

## **Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. Gamble-Skogmo, Inc., Western Auto Supply Company, and Bertin C. Gamble., U.S. District Court, W.D. Missouri, 1960 Trade Cases ¶69,770, (Jul. 18, 1960)**

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United States v. Gamble-Skogmo, Inc., Western Auto Supply Company, and Bertin C. Gamble.

1960 Trade Cases ¶69,770. U.S. District Court, W.D. Missouri, Western Division. Civil Action No. 12776. Dated July 18, 1960. Filed July 18, 1960. Case No. 1513 in the Antitrust Division of the Department of Justice.

### **Sherman and Clayton Acts**

**Combinations and Conspiracies—Exchange of Information—Consent Decree.**—A corporate defendant and one of its stockholders, engaged in the operation of a chain of retail stores specializing in the sale of “hard” goods, were prohibited by the terms of a consent decree from exchanging confidential information with a competitor, also named as a defendant.

**Acquisition of Stock or Assets—Prior Voluntary Divestiture—Consent Decree.**—A company and one of its stockholders, engaged in the operation of a chain of retail stores specializing in the sale of “hard” goods, were prohibited by a consent decree from acquiring or holding any interests in a competitor, also named as a defendant. The prohibition against the stockholder applied to the acquisition or holding of interests in both companies simultaneously. The consent decree was entered upon the representation by the defendants that they had already divested themselves of all interests in the competitor.

For the plaintiff: Robert A. Bicks, Assistant Attorney General; W. D. Kilgore, Jr., George D. Reycraft, Bill G. Andrews, and J. B. Walsh, Attorneys, Department of Justice; Edward L. Scheufler, United States Attorney.

For the defendants: James C. Wilson, Kansas City, Mo., for Western Auto Supply Co.; Winston, Strawn, Smith & Patterson, by Thomas A. Reynolds, Chicago, Ill., and Callahan & Callahan, by Edward J. Callahan, Minneapolis, Minn., for Gamble-Skogmo, Inc. and Bertin C. Gamble.

### **Final Judgment**

DUNCAN, District Judge [ *In full text*]: Plaintiff, United States of America, having filed its complaint herein on April 1, 1960, and the defendants having appeared and filed answers denying the substantive allegations of the complaint and filed motions to strike the complaint, which motions were denied; and plaintiff and defendants having severally consented to the making and entry of this Final Judgment without trial or final adjudication of any issue of fact or law herein, without admission in respect to any issue, and without any findings of fact, and the Court having considered the matter and being duly advised,

Now, Therefore, before any testimony has been taken and without trial or final adjudication of any issue of fact or law herein and upon consent of the parties hereto and the representation of defendants Gamble-Skogmo and Bertin C. Gamble that they have sold all financial or stock interests, direct or indirect, in Western Auto to Beneficial Finance Co., a Delaware corporation, Beneficial Building, Wilmington, Delaware, 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 claims upon which relief may be granted against defendants Gamble-Skogmo, Western Auto and Bertin C. Gamble under Section 7 of the Act of Congress of October 15, 1914, entitled “An act to supplement existing laws against unlawful restraints and monopolies and for other purposes,” commonly known as the Clayton Act, as amended,

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and under Section 1 of the Act of Congress of July 2, 1890, c. 647, 26 Stat. 209 (15 U. S. C. § 4), as amended, 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) “Gamble-Skogmo” shall mean defendant Gamble-Skogmo, Inc., a corporation organized and existing under the laws of the State of Delaware with its principal office in Minneapolis, Minnesota;

(B) “Western Auto” shall mean defendant Western Auto Supply Company, a corporation organized and existing under the laws of the State of Missouri with its principal office in Kansas City, Missouri.

## III

### [ *Applicability* ]

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

## IV

### [ *Acquisitions Prohibited* ]

(A) Defendant Gamble-Skogmo is en joined and restrained from acquiring or holding any interest, directly or indirectly, in the business, capital stock or other share capital or assets of defendant Western Auto.

(B) Defendant Bertin C. Gamble is en joined and restrained from acquiring or holding any interest, directly or indirectly, in the business, capital stock or other share capital or assets of defendant Western Auto if defendant Bertin C. Gamble holds at that time or acquires any interest, directly or indirectly, in the business, capital stock or other share capital or assets of defendant Gamble-Skogmo.

Provided, further, that this section shall not prevent any agent, servant or employee (other than officers and directors) of Gamble-Skogmo or any of its subsidiaries and affiliates from owning 1% or less of the outstanding stock of Western Auto for their own account and not on behalf of or on account of Gamble-Skogmo, Inc. or Bertin C. Gamble.

## V

### [ *Confidential Exchanges* ]

Defendant Western Auto is enjoined from exchanging with or furnishing to Gamble-Skogmo or Bertin C. Gamble, and defendants Gamble-Skogmo and Bertin C. Gamble are each enjoined from exchanging with or furnishing to Western Auto any trade secrets or records of a confidential nature, or information contained therein, unless such information or records are available upon written request to other competitors.

## VI

### [ *Compliance* ]

For the purpose of securing compliance with this Final Judgment, and for no other purpose, and subject to any legally recognized privilege, duly authorized representatives of the Department of Justice shall, upon the written request of the Attorney General, or the Assistant Attorney General in charge of the Antitrust Division, upon reasonable notice to any defendant, at its or his principal office, be permitted with counsel present:

(A) Access, during the office hours of such defendant, to all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession of or under the control of such defendant relating to any of the matters contained in this Final Judgment applicable to such defendant; and

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

Any defendant, upon the written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, made to its or his principal office, shall submit such written reports with respect to any of the matters contained in this Final Judgment applicable to such defendant as from time to time may be necessary for the enforcement of this Final Judgment.

No information obtained by the means provided in this Section VI 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 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

[ *Jurisdiction Retained* ]

Jurisdiction is retained 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 or for the modification of any of the provisions thereof, and for the enforcement of compliance therewith and punishment of violations thereof.