview officers or employees of the defendant, who may have counsel present, regarding any such matters.

Upon such written request of the Attorney General, or the Assistant Attorney General in charge of the Antitrust Division, and for the purposes of securing compliance with this Final Judgment and for no other purposes, the defendants shall submit reports in writing with respect to the matters contained in this Final Judgment, as may from time to time be required. No information obtained by the means provided in this Section 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 for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

**X**

**[ Jurisdiction Retained]**

Jurisdiction is retained for the purpose of enabling any of the parties to this Final Judgment to apply to the Court at any time (i) for such further orders or directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment, (ii) for the modification of any of the provisions thereof, and (iii) for the enforcement of compliance therewith and the punishment of violations thereof.