

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. The Gemex Corporation., U.S. District Court, D. New Jersey, 1959 Trade Cases ¶69,421, (Jul. 31, 1959)

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United States v. The Gemex Corporation.

1959 Trade Cases ¶69,421. U.S. District Court, D. New Jersey. Civil Action No. 1350-58. Filed July 31, 1959. Case No. 1426 in the Antitrust Division of the Department of Justice.

Sherman Antitrust Act

Combinations and Conspiracies—Consent Decree—Practices Enjoined—Price Fixing —Fixing Prices for Sale of Watchbands.—A manufacturer of watchbands was prohibited by a consent decree from entering into any agreement with any wholesaler to fix prices for the sale of watchbands to third persons. The decree also enjoined the manufacturer from requiring any wholesaler to sell watchbands at list price or at any other specific price level.

Combinations and Conspiracies-Consent Decree—Practices Enjoined—Price Fixing —Investigations and Penalties—Policing Adherence to Price Fixing Agreements.—A manufacturer of watchbands was prohibited from collecting, publishing, or disseminating information regarding price cutting or price deviation by wholesalers or retailers. The decree also enjoined the manufacturer from requiring any wholesaler to report to it regarding any such price deviation by retailers or other wholesalers.

Combinations and Conspiracies—Consent Decree—Practices Enjoined—Exclusive Dealing.—A manufacturer of watchbands was prohibited by a consent decree from selling to its wholesalers on the condition that they refrain from dealing in competitors' products.

For the plaintiff: Robert A. Bicks, W. D. Kilgore, Jr., Raymond M. Carlson, Charles L. Beckler, Charles F. B. McAleer, Charles H. McEnerney, Jr., and John L. Wilson, Department of Justice.

For the defendant: Manning, Hollinger & Shea, New York, N. Y., by Bruce A. Hecker; and Platoff, Platoff & Heftler, Union City, N. J., by Robert G. Platoff.

Final Judgment

[*Consent Decree*]

REYNIER J. WORTENDYKE, Jr., District judge [*in full text*] : The plaintiff, United States of America, having filed its complaint herein on December 16, 1958; the defendant, the Gemex Corporation, having appeared and filed its answer to the complaint denying the substantive allegations thereof; and the plaintiff and the defendant, by their 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 admission by either of them in respect to 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 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 against the defendant, under which relief may be granted under Section .1 of the Act of Congress of July 2, 1890, entitled "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) "Watchbands" means attachments, whether of precious or non-precious metals, cord, fabric, leather or other materials, or combinations thereof, which are used to hold watches to the wrist.;
- (B) "Wholesaler" means a person who purchases watchbands from a manufacturer for resale to retailers;
- (C) "Retailer" means a person who purchases watchbands from a wholesaler for resale to ultimate consumers;
- (D) "Person" means any individual, partnership, firm, association; corporation or other business; or legal entity;
- (E) "Subsidiary" means any existing or future corporation whose stock is, directly or indirectly, wholly owned by defendant.

III

[*Applicability*]

The provisions of this Final Judgment shall apply to the defendant and to each of its subsidiaries, successors, assigns, officers, directors, employees and agents, and to those persons in active concert or participation with the defendant who receive actual notice of this Final Judgment by personal service or otherwise.

IV

[*Price Fixing—Exclusive Dealing*]

Defendant is enjoined and restrained from directly or indirectly:

- (A) Entering into, adhering to, maintaining, enforcing or claiming any rights under any contract, agreement, understanding, plan or program, with any wholesaler to fix, establish, maintain, stabilize or adhere to prices for the sale of watch bands to third persons;
- (B) Collecting, publishing or disseminating information regarding, or suggesting, soliciting or requiring that any wholesaler report to defendant, any price cutting or price deviation by any wholesaler or retailer ;
- (C) Requiring any wholesaler to sell any watchbands at list price or at any other specific price level;
- (D) Selling or offering, or attempting to sell, any watchbands on the condition, agreement or understanding that any wholesaler shall not deal in watchbands manufactured by any person other than the defendant.

V

[*Enforcement and Compliance*]

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

- (A) 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 which relate to any matters contained in this Final Judgment;
- (B) Subject to the reasonable convenience of the defendant and without restraint or interference from the defendant, to interview officers or employees of the defendant, who may have counsel present, regarding any such matters.

Upon written request of the Attorney General, or the Assistant Attorney General in charge of the Antitrust Division, the defendant shall submit such reports in writing with respect to the matters contained in this Final judgment as may from time to time be necessary to the enforcement of this Final Judgment.

No information obtained by the means permitted in this Section V 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 plaintiff except in the course of legal proceedings in which the United States is a party for the purpose of securing compliance with this Final Judgment or as otherwise required by law.

VI

[*Jurisdiction Retained*]

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 and directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the amendment or modification of any of the provisions thereof, for the enforcement of compliance therewith, and for the punishment of violations thereof.