APPENDIX A:

FINAL JUDGMENTS

(Ordered by Year Judgment Entered)

U.S. v. E. I. DU PONT DE NEMOURS AND COMPANY, ET AL.

In Equity No. 280

Year Judgment Entered: 1912

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF DELAWARE.

In Equity. No. 280.

UNITED STATES OF AMERICA, PETITIONER,

vs.

E. I. DU PONT DE NEMOURS & CO. ET AL., DEFENDANTS.

FINAL DECREE.

This cause coming on to be heard for final decree in accordance with the interlocutory decree entered herein on the twenty-first day of June, A. D. 1911, before the three Circuit judges of the Third Judicial Circuit, in the District Court of the United States for the District of Delaware, in the presence of George W. Wickersham, Attorney-General of the United States, and James Scarlet, William A. Glasgow, Jr., and Victor N. Roadstrum, special assistants to said Attorney-General, and Ullman & Hoag, for the defendants, the American Powder Mills, the Miami Powder Company and the Aetna Powder Company; M. B. & H. H. Johnson, for the defendant, the Austin Powder Company; Frederick Seymour, for the defendant, the Equitable Powder Manufacturing Company, David T. Marvel and David T. Watson, for the defendant, Henry A. du Pont; Burton B. Tuttle, for the defendant, the King Powder Company; and John C. Spooner, James M. Townsend, George S. Graham, William S. Hilles, Frank S. Katzenbach, Jr., and William H. Button, for the remaining defendants, and this Court by said interlocutory decree having consented to hear the petitioner and the defendants herein as to the nature of the injunction which shall be granted herein and as to a plan for dissolving the combination found herein by said Court to exist, to the end that this Court may ascertain and determine upon a plan or method for such dissolution which will not deprive the defendants of the opportunity to recreate out of the elements now composing said combination a new condition which shall be honestly in harmony with and not repugnant to the law, and the Court having heard argument of counsel herein and having duly considered the matter, and it appearing to the Court that the petitioner, the United States of America, is entitled to the relief hereinafter mentioned:

It is thereupon, on this 13th day of June, A. D. 1912, ordered, adjudged and decreed as follows, to wit:

1. That the petition be dismissed as to the following defendants, namely: Aetna Powder Company, Miami Powder Company, American Powder Mills, Equitable Powder Manufacturing Company, Austin Powder Company, King Powder Company, Anthony Powder Company, Limited, American E. C. & Schultze Gunpowder Company, Peyton Chemical Company, Henry A. duPont, Henry F. Baldwin, California Powder Works, Conemaugh Powder Company, Metropolitan Powder Company, E. I. duPont Company of August 1, 1903, and International Smokeless Powder and Chemical Company.

2. That the remaining twenty-seven defendants, namely; Hazard Powder Company, Laflin & Rand Powder Company, Eastern Dynamite Company, Fairmont Powder Company, Judson Dynamite & Powder Company, Delaware Securities Company, Delaware Investment Company, California Investment Company, E. I. duPont de Nemours & Company of Pennsylvania, duPont International Powder Company, E. I. duPont de Nemours Powder Company, E. I. duPont de Nemours & Company,

Thomas Coleman duPont, Pierre S. duPont, Alexis I. duPont, Alfred I. duPont, Eugene duPont, Eugene E. duPont, Henry F. duPont, Irenee duPont, Francis I. duPont, Victor duPont, Jr., Jonathan A. Haskell, Arthur J. Moxham, Hamilton M. Barksdale, Edmund G. Buckner and Frank L. Connable, are maintaining a combination in restraint of interstate commerce in powder and other explosives in violation of Section 1, of an Act entitled "An Act to Protect Trade and Commerce against Unlawful Restraints and Monopolies," approved July 2, 1890, and have attempted to monopolize and have monopolized a part of such commerce in violation of Section 2 of said Act.

Wherefore, It is further ordered, adjudged and decreed that the twenty-seven (27) defendants above mentioned, and each of them be enjoined from continuing said combination and monopoly, and that said combination and monopoly be dissolved.

3. That the petitioner having availed itself of the permission granted in said interlocutory decree and having presented a certain plan for the dissolution of said combination and the dissolution of said monopoly, so far as the present situation of the parties and the properties involved will permit, to which plan the said twenty-seven (27) defendants do not object, which said plan is as follows:

First: Dissolve the defendant corporation E. I. duPont de Nemours & Company (1902, Delaware corporation) and distribute its property among its stockholders.

Second: Dissolve the defendant corporation Hazard Powder Company and distribute its property among its stockholders.

Third: Dissolve the defendant corporation Delaware Securities Company and distribute its property among its stockholders.

Fourth: Dissolve the defendant corporation Delaware Investment Company and distribute its property among its stockholders.

Fifth: Dissolve the defendant corporation Eastern Dynamite Company and distribute its property among its stockholders.

Sixth: Dissolve the defendant corporations California Investment Company and Judson Dynamite and Powder Company and distribute their property among their stockholders.

Seventh: Organize two corporations in addition to E. I. duPont de Nemours Powder Company (1903, New Jersey corporation) which shall be capitalized as hereinafter provided, or reorganize the Laflin and Rand Powder Company and the Eastern Dynamite Company, or either of them, to be used instead of one or both of said two corporations, and in case the said Eastern Dynamite Company is so selected, then it need not be dissolved as hereinbefore provided. In case the Laflin and Rand Powder Company is not used under this paragraph dissolve said company and distribute its property among its stockholders.

To the first of said corporations transfer the following plants:

For the manufacture of dynamite:
Plant at Kenville, New Jersey.
Plant at Marquette, Michigan.
Plant at Pinole, California.

For the manufacture of black blasting powder:
Plant at Rosendale, New York.
Two (2) plants at Ringtown, Pennsylvania.
Plant at Youngstown, Ohio.
Plant at Pleasant Prairie, Wisconsin.
Plant at Turck, Kansas.
Plant at Santa Cruz, California.

For the manufacture of black sporting powder:
Plant at Hazardville, Connecticut.
Plant at Schaghticoke, New York.

To the second of said corporations transfer the following plants:

For the manufacture of dynamite:
Plant at Hopatcong, New Jersey.
Plant at Senter, Michigan.
Plant at Atlas, Missouri.
Plant at Vigorit, California.

For the manufacture of black blasting powder:
Plant at Riker, Pennsylvania.
Plant at Shenandoah, Pennsylvania.
Plant at Ooltewah, Tennessee.
Plant at Belleville, Illinois.
Plant at Pittsburg, Kansas.

And permit the said defendant E. I. duPont de Nemours Powder Company to retain the following plants:

For the manufacture of dynamite:
Plant at Ashburn, Missouri.
Plant at Barksdale, Wisconsin.
Plant at duPont, Washington.
Plant at Emporium, Pennsylvania.
Plant at Hartford City, Indiana.
Plant at Louviers, Colorado.
Plant at Gibbstown, New Jersey.
Plant at Lewisburg, Alabama.

For the manufacture of black blasting powder:
Plant at Augusta, Colorado.
Plant at Connable, Alabama.
Plant at Oliphant Furnace, Pennsylvania.
Plant at Mooar, Iowa.
Plant at Nemours, West Virginia.
Plant at Patterson, Oklahoma.
Plant at Wilpen, Minnesota.

For the manufacture of black sporting powder:
Plant at Brandywine, Delaware.
Plant at Wayne, New Jersey.

For the manufacture of smokeless sporting powder:
Plant at Carney's Point, New Jersey.
Plant at Haskell, New Jersey.

For the manufacture of Government smokeless powder:
Plant at Carney's Point, New Jersey.
Plant at Haskell, New Jersey.

Eighth: Transfer to or furnish the first of said two corporations with a plant for the manufacture of smokeless sporting powder and the brands now or heretofore owned by the Laflin and Rand Powder Company. Such plant to be located at Kenville, New Jersey, or some other suitable Eastern point, and to be of a capacity sufficient to manufacture 950,000 pounds per annum of smokeless sporting powder of the brands to be assigned to the first of said corporations.

Ninth: Furnish said two corporations respectively with sufficient working capital and the necessary cash and facilities to enable them to efficiently carry on the business which will attend the properties so to be transferred to them.

Tenth: Transfer said properties to said two corporations respectively upon a valuation thereof based on the last inventory of said properties, to include a fair valuation for brands and good will, and issue to said E. I. duPont de Nemours Powder Company in payment therefor securities of said two corporations respectively at par value as follows: Fifty per cent. (50%) of said purchase price in bonds not secured by mortgage which shall bear interest at the rate of six per cent. (6%) per annum, payable if earned by the company during said year, or to the extent thereof earned, but not otherwise; nor cumulative; payable not less than ten years from date; the form of said bonds to be approved by the Attorney-General or the Court, which bonds shall be subject to call at one hundred and two (102); and the other fifty per cent. (50%) of said purchase price in the stock of said two corporations respectively, which for the time being shall be their entire stock issues. Upon the receipt of said stock and bonds by E. I. duPont de Nemours Powder Company, distribute the said stock and one-half of said bonds or the proceeds of the sale of said bonds among the stockholders of E. I.

duPont de Nemours Powder Company. In the organization or reorganization of said two corporations to which said properties are to be transferred, provide two issues of stock in said two corporations respectively, one of which shall have voting power and the other of which shall have no voting power. So distribute said stocks among the stockholders of E. I. duPont de Nemours Powder Company that any amounts thereof which upon said distribution shall go to any one of the twenty-seven defendants hereinbefore mentioned shall consist of one-half of said stock with voting power and one-half of said stock without voting power, and provide that upon the transfer through death or by will from any one of said twenty-seven defendants of any stock which has no voting power, to some person or persons other than one of said twenty-seven defendants herein, or upon the sale by any one of said twenty-seven defendants of any stock which has no voting power, to some person or persons other than one of said twenty-seven defendants herein, or their respective wives or children, said stock so sold or transferred may be exchanged for stock with voting power.

Eleventh: Transfer to said corporations, respectively, so far as practicable, a fair proportion of the business in explosives now controlled by E. I. duPont de Nemours Powder Company under time contracts.

Twelfth: During a period of at least five years furnish each of said two corporations respectively, under such arrangements as may be reasonable, such information from the records of the Trade Bureau maintained by E. I. duPont de Nemours Powder Company as may be desired.

Thirteenth: During a period of at least five years furnish to each of said two corporations such facilities, information and use of organization, as E. I. duPont de Nemours Powder Company may operate or possess in reference to purchase of materials, experimentation, development of the art and scientific research, as said two corporations may desire from time to time, in the interests of their business, and upon some reasonable terms as to the cost thereof to said two corporations.

And said plan having been duly considered by the Court, it is ordered, adjudged and decreed that the said defendants are respectively directed to proceed forthwith to carry said plan into effect, and it is further

Ordered, adjudged and decreed, that if said defendants shall not have carried said plan into operation and effected the same on or before the fifteenth day of December, 1912, then and in that event an injunction shall issue out of this Court restraining the said defendants in paragraph two of this decree mentioned and each of them, and their agents and servants from thereafter in any manner whatsoever placing the products of any of the factories owned by said defendants or said combination into the channels of interstate commerce, or such other relief shall be granted by the appointment of a receiver or otherwise as this Court may determine.

4. That should the defendants find it impossible to perfect the details of said plan on or before the said fifteenth day of December, 1912, they may have leave to apply to the Court for further time to carry out said plan.

5. That until said plan is carried into operation and effect, the said twenty-seven defendants hereinbefore named in paragraph two of this decree, are, and each of them is, and the agents and servants of them are jointly and severally hereby enjoined from doing any acts or act which shall in any wise further extend or enlarge the field of operations, or the power of the aforesaid combination.

It is further ordered, adjudged and decreed that the said twenty-seven (27) defendants, their stockholders, officers, directors, servants, agents and employees be and they are hereby severally enjoined and restrained as follows:

From continuing or carrying into further effect after said fifteenth day of December, 1912, the combination adjudged illegal in this suit, and from entering into or forming among themselves or with others any like combination or conspiracy, by any method or device whatsoever, the effect of which is or will be to restrain inter-

state commerce in explosives or to renew the unlawful monopoly of such commerce obtained and possessed by the defendants as adjudged herein, in violation of "An Act to protect trade and commerce against unlawful Restraints and Monopolies," approved July 2, 1890, and especially:

1. By causing the conveyance of the factories, plants, brands or business of either of said two new corporations to the other corporation or to E. I. duPont de Nemours Powder Company or vice versa after the segregation of the properties among said corporations shall have taken place as herein provided; by placing the stocks of either of said corporations in the hands of voting trustees or controlling the voting power of such stocks by any device;

2. By making any express or implied agreement or arrangement with one another or with others relative to the control or management of either of said corporations, or the price or terms of purchase, or of sale of explosives or relative to the purchase, sale, manufacture, or transportation of explosives which will have the effect of restraining interstate commerce; or by making any agreement or arrangement of any kind between said corporations under which trade or business is apportioned between said corporations in respect either to customers or localities.

3. By offering or causing to be offered or making or causing to be made more favorable prices or terms of sale for the products manufactured by them or either of them to the customers of any rival manufacturer or manufacturers than they at the same time offer to make to their established trade, where the purpose is to unfairly cripple or drive out of business such rival manufacturer or manufacturers or otherwise unlawfully to restrain the trade and commerce of the United States in any of said products; provided, that no defendant is enjoined or restrained from making any price or prices in the sale of said products, or any thereof, to meet or to compete with prices made by any other defendant, or by any rival manufacturer; and provided, further, that nothing in

this decree shall be taken in any respect to enjoin or restrain fair, free and open competition.

4. By either of said corporations retaining or employing the same clerical force or organization, or keeping the same office or offices as any other of said corporations.

5. By either of said corporations doing business directly or indirectly under any other than its own corporate name or the name of a subsidiary corporation controlled by it; provided, however, that, in case of a subsidiary corporation, the controlling corporation shall cause the products of such subsidiary corporation which are sold in the United States and bear the name of the manufacturer to bear also a statement indicating the fact of such control.

It is further ordered, adjudged and decreed that said defendants cancel and annul:

a. Agreement of October 2, 1902, between William Barclay Parsons, of the City of New York, and the Delaware Securities Company. Petitioner's Record, Exhibits, Volume 4, page 1984.

b. Agreement of October 6, 1902, between H. deB. Parsons of the City of New York, and the Delaware Securities Company. Petitioner's Record, Exhibits, Volume 4, page 1986.

c. Agreement of the second day of October, 1902, between Schuyler L. Parsons, of the City of New York, and the Delaware Securities Company. Petitioner's Record, Exhibits, Volume 4, page 1988.

d. A like and identical agreement made about the same date between J. A. Haskell and the Delaware Securities Company, described in Petitioner's Testimony, Volume 2, page 1012.

It is further ordered, adjudged and decreed that during a period of five years from the date hereof each of said corporations, the E. I. duPont de Nemours Powder Company and said other two corporations, their stockholders, officers, directors, agents, servants and employees be hereby enjoined and restrained as follows:

1. None of said corporations shall have any officer or director who is also an officer or director in any other of said corporations.

2. None of said corporations shall employ the same agent or agents for the sale in interstate commerce of explosives which might be sold in competition with each other; provided that any one of said corporations may sell its products on commission through a merchant or dealer who is similarly employed by either or both of said other corporations.

3. None of said corporations shall directly or indirectly acquire any stock in another of said corporations or purchase or acquire any of the factories, plants, brands or business of such other corporation.

It is further ordered, adjudged and decreed that each and all of the individual defendants by this decree adjudged to be engaged in said combination, while holding stock in said two corporations and E. I. duPont de Nemours Powder Company or any two thereof, be enjoined and restrained from at any time within three years from the date hereof acquiring, owning or holding, directly or indirectly, any stock or any legal or equitable interest in any stock in either of said two corporations to which said properties shall be transferred, in excess of the amount to which he may be entitled under the provisions of the plan herein mentioned when the same shall have been carried out as proposed; provided, however, that any of said individual defendants may notwithstanding this prohibition acquire from any other or others of said defendants, or in case of death, from their estates, any of the stock held by such other defendant or defendants in said corporations and may acquire their proportions of any increase of stock.

It is further ordered, adjudged and decreed that any new company or companies organized for the purpose of taking property under the provisions of this decree or otherwise, necessary to the carrying out of this plan, shall, after their formation and by appropriate proceedings, be made parties to this cause, and subject to the provisions

of this decree and bound by the injunctions herein granted.

It is further ordered, adjudged and decreed that any party hereto may make application to this Court for such orders and directions as may be necessary or proper in relation to the carrying out of such plan and the provisions of this decree.

It is further ordered, adjudged and decreed that the twenty-seven (27) defendants hereinabove mentioned, do pay to the United States Government its cost in this cause.

It is further ordered, adjudged and decreed that jurisdiction of this cause is retained by this Court, for the purpose of making such other and further orders and decrees as may become necessary for carrying out the plan herein set forth.

It is further ordered, adjudged and decreed that after the plan hereinabove mentioned shall have been carried into effect a report shall be made to this Court for its approval, setting out the manner in which said plan shall have been carried out.

GEO. GRAY,
JOS. BUFFINGTON,
JOHN B. MCPHERSON,
Circuit Judges.

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF DELAWARE.

In Equity. No. 280.

UNITED STATES OF AMERICA, PETITIONER,

VS.

E. I. DU PONT DE NEMOURS AND COMPANY, AND OTHERS.

DEFENDANTS.

DECREE.

And now, to wit, February 18, 1913, the above cause having come on to be heard, petitioner being represented by William A. Glasgow, jr., Esquire, for himself and the Attorney General of the United States, and the defen-

dants by George S. Graham and J. P. Laffey, Esquires, and it appearing that the defendants have made a report and also filed a first and second supplemental report setting out the manner in which the plan for dissolution provided for in the third section of the final decree of this court made on the 13th day of June, A. D. 1912, has been carried out, and it further appearing that counsel for the United States, while not consenting, does not object to the capitalization of the Hercules Powder Company and the Atlas Powder Company (the two new companies provided for in the plan of dissolution) set forth in said reports; and it further being shown to the court that the Hercules Powder Company has appeared and become a party to this cause, and T. D. Finletter, Esq., has filed his appearance for the said company, and that the Atlas Powder Company has also appeared and become a party to this cause, and Samuel M. Clement, jr., has filed his appearance for the said company:

Now, therefore, it is ordered, adjudged and decreed that the provisions of the decree of June 13, 1912, and the injunctions contained in said decree, be and the same are hereby extended to and made binding upon the said two new companies, which have been organized in conformity with the requirements of the plan of dissolution.

And it is further ordered, adjudged and decreed that the report and the first and second supplemental reports filed by defendants, setting forth the manner in which the plan of dissolution, ordered to be carried out in the final decree, has been complied with and made effective, are hereby approved.

It is further ordered, adjudged, and decreed that jurisdiction of this cause is retained by this court, for the purpose of making such other and further orders and decrees as may become necessary.

Entered by court February 18th, 1913.

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF DELAWARE.

In Equity. No. 280.

UNITED STATES OF AMERICA, PETITIONER,
VS.
E. I. DUPONT DE NEMOURS AND COMPANY, AND OTHERS, DEFENDANTS.

IN THE MATTER OF THE PETITION OF HERCULES POWDER COMPANY.

The Petition of Hercules Powder Company, one of the two new Corporations organized under the final decree of this Court entered in the above entitled cause on the Thirteenth day of June, 1912, filed in said cause on the Seventh day of January, 1921, and amended February 14. 1921, praying this Court for such a decree as will permit it to acquire by purchase all the physical properties and other assets of the Aetna Explosives Company, Inc., a Corporation of the State of New York, coming on to be heard, under stipulation of the United States of America, by Henry S. Mitchell, Special Assistant to the Attorney General and of the Petitioner by its Solicitors, both upon a motion to dismiss said amended Petition, filed by the United States of America, and upon a rule to show cause why the prayers of said amended Petition should not be granted, and the said Amended Petition, the said motion to dismiss, the answer filed to said amended Petition by the United States of America, and the evidence in the form of Affidavits filed in support of said amended Petition having been opened to the Court and the Court having heard argument of counsel herein and having duly considered the matter, and it appearing to the Court that the motion to dismiss the said amended Petition should not be granted and that the said Petitioner is entitled to the relief hereinafter mentioned:

It is thereupon, on this Ninth day of May, A. D. 1921, ordered, adjudged and decreed as follows, to wit:

(1) That the said motion to dismiss the said amended Petition of the said Hercules Powder Company be and the same is hereby denied.

(2) That the acquisition of the physical properties and other assets of the said Aetna Explosives Company, Inc., by the said Hercules Powder Company is not and will not

be in violation of either the spirit, language or purpose of the said final decree of this Court or of the supplemental decree of this Court entered in the above entitled cause on the eighteenth day of February, 1913; and that the said final decree be and the same hereby is further supplemented and so modified as to permit the said Hercules Powder Company to acquire the physical properties and other assets of the said Aetna Explosives Company, Inc., as prayed in said amended Petition.

(3) That the costs on said Petition be paid by the said Petitioner.

/s/ JOS. BUFFINGTON,
/s/ VICTOR B. WOOLLEY,
/s/ J. WARREN DAVIS,
Circuit Judges of the Third Judicial Circuit of the United States.

U.S. v. BATES VALVE BAG CORPORATION, ET AL.

In Equity No. 280

Year Judgment Entered: 1931

UNITED STATES OF AMERICA vs. BATES VALVE BAG CORPORATION, ET AL., DEFENDANTS.

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF DELAWARE.

In Equity No. 705.

UNITED STATES OF AMERICA, PLAINTIFF

VS.

BATES VALVE BAG CORPORATION, ST. REGIS PAPER COMPANY AND BATES VALVE BAG CORPORATION, DEFENDANTS.

FINAL DECREE.

The United States of America, having filed its Petition herein on the fourth day of January, A. D. 1929, and having thereafter filed its Amended Petition on the twenty-third day of January, A. D. 1929, and having thereafter filed its Supplemental Petition on the nineteenth day of November, A. D. 1929, and the defendant Bates Valve Bag Corporation (Delaware) having duly appeared herein by Clarence A. Southerland, and Ward & Gray, its solicitors, and the defendants St. Regis Paper Company and the Bates Valve Bag Corporation (New Jersey) having duly appeared herein by Clarence A. Southerland, their solicitor, and having duly filed answer herein,

Comes now the United States of America, by its solicitors, Leonard E. Wales, United States Attorney for the District of Delaware, John Lord O'Brian, The Assistant to the Attorney General, and George P. Alt and James Maxwell Fassett, Special Assistants to the Attorney General, and the defendants by their solicitors hereinbefore named, and it appearing to the Court by admission of the defendants that the petition herein states a cause of action, that the plaintiff has moved the Court for an injunction and for other relief against the defendants as herein decreed, and the Court having duly considered the statements of solicitors for the respective parties, and all of the defendants by their respective solicitors having consented to the entry of this decree without contest, and before any testimony had been taken, now, therefore, and upon motion of the plaintiff,

IT IS ORDERED, ADJUDGED, AND DECREED:

Section 1. That the Court has jurisdiction of the subject matter and of all parties hereto; that the petition herein states a cause of action against the defendants Bates Valve Bag Corporation, a Delaware corporation, the St. Regis Paper Company, a New York corporation, and Bates Valve Bag Corporation, a New Jersey corporation, under the Act of July 2, 1890, entitled "An Act to protect trade and commerce against unlawful restraints and monopolies", which Act is commonly referred to as the Sherman Antitrust Act; and that the petition states a cause of action against the defendants above-named under the Act of October 15, 1914, entitled "An Act to supplement existing laws against unlawful restraints and monopolies and for other purposes", which Act is commonly referred to as the Clayton Act.

Section 2. That the defendant Bates Valve Bag Corporation, a New Jersey corporation, has heretofore made and/or assumed contracts with licensees, lessees and/or users of valve bag filling machines which, by their terms, require the said licensees, lessees and/or users of the machines not to manufacture valve bags, or to buy valve bags from any corporation or person other than defendant Bates Valve Bag Corpration, a New Jersey corporation, and/or such corporations or persons specifically designated by it by license or otherwise; and that certain of said contracts provide that if any of said restrictions

or limitations in said contracts contained shall not be observed by the said licensees, lessees and/or users of the said machines, said contracts shall be immediately terminated and the defendant Bate Valve Bag Corporation, a New Jersey corporation, may, and shall have the right to, recover possession of all such machines without process of law, from said licensees, lessees and/or users of the said machines who have failed to observe said restrictions and/or limitations.

Section 3. That each and every of the aforesaid contracts are hereby declared null and void in so far as they, or any of them, require the licensee, lessee and/or the user of the valve bag filling machines not to buy valve bags from any corporation or person other than defendant Bates Valve Bag Corporation, a New Jersey corporation, and/or such corporations or persons specifically designated by it by license or otherwise; and each and every of said contracts and all existing contracts of like effect are hereby declared null and void in so far as they, or any of them, provide that if any of the said restrictions or limitations in said contracts contained shall not be observed by the licensees, lessees and/or users of the said machines, the contract may be terminated by the defendant Bates Valve Bag Corporation, a New Jersey corporation, and the said defendant corporation may, and shall have the right to, recover possession of all such machines without process of law from said licensees, lessees and/or users of said machines.

Section 4. That the defendants Bates Valve Bag Corporation, a Delaware corporation, St. Regis Paper Company, a New York corporation, and Bates Valve Bag Corporation, a New Jersey corporation, and each of them, their officers, agents, employees and representatives of every kind be and they hereby are perpetually enjoined and restrained from enforcing, or attempting to enforce, directly or indirectly, by means of the present corporate organization of the defendants, by subsidiary or controlled corporations now in existence or hereafter to be organized, or otherwise, any terms or conditions of any

contract or agreement herein declared to be null and void, or any substantially similar restrictions or limitations in any other contract or agreement now in existence or hereafter to be entered into.

Section 5. That defendants and each of them, their officers, agents, employees and representatives of every kind and all subsidiary and/or controlled corporations now in existence and/or to be hereafter organized, be and they hereby are perpetually enjoined and restrained from making, or attempting to make, any license, lease, contract of sale, or any agreement of any kind whatsoever, concerning or relating to valve bag filling machines which license, lease, contract of sale or agreement shall contain, or shall be made upon, the condition, agreement or understanding that the licensee, lessee, purchaser and/or other party to any such agreement shall not sell valve bags to, or buy valve bags from, or use any valve bags manufactured by or bought from any corporation or person other than the defendants, or any of them, or any person or corporation designated by them.

Section 6. That jurisdiction of this cause is retained for the purpose of enforcing or modifying this decree.

Section 7. That petitioner shall recover from defendants its taxable costs herein

JOHN P. NIELDS,
Judge.

Dated Wilmington, Delaware, January 20, 1931.

U.S. v. COLUMBIA GAS & ELECTRIC CORPORATION, ET AL.

In Equity No. 1099

Year Judgment Entered: 1936

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States of America v. Columbia Gas & Electric Corporation, Columbia Oil & Gasoline Corporation, George H. Howard, Philip G. Gossler, Charles A. Munroe, Thomas R. Weymouth, Thomas B. Gregory, Edward Reynolds, Jr., Burt R. Bay and John H. Hillman, Jr., U.S. District Court, D. Delaware, 1932-1939 Trade Cases ¶55,099, (Jan. 29, 1936)

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United States of America v. Columbia Gas & Electric Corporation, Columbia Oil & Gasoline Corporation, George H. Howard, Philip G. Gossler, Charles A. Munroe, Thomas R. Weymouth, Thomas B. Gregory, Edward Reynolds, Jr., Burt R. Bay and John H. Hillman, Jr.

1932-1939 Trade Cases ¶55,099. U.S. District Court, D. Delaware. January 29, 1936

A consent decree enjoins defendants from interfering with the production, transportation, sale or delivery of gas, and from holding stock in a certain gas corporation in contravention to the Anti-Trust laws, and one corporation is ordered to divest itself of stock in another.

Decree

This cause coming on to be heard this 29th day of January, 1936, and the several defendants having accepted service of process and having appeared and filed their answers to the Amended and Supplemental Petition herein, which latter has superseded the original Petition and is hereinafter referred to as the Petition;

And the petitioner and the defendants having filed a stipulation with the Clerk of the Court wherein and whereby they consent to the making and entering of this decree;

And it appearing that the petitioner alleges that the defendant Columbia Gas & Electric Corporation, through ownership by its affiliate Columbia Oil & Gasoline Corporation of various securities of Panhandle Eastern Pipe Line Company and otherwise, has interfered with, dominated and controlled the management and operation of said Panhandle Eastern Pipe Line Company with the purpose and effect of preventing competition, actual and potential, between said Panhandle Eastern Pipe Line Company and said Columbia Gas & Electric Corporation, and of monopolizing and attempting to monopolize interstate trade and commerce in natural gas in certain sections of the United States;

And it further appearing from said stipulation that the petitioner and the defendants have agreed that provision against domination or control, direct or indirect, in the affairs of Panhandle Eastern Pipe Line Company by the defendant Columbia Gas & Electric Corporation and the maintenance of said Panhandle. Eastern Pipe Line Company in a position of free and independent action in the production, transmission, sale and distribution of natural gas in competition with others constitutes the proper basis for the entry of this decree;

Now, Therefore, without taking any testimony or evidence and in accordance with such stipulation, it is hereby ordered, adjudged and decreed as follows:

I. That the Court has jurisdiction of the subject matter hereof and of all the parties hereto, with full power and authority to enter this decree; and that the petition states a cause of action under the Act of Congress approved July 2, 1890, entitled "An Act to protect trade and commerce against unlawful restraints and monopolies," and the Act of Congress approved October 15, 1914, entitled "An Act to supplement existing laws against unlawful resertains and monopolies, and for other purposes."

That the restrictions and injunctions herein shall apply not only with respect to the parties hereto and corporations mentioned herein but also to all persons, corporations, partnerships, associations or organizations acting, claiming or assuming to act for or on behalf of them or any of them; to their successors or assigns and any and all partnerships, corporations or individuals who may directly or indirectly acquire the ownership or

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control of the property, business, or assets (except securities of Panhandle Eastern) of said parties whether by merger, consolidation, reorganization or otherwise; and to the taking of action prohibited herein by indirection or by or through subsidiaries; affiliates, officers, directors, shareholders, agents, receivers, trustees, attorneys, employees, or otherwise, individually or collectively.

That the defendant Columbia Gas & Electric Corporation, a Delaware corporation hereinafter referred to as "Columbia Gas," is a holding company owning more than 50 subsidiary companies; that a substantial part of the business of said enterprise is the production, transmission, distribution and sale of natural and artificial gas;

That the defendant Columbia Oil & Gasoline Corporation, hereinafter referred to as "Columbia Oil," is a corporation of the State of Delaware organized to hold and operate oil and gasoline properties formerly owned by Columbia Gas and has not been and is not now engaged in the business of producing, transmitting, distributing and selling natural gas except that it owns certain securities of said Panhandle Eastern Pipe Line Company and all of the outstanding capital stock and certain indebtedness of Indiana Gas Transmission Corporation;

That Panhandle Eastern Pipe Line Company, hereinafter referred to as "Panhandle Eastern," is a corporation of the State of Delaware, owns and controls large gas producing areas in the Texas Panhandle and in Kansas and has constructed a natural gas pipe line from said producing areas through the States of Oklahoma, Kansas, Missouri, Illinois, and touching upon Indiana, for the purpose of transmitting, distributing and selling such natural gas;

That Panhandle Corporation is a corporation of the State of Maryland, and now owns stock and notes of Panhandle Eastern;

That the individual defendants named in the petition herein are citizens of the United States and have been either voting trustees of the common stock of Panhandle Eastern or officers or directors of said corporation, and with the exception of the defendants Burt R. Bay and John H. Hillman, Jr., have been officers or directors of Columbia Gas and Columbia Oil.

II. That the defendants be and they are hereby perpetually enjoined from exercising, or attempting, individually or collectively, directly or indirectly, to exercise any dominion or control over Panhandle Eastern and from restraining, or interfering in any manner with, the free and independent action of said Panhandle Eastern in the production, transportation, sale or delivery of natural gas to any person, corporation, community or section of the United States; from holding, acquiring, voting or in any manner acting as the owners, directly or indirectly, of the whole or any part of the stock, or other share capital, or bonds, property or assets of Panhandle Eastern or any other company, corporation, association or organization owning any substantial amount of its securities; and from participating in any way, directly or indirectly, or from exercising any control, direction, supervision, or influence, in the management or control of Panhandle Eastern; except

(a) That defendants may own stock in and obligations of Columbia Gas and Columbia Oil and be and exercise the lawful rights of directors or officers thereof;

(b) That defendants may own stock and obligations in Panhandle Corporation for, and pending, the dissolution of the latter corporation and the disposition of its interests in Panhandle Eastern as speedily as possible, in a manner not inconsistent with the provisions of this Section. II and the purposes and further provisions of this decree; and defendant Hillman may continue to own 60,000 shares of stock he now holds in Missouri-Kansas Pipe Line Company so long as the voting rights appurtenant thereto are exercised independently of the other defendants herein and not in a manner inconsistent with the purposes and provisions of this decree;

(c) That Columbia Gas and defendant Hillman may own or acquire obligations, without present or potential voting rights, of said Panhandle Eastern, except that Columbia Gas is hereby enjoined and restrained in connection with enforcing any rights under said obligations with respect to principal, interest or sinking fund, from acquiring any of the pipe line or other physical assets of Panhandle Eastern;

(d) That Columbia Oil may own or acquire stock or obligations in Panhandle Eastern and exercise voting rights appurtenant thereto (and defendant Bay may be and exercise the lawful rights of an officer of Panhandle

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Eastern), subject to the further terms and provisions of this decree, but Columbia Gas is hereby perpetually enjoined and restrained from acquiring any interest in such stock, by operation of law, or in connection with enforcing any lien created through the present or future existence of any debt, whether funded or un-funded, of Columbia Oil to Columbia Gas, or otherwise;

(e) That, when Columbia Gas has effectively divested itself of all control, direct or indirect, legal or practical, of Panhandle Eastern by no longer owning stock of any class having present or potential voting rights in Columbia Oil, upon the approval of this Court Columbia Oil shall no longer be subject to the restrictive clauses of this Section II;

III. That Gano Dunn is hereby nominated, constituted and appointed trustee for the purposes and with the powers and duties set forth in this Section III;

That within 10 days after the entry of this decree Columbia Oil shall execute, and deposit with said trustee the agreements and offers executed by it in accordance with, its agreements set forth in Section V of the stipulation pursuant to which this decree is entered;

That within 10 days after the entry of this decree Columbia Oil shall transfer all of its stock now owned and thereafter all stock subsequently acquired in Panhandle Eastern, having present or potential voting rights, to said trustee to hold the legal title to said stock and to exercise all the rights and privileges incidental to the absolute ownership thereof upon the following terms and conditions:

(a) To vote said stock for the election of as many directors of Panhandle Eastern as the number of shares thereof may be entitled to elect: *Provided,* that one of the directors so elected shall be the trustee; and that the remainder shall be selected from among persons recommended by the beneficial owner of said stock, in conference and with the advice of the trustee, but not including any of the individual defendants herein or any one (except with the approval of the trustee and this Court) who after January 1, 1931, has been or hereafter becomes an officer, director, agent or employee of Columbia Gas; and that, as to the directors so selected, the trustee is empowered to remove and replace such directors with others of his own choosing upon his own motion, if in his judgment such action is necessary in the interest of Panhandle Eastern or for the effectuation of the purposes of this decree; subject however in this as well as in the exercise of all other powers to the authority of this Court upon the motion and showing of any party hereto, or upon its own motion, to restrain said trustee from abuses of sound discretion, in view of the purposes of this decree and the law under which it is entered, or in case said trustee does not act in good faith hereunder;

(b) To vote said stock upon all other questions and matters in which the stock is entitled to vote, as directed by the beneficial owners thereof, except when such directions are inconsistent with the purposes of this decree; (c) To deposit for safe keeping the certificate for such stock with such bank or trust company as he may select and to issue, or arrange for the issuance, by such bank or trust company to the defendant Columbia Oil, of receipts for the stock so deposited in such form as the trustee may approve;

(d) To receive reasonable compensation, the amount thereof to be approved by this Court at not less than $15,000.00 per annum, for all services rendered by him as trustee, and to be reimbursed for any expenses incurred by him in the performance of his duties hereunder, upon quarterly accounts to this Court, which, when approved by the Court, shall be paid in equal shares by the defendants Columbia Gas and Columbia Oil;

(e) To pay over to Columbia Oil all dividends received upon said stock, except that dividends in the form of stock having present or potential voting rights shall be retained by the trustee subject to the same terms and conditions as the other shares held hereunder;

(f) To exercise all rights to subscribe to additional stock or other securities of Panhandle Eastern as Columbia Oil may direct;

(g) To report to this Court semi-annually; and to account for any action hereunder only in proceedings in this Court, any further order of this Court entered upon notice to such trustee and to the parties hereto shall be full protection to him for any action taken pursuant thereto, and the trustee shall not be personally responsible for

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mistakes in judgment or mistakes of law or fact in the execution of his duties hereunder but only for lack of good faith;

That during the existence of the trust hereby created the trustee herein appointed shall be subject to removal by this Court in its discretion; and in the event of such removal or in the event of the death, resignation or inability to act of such trustee, his successor shall be appointed by this Court upon recommendation of the parties hereto;

That the trust hereby created shall be and remain in full force and effect until terminated with the approval of this Court when (1) Columbia Gas has effectively divested itself of all control, direct or indirect, legal or practical, of Panhandle Eastern by (a) no longer owning stock of any class having present or potential voting rights in Columbia Oil or (b) by Columbia Oil divesting itself of ownership of all stock of Panhandle Eastern; or when (2) under the circumstances then existing, the continuation of said trust is no longer essential or necessary in carrying out the purposes of this decree; *Provided,* that no such stock of Panhandle. Eastern shall be divested by transfer to any competitor of Panhandle Eastern or without prior notice and full disclosure of the facts to petitioner.

IV. That the defendants be and they are hereby perpetually enjoined from restraining or interfering in any manner in the freedom of Panhandle Eastern to contract or to finance or arrange the financing of all contracts, extensions (including the proposed new line to Detroit, whether or not built and owned by it), repairs, maintenance, service, or improvements necessary in its business through or with any firm, person, or corporation with whom it may choose to deal (and to that end any such financial or contractual arrangements made by Panhandle Eastern to consummate its contract dated August 31, 1935, with the Detroit City Gas Company shall be subject to the approval of the trustee who shall receive, and consider the advisability of, alternative methods of financing from any responsible underwriter);

That if such contracts be made with or financial assistance be secured from Columbia Gas, such contracts may be made or financial assistance furnished only upon terms or conditions which do not in any way, directly or indirectly, presently or potentially, confer upon Columbia Gas any voting rights, control or participation in the management of Panhandle Eastern or confer any rights of ownership in the works or properties of Panhandle Eastern except as security for the investment; and in the event that Columbia Gas shall, with respect to any contract or any contractual rights of any kind whatsoever or any property held as security or used in connection with any contract, in any way prevent the free transportation, sale, and distribution of gas by Panhandle Eastern, then upon application to this Court or any court of competent jurisdiction Panhandle Eastern shall have the right (1) to the immediate appointment of a trustee to hold such contract rights or property subject to the purposes and provisions of this decree; (2) to immediate specific performance of any and all contracts with Columbia Gas; and (3) to immediate injunction, both temporary and final, as well as any other appropriate remedy at law or in equity, including any remedy hereunder.

V. That jurisdiction of this cause and of the parties hereto is retained for the purpose of giving full effect to this decree and for the enforcement of strict compliance herewith and the punishment of evasions hereof, and for the further purpose of making such other and further orders and decrees or taking such other action as may from time to time be necessary to the carrying out hereof; and that Panhandle Eastern, upon proper application, may become a party hereto for the limited purpose of enforcing the rights conferred by Section IV hereof.

Dated, Wilmington, Delaware, January 29, 1936.

John P. Nields,

United States District Judge.

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IN THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF DELAWARE.

In Equity No. 1099.

UNITED STATES OF AMERICA, PLAINTIFF,

VS.

COLUMBIA GAS & ELECTRIC CORPORATION, ET AL., DEFENDANTS.

SUPPLEMENTAL CONSENT JUDGMENT

The above-entitled cause having come on to be heard upon the joint motion of Columbia Oil & Gasoline Corporation and Columbia Gas & Electric Corporation filed March 22, 1943, for an order authorizing withdrawal of certain prior joint motions filed herein and effecting certain modifications of the consent decree entered in this cause on January 29, 1936; and the Court having heard the statements of counsel for the respective parties, and being advised, it is hereby

ORDERED, ADJUDGED AND DECREED as follows:

1. The application of the defendants Columbia Oil & Gasoline Corporation and Columbia Gas & Electric Corporation for leave to withdraw their supplemental joint motion filed herein on June 30, 1941, be, and it hereby is, granted and the Clerk of this Court is hereby directed to enter said motion "withdrawn".

2. (a) Gano Dunn, the trustee appointed under Section III of the aforesaid consent decree be, and he hereby is, authorized and directed, upon the written consent of Columbia Oil & Gasoline Corporation, to transfer to Phillips Petroleum Company the legal title, and the documentary evidence thereof, to the 404,326 shares of common stock of Panhandle Eastern Pipe Line Company now held by him as such trustee and to receive and deliver to Columbia Oil & Gasoline Corporation the consideration to be received from Phillips Petroleum Company with respect to said shares under the plan submitted by Columbia Gas & Electric Corporation and Columbia Oil & Gasoline Corporation under Section 11(e) of the Public Utility Holding Company Act of 1935 approved by the Securities and Exchange Commission October 2, 1942.

(b) Gano Dunn, trustee as aforesaid, be, and he hereby is, authorized and directed, upon the written consent of Columbia Oil & Gasoline Corporation, to transfer to Panhandle Eastern Pipe Line Company the legal title, and the documentary evidence thereof, to the 10,000 shares of Class B preferred stock of Panhandle Eastern Pipe Line Company which he now holds as trustee as aforesaid and to receive and deliver to Columbia Oil & Gasoline Corporation the considerations to be received from Panhandle Eastern Pipe Line Company with respect to said shares under the plan submitted by Columbia Gas & Electric Corporation and Columbia Oil & Gasoline Corporation under Section 11(e) of the Public Utility Holding Company Act of 1935 approved by the Securities and Exchange Commission October 2, 1942.

(c) Simultaneously with the aforesaid transfer of shares of common stock of Panhandle Eastern Pipe Line Company to Phillips Petroleum Company, Gano Dunn be, and he hereby is, authorized and directed, to deliver to

Phillips Petroleum Company his resignation as a director of Panhandle Eastern Pipe Line Company.

(d) Promptly after the consummation of the transactions authorized by subparagraphs (a), (b) and (c) hereof, the said Gano Dunn shall file herein a final report as trustee and, upon the approval of said report, the said Gano Dunn shall be discharged as such trustee.

(e) Gano Dunn shall be entitled, in accordance with the provisions of subdivision (d) of paragraph III of said consent decree as amended June 19, 1936, to compensation as trustee, accruing after January 29, 1943, to the date of the consummation of the transactions authorized by subparagraphs (a), (b), and (c) hereof, and to the payment of his expenses as trustee.

(f) Upon consummation of the transactions set forth in subparagraphs (a), (b) and (c) above, the joint motion filed herein by Columbia Gas & Electric Corporation and Columbia Oil & Gasoline Corporation on June 20, 1939, as amended, shall be entered "withdrawn" by the Clerk of this Court.

3. Upon consummation of the transactions set forth in subparagraphs (a), (b) and (c) of paragraph 2 above, the consent decree entered herein on January 29, 1936 be, and it hereby is, modified as follows:

(a) Section II of the said consent decree is amended to read as follows:

That the defendants be, and they hereby are, perpetually enjoined from exercising, or attempting, individually or collectively, directly or indirectly, to exercise any dominion or control over Panhandle Eastern and from restraining, or interfering with the free and independent action of said Panhandle Eastern in the production, transportation, sale or delivery of natural gas to any person, corporation, community or section of the United States; from holding, acquiring, voting or in any manner acting as the owners, directly or indirectly of the whole or any part of the stock, or other share capital, or bonds of Panhandle Eastern or any other company, corporation, association or organization

owning a controlling amount of its voting securities; and from participating in anyway, directly or indirectly, or from exercising any control, direction, supervision, or influence, in the management, or control of Panhandle Eastern; PROVIDED, HOWEVER, that

(i) nothing in the foregoing or other provision hereof shall be construed to prevent or restrain in any manner the free and independent action of the defendants in the production, transportation, sale or delivery of gas in competition with Panhandle Eastern, or any other corporation, Association, partnership or person;

(ii) the defendant Hillman may continue to own shares of stock which he may now hold in Missouri-Kansas Pipe Line Company and Panhandle Eastern so long as the voting rights appurtenant thereto are exercised independently of the other defendants herein and not in a manner inconsistent with the purposes and provisions of this decree; and

(iii) defendant Hillman may own or acquire obligations without present or potential voting rights of Panhandle Eastern.

(b) Section III of the said consent decree, with the exception of the provisions that "the trustee shall not be personally responsible for mistakes in judgment or mistakes of law or fact in the execution of his duties hereunder but only for lack of good faith," is stricken therefrom and of no further force and effect.

(c) Section IV of the said consent decree is stricken therefrom and of no further force and effect.

(d) Section V of the said consent decree is amended to read as follows:

That jurisdiction of this cause and of the parties hereto is retained for the purpose of giving full effect to this decree and for the enforcement of strict compliance herewith and the punishment of evasions hereof, and for the further purpose of making such other and further orders and

decrees or taking such other action as may from time to time be necessary to the carrying out hereof.

Done at Philadelphia, Pennsylvania (with the consent of the parties) This 29th day of March, 1943.

(Signed) WILLIAM H. KIRKPATRICK,
United States District Judge.

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF DELAWARE.

In Equity No. 1099.

UNITED STATES OF AMERICA, PLAINTIFF,

VS.

COLUMBIA GAS & ELECTRIC CORPORATION, COLUMBIA OIL & GASOLINE CORPORATION, GEORGE H. HOWARD, PHILIP G. GOSSLER, CHARLES A. MUNROE, THOMAS R. WEYMOUTH, THOMAS B. GREGORY, EDWARD REYNOLDS, JR., BURT R. BAY AND JOHN H. HILLMAN, JR., DEFENDANTS.

ORDER

Upon reading and filing the petition of John H. Hillman, Jr., duly verified and dated the 11th day of February, 1946, and upon consent of the plaintiff herein,

NOW, on motion of Harold F. Reindel, Esq., attorney for the petitioner, it is this 8th day of April, 1946:

ORDERED, ADJUDGED and DECREED that the Decree entered herein as heretofore amended shall be further amended so that, notwithstanding the other provisions of such Decree, defendant Hillman and corporations affiliated with him shall be entitled to exchange Missouri-Kansas Pipe Line Company common stock which any of them may hold to the extent permitted by said consent Decree for common stock of Panhandle Eastern Pipe Line Company owned by Missouri-Kansas Pipe Line Company upon any offer made by Missouri-Kansas Pipe Line Company generally to its common stockholders, or to purchase their pro rata shares of common stock of Panhandle Eastern Pipe Line Company from Missouri-Kansas Pipe Line Company pursuant to any offer made by Missouri-Kansas Pipe Line Company generally to its common stockholders, or to accept Panhandle Eastern Pipe Line Company common stock received as a dividend on liquidation or other distribution made by Missouri-Kansas Pipe Line Company generally to its common stockholders, and may continue to own such stock so long as the voting rights appurtenant thereto are exercised independently of the other defendants herein and not in a manner inconsistent with the purposes and provisions of this decree.

April 8, 1946.

[s] WILLIAM H. KIRKPATRICK,
United States District Judge.

U.S. v. VEHICULAR PARKING, LTD., ET AL.

Civil Action No. 259

Year Judgment Entered: 1944

U. S. vs. VEHICULAR PARKING, ET AL.

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF DELAWARE.

Civil Action No. 259.

UNITED STATES OF AMERICA, PLAINTIFF

VS.

VEHICULAR PARKING, LTD., THE KARPARK CORPORATION, DUAL PARKING METER COMPANY, M. H. RHODES, INC., THE STANDARD METER CORPORATION, PEERLESS OIL AND GAS COMPANY, DUNCAN METER COMPANY, FRANK L. MICHAELS AND ALFRED R. MILLER, doing business as MI-CO METER COMPANY, VERNON F. TAYLOR, JOHN HOWARD JOYNT, WALTER J. HERSCHEDE, GUY KELCEY, E. D. TIMBERLAKE, GEORGE E. TRIBBLE, CARL C. MAGEE, M. H. RHODES, DONALD F. DUNCAN, and T. W. L. NEWSOM, DEFENDANTS.

FINAL JUDGMENT.

This cause came on to be heard upon the complaint and the several answers and amended answers thereto, upon proofs duly taken, and upon argument by counsel. The Court having thereafter rendered and filed its opinion and having made and entered findings of fact and conclusions of law.

Now, upon motion of Plaintiff, by Wendell Berge, Assistant Attorney General, Ernest S. Meyers, Special

Assistant to the Attorney General, E. Houston Harsha, Special Attorney, and John J. Morris, Jr., United States Attorney, for relief in accordance with the prayer of the complaint; and the Defendants having severally appeared by counsel, it is ORDERED, ADJUDGED and DECREED as follows:

1. The Court has jurisdiction of the parties to, and the subject matter of, this suit and the complaint states grounds for relief against the defendants under the Act of Congress of July 2, 1890, as amended, entitled "An Act to protect trade and commerce against unlawful restraints and monopolies," known as, and hereinafter referred to as, the Sherman Act (26 Stat. 209, as amended, 50 Stat. 693, 15 U.S.C. § § 1-7).

2. When used in this decree the term "person" shall mean and include, but not be limited to, the following: a corporation, company, partnership, individual, trust and government including federal, state, and local governments and subdivisions thereof.

3. The defendants, Vehicular Parking, Ltd., The Karpark Corporation, Dual Parking Meter Company, M. H. Rhodes, Inc., The Standard Meter Corporation, Peerless Oil and Gas Company, Duncan Meter Company, Frank L. Michaels and Alfred R. Miller, doing business as Mi-Co Meter Company (hereinafter collectively referred to as the company defendants), and the defendants Vernon F. Taylor, John Howard Joynt, Walter J. Herschede, Guy Kelcey, E. D. Timberlake, George E. Tribble, Carl C. Magee, M. H. Rhodes, Donald F. Duncan and T. W. L. Newsom (hereinafter collectively referred to as the individual defendants), and each of them, have unlawfully contracted, combined and conspired in violation of Sections 1 and 3 of the Sherman Act to restrain trade and commerce in the manufacture, distribution and sale of parking meters, parts, services and accessories thereto.

4. The company defendants and the individual defendants, and each of them, have violated Sections 1 and 3 of the Sherman Act by unlawfully contracting, com-

bining and conspiring to restrain trade in, through the use of patents, the manufacture, distribution and sale of parking meters, parts, services, and accessories thereto.

5. The company defendants and the individual defendants, and each of them, have violated Section 2 of the Sherman Act by unlawfully monopolizing, unlawfully attempting to monopolize, and unlawfully combining and conspiring to monopolize (a) United States Letters Patents and Patent Applications relating to parking meters, (b) the manufacture, distribution, and sale of parking meters, parts, services, and accessories, and services by improper use of the claims of patents.

6. The agreement dated January 1, 1937 between the Karpark Corporation and the Parkrite Corporation, the agreement dated May 5, 1937 between Vehicular Parking, Ltd., and the Parkrite Corporation, the agreement dated October 13, 1937 between Vehicular Parking Ltd., and the Karpark Corporation, the two agreements dated January 20, 1940 between Vehicular Parking, Ltd., and M. H. Rhodes, Inc., the agreement dated June 1, 1940 between Vehicular Parking, Ltd., and Dual Parking Meter Company, the assignment of patents dated July 30, 1940 by Dual Parking Meter Company to Vehicular Parking, Ltd., the exclusive license dated July 30, 1940 granted by Dual Parking Meter Company to Vehicular Parking, Ltd., the agreement dated August 17, 1940 between Vehicular Parking, Ltd., and Duncan Meter Company, the agreement dated July 19, 1940 between Vehicular Parking, Ltd., and Mi-Co Meter Company, the agreement dated July 19, 1940 between Frank L. Michaels and Walter J. Herschede, the exclusive license dated July 19, 1940 granted by Frank L. Michaels to Vehicular Parking, Ltd., the agreement dated October 14, 1940 between Vehicular Parking, Ltd., and the Standard Meter Corporation, the agreement dated October 15, 1940 between Vehicular Parking, Ltd., and the Standard Meter Corporation, and the agreement dated June 1, 1940 between Vehicular Parking, Ltd., and the Karpark Corporation and any and all agreements amendatory or supplemental to such agreements, including patent licensing provisions thereof are, and each of them is, hereby adjudged to be unlawful under Sections 1, 2, and 3 of the Sherman Act.

7. The agreement dated January 1, 1937 between the Karpark Corporation and The Parkrite Corporation, the agreement dated May 5, 1937 between Vehicular Parking, Ltd., and the Parkrite Corporation, the agreement dated October 13, 1937 between Vehicular Parking, Ltd., and the Karpark Corporation, the agreements dated January 20, 1940 between Vehicular Parking, Ltd., and M. H. Rhodes, Inc., the agreement dated June 1, 1940 between Vehicular Parking, Ltd., and Dual Parking Meter Company, the assignment of patents dated July 30, 1940 by Dual Meter Company to Vehicular Parking, Ltd., the exclusive license dated July 30, 1940 granted by Dual Parking Meter Company to Vehicular Parking, Ltd., the agreement dated August 17, 1940 between Vehicular Parking, Ltd., and Duncan Meter Company, the agreement dated July 19, 1940 between Vehicular Parking, Ltd., and Mi-Co Meter Company, the agreement dated July 19, 1940 between Frank L. Michaels and Walter J. Herschede, the exclusive license dated July 19, 1940 granted by Frank L. Michaels to Vehicular Parking, Ltd., the agreement dated October 14, 1940 between Vehicular Parking, Ltd., and The Standard Meter Corporation, the agreement dated October 15, 1940 between Vehicular Parking, Ltd., and The Standard Meter Corporation, and the agreement dated June 1, 1940 between Vehicular Parking, Ltd., and the Karpark Corporation, and any and all agreements amendatory or supplemental to such agreements, including patent licensing provisions thereof are, and each of them is, hereby cancelled, and each of the company defendants and each of their directors, officers, agents, employees, successors, and all persons acting or claiming to act under, through or for them, or any of them, are hereby enjoined and restrained from the further performance of any of the provisions of said agreements and of any agreements amendatory

thereof or supplemental thereto, including patent licensing provisions thereof.

8. Each of the individual defendants, each of the company defendants, and each of their directors, officers, agents, employees and successors, and all persons acting or claiming to act under, through or for them, or any of them, are hereby enjoined and restrained:

(A) From entering into, adhering to, maintaining or furthering, directly or indirectly, any contract, agreement, understanding, plan or program among themselves or with any other person:

(1) To determine, fix, establish, maintain, or adhere to prices, quotations, bids, terms or conditions which are to be charged, submitted to or required of others, for the manufacture, distribution, purchase, use or sale of parking meters, parts, services or accessories thereto;

(2) To determine, fix, establish, maintain, or adhere to prices or other terms or conditions, which are to be charged, submitted to or required of others for the granting of any license or sublicense of any patent or patents relating to the manufacture, use or sale of parking meters, parts, services, or accessories thereto;

(3) To divide sales territories or to allocate customers or markets or to refrain from competing in any territory for any customer, job, sale or bid in the distribution or sale of parking meters, parts, services or accessories thereto;

(4) To limit or eliminate the production, use, installation or sale of parking meters or of any type of parking meter or part or accessory thereto, or to prevent, restrict or eliminate the performance of any service in connection with any sale or installation of parking meters or any type of parking meter;

(5) To prevent or hinder any person from engaging in the business of manufacturing, distributing or installing parking meters, parts or accessories or to coerce, compel, advise or persuade any person to refrain from dealing with any manufacturer, distributor, purchaser, user or installer of parking meters or parts or accessories thereto.

(B) From disclosing to any competitor bids or quotations for the sale or installation of parking meters, parts, services or accessories thereto or from establishing or maintaining any kind of bid depository or reporting system whereby information or data as to sales, contemplated or consummated, by identified sellers or to identified customers are made available to any competitor;

(C) From instituting or threatening to institute patent infringement suits against users or purchasers of parking meters or any part thereof unless the infringement of such patent or patents has been established previously by the adjudication of a court of competent jurisdiction against the manufacturer or fabricator or seller of the accused device;

(D) From representing or claiming that any parking meter, part or accessory manufactured or sold by a defendant embodies a patented invention when such patented invention is not incorporated, embodied or utilized in such parking meter, part or accessory;

(E) From representing or claiming that any parking meter manufactured or sold by a defendant constitutes a patented device when in fact only a part or an element of such parking meter is patented.

9. The Court specifically reserves the question as to whether each of the individual defendants, each of the company defendants, and each of their directors, officers, agents, employees, successors and assigns should be ordered to grant to any applicant therefor, to the extent to which the defendants or any of them possess the power to do so, an absolutely unrestricted, whether as to duration or otherwise, and royalty-free license or sub-license to use, manufacture and sell under any or all United States letters patent and patent applications including all renewals, extensions or reissues of such patents or patent applications, listed in Schedule A which is annexed hereto.

10. Each of the individual defendants, each of the company defendants and each of their directors, officers, agents, employees, successors and assigns be and they are hereby enjoined from instituting or threatening to institute suits for patent infringement or suits to collect royalties which are based upon any of the United States letters patent or patent applications, including renewals, extensions or reissues thereof, contained in Schedule A annexed hereto and made a part of this decree.

11. The Court specifically reserves the question whether each of the individual defendants and each of the company defendants and each of their directors, officers, agents, employees, successors and assigns should be individually ordered to file with the Attorney General of the United States, or the Assistant Attorney General in charge of the Antitrust Division, copies of all applications for licenses under the terms of this decree, immediately upon receipt thereof, and of all licenses issued, and to furnish the Attorney General of the United States, or the Assistant Attorney General in charge of the Antitrust Division, with full information as to the status of all negotiations between applicants and any of the defendants or a licensing agency with regard to the failure to grant a license or sublicense where an application therefor has been pending for a 30-day period, upon the condition that the failure of the Attorney General of the United States or the Assistant Attorney General in charge of the Antitrust Division to take any action following receipt of any information pursuant to this paragraph 11 or paragraph 12 hereof shall not be construed as an approval of the matter and things so filed or informed and shall not operate as a bar to any action or proceeding, civil or criminal, which may later be brought, or be pending, pursuant to any law of the United States based on matters or things so filed or informed.

12. For the purpose of securing compliance with this decree duly authorized representatives of the Department of Justice shall, on written request of the Attorney General, or an Assistant Attorney General, be permitted (1) access, during the office hours of the defendants, to all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of the defendants, relating to any matters contained in this decree, (2) without restraint or interference from the defendants, to interview officers or employees of the defendants, who may have counsel present, regarding any such matters: *Provided, however,* That information obtained by the means permitted in this paragraph shall not be divulged by any representative of 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 for the purpose of securing compliance with this decree in which the United States is a party or as otherwise required by law.

13. Jurisdiction of this cause is retained for the purpose of enabling any of the parties to this decree 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 decree, for the modification or termination of any of the provisions thereof or the enforcement of compliance therewith and for the punishment of violations thereof.

Dated: July 18, 1944.

/s/ PAUL LEAHY,
United States District Judge.

SCHEDULE A

Patent No.	*Patent No.*
1,456,313	2,114,534
1,620,098	2,118,318
1,749,977	2,137,111
1,752,071	2,162,191
1,879,438	2,168,302
1,905,875	2,190,555
2,038,963	2,198,422
2,039,544	2,198,779
2,061,875	2,262,783
2,065,075	2,277,612
2,088,154	2,285,056
2,088,300	2,328,043
2,088,301	

Applications

79,302 dated May 12, 1936—Claim 18
86,045 dated June 19, 1936
116,419 dated Dec. 22, 1936
135,792 dated April 8, 1937
216,807 dated Jan. 30, 1938
256,210 dated Feb. 13, 1939—Claims 1, 2, 3, 7, 8, 14 to 22 inclusive; 24 to 28 inclusive.

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF DELAWARE.

Civil Action No. 259.

UNITED STATES OF AMERICA, PLAINTIFF

VS.

VEHICULAR PARKING, LTD., THE KARPARK CORPORATION, DUAL PARKING METER COMPANY, M. H. RHODES, INC., THE STANDARD METER CORPORATION, PEERLESS OIL AND GAS COMPANY, DUNCAN METER COMPANY, FRANK L. MICHAELS AND ALFRED R. MILLER, doing business as MI-CO METER COMPANY, VERNON F. TAYLOR, JOHN HOWARD JOYNT, WALTER J. HERSCHEDE, GUY KELCEY, E. D. TIMBERLAKE, GEORGE E. TRIBBLE, CARL C. MAGEE, M. H. RHODES, DONALD F. DUNCAN, and T. W. L. NEWSOM, DEFENDANTS.

ORDER AMENDING JUDGMENT AND DENYING MOTIONS.

This cause came on to be heard on the complaint and the several answers and amended answers thereto, upon proofs duly taken and upon argument by counsel. The Court thereafter rendered and filed its opinion and made and entered findings of fact and conclusions of law, and on July 18, 1944 filed its Judgment. The Court having considered the motion to vacate or modify said Judgment, made on May 10, 1945, by defendants Vehicular Parking, Ltd., The Karpark Corporation, Peerless Oil and

Gas Company, Vernon F. Taylor, John Howard Joynt, Walter J. Herschede, Guy Kelcey and E. D. Timberlake, and after argument by counsel the Court having rendered and filed its opinion on August 8, 1945, directing the amendment and modification of said Judgment in certain respects, and the Court having considered the further motion to modify said Judgment made on September 27, 1945, by the aforesaid defendants,

NOW, THEREFORE, it is ORDERED, ADJUDGED AND DECREED THAT:

1. Paragraph 7 of the Judgment entered July 18, 1944, be and it hereby is deleted and the following paragraph be and it hereby is substituted:

7. The agreement dated January 1, 1937, between the Karpark Corporation and The Parkrite Corporation, the agreement dated May 5, 1937 between Vehicular Parking, Ltd., and the Parkrite Corporation, the agreement dated October 13, 1937, between Vehicular Parking, Ltd., and the Karpark Corporation, the agreements dated January 20, 1940 between Vehicular Parking, Ltd., and M. H. Rhodes, Inc., the agreement dated June 1, 1940 between Vehicular Parking, Ltd., and Dual Parking Meter Company, the agreement dated August 17, 1940 between Vehicular Parking, Ltd., and Duncan Meter Company, the agreement dated July 19, 1940 between Vehicular Parking, Ltd., and Mi-Co Meter Company, the agreement dated July 19, 1940 between Frank L. Michaels and Walter J. Herschede, the exclusive license dated July 19, 1940 granted by Frank L. Michaels to Vehicular Parking, Ltd., the agreement dated October 14, 1940 between Vehicular Parking, Ltd., and The Standard Meter Corporation, the agreement dated October 15, 1940 between Vehicular Parking, Ltd., and The Standard Meter Corporation, and the agreement dated June 1, 1940 between Vehicular Parking, Ltd., and the Karpark Corporation, and any and all agreements amendatory or supplemental to such agreements, including patent licensing provisions thereof are, and each of

them is, hereby cancelled, and each of the company defendants and each of their directors, officers, agents, employees, successors, and all persons acting or claiming to act under, through or for them, or any of them, are hereby enjoined and restrained from the further performance of any of the provisions of said agreements and of any agreements amendatory thereof or supplemental thereto, including patent licensing provisions thereof.

2. Paragraph 9 of the Judgment entered July 18, 1944, be and it hereby is deleted and the following paragraph be and it hereby is substituted:

9. Each of the individual defendants, each of the company defendants, and each of their directors, officers, agents, employees, successors and assigns be and they are hereby ordered to grant to any applicant therefor, to the extent to which the defendants or any of them possess the power to do so, an absolutely unrestricted, whether as to the duration or otherwise, license or sublicense to use, manufacture and sell under any or all United States letters patent and patent applications including all renewals, extensions or reissues of such patents or patent applications, listed in Schedule A which is annexed hereto, *provided*, after the date of the entry of this order amending the judgment entered July 18, 1944, a reasonable royalty may be charged for such licensing of the United States letters patent and patent applications, including all renewals, extensions, or reissues of such patents or patent applications, listed in Schedule A annexed hereto, *provided*, further, the provisions of this paragraph 9 shall not be deemed to adjudicate any defense which any person might raise or claim in any suit or proceeding by any defendant, its successors or assigns for infringement, damages, injunction or compensation on account of the patents and patent applications, including all renewals, extensions or reissues of such patents or patent applications, listed in Schedule A annexed hereto.

3. Paragraph 10 of the aforesaid Judgment be and it hereby is deleted and the following paragraph be and it hereby is substituted:

10. Each of the individual defendants, each of the company defendants and each of their directors, officers, agents, employees, successors and assigns be and they are hereby enjoined from instituting or threatening to institute suits for past infringement or suits to collect past royalties which are based upon any of the United States letters patent or patent applications, including renewals, extensions or reissues thereof, contained in Schedule A annexed hereto and made a part of this Judgment.

4. Paragraph 11 of the aforesaid Judgment be and it hereby is deleted and the following paragraph be and it hereby is substituted:

11. Each of the individual defendants and each of the company defendants and each of their directors, officers, agents, employees, successors and assigns be and they are hereby ordered to furnish the Attorney General of the United States, or the Assistant Attorney General in charge of the Antitrust Division, with full information as to the status of all negotiations between applicants for licenses under this Judgment and any of the defendants with regard to the failure to grant a license or sublicense where an application therefor has been pending for a 30-day period, and upon request of the Attorney General of the United States, or the Assistant Attorney General in charge of the Antitrust Division to file with the Attorney General of the United States or the Assistant Attorney General in charge of the Antitrust Division copies of all applications for licenses under this Judgment, upon the condition that the failure of the Attorney General of the United States or the Assistant Attorney General in charge of the Antitrust Division to take any action following receipt of any information pursuant to this paragraph 11 or paragraph 12 hereof shall not be construed as an approval

of the matter and things so filed or informed and shall not operate as a bar to any action or proceeding, civil or criminal, which may later be brought, or be pending, pursuant to any law of the United States based on matters or things so filed or informed.

5. Paragraph 13 of the aforesaid Judgment be and it hereby is deleted and the following paragraph be and it hereby is substituted:

13. Jurisdiction of this cause is retained for the purpose of enabling any of the parties to this 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 Judgment, including the determination of the reasonableness of the royalties charged for the licensing of the patents listed in Schedule A which is annexed hereto, and for the amendment, modification or termination of any of the provisions of this Judgment or the enforcement or compliance therewith and for the punishment of violations thereof.

6. The Judgment entered July 18, 1944, be and it hereby is amended to add thereto the following paragraph as Paragraph 14:

14. Defendant Vehicular Parking, Ltd., and each of its directors, officers, agents, employees, successors and assigns, and all persons acting or claiming to act under, through or for it or on behalf of it, are hereby enjoined and restrained from disclosing to The Union Metal Manufacturing Company or any of its directors, officers, agents, employees, successors and assigns, information or data concerning inquiries or requests for information relating to parking meters emanating from purchasers or prospective purchasers of parking meters unless defendant Vehicular shall simultaneously disclose such information or data to all other companies or individuals manufacturing or distributing parking meters who have requested such information in writing, or who are licensed under patents owned or controlled by defendant Vehicular.

7. The Judgment entered July 18, 1944, be and it hereby is amended to add thereto the following paragraph as Paragraph 15:

15. For all purposes of this Judgment, the Union Metal Manufacturing Company be and it hereby is deemed a successor to defendant Dual Parking Meter Company, and The Union Metal Manufacturing Company and each of its directors, officers, agents, employees and successors, and all persons acting or claiming to act under, through or for it, or on behalf of it, be and they hereby are bound by all provisions of this Judgment.

8. Schedule A, Annexed to the aforesaid Judgment, be and it hereby is amended to add thereto claims 1, 2 and 7 through 13, inclusive, of Patent No. 2,118,318; to add thereto claim 8 of Patent No. 2,137,111; to add thereto claims 3 through 14, inclusive, of Patent No. 2,168,302; and to delete therefrom Patent Nos. 2,088,301 and 2,198,779.

9. The motions made on May 10, 1945 and September 27, 1945, by defendants Vehicular Parking, Ltd., The Karpark Corporation, Peerless Oil & Gas Company, Vernon F. Taylor, John Howard Joynt, Walter J. Herschede, Guy Kelcey, and E. D. Timberlake, in all other respects are hereby denied with prejudice.

Dated May 6, 1946.

s/ PAUL LEAHY,
United States District Judge.

U.S. v. SCHENLEY INDUSTRIES, INC.

Civil Action No. 1686

Year Judgment Entered: 1957

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. Schenley Industries, Inc., U.S. District Court, D. Delaware, 1957 Trade Cases ¶68,664, (Apr. 3, 1957)

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United States v. Schenley Industries, Inc.

1957 Trade Cases ¶68,664. U.S. District Court, D. Delaware. Civil Action No. 1686. Dated April 3, 1957. Case No. 1214 in the Antitrust Division of the Department of Justice.

Clayton Antitrust Act

Acquisitions of Stock or Assets—Consent Decree—Practices Enjoined—Acquisition of Competitors—Producer-Distributor of Whiskey.—A producer-distributor of whiskey was prohibited by a consent decree, for a period of ten years, from acquiring, directly or indirectly, through subsidiaries or otherwise, the business of any corporation engaged in distilling and distributing whiskey in bottles in the United States by the acquisition of stock or other share capital or by the purchase of assets. However, if the producer-distributor desired to make any acquisition prior to the expiration of ten-year period, it could notify the Government of the proposed acquisition. If the Government does not object to the acquisition, the acquisition would be deemed not to be a violation of the consent judgment. If the Government objects to the acquisition, the producer-distributor could apply to the court for permission to make the acquisition, and such permission could be granted upon a showing that the acquisition would not substantially lessen competition or tend to create a monopoly in the distilling or distribution of whiskey.

For the plaintiff: Victor R. Hansen, Assistant Attorney General, and W. D. Kilgore, Jr., Ephraim Jacobs, William H. McManus, John M. O'Donnell, and Charles F. B. McAleer, attorneys.

For the defendant: Dewey, Ballantine, Bushby, Palmer & Wood by Leonard Joseph.

Final Judgment

CALEB WRIGHT, District Judge [*In full text*]: Plaintiff United States of America having filed its complaint herein; defendant Schenley Industries, Inc., (hereinafter "Schenley") having appeared and filed its answer to such complaint denying the substantive allegations thereof and denying any violation of law; and 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,

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

[*Applicability of Judgment*]

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The provisions of this Final Judgment shall be binding upon said defendant, its officers, agents, servants, employees and subsidiaries, 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.

III

[*Acquisitions Prohibited*]

Schenley is enjoined and restrained until March 1, 1967 from acquiring, directly or indirectly, through subsidiaries or otherwise, either by acquisition of stock or other share capital, or by the purchase of assets, the business of any corporation engaged in distilling and distributing whiskey in bottles in the United States. Provided, however, that if at any time Schenley desires to make any acquisitions prior to March 1, 1967 which would be otherwise prohibited by the foregoing, it may submit disclosure of the facts with respect to such proposed acquisition and the reason therefor to the plaintiff. If the plaintiff shall not object to the proposed acquisition within 30 days after receipt of such notice, such acquisition shall be deemed not to be a violation of this Final Judgment. In the event the plaintiff shall object, 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 acquisition would not substantially lessen competition or tend to create a monopoly in the distilling or distribution of whiskey.

Nothing contained herein shall be deemed to prohibit the purchase by the defendant of bulk whiskey or other supplies or equipment in the normal course of business.

IV

[*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 the 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 the defendant relating to any of the subject matters contained in this Final Judgment; and (2) subject to the reasonable convenience of the defendant and without restraint or interference from it, to interview any officer or employee of the defendant, who may have counsel present, regarding any such matters; (3) and to require the defendant to submit such reports in writing 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 IV 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 legal 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.

V

[*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.

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U.S. v. CITIES SERVICE COMPANY, ET AL.

Civil Action No. 68-213-S

Year Judgment Entered: 1963

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. Cities Service Co., Cities Service Oil Co., Jenney Manufacturing Co., and Chelsea Terminals, Inc., U.S. District Court, D. Massachusetts, 1975-2 Trade Cases ¶60,656, (Dec. 3, 1975)

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United States v. Cities Service Co., Cities Service Oil Co., Jenney Manufacturing Co., and Chelsea Terminals, Inc.

1975-2 Trade Cases ¶60,656. U.S. District Court, D. Massachusetts. Civil Action No. 68-213-S. Entered December 3, 1975. (Competitive impact statement and other matters filed with settlement: 40 *Federal Register* 45204). Case No. 1996, Antitrust Division, Department of Justice.

Clayton Act

Acquisitions—Retail Gasoline Outlets—Divestiture—Acquisitions Ban—Consent Decree.—An oil company was required to divest service station outlets accounting for a specified volume of gasoline sales, and purchasers of the stations were to be offered supply contracts, under the terms of a consent decree. A five-year ban on acquiring automotive gasoline retail marketing outlets in specified locations and for specified dollar amounts was imposed. Additionally, the obligations of the acquired service station chain and the rights of the oil company with regard to the chain's fee-owned retail outlets were spelled out.

For plaintiff: Thomas E. Kauper, Asst. Atty. Gen., Baddia J. Rashid, Charles F. B. McAleer, John C. Fricano, Rodney O. Thorson, Jill Devitt Radek, Robert J. Ludwig, and Matthew E. Jaffe, Attys., Dept. of Justice.

For defendants: Harold Hestnes, of Hale and Dorr, and Darrel A. Kelsey for Cities Service Co., Cities Service Oil Co., and Chelsea Terminals, Inc.; Robert E. Sullivan, of Herrick, Smith, Donald, Farley & Ketchum, for Jenney Manufacturing Co.

Final Judgment

SKINNER, D. J.: Plaintiff, United States of America, having filed its Complaint herein on March 8, 1968 and the Plaintiff and the Defendants by their respective attorneys, having consented to the entry of this Final Judgment without admission by any party with respect to any issue and without this Final Judgment constituting evidence or an admission by any party hereto with respect to any such issue;

Now, Therefore, before any testimony has been taken herein, 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*]

This Court has jurisdiction over the subject matter of this action and of the parties hereto. The Complaint states claims upon which relief may be granted against the defendants under Section 7 of the Act of Congress of October 15, 1914, as amended (15 U. S. C. 18), commonly known as the Clayton Act. Entry of this Judgment is in the public interest.

II.

[*Definitions*]

As used in this Final Judgment:

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(A) Defendant "Cities" shall mean the Cities Service Company, the Cities Service Oil Company, and Chelsea Terminals, Inc.;

(B) Defendant "Jenney" shall mean Jenney Manufacturing Company;

(C) The "two-state area" shall mean the Commonwealth of Massachusetts and the State of New Hampshire;

(D) "New England" shall mean the Commonwealth of Massachusetts and the States of New Hampshire, Maine, Vermont, Connecticut and Rhode Island;

(E) "Retail volume" shall mean motor gasoline which is sold or distributed for eventual sale to the public through retail outlets;

(F) "Retail outlets" shall mean those service stations through which the defendants market their brand name petroleum products;

(G) "Person" shall mean an individual, partnership, corporation, firm or any other business or legal entity.

III.

[*Applicability*]

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

IV.

Chelsea Terminals, Inc., is hereby dismissed as a named defendant in this Final Judgment, but shall be bound by the terms thereof as long as it remains a subsidiary of Cities.

V.

[*Divestiture*]

(A) Defendant Cities is ordered and directed within three (3) years from the effective date of this Final Judgment, to divest itself of retail outlets accounting for an annual retail volume in the two-state area of not less than fifteen million two hundred seventy-five thousand (15,275,000) gallons in the calendar year immediately preceding the year of entry of this Final Judgment;

(B) Defendant Cities is ordered and directed to offer to each person initially acquiring any retail outlets to be divested pursuant to Paragraph V(A) or Paragraph VI of this Final Judgment contracts to supply such person for such periods as may be requested by such person not exceeding four (4) years, upon reasonable terms and conditions, with annual quantities of motor gasoline equal to that sold at the retail outlets in the calendar year immediately preceding the year of entry of this Final Judgment, and each such person shall be free to allocate and sell such supply volumes among and through retail outlets as he sees fit. Provided, however, that should Cities' gasoline production increase during such period, additional volumes equal to the percentage of such increase of gasoline production shall be offered to such purchasers. Nothing in this Paragraph shall require defendant Cities to undertake any act inconsistent with any federal government regulations relating to the allocation and distribution of petroleum products;

(C) The divestiture required by this Section V shall be absolute and unconditional upon terms and conditions and to a person or persons first approved by the plaintiff or, failing such approval by the plaintiff, by the Court;

(D) Not less than sixty (60) days prior to the closing date of any divestiture made pursuant to this Section V, defendant Cities shall furnish plaintiff in writing the complete details of the proposed transaction. Plaintiff may request supplementary information concerning the proposed divestiture within twenty-five (25) days after receipt of the details of a proposed transaction or within twenty-five (25) days after receipt of previously submitted information, which supplementary information shall be promptly furnished in writing;

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(E) If plaintiff objects to any divestiture proposed pursuant to this Section V, it shall notify defendant Cities of such objection in writing within thirty (30) days of receipt of the supplementary information submitted pursuant to plaintiff's last request for such information, or within thirty (30) days after the receipt by plaintiff of a statement from defendant Cities that it does not have some or all of the requested supplementary information. If plaintiff makes no request for supplementary information, notice of objection to any proposed divestiture must be given in writing to the defendant Cities within thirty (30) days of plaintiff's receipt of the originally submitted details of the proposed divestiture. If plain tiff objects to the proposed divestiture, then such divestiture shall not be consummated unless approved by the Court or unless plaintiff notifies defendant Cities in writing that its objection has been withdrawn. If plaintiff does not object within thirty (30) days of its receipt of the originally submitted details of a proposed divestiture, plaintiff may be deemed to have approved the divestiture;

(F) Any of the retail outlets divested pursuant to this Final Judgment repossessed or reacquired by defendant Cities shall be divested within one (1) year from the date of such repossession, or with the prior approval of the plaintiff, retail outlets with an equivalent retail volume shall be substituted therefor to the extent necessary to meet the divestiture requirements of this Final Judgment;

(G) The time period set forth in Section V(A) shall be tolled during the pendency of any proceedings in this Court under this Final Judgment relating to approval of a proposed divestiture.

VI.

[*Trustee*]

If defendant Cities is unable to complete the divestiture required by this Final Judgment within the time period set forth in Section V hereof, the Court shall appoint a trustee who shall have authority to select and divest retail outlets in the two-state area accounting for such portion of the retail volume provided in Section V(A) which Cities has been unable to divest All sales or other disposition of retail outlets by such trustee shall be subject to prior approval of the Court and the Court shall provide the parties with opportunity for hearing on the terms of any sale or disposition of retail outlets prior to granting approval for same.

VII.

[*Fee-Owned Stations*]

Under this Final Judgment the obligations of Jenney, and the rights of Cities with respect to Jenney fee-owned retail outlets, as affected by this Judgment, shall be limited as follows:

(A) When requested by Cities in order for Cities to complete the divestiture or divestitures under this Final Judgment or upon request of the Trustee pursuant to the Trustee's powers under Section VI, Jenney shall sell to Cities for resale by Cities to a third party or parties or to Cities to replace outlets sold by Cities to a third party or parties up to a total of sixty (60) fee-owned Jenney retail outlets upon terms determined under the Lease Agreement, dated July 1, 1963, between Jenney and Cities, as subsequently amended on September 23, 1975 (the "Lease"); provided, however, that in no event shall Jenney be required to sell (1) retail outlets the annual basic rentals allocable to which under the terms of the Lease aggregate to more than 25% of the total annual basic rental currently being received by Jenney under the Lease; or (2) replacement outlets having an annual gasoline sales volume, in the aggregate, in excess of such volume of the outlets replaced. Jenney shall have the right to be consulted concerning the selection of such sixty (60) fee-owned retail outlets and to be heard by the Court if it objects to the inclusion of any retail outlet or retail outlets and further shall have the right (exercisable within thirty days after written notice from Cities or the Trustee, as the case may be, of the selection thereof) to exclude from such selections a total of up to 10% of the retail outlets in which it held a fee interest on the date of entry of this Final Judgment.

(B) Cities may assign or sublet to others the lease of fee-owned retail outlets under the Lease and may assign its rights to extend the term of the Lease as provided in Paragraph 4 of the Lease, and may sublet during the present term and any extension thereof Jenney fee-owned outlets, all as permitted by and in accordance with the provisions of Paragraph 14-B of the Lease.

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VIII.

[*Compliance Report*]

Defendant Cities is ordered and directed to file with the plaintiff every three (3) months after the date of entry of this Final Judgment a written report setting forth the steps taken by it to accomplish the divestiture required by such Final Judgment.

IX.

[*Acquisitions Ban*]

For a period of five (5) years from the date of entry of this Final Judgment Cities shall not acquire from any person any interest in (a) any automotive gasoline retail marketing outlets in the two-state area, or (b) any automotive gasoline retail marketing outlets elsewhere in New England without prior written approval by the plaintiff or, failing such approval, by the Court; provided, however, that the prohibitions in (a) and (b) above shall not apply to acquisitions where (i) the consideration does not exceed one million dollars ($1,000,000.00), (ii) the acquisition is of Cities branded distributors, or (iii) the acquisition is the result of enforcement of any bona fide lien, mortgage, deed of trust or any other security interest held by defendant Cities to secure any loan of ten million dollars ($10,000,000.00) or less made to a distributor which, at the time of the loan, was a Cities branded distributor.

X.

[*Prior Stipulation*]

The Stipulation and Order entered into by the parties on April 25, 1968 and ordered by this Court on April 25, 1968 is hereby revoked and its provisions are of no further effect.

XI.

[*Compliance Inspection*]

A. For the purpose of determining or 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 upon reasonable notice to any defendant made to its principal office, be permitted, subject to any legally recognized privilege:

(a) Access, during office hours of such defendant, to all books, 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 any defendant to interview the officers and employees of said defendant, who may have counsel present, regarding any such matters.

B. Upon the written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, made to its principal office, each defendant shall submit such written reports with respect to any of the matters contained in this Final Judgment as from time to time may be requested.

C. No information obtained by the means provided in this Section XI shall be divulged to 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 to which the United States is a party for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

XII.

[*Retention of Jurisdiction*]

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Jurisdiction is retained 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 thereof, for the enforcement of compliance therewith and for punishment of violations thereof.

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U.S. v. HERCULES INCORPORATED, ET AL.

Civil Action No. 4667

Year Judgment Entered: 1973

UNITED STATES DISTRICT COURT

DISTRICT OF DELAWARE

UNITED STATES OF AMERICA, Plaintiff, v. HERCULES INCORPORATED: MITSUI PETROCHEMICAL INDUSTRIES, LTD. and MITSUI PETROCHEMICAL INDUSTRIES (U.S.A.) INC., Defendants.	)	Civil Action No. 4667 Filed: May 31, 1973 Entered: July 3, 1973

FINAL JUDGMENT

Plaintiff, United States of America, having filed its complaint herein on May 31, 1973 and each of the defendants having appeared; and plaintiff and defendants, by their respective attorneys, having severally consented to the making and entry of this Final Judgment without trial or adjudication of any issue of fact or law herein, and without this Final Judgment constituting any evidence or an admission by any party hereto with respect to any such issue, and the Court having considered the matter and being duly advised,

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 herein states a claim for relief against defendants under Section 1 of the Act of Congress of July 2, 1890, 15 U.S.C. §1, as amended, commonly known as the Sherman Act, and under Section 7 of the Act of Congress of October 15, 1914, 15 U.S.C. §18, as amended, commonly known as the Clayton Act.

II

As used in this Final Judgment:

(a) "Hercules" shall mean defendant Hercules Incorporated, a corporation organized and existing under the laws of the State of Delaware, with its present principal office at Wilmington, Delaware, and its subsidiaries and affiliates with principal offices in the United States.

(b) "Mitsui" shall mean defendant Mitsui Petrochemical Industries, Ltd., a corporation organized and existing under the laws of Japan, with its principal office at Tokyo, Japan, and its subsidiaries and affiliates with principal offices in the United States.

(c) "Mitsui (U.S.A.)" shall mean defendant Mitsui Petrochemical Industries (U.S.A.), a wholly owned subsidiary of defendant Mitsui, a corporation organized and existing under the laws of the State of New York, with its present principal office at New York, New York;

(d) "H-M Plastics" means a partnership by and between defendants Hercules and Mitsui (U.S.A.) to manufacture and sell HDPE in the United States.

(e) "HDPE" shall mean high density polyethylene resin, one of a group of plastics known as polyolefins, derived from petrochemicals.

(f) "Subsidiary" shall mean a company of which the parent owns more than 50% of outstanding capital stock; "affiliate" shall mean a company of which the parent owns 50% or less of the outstanding capital stock and over whose affairs the parent has the right to exercise management control.

(g) "Person" shall mean any individual, partnership, firm, association, corporation, or other business or legal entity.

III

The provisions of this Final Judgment applicable to any defendant shall apply to such defendant and to each of its directors, officers, agents, subsidiaries, affiliates, successors and assigns in the United States, and to all persons in active concert or participation with any such defendant who receive actual notice of this Final Judgment by personal service or otherwise.

IV

(A) Within 90 days after entry of this Final Judgment, defendants Hercules and Mitsui (U.S.A.) are ordered and directed to dissolve their partnership arrangement in H-M Plastics upon terms and conditions subject to approval by the plaintiff or this Court upon a showing

by the defendants that the terms and conditions of such dissolution will not lessen competition in any line of commerce in any section of the country.

(B) The terms and conditions for dissolution of such joint venture or partnership arrangement in H-M Plastics may include the sale by one party to the other, or to a third party, of not less than its entire interest therein, or a winding up of the partnership and payment of its debts and distribution of its assets to the partners or sale of such assets to one or more purchasers which may include Hercules or Mitsui.

V

(A) Upon entry of this Final Judgment, all license agreements among any of the defendants entered into after September 30, 1969 relating to high density polyethylene shall be terminated and each defendant is prohibited from, in any manner, restricting or limiting any other defendant's right to use of any and all technological information or know-how acquired by it pursuant to said license agreements or through its participation in or operation of H-M Plastics, provided however, that, in the case of technological information or know-how contributed by one defendant to H-M Plastics and used by another defendant subsequent to entry of this Final Judgment, the defendant using such technological information or know-how may be required reasonably to compensate the defendant contributing the same, such reasonable compensation to be determined by agreement of the parties concerned, or failing such agreement by an arbitrator to be mutually agreed upon or, failing such agreement, to be

appointed by this Court upon application of any defendant and upon notice to the plaintiff.

(B) Upon entry of this Final Judgment, the Polypropylene License Agreement between Hercules and Mitsui dated May 18, 1970 shall be terminated and each defendant is prohibited from, in any manner, restricting or limiting any other defendant's right to use any and all technological information or know-how acquired by it pursuant to said license agreement provided, however, that until the third anniversary of the entry of this Final Judgment, but not thereafter, Mitsui may require Hercules to confine its disclosures of Mitsui's technological information and know-how for use in Japan to third parties in which Hercules owns at least 50% interest of the outstanding stock and Hercules may require Mitsui to confine its disclosures of Hercules technological information and know-how for use in the United States to third parties in which Mitsui has at least such 50% interest.

VI

(A) Upon entry of this Final Judgment, defendants Mitsui and Mitsui (U.S.A.) on the one hand and Hercules on the other hand are each enjoined and restrained from entering into, adhering to, maintaining or claiming any rights under any contract, agreement, understanding, plan or program with each other to hinder, restrict, limit or prevent the other party or parties from entering into competition with it or with H-M Plastics in any line of commerce in the United States, provided, however, that without more, nothing herein shall prohibit the transfer, licensing or enforcement

of rights under patents and technological information and know-how.

(B) On entry of this Final Judgment defendant Hercules is enjoined and restrained from entering into, adhering to, maintaining or claiming any rights under any contract, agreement, understanding, plan or program with any other person actually or potentially engaged in the manufacture and sale of polypropylene resin to hinder, restrict, limit or prevent such other person from enjoying all rights to manufacture and sell polypropylene resin in the United States, provided, however, that, without more, nothing herein shall prohibit the transfer, licensing or enforcement of rights under patents and technological information and know-how.

(C) Defendants Mitsui, Mitsui (U.S.A.) and Hercules are each enjoined and restrained from simultaneously remaining partners or retaining any joint interest, partnership arrangement, or other joint interest, in any form in H-M Plastics or in any other person engaged in the manufacture or sale in the United States of polypropylene resin or HDPE.

(D) Defendants Mitsui and Mitsui (U.S.A.) are enjoined and restrained from knowingly permitting any of its officers, directors or employees from serving in any managerial capacity with defendant Hercules Incorporated in the United States.

(E) Defendant Hercules is enjoined and restrained from knowingly permitting any of its officers, directors or employees to serve in any managerial capacity with either of the defendants Mitsui Petrochemical Industries, Ltd., or Mitsui Petrochemical Industries (U.S.A.) Inc. in the United States.

(F) Defendant Hercules is enjoined from entering into, adhering to, maintaining or claiming any rights under any contract, agreement or understanding with any person whereby such person shall not compete with Hercules in any line of commerce in the United States as a condition of Hercules' agreeing to do business with that person in another line of commerce in the United States, provided, however, that, without more, nothing herein shall prohibit the transfer, licensing or enforcement of rights under patents and technological information and know-how.

VII

For the purpose of determining or securing compliance with this Final Judgment and for no other purpose:

(a) 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, subject to any legally recognized privilege:

(1) access in the United States during the office hours of each United States defendant to all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession, custody and control of such defendant relating to any matters contained in this Final Judgment; and

(2) subject to the reasonable convenience of such defendant, but without restraint or

interference from it, to interview officers, directors, agents or employees of such defendant residing or otherwise present in the United States who may have counsel present, regarding any such matters;

(b) upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, any 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;

provided, however, that no information obtained by the means provided in this Section VII 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 plaintiff who receives actual notice of this Final Judgment and such information shall not be further divulged except in the course of legal proceedings in which the Department of Justice is a party for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

VIII

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 effectuation of this Final Judgment, for

the modification of any of the provisions hereof, for the enforcement of compliance herewith and for the punishment of violations hereof.

Dated: July 3, 1973

/s/ JAMES L. LATCHUM
United States District Judge

U.S. v. G. HEILEMAN BREWING COMPANY, INC.

Civil Action No. 82-750

Year Judgment Entered: 1983

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

UNITED STATES OF AMERICA, Plaintiff, v. G. HEILEMAN BREWING COMPANY, INC. and PABST BREWING COMPANY, Defendants.	Civil Action No. FINAL JUDGMENT Filed: November 22, 1982 Entered: May 16, 1983

WHEREAS, plaintiff, United States of America, has filed its Complaint herein on November 22, 1982, and defendants, G. Heileman Brewing Company, Inc.("Heileman") and Pabst Brewing Company ("Pabst"), have appeared, and plaintiff and defendants, by their respective attorneys, have 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 constituting evidence, or an admission by any party, with respect to any issue of fact or law herein;

WHEREAS, the following facts and circumstances underlie the parties' agreement to the entry of this Final Judgment:

Pursuant to the Agreement in Principle, as hereinafter identified and described, Heileman on November 10, 1982 commenced a tender offer for Pabst (the "tender offer") through HBC Acquisition Corporation ("HBC"), a wholly-owned subsidiary of Heileman. The tender offer is intended as the initial step of a series of transactions whereby certain assets (the "Retained Assets" as hereinafter identified and described) owned as of November 19, 1982 by Pabst and Olympia Brewing Company ("Olympia") are to be transferred to Heileman and the balance of Pabst's and Olympia's

assets (the "Non-Retained Assets" as hereinafter identified and described) are to be transferred to a new entity in which Heileman will have no interest. Under the Agreement in Principle, upon consummation of the tender offer, Heileman will attempt to effect two mergers whereby HBC will acquire all of the remaining stock of Pabst and Olympia in exchange for HBC securities (the "subsequent mergers"). The Agreement in Principle contemplates that upon consummation of the subsequent mergers, Heileman will give up all of its interest in HBC in exchange for the Retained Assets (the "exchange transaction"). By the tender offer, the subsequent mergers and the exchange transaction, Heileman intends to acquire the Retained Assets, and does not intend to acquire control, directly or indirectly, of any portion of the Non-Retained Assets.

Heileman has agreed that it will not purchase any of the shares tendered pursuant to the tender offer until Pabst and Olympia have agreed that if the subsequent mergers and the exchange transaction have not been completed by February 28, 1983, Pabst and Olympia will transfer to Heileman before March 31, 1983 the Retained Assets and Olympia will transfer to Pabst before March 31, 1983 those Non-Retained Assets owned by Olympia.

Pabst has agreed that, if the subsequent mergers and the exchange transaction have not been consummated by February 28, 1983, it shall effect the purchase of the remaining outstanding shares of Olympia for cash by March 31, 1983.

The Agreement in Principle contemplates an escrow arrangement whereby the remaining Olympia shareholders are assured that

the shares they will receive in the subsequent mergers will have a value of not less than twenty-six dollars ($26) per share, or a total of thirty-five million dollars ($35,000,000) for all of the shares collectively, and provides for the making of cash payments to the Olympia shareholders in the event that the shares are determined to have a lower market value.

The defendants have agreed to be bound by the provisions of this Final Judgment pending its approval by the Court.

NOW, THEREFORE, before the taking of any testimony, 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:

I.

This Court has jurisdiction of the subject matter of this action and of the parties hereto. The Complaint states a claim upon which relief may be granted against defendants under Section 7 of the Clayton Act, as amended (15 U.S.C. § 18).

II.

As used in this Final Judgment:

A. "Heileman" means defendant G. Heileman Brewing Company, Inc., including each division, subsidiary or affiliate thereof, its parent organization, if any, and each officer, director, employee, attorney, agent or other person acting for or on behalf of any of them.

B. "Pabst" means defendant Pabst Brewing Company, including each division, subsidiary or affiliate thereof, its parent organization, if any, and each officer, director, employee, attorney, agent or other person acting for or on behalf of any of them.

C. "Olympia" means Olympia Brewing Company, including each division, subsidiary or affiliate thereof, its parent organization, if any, and each officer, director, employee, attorney, agent or other person acting for or on behalf of any of them.

D. "Defendants" mean Heileman and Pabst.

E. "Person" means any natural person, corporation, association, firm, partnership or other business or legal entity.

F. "Brewery" means the manufacturing plant, real property, capital equipment, and any other interests, tangible assets or improvements, associated with a facility for brewing and packaging beer.

G. "Agreement in Principle" means the Agreement in Principle between Heileman and Pabst dated November 5, 1982 (a copy of which is attached hereto as Exhibit I) as amended by letter agreement dated November 9, 1982 (a copy of which is attached hereto as Exhibit II).

H. "Retained Assets" means the assets of Pabst and Olympia to be acquired by Heileman pursuant to the Agreement in Principle. The Retained Assets include, but are not limited to, the breweries owned by Pabst (as of November 19, 1982) located in Pabst, Georgia, and Portland, Oregon; the brewery owned by Olympia (as of November 19, 1982) located in San Antonio, Texas; and the following brands of beer: Red, White & Blue, Burgermeister, Blitz-Weinhard, Henry Weinhard Private Reserve and Bohemian, all owned by Pabst (as of November 19, 1982), and Lone Star, Lone Star Light and Buckhorn (Texas), all owned by Olympia (as of November 19, 1982).

I. "Non-Retained Assets" means all assets of Pabst and Olympia other than the Retained Assets. The Non-Retained Assets include, but are not limited to, the breweries owned by Pabst (as of November 19, 1982) located in Newark, New Jersey, Peoria Heights, Illinois, and Milwaukee, Wisconsin; the breweries owned by Olympia (as of November 19, 1982) located in St. Paul, Minnesota, and Tumwater, Washington; and the following brands of beer: Pabst Blue Ribbon, Andeker, Pabst Extra Light, Pabst Light, Jacob Best and Olde English 800, all owned by Pabst (as of November 19, 1982), and Olympia, Olympia Gold (light beer), Hamm's, Hamm's Special Light, and Buckhorn (non-Texas), all owned by Olympia (as of November 19, 1982).

III.

The provisions of this Final Judgment shall apply to the defendants, to each of their subsidiaries, successors and assigns, to each of their officers, directors, agents and employees and to all other persons in active concert or participation with any of them who shall have received actual notice of this Final Judgment by personal service or otherwise.

IV.

A. Until the appointment of a trustee under this Final Judgment, Heileman shall be free to vote in any manner the stock of Pabst, subject to plaintiff's prior approval. Heileman shall not otherwise manage or control Pabst or Olympia in any manner directly or indirectly. Furthermore, Heileman shall not have

access to any confidential business information, data or records of Pabst or Olympia concerning the Non-Retained Assets. Heileman shall have access to confidential business information, data and records of Pabst and Olympia concerning the Retained Assets; provided, however, that such access shall only take the form of the submission of written material to Heileman by Pabst and Olympia (unless plaintiff specifically agrees otherwise) and provided further that plaintiff shall be furnished with copies of all materials furnished to Heileman at the same time as such materials are furnished to Heileman.

B. Defendants shall report to plaintiff promptly, upon plaintiff's request, in whatever manner requested by plaintiff, including sworn affidavit, on all steps taken and all actions contemplated by defendants to accomplish the subsequent mergers and the exchange transaction.

C. Heileman shall increase its obligation under the Heileman demand note referred to in paragraph 2 of the Agreement in Principle from fifteen million dollars ($15,000,000) to twenty-five million dollars ($25,000,000), without an increase in the collateral to be provided by Pabst, so that Pabst's obligation under the Olympia escrow agreement referred to in the Agreement in Principle shall be limited to ten million dollars ($10,000,000).

D. If the subsequent mergers and the exchange transaction have not been consummated by February 15, 1983, plaintiff may petition the Court for the appointment of a trustee, which appointment shall become effective no later than March 31, 1983. Upon the filing of such a petition, plaintiff and Heileman each shall

promptly notify the other in writing of the names and descriptions of not more than two persons it wishes to nominate as a trustee. Should plaintiff and Heileman agree upon one of such nominees to serve as trustee, that nominee's name will be submitted to the Court. Should plaintiff and Heileman fail to agree on a common nominee, then plaintiff shall submit the names of each party's nominees to the Court. The Court shall appoint a trustee from the candidates so named.

E. The trustee shall have all powers necessary to accomplish the purposes of the trust. The purposes of the trust shall be as follows:

(1) To accomplish the transfer of the Retained Assets to Heileman;

(2) To accomplish the transfer of the Non-Retained Assets, as a viable, on-going business in the brewing industry, (a) to the then shareholders of Pabst and Olympia other than Heileman or persons controlled by Heileman (the "required divestiture"), or (b) to a purchaser approved by plaintiff (the "alternative divestiture") with the proceeds of such sale going to the then shareholders of Pabst and Olympia other than Heileman in exchange for their Pabst or Olympia shares; and

(3) to carry out the parties' intention that Heileman not acquire control, directly

or indirectly, over any of the Non-Retained Assets.

F. Upon its appointment, the trustee shall have full power and authority to vote the Pabst stock acquired by Heileman and to exercise control or management of Pabst and Olympia in order to carry out the purposes of the trust.

G. Within three (3) months of the trustee's date of appointment, the trustee shall submit a plan to accomplish the required divestiture or the alternative divestiture to the Court for approval. The trustee shall simultaneously provide copies of said plan to the parties. Said plan shall contain any and all terms that the trustee deems appropriate to accomplish as expeditiously as is possible the purposes of the trust. If the trustee deems it appropriate, said plan may provide for divestiture by way of the required divestiture in the following manner. The trustee shall cause Heileman, or Pabst and Olympia, to place all the Non-Retained Assets in a subsidiary of Heileman ("Newco"), and transfer all of Newco's stock to the trustee. Once such transfer is made, the trustee shall exchange Newco's stock on a pro rata basis for the Pabst and Olympia shares then held by all Pabst and Olympia shareholders other than Heileman or persons controlled by Heileman. The exchange rate will be determined by the trustee who will be empowered to employ, at Heileman's expense, financial, investment and legal advisors to accomplish the exchange. Thereafter, the trust shall cease, and Newco shall exist as a wholly independent entity.

H. Prior to granting any approval of a divestiture plan proposed by the trustee, the Court shall provide the parties an opportunity for a full hearing on said plan, taking into consideration all factors urged by the parties consistent with the purposes of the trust. If the Court approves the trustee's divestiture plan, it shall enter all appropriate orders necessary to put such plan into effect. If the Court is not satisfied that the trustee's divestiture plan is fair and equitable to the then shareholders of Pabst, the trustee thereupon shall be invested with full power and authority, with full jurisdiction over the parties, to take any and all affirmative steps necessary to accomplish the trustee's proposed divestiture in a manner approved by the Court and without impairment to the financial condition or viability of the Non-Retained Assets as an on-going business in the brewing industry. In this event, Heileman shall provide such additional financial contribution in such form and amount as the Court may reasonably determine to be necessary to proceed with the divestiture on terms that are fair and equitable to the Pabst shareholders.

I. Except as otherwise provided in Section IV (J) with respect to the trustee's fees and expenses incurred in connection with the accomplishment of the alternative divestiture, Heileman shall pay all of the reasonable fees and expenses of the trustee on such reasonable terms and conditions as the Court may prescribe. The compensation of such trustee shall be based in significant part on a fee arrangement providing the trustee with an incentive to accomplish the proposed divestiture as soon as possible and, with respect to the alternative divestiture, to obtain the best possible price.

J. In the event that the alternative divestiture is accomplished, the trustee shall account for all monies derived from said divestiture, if any, and all costs and expenses so incurred. After approval by the Court of the trustee's accounting, including fees for its services, all remaining monies, if any, shall be paid to the then shareholders of Pabst and Olympia and the trust shall then be terminated.

K. Defendants shall use their best efforts to assist the trustee in accomplishing the required divestiture or the alternative divestiture.

L. After its appointment, the trustee shall file monthly reports with the parties and the Court setting forth the trustee's efforts to accomplish divestiture as contemplated under this Final Judgment. If the trustee has not accomplished such divestiture within six (6) months after its appointment, the trustee shall thereupon promptly file with the Court and the parties a report setting forth (1) the trustee's efforts to accomplish the required divestiture, (2) the reasons, in the trustee's judgment, why the required divestiture was not accomplished, and (3) the trustee's recommendations. The trustee shall at the same time furnish such report to the parties, who shall each have the right to be heard and to make additional recommendations consistent with the purposes

of the trust. The Court shall thereafter enter such orders as it shall deem appropriate in order to carry out the purposes of the trust, which shall, if necessary, include extending the trust and the term of a trustee's appointment.

V.

Until divestiture as contemplated under this Final Judgment has been accomplished, Pabst shall and shall cause Olympia prudently to carry on the brewery business involving the Retained Assets in the ordinary course and shall not sell, dispose of or otherwise encumber the Retained Assets without approval by Heileman or, failing such approval, by the Court. Until said divestiture is accomplished, Pabst shall maintain the breweries located in Pabst, Georgia, and Portland, Oregon, in good working condition and repair and Pabst shall cause Olympia to maintain the brewery located in San Antonio, Texas, in good working condition and repair; and neither Pabst nor Olympia shall remove any assets used in connection with or otherwise relating to the maintenance or operation of said breweries except as required in the ordinary course of business without approval by Heileman or, failing such approval, by the Court. Until said divestiture is accomplished, Pabst shall and shall cause Olympia to continue to provide for each brand of beer among the Retained Assets the level of marketing and advertising support each was providing as of November 19, 1982, to maintain the level of personnel who conduct the business of the Retained Assets and

to preserve the goodwill and distributor relationships of the brands included in the Retained Assets.

VI.

For the purposes of determining or securing compliance with this Final Judgment and subject to any legally recognized privilege, from time to time:

A. Duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to any defendant made to its principal office, be permitted:

1. Access during office hours of such defendant to inspect and copy all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of such defendant, who may have counsel present, relating to any 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 officers, employees and agents of such defendant, who may have counsel present, regarding any such matters.

B. Upon the written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division made to any defendant's principal office, such defendant shall submit such written reports, under oath if requested, with respect to any of the matters contained in this Final Judgment as may be requested.

No information or documents obtained by the means provided in this Section VI shall be divulged by a representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

C. If at the time information or documents are furnished by any defendant to plaintiff, such defendant represents and identifies in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and such defendant marks each pertinent page of such material, "Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure," then ten days' notice shall be given by plaintiff to defendants prior to divulging such material in any legal proceeding (other than a grand jury proceeding).

VII.

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 hereof, for the enforcement of compliance herewith, and for the punishment of any violations hereof.

VIII.

This Final Judgment will expire upon order of the Court after the trust has terminated.

IX.

Entry of this Final Judgment is in the public interest.

Dated: May 16, 1983

/s/ Judge James L. Latchum
UNITED STATES DISTRICT JUDGE

Exhibit 1

November 5, 1982

G. Heileman Brewing Company, Inc.
100 Harborview Plaza
P. O. Box 459
LaCrosse, Wisconsin 54601

The following represents our agreement in principle to a proposed acquisition by G. Heileman Brewing Company, Inc. ("Heileman") of both the Pabst Brewing Company ("Pabst") and the Olympia Brewing Company ("Olympia"). It is contemplated that after acquiring Pabst and Olympia in the merger transactions described below, Heileman will retain certain assets (the "Retained Assets" described below) and spin off interests (also described below), in the other brewing assets and brewery business of Pabst and Olympia, to the Pabst and Olympia shareholders at the time of the respective merger transactions. The acquisition transaction shall be effected by means of a definitive acquisition agreement among Heileman, Pabst and Olympia and is contemplated to take place in the following manner.

1. Heileman, through a wholly-owned Delaware subsidiary called for convenience herein "Brewing Co.", shall commence and complete a cash tender offer for up to 6,000,000 shares of Pabst common stock for $25 per share. The offer shall be subject to Brewing Co. acquiring at least 3,700,000 of the outstanding Pabst shares and to all other conditions customary and appropriate for such a tender offer.

2. Brewing Co. shall seek Olympia shareholder approval for and shall effect a merger of one of Pabst's wholly-owned subsidiaries into Olympia, pursuant to which merger Olympia shareholders on the effective date of the merger will receive an aggregate of 10,000,000 shares of the 30,000,000 shares of Brewing Co. outstanding and a right to receive cash on June 1, 1983 to the extent that the aggregate market value of the common stock does not represent an average market value, during a defined period after the merger to be agreed upon, of at least $35,000,000. Pabst shall agree to vote its Olympia shares in favor of the merger transaction. To facilitate the acquisition of Olympia, Heileman, at the time Brewing Co. purchases Pabst shares pursuant to the tender offer, shall

lend Pabst $20,000,000 (of which $5 million shall be in cash and $15 million shall be in the form of a demand note) secured by certain non-brewery assets of Pabst to be agreed upon. An escrow arrangement shall be set up with a letter of credit for $20,000,000 and the $15,000,000 secured demand note from Heileman to assure the payment of the cash, if necessary, to Olympia shareholders. In the event that the Heileman note is called, Pabst shall transfer to Heileman the assets securing such note.

3. Concurrently with the acquisition of Olympia described in paragraph 2 above, Brewing Co. shall effect a merger of a wholly-owned subsidiary with Pabst pursuant to which Pabst shareholders on the effective date of the merger (other than Brewing Co. and Heileman) will receive convertible subordinated debentures of Brewing Co. The debentures shall have a principal amount to be agreed upon, be entitled to be prepaid in the event of a substantial sale of assets of Brewing Co., be subordinated in right of payment to all indebtedness of Brewing Co. for money borrowed, and shall have such other economic terms as shall be agreed upon by the parties. Heileman, subject to the terms and conditions of the acquisition agreement, shall vote the Pabst shares acquired in the tender offer in favor of the merger. The acquisition of Pabst shall be conditioned on the acquisition of Olympia being effective at approximately the same time.

4. Immediately after effectiveness of the merger transactions, Brewing Co. shall, in exchange for (i) Brewing Co. stock held by Heileman and (ii) such cash (if any), in the event Brewing Co. holds less than the maximum number of shares sought in the tender offer, that would have been required to obtain the maximum number of shares sought in the tender offer), transfer the following assets and enter into the following agreements with Heileman (or cause its subsidiaries to effect such transfers and enter into such agreements), which assets together with all related liabilities, are herein referred to as the "Retained Assets":

a. The Pabst brewing facilities at Pabst, Georgia and Portland, Oregon.

b. The Olympia brewing facility at San Antonio, Texas.

c. The following brands, related Light brands and premium brands: Blitz, Blitz economy brands, Henry Weinhard, Lone Star, Buckhorn (Texas), Red White and Blue and Burgermeister.

d. $10,000,000 in unspecified surplus assets of Pabst, 100,000 kegs and the Pabst office building and related parking areas in Milwaukee, Wisconsin.

e. Pabst will enter into a five-year contract to brew with Heileman, requiring Heileman to brew for Pabst 3,150,000 barrels annually at the Pabst, Georgia facility. The foregoing required amount shall decline annually as follows:

Year two:	2,970,000
Year three:	2,670,000
Year four:	2,370,000
Year five:	2,070,000

Of the foregoing amounts, Pabst shall be entitled to request that the following barrels be brewed in San Antonio:

Year one:	400,000
Year two:	370,000
Years three through five:	270,000

In the event that the acquisition transactions are not effected by February 28, 1983, then Pabst and Olympia shall transfer the Retained Assets to Heileman in exchange for 6,000,000 shares of Pabst stock held by Brewing Co. (or such number of shares purchased in the tender offer plus the cash that would have been required to obtain the maximum number of shares sought); and Heileman and Pabst shall cause the release of the escrow to Olympia against release of Pabst's obligations to Olympia under the agreement dated June 11, 1982 between Pabst and Olympia. If the retained assets, for any reason, can not be transferred to Heileman by March 15, 1983, Heileman shall be free to terminate the Acquisition Agreement and all the arrangements thereunder.

All out-of-pocket costs and expenses for the acquisition transactions shall be allocated and paid for in a fair and equitable manner to be determined by Heileman and Pabst in good faith.

Brewing Co. shall purchase, immediately before the effective time of the Pabst merger Pabst stock held by Heileman at the time of initiation of the tender offer for an amount in cash equal to the cost to Heileman of such stock less $5 million.

The Acquisition Agreement shall have customary terms and conditions to be agreed upon by the parties.

The parties shall use their best efforts to obtain approval of the transactions contemplated by this letter with the United States Department of Justice.

This letter does not constitute a contract. The matters covered by this letter are subject to the execution of a definitive Acquisition Agreement, the approvals of the Boards of Directors of Heileman, Pabst and Olympia, receipt of fairness opinions of Lehman Brothers Kuhn Loeb Incorporated, satisfactory to the Board of Pabst, approval by the Department of Justice and such other matters as the parties may agree.

PABST BREWING COMPANY

By /s/ William F. Smith, Jr.
William F. Smith, Jr.
President

Accepted and Agreed
G. Heileman Brewing Company, Inc.

By /s/ Russell G. Cleary
Russell G. Cleary
President

Exhibit II

November 9, 1982

G. Heileman Brewing Company, Inc.
100 Harborview Plaza
P. O. Box 459
La Crosse, Wisconsin 54601

This letter amends and supplements our agreement in principle of November 5, 1982.

Paragraph number 1 is amended to read as follows:

1. Heileman, through a wholly-owned Delaware subsidiary called for convenience herein "Brewing Co.", shall commence and complete a cash tender offer for up to 5,500,000 shares of Pabst common stock for $27.50 per share. The offer shall be subject to Brewing Co. acquiring at least 3,800,000 of the outstanding Pabst shares and to all other conditions customary and appropriate for such a tender offer.

Paragraph 3 is amended to read as follows:

3. Concurrently with the acquisition of Olympia described in paragraph 2 above, Brewing Co. shall effect a merger of a wholly-owned subsidiary with Pabst pursuant to which Pabst shareholders on the effective date of the merger (other than Brewing Co. and Heileman) will receive subordinated notes of Brewing Co. The notes shall have a principal amount of $20 for each share exchanged, be entitled to be prepaid in the event of a substantial sale of assets of Brewing Co. and be subordinated in right of payment to all indebtedness of Brewing Co. for money borrowed. The notes shall mature ten years from the date of issue, bear

interest at the rate of 15% per annum and benefit from a sinking beginning in the sixth year, designed to retire the notes in equal annual installments by maturity. Heileman, subject to the terms and conditions of the acquisition agreement, shall vote the Pabst shares acquired in the tender offer in favor of the merger. The acquisition of Pabst shall be conditioned on the acquisition of Olympia being effective at approximately the same time.

In addition, the first paragraph on page 4 of the November 5, 1982 agreement in principle is amended to read as follows:

Brewing Co. shall purchase, immediately before the effective time of the Pabst merger Pabst stock held by Heileman at the time of initiation of the tender offer for an amount in cash equal to the cost to Heileman of such stock less $3,750,000.

Pabst Brewing Company

By /s/ William F. Smith, Jr.
President and
Chief Executive Officer

Accepted and Agreed

G. Heileman Brewing Co.

By /s/ Russell G. Cleary
President