

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. Switzer Brothers, Inc., et al., U.S. District Court, N.D. California, 1952-1953 Trade Cases ¶67,605, (Aug. 28, 1953)

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United States v. Switzer Brothers, Inc., et al.

1952-1953 Trade Cases ¶67,605. U.S. District Court, N.D. California, Southern Division. Civil Action No. 29860. Filed August 28, 1953. Case No. 1053 in the Antitrust Division of the Department of Justice.

Sherman Antitrust Act

Consent Decree—Practices Enjoined—Performance of Terminated Agreements—Daylight Fluorescent Devices and Materials.—A consent decree, which recited that specified agreements had been voluntarily cancelled and terminated, enjoined the defendants from reviving, maintaining, entering into, adopting, adhering to, claiming any rights under or enforcing the agreements or any other contract, agreement, understanding, plan or program which has as its purpose or effect the continuing or renewing of the agreements.

Consent Decree—Specific Relief—Dissolution of Partnership—It was provided in a consent decree that the partnership or tenancy in common entered into by the defendants, having voluntarily ceased operations and having distributed all of its assets to the individual defendants, shall be dissolved within thirty days from the date of the decree.

For the plaintiff: Stanley N. Barnes, Assistant Attorney General; and Edwin H. Pewett, Marcus A. Hollabaugh, Lyle L. Jones, Don H. Banks, and Wallace Howland.

For the defendants: W. Bruce Beckley for John O. Gantner, Jr., Eugene Burns, Gerald D. Stratford, and W. Bruce Beckley.

For a prior decision of the U. S. District Court, Northern District of California, Southern Division, see [1952-1953 Trade Cases ¶67,567](#). For other consent judgments entered in this case, see [1952-1953 Trade Cases ¶ 67,598](#).

Final Judgment

CARTER, District Judge [*In full text*]: Plaintiff, United States of America, having filed its complaint herein on June 28, 1950; the defendants having appeared and filed their answers to said complaint; and the plaintiffs and the defendants, John O. Gantner, Jr., Eugene Burns, Gerald D. Stratford and W. Bruce Beckley, by their respective attorneys, have severally consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or of law herein and without any admission by any party in respect to any such issue; and the Court having considered the matter and being duly advised;

Now therefore, before any testimony has been taken and without trial or adjudication of any issue of fact or law, and upon consent of said parties as aforesaid, it is therefore:

Ordered, adjudged and decreed, as follows:

1.

[*Clayton and Sherman Acts*]

The Court has jurisdiction of the subject matter hereof and of the parties hereto. The complaint states a cause of action against said defendants under Sections 1 and 2 of the Act of Congress of July 2, 1890, entitled "An Act to Protect Trade & Commerce Against Unlawful Restraints & Monopolies", and under Section 3 of the Act of Congress of October 15, 1914, entitled "An Act to Supplement Existing Laws Against Unlawful Restraints & Monopolies and for Other Purposes."

2.

[Defendants]

The defendants consenting to and entering into this Final Judgment are the following individuals: John O. Gantner, Jr., Eugene Burns, Gerald D. Stratford and W. Bruce Beckley.

3.

[Applicability of Provisions]

The provisions of this Final Judgment applicable to any of said defendants shall apply to such defendant, his agents, and to all other persons acting or claiming to act under, through or for such defendant.

4.

[Revival of Agreements Enjoined]

The agreement between Switzer Brothers, Inc. and said defendants, dated January 21, 1949, and the agreement between The Firelure Corporation and said defendants, dated January 21, 1949, having been voluntarily cancelled and terminated by the respective parties thereto, by written documents, copies of which are attached hereto and marked Exhibits A & B [not reproduced], respectively, said defendants are, jointly and severally, enjoined and restrained from reviving, maintaining, entering into, adopting, adhering to, claiming any rights under or enforcing either of said agreements or any other contract, agreement, understanding, plan or program which has as its purpose or effect the continuing or renewing of either of said agreements.

5.

[Partnership Dissolved]

The partnership or tenancy in common entered into by said defendants, and known as Gabbs Supply Company, having voluntarily ceased operations and having distributed all of its assets to said individual defendants, shall be dissolved within thirty (30) days of the date hereof.

6.

[Inspection and Compliance]

For the purpose of securing compliance with this Final Judgment and for no other purpose, 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 upon reasonable notice to any of said defendants, be permitted, subject to any legally recognized privilege, (A) access, during the office hours of said defendant, to all books, papers, ledgers, accounts, correspondence, memoranda and other records and documents in the possession of or under the control of said defendant relating to any of the matters contained in this Final Judgment, and (B) subject to the reasonable convenience of said defendant, to interview said defendant, who may have counsel present, regarding such matters. Upon written request of the Attorney General, or the Assistant Attorney General in charge of the Antitrust Division, on reasonable notice to any of said defendants, said defendant shall submit such written reports as may from time to time be reasonably necessary to the enforcement of this Final Judgment. No information obtained by the means provided in this section 6 shall be divulged by the Department of Justice to any person other than a duly authorized representative of the Department of Justice 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 provided by law.

7.

[Jurisdiction Retained]

Jurisdiction is retained by this Court 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, for the amendment, modification or termination of any of the provisions hereof, for the enforcement of compliance therewith and for the punishment of violations thereof.