

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. Bethlehem Steel Company and The Youngstown Sheet and Tube Company., U.S. District Court, S.D. California, 1966 Trade Cases ¶71,874, (Aug. 23, 1966)

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United States v. Bethlehem Steel Company and The Youngstown Sheet and Tube Company.

1966 Trade Cases ¶71,874. U.S. District Court, S.D. California, Central Division. Civil Action No. 65-1426-IH. Entered August 23, 1966. Case No. 1873 in the Antitrust Division of the Department of Justice.

Sherman Act

Price Fixing—Subsurface Pumps—Consent Judgment.—Two companies were prohibited by a consent judgment from agreeing to fix prices of subsurface pumps or pump parts, allocate or divide customers, markets or territories, or require any person to enter percentage or requirements contracts for such pumps or parts.

For the plaintiff: Donald F. Turner, Assistant Attorney General, William D. Kilgore, Jr., Charles F. B. McAleer and Gordon B. Spivack, Attorneys, Department of Justice.

For the defendants: Bethlehem Steel Corporation: E. C. Perkins; and The Youngstown. Sheet and Tube Company: Edward E. Lynn of Adams, Duque & Hazeltine.

Final Judgment

STEPHENS, 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

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) "Bethlehem" shall mean the defendant, Bethlehem Steel Corporation, a Delaware corporation, successor by merger to Bethlehem Steel Company, a Pennsylvania corporation, which is named as a defendant to the complaint.
- (B) "Youngstown" shall mean the defendant, The Youngstown Sheet and Tube Company, an Ohio corporation.
- (C) "Person" shall mean any individual, partnership, firm, corporation, association or other business or legal entity.

(D) "Subsurface Pump" shall mean an oil pump which is placed at the bottom of an oil well and is activated from the surface.

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

[*Practices Prohibited*]

Bethlehem and Youngstown are jointly and severally enjoined and restrained from:

(A) Entering into, adhering to, maintaining or furthering, directly or indirectly, or claiming any rights under 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 subsurface pumps or pump parts to any third person;
- (2) Allocate, divide or assign customers, markets or territories for the distribution or sale of subsurface pumps or pump parts;
- (3) Require any person to purchase all, or substantially all, or any fixed percentage of its requirements for subsurface pumps and pump parts from either of such defendants or to refrain from purchasing subsurface pumps or pump parts from any other person; provided, however, that this subsection (A)(3) shall not prevent any person at any time from purchasing subsurface pumps and pump parts from any defendant in such amounts as such person may desire.

(B) Communicating, directly or indirectly, to any manufacturer or seller of subsurface pumps and pump parts, information relating to prices, terms or conditions of sale at or upon which such items are being sold or will be sold to any third person, other than such information which is simultaneously released or has been released to the trade generally.

V

[*Inspection and Compliance*]

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, to all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of such defendant relating to any matters contained in 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 the matters contained in this Final Judgment as may from time to time be requested.

No information obtained by the means permitted in this Section V 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.

VI

[*Jurisdiction Retained*]

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 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.