

# Nixon Pal's Firm-- Probe Called Off

## New York

Justice Department officials overruled staff recommendations two years ago for an investigation of pricing practices of the Precision Valve Corp., owned by Robert H. Abplanalp, the multimillionaire friend of President Nixon.

Representative Bertram L. Podell (Dem.-N.Y.) said

yesterday that he has "documents and memos that demonstrate the birth and death of an antitrust action" against Precision Valve.

He said he will turn the documents over to Archibald Cox, the special Watergate prosecutor, and ask him "to make an immediate and thorough investigation of what appears to be a gross conflict of interest between

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the Justice Department and the Precision Valve Corporation."

Barry Grossman, assistant chief of the evaluation section of the Justice Department's antitrust division, the only department official involved in the case who would comment on it, said he was not aware of any outside pressure to stop the investigation. It was not initiated because it could not be justified, he said.

### COMPLAINT

Investigation of the Precision Valve Corp. which is based in Yonkers, had been recommended by the New York office of the antitrust division after a competitor had complained that the company was engaged in predatory pricing. Justice Department documents show that the New York office's recommendation had been endorsed by the division's operations section in Washington, although the evaluation section opposed it.

The company was founded by Abplanalp shortly after he perfected the aerosol valve for spray cans 24 years ago. Since then it has reportedly earned him \$100 million.

The effort to initiate an investigation of Precision's pricing policies began on April 29, 1970, when Liam S.

Coonan, then with the antitrust division's New York office, wrote a memorandum requesting authorization for an investigation to the head of the office, Norman H. Seidler.

Coonan acted following a complaint about Precision filed with the division's office here by one of its competitors, Seaquist Valve company.

### DOMINATION

The Seaquist complaint asserted that Precision had dominated the market in aerosol valves since the early 1950's. In late 1969, the complaint said, Precision, foreseeing a decline in its position because its patent

was expiring the following year, rolled back its prices and instituted a rebate program.

Under the program, Precision promised that if its sales increased in a given year by a factor between 10 per cent and 100 per cent, it would give its customers rebates graduated between 2.5 per cent and 12.5 per cent of their total purchases.

Coonan wrote in his memorandum that an analysis of Seaquist's complaint "indicates" that Precision, which had 37.5 per cent of the market, might be violating antitrust laws by engaging "in a deliberate effort to gain the major customers of its com-

petitors, and thus achieve monopoly powers."

On the other hand, Coonan wrote, Precision's pricing program might only be a reaction to competition and would not violate any statutes.

The only way to make a determination, he wrote, was to obtain the company's records through a CID (civil investigative demand), a kind of subpoena, issued by the Justice Department.

### NOTE

Coonan's memorandum was forwarded to the antitrust division in Washington by Seidler on June 19, 1970, with a note saying he con-

curred that the issuance of a CID was the best way to proceed.

On July 21 Robert B. Hummel, the division's deputy chief of operations, sent a memo to Seidler authorizing "a full investigation" of Precision.

But on August 24, Hummel sent Seidler a letter retreating from the authorization.

"I had substantial doubts about the wisdom of investigating this matter, which involves a price cut to all customers, upon the complaint of a competitor," he said, adding that he was inclined to "close the matter" but would appreciate Seidler's views.

In his seven-page evaluation Grossman said that Precision's rebate program was unusual but did not constitute predatory pricing.

The program could result in lower consumer prices, he said.

Grossman's evaluation was challenged by Hyma N. F. Ritchin, an economist in the division's New York office, in an analysis he wrote at the request of Seidler.

### WINDFALL

The rebate program would not result in lower consumer prices because Precision's customers were likely to treat the rebates as a windfall and not pass them on, Ritchin said.

Precision's rebate program, he said, was structured so that companies with a smaller share of the market such as Seaquist could not fight its effect by adopting a similar plan.

Ritchin's analysis was sent to Hummel in Washington by Seidler with a cover letter noting that Grossman himself conceded that Precision's rebate plan was unusual.

On Jan. 20, 1971, Hummel sent a letter to Walker B. Comegys, then a deputy assistant attorney general in the division, outlining the differences of opinion between the New York office and the division's evaluation section on the Precision matter. The letter shows that Hummel himself had

been persuaded that the CID should be issued.

He said in it that he did not think that the CID would have a disturbing effect on the industry as feared by Grossman.

#### FILES

"After all, we are only investigating, and we have to see the company's files to fully understand what it is doing," he wrote.

Comegys is now practicing law in Boston. Asked Friday about the case, he said: "I do not remember the matter at all, but even if I did, it couldn't be proper for me to comment, if there was an investigation."

Justice department files on the case show a handwritten note by Comegys dated Feb. 2, 1971, at the bottom of Hummel's memo to him. According to a department source, the note says in part, "In the absence of other evidence of predatory intent, I would close this investigation on the Grossman analysis."

On the same day a memorandum was sent by Hummel to Seidler in New York saying, "Pursuant to Mr. Grossman's memorandum dated Aug. 20, 1970 . . . You are authorized to close the captioned investigation."

Although the Justice Department never initiated an investigation of Precision's pricing policies, the company apparently abandoned its rebate program.

Neither Abplanalp nor his attorney, William Griffin, could be reached for comment.

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