

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. Bowling Proprietors' Assn. of Northern Ohio, Inc., U.S. District Court, N.D. Ohio, 1968 Trade Cases ¶72,474, (Jun. 21, 1968)

United States v. Bowling Proprietors' Assn. of Northern Ohio, Inc.

1968 Trade Cases ¶72,474. U.S. District Court, N.D. Ohio, Eastern Division. Civil No. 66-649. Entered June 21, 1968. Case No. 1912 in the Antitrust Division of the Department of Justice.

Sherman Act

Conspiracy—Bowling Proprietors' Association—Restraints on Bowling—Consent Decree.—An association of bowling proprietors was prohibited by a consent decree from fixing prices of open, league, and tournament bowling or restricting members in their promotions and solicitation of customers or nonmember bowling establishments, and from disciplining members for these activities. Included in the decree is a provision enjoining the association from denying any person the right to participate in bowling because of nonmembership or other affiliations.

For the plaintiff: Donald F. Turner, Asst. Atty. Gen., Baddia J. Rashid, William D. Kilgore, Jr., Norman H. Seidler, Carl L. Steinhouse, Lester P. Kaufmann, Paul Y. Shapiro and Merle M. McCurdy, Attys., Dept. of Justice.

For the defendants: Mandel, Chitlik, Simon and Goldsmith, by Fred H. Mandel and Harold Kahn, Cleveland, Ohio.

Final Judgment

THOMAS, D. J.: Plaintiff, United States of America, having filed its complaint herein on September 14, 1966, and plaintiff and defendant by their respective attorneys having consented to the making and entry of this Final Judgment without admission by either party in respect to any issue;

Now, Therefore, before any testimony has been taken herein, 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 all parties hereto. The complaint states claims upon which relief may be granted against said defendant under Section 1 of the Act of Congress of July 2, 1890, as amended, entitled, "An act to protect trade and commerce against unlawful restraints and monopolies," commonly known as the Sherman Act.

II

[Definitions]

As used in this Final Judgment:

- (A) "Person" refers to any individual, association, firm, corporation, or other legal entity;
- (B) "Open bowling" refers to the unscheduled occasional bowling done by the individual bowler who is charged on a per game basis;
- (C) "League bowling" refers to organized competitive bowling done by leagues, consisting of several teams, which contract with a particular bowling establishment to bowl for a certain number of consecutive weeks (called a "season") at a particular day and hour each week for a fixed fee per three games bowled per individual;

(D) "Tournament bowling" refers to prearranged contests in which participants or teams compete against each other in a series of elimination contests for cash, trophies or other prizes.

III

[Applicability]

The provisions of this Final Judgment shall apply to the defendant, its successors and assigns; and, when acting on behalf of defendant, to its members, officers, agents, employees, and members of its Board of Governors; and to all persons in active concert or participation with it who receive actual notice of this Final Judgment by personal service or otherwise.

IV

[Prices, Promotions, Tournaments]

The defendant is enjoined and restrained from doing or attempting to do the following by itself or in combination with others:

- (A) Fixing, establishing, maintaining, or stabilizing any or all prices charged for open, league and tournament bowling;
- (B) Prohibiting or preventing members from offering special price inducements, and from giving prizes, awards, trophies, or any similar means of promoting business;
- (C) Requiring members to obtain the approval or to notify its Board of Governors or any of its officers, committees, or members prior to conducting tournaments or promotions;
- (D) Requiring members to refrain from supporting or cooperating with non-member bowling establishments in any tournament, sweepstakes, promotion, or league;
- (E) Requiring its members to refrain from soliciting any leagues bowling in other members' houses prior to the end of the league's season, from signing league contracts prior to the end of the league season, and from taking leagues away from other members without approval of or notification to its Board of Governors or any of its officers, committees, or members.

V

[Membership]

The defendant is enjoined and restrained from disciplining, fining, suspending or expelling any member for:

- (A) Offering low or reduced prices, special price inducements, and giving prizes, awards, trophies or any similar means of promoting business;
- (B) Engaging in any promotional activity with or without the approval of the defendant or any of its members;
- (C) Supporting or cooperating with non-member bowling establishments in any tournaments, sweepstakes, promotion, or league;
- (D) Soliciting any leagues bowling in other members' houses prior to the end of the league's season, signing league contracts prior to the end of the league season, and taking leagues away from other members without approval or notification of the Board of Governors of the defendant or any of its officers, committees, or members.

VI

[Other Affiliations]

The defendant is enjoined and restrained from denying any person the right to participate in league, tournament, or other types of bowling because such person has bowled in or is otherwise connected with a bowling establishment which is not a member of defendant or other associations of bowling proprietors. However, the provisions of this Section VI shall not prevent unilateral action by an individual bowling proprietor with respect to tournaments organized by such proprietor and held in his establishment.

VII

[*Notification*]

The defendant is ordered and directed upon entry of this Final Judgment to:

- (A) Distribute a copy of this Final Judgment to each of its members within sixty (60) days;
- (B) Notify each member within sixty (60) days that such member is free to establish his own prices, terms, and conditions for open, league, and tournament bowling in his establishment;
- (C) Amend its By-Laws, Code of Ethics, Supplementary Code of Ethics, and Constitution, within sixty (60) days to incorporate therein the substance of Sections IV, V, and VI of this Final Judgment; and
- (D) File with this Court, with a copy to the plaintiff herein, a report of compliance with this Section VII within thirty (30) days following completion of the requirements of (A), (B), and (C) above.

VIII

[*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 the defendant be permitted:

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

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

No information obtained by the means provided in this Section VIII 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.

IX

[*Jurisdiction Retained*]

Jurisdiction is retained by this Court for the purpose of enabling any 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 or for the punishment of violations thereof.