

**Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. Mercantile Trust Co. National Association, Security Trust Co. and William B. Camp, Comptroller of the Currency (Intervenor), U.S. District Court, E.D. Missouri, 1968 Trade Cases ¶72,379, (Apr. 4, 1968)**

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United States v. Mercantile Trust Co. National Association, Security Trust Co. and William B. Camp, Comptroller of the Currency (Intervenor).

1968 Trade Cases ¶72,379. U.S. District Court, E.D. Missouri, Eastern Division. No. 65 C 241 (1), Entered April 4, 1968. Case No. 1858 in the Antitrust Division of the Department of Justice.

**Clayton and Sherman Acts**

**Bank Merger—Conditions of Clearance—Consent Decree.**—A bank merger was permitted under the terms of a consent decree, providing that the bank resulting from the merger takes the following actions: establish a viable new banking corporation at the location of the acquired bank; contribute \$1.5 million working capital; place \$500,000 in deposits, which could not be withdrawn until the new bank obtained assets of \$5 million; obtain management, provide an initial board of directors, and distribute negotiable shares of the new bank pro rata among the resulting bank's stockholders; and, for three years, make available to the new bank a participation or participations in loans whose terms and conditions are satisfactory to the new bank, without assessing any charges or fees to the new bank. Also, the resulting bank was barred from acquiring or holding for its own account any shares of stock or other financial interest in the new bank and, after one year, from having an officer or director who owns or controls more than 1/1 of 1% of the new bank's stock. Further, the resulting bank was barred for five years from other mergers and from having officers or directors in common.

For the plaintiff: Donald F. Turner, Asst. Atty. Gen.; Baddia J. Rashid, Wm. D. Kilgore, Jr., Charles L. Whittinghill, and James L. Minicus, Attys., Dept. of Justice.

For the defendants: James M. Douglas, William G. Guerri, and David F. Ulmer, of Thompson Mitchell Douglas & Neill, St Louis, Mo. Philip L. Roache, Jr., for Intervenor, Comptroller of the Currency.

**Final Judgment**

HARPER, D. J.: Plaintiff, United States of America, having filed its complaint herein on July 8, 1965, pursuant to [Section 4 of the Sherman Act](#) and [Section 15 of the Clayton Act](#) seeking to enjoin certain alleged violations of [Section 1 of the Sherman Act](#) and [Section 7 of the Clayton Act](#), and defendants, Mercantile Trust Company National Association and Security Trust Company, having filed their joint answer, as amended, thereto, and the motion of the Comptroller of the Currency, to intervene as a defendant in this case having been granted and the answer, as amended, of said intervening defendant having been filed, this Court, after hearing, having denied plaintiff's motion for preliminary injunction on July 14, 1965, and defendants, Mercantile Trust Company National Association and Security Trust Company, having thereupon consummated their merger by means of asset acquisition on said date, and plaintiff and defendants by their respective attorneys having each consented to the making and entry of this Final Judgment herein:

Now, Therefore, before any testimony has been taken and without trial or adjudication of any issue of law or fact herein, and without any admission by any party with respect to any such issue and upon the consent of the parties hereto, the Court being advised and having considered the matter, it is hereby

Ordered, Adjudged and Decreed, as follows:

I

[ *Jurisdiction* ]

This Court has jurisdiction of the subject matter of this action and of the parties hereto. The complaint states a claim upon which relief may be granted against Mercantile under Section 1 of the Act of July 2, 1890 (15 U. S. C. § 1), commonly known as the Sherman Act, as amended, and under Section 7 of the Act of October 15, 1914 (15 U. S. C. § 18), commonly known as the Clayton Act, as amended.

## II

### [ *Definitions* ]

As used in this Final Judgment:

- (A) "Mercantile" means defendant, Mercantile Trust Company National Association, which is the bank resulting from the merger by means of asset acquisition of defendants, Mercantile Trust Company National Association and Security Trust Company;
- (B) "Security" means defendant Security Trust Company;
- (C) "New bank" means the banking organization to be organized pursuant to Section IV hereof;
- (D) "St. Louis" means the City of St. Louis, Missouri and the County of St. Louis, Missouri.

## III

### [ *Applicability* ]

The provisions of this Final Judgment shall be binding upon each defendant and upon its officers, directors, agents, servants, employees, successors and assigns, and upon all other persons in active concert or participation with any defendant who shall have received actual notice of this Final Judgment by personal service or otherwise.

## IV

### [ *New Bank* ]

Mercantile is ordered and directed to take such steps as may be necessary to organize a viable new banking organization to be known as either "Security Bank & Trust Company" or "Security Bank & Trust Company, N. A." and to be located at 316 North 8th Street in the City of St. Louis which building was acquired by Mercantile in aforesaid merger and formerly housed the principal banking operations of Security prior to the merger; and to accomplish this objective in the shortest possible time and in the furtherance thereof Mercantile shall

- (A) Promptly apply for and diligently prosecute an application to the appropriate governmental agency for a bank charter for the new bank and, on behalf of new bank, file for and diligently prosecute an application to the Federal Deposit Insurance Corporation for deposit insurance. Mercantile shall continue to exert its best efforts to establish new bank and diligently pursue such establishment to consummation;
- (B) Contribute one million five hundred thousand dollars (\$1,500,000) in cash as the initial capital of new bank in addition to a contribution in fee simple absolute of the Security Building at 316 North 8th Street in the *City of St. Louis, Missouri*;
- (C) Place on demand deposit in new bank the sum of two hundred and fifty thousand dollars (\$250,000), and in a time deposit in said bank an equal amount of two hundred and fifty thousand dollars (\$250,000). The time deposit may bear interest at a rate not to exceed two per cent (2 %) per year. Neither of said deposits shall be subject to withdrawal until the total deposits of new bank shall reach the sum of five million dollars (\$5,000,000);
- (D) Exercise its best efforts to obtain well-qualified management personnel and other employees to adequately staff the new bank. Mercantile shall provide to any employee of Mercantile who shall have been employed by Security and Mercantile for a continuous period of at least five years immediately prior to the date of entry of this Final Judgment and who shall become an employee of new bank within a period of one year from the date of granting of its charter, the same amount as pension benefits which such employee would have received if his

employment at new bank were considered a continuation of his employment by Mercantile under the same terms and conditions as set out in the Mercantile pension plan as from time to time amended, less any pension benefits which such employee is entitled to receive from new bank;

(E) Provide for an initial Board of Directors of new bank to consist of five (5) members all of whom shall be acceptable to the parties hereto;

(F) Cause new bank to file an appearance in this action as a party defendant and agree to be bound by such orders and direction as the Court may enter;

(G) Upon the issuance of a charter to new bank, distribute all of the shares of stock of new bank pro rata to the shareholders of Mercantile, and the shares of stock of new bank shall be fully negotiable and transferable by the holders thereof.

## V

### **[ *Loan Participation—Stock* ]**

(A) For a period of three (3) years from the date of grant of charter to new bank, Mercantile is ordered and directed, upon request of new bank, to make available to new bank a participation or participations in loans whose terms and conditions are satisfactory to new bank, and Mercantile shall not assess any charges or fees to the new bank for such participations as it may decide to take.

(B) After distribution to its shareholders, Mercantile is enjoined and restrained from acquiring or holding for its own account any shares of stock or other financial interest in new bank nor, after twelve (12) months from the date of such distribution, shall it have as an officer or director any person who, at the same time, owns or controls more than one quarter of one per cent of the stock of new bank.

## VI

### **[ *Future Mergers—Common Officers* ]**

(A) Defendant Mercantile is enjoined for a period of five (5) years from the date of entry of this Final Judgment from acquiring control over or merging or consolidating with any other commercial bank in St. Louis unless permission is first obtained from the Attorney General.

(B) Defendant Mercantile is enjoined and restrained from having any person as an officer or director who is at the same time an officer or director of the new bank.

## VII

### **[ *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 made to its principal office, be permitted access during the office hours of such defendant to all contracts, 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 subject to the reasonable convenience of defendants, and without restraint or interference, to interview the officers and employees of defendants, who may have counsel present, regarding any such matters.

(B) Any defendant, on the written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, shall submit within a reasonable time such reports in writing, under oath if requested, with respect to any matter contained in this Final Judgment as may be requested.

(C) No information obtained by the means provided in this Section shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch, except

in the course of legal proceedings to which the United States of America is a party for the purpose of securing compliance with this Final Judgment or as otherwise required by law.

**VIII**

**[ *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.