

# Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. The Cleveland Trust Co., U.S. District Court, N.D. Ohio, 1975-2 Trade Cases ¶60,611, (Nov. 14, 1975)

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United States v. The Cleveland Trust Co.

1975-2 Trade Cases ¶60,611. U.S. District Court, N.D. Ohio, Eastern Division. Civil Action No. C 70-301. Entered November 14, 1975. (Competitive impact statement and other matters filed with settlement: 40 *Federal Register* 40864, 53047). Case No. 2089, Antitrust Division, Department of Justice.

## Clayton Act

**Interlocking Directorates—Bank Officers—Competing Manufacturers—Consent Decree.**—A bank was prohibited by a consent decree from permitting any of its officials to serve simultaneously as a director of any two companies manufacturing certain machine tools.

**For plaintiff:** Thomas E. Kauper, Asst. Atty. Gen., William E. Swope, Charles F. B. McAleer, John A. Weedon, Jill Nickerson, Frank B. Moore, Robert S. Zuckerman, David F. Hils, Robert A. McNew, Gerald H. Rubin, and Susan B. Cyphert, Attys., Dept. of Justice. **For defendant:** Richard W. Pogue, of Jones, Day, Reavis & Pogue, Cleveland, Ohio.

## Final Judgment

BATTISTI, D. J.: Plaintiff, United States of America, having filed its Amended Complaint on October 4, 1972, and defendant having filed its Answer thereto denying the material allegations of the Amended Complaint, and defendant having consented to jurisdiction over its person, and the Court on July 31, 1974, having dismissed the Amended Complaint as to Section 7 of the Act of Congress of October 15, 1914, commonly known as the Clayton Act, as amended, 15 U. S. C. § 18 ("Section 7") and (as to Pneumo-Dynamics Corporation) Section 8 of the Act of Congress of October 15, 1914, commonly known as the Clayton Act, as amended, 15 U. S. C. § 19 ("Section 8"), and plaintiff and defendant, by their respective attorneys, having each 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 any evidence or admission by any party hereto with respect to any such issue;

Now, Therefore, before the taking of any testimony, without trial or adjudication of any issue of fact or law herein, and upon consent of the parties as aforesaid, it is hereby

Ordered, Adjudged and Decreed as follows:

I

[ *Jurisdiction* ]

This Court has jurisdiction of the Clayton Act Section 8 claims of plaintiff now pending in this action and of the parties hereto. With respect to such still pending claims the Amended Complaint states a claim against defendant upon which relief may be granted under Section 8.

II

[ *Definitions* ]

As used in this Final Judgment:

(A) "MSA business" shall mean the manufacture and sale, in the United States, of new multiple spindle automatic bar and chucking machines, which are non-portable, power-driven, metal-cutting machine tools which have a completely self-acting or self-regulated mechanism which controls the movement of a cutting tool, movement of a spindle and indexing of a spindle carriage and have, in a spindle carriage which indexes from position to

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position, more than one rotating spindle to each of which a work-piece to be cut may be attached and each of which turns the work-piece in relationship to a cutting tool.

(B) "SSA business" shall mean the manufacture and sale, in the United States, of new single spindle automatic bar and chucking machines, which are non-portable, power-driven, metal-cutting machine tools which have a completely self-acting or self-regulated mechanism which controls the movement of a cutting tool and of the spindle in a pre-set manner, and have only one rotating spindle to which a work-piece to be cut may be attached and which turns the work-piece in relationship to a cutting tool.

(C) "VBM business" shall mean the manufacture and sale, in the United States, of new vertical boring mills, which are non-portable, power-driven, self-regulated metal-cutting machine tools which operate by turning about a vertical axis a work-piece in contact with a cutting tool for the purpose of removing metal from either the interior or the exterior of a work-piece which is fixed by a chucking device to a horizontal bed which is at least 26 inches in diameter.

(D) "Defendant" shall mean The Cleveland Trust Company, its parent, subsidiaries, successors and assigns.

(E) "Executive Officer" shall mean the Chairman of the Board, President, any Executive Vice President, Secretary, Treasurer, any other officer designated as an Executive Officer by The Cleveland Trust Company and, for the purpose of this Final Judgment only, the officer in charge of the trust department.

(F) "Sale" shall mean regular commercial sale in the ordinary course of business.

(G) "W&S" shall mean The Warner & Swasey Company, an Ohio corporation, and its subsidiaries, successors and assigns.

(H) "White" shall mean White Consolidated Industries, Inc., a Delaware corporation, and its subsidiaries, successors and assigns.

### III

#### [ *Applicability* ]

The provisions of this Final Judgment shall apply to defendant and each of its present and future officers and employees, and to all other persons in active concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise. None of the provisions of this Final Judgment shall be applicable to the foreign commerce of the United States.

### IV

#### [ *Interlocking Directorates* ]

From and after the date of entry of this Final Judgment, defendant shall:

(A) Refuse to hire or cease to employ, as an officer or employee of defendant, any individual who is or becomes a Director of W&S or White if, at the same time, an officer or employee of defendant is a Director of the other of those two corporations, so long as both corporations engage (i) in the MSA business or SSA business, or (ii) in the VBM business.

(B) Refuse to hire or cease to employ, as an officer or employee of defendant, any individual who is or becomes a Director of one of the following corporations if, at the same time, an officer or employee of defendant is a Director of another of the following corporations, so long as both corporations themselves or through their subsidiaries are engaged in the MSA business or the SSA business:

(1) Any corporation (or unit of it, as indicated in parentheses) among the following:

Acme Cleveland Corporation (National Acme Division)

Bardons & Oliver, Inc.

Browne & Sharpe Mfg. Co.

Cincinnati Milacron Inc.  
Colt Industries, Inc. (Pratt & Whitney Machine Tool Division)  
Cone-Blanchard Machine Company  
The Cross Company  
Davenport Machine Tool Co., Inc.  
The Economy Machine Tool Corporation  
Esterline Corporation (Boyar-Schultz unit)  
Ex-Cell-O Corporation (Greenlee Brothers & Co. unit)  
Giddings & Lewis, Inc.  
Hardinge Brothers, Inc. The Leavitt Machine Co.  
LeBlond Incorporated  
Litton Industries, Inc. (New Britain Machine Division)  
The Motch & Merryweather Machinery Co.  
MPB Corporation (Kinefac subsidiary)  
The Olofsson Corporation  
Sheldon Machine Co.  
Sundstrand Corporation  
Textron Company (Jones & Lamson Division of Waterbury Farrell Company)  
The U. S. Baird Corporation  
Waddell Equipment Co., Inc.  
W&S (Cleveland Turning Machine Division)  
White (The Bullard Company subsidiary)

(2) Any corporation (having capital, surplus and undivided profits in excess of \$1,000,000) which, or a subsidiary of which, to the actual knowledge of an Executive Officer, becomes a successor to the MSA business or SSA business of any of the corporations listed in Section IV(B)(1).

(3) Such other corporation (having capital, surplus and undivided profits in excess of \$1,000,000), if any, which, or a subsidiary of which, to the actual knowledge of an Executive Officer becomes a new entrant into the MSA business or the SSA business, and has domestic sales of such business which are not de minimus.

(C) Refuse to hire or cease to employ, as an officer or employee of defendant, any individual who is or becomes a Director of any one of the following corporations if, at the same time, an officer or employee of defendant is a Director of another of the following corporations, so long as both corporations themselves or through their subsidiaries are engaged in the VBM business:

(1) Any corporation (or unit of it, as indicated in parentheses) among the following:

American Machine & Science, Inc. (Johnson Drill Head Company Division and Master Machine Tools, Inc. subsidiary)  
Ex-Cell-O Corporation  
Giddings & Lewis, Inc.  
Litton Industries, Inc. (New Britain Machine Division)  
The Motch & Merryweather Machinery Co.

Snyder Corporation  
Sundstrand Corporation  
USM Corporation (Farrel Company Division)  
W&S (The G. A. Gray Company subsidiary)  
White (The Bullard Company subsidiary)

(2) Any corporation (having capital, surplus and undivided profits in excess of \$1,000,000) which, or a subsidiary of which, to the actual knowledge of an Executive Officer becomes a successor to the VBM business of any of the corporations listed in Section IV(C)(1).

(3) Such other corporation (having capital, surplus and undivided profits in excess of \$1,000,000), if any, which, or a subsidiary of which, to the actual knowledge of an Executive Officer becomes a new entrant into the VBM business, and has domestic sales of such business which are not de minimus.

## V

### [ Notice]

Defendant shall give personal notice of the prohibitions contained in this Final Judgment to all of its officers, by incorporating the text of Section IV hereof in its Personnel Policy Manual and its successor personnel policy manuals; provided, however, that the lists of named companies in Section IV hereof may be omitted from said Manuals if reference is made to a specific office in The Cleveland Trust Company where such lists may be obtained upon request. A copy of such personal notice shall be filed with the plaintiff upon publication.

## VI

### [ Compliance]

(A) For the purpose of determining or securing compliance with this Final Judgment and for no other purpose, defendant shall permit duly authorized representatives of the Department of Justice, on written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice, subject to any legally recognized privilege:

(1) Access during the business hours of defendant, who may have counsel present, to those books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of defendant which relate to any matters contained in this Final Judgment;

(2) Subject to the reasonable convenience of defendant and without restraint or interference from it, to interview individuals who are officers or employees of defendant, any of whom may have counsel present, regarding any matters contained in this Final Judgment.

(B) For the purpose of determining or securing compliance with this Final Judgment and for no other purpose, upon written request of the Attorney General, or of the Assistant Attorney General in charge of the Antitrust Division, defendant shall submit such reports in writing, with respect to the matters contained in this Final Judgment as may from time to time be requested.

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

## VII

### [ Retention of Jurisdiction]

Jurisdiction is retained by this Court for the purpose of enabling 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 (i) for construction

or modification (other than Section VIII(B)), (ii) for the enforcement of compliance therewith, and (iii) for the punishment of violations thereof.

## VIII

[ *Termination of Decree*]

Unless earlier terminated pursuant to an Order of this Court:

(A) Section IV(A) hereof (and to the extent necessary to implement Section IV(A) after January 1, 1985, Sections I, II, III, VII (ii) and (iii) and VIII(A)) shall remain in effect in perpetuity;

(B) In all other respects, this Final Judgment shall remain in full force and effect until January 1, 1985, and no longer.

Entry of this Final Judgment is in the public interest.