

IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,
Plaintiff,

v.

SEARS, ROEBUCK & COMPANY, THE
B. F. GOODRICH COMPANY, AND
SIDNEY J. WEINBERG,
Defendants

Civil 73-293

JUDGMENT

This cause having come on for a hearing before the Court upon a motion by the plaintiff for a summary judgment against the defendants Sears, Roebuck & Company, The B.F. Goodrich Company, and Sidney J. Weinberg, counsel for the parties having been heard and the Court having determined, upon consideration of the pleadings and admissions on file, that there is no genuine issue between the parties as to any material fact, and the Court having filed its opinion herein on the 28th day of April, 1953, granting the motion of the plaintiff for summary judgment,

It is hereby ORDERED, ADJUDGED, AND DECREED:

I

The Court has jurisdiction of the subject matter hereof and of the parties hereto,

II

The defendant Sears, Roebuck & Company (hereinafter referred to as "Sears"), the defendant The B.F. Goodrich Company (hereinafter referred to as "Goodrich"), and Sidney J. Weinberg have been and are violating Section 8 of the Clayton Act (38 Stat. 733, as amended, 15 USC § 19) in that the defendant Sidney J. Weinberg has been and is a director of both Sears and Goodrich, each of said corporate defendants has capital, surplus and undivided profits aggregating more than \$1,000,000, each is engaged in commerce, neither is a bank, banking association, trust company

or common carrier subject to the Act to regulate commerce approved February 4, 1877, and said corporate defendants, by virtue of their business and location of operation, are competitors, so that the elimination of competition by agreement between them would constitute a violation of Section 1 of the Sherman Act.

III

The defendant Sidney J. Weinberg is ordered and directed to resign his directorship in the defendant Sears or the defendant Goodrich no later than September 30th, 1953 and to withdraw from participation in the direction, control, or conduct of the business of the corporate defendant from which he resigns. He shall promptly upon such resignation notify by registered mail or by serving a notice upon the Special Assistants representing the Attorney General.

IV

The defendant Sidney J. Weinberg is perpetually enjoined from on and after October 1st, 1953 being at the same time a director or serving as a director of both of said corporate defendants.

V

The defendant corporation from which the defendant Sidney J. Weinberg resigns as a director in accordance with the provisions of Paragraph III of this judgment is directed to accept the resignation of the defendant Sidney J. Weinberg and is hereby perpetually enjoined from permitting him to be elected as a director, allowing him to serve as a director, or permitting him to participate in the direction, control or conduct of the business of said defendant.

VI

Judgment is entered against the defendants for all costs to be taxed in this proceeding.

VII

For the purpose of securing compliance with this 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 on reasonable notice to either of the corporate defendants, made to the principal office of such defendant, be permitted (1) access during the office hours of such defendant to books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of such defendant relating to any matter contained in this judgment and (2) 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, and upon such request such defendant shall submit such written reports with respect to any of the matters contained in this judgment as from time to time may be necessary for the purpose of enforcement of this judgment. 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 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 judgment or as otherwise required by law.

VIII

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, for the amendment or modification of any of the provisions thereof, for the enforcement of compliance therewith, and for the punishment of violations thereof.

Edward Weinfeld
United States District Judge

Dated: August 11th, 1953

The following memorandum by Judge Weinfeld was endorsed on the back of the Judgment.

The violation of the statute was committed by the individual defendant in accepting membership on the Boards of Directors of both corporations and by the latter in acquiescing therein over an extended period of years. However, the broad injunction proposed against future violations of the statute should be granted only where there is evidence showing a persistent purpose to violate or commit recurrences of the condemned act. No such proof has been submitted to me. See Hecht Company v. Bowles, 321 U. S. 321, 329.

Dated August 11th, 1953.

EDWARD WEINFELD,
U.S.D.J.