

ITT Case Is Closed, Judge Rules Claim by Nader 'Without Merit'

By JOSEPH A. O'BRIEN

Judge M. Joseph Blumenfeld in U.S. District Court at Hartford Thursday denied Ralph Nader's attempt to reopen the merger case of International Telephone & Telegraph Corp. (ITT) and Hartford Fire Insurance Co.

Judge Blumenfeld said Nader's claim that the government "committed fraud on the court is wholly without merit."

Nader and his associate, Atty. Reuben B. Robertson III, had moved early in May to reopen the ITT-Hartford Fire antitrust settlement approved by Judge Blumenfeld Sept. 24, 1971.

Robertson indicated Thursday afternoon there might be an appeal of Judge Blumenfeld's Thursday decision. "We will have to take a look at it and decide what our next move is," he said.

A spokesman at ITT's New York City offices said Thursday, "We are gratified by the decision."

Nader and Robertson had charged that Judge Blumenfeld was never told that the Justice Department's Antitrust Division allowed the merger because it feared there would be potential hardship to ITT and its stockholders if ITT was forced to give up Hartford Fire.

Revealed in Hearings

Nader said this information was revealed in Senate Judiciary Committee hearings earlier this year on the nomination of Richard Kleindienst as attorney general.

Judge Blumenfeld said the claim of Nader and Robertson that the consent judgment was procured by misrepresentation "is a disturbing claim of fraud on the court which in this case ought not be dismissed summarily. For if delusion's victim on the one hand can be the public, it might on the other hand be the court."

But, he said, "Not every factor taken into account in a decision to settle an antitrust suit must be disclosed to the court."

"ITT's 'hardship' claim was not the only factor which led the Justice Department to enter into settlement negotiations with ITT. Another important factor was the Justice Department's desire to avoid time-consuming and expensive litigation."

"More importantly, another factor in the Justice Department's decision to enter into the settlement negotiations with ITT was the very real risk that if the Hartford case were litigated to a conclusion, the end result might be a judgment in favor of ITT."

Blumenfeld said this was brought out in testimony at the Kleindienst hearings by former Asst. Atty. Gen. Richard G. McLaren, who was head of the Justice Department's Antitrust

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Nader Is Rebuffed In ITT-Merger Case

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Division at the time of the ITT-Hartford Fire settlement.

The Senate June 8 confirmed the nomination of Kleindienst as Attorney General. He had overcome major charges that he was linked to allegations of a political conspiracy which paved the way for the controversial merger of ITT and Hartford Fire, one of the largest corporate mergers in history.

Blumenfeld said Thursday, "The real issue is not whether the Justice Department could or should have insisted on complete divestiture of Hartford before agreeing to settle the case. Rather, it is whether the Justice Department negotiated the settlement in bad faith."

He said, "While ITT's 'hardship' claim was one of the factors which led the Justice Department to enter into settlement negotiations, it is analytically fallacious to regard the department's recognition of that factor as an element of bad

faith."

The antitrust settlement allowed ITT to keep Hartford Fire if ITT would divest itself of certain other companies.

'Entirely Consistent'

Blumenfeld said the settlement "is entirely consistent with the antitrust objectives of preventing anticompetitive conduct. It clearly protects the public against the anticompetitive dangers of the Hartford-ITT merger which were alleged in the complaint."

He added, "While the court comprehends the concern of the prospective intervenors over the danger of unbridled economic concentration, nevertheless it agrees with Judge McLaren's assessment of the adequacy of the consent decree obtained in this case. Within the limits of existing statutes, the settlement is entirely consistent with the antitrust objectives of preventing anticompetitive conduct."

Blumenfeld said of Nader and Robertson, "The real reason they seek to have the Hartford decree set aside is that in their view the Justice Department's negotiation of a settlement with ITT and its acceptance of the consent decrees which were the product of these negotiations were not in the public interest.

"While reasonable men may differ over what the goals and policies of the department should be with respect to conglomerate mergers in view of the existing antitrust laws, the fact that Mr. Nader and Mr. Robertson III disagree with the Justice Department cannot be equated with fraud on the court."