Antitrust Suits Target LA Pool Products Company

Michael Kunzelman, Associated Press

NEW ORLEANS (AP) — A Louisiana company that bills itself as the world's largest wholesale distributor of swimming pool products is becoming a target for plaintiffs' lawyers filing antitrust lawsuits.

In November, Pool Corp. settled claims by the Federal Trade Commission that the Covington-based company used its "monopoly power" to eliminate would-be rivals by pressuring manufacturers not to sell their products to other distributors.

The settlement, which got final FTC approval on Friday, has spawned a batch of lawsuits in Louisiana, California and Florida over allegations the company's tactics drove up prices, stifled competition and limited consumers' choices.

Pool Corp. didn't pay any money or admit any wrongdoing in resolving the FTC's complaint, but that hasn't deterred plaintiffs' attorneys from pursuing class-action claims against the company and two of its subsidiaries.

The lawyers have asked the U.S. Judicial Panel on Multidistrict Litigation to consolidate their lawsuits before a single judge, either in New Orleans, Miami or Orange County, Calif.

Distributing products for the nation's 9 million residential pools and 250,000 commercial pools was a $3 billion industry in 2010, according to the FTC. Pool Corp. generated roughly $1.5 billion in net sales during 2010 and accounted for 30 percent to 50 percent of a manufacturer's total sales, the complaint says.

Pool Corp. deals in such products as pumps, filters and diving boards.

At least eight lawsuits have been filed on behalf of companies that claim they purchased pool products from Pool Corp. at artificially inflated prices. The lawsuits mirror language in the FTC's complaint, which accuses the company of using "unfair methods of competition" and "impeding market entry by potential rivals."

Hollis Salzman, one of the lawyers who sued Pool Corp. in New Orleans on behalf of Aqua Clear Pools & Decks of Midland, N.C., said the lawsuits represent "the final measure to compensate these victims for the harm they have suffered."

"In recent years, we have watched corporations with greater frequency take advantage of their dominant market position at the expense of small businesses," she said in an email.

The settlement, which the commission initially approved by a 3-1 vote, prohibits Pool Corp. from retaliating against any manufacturer for selling products to other distributors and requires it to create an "antitrust compliance program."

A company spokesman declined to be interviewed, but Pool Corp. CEO and president Manuel J. Perez de la Mesa said in November that the settlement "enables us to put an end to the expense and distraction of the FTC investigation."

Perez de la Mesa said the company had not admitted any liability in connection with the settlement and believed the allegations were without merit.

FTC Commissioner J. Thomas Rosch, who cast the lone dissenting vote, rejected the complaint's allegations.

"This case presents the novel situation of a company willing to enter into a consent decree notwithstanding a lack of evidence indicating that a violation occurred," he wrote. "After a year and a half of investigation, we have not been able to identify any harm to consumers or competition as a result of actions by (Pool Corp.)."

In response, the other three commissioners said the investigation showed Pool Corp. threatened manufacturers that it would no longer distribute their products nationally if they sold to a new distributor trying to enter a local market.

"Although these manufacturers preferred to have a broad and diverse distribution network, they declined to add distributors because they feared retribution from Pool Corp. These decisions were not made for independent business reasons," they wrote.

The FTC says only three companies — Pentair Water Pool and Spa Inc., Haywood Pool Products Inc. and Zodiac Pool Systems Inc. — manufacture nearly all products needed for a pool and account for 50 percent of sales at the wholesale level.

Pool Corp. allegedly warned all major manufacturers, including those three companies, that it would stop dealing with them if they sold products to somebody who opened a distribution business in Baton Rouge in 2003. The unidentified person was trying to compete with Pool Corp. after it acquired Fort Wayne Pools Inc. and closed one of that company's distribution facilities in Baton Rouge, according to the complaint.

"The manufacturers, including the three 'must-have' manufacturers, refused to sell pool products to the new entrant and canceled any pre-existing orders," the complaint says. "Without direct access to the manufacturers' pool products, the new entrant's business ultimately failed in 2005."

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