

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. Diamond Dealers Club, Inc., and Diamond Center, Inc., U.S. District Court, S.D. New York, 1955 Trade Cases ¶67,987, (Feb. 28, 1955)

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United States v. Diamond Dealers Club, Inc., and Diamond Center, Inc.

1955 Trade Cases ¶67,987. U.S. District Court, S.D. New York. Civil Action-No. 76-343. Dated February 28, 1955. Case No. 1136 in the Antitrust Division of the Department of Justice.

Sherman Antitrust Act

Combinations and Conspiracies—Consent Decree—Practices Enjoined—Export and Import Limitations—Diamond Dealers' Trade Associations.—Two trade associations of diamond dealers and their members were enjoined by a consent decree from entering into any understanding to restrict or prevent the importation of diamonds into, or the exportation of diamonds from, the United States; to hinder or prevent any diamond dealer from participating in free and unlimited trade in diamonds with any other dealer; to force or urge any diamond dealer to refrain from dealing in the services or products of any other dealer; or to impose any fine or other penalty upon any member for dealing in the services or products of any other dealer. The associations were ordered to revoke any decision interfering with the importation or exportation of diamonds and to abolish any instrumentality of control, surveillance, or information designed to implement any such decision.

Department of Justice Enforcement and Procedure—Consent Decrees—Specific Relief—Amendment of Trade Associations' By-Laws.—Two trade associations of diamond dealers were ordered by a consent decree to (1) serve a copy of the decree upon each of their present members, (2) amend their respective by-laws to incorporate certain prohibitions of the decree and require, as a condition of membership or retention of membership, that each present or future member abide by the terms of such prohibitions, (3) furnish to each present and future member a copy of their by-laws as amended, and (4) expel promptly from membership any present or future member who shall violate any of the prohibitions.

For the plaintiff: Stanley N. Barnes, Assistant Attorney General, and W. D. Kilgore, Jr., Marcus A. Hollabaugh, Richard B. O'Donnell, John D. Swartz, Max Freeman, John V. Leddy, and Moses M. Lewis.

For the defendants: Nathan W. Math for Diamond Dealers Club, Inc.; and Harry Torczyner for Diamond Center, Inc. (name now Diamond Trade Association of America, Inc.).

Final Judgment

SYLVESTER J. RYAN, District Judge [*In full text*] : Plaintiff, United States of America, having filed its complaint herein on June 23, 1953; defendants having appeared and filed their answers to such complaint, denying the substantive allegations thereof; and plaintiff and defendants, by their attorneys herein, 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 of 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 the consent of the parties hereto, it is hereby

Ordered, adjudged and decreed as follows:

I

[*Sherman Act*]

This Court has jurisdiction of the subject matter hereof and of 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) "Diamonds" means all types of diamonds, including rough and uncut diamonds, gem diamonds and industrial diamonds;
- (B) "Diamond dealer" means any person engaged in the business of buying, selling or otherwise trading in diamonds;
- (C) "Defendants" means the defendants Diamond Dealers Club, Inc., and Diamond Trade Association of America, Inc. (previous named "Diamond Center, Inc."), and each of them;
- (D) "Person" means any individual, corporation, partnership, association or any other business or legal entity.

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

[*Amendment of By-Laws*]

Defendants are jointly and severally ordered and directed:

- (A) Within sixty days after the entry of this Final Judgment, to serve by mail, upon each of their present members, a conformed copy of this Final Judgment and to file, with this Court and with the plaintiff herein, proof by affidavit of service upon each such member;
- (B) To amend within three months from the date of entry of this Final Judgment their respective by-laws to incorporate therein subsection (B) of Section V of this Final Judgment and require, as a condition of membership or retention of membership, that each present and future member abide by the terms of said subsection (B) of said Section V;
- (C) To furnish to each present and future member a copy of their by-laws as amended in accordance with the foregoing paragraph.
- (D) To expel promptly from membership any present or future member who shall violate any of the provisions of subsection (B) of Section V of this Final Judgment.

V

[*Exports and Imports*]

(A) Defendants are jointly and severally ordered and directed:

- (1) To revoke and render ineffective (a) any decision interfering with, restricting, restraining or preventing the importation of diamonds into or the exportation of diamonds from the United States, and (b) any resolution, rule or regulation to implement any such decision;
 - (2) To abolish any instrumentality of control, surveillance or information designed to implement any of the aforesaid decisions.
- (B) Defendants and each of their members are jointly and severally enjoined and restrained from entering into, adhering to, renewing, maintaining or furthering, directly or indirectly, or claiming any rights under any contract, combination, agreement, understanding, plan, program or course of action with each other, any association or organization of diamond dealers' or any diamond dealer or any other person to:

- (1) Continue, renew, or revive any of the provisions of the decisions, resolutions, rules and regulations ordered terminated or cancelled by subsection (a) of this Section V;
- (2) Restrict, restrain or prevent the importation of diamonds into or the exportation of diamonds from the United States;
- (3) Hinder, restrict, restrain or prevent any diamond dealer, whether or not a member of any defendant association, from participating in free and unlimited trade and commerce in diamonds with any other diamond dealer or group or class thereof;
- (4) Force, urge or coerce, or attempt to force, urge or coerce, any diamond dealer, whether or not a member of any defendant association, to refrain from dealing in the services or products of any other diamond dealer or group or class thereof;
- (5) Impose, or attempt to impose, any assessment, fine, expulsion or other penalty upon any member of either defendant association for dealing in the services or products of any other diamond dealer or group or class thereof.

VI

[Inspection and Compliance]

For the purpose of 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 herein, 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 such defendant relating to any of the matters contained in this Final Judgment, and (B) subject to the reasonable convenience of such defendant and without restraint or interference from it, to interview officers and employees of such defendant, who may have counsel present, regarding any such matters. Upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, on reasonable notice to any defendant herein, such defendant shall submit such written reports as may from time to time be necessary to the enforcement of this Final Judgment. No information obtained by the means provided in this Section VI shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of such Department, 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.

VII

[Jurisdiction Retained]

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out 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.