

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States of America v. Swiss Bank Corporation., U.S. District Court, D. New Jersey, 1940-1943 Trade Cases ¶56,188, (Dec. 17, 1941)

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United States of America v. Swiss Bank Corporation.

1940-1943 Trade Cases ¶56,188. U.S. District Court, D. New Jersey. Civil Action No. 1920. December 17, 1941.

Upon consent of all parties, a decree is entered in proceedings under the Sherman Anti-Trust Act, ordering the defendant bank to divest itself of the ownership of stock of one of a group of hormone manufacturing corporations which had conspired among themselves to restrain trade in hormones; and to sell such stock to an independent company or person.

Charles M. Phillips, U. S. Attorney, Trenton, N. J., Thurman Arnold, Assistant Attorney General, Washington, D. C., Edward P. Hodges, Herbert A. Berman and Monroe Karasik, Special Assistants to the Attorney General, for the plaintiff.

White & Case, by Samuel Waldman, New York City, for the defendant.

Before Smith, District Judge.

Final Judgment

The complainant, United States of America, having filed its complaint herein on Dec. 17, 1941; the defendant having appeared and filed its answers to such complaint denying the substantive allegations thereof; both parties hereto by their attorneys herein having consented to the entry of this final decree herein without trial or adjudication of any issue of fact or law herein and without admission by any party in respect of any such issue; NOW, THEREFORE, before any testimony has been taken herein and without trial or adjudication of any issue of fact or law herein, and upon consent of all parties hereto, it is hereby

ORDERED, ADJUDGED AND DECREED as follows:

I.

[Jurisdiction]

That this Court has jurisdiction of the subject matter herein and of parties hereto; that the complaint states a cause of action against the defendant under the Act of Congress of July 2, 1890, entitled "An Act to protect Trade and Commerce Against Unlawful Restraints and Monopolies" and the acts amendatory thereof and supplemental thereto.

II.

[Stock Divestiture Ordered]

Defendant Swiss Bank Corporation, its officers, agents, and employees, is hereby ordered to take all steps necessary to secure the divestiture of the stock of Schering Corporation of Bloomfield, New Jersey, now held directly or indirectly by the Chemical and Pharmaceutical Enterprises, Ltd., or by defendant Swiss Bank Corporation, and to secure the sale of such stock, in accordance; with all applicable Federal laws to an independent company, or person or persons whose acquisition of such stock will be in conformity with this decree and with the Anti-trust laws. If such divestiture and sale has not been consummated within 120 days from the entrance of this decree, the defendant Swiss Bank Corporation, may, upon showing to this Court that due diligence has been maintained in attempting to secure such sale, apply to this court for an order extending the period within which such sale may be consummated for a further period to be no less than 60 days nor more than 120 days. If such divestiture and sale is not consummated within 120 days from the date of this decree or

within the extended period so ordered, said defendant is hereby ordered to offer such stock at public auction for sale to the highest bidder meeting requirements set forth above, said sale to take place at a date not less than 30 days thereafter.

III.

[*Examination of Records*]

For the purpose of securing compliance with this decree, and for no other purpose, duly authorized representatives of the Department of Justice shall, on written request of the Attorney General or an Assistant Attorney General and on reasonable notice to the defendant made to the principal offices of the defendant, be permitted (1) access, during the office hours of the defendant to all books, ledgers, accounts correspondence, memoranda, and other records and documents in the possession or under the control of the defendant, relating to any matters contained in this decree (2) 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, and (3) the defendant, on such request, shall submit such reports in respect of any such matters as may from time to time be reasonably necessary for the proper enforcement of this decree; *Provided, however*, that information obtained by the means permitted in this paragraph shall not be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Department of Justice except in the course of legal proceedings for the purpose of securing compliance with this decree in which the United States is a party or as otherwise required by law.

IV.

[*Retention of Jurisdiction*]

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