

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,
c/o Department of Justice
Antitrust Division
Washington, D.C. 20530

Plaintiff,

v.

ROSCOE MOSS CORPORATION,
4360 Worth Street
Los Angeles, California 90036
and

ROSCOE MOSS JR.,
828 Flintridge Avenue
Flintridge, California 91011

Defendants.

Civil Action No.

COMPLAINT FOR CIVIL PENALTIES FOR VIOLATION OF PREMERGER
REPORTING REQUIREMENTS OF HART-SCOTT-RODINO ACT

The United States of America, plaintiff, by its attorneys, acting under the direction of the Attorney General of the United States and at the request of the Federal Trade Commission, brings this civil action to obtain monetary relief in the form of a civil penalty against the defendants named herein, and alleges as follows:

I.

JURISDICTION AND VENUE

1. This complaint is filed and these proceedings are instituted under section 7A of the Clayton Act, 15 U.S.C. § 18a, commonly known as the Hart-Scott-Rodino Antitrust Improvements Act of 1976 ("Hart-Scott-Rodino Act"), to recover a civil penalty for a violation of the Hart-Scott-Rodino Act.

2. This Court has jurisdiction over defendants and over the subject matter of this action pursuant to 15 U.S.C. § 18a(g), and 28 U.S.C. §§ 1331, 1337, 1345, and 1355.

3. Defendants consent to venue in this district.

II.

THE DEFENDANTS

4. Roscoe Moss Corporation ("RMC") is made a defendant herein. RMC is a California corporation with its principal place of business at 4360 Worth Street, Los Angeles, California 90036. RMC manufactures steel tubular products for use in water wells and water transmission lines and serves as a contractor for water well drilling and ground water development.

5. Roscoe Moss Jr. ("Moss") is made a defendant herein. Moss beneficially owns 52% of the outstanding voting securities of RMC, and controls RMC and has

controlled RMC during all times pertinent to this proceeding. Moss is Chairman and Chief Executive Officer of RMC. Moss resides at 828 Flintridge Avenue, Flintridge, California 91011.

III.

SJW CORPORATION

6. SJW Corporation is a California corporation with its principal office at 374 West Santa Clara Street, San Jose, California 95196. SJW Corporation was formed in 1985 as the holding company for San Jose Water Company, its wholly owned subsidiary. San Jose Water Works was renamed San Jose Water Company in 1983. As used herein, "SJW" refers to the above-named entities individually and collectively.

IV.

VIOLATIONS ALLEGED

7. Section (a) of the Hart-Scott-Rodino Act, 15 U.S.C. § 18a(a), prohibits certain acquisitions of voting securities or assets until a notification has been filed with the Department of Justice and the Federal Trade Commission and a waiting period has expired.

8. SJW and defendants RMC and Moss at all times pertinent to this proceeding have been engaged in commerce, or in activities affecting commerce, within the meaning of section 1 of the Clayton Act, 15 U.S.C. § 12.

9. SJW and defendants RMC and Moss presently have, and in 1984 had, assets above the threshold established by section (a) of the Hart-Scott-Rodino Act, 15 U.S.C. § 18a(a). SJW has total assets in excess of \$100 million, and RMC and Moss have total assets in excess of \$10 million.

10. During the period from November 22, 1977 to November 30, 1984, defendant RMC acquired voting securities of SJW.

11. On December 1, 1984, defendant RMC acquired approximately 5,200 shares of SJW common stock. As a result of that transaction, defendant RMC held an aggregate total amount of voting securities of SJW in excess of \$15 million.

12. Defendant RMC continued to acquire additional voting securities of SJW in the period from December 1, 1984 through February 12, 1986.

13. The transaction described in paragraph 11, by which defendant RMC acquired an aggregate total amount of voting securities of SJW in excess of \$15 million, and the transactions described in paragraph 12, were subject to the notification and waiting period requirements of the

Hart-Scott-Rodino Act and the regulations promulgated thereunder, 16 C.F.R. § 800 et seq. The Hart-Scott-Rodino Act and regulations required Moss, as the ultimate parent entity of RMC, or RMC, as an entity included within Moss and authorized by Moss to file on Moss' behalf, to file the notification and to observe a waiting period before acquiring an aggregate total amount of voting securities of SJW in excess of \$15 million.

14. Defendants RMC and Moss did not comply with the reporting and waiting period requirements of the Act before making the acquisitions described in paragraphs 11 and 12 above.

15. On February 14, 1986, defendant Moss submitted a substantially incomplete notification and report form. On February 24, 1986, defendant Moss filed a revised notification and report form under the Hart-Scott-Rodino Act, stating an intention to acquire at least 25 percent of the voting securities of SJW. The Hart-Scott-Rodino Act waiting period relating to that filing expired on March 26, 1986.

16. Defendants RMC and Moss were continuously in violation of the Hart-Scott-Rodino Act during the period from December 1, 1984 through March 26, 1986.

17. Section (g)(1) of the Hart-Scott-Rodino Act, 15 U.S.C. § 18a(g)(1), provides that any person who fails to comply with the Act shall be liable to the United States for a civil penalty of not more than \$10,000 for each day during which such person is in violation of the Act.

V.

PRAYER


WHEREFORE, Plaintiff prays:

1. That the Court adjudge and decree that defendants' purchases of SJW stock during the period from December 1, 1984 to March 26, 1986 were in violation of the Hart-Scott-Rodino Act, 15 U.S.C. § 18a, and that defendants were in violation of that Act each day of that period;
2. That defendant RMC or defendant Moss be ordered to pay to the United States an appropriate civil penalty as provided by section (g)(1) of the Hart-Scott-Rodino Act, 15 U.S.C. § 18a(g)(1);
3. That the plaintiff have such other and further relief as the Court may deem just and proper; and

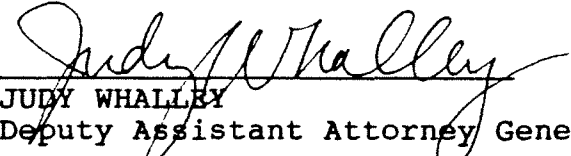
4. That the Court award plaintiff its costs of this suit.

DATED:

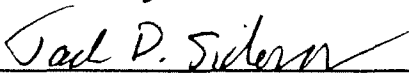
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