

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. Armco Steel Corporation; Bradford Motor Works; Dover Corporation; Dresser Industries, Inc.; Harbison-Fischer Manufacturing Co.; Monarch Engineering Corporation; The Sargent Engineering Corporation; United States Steel Corporation; U. S. Industries, Inc.; and The Youngstown Sheet and Tube Company., U.S. District Court, C.D. California, 1966 Trade Cases ¶71,899, (Nov. 15, 1966)

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United States v. Armco Steel Corporation; Bradford Motor Works; Dover Corporation; Dresser Industries, Inc.; Harbison-Fischer Manufacturing Co.; Monarch Engineering Corporation; The Sargent Engineering Corporation; United States Steel Corporation; U. S. Industries, Inc.; and The Youngstown Sheet and Tube Company.

1966 Trade Cases ¶71,899. U.S. District Court, C.D. California. Civil No. 65-1425-S. Entered November 15, 1966. Case No. 1872 in the Antitrust Division of the Department of Justice.

Sherman Act

Price Fixing—Subsurface Oil Pumps—Consent Judgment.—Manufacturers of subsurface oil pumps and parts for the pumps were prohibited under the terms of a consent judgment from agreeing to fix prices in the sale of, or in the installation, maintenance, assembly or repair of pumps.

For the plaintiff: Donald F. Turner, Assistant Attorney General, Antitrust Division, Gordon B. Spivack, W. D. Kilgore, Jr., Charles F. B. McAleer, Draper W. Phillips, and Richard W. Luesebrink, Attorneys, Department of Justice.

For the defendants: Breed, Abbott & Morgan and Flint & Mac Kay by John Argue for Armco Steel Corp.; McCutchen, Black, Verleger & Shea by Jack D. Fudge for Dresser Industries, Inc.; Curtis, Mallet, Prevost, Colt & Mosle and Latham and Watkins by Philip F. Belleville for Dover Corp.; Gates, Talbot, Morris & Merrell by Stephen J. M. Morris for Bradford Motor Works and Monarch Engineering Corp.; John H. Schultz for Harbison-Fischer Manufacturing Co.; Musick, Peeler & Garrett by Jesse R. O'Malley for United States Steel Corp.; Paul, Hastings, Janofsky & Walker by Oliver F. Green, Jr., for U. S. Industries, Inc.; and Adams, Dtuque & Hazeltine by Lawrence T. Lydick for The Youngstown Sheet and Tube Co.

Final Judgment

STEPHENS, Jr., District Judge: Plaintiff, United States of America, having filed its complaint herein on September 28, 1965, and defendants having filed their answers denying the substantive allegations of such complaint, and the parties by their respective attorneys having 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's constituting evidence or an admission by any party with respect to any such issue;

Now, therefore, before the taking of any testimony and without trial or adjudication of any issue of fact or law herein, and upon the consent of the parties hereto, 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 claims for relief against the defendants under Section 1 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

[*Definitions*]

As used in this Final Judgment:

- (A) “Person” shall mean any individual, partnership, firm, corporation, association or other business or legal entity;
- (B) “Product” shall mean a subsurface oil pump, including parts therefor, which is placed at the bottom of an oil well and is activated from the surface by a string of sucker rods and a beam which are not considered parts of the pump;
- (C) “Defined parts” shall mean for each defendant its five largest selling items by dollar volume in each of the following categories: barrels, plungers, seats and balls, seating cups and valve cups.

III

[*Applicability*]

The provisions of this Final Judgment applicable to any defendant shall apply to such defendant, and to each of its subsidiaries, successors, and assigns and to each of its respective directors, officers and employees, and to all persons in active concert or participation with such defendant who receive actual notice of this Final Judgment by personal service or otherwise; provided, however, that this Final Judgment shall not apply to transactions solely between such defendant and its directors, officers, employees, parent company and subsidiaries, or any of them, when acting in such capacity or to the activities or operations of such defendant outside of the United States.

IV

[*Price Fixing*]

Each of the defendants is jointly and severally enjoined and restrained from:

- (A) Entering into, adhering to, maintaining or furthering, directly or indirectly, any contract, agreement or joint undertaking, plan or program to:
 - (1) Fix, establish, determine or adhere to prices, terms or conditions for the sale of any product to any third person;
 - (2) Fix, establish, determine or adhere to prices, terms or conditions for the assembly, installation, maintenance or repair of any product for any third person;
- (B) Communicating, directly or indirectly, to any manufacturer or seller of product, information relating to prices, terms or conditions of sale at or upon which such items are being sold or will be sold, other than such information which has been generally made available to the trade; provided that nothing in this subparagraph (B) shall be deemed to prohibit any bona fide purchase or sale negotiation or transaction between a defendant and any other manufacturer or seller of product.

V

[*Price Lists*]

Each of the defendants is ordered and directed to:

- (A) Independently compile new price lists for at least defined parts upon the basis of its own desired profits and other market considerations;

(B) Withdraw on November 30, 1966 its then existing price lists for defined parts and to issue simultaneously the new price lists compiled pursuant to Subsection (A) of this Section V. Copies of the new and superseded price lists shall be promptly furnished to the Assistant Attorney General in charge of the Antitrust Division.

For the purpose of determination by this Court of compliance with this Section V by any defendant in the event that plaintiff institutes any civil proceeding with respect to such compliance, the defendant shall initially introduce its evidence to show the manner of its compliance with this Section V.

VI

[*Inspection and Enforcement*]

For the purpose of securing or determining compliance with this Final Judgment, duly authorized representatives of the Department of Justice shall, on 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, subject to any legally recognized privilege:

(A) Reasonable access, during office hours of such defendant, which may have counsel present, to all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of such defendant relating to the subject matters of this Final Judgment;

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

Upon written request of the Attorney General, or the Assistant Attorney General in charge of the Antitrust Division, a defendant shall submit such reports in writing with respect to such matters as may from time to time be requested.

No information obtained by the means permitted 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 the plaintiff, except in the course of legal proceedings in 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*]

Jurisdiction is retained by this Court 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, for the modification of any of the provisions contained therein, for the enforcement of compliance therewith and for the punishment of violations thereof.