

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. Hilton Hotels Corporation and Statler Hotels Delaware Corporation., U.S. District Court, N.D. Illinois, 1956 Trade Cases ¶68,253, (Feb. 6, 1956)

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United States v. Hilton Hotels Corporation and Statler Hotels Delaware Corporation.

1956 Trade Cases ¶68,253. U.S. District Court, N.D. Illinois, Eastern Division. Civil Action No. 55 C 1658. Dated February 6, 1956. Case No. 1229 in the Antitrust Division of the Department of Justice.

Clayton Antitrust Act

Acquisitions of Stock or Assets—Consent Decree—Practices Enjoined—Acquisitions of Hotels—Hotel Chain.—A hotel chain and a hotel leasing corporation (the stock of which was owned by the stockholders of the chain) were each prohibited by a consent decree from making any acquisition before a specified date, if the effect of the acquisition would be to increase the number of hotels controlled by either or both of the defendants to more than four in New York, New York, or more than one in Washington, D. C., or more than one in St. Louis, Missouri, or more than one in the composite area of Los Angeles and Beverly Hills, California. However, the decree provided that if either of the defendants desired to make any acquisition prior to that date, such defendant could submit a full disclosure of the facts with respect to the proposed acquisition to the Government for consideration. The decree further provided that if the Government does not object to the proposed acquisition within thirty days, the acquisition would be deemed not to be a violation of the consent decree. In the event the Government objected to the acquisition, the defendant could apply to the court for permission to make the acquisition, which could be granted upon a showing by the defendant that the effect of the acquisition would not be substantially to lessen competition or to tend to create a monopoly in any line of commerce in any section of the country. Also, the decree required the defendants to dispose of specified hotels.

Department of Justice Enforcement and Procedure—Consent Decrees—Specific Relief—Divestiture of Hotels.—A hotel chain and a hotel leasing corporation (the stock of which was owned by the stockholders of the chain) were ordered to dispose of hotels in St. Louis, Missouri, Washington, D. C., and New York, New York. The decree provided that the properties to be disposed of should not be sold to any person in which either of the defendants owns any stock or financial interest, to any one or more officers, directors, agents, or employees of either defendant, or to any other person acting for or under the control of either defendant. If any property was not sold entirely for cash, the decree permitted either defendant to accept a mortgage, deed of trust, or other form of security for the purpose of securing the full payment of the price at which the property was sold. With respect to one hotel which was to be sold, the decree permitted either defendant to accept, as part of the purchase price, the common stock, in a specified amount, of such hotel. However, the decree required such defendant to dispose of stock so acquired within a reasonable time. If either of the defendants regained ownership of any hotel which it was required to sell, the decree required such defendant to again dispose of the hotel. The defendants were each required to render to the court and to the Government reports stating the efforts made by them to dispose of the hotels.

Department of Justice Enforcement and Procedure—Consent Decrees—Scope of Decree—Activities Outside United States.—A consent decree requiring the sale of certain hotels and prohibiting the acquisition of hotels contained a provision which stated that the complaint in the action not alleging any violation of law with respect to any activities of either defendant outside the continental limits of the United States, this decree shall not affect in any way the past, present, or future acquisition or operation of any hotel outside such continental limits of the United States by either defendant.

Department of Justice Enforcement and Procedure—Consent Decrees—Modification—Proof.—A consent decree which permitted a hotel chain and a hotel leasing corporation (the stock of which was owned by the stockholders of the chain) to apply to the court for permission to acquire hotels provided that no showing of any change of circumstances since the entry of the decree shall be required as a basis for the court's approval of an acquisition.

For the plaintiff: Stanley N. Barnes, Assistant Attorney General, and William D. Kilgore, Jr., Ephraim Jacobs, Harry N. Burgess, Donald F. Melchior, and Earl A. Jinkinson, Attorneys.

For the defendants: Friedman, Zoline & Rosenfield by William J. Friedman, Joseph T. Zoline, and Maurice Rosenfield; and Covington & Burling by John Lord O'Brian, Hugh B. Cox, and James H. McGlothlin.

Final Judgment

JOHN P. BARNES, District Judge [*In full text*]: Plaintiff United States of America having filed its complaint herein; both defendants herein having appeared and filed their respective answers to such complaint denying the substantive allegations thereof and denying any violation of law; and all the parties herein, by their respective attorneys, 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 to any such issue of fact or law, and specifically without any admission by either defendant or any determination by this Court that either defendant is engaged in interstate commerce or in commerce among the several states,

Now, therefore, without any testimony having been taken herein, and without trial or adjudication of any issue of fact or law herein and on consent of the parties hereto, it is hereby

Ordered, adjudged and decreed as follows:

I

[*Clayton Act*] This Court has jurisdiction of the subject matter herein and of all parties hereto pursuant to Section 15 of the Act of Congress of October 15, 1914, as amended, entitled "An Act to Supplement Existing Laws Against Unlawful Restraints and Monopolies and For Other Purposes", commonly known as the Clayton Act; and the complaint states a claim upon which relief may be granted under Section 7 of said Act.

II

[*Definitions*]

As used in this Final Judgment:

- (A) "Hilton" means the defendant Hilton Hotels Corporation, a Delaware corporation;
- (B) "Statler" means the defendant Statler Hotels Delaware Corporation, a Delaware corporation;
- (C) "Defendants" means the defendant Hilton and the defendant Statler;
- (D) "Person" means any individual, partnership, corporation, association or other legal entity;
- (E) "Listed hotel" means a hotel named in Schedule A attached hereto;
- (F) "Acquisition" means any obtaining of control of a listed hotel, directly or indirectly, through purchase of assets, stock or other securities, lease, management contract, statutory consolidation or statutory merger or through any other means. Construction of a hotel or of an addition to a listed hotel is not an acquisition within the meaning of this definition, nor is remodeling or enlargement of any of the facilities of a listed hotel.

III

[*Applicability of Judgment*]

The provisions of this Final Judgment, applicable to a defendant, shall be binding upon said defendant, its officers, agents, servants and employees, and upon those persons in active concert or participation with said defendant who receive actual notice of this Final Judgment by personal service or otherwise.

IV

[*Divestiture of Hotels Ordered*]

(A) Within a reasonable time after December 1, 1955, the defendants shall, pursuant to the terms and conditions of this Section IV, dispose of the Jefferson Hotel located in St. Louis, Missouri; the Mayflower Hotel located in Washington, D. C; and either the New Yorker Hotel or the Roosevelt Hotel located in New York, New York.

(B) The divestments ordered and directed by subsection (A) of this Section IV shall be made in good faith and shall be absolute and unqualified. None of the properties so ordered to be disposed of shall be directly or indirectly sold or disposed of to any person in which either defendant owns any stock or financial interest, to any one or more officers, directors, agents or employees of either defendant or to any person or persons acting for or under the control of either defendant; provided, however, that if any property is not sold or disposed of entirely for cash, nothing herein contained shall be deemed to prohibit any defendant from retaining, accepting and enforcing a bona fide lien, mortgage, deed of trust or other form of security on said property for the purpose of securing to such defendant or defendants full payment of the price at which said property is disposed of or sold; and provided further that in connection with the sale of the Mayflower Hotel either defendant or both defendants may accept as part of the purchase price common stock (or voting trust certificates, hereinafter called common stock) of the purchaser of the Mayflower Hotel, if the total amount of common stock thus acquired by both defendants does not exceed 15 per cent of the then outstanding common stock of the purchaser of the Mayflower Hotel; and provided further that any defendant receiving such common stock of a purchaser in connection with the sale of the Mayflower Hotel shall dispose of all of such stock within a reasonable time;

(C) If after bona fide disposal pursuant to this Section IV of any hotel named in this Section IV, any defendant prior to January 1, 1961 by enforcement or settlement of a bona fide lien, mortgage, deed of trust, or other form of security regains ownership or control of such hotel, the defendants shall again dispose of any such hotel thus regained. Such subsequent disposal shall be made subject to all other provisions of this Final Judgment, and shall be completed within a reasonable time, not to exceed five (5) years from the date that the hotel is thus regained;

(D) Beginning April 30, 1956 and continuing until consummation of the disposals required by this Section IV, defendants shall render to this Court and to the plaintiff a report within 30 days after the end of each quarter, stating the efforts made by defendants to dispose of such properties and interests. If at any time the plaintiff is dissatisfied with the progress being made in the aforementioned disposals, it may file a petition with this Court for such further orders and direction as may be necessary to effect such disposals by the defendants.

V

[*Acquisition of Hotels Prohibited*]

Each defendant is enjoined and restrained from making any acquisition before January 1, 1961 if the effect of such acquisition will be to increase the number of listed hotels controlled by either or both defendants to more than four in New York City, N. Y., or more than one in Washington, D. C, or more than one in St. Louis, Missouri, or more than one in the composite area of Los Angeles and Beverly Hills, California. Provided, however, that if at any time either defendant desires to make any acquisition prior to January 1, 1961 which would be otherwise prohibited by the foregoing, such defendant may submit a full disclosure of the facts with respect to such proposed acquisition and the reason therefor to the plaintiff for consideration. If the plaintiff shall not object to the proposed acquisition within 30 days, such acquisition shall be deemed not to be a violation of this final judgment. In the event the plaintiff shall object, such defendant may apply to this Court for permission to make such acquisition, which may be granted upon a showing by the defendant to the satisfaction of this Court that the effect of such acquisition will not be substantially to lessen competition or to tend to create a monopoly in any line of commerce in any section of the country. No showing of any change of circumstances since the entry of this Final Judgment shall be required as a basis for such approval.

VI

[*Inspection and Compliance*]

For the purpose of securing compliance with this Final Judgment and for no other purpose, and subject to any legally recognized privilege, duly authorized representatives of the Department of Justice shall be permitted, upon written request of the Attorney General, or of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to a defendant at its principal office, (1) to inspect during office hours all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of such defendant relating to any of the subject matters contained in this Final Judgment; and (2) subject to the reasonable convenience of such defendant and without restraint or interference from it, to interview any officer or employee of such defendant, who may have counsel present, regarding any such matters; (3) and to require such defendant to submit such reasonable additional reports in writing to this Court, with copies to the Attorney General, with respect to matters contained in this Final Judgment, as may from time to time be necessary to the enforcement of this Final Judgment. No information obtained by the means provided 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 Department, except in the course of court 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.

VII

[*Foreign Activities*]

The complaint herein not alleging any violation of law with respect to any activities of either defendant outside the continental limits of the United States of America, this Final Judgment shall not affect in any way the past, present or future acquisition or operation of any hotel outside such continental limits of the United States of America by either defendant.

VIII

[*Jurisdiction Retained*]

Jurisdiction is retained for the purpose of enabling any party 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 thereof, and for the enforcement of compliance therewith and punishment of violations thereof.

Schedule A

Los Angeles-Beverly Hills Ambassador Beverly-Wilshire Beverly Hills Biltmore Statler

New York Astor Biltmore Commodore Concourse Plaza Henry Hudson McAlpin New Yorker Park Sheraton
Plaza Roosevelt Statler

Waldorf-Astoria

St. Louis

Chase

Coronado

Lennox

Sheraton Jefferson Statler

Washington

Mayflower Raleigh

Sheraton Carlton

Sheraton Park

Shoreham
Statler
Washington
Willard