

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. Pennzoil Co. and Kendall Refining Co., U.S. District Court, W.D. Pennsylvania, 1966 Trade Cases ¶71,675, (Apr. 4, 1966)

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United States v. Pennzoil Co. and Kendall Refining Co.

1966 Trade Cases ¶71,675. U.S. District Court, W.D. Pennsylvania. Civil Action No. 60-838. Entered April 4, 1966. Case No. 1867 in the Antitrust Division of the Department of Justice.

Clayton Act

Acquisitions—Competitors—Consent Judgment.—Two producers-refiners of Pennsylvania Grade crude oil were permanently enjoined from merging under the terms of a consent judgment, which was agreed to following the issuance of a preliminary injunction barring their proposed merger. The judgment included a finding that the proposed merger, if consummated, would have violated the Clayton Act.

For the plaintiff: U. S. Attorney, Pittsburgh, Pa.

For the defendants: C. Brien Dillon, Houston, Tex.; William C. O'Neil of Thorp, Reed & Armstrong, Pittsburgh, Pa.; Victor H. Kramer, Washington, D. C; and Royston, Robb, Leonard, Edgecombe & Miller, Pittsburgh, Pa.

Final Judgment

ROSENBERG, District Judge: Plaintiff, United States of America, having filed its complaint herein on August 4, 1965 seeking to enjoin the acquisition by defendant Pennzoil Company of the assets of Kendall Refining Company; the parties on the same day having entered into a stipulation whereby the defendants agreed not to consummate the acquisition until after a ruling on plaintiffs motion for preliminary injunction; the Court on December 30, 1965 having entered an order for preliminary injunction granted after hearing and consideration of both written and oral evidence, and the Court having on the same day entered its Findings of Fact, Conclusions of Law, and Opinion [[1966 TRADE CASES ¶ 71,659](#)] in support of its Order for preliminary injunction,

It is hereby ordered, adjudged and decreed as follows:

I

[*Clayton Act*]

This Court has jurisdiction of the subject matter herein and of the parties hereto. The complaint states a claim upon which relief may be granted against the defendants under Section 7 of the Act of Congress of October 15, 1914, as amended, entitled "An Act to supplement existing laws against unlawful restraints and monopolies and for other purposes," commonly known as the Clayton Act, and it is hereby declared that the acquisition of Kendall Refining Company by the defendant Pennzoil Company would, if consummated, violate said Act.

II

[*Applicability*]

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

III

[*Acquisitions Prohibited*]

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(A) Defendant Pennzoil Company is permanently enjoined and restrained from, directly or indirectly, acquiring or attempting to acquire any of the capital stock, assets, or any financial interest in, Kendall Refining Company or any successor thereto, except for the purchase of assets customarily sold by Kendall Refining Company in the normal and regular operation of its business and which do not, in any manner, give Pennzoil any control over, or participation in, the general business affairs or policies of Kendall Refining Company.

(B) Defendant Kendall Refining Company is permanently enjoined and restrained from, directly or indirectly, selling any of its capital stock or assets to defendant Pennzoil Company or any successor thereto, or knowingly permitting defendant Pennzoil to acquire any financial interest in defendant Kendall Refining Company except for the sale of assets customarily sold by defendant Kendall Refining Company in the normal and regular operation of its business and which do not, in any manner, give defendant Pennzoil any control over, or participation in, the general business affairs or policies of Kendall Refining Company.

IV

[*Preliminary Injunction*]

This Final Judgment and the terms and conditions contained herein shall supersede the aforesaid Order for Preliminary Injunction entered by this Court on December 30, 1965.

V

[*Inspection and Compliance*]

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

(1) 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

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

(B) Defendant Pennzoil Company and Kendall Refining Company, on the written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, shall submit such reports in writing, under oath if requested, with respect to any matters contained in this Final Judgment as may from time to time be necessary for the purpose of the enforcement of this Final Judgment.

(C) No information obtained by means provided in this Section V shall be divulged by any representatives 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 to which the plaintiff is a party for the purpose of securing compliance with this Final Judgment or as otherwise required by law.

[*Jurisdiction Retained*]

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