

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA,)
)
Plaintiff,) Civil Action No. 72 C 1597
)
v.) Filed: June 29, 1972
)
BALLY MANUFACTURING CORPORATION,) Equitable Relief Sought
)
Defendant.)

COMPLAINT

The United States of America, by its attorneys, acting under the direction of the Attorney General of the United States, brings this action to obtain equitable relief against the defendant named herein and complains and alleges as follows:

I

JURISDICTION AND VENUE

1. This complaint is filed under Section 4 of the Act of Congress of July 2, 1890, as amended (15 U.S.C. § 4), commonly known as the Sherman Act, in order to prevent and restrain continuing violation by the defendant, as hereinafter

alleged, of Section 1 of the Sherman Act, as amended (15 U.S.C. § 1).

2. The defendant Bally Manufacturing Corporation has its principal place of business, transacts business, and is found within the Northern District of Illinois, Eastern Division.

II

THE DEFENDANT

3. Bally Manufacturing Corporation (hereinafter referred to as "Bally") is made the defendant herein. Bally is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business in Chicago, Illinois.

4. Bally, together with four of its subsidiaries-- Bally Bahamian Limited, a Bahamian company; Bally Manufacturing Company (Ireland) Limited, an Irish company; Lenc-Smith Manufacturing Company, an Illinois corporation; and Midway Mfg. Co., an Illinois corporation--is engaged in the production and sale of amusement and gaming equipment

throughout the United States and in foreign countries. Each reference to Bally herein shall include all subsidiaries, affiliates and predecessors of Bally Manufacturing Corporation.

III

CO-CONSPIRATORS

5. Various persons, firms and corporations not named as defendants herein, including, but not limited to, distributors of Bally amusement and gaming equipment, have participated as co-conspirators with the defendant in the violation alleged herein.

IV

DEFINITIONS

6. As used herein:

- (a) "amusement and gaming equipment" means all slot machines, pinball machines and arcade games, including, but not limited to, shuffle alleys, rifle games and bowling games, and the accessories and parts therefor, which are manufactured, sold or distributed by Bally;

- (b) "person" means any individual, corporation, partnership, firm, association or other business or legal entity; and
- (c) "distributor" means any person engaged, in whole or in part, in the purchase from Bally of amusement and gaming equipment for resale or lease to others.

V

TRADE AND COMMERCE

7. Bally designs, produces and sells amusement and gaming equipment and is one of the largest producers of such equipment in the world. It produces such equipment in its plants located in the greater Chicago area, Dublin, Ireland, and the Bahamas, and sells such equipment to approximately 55 distributors located throughout the United States and Canada and to approximately 30 distributors located in Europe, Central America, South America, Africa, Asia and Australia.

8. Bally distributors resell and lease amusement and gaming equipment to persons who use such equipment, or resell or lease such equipment for use, in gambling establishments,

arcades, airports, bus terminals, clubhouses, taverns and military establishments.

9. There is a continuous flow in interstate and foreign commerce of amusement and gaming equipment from Bally plants to Bally distributors located throughout the United States and a substantial part of the world.

10. In 1970 Bally's total consolidated sales and other revenue, foreign and domestic, amounted to \$33,400,000, of which approximately \$11,300,000 comprised sales of amusement and gaming equipment in the United States.

VI

VIOLATION ALLEGED

11. Beginning at least as early as 1967, and continuing thereafter to the date of the filing of this complaint, the defendant and co-conspirators have been engaged in a combination and conspiracy in unreasonable restraint of the above-described interstate and foreign trade and commerce in amusement and gaming equipment, in violation of Section 1 of the Sherman Act (15 U.S.C. § 1). This violation is continuing and will continue unless the relief hereinafter prayed for is granted.

12. The aforesaid combination and conspiracy has consisted of a continuing agreement, understanding and concert of action among the defendant and co-conspirators, the substantial terms of which have been that:

- (a) distributors will resell or lease amusement and gaming equipment only within an exclusive territory allocated to it by Bally and not to any customer located in another distributor's territory;
- (b) Bally will require distributors to refrain from, or to discontinue, sales and leases of amusement and gaming equipment to persons located in another distributor's territory; and
- (c) Bally will police the resale and lease of amusement and gaming equipment by its distributors to enforce adherence to the exclusive territorial arrangements.

13. For the purpose of effectuating and carrying out the aforesaid unlawful combination and conspiracy, the defendant and co-conspirators have done the things which, as hereinbefore alleged, they conspired and agreed to do.

VII

EFFECTS

14. The aforesaid combination and conspiracy has had, among others, the following effects:

- (a) competition in the sale, lease and distribution of amusement and gaming equipment has been suppressed, restrained and eliminated;
- (b) distributors have been prevented from reselling or leasing amusement and gaming equipment to customers of their own choice; and
- (c) purchasers and lessees of amusement and gaming equipment have been deprived of the opportunity to purchase or lease amusement and gaming equipment from distributors of their own choice in a free and competitive market.

PRAYER

WHEREFORE, plaintiff prays:

1. That the Court adjudge and decree that the defendant and co-conspirators have combined and conspired to unlawfully restrain interstate and foreign trade and commerce in amusement and gaming equipment, in violation of Section 1 of the Sherman Act.

2. That the defendant, its successors, assigns, subsidiaries, affiliates and transferees, and the respective officers, directors, agents and employees thereof, and all other persons acting or claiming to act on its behalf, be perpetually enjoined from in any manner, directly or indirectly, continuing, reviving or renewing the aforesaid combination and conspiracy, and from entering into or engaging in any practices or agreements having a like or similar purpose or effect.

3. That the defendant and each of its officers, directors, employees, agents, representatives, successors and assigns, and all persons and corporations acting on behalf of the defendant, be perpetually enjoined and restrained from imposing or attempting to impose any limitation or restriction respecting the territories and customers to whom any distributor may sell or lease amusement and gaming equipment.

4. That the defendant be ordered to notify distributors handling its amusement and gaming equipment that they may sell or lease such products at such prices, to such persons, and in such areas as they may freely choose.

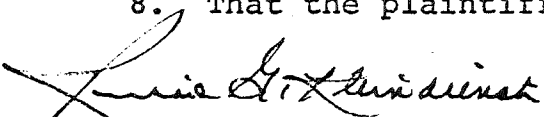
5. That the defendant be ordered to take all necessary action to effect the cancellation of, or to revise or amend

each provision of every contract or agreement between the defendant and distributors which is contrary to or inconsistent with any provision of the Final Judgment entered herein.

6. That the defendant be ordered to take such action as is necessary to insure that any of its subsidiaries that produce, distribute, or sell amusement and gaming equipment comply with the terms of a Final Judgment entered herein as if they were named defendants herein.

7. That the plaintiff have such other and further relief as the nature of this action may require and as the Court may deem just and appropriate.

8. That the plaintiff recover its taxable costs.



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