

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

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UNITED STATES OF AMERICA, :  
 :  
 Plaintiff, : CIVIL ACTION  
 :  
 v. : NO. 102-187  
 :  
 ERNEST LOWENSTEIN, INC. and :  
 ERNEST LOWENSTEIN :  
 :  
 Defendants. :  
 :  
- - - - - X

FINAL JUDGMENT

The Plaintiff, United States of America, having filed its complaint herein on July 26, 1955 and the defendants having filed their answer denying the substantive allegations of the complaint, and the plaintiff and the defendants, 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 this Final Judgment constituting evidence or admission by defendants 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 all the parties hereto, it is hereby

ORDERED, ADJUDGED and DECREED as follows:

I

The Court has jurisdiction of the subject matter herein and the parties hereto. The complaint sets forth a claim for relief 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," commonly known as the Sherman Act, as amended.

## II

As used in this Final Judgment:

- (A) "Person" means any individual, partnership, firm, association, corporation, or other legal entity;
- (B) "Imitation stones" means any machine-cut glass objects processed so as to resemble precious stones;
- (C) "Wholesaler" means any person principally engaged in the business of buying imitation stones at wholesale and selling such stones to jewelry manufacturers and who, in connection therewith, regularly maintains at his established place of business a reasonably adequate inventory of imitation stones purchased from defendants.

## III

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

## IV

Defendants are each ordered and directed to give due notice, within thirty (30) days from the date of entry of this Final Judgment to each person with whom such defendant maintains a fair trade resale price maintenance contract, if any there be, and to each person with whom such defendant maintained a fair trade contract on or about December 15, 1954 that said contracts have been cancelled and are of no effect, together with a true copy of this Final Judgment.

## V

Each defendant is, thirty (30) days after entry of this Final Judgment, enjoined and restrained from:

(A) Collecting from, or circulating reports or recommending to, any person any prices, discounts or other terms or conditions for the sale of imitation stones, or the products containing such stones, to third persons, for the purpose or with the effect of fixing, establishing or maintaining such prices, discounts or other terms or conditions;

(B) Dictating or controlling, or attempting to dictate or control, channels through which imitation stones, or the products containing such stones, may be sold;

(C) Entering into, adhering to or maintaining any contract, agreement, understanding, plan or program with any other person to fix, establish or maintain prices, discounts or other terms or conditions for the sale of imitation stones, or any product containing such stones, to third persons. Provided, however, that any defendant may petition this Court to modify and the Court shall modify this subsection (C) to permit such defendant to exercise the rights which that defendant may have, if any, under any federal statute relating to resale price maintenance, or to any other terms or conditions of resale, upon establishing to the satisfaction of this Court that there has been a substantial change in circumstances justifying such modification.

## VI

In the event that either of the defendants sells any kind or type of imitation stones to any class of customers (e.g. wholesalers as a class or manufacturers as a class) such defendant is ordered and directed, after January 1, 1956, to sell all kinds and types of such stones in which it deals to all persons in, or desiring in good faith to become, members of the class, who place orders therefor and meet the reasonable and uniformly applied minimum credit standards of such defendant, without discrimination as to availability, prices or other terms or conditions of sale. Provided, however, minimum credit standards for any new customer may for two years after becoming a customer

include cash or cash equivalent requirements on placing orders; and provided, further, that the foregoing shall not prohibit such defendant from rejecting orders for imitation stones from (a) wholesalers who do not, after notice, comply with such reasonable minimum inventory requirements as that defendant may promulgate and apply equally to all wholesalers, or (b) any person placing an order who has without reasonable cause cancelled substantial orders or portions of such orders either in advance of or after taking delivery of stones thus ordered.

## VII

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 any defendant made to its or his principal office, be permitted, subject to any legally recognized privilege, (a) reasonable access, during the office hours of such 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 matters contained in this Final Judgment, and (b) subject to the reasonable convenience of such defendant, and without restraint or interference, to interview officers and employees of defendant who may have counsel present, regarding any such matters; and upon such written request, the 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 necessary for the purpose of enforcement of this Final Judgment. No information obtained by the means permitted 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 Department except in the course of legal proceedings in which the United States is a party or as otherwise required by law.

