

The problem of mergers: The spate of mergers in the last five years has raised concerns, particularly about competition in industries where there are fewer and fewer competitors. The proposed Lockheed-Northrop deal, for example, would have limited competition in government contracts for key weapons systems, including airborne radar, missile warning systems, and military aircraft production. Likewise, the government successfully blocked the proposed merger of Staples and Office Depot because the merger would have effectively eliminated competition for certain office supplies in certain geographic markets.

Antitrust enforcement will often involve a fact-intensive weighing of the competitive costs and benefits of a proposed merger. Companies involved in the merger may argue, for example, that the merger improves economic efficiency by cutting overcapacity in the industry as well as overhead costs, or that the merger is needed to keep pace with overseas competition. Regulators will, in turn, try to assess how the proposed merger affects choice and price for the consumer, whether the consumer is the U.S. government, a small businessperson, or a private citizen. Regulators rarely block mergers outright, but rather seek to work with the parties to limit anti-competitive effects.

The problem of monopoly: Monopolization is a related concern for antitrust regulators, as demonstrated most recently by the Justice Department's battle with Microsoft, the computer software giant. Antitrust law has never been construed to say that merely because a firm is dominant it is engaging in illegal monopolistic conduct. If a firm dominates a market because of superior skill or energy, antitrust steps aside. If, however, a firm engages in unreasonably exclusionary or anticompetitive activities to stay on top, that kind of behavior will be challenged. The rationale is that monopolies tend to stifle innovation, which in the long run hurts the economy and the consumer.

Our new high-tech economy presents a difficult challenge for antitrust. On the one hand, high-tech companies like Microsoft have been on the cutting edge of innovation, transforming our economy, generating jobs and wealth, and boosting our competitiveness in the global marketplace. On the other hand, high-tech companies, particularly those that enjoy a dominant market position, may have opportunities to exploit consumers and crush potential rivals. The concern in the Microsoft case, for example, was that the company was using its dominance in the computer software industry to squeeze out competitors in the market for Internet software.

Government regulators have tried to strike a balanced approach in this area. They recognize that the high-tech industry is different—that companies must constantly innovate to stay ahead of their competitors and that government does not want to interfere with this beneficial process. They reason, nonetheless, that the high-tech sector is not immune to the risks associated with monopolies, and will take steps to ensure that companies play by the rules.

Conclusion: I accept the need for antitrust enforcement. After all, the economy is in the midst of an unprecedented wave of mergers. Antitrust authorities should review the competitive effects of proposed mergers, provided such reviews are based on facts and careful market analysis, not ideology. The government must be careful not to do more harm than good. Free markets may sometimes fail, but it does not follow that government can make things better.

## TRIBUTE TO NATHAN SHAPELL

### HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 22, 1998*

Mr. LANTOS. Mr. Speaker, on Thursday of this week, representatives of the Congress, the Administration, and the Supreme Court will gather in the Great Rotunda of this building for the National Civic Commemoration to remember the victims of the Holocaust. This annual national memorial service pays tribute to the six million Jews who died through senseless and systematic Nazi terror and brutality. At this somber commemoration, we will also honor those heroic American and other Allied forces who liberated the Nazi concentration camps over half a century ago.

Mr. Speaker, this past week *Fortune Magazine* (April 13, 1998) devoted several pages to an article entitled "Everything in History was Against Them," which profiles five survivors of Nazi savagery who came to the United States penniless and built fortunes here in their adopted homeland. It is significant, Mr. Speaker, that four of these five are residents of my home state of California. My dear friend Nathan Shapell of Los Angeles was one of the five that *Fortune Magazine* selected to highlight in this extraordinary article, and I want to pay tribute to him today.

Nate Shapell, like the other four singled out by *Fortune Magazine*, has a unique story, but there are common threads to these five tales of personal success. The story of the penniless immigrant who succeeds in America is a familiar theme in our nation's lore, but these stories involve a degree of courage and determination unmatched in the most inspiring of Horatio Alger's stories.

These men were, in the words of author Carol J. Loomis, "Holocaust survivors in the most rigorous sense," they "actually experienced the most awful horrors of the Holocaust, enduring a Nazi death camp or a concentration camp or one of the ghettos that were essentially holding pens for those camps."

They picked themselves up "from the very cruelest of circumstances, they traveled to America and prospered as businessmen. They did it, to borrow a phrase from Elie Wiesel, when everything in history was against them." They were teenagers or younger when World War II began. They lost six years of their youth and six years of education. "They were deprived of liberty and shorn of dignity. All lost relatives, and most lost one or both parents. Each . . . was forced to live constantly with the threat of death and the knowledge that next time he might be 'thumbed' not into a line of prisoners allowed to live, but into another line headed for the gas chambers." Through luck and the sheer will to survive, these were some of the very fortunate who lived to tell the story of that horror.

The second part of their stories is also similar—a variant of the American dream. These courageous men came to the United States with "little English and less money." Despite their lack of friends and mentors, they found the drive to succeed. As Loomis notes, "many millions who were unencumbered by the heavy, exhausting baggage of the Holocaust had the same opportunities and never reached out to seize them as these men did." Their

success in view of the immense obstacles that impeded their path makes their stories all the more remarkable.

One other element that is also common to these five outstanding business leaders—they are "Founders" of the U.S. Holocaust Memorial Museum here in Washington, D.C. They have shown a strong commitment to remembering the brutal horrors of the Holocaust, paying honor to its victims, and working to prevent the repetition of this vicious inhumanity.

Mr. Speaker, Nathan Shapell is one of the five Holocaust survivors and leading American entrepreneurs highlighted in this article. Nate is the Chairman of Shapell Industries in Los Angeles. As we here in the Congress mark the annual Days of Remembrance in honor of the victims of Nazi terror, I ask that the profile of Nate Shapell from *Fortune Magazine* be placed in the RECORD.

[From *Fortune*, April 13, 1998]

NATHAN SHAPELL—CHAIRMAN, SHAPELL INDUSTRIES

Nathan Shapell's history illustrates two truths about the Holocaust. First, by sharp and courageous use of his wits, a Jew could often greatly improve his chances of surviving. Second, in the end he practically always needed luck as well.

Now 76, Shapell (originally named Schapelski) was the youngest of five children in a family that lived in the western Poland city of Sosnowiec. After the Nazis invaded Poland, though, the father and two of his children scattered, leaving Nathan, then still in his teens, the only male in a household of four. Growing up quickly, he got decent work in the city's sanitation department and also gained the favor of certain German officials by managing to get them scarcities such as textiles and meat. For nearly three years Shapell's standing with these Germans not only kept his family safe but also allowed him repeatedly to help other Jews.

In the summer of 1942, however, Shapell's mother and hundreds of other Sosnowiec Jews were rounded up and incarcerated in a part of the city called Targowa. Frantic but able once more to tap the help of his Germans, Nathan got past Targowa's guards on the pretense that he was going in to survey the sanitation needs of the area. Making his way through crowds of desperate Jews, he finally found his mother, gave her food, and promised her help.

But he also realized that the sanitation arm band he wore might be the key to more rescues. Later that day he told the authorities that Targowa's sanitation needs were large, and secured permission to go into the area at least daily with a small crew. Over the next few days, he and his men entered just before a shift change for the guards, with each member of his crew wearing a sanitation arm band—and with a few more arm bands stuffed into Shapell's pocket. These he gave to male prisoners, who each day exited, trying to appear nonchalant, with the crews and their refuse-loaded carts. The discovery of this ruse would almost certainly have meant death for all concerned, but the guards on the new shifts never caught on.

Next Shapell focused on the huge pots of soup that were each day carried into Targowa and later taken out empty. Shapell and his men instead filled them up with small children (warned to total silence) and then boldly carried out the pots, as if they were simply helping with the day's chores. A half-dozen or so children, most thrust at the men by their parents, were rescued that way and released outside the gate. One, a small

girl of 5 or 6, looked up from the street where Shapell had set her and said, "Where shall I go?" He answered, "Child, I don't know. Run, run." As he tried to talk about that moment recently, Shapell broke down, unable to finish.

In a week of arm bands and soup pots, Shapell did not manage to rescue his mother. He finally succeeded, though, on a chaotic day in which the Germans encircled all of Targowa's Jews with a gigantic noose of rope and prepared to load them up for transport. Shapell's mother escaped because Nathan, talking his way into Targowa, found her and made her lie down on a pile of dead bodies. He then contrived to get the job of removing the bodies for disposal and got his mother to safety.

By the summer of 1943, though, the Nazis' vicious campaign to make Europe Judenrein—free of Jews—had wrenched the family apart and sent each of its members to a work camp or a concentration camp. The hellhole of Auschwitz-Birkenau was Nathan's lot, but there his youth and relative vigor got him thumbed into line of people to work, not die. He was then tattooed with the number he still wears: 134138.

In the nearly two years of captivity, hunger, and oppression that followed, he continued to be sustained by wits, guts, and a steely resolve to survive. He smuggled food out of kitchens, hid when exposure would have meant death, and got himself classified as a carpenter though he could barely drive a nail. But there was a moment near war's end, at a work site called Gintergruber, when nothing else counted but luck. One day a prisoner in his work crew escaped. When none of the other prisoners would admit to knowledge of how he'd gotten out, SS troops lined them up—some 200 men, in ranks four deep. Shapell was in the front row. The SS counted down it, ordering the fifth man to step forward, and then the next fifth man, until ten prisoners were lined up for all to see. The ten were then shot. Shapell, in the 80% of the front line that survived, went back to work.

Shapell was later moved in a forced march to a camp called Waldenburg. Freedom arrived there on May 8, 1945. No German guards came that morning to make their daily head count, and in the afternoon the camp's commandant drove out for the last time, his eyes venomous as he looked back at the prisoners watching in disbelief. The Jews then swarmed out of the camp to scavenge for food, on the way encountering Russian soldiers who were still at war, even though Germany had surrendered the day before.

The world called them "displaced persons," and in the next six years Shapell, 23 at the end of the war, became a leader in aiding homeless Jews who bore the label. His place of work was a small Bavarian town named Munchberg, where he established a model DP community. He oversaw the construction of houses and even set up a large home that took in Jewish children with no place to go. Wrote an American officer who had authority over Munchberg and knew himself fortunate to have crossed paths with this young refugee: "I heartily endorse Mr. Schapelski as an energetic, efficient, trustworthy, and most capable man."

For Nathan, Munchberg meant more than work well done. He was married there (to a Holocaust survivor) and was joined in the town by two siblings who turned out to have survived the war, Sala and David. (The remaining four members of Shapell's family are either known, or believed, to have died.) Eventually Nathan, David, and an Auschwitz friend of Nathan's who Sala married, Max Weisbrot, secured a permit to start a textile manufacturing and wholesaling business, and it did well.

So it was that when the three men make it to the U.S. in the early 1950s, they had some money. They went first to Detroit because a relative lived there. But Nathan didn't like Detroit, and they traveled in search of another landing spot, thinking that either supermarkets or homebuilding might be their future. They hit California, and for Nathan it was love at first sight. "Just the trees," he says today, "just the smell from the oranges and lemons. It was unbelievable, beautiful."

Through a Detroit connection, they met one night with a young building contractor in Los Angeles, Morley Benjamin. Knowing their English to be inadequate, the three visitors brought with them a taxi driver hired to be a translator—but he kept falling asleep. The meeting came to nothing.

Some months later, though, having picked up more English, the three went back to Benjamin, and this time they struck a deal to build houses together. The Shapell group put in \$600,000, and Morely Benjamin and a partner contributed expertise. In two suburbs of Los Angeles, Norwalk and Whittier, they built some 2,400 houses and sold them to veterans for \$10,990 each, no money down. Nathan, the leader of this band, badgered the young builder he always called "Mr. Benjamin" to teach him everything he knew about the business. Remembers Benjamin: "Nathan was constantly in my office, constantly wanting to know. Once I said to him, 'Nathan, do not come back for at least an hour.'" But Benjamin says Shapell never asked the same question twice. He was, besides, a whiz with figures.

In 1955 the parties split up, amiably. Shapell, with his relatives, formed S&S Construction and proceeded to build anew in Norwalk. He has always had a belief, he says today, that a prudent man should keep one-third of his money in cash and another one-third in good "stuff," and then if he wishes, put the other one-third at risk. But in 1955 he felt the Norwalk project required the commitment of everything he had. Out of it, though, came a small profit, enough to send S&S Construction on its way.

Since then the company now called Shapell Industries has built 64,000 houses and spread well beyond Lost Angeles. The company is known for high-quality building, for astute purchases of land, and for conservative financial behavior in an industry that tends to binge on leverage. Shapell himself dresses down from the elegant suits he wears in his office and "walks" his sites, doing hands-on quality control. He is not apt to stop those inspections soon: For three years a widower, he usually works at least six days a week and has no plans to retire.

In his business history, there is a period that caused him anguish. In 1969, when his company was doing about \$30 million in sales and \$3 million in profits, he took it public and was immediately sorry. Impatient by nature—"he has the attention span of a gnat," says an acquaintance—he could not abide dealing with securities analysts. He feels, moreover, that the homebuilding business, with its cycles, weather delays, and general ups and downs, is not well suited to a public market that craves consistency. "If you are honest and reporting exactly what happens," Shapell says, "Wall Street tells you goodbye." His company was itself a case history in volatility. In 1981, when interest rates skyrocketed, it lost nearly \$10 million on revenues that exceeded \$300 million—another period of acute anguish for Shapell. By 1983, through, the company was making \$15 million on revenues cut by a third.

So in 1984, Shapell took his creation private, buying in the 28% of the company that the public owned for \$33 million. Best money he ever spent, says Shapell: "when we'd done the deal, I felt like a million pounds had

been taken off me." It hardly ranks with the first, of course, but he calls that day his "second liberation."

EARTH DAY, 1998

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 22, 1998

Mr. GILMAN. Mr. Speaker, Earth Day helps us to remember that environmental issues know no political bounds and affect all of the people, plants, and animals of the world community. It is essential that the policies our Government enacts, and the personal activities we undertake reflect our profound concern for safeguarding the Earth.

From combating global climate change to protecting threatened species to maintaining clean air and pure water standards, we have a duty to act locally and globally to protect the environment for present and our future generations.

Saving the planet may seem to be an insurmountable task, but in order for our children to have a brighter future we must commit ourselves to an environmental policy which seeks to establish a clean, safe, and productive environment.

We must not forget the air we breathe, our most precious resource. Americans can clearly see, smell, and feel the difference that pollution has made in their lives. As a strong supporter of the Clean Air Act, I understand the need for clean air standards. So too, we must not neglect our efforts to purify our water. By encouraging innovation, cooperation, and the development of new technologies for pollution reduction, these standards build upon the spirit of ingenuity that is the foundation of America's leadership in the world.

Moreover, the issue of global warming is one that affects us all. Without our intervention, global warming will find sea levels continuing to rise, an increase in heat-related deaths, increased allergic disorders, and other serious air quality programs.

By burning oil, coal, and natural gas to power our cars, heat our homes, light our cities, and through deforestation and clearing of land for agriculture, we are releasing greenhouse gases to the atmosphere more quickly than we can remove them.

Over the last century atmospheric levels of these gases have steadily climbed and are predicted to increase as global economies grow. The Intergovernmental Panel on Climate Change (IPCC) estimates that global surface air temperature will increase approximately another 5 degrees in the next 100 years. The IPCC also predicts that "the balance of evidence suggest that there is a discernible human influence on global climate." With this in mind, we need to act now to protect our planet.

I invite my colleagues to join with Secretary of State, Madeleine Albright, in her pledge to announce "A full court press to encourage meaningful developing country participation in the effort to combat global climate change".

As chairman of the International Relations Committee, I understand the importance of using our leadership in the United States to assist other countries in developing and maintaining successful environmental programs. I