

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. The Embroidery Cutters Association, et al., U.S. District Court, D. New Jersey, 1954 Trade Cases ¶67,891, (Nov. 12, 1954)

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United States v. The Embroidery Cutters Association, et al.

1954 Trade Cases ¶67,891. U.S. District Court, D. New Jersey. Civil Action No. 889-54. Filed November 12, 1954. Case No. 1208 in the Antitrust Division of the Department of Justice.

Sherman Antitrust Act

Combinations and Conspiracies—Consent Decree—Practices Enjoined—Price Fixing and Related Practices—Association Membership.—Embroidery cutters were enjoined by a consent decree from entering into any agreement (1) to fix prices, pricing methods, discounts, or other terms used by any cutter, (2) to fix the charges or other terms for delivery, (3) to circulate any price lists in advance of the publication of such lists to customers, or (4) to circulate any statistics representing costs of operation. The cutters and a trade association were enjoined from suggesting prices; from circulating any price lists which have been established by any two or more cutters; and from being a member of any trade association or central agency, the activities of which are inconsistent with the decree.

Combinations and Conspiracies—Consent Decree—Specific Relief—Revision of Price Lists.—Embroidery cutters were ordered by a consent decree to withdraw their presently in effect price lists to the extent that such price lists are identical with the prices appearing on a price list prepared by the defendant trade association. Also, they were ordered to individually review the prices withdrawn on the basis of their individual cost figures and individual judgment as to profits and to issue new price lists on the basis of such independent review.

Department of Justice Enforcement and Procedure—Consent Decree—Specific Relief —Dissolution of Trade Association.—Embroidery cutters were ordered by a consent decree to commence taking such action as may be necessary to accomplish the dissolution of the defendant trade association and to complete such dissolution within the minimum period of time permitted by the applicable state laws.

For the plaintiff; Stanley N. Barnes, Assistant Attorney General; Bertram C. Dedman, W. D. Kilgore, Jr., and Richard B. O'Donnell, Special Assistants to the Attorney General; and John S. James, Stanley Blecher, and Moses M. Lewis, Trial Attorneys.

For the defendants: Moses L. Kove for the Embroidery Cutters Assn.

Final Judgment

THOMAS F. MEANEY, District Judge [*In full text*]: The plaintiff, United States of America, having filed its complaint herein on November 12, 1954 and each of the said defendants having appeared herein and the plaintiff and the defendants, by their respective attorneys, having severally 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 or admission by any defendant in respect of any such issue;

Now, therefore, before any testimony or evidence has been taken herein, and without trial or adjudication of any issue of fact or law herein, and upon the consent of all the parties hereto, it is hereby

Ordered, adjudged and decreed as follows:

I

[*Sherman Act*]

The Court has jurisdiction of the subject matter herein and all the parties hereto. The complaint states a cause of action against the defendants and each of them under Section 1 of the Act of Congress of July 2, 1890, entitled

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“An Act to protect trade and (Commerce against unlawful restraints and monopolies,” commonly known as the Sherman Act, as amended.

II

[*Definitions*]

As used in this Final Judgment:

- (A) “Person” means any individual, partnership, firm, association, corporation, or other legal entity;
- (B) “Embroiderer” means an individual, partnership, firm or corporation engaged in the business of designing, ordering, and selling embroidery used in the manufacture of wearing apparel;
- (C) “Embroidery cutter” means an individual, partnership, firm, or corporation engaged in the business of cutting or finishing rolls, or sheets of cloth on which embroidery has been placed;
- (D) “Defendant association” means The Embroidery Cutters Association.

III

[*Applicability*]

The provisions of this Final Judgment applicable to any defendant shall apply to each such defendant and to his or its officers, agents, servants, employees, subsidiaries, successors, and assigns and to all persons in active concert or participation with any defendant who shall have received actual notice of this Final Judgment by personal service or otherwise.

IV

[*Dissolution of Association*]

The defendants are ordered and directed:

- (A) Forthwith to commence taking such action as may be necessary to accomplish the dissolution of the defendant association under the laws of the State of New Jersey and to complete such dissolution within the minimum period of time permitted by the laws of the State of New Jersey;
- (B) Upon the completion of such dissolution of the defendant association, to file an affidavit with this Court and with the Attorney General setting forth the fact of their compliance with this Section.

V

[*Price Fixing and Related Practices*]

The defendants other than the defendant association are jointly and severally enjoined and restrained from entering into, adhering to or maintaining, or claiming any rights under any contract, combination, agreement, understanding, plan or program with any other defendant, with any other embroidery cutter, or with any association or central agency of or for embroidery cutters;

- (A) To fix, determine, establish, or maintain prices, pricing methods, discounts, or other terms and conditions used or to be used by such defendant or by any other person in connection with the cutting or finishing of embroidery;
- (B) To fix, determine, establish, or maintain the charges or any other terms and conditions for the delivery of embroidery, after cutting or finishing work has been performed thereon, by such defendant or by any other person;
- (C) To circulate or exchange, directly or indirectly, any price lists or price quotations applicable to embroidery cutting or finishing work with any other embroidery cutter or embroidery cutters in advance of the publication, circulation, or communication of such price lists or price quotations to the customers of such defendant;

(D) To circulate or exchange, directly or indirectly, any statistics representing costs of operation with any other embroidery cutter or embroidery cutters, for the purpose or with the effect of fixing prices, or otherwise restraining trade.

VI

[*Price Lists — Association Membership*]

The defendants are jointly and severally enjoined and restrained from:

- (A) Urging, influencing or suggesting, or attempting to urge, influence or suggest to any other embroidery cutter the price or prices, or other terms or conditions to be charged by such other embroidery cutter for the cutting or finishing of embroidery;
- (B) Circulating, exchanging or using, in any manner, any price list or purported price list containing or purported to contain any prices, terms or conditions for the cutting or finishing of embroidery, which have been agreed upon or established pursuant to agreement between two or more embroidery cutters;
- (C) Being a member of, contributing anything of value, or participating in any of the activities of, any trade association or central agency or for embroidery cutters, the activities of which are inconsistent in any manner with any of the provisions of this Final Judgment.

VII

[*Revision of Price Lists*]

Within thirty (30) days following the date of the entry of this Final Judgment, each of the defendants other than the defendant association shall:

- (A) Withdraw his or its presently effective price list for embroidery cutting and finishing work (or, where no price list has been issued, withdraw his or its presently prevailing prices) to the extent that such price list or prices are identical with the prices appearing on the price list prepared by the Price Survey Committee of the defendant association and circulated by the defendant association in May 1954; and
- (B) Individually review the prices with drawn in conformity with Section VII (A) herein on the basis of his or its individual cost figures and individual judgment as to profits and issue a new price list (or, where no price list has been issued, issue new prices) on the basis of such independent review.

VIII

[*Notification of Judgment*]

The defendant association is ordered and directed, within ten (10) days after the date of its entry, to furnish to each of its present members a conformed copy of this Final Judgment and to file with this Court, and with the Attorney General or Assistant Attorney General in charge of the Antitrust Division, a report setting forth the fact and manner of its compliance with this Section VIII, together with the names and addresses of each person to whom a copy of this Final Judgment shall have been furnished in compliance herewith.

IX

[*Inspection and Compliance*]

For the purpose of securing compliance with this Final Judgment, 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) reasonable access, during the office hours of such defendant, to all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of such defendant, relating to any of the matters contained in this Final Judgment, and (b) subject to the reasonable convenience of such defendant, and without restraint or

interference, to interview officers and employees of such defendant who may have counsel present, regarding any such matters. For the purpose of securing compliance with this Final Judgment, the defendants, upon the written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, shall submit such written reports with respect to any of the matters contained in this Final Judgment as from time to time may be necessary for the purpose of enforcement of this Final Judgment. No information obtained by the means permitted in this Section IX shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Department except in the course of legal proceedings for the purpose of securing compliance with this Final Judgment in which the United States is a party or as otherwise required by law.

X

[*Retention of Jurisdiction*]

Jurisdiction of this Court is retained) for the purpose of enabling any of the parties to this Final Judgment 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 Final Judgment, for the modification or termination of any of the provisions thereof, for the enforcement of compliance therewith and punishment of violations thereof.