

## Pro-Only Suit

# Round One to Golf City

A Federal District Court has found in favor of Golf City, Inc., a Louisiana retailer, in an anti-trust action brought against equipment manufacturers for selling pro-line clubs only to pros.

This "Pro-only" suit began last October in the court of Federal Judge James Comiskey in the Crescent City. In the original action, Golf City, Inc., represented by attorney Henry Klein cited Wilson Sporting Goods Co., and the Professional Golfers Association with more than a dozen other manufacturers, all of which settle out of court prior to the final decision.

In an exclusive interview in his New Orleans' office with GOLFDOM, Klein was visibly elated. "No one will believe this, but I thought that Golf City would win the action from the start. The companies," he said, "based their defense on the fact that they arrived at their marketing philosophies separately and there was no hint of intercommunication or consultation between the firms.

"We disproved that theory by producing correspondence between

### 'We Will Appeal'

"We have reviewed the court's findings and determined that they are not supported by the record and the court's ruling on an anti-trust is in error. It should be noted this in an interim judgment by the Federal District Court and no damages have been made. Wilson intends to appeal the decision and is competent that the erroneous decision of the Federal District Court will be reversed. Wilson continues in its belief that our policy is entirely

lawful and proper. Wilson Sporting Goods Company does not intend to make any change in the administration of its professional-only policy but intends to vigorously pursue its right of appeal." — **Don McClure, General Counsel, Wilson.**

"The court was wrong. The PGA and Wilson have not engaged in anything unlawful." — **Peter Bleakley, Chief Counsel, PGA.**

the PGA and the companies which showed that there was collusion," Klein said.

Klein, a 30-year-old Tulane University graduate, is also involved as counsel in a similar action against equipment companies which has been filed by a Chicago sporting goods dealer.

Within his formal decision, Judge Comiskey cited the industry for violation of the Sherman Anti-trust Act and conspiracy to restrain

trade in the distribution of pro-line equipment. The case, No. 69-2959, presents a severe challenge to pro-only sales.

Judge Comiskey's decision referred to the expert testimony of Dr. Robert Lanzillotti, a noted industrial organization economist. Lanzillotti said that in 1967 the top four firms in the industry shared 66 percent of the equipment market. Economically, he has referred to this as an "oligopoly," a case in which a few sellers dominate the market. In essence, he alluded to this as a form of dominance by a few which contributes to price fixing and a "protect the pro attitude which influences consumer advertising efforts to get people to buy at the pro shop.

Attempts to sell pro lines by firms such as Golf City would tend to weaken the pro's profit potential and hamper the exclusivity of the pro lines. Judge Comiskey also noted that with a controlled market, selling between the pros was more along the lines of "friendly price competition", instead of the cut-throat situation that occurs at the retail level.

Former PGA president William Clarke during the trial testified as to advantages of pro fitted clubs. Clarke became chairman of the now defunct PGA Manufacturers Relations Committee in 1966.

His basic duties as chairman of the committee were to coordinate the activities of pros relating to the



Henry Klein: Mulls over Golf City case, looks to new legal horizons in Chicago.

## Round One continued

pro-only policy, according to Comiskey. Obviously, Comiskey said, many manufacturers were worried about pros who ordered



Buddy Orange: Finally in the market.

large quantities of clubs, only to sell a large majority of them to retail outlets for additional profit. The flow of these goods to the sporting goods dealers was "lamented" greatly by the manufacturers, Comiskey observed.

Situated off South Jefferson Davis Parkway in the Mid-city section of New Orleans, Golf City's "corporate" headquarters resembles a converted gas station. In the back room of the "City" is one of the main characters in this legal entanglement, company President Buddy Orange.

After six years as a Volkswagen executive in Birmingham, Orange got hooked up in the golf business, sans a PGA card, but with the guidance of a golf manufacturer and merchandiser.

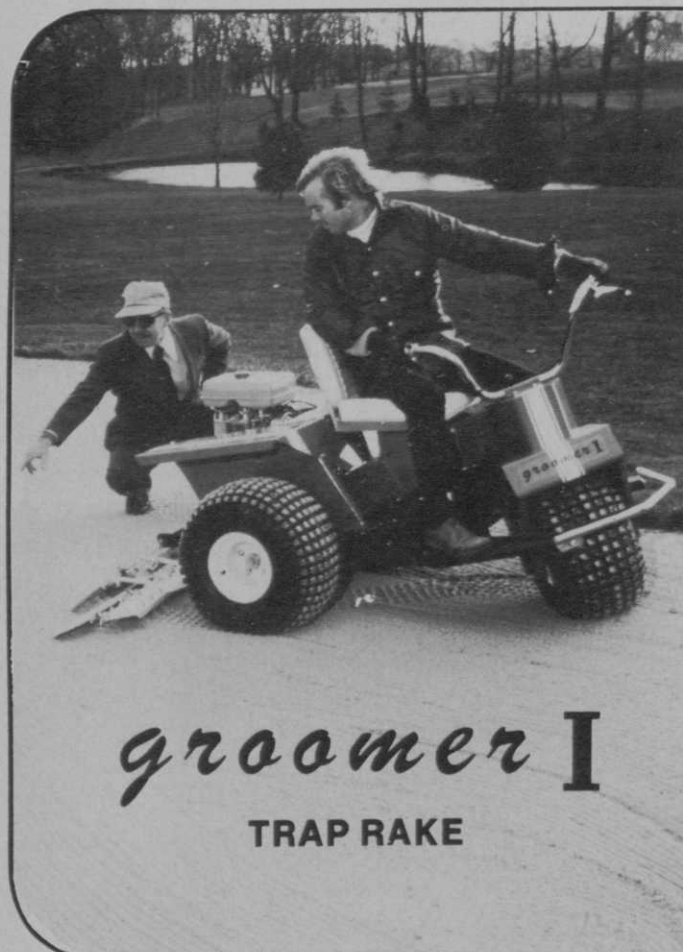
"It's really difficult to express the way I feel about the decision. After five years with this thing, I'm obviously very happy. We feel we are in a fair and competitive market now and we never meant to shoot at the pros in the action. We feel we're

just as qualified as the pros to fit clubs," Orange noted.

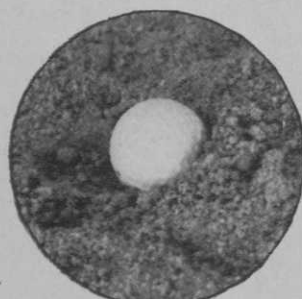
In the interim between the action's start and conclusion, Golf City received either cash settlements totalling \$127,000 or agreements from the companies that had dropped out of the formal proceedings to sell their lines to Golf City.

By his own estimate, Klein admitted to having spent more than 1,500 hours on the case, but all that will be on the line when arguments for damages are heard by Comiskey on March 20. The defense may then appeal within 15 days to the Fifth Circuit Court in New Orleans.

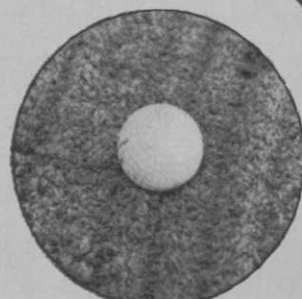
Even with that in mind, Klein's efforts are already being channelled into the Chicago case which will involve many of the same companies that were in New Orleans. Morris Mages is the sporting goods dealer who has now employed Klein. This case may begin by early '76. The pre-trial conference in the action is set for May 8 in the court of Federal Judge Bernard M. Decker. □



*groomer I*  
TRAP RAKE



No golfer ever wants  
a lie like this.



Groomer I  
—a well-raked trap  
and a good lie

Groomer I is the fastest, most maneuverable Trap Rake ever designed. It will give you the most well-groomed traps you'll ever get.

Groomer I is the SIMPLE MACHINE — two-wheel drive, no complicated hydraulics, easier and less expensive to maintain, protective shield on vital engine and transmission and extremely maneuverable.

Specifications: Overall Length: 48" — Overall Height: 38" — Overall Width: 42" — Rake Width: 66" — Ground Clearance: 7" — Crated Weight: 750 lbs. — Engine: 6.5 h.p. Wisconsin Robin, recoil start — Transmission: Peerless Transaxle, 3 forward speeds up to 12 mph, reverse — Brake: Hand-control, three-wheel cylinder — Tires: 21x11-8 — Fenders: 2 rear — Seat: foam rubber tractor type — Turning Radius: 20" I.D., 14" O.D.

DEALER and DISTRIBUTOR INQUIRIES INVITED



**KOFFEL  
MACHINE & METAL  
FABRICATORS, INC.**

313 ELM AVENUE, NORTH WALES, PA. 19454  
AREA 215+699-5813, CH 8-1393