

News

LEGAL ISSUES

'Pro-only' win stalls golf retailers

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In what many golf equipment manufacturers must see as a significant step in the vindication of the "pro-only" policy, a federal district court in Chicago decided on November 4 that the right of a company to sell only to pro shops was indeed legal.

The case in question involved Morrie Mages Sports, Inc., a Chicago sporting goods chain, that had attempted for more than 2 years to get its case against 11 equipment manufacturers, Foot-Joy, Burton Golf Co., and the Charles A. Eaton Co. before the Federal District Court, Northern District of Illinois.

In the final lineup, only Wilson Sporting Goods, Spalding, Inc., Acushnet Sales Co., Royal Golf Co., and Dunlop Sports Co. remained to take on Mages. The following firms settled out of court by either agreeing to sell merchandise to Mages or paid cash settlements: Burton, Charles A. Eaton, Foot-Joy, Hillerich & Bradsby, Karsten Manufacturing, MacGregor Golf, ProGroup Inc., Ram Golf Co., and Victor Golf Co. No disclosures were made by counsel on who paid cash or who settled with merchandise, or how much the cash settlements were.

As in similar litigation, Mages'

contention was the "pro-only" policy was in effect a form of anti-trust, and sporting goods outlets and golf speciality shops were entitled to the top brand equipment.

Lasting for only 9 days, the trial before a six-member panel went much quicker than either attorneys for Mages or the manufacturers had anticipated. Judge Bernard Decker pressed both sides to speed the case along, not allowing for much elaboration on any point.

Chief counsel for Mages in the case was Henry Klein, a 32-year-old New Orleans lawyer, who had made a name for himself in the Golf City case, which pitted the

Judge Bernard Decker looks down on attorney Henry Klein, as the New Orleans lawyer pleads his case for Morrie Mages Sporting Goods. The trial, which only lasted 9 days, pitted five golf equipment manufacturers against a Chicago retailer. Decker sped the "pro-only" case along in the federal district court in Chicago.



GRETCHEN TRAVERS

Professional Golfers Association and Wilson against a golf specialty shop in New Orleans in a similar anti-trust suit. The initial verdict in that case went to Golf City, but Wilson's appeal is set to be heard in January in the Fifth Circuit Court of Appeals in New Orleans. At stake for Wilson is nearly \$293,000 in damages it would have to pay if it loses.

Commenting on the Chicago verdict to GOLF BUSINESS, Klein said he was not "fazed" by the decision and Mages would be appealing it. In a rough estimate, Klein noted that a decision in the Seventh Circuit Court of Appeals in Chicago on the case would probably be a year away.

Mages has insisted the annual net profit loss to his business due to the "pro-only" edict has been more than \$532,000 a year. "I don't think the jury clearly understood what is involved in an anti-trust suit like this," Klein said. "They could not understand how manufacturers have conspired to injure such merchants by such 'pro-only' attitudes."

On the other side of the case, Wilson Vice President of Marketing Phil Odeen told GOLF BUSINESS the decision was a major breakthrough for the companies that believe in the pro shop. "This should make some people in the field that have considered suing us and others think twice about it."

In a statement issued by Don McClure, vice president and chief counsel for Wilson, the company indicated it had full confidence in the legality of its policy and felt vindicated by the jury's verdict.

Cases are still pending against Wilson and other companies along the same lines. Odeen told GOLF BUSINESS new suits in Buffalo and Kansas City still need settlement. The Buffalo case, which is set for trial starting February 1, involves Henry Klein again, this time representing Joe Charles Sports Shop.

NGF's MacDonald sees good future

Although the view was somewhat futuristic, National Golf Foundation President Paul MacDonald took an optimistic approach to the next decade of golf in this country at the NGF's fall meeting in Palm Springs, Calif., last month.

"The game in the year 2000 will be strong," MacDonald said to his audience at the autumn luncheon at the Canyon Hotel. The Dunlop Sports executive pointed to four areas which would have a direct effect on the growth of the game. Population, buying power, increased leisure time, and mobility were the keys, according to MacDonald, to added acceptance of golf. "All these areas will see dramatic increases by 1980," the NGF president predicted.

MacDonald also revealed a current ongoing project by the foundation which was a complete report on where the market is now and where it is going. Prime objectives of the survey are to reveal new course development and the number of new players coming into the game, plus the open space planning and study now being done in the nation as it will affect golf.

The speech was not all rose-colored, though. Ever aware of the growing problems of private country clubs in this country, MacDonald shifted the emphasis of the NGF toward the public golf facility, stressing that the foundation would not ignore the municipal course. "We must strike a popular nerve," MacDonald insisted.

In an effort to answer some of those problems, though, the NGF is sponsoring a meeting in Chicago, set for December 1, which will have on hand the decision-makers for the Professional Golfers Association, the Golf Course Superintendents Association of America, the Club Managers Association of America, the National Club Association, the United States Golf Association, and

the National Association of Public Golf Courses. The only problem with the meeting is it is closed to the press. Bob Rickey, public relations director for the NGF, told GOLF BUSINESS anything pertinent coming out of the talks would be released and future meetings of the allied association group would be open to the press. This first get-together will be an organizational meeting.

In conjunction with the October NGF meeting, the National Association of Golf Club Manufacturers, the Golf Ball Manufacturers Association, and the Golf Products Manufacturers Association also had their autumn meetings at the Palm Springs site.

One member of the golf ball association has dropped out of the market: Shakespeare. According to B. J. Lavins, vice president for the sports products division, the firm has phased out production completely at its Plymouth Meeting, Pa., factory.

The infant manufacturers association is the GPMA and President Don Van Pelt of Sahara Slacks told GOLF BUSINESS his group was putting together a campaign to lure other members into the fold. There are plans to add component manufacturers, such as shaft and grip producers, into the association, which for the most part is composed of softgoods and shoe firms.

The NGF's Rossi also announced that the foundation's move to its new home in Florida would be completed by November 1. Those now wishing to contact the NGF can write to 200 Castlewood Dr., North Palm Beach, FL 33408 or call 305/844-2500.

H.R. 1144 passage upstages NCA

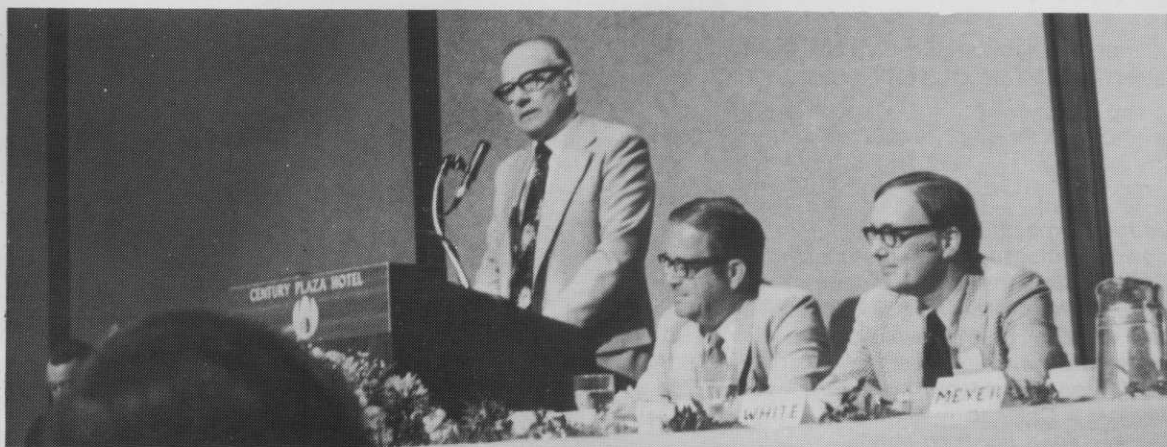
Although the National Club Association put on a dynamic educational program at its annual convention in Los Angeles, the star of the show turned out to be a piece of legislation the NCA has been working on for more than three years.

H.R. 1144, a bill that in effect raises the percentage of non-member business clubs can do from 5 to 15 percent of their gross sales, passed the Senate at the 11th hour on October 5, during the convention. Since then, On October 21, President Ford signed the bill into law, closing the chapter on the first piece of legislation the NCA helped sponsor from start to finish.

Highlight of the convention was the luncheon speech delivered by Louisiana congressman Joe D. Waggoner, Jr. Waggoner had been H.R. 1144 sponsor throughout its four-year life in the House, when at times it had had other numbers on its journey around Capitol Hill.

Although a Democrat, Waggoner lashed out at Presidential candidate Jimmy Carter, who the day before had spoken at the convention site, the Century Plaza Hotel.

"I'll see [Carter] in hell with his back broke, before I yield to him on his tax philosophy," Waggoner told his audience. Waggoner went on to refute Carter's comments on adding more government programs



Picking up where he left off in Washington, Rep. Joe D. Waggoner took some strong pokes at Jimmy Carter's stance on taxes while speaking to a luncheon crowd at the NCA convention in Los Angeles.