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356 F.Supp. 538

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356 F.Supp. 538

United States District Court, W.D. Pennsylvania.

SPORTSERVICE CORPORATION, Plaintiff,

v.

PITTSBURGH ATHLETIC
COMPANY INC. et al., Defendants.

C. A. No. 70-14.

|

Aug. 30, 1972.

Synopsis

Diversity action brought by concession business corporation against corporation owning athletic team and others seeking to recover damages and to obtain injunctive relief for breach of alleged contract concerning concession business conducted at athletic stadium. The District Court, Willson, Senior District Judge, held that execution of longterm agreement, concerning concession business at athletic stadium, by president of predecessor corporation of concession business corporation and president of corporation owning athletic team did not create a valid, corporate binding agreement.

Judgment order against plaintiff and for defendants.

West Headnotes (7)

[1] Corporations and Business Organizations Ratification

101 Corporations and Business Organizations
101IX Corporate Powers and Liabilities
101IX(F) Civil Actions
101k2583 Evidence as to Authority of Corporate
Principals
101k2588 Weight and Sufficiency
101k2588(7) Ratification
(Formerly 101k432(12))

Evidence failed to establish that purported letter agreement, between corporation conducting concession business and corporation owning athletic team, as to concession business at athletic stadium in Pennsylvania was confirmed

and ratified by subsequent conduct of latter corporation's officers.

[2] Corporations and Business Organizations Dealings with corporation

101 Corporations and Business Organizations
101VI Shareholders and Members
101VI(B) Rights and Liabilities as to Corporation
and Other Shareholders or Members
101k1563 Dealings with corporation
(Formerly 101k186)

Under Pennsylvania law, individual who was experienced businessman and was president of predecessor corporation to corporation conducting concession business at athletic stadium and who had secret arrangement permitting him to divide profit of sale of portion of stock which was held by president of corporation owning athletic team and which had been purchased by proceeds of interest-free loan made by first president to such other president would not only be required to divulge to such corporation's management his arrangement with their president but would also be required to secure formal execution by the corporation of purported amendment to former contract between the corporations concerning concession business at athletic stadium.

[3] Implied and Constructive Contracts Defenses

205H Implied and Constructive Contracts
205HI Nature and Grounds of Obligation
205HI(E) Defenses and Persons Entitled or Liable
205Hk70 Defenses
(Formerly 263k3 Money Paid)

Under Pennsylvania law, where expenditures, which were made for concession facilities at athletic stadium by corporation conducting concession business, were made under arrangements with athletic team corporation's president who was known by the concession business corporation to have breached his fiduciary duties to his corporation, and where concession business corporation had benefit of

improvements for period from 1946 to 1969 during which it ran concession business at the stadium, concession business corporation was not entitled to recover under restitution theory for such expenditures.

[4] **Frauds, Statute Of** ➔ Necessity that agent's authority be in writing in general

185 Frauds, Statute Of
185VIII Requisites and Sufficiency of Writing
185k114 Signature of Memorandum
185k116 By Agent
185k116(3) Necessity that agent's authority be in writing in general

Under Pennsylvania law, president of corporation owning athletic team could not bind such corporation to long-term agreement, concerning concession business at athletic stadium, by way of letter between himself and president of predecessor corporation of concession business corporation.

[5] **Corporations and Business Organizations** ➔ President, chief executive officer, or vice president

101 Corporations and Business Organizations
101IX Corporate Powers and Liabilities
101IX(B) Representation of Corporation by Corporate Principals
101k2330 Contracts in General
101k2333 President, chief executive officer, or vice president
(Formerly 101k406(2))

Execution of long-term agreement, concerning concession business at athletic stadium, by president of predecessor corporation of concession business corporation and president of corporation owning athletic team did not create a valid, corporate binding agreement under Pennsylvania law.

[6] **Corporations and Business Organizations** ➔ Rescission or repudiation

101 Corporations and Business Organizations
101IX Corporate Powers and Liabilities
101IX(B) Representation of Corporation by Corporate Principals
101k2384 Ratification and Repudiation
101k2387 Rescission or repudiation
(Formerly 101k426(3))

Under Pennsylvania law, officers of corporation owning athletic team were not required, in order to set aside 1946 letter understanding between president of such corporation and president of concession business corporation's predecessor corporation, to terminate operation of concession at athletic field by concession business corporation or to bring lawsuit to terminate such letter understanding, where such letter understanding did not create a valid, corporate binding agreement.

[7] **Contracts** ➔ Contravention of law in general

95 Contracts
95I Requisites and Validity
95I(F) Legality of Object and of Consideration
95k103 Contravention of law in general

Secret arrangement, between respective presidents of corporations that were parties to transaction concerning concession business at athletic stadium, which would enhance one president's share of other president's stock value in second president's corporation in event of probable sale of the corporation rendered whole transaction a nullity, under Pennsylvania law, so far as any executory phases of the arrangement were concerned.

All Citations

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