

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. Watch Case Manufacturers Board of Trade, Inc., et al., U.S. District Court, S.D. New York, 1952-1953 Trade Cases ¶67,422, (Jan. 19, 1953)

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United States v. Watch Case Manufacturers Board of Trade, Inc., et al.

1952-1953 Trade Cases ¶67,422. U.S. District Court, S.D. New York. Civil Action No. 67-296. Filed January 19, 1953. Case No. 1097 in the Antitrust Division of the Department of Justice.

Sherman Antitrust Act

Consent Decrees—Practices Enjoined—Price Fixing, Circulation of Cost Information, Published Price Lists, Forfeiture of Bonds, and Examination of Books—Watch Case Manufacturers and Association.—

Watch case manufacturers and a trade association are enjoined by a consent decree from entering into any understanding which has the effect of (1) fixing, stabilizing or adhering to prices, discounts, allowances, or other conditions of sale; (2) urging, advising or suggesting prices, discounts, allowances or other conditions of sale; (3) circulating or exchanging any information concerning costs relating to the manufacture of watch cases or prices, discounts, allowances or other conditions of sale; and (4) selling watch cases only at prices quoted in published price lists or announcements. Also, the defendants are enjoined from collecting, holding, submitting or forfeiting any bond for the adherence or failure to adhere to published price lists or announcements; from exercising or claiming the right to examine the sales or receipt books, records, invoices or any other documents pertinent to sales and prices of any watch case manufacturer.

Consent Decrees—Practices Enjoined—Solicitation and Distribution of Statistics—Trade Association.—

A trade association of watch case manufacturers and an individual are enjoined by a consent decree from collecting, soliciting, utilizing, distributing, or disclosing statistics or other information, or sponsoring or encouraging any program for the collection, solicitation, utilization, distribution or disclosure of statistics or other information, relating to costs, prices, terms or conditions of sales, in connection with the manufacture or sale of watch cases. The association is ordered to send a copy of the judgment to each member and is ordered to require as a condition of membership that all members agree to comply with the provisions of the judgment.

Consent Decrees—Permissive Provisions—Furnishing and Disseminating—Statistical Data.—A consent decree entered against watch case manufacturers and a trade association provides that nothing contained in the decree shall prevent (1) any defendant, acting in good faith, from furnishing to any person hourly labor rates, piece labor rates, employee earnings, time studies, or terms or conditions of employment, solely in connection with collective bargaining, a labor dispute, the administration of a labor contract, fixing labor rates or a governmental investigation; (2) any defendant from furnishing to the association its production figures and the association from compiling, disseminating and communicating said figures in a general and composite form to all persons and the public generally without identifying the production figures gathered from any particular person; (3) any defendant from furnishing each year to the association for the sole purpose of determining dues and assessments, its gross annual sales figures or its total number of employees for the previous year; and (4) any defendant from furnishing or the association from compiling and disseminating, for the sole purpose of presenting evidence to any governmental authority, estimates on the cost of manufacture in the United States of a typical watch case of foreign manufacture.

For the plaintiff: Newell A. Clapp, Acting Assistant Attorney General; Myles J. Lane, United States Attorney for the Southern District of New York; and Edwin H. Pewett, Richard B. O'Donnell, W. D. Kilgore, Jr., Charles F. B. McAleer, John V. Leddy, and J. Paul McQueen, Attorneys for the United States.

For the defendants: Herbert S. Greenberg.

Final Judgment

[*Consent to Entry of Decree*]

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CLANCY, District Judge [*In full text*] : Plaintiff, United States of America, having filed its complaint herein on June 21, 1951; the defendants having appeared and filed their answer to said complaint; and the plaintiff and defendants, by their respective attorneys, having severally consented to the entry of this Final Judgment ;without. trial or adjudication of any issue of factor of law herein and without admission by any party in respect to any such issue; and the Court having considered the matter and being duly advised;

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

Ordered, adjudged and decreed, as follows:

I

[*Sherman Act Cause of Action*]

The court has jurisdiction of the subject matter hereof and of all the parties hereto. The complaint states a cause of action against the defendants under Section: 1 of the Act of Congress of July 2, 1890, entitled "An Act to protect trade and commerce against unlawful restraints and monopolies", as amended.

II

[*Definitions*]

As used in this Final Judgment:

- (a) "Watch case" shall mean a case, covering or housing of any quality or description for a watch movement;
- (b) "Association" shall mean the defend ant Watch Case Manufacturers Board of Trade, Inc.;
- (c) "Person" shall mean an individual, partnership, firm, corporation, association, trustee of other business or legal entity;
- (d) "Manufacturer" shall mean a manufacturer of watch cases;
- (e) "Governmental Agency" shall mean any Federal agency.

III

[*Applicability of Judgment*]

The provisions of this Final Judgment applicable to any defendant shall apply to such defendant, its members, directors, agents, employees, subsidiaries, successors and assigns, and to all other persons acting or claiming to act under, through or for such defendant.

IV

[*Cancellation of Contract Ordered*]

The defendants are jointly and severally ordered and directed to terminate and cancel the agreement of September 26, 1949 in its entirety, and each of the defendants is jointly and severally enjoined and restrained from reviving, maintaining, entering into, adopting, adhering to, claiming any rights under or enforcing said agreement or any other contract, agreement, understanding, plan or program having a similar purpose or effect.

V

[*Pricing Practices Prohibited*]

Each of the defendants is jointly and severally enjoined and restrained from entering into, adhering to, maintaining, furthering, or enforcing any contract, agreement or understanding, directly or indirectly, with any other defendant, or any manufacturer or central agency for such manufacturer which has the purpose or effect of:

- (a) Fixing, determining, maintaining, tampering with, controlling, stabilizing or adhering to prices, discounts, allowances, or other terms or conditions for the sale of watch cases to third persons;
- (b) Urging, advising or suggesting prices, discounts, allowances or other terms or conditions for the sale of watch cases to third persons;
- (c) Circulating, exchanging, disclosing or communicating any information concerning costs relating to the manufacture of watch cases or prices, discounts, allowances or other terms or conditions relating to the sale or distribution of watch cases;
- (d) Selling or offering to sell watch cases only at prices quoted in published price lists or announcements.

VI

[Distribution of Statistics Enjoined]

Defendant Association and defendant, Herbert S. Greenberg are jointly and severally enjoined and restrained from collecting, soliciting, utilizing, distributing, communicating, or disclosing statistics or other information, or sponsoring or encouraging any program or plan for the collection, solicitation, utilization, distribution or disclosure of statistics or other information, relating to costs, prices, terms or conditions of sale, in connection with the manufacture, sale or distribution of watch cases.

VII

[Forfeiting Bonds Prohibited]

The defendants are jointly and severally enjoined and restrained from:

- (a) Collecting, holding, submitting or forfeiting any bond for the adherence or failure to adhere to published price lists or announcements;
- (b) Exercising or claiming the right to examine the sales or receipt books, records, invoices or any other documents pertinent to sales and prices of any watch case manufacturer.

VIII

[Copy of Judgment to Members]

Defendant Association is ordered and directed to furnish to each of its present, and future members a copy of this Final Judgment and require as a condition of membership that all such members agree, to comply with the provisions thereof.

IX

[Permitted Practices Concerning Statistical Data]

Nothing contained in this Final Judgment shall prevent:

- (a) Any defendant, acting in good faith, from furnishing to any person hourly labor rates, piece labor rates, employee earnings, time studies, or terms or conditions of employment, solely in connection with collective bargaining, a labor dispute, the administration of a labor contract, fixing labor rates or a governmental investigation;
- (b) Any defendant from furnishing to the Association its production figures and the Association from compiling, disseminating and communicating said figures in a general and composite form to all persons and the public generally without identifying the production figures gathered from any particular person;
- (c) Any defendant from furnishing each year to the Association for the sole purpose of determining dues and assessments, its gross annual sales figures or its total number of employees for the previous year;

(d) Any defendant from furnishing or the Association from compiling and disseminating, for the sole purpose of presenting evidence to any governmental authority, estimates on the cost of manufacture in the United States of a typical watch case of foreign manufacture.

X

[*Inspection and Compliance*]

For the purpose of securing compliance with this Final Judgment and for no other purpose, duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division and upon reasonable notice to any defendant herein made to the principal office of such defendant, be permitted, subject to any legally recognized privilege, (A) access, during the office hours of said defendant, to all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of said defendant relating to any of the matters contained in this Final Judgment, and (B) subject to the reasonable convenience of said defendant and without restraint or interference from it, to interview officers and employees of such defendant, who may have counsel present, regarding such matters. Upon written request of the Attorney General, or the Assistant Attorney General in charge of the Antitrust Division, on reasonable notice to any defendant herein made to its principal office such defendant shall submit such written reports as may from time to time be reasonably necessary to the enforcement of this Final Judgment. No information obtained by the means provided in this Section X shall be divulged by the Department of Justice to any person other than a duly authorized representative of the Department of Justice except in the course of legal proceedings to which the United States is a party for the purpose of securing compliance with this Final Judgment or as otherwise required by law.

XI

[*Jurisdiction Retained*]

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to the court at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the amendment, modification or termination of any of the provisions hereof, for the enforcement of compliance therewith and for the punishment of violations thereof.