

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

UNITED STATES OF AMERICA,

Plaintiff,

v.

THE E. H. KOESTER BAKERY COMPANY,
SCHMIDT BAKING COMPANY, INCORPORATED,
and THE HAUSWALD BAKERY,

Defendants.

Civil No. 71-822 T

Filed: July 29, 1971

COMPLAINT

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

I

JURISDICTION AND VENUE

1. This complaint is filed 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 the 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 within the District of Maryland.

II

DEFINITIONS

3. When used herein the term:

(a) "Bread" means all sizes and weights of pan-baked bread and rolls; and

(b) "Baltimore market" means the City of Baltimore and that area surrounding the City and

demarcated on the east by the Chesapeake Bay and extending along the Bay southwest from Havre de Grace, Maryland to the City of Annapolis, Maryland; northwest from Annapolis along a line in the vicinity of Laurel and Bowie, Maryland to Damascus and Mt. Airy, Maryland; north to the Pennsylvania state line; east to Oakwood, Maryland; and southeast to Havre de Grace, Maryland.

III

DEFENDANTS

4. The corporations named below are hereby made defendants herein. Each of these corporations is organized and exists under the laws of Maryland and has its principal place of business in the city indicated below. Within the period of time covered by this complaint, each of these defendants has engaged in the business of producing, selling, or distributing bread in the Baltimore market:

<u>Name of Corporation</u>	<u>Principal Place of Business</u>
The E. H. Koester Bakery Company	Baltimore, Maryland
Schmidt Baking Company, Incorporated	Baltimore, Maryland
The Hauswald Bakery	Baltimore, Maryland

IV

CO-CONSPIRATORS

5. Various corporations and individuals not made defendants in this complaint participated as co-conspirators in the offense charged herein and performed acts and made statements in furtherance thereof.

V

NATURE OF TRADE AND COMMERCE

6. During the period of time covered by this complaint, each defendant produced at its baking plant or plants in the cities and states indicated below, bread which was sold or distributed in the Baltimore market:

<u>Title</u>	<u>Plant Location</u>
The E. H. Koester Bakery Company	Baltimore, Maryland
Schmidt Baking Company, Incorporated	Baltimore, Maryland Cumberland, Maryland Martinsburg, W. Virginia
The Hauswald Bakery	Baltimore, Maryland

7. Substantial quantities of ingredients used in the production of bread sold or distributed by the defendants in the Baltimore market are shipped in a continuous and uninterrupted flow of interstate commerce to the baking plants of the defendants from states other than those in which such baking plants are located.

8. During the period of time covered by this complaint, total sales of bread in the Baltimore market by the defendants were at least \$17 million annually.

VI

OFFENSE CHARGED

9. Beginning at least as early as December 1965, the exact date being to the plaintiff unknown, and continuing thereafter up to and including the date of the filing of this complaint, the defendants and co-conspirators have engaged in a continuing combination and conspiracy in unreasonable restraint of the aforesaid interstate trade and commerce in violation of Section 1 of the Act of Congress of

July 2, 1890, as amended (15 U.S.C. §1), commonly known as the Sherman Act. This combination and conspiracy will continue unless the relief hereinafter prayed for is granted.

10. 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:

(a) to fix, raise and maintain the prices of bread in the Baltimore market; and

(b) to fix and stabilize other terms and conditions for the sale of bread in the Baltimore market.

11. For the purpose of forming and effectuating the aforesaid combination and conspiracy, the defendants and co-conspirators have done those things which, as hereinbefore charged, they combined and conspired to do.

VII

EFFECTS

12. The aforesaid combination and conspiracy has had the following effects, among others:

(a) Prices of bread in the Baltimore market have been raised to and maintained at artificial, non-competitive levels;

(b) Purchasers have been deprived of free and open competition in the sale of bread in the Baltimore market; and

(c) Competition in the sale of bread in the Baltimore market among defendants and co-conspirators has been restrained.

PRAYER

WHEREFORE, the plaintiff prays:

1. That the Court adjudge and decree that the defendants have engaged in an unlawful combination and conspiracy in restraint of the aforesaid interstate trade and commerce in violation of Section 1 of the Sherman Act.

2. That each of the defendants, its subsidiaries, successors, transferees, assigns, and the respective officers, directors, agents, and employees thereof, and all other persons acting or claiming to act on behalf thereof, be perpetually enjoined and restrained from, in any manner, directly or indirectly:

(a) Continuing, maintaining, or renewing the combination and conspiracy hereinbefore alleged, or from engaging in any other combination or conspiracy having a similar purpose or effect, or from adopting or following any practice, plan, program, or device having a similar purpose or effect;

(b) Entering into any agreement, arrangement, or understanding with any other person:

(1) To raise or maintain prices or to fix or stabilize other terms or conditions for the sale of any bakery product to any third person; or

(2) To exchange or communicate any information concerning the prices or other terms or conditions at or upon which any bakery product is to be sold to any third person; and

(c) Communicating to any other person information concerning the prices or other terms or conditions for

the sale of any bakery product to any third person prior to the release thereof to the public or trade generally.

3. That each defendant be ordered to individually and independently review and determine its prices and other terms and conditions for the sale of bakery products, put into effect those prices, terms, and conditions so determined, and file with this Court affidavits certifying that these requirements have been fulfilled.

4. That the Court order each defendant to maintain records showing meetings with or communications to or from any other producer of any bakery products.

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

6. That the plaintiff recover the costs of this suit.


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