

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. First Hawaiian Bank (formerly First National Bank of Hawaii) and Cooke Trust Co., Ltd.; Federal Deposit Insurance Corp., Intervenor., U.S. District Court, D. Hawaii, 1969 Trade Cases ¶72,944, (Nov. 17, 1969)

[Click to open document in a browser](#)

United States v. First Hawaiian Bank (formerly First National Bank of Hawaii) and Cooke Trust Co., Ltd.; Federal Deposit Insurance Corp., Intervenor.

1969 Trade Cases ¶72,944. U.S. District Court, D. Hawaii. Civil No. 2540. Entered November 17, 1969. Case No. 1899 in the Antitrust Division of the Department of Justice.

Clayton Act

Merger—Acquisition of Competitor—Banks—Consent Decree.—An Hawaiian bank was barred by a consent decree from merging, acquiring or holding any of the stock, assets or accounts of any trust company or commercial bank with a trust department for a period of ten years, in settlement of a suit challenging a consummated merger.

For the plaintiff: Richard W. McLaren, Asst. Atty. Gen., W. D. Kilgore, Jr., Baddia J. Rashid, Charles L. Whittinghill, Herbert G. Schoepke, and Charles F. B. McAleer, Attys., Dept. of Justice.

For the defendants: C. Frederick Schutte, Gilbert E. Cox, and William M. Swope, of Smith, Wild, Beebe & Cades.

For the intervenor: Leslie H. Fisher, Gen. Counsel.

Final Judgment

PENCE, D. J.: Plaintiff, United States of America, having filed its complaint herein on June 10, 1966, seeking to enjoin alleged violations of [Section 7 of the Clayton Act](#) (15 U. S. C. Sec. 18); and defendants Cooke Trust Company, Limited and First Hawaiian Bank (formerly First National Bank of Hawaii), having on June 29, 1966 filed motions to vacate or dissolve the stay of the federal banking agencies' approvals of the merger of defendant Cooke Trust Company, Limited into defendant First Hawaiian Bank, resulting by the terms of the Bank Merger Act of 1966; and this Court (Judge Lindberg, sitting by assignment), after hearing and argument, having, on July 14, 1966, entered and filed its Findings of Fact and Conclusions of Law Upon Defendants' Motion to Dissolve Stay and its Order Vacating Stay of Effectiveness of Agency Approval; defendant Cooke Trust Company, Limited having on July 25, 1966 merged into defendant First Hawaiian Bank; defendant First Hawaiian Bank having filed its answer herein denying any violation of law; plaintiff and defendant First Hawaiian Bank, by their respective attorneys, having each consented to the making and entry of this Final Judgment without trial or adjudication of any issue of fact or law herein (other than the issues determined by the Findings of Fact and Conclusions of Law hereinabove referred to), and without this Final Judgment constituting any evidence or an admission by either party hereto with respect to any issue of fact or law herein; and this Court having considered the matter and being duly advised;

Now Therefore, upon the consent of the parties hereto, it is hereby

Ordered, Adjudged and Decreed as follows:

I

[Jurisdiction]

This Court has jurisdiction of the subject matter of this action and of the parties hereto. The complaint states a claim upon which relief may be granted against First Hawaiian Bank under Section 7 of the Act of Congress of October 15, 1914 (15 U. S. C. § 18), as amended, commonly known as the Clayton Act.

©2018 CCH Incorporated and its affiliates and licensors. All rights reserved.

Subject to Terms & Conditions: http://researchhelp.cch.com/License_Agreement.htm

II

[Definitions]

As used in this Final Judgment:

(A) "First Hawaiian" means defendant First Hawaiian Bank, which is the surviving corporation in the merger of defendant Cooke Trust Company, Limited with and into defendant First National Bank of Hawaii.

(B) "Trust company" means and includes (i) First Hawaiian, (ii) any trust company organized under the laws of and doing a trust business in the State of Hawaii, and (iii) any bank which is duly authorized under the laws of the United States and/or the State of Hawaii to engage, and which is engaged, in a trust business in the State of Hawaii.

III

[Applicability]

The provisions of this Final Judgment applicable to the defendant First Hawaiian shall also apply to each of its subsidiaries, affiliates, successors, and assigns and to each of its respective directors, officers, agents, employees, 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

[Merger Restrictions]

Defendant First Hawaiian is enjoined and restrained for a period of ten (10) years from the effective date of this Final Judgment from merging with, acquiring or holding after such acquisition for its own account, any of the stock, assets, trust or fiduciary accounts, any part of the business of or any financial interest in any other trust company, provided however, that nothing herein contained shall prohibit transactions conducted in the normal course of business.

V

[Modification]

Defendant First Hawaiian may petition this Court at any time and from time to time to modify Section IV of this Final Judgment to permit defendant First Hawaiian to merge with, acquire and hold after such acquisition for its own account any of the stock, assets, trust or fiduciary accounts, any part of the business of or any financial interest in any other trust company (other than, pursuant to transactions conducted in the normal course of business), and such petition shall be granted if defendant First Hawaiian shall show to the satisfaction of the Court that such merger or acquisition has for good cause been requested by the bank regulatory authority having jurisdiction in the premises because of, or in order to avert, the insolvency of such other trust company.

VI

[Inspection and Compliance]

(A) For the purpose of determining or securing compliance with this Final Judgment, and subject to any legally recognized privilege, duly authorized representatives of the Department of Justice shall, upon writ ten request of the Attorney General, or of the Assistant Attorney General in charge of the Antitrust Division, and on reason able notice to defendant First Hawaiian at its principal office, be permitted:

(1) Access, during office hours of First Hawaiian, to all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of First Hawaiian relating to any matters contained in this Final Judgment; and

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

(B) Defendant First Hawaiian, upon such written request, shall submit such reports in writing to the Department of Justice with respect to any matters contained in this Final Judgment as may, from time to time, be requested. No information 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 plaintiff except in the course of proceedings to which the United States of America is a party for the purpose of securing compliance with this Final Judgment or as otherwise required by law.

VII

[*Jurisdiction Retained*]

Jurisdiction is retained by this Court for the purpose of enabling any party to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment, the modification of any provision thereof, for the enforcement of compliance herewith, and for the punishment of violations hereof.