

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. Golden Gate Chapter, National Electronics Distributors Association; Associated Radio Distributors; Frank Quement Inc.; Kaemper & Barrett Dealers Supply Co.; Tilton Industries Inc.; Zack Radio Supply Co.; Louise N. Miller., U.S. District Court, N.D. California, 1954 Trade Cases ¶67,800, (Jun. 28, 1954)

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United States v. Golden Gate Chapter, National Electronics Distributors Association; Associated Radio Distributors; Frank Quement Inc.; Kaemper & Barrett Dealers Supply Co.; Tilton Industries Inc.; Zack Radio Supply Co.; Louise N. Miller.

1954 Trade Cases ¶67,800. U.S. District Court, N.D. California, Southern Division. Civil No. 31567. Filed June 28, 1954. Case No. 1129 in the Antitrust Division of the Department of Justice.

Sherman Antitrust Act

Consent Decree—Practices Enjoined—Restraints of Trade—Boycotts—Exclusive Dealing.—An association of electronic and radio parts and equipment wholesalers and its members consented to the entry of a decree enjoining them from entering into any agreement (1) to boycott or otherwise refrain from buying electronic and radio parts and equipment from any manufacturer; (2) to induce or coerce any manufacturer to refrain from selling to any particular person or group of persons; (3) to give preference to such merchandise sold by any manufacturer who refrains or agrees to refrain from selling to any other person, and (4) to purchase or offer to purchase from any manufacturer on the condition or understanding that such manufacturer will not sell to any other person. The decree contained a permissive provision concerning exclusive distributorships.

Consent Decree—Practices Enjoined—Inducing Boycotts—Exclusive Dealing.—An association of electronic and radio parts and equipment wholesalers and its members consented to the entry of a decree enjoining them from inducing or coercing any manufacturer not to sell to any wholesale distributor, and from belonging to any organization of wholesale distributors which attempts to urge or compel any manufacturer to refrain from selling to any person. Each defendant was further enjoined from purchasing or offering to purchase electronic and radio parts and equipment on the condition or understanding that the, seller will not sell to any wholesale distributor or class of wholesale distributors. In addition, the defendant organization was ordered to admit to membership any bona fide wholesaler distributor making written application to join, and to furnish to each of its present and future, members a copy of this decree.

For the plaintiff: Stanley N. Barnes, Assistant Attorney General; Lloyd H. Burke, U. S. Attorney, by Charles Elmer Collett; W. D. Kilgore, Jr.; Charles F. B. McAleer; Lyle L. Jones; Marquis L. Smith.

For the defendants: Melvin, Faulkner, Sheehan & Wiseman, by F. Walter French; Athearn, Chandler & Hoffman, by Theodore P. Lambros; Dodd M. McRae; Elliot W. Seymour; Darwin Bryan.

Final Judgment

O. D. HAMLIN, District Judge [*In full text*]: Plaintiff, United States of America, having filed its complaint herein on May 26, 1952, and the defendants having appeared by their respective counsel, and plaintiff and defendants having severally consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein and without admission by any party in respect of any such issue;

Now, therefore, before any testimony has been taken and 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*]

The Court has jurisdiction of the subject matter hereof and of the parties hereto. The complaint states a cause of action against the defendants under sections 1 and 2 of the Act of Congress of July 2, 1890, entitled "An Act to protect trade and commerce against unlawful restraints and monopolies," commonly known as the Sherman Act, as amended.

II.

[*Definition*]

As used in this Final Judgment:

(A) "Defendants" shall mean each and all of the following: Golden Gate Chapter, National Electronics Distributors Association (of San Francisco, California); Associated Radio Distributors; Frank Quement, Inc.; Kaemper & Barrett Dealers Supply Co.; Tilton Industries, Inc.; Zack Radio Supply Co.; and Louise N. Miller;

(B) "Person" shall mean an individual, partnership, firm, corporation, association, trustee or any other business or legal entity;

(C) "Association" shall mean the defendant, Golden Gate Chapter, National Electronics Distributors Association, of San Francisco, California;

(D) "Electronic and radio parts and equipment" shall mean the various electronic and radio parts, supplies, accessories, attachments, component units and appurtenances, and equipment which are used to construct, repair, replace and improve electronic and radio sets and equipment owned and operated by private persons, radio broadcast stations, laboratories, amateur radio operators and experimenters, commercial and industrial plants and state and governmental agencies and institutions. As used herein the term also includes radio communications receivers and transmitters* wire and tape recorders, record changers, amplifiers, loud speakers, and other items of public address and sound equipment;

(E) "Wholesale distributor" shall mean any person engaged in the business of purchasing electronic and radio parts and equipment from a manufacturer thereof for resale;

(F) "Manufacturer" shall mean any person engaged in the business of manufacturing for sale electronic and radio parts and equipment, and any person acting as representative or selling agent for any such manufacturer.

III.

[*Applicability*]

The provisions of this Final Judgment applicable to any defendant shall apply to such defendants, its or his officers, agents, servants, employees and attorneys, and to those persons in active concert or participation with them who receive actual notice of this Final Judgment by personal service or otherwise.

IV.

[*Practices Enjoined*]

The defendants are jointly and severally enjoined and restrained from entering into, adhering to, maintaining or furthering, directly or indirectly, any contract, agreement, understanding, plan or program among themselves or with any other wholesale distributor, to:

(A) Boycott or otherwise refrain from buying or threaten to boycott or otherwise refrain from buying electronic and radio parts and equipment from any manufacturer or from any group or class thereof;

(B) Induce, compel or coerce any manufacturer to refrain from selling electronic and radio parts and equipment to any particular person or group or class of persons;

(C) "Push" or give preference to electronic and radio parts and equipment sold by any manufacturer who refrains or agrees to refrain from selling any particular person or group or class of persons;

- (D) Communicate, directly or indirectly, with any manufacturer for the purpose of inducing such manufacturer not to sell electronic and radio parts and equipment to any particular person or to any group or class of persons;
- (E) Purchase or offer to purchase electronic and radio parts and equipment from any manufacturer on the condition or understanding that such manufacturer will not sell to any particular person or to any group or class of persons;
- (F) Suppress, hinder, restrict or limit competition in the distribution or sale of electronic and radio parts and equipment.

V.

[Restraint of Trade Enjoined]

Each of the defendants is enjoined and restrained from:

- (A) Inducing, persuading, coercing, or attempting to induce, persuade or coerce any manufacturer not to sell to any whole sale distributor or group or class of wholesale distributors;
- (B) Purchasing or offering to purchase electronic and radio parts and equipment on the condition or understanding that the seller not sell to any wholesale distributor or group or class of wholesale distributors;
- (C) Knowingly organizing, joining, belonging as a member of, adhering to, participating in the activities of or contributing anything of value to any organization, committee or group of wholesale distributors which urges, induces, coerces or compels, or attempts to urge, induce, coerce or compel any manufacturer to refrain from selling electronic and radio parts and equipment to any person.

VI.

[Permissive Provisions]

Nothing in this Final Judgment shall be deemed to enjoin any defendant wholesale distributor while acting singly and not in concert with any other person (1) from seeking, negotiating or entering into any exclusive or semi-exclusive distributorship with any manufacturer who now has or hereafter adopts a general or national policy of distributing his products through exclusive or semi-exclusive distributorships; or (2) from lawfully persuading or attempting to persuade any manufacturer to adopt a general or national policy of distributing his products through exclusive or semi-exclusive distributorships.

VII.

[Notice; Association Membership]

The defendant Association is ordered and directed to:

- (A) Furnish to each of its present members and to each of its future members a copy of this Final Judgment, and to obtain and keep on file receipts showing delivery of said copies.
- (B) Admit to membership any bona fide wholesale distributor making written application therefor, provided, however, such distributor may be dropped from membership for failure to pay dues.

VIII.

[Inspection and Compliance]

For the purpose of securing compliance with this Final Judgment, 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:

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

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

Upon such written request the defendant shall submit such reports in writing to the Department of Justice with respect to matters contained in this Final Judgment as may from time to time be necessary to the enforcement of said Final Judgment. 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 such Department, 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.

IX.

[Jurisdiction Retained]

Jurisdiction is retained for the purpose of enabling any of the parties to this Final Judgment to apply to the 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 purpose of the enforcement of compliance therewith and the punishment of violations thereof.