

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. Pleaters, Stitchers and Embroiderers Association, Inc., U.S. District Court, S.D. New York, 1954 Trade Cases ¶67,890, (Nov. 12, 1954)

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United States v. Pleaters, Stitchers and Embroiderers Association, Inc.

1954 Trade Cases ¶67,890. U.S. District Court, S.D. New York. Civil Action No. 96-390. Filed November 12, 1954. Case No. 1209 in the Antitrust Division of the Department of Justice.

Sherman Antitrust Act

Combinations and Conspiracies—Consent Decree—Practices Enjoined—Price Fixing and Related Practices.—A consent decree entered against a pleaters, stitchers, and embroiderers' association prohibited the association and each of its members from entering into any agreement to (1) fix prices, discounts, or terms of payment, (2) solicit, suggest, or compel the adoption of or adherence to specified prices, discounts, or terms of payment, (3) publish or disseminate prices, discounts, or terms of payment, (4) circulate any statistics representing cost of operations, or (5) report or disclose any prices quoted or charged, or the discounts or terms of payment granted by any identified member of the association.

Department of Justice Enforcement and Procedure—Consent Decree—Specific Relief —Self-Policing Provisions.—A pleaters, stitchers, and embroiderers' association was ordered by a consent decree (1) to amend its charter or by-laws so as to incorporate therein a provision of the decree prohibiting price fixing and related practices and (2) to require as a condition of membership or retention of membership that all present and future members be bound thereby.

The association was ordered to expel any member who violates the provisions of its charter or by-laws incorporating the provisions of the consent judgment prohibiting price fixing and related practices. Also, the association was ordered to notify the Antitrust Division of the action taken with respect to any complaint received by the association of a violation by any member of such provisions of its charter or by-laws.

For the plaintiff: Stanley N. Barnes, Assistant Attorney General; William D. Kilgore, Jr., Richard B. O'Donnell, and John D. Swartz, Special Assistants to the Attorney General; and Morris F. Klein and Moses M. Lewis, Trial Attorneys.

For the defendant: Lester L. Jay.

Final Judgment

SYLVESTER J. RYAN, District Judge [*In full text*]: The plaintiff, United States of America, having filed its complaint herein on November 12, 1954, and the defendant having appeared herein, and the plaintiff and the defendant, by their respective attorneys, having 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 admission by the defendant in respect of any such issue;

Now, therefore, before any testimony or evidence 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*]

The Court has jurisdiction of the subject matter herein and all the parties hereto. The complaint states a cause of action against the defendant 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,” commonly known as the Sherman Act, as amended.

II.

[*Definitions*]

As used in this Final Judgment:

- (A) “Person” means any individual, partnership, firm, association, corporation, or other legal entity.
- (B) “Pleater, stitcher, and embroiderer” means a person engaged in the business of pleating, stitching, shirring, tucking, or embroidering, hereinafter referred to as “pleating, stitching, or embroidering,” of ladies’ wearing apparel.
- (C) “Member” means any member, present or future, of the defendant Pleaters, Stitchers and Embroiderers Association, Inc.

III.

[*Applicability of Judgment*]

The provisions of this Final Judgment shall apply to the defendant and to its members, officers, directors, agents, servants, employees, subsidiaries, successors, and assigns and to all persons in active concert or participation with the defendant who shall have received actual notice of this Final Judgment by personal service or otherwise.

IV.

[*Charter Amended — Self-Policing Provisions*]

The defendant is ordered and directed:

- (A) Within thirty days after the entry hereof to serve by mail upon each of its present members a conformed copy of this Final Judgment and to file with this Court and with the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, proof by affidavit of service upon each such member.
- (B) To institute forthwith and to complete within three months from entry of this Judgment such proceedings as may be appropriate and necessary to amend its charter or by-laws so as to incorporate therein section V of this Judgment and require as a condition of membership or retention of membership all present and future members be bound thereby.
- (C) To furnish to all its present and future members a copy of its by-laws as amended in accordance with subsection (B) of this section IV.
- (D) To expel promptly from member ship any present or future member of the defendant who shall violate the provisions of its charter or by-laws incorporating section V of this Judgment.
- (E) To notify promptly the Assistant Attorney General in charge of the Anti trust Division of the action taken with respect to any complaint received by the defendant of a violation by any of its present and future members of the provisions of its charter or by-laws incorporating section V of this Judgment.

V.

[*Price Fixing and Related Practices*]

The defendant and each of its 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 common course of action with any of its members or with any other pleater, stitcher, and embroiderer or with any association or central agency of or for pleaters, stitchers, and embroiderers to:

- (A) Determine, fix, establish, maintain, control, or promulgate prices, discounts, allowances, or terms of payment for pleating, stitching, or embroidering of ladies' wearing apparel.
- (B) Solicit, urge, influence, suggest, require, or compel the adoption of or adherence to specified prices, discounts, allowances, or terms of payment for pleating, stitching, or embroidering of ladies' wearing apparel.
- (C) Publish, distribute, exchange, circulate, or disseminate, directly or indirectly, prices, discounts, allowances, or terms of payment to be charged, allowed, or granted, among the members of the defendant or any other pleaters, stitchers, and embroiderers of ladies' wearing apparel.
- (D) Circulate or exchange, directly or indirectly, any statistics representing cost of operations among the members of the defendant or any other pleater, stitcher, and embroiderer of ladies' wearing apparel for the purpose of fixing or establishing prices, discounts, allowances, or terms of payment.
- (E) Report, circulate, exchange, disseminate, or disclose any prices quoted or charged or the discounts, allowances, or terms of payment granted by any identified member of the defendant for the purpose of fixing or maintaining prices, discounts, allowances, or terms of payment.

VI.

[Inspection and Compliance]

For the purpose of securing compliance with this Final Judgment, duly authorized representatives of the Department of Justice shall, on written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to the defendant, be permitted, subject to any legally-recognized privilege, (a) reasonable access, during the office hours of the defendant, to 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 matters contained in this Final Judgment, and (b) subject to the reasonable convenience of the defendant, and without restraint or interference, to interview officers and employees of the defendant who may have counsel present, regarding any such matters. For the purpose of securing compliance with this Final Judgment, the defendant, upon the written request of the Attorney General, or the Assistant Attorney General in charge of the Antitrust Division, shall submit such written reports with respect to any of the matters contained in this Final Judgment as from time to time may be necessary for the purpose of enforcement of this Final Judgment. No information obtained by the means permitted in this section VI shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Department except in the course of legal proceedings for the purpose of securing compliance with this Final Judgment in which the United States is a party or as otherwise required by law.

VII.

[Retention of Jurisdiction]

Jurisdiction of this Court is retained 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 modification or termination of any of the provisions thereof, for the enforcement of compliance therewith and punishment of violations thereof.