

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA,)
)
Plaintiff,) Civil Action No. 72 C 2484
)
v.)
) Equitable Relief Sought
GONNELLA BAKING CO.; and)
TORINO BAKING CO.,)
) Filed: October 4, 1972
Defendants.)

COMPLAINT

The United States of America, plaintiff, by its attorneys, acting under the direction of the Attorney General of the United States, brings this civil action against the defendants named herein, and complains and alleges as follows:

I

JURISDICTION AND VENUE

1. This complaint is filed and this action is instituted under Section 4 of the Act of Congress of July 2, 1890, as amended (15 U.S.C. § 4), commonly known as the Sherman Act, in order to prevent and restrain continuing violation by the defendants, as hereinafter alleged, of Section 1 of said Act (15 U.S.C. § 1).

2. Each of the defendants transacts business and is found in the Northern District of Illinois, Eastern Division.

II

THE DEFENDANTS

3. Gonnella Baking Co. (hereinafter referred to as "Gonnella") is hereby made a defendant herein. Gonnella is a corporation organized and existing under the laws of the State of Illinois, with its principal place of business at Chicago, Illinois. Gonnella and its wholly-owned subsidiary, United Bakeries, Inc., are engaged in baking and selling Italian, French and Vienna bread in the greater Chicago area.

4. Torino Baking Co. (hereinafter referred to as "Torino") is hereby made a defendant herein. Torino is a corporation organized and existing under the laws of the State of Illinois, with its principal place of business at Chicago, Illinois. Torino is engaged in baking and selling Italian, French and Vienna bread in the greater Chicago area. A substantial amount of the common stock of Torino and Gonnella is commonly owned by members of the Gonnella and Marcucci families and, pursuant to a license agreement with Gonnella, Torino has distributed Gonnella brand

Italian, French and Vienna bread in the southern part of the greater Chicago area since at least 1959.

III

CO-CONSPIRATORS

5. Various persons, not named as defendants herein, including the Illinois Specialty Bakers Association and its predecessor, the Italian Master Bakers Association (hereinafter collectively referred to as "the Association"), and other bakers and sellers of Italian, French and Vienna bread in the greater Chicago area, participated as co-conspirators in the violation alleged herein and performed acts and made statements in furtherance thereof.

IV

DEFINITIONS

6. As used herein:

- (a) "greater Chicago area" means metropolitan Chicago, Illinois, including its suburbs and the counties of Lake, Porter, LaPorte, and St. Joseph in northern Indiana;
- (b) "wholesale customers" means restaurants, retail grocery and food stores, hotels, public and private institutions, and other purchasers of Italian, French and

Vienna bread for commercial use or resale
in the greater Chicago area;

- (c) "Italian, French and Vienna bread" means bread baked and packaged for sale as Italian, French and Vienna bread in the greater Chicago area by those bakers commonly known in the greater Chicago area bread industry as "Italian bakers"; and
- (d) "person" means any individual, corporation, partnership, firm, association or other business or legal entity.

V

TRADE AND COMMERCE

7. Italian, French and Vienna bread is distinguishable from other types of bread sold in the greater Chicago area, principally because of taste, texture, shape and ingredient differences. For many years nearly all of the "Italian bakers" in the greater Chicago area who baked Italian, French and Vienna bread belonged to the Association. Bakers of other types of breads were not members of the Association, which existed from about the 1930's until 1965.

8. Several times each week Italian, French and Vienna bread is baked, sold and delivered to wholesale customers

located throughout the greater Chicago area, and is also sold through bakery-owned retail outlets in the greater Chicago area.

9. Substantial quantities of essential ingredients used in the baking of Italian, French and Vienna bread are regularly shipped into the State of Illinois to bakers, including defendants Gonnella and Torino, from sources located outside the State of Illinois.

10. Substantial quantities of the Italian, French and Vienna bread baked by the defendants Gonnella and Torino are baked in their plants located in the State of Illinois and are sold and delivered regularly and continuously from said plants to wholesale customers located in northern Indiana.

11. The defendant Gonnella, together with its wholly-owned subsidiary, United Bakeries, Inc., is the largest baker and seller of Italian, French and Vienna bread in the greater Chicago area. In 1970, the combined sales of Italian, French and Vienna bread for Gonnella and United Bakeries, Inc. amounted to approximately \$6 million.

12. The defendant Torino is the second largest baker and seller of Italian, French and Vienna bread in the greater Chicago area. In 1970, its sales of Italian, French and Vienna bread amounted to approximately \$2 million.

13. The total annual dollar volume of Italian, French and Vienna bread sold in the greater Chicago area amounts to approximately \$11 million. The defendants and co-conspirators account for substantially all of such sales.

VI

VIOLATION ALLEGED

14. Beginning at least in the 1930's, the exact date being unknown to the plaintiff, and continuing thereafter up to and including the date of this complaint, the defendants and their co-conspirators have engaged in a combination and conspiracy in unreasonable restraint of the aforesaid interstate trade and commerce in the baking and selling of Italian, French and Vienna bread in the greater Chicago area, in violation of Section 1 of the Sherman Act.

15. The aforesaid combination and conspiracy has consisted of a continuing agreement, understanding and concert of action among the defendants and co-conspirators, the substantial terms of which have been and are to suppress, restrict, eliminate and exclude competition in the sale and distribution of Italian, French and Vienna bread.

16. In furtherance of the aforesaid combination and conspiracy, the defendants and their co-conspirators have done the following things, among others:

- (a) refrained from soliciting, or accepting business from, each other's wholesale customers;
- (b) fixed the wholesale and retail prices for selling Italian, French and Vienna bread; and
- (c) used threats, coercion and persuasion to prevent the solicitation or acceptance of business from each other's wholesale customers and to require adherence to the wholesale and retail prices agreed upon.

17. Defendants are continuing and will continue said violation unless the relief hereinafter prayed for is granted.

VII

EFFECTS

18. The aforesaid combination and conspiracy has had the following effects, among others, in the greater Chicago area:

- (a) prices of Italian, French and Vienna bread have been artificially fixed, stabilized and maintained at non-competitive levels;
- (b) competition between bakers in the sale of Italian, French and Vienna bread has been suppressed, restricted and eliminated;

- (c) customers of the defendants and co-conspirators have been deprived of free and open competition in the purchase of Italian, French and Vienna bread; and
- (d) bakers of Italian, French and Vienna bread have been threatened, harassed, obstructed and excluded from selling bread.

PRAYER

WHEREFORE, the plaintiff prays:

1. That the Court adjudge and decree that the defendants Gonnella and Torino have combined and conspired to unlawfully restrain the aforesaid interstate trade and commerce in the sale and distribution of Italian, French and Vienna bread in the greater Chicago area, in violation of Section 1 of the Sherman Act.
2. That the defendants Gonnella and Torino, their successors, assignees, transferees, officers, directors, agents and employees and all persons acting or claiming to act on their behalf be perpetually enjoined and

restrained from, directly or indirectly, continuing, maintaining or renewing the aforesaid combination and conspiracy to restrain interstate trade and commerce as hereinbefore alleged or from engaging in any other conduct having a like or similar purpose or effect, or from adopting or following any practice, plan, program, or device having a like or similar purpose or effect.

3. That the defendants be prohibited from organizing, joining, participating in, or contributing anything of value to any association having an objective or purpose similar to that of the combination and conspiracy to restrain trade alleged herein.

4. That the defendants Gonnella and Torino be required to distribute to each of their wholesale customers a copy of any final judgment or decree within 60 days of the date of the entry of such judgment or decree.

5. That the plaintiff have such other and further relief as the Court may deem just and proper.

6. That the plaintiff recover the taxable costs
of this action.

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