

Abplanalp Was Spared Trust Probe

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The Antitrust Division of the Justice Department rejected a staff recommendation two years ago for an investigation of the pricing policies of the country's largest aerosol valve producer, a company owned by presidential confidant Robert H. Abplanalp.

According to Assistant Attorney General Thomas E. Kauper, now chief of the Antitrust Division, the decision was based on an honest disagreement among career staff about "the merits of the case."

But according to Rep. Bertram L. Podell (D-N.Y.), it may have been the result of political pressure exerted on behalf of Abplanalp, the man who lent President Nixon \$625,000 in 1969 to help him buy his estate in San Clemente, Calif.

Podell is scheduled to meet this morning with the staff of special Watergate prosecutor Archibald Cox, to turn over documents he contends demonstrate the possibility of interference in the case.

The Brooklyn Democrat, himself the subject of a federal grand jury investigation concerning possible conflict of interest in a Civil Aeronautics Board case, said he hopes Cox will conduct a "full and complete investigation" of the Abplanalp matter.

Podell made the documents in his possession available to The Washington Post for inspection last night.

They consist in part of a lively back-and-forth series of memoranda between staffers in the Antitrust Division's New York field office and in the division's headquarters here.

Essentially, the officials in New York argued that there was a potential for violation of the Sherman Antitrust Act when Abplanalp's company, the Precision Valve Corp., offered its customers a year-end rebate in 1970 if they would help PVC increase its share of the aerosol valve sales market.

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One of PVC's competitors, the Seaquist Valve Co., had complained to the New York antitrust staff that the rebate scheme amounted to "predatory pricing" that was intended to drive smaller firms out of the market.

(Abplanalp's exclusive patent for the aerosol valve, the apparent source of his enormous business success, had just expired at the time.)

According to the documents, Robert B. Hummel, a ranking official in the Antitrust Division, on at least two occasions approved the New York office's recommendation that a "civil investigative demand," the equivalent of a subpoena, be issued to Precision Valve.

That procedure would have permitted the antitrust investigators to study the rebate scheme in detail and



ROBERT H. ABLANALP
... a Nixon confidant

determine its effect on the industry.

But B. Barry Grossman, of the division's evaluation section here, argued against "a

difficult and costly investigation in a relatively unimportant industry when the conduct being investigated may very well turn out to be pro-competitive."

"The aerosol valve industry is hardly one of the pillars of the U.S. economy," he noted in an analysis dated Aug. 20, 1970.

All plans for the Precision Valve investigation were called off on Feb. 2, 1971, when Hummel sent a terse note to Norman H. Seidler, chief of the New York office, saying, "You are authorized to close" the probe.

The apparent key to any evaluation of the Justice Department's decision on the case is a "memorandum to the attorney general" then John N. Mitchell — in Podell's possession.

With the typed name of Richard W. McLaren, then assistant attorney general in charge of the Antitrust Division,

at the bottom, but undated, the memo spelled out the reasons in favor of an investigation of Precision Valve and concluded, "It is planned to issue the proposed (civil investigative demand) unless we hear from you within seven days."

On the copy of that memo shown to The Post by Podell, there are no file stamps that would indicate who had seen it or when.

The congressman's presumption is that this memo was actually received by Mitchell, that the Antitrust Division "heard" from him, and the result was the Feb. 2, 1971, "authorization" to call off the investigation.

Seidler, who had vigorously recommended starting the probe of Precision Valve, declined to comment on the matter when reached by telephone in his New York office yesterday.

A secretary for McLaren, now a federal district judge in Chicago, said it has been

his policy to refuse all press interviews ever since he took the bench.

But Kauper's statement, issued by the Justice Department's public information office after "a review of the files," said that the McLaren-to-Mitchell document in Podell's possession is merely a "draft memorandum . . . prepared by staff as a normal routine in the event that a decision was made to proceed."

Kauper said "there is no evidence" that either McLaren or Mitchell was ever called upon to make a decision with regard to the proposed investigation of Precision Valve, and that the matter was closed on the initiative of Walker B. Comegys, then deputy assistant attorney general under McLaren.

Comegys was persuaded by the arguments advanced by Grossman and concurred in by other Antitrust Division officials, according to Kauper.

The current antitrust chief promised, however, to submit to Cox the information developed in "the check of our files and the conclusions we have reached."

Former Attorney General Richard G. Kleindienst, who was deputy attorney general under Mitchell at the time, said, when queried on the subject yesterday, that he "never heard of" the Precision Valve case and that "to the best of my recollection it didn't come up to me for decision."