

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	Civil No.
v.	)	119-6
	)	
TOY GUIDANCE COUNCIL, INC.;	)	Filed Oct. 7, 1957
MASBACK, INC.; THE BOSTWICK-BRAUN	)	
CO. (INC.); CENTRAL INDIANA	)	12:05 P.M.
DISTRIBUTING CORPORATION;	)	
GARRISON TOY & NOVELTY CO. INC.;	)	
GENERAL MERCANTILE & HARDWARE	)	
COMPANY (INC.); THE HAROLD HAHN	)	
COMPANY, INCORPORATED; M. W.	)	
KASCH COMPANY (INC.); KAUFMAN	)	
BROS. INC.; PENSTICK & GORDON,	)	
INC.; EDWARD K. TRYON CO. (INC.);	)	
WILLIAMS & SHEPSON CO. INC.;	)	
SEYMOUR KRAUSE; MELVIN S. LACHMAN;	)	
BENNETT M. SEIGEL; EDWIN MAZO and	)	
WILLARD S. STULL,	)	
	)	
Defendants.	)	

FINAL JUDGMENT

The plaintiff, UNITED STATES OF AMERICA, having filed its complaint herein on March 27, 1957; the consenting defendants, having filed their respective answers in which they deny the offenses charged in such complaint; and the plaintiff and said defendants 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 any admission by any of the parties hereto with respect to any such issue;

NOW, THEREFORE, before the taking of any testimony and without trial or adjudication of any issue of fact or law herein and upon the consent of the parties signatory hereto, it is hereby

ORDERED, ADJUDGED and DECREED as follows:

I

This Court has jurisdiction of the subject matter of this action and of the parties signatory hereto. The complaint states claims for relief against the consenting defendants under Section 1 of the Act of Congress of July 2, 1890, entitled "An act to protect trade and commerce from unlawful restraints and monopolies", commonly known as the Sherman Act, as amended.

II

As used in this Final Judgment:

(A) "Consenting defendants" shall mean the following defendants and each of them: Garrison Toy & Novelty Co., Inc.; The Harold Hahn Company, Incorporated; Williams & Shelton Co., Inc.; Willard S. Stull, on behalf of partnership of S. Stull and Howard A. Stull, d/b/a Stull Brothers; Kaufman Bros. Inc.; General Mercantile & Hardware Company; Seymour Krause, on behalf of partnership of Seymour Krause and Nathaniel Edelberg, d/b/a Flint Toy and Athletic Supply Co.; Bennett M. Seigel, on behalf of partnership of Bennett M. Seigel and Louis Singer, d/b/a Pittsburgh Wholesale Distributors; M. W. Kasch Company (Inc.); Edwin Mazo, d/b/a Southern Toy & Hobby; and Toy Guidance Council, Inc.

(B) "Council" shall mean the defendant, Toy Guidance Council, Inc., which with its subsidiaries The Toy Yearbook, Inc. and Consumer Toy Catalogues, Inc. shall be considered to be one person;

(C) "Person" shall mean any individual, partnership, firm, corporation, association, or other business or legal entity;

(D) "Toy Program" means any plan, program or activity for the advertisement and promotion of the sale of toys;

(E) "Toy literature" shall mean any literature, catalogue or booklet advertising or promoting the sale of toys.

### III

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

### IV

The consenting defendants are jointly and severally enjoined and restrained from entering into, adhering to, maintaining or furthering, directly or indirectly, any contract, agreement, understanding, plan, toy program or other program among themselves or with any other person:

(A) To fix, change, maintain or adhere to prices for the sale of toys to any third person;

(B) To fix, change, maintain or adhere to any retail price submitted by any toy manufacturer for use in any toy literature which lists toys available for sale to the public;

(C) To maintain or require or to attempt to maintain or require adherence by retail toy dealers to any suggested retail price published in any toy literature;

(D) To boycott or refuse to deal with any toy retailer who does not maintain or adhere to any retail price for toys;

(E) Not to purchase, distribute or publish any toy literature other than that sold, distributed or published by defendant Council;

(F) Not to advertise toys at prices lower than or at a discount from the manufacturer's published or suggested prices.

V

The consenting defendants are jointly and severally enjoined and restrained from entering into, adhering to, maintaining or furthering, directly or indirectly, any contract, agreement, understanding, plan, toy program, or other program, or any other concert of action among themselves, or with any other person, to:

(A) Grant or receive any price for the purchase of any toy for resale, or any discount or rebate from such price, unless such price, discount or rebate is made available to all other purchasers of said toy;

Upon proof being made in any suit or proceeding by the plaintiff under this Section V, that a defendant has granted, or received a price, as aforesaid, nothing herein contained shall prevent such defendant from rebutting the prima facie case thus made by showing that the price differential granted or received made only due allowance for differences in the cost of manufacture, sale or delivery resulting from the differing methods or quantities in which the toy was sold or delivered.

(B) Grant to or receive from any person services, facilities, or payment of anything of value as compensation or in consideration for advertising or other services or facilities, in connection with the processing, handling, or offering for sale of any toy purchased for resale, upon terms not accorded to all purchasers of said toy on proportionally equal terms.

VI

Defendant Council is enjoined and restrained from selling or distributing any toy literature upon the condition or understanding that the purchaser not purchase or use any such material from any other source.

## VII

Defendant Council is ordered and directed:

(A) Within thirty (30) days from the date of entry of this Final Judgment, to send by mail a true copy of this Final Judgment to each manufacturer, wholesaler and retailer who has participated in its toy program from January 1, 1954, to date;

(B) Within forty-five (45) days from the date of entry of this Final Judgment to file with the Clerk of this Court an affidavit certifying compliance with subsection (A) of this Section VII.

## VIII

(A) Subject to each and all of the provisions of Sections IV and V of this Final Judgment, any defendant may:

- (1) Exercise its individual right to choose and select its customers; and
- (2) Select toys submitted to any publisher of any toy literature for advertising and promotion therein.

(B) Nothing in this Final Judgment shall be deemed to prevent any wholesaler defendant from entering into or adhering to any fair trade contract, otherwise permitted by the acts of Congress commonly known as the Miller-Tydings and McGuire Acts, with any manufacturer where so required by such manufacturer.

## IX

For the purpose of securing compliance with this Final Judgment and for no other purpose, 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 consenting defendant made to its principal office, be permitted, subject to any legally recognized privilege:

(A) Access, during the office hours of said defendant, to those books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of said defendant which relate to any matter contained in this Final Judgment;

(B) Subject to the reasonable convenience of said defendant and without restraint or interference from it, to interview officers or employees of the 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, said defendant shall submit such reports in writing with respect to the matters contained in this Final Judgment as may from time to time be necessary to the enforcement of this Final Judgment.

No information obtained by the means permitted in this Section IX shall be divulged by any representative of 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 in which the United States is a party for the purpose of securing compliance with this Final Judgment or as otherwise required by law.

#### X

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

XI

This Final Judgment shall become effective thirty (30) days after entry herein.

Dated: October 7th, 1957.

/s/ Sylvester J. Ryan  
United States District Judge

We hereby consent to the making and entry of the foregoing Final Judgment.

For the Plaintiff:

/s/ VICTOR R. HANSEN  
Assistant Attorney General

/s/ LEO A. ROTH

/s/ GEORGE D. REYCRAFT

/s/ CHARLES F.B. McALEER

Attorneys, Department of Justice

For the Consenting Defendants:

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