

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON

| | | |
|------------------------------|---|--------------------------------|
| UNITED STATES OF AMERICA, |) | |
| |) | |
| Plaintiff, |) | Civil No. C 79-541S |
| |) | Filed: April 24, 1979 |
| v. |) | Violation of 15 U.S.C. §1 |
| |) | (Sherman Act §1) |
| FLAVORLAND INDUSTRIES, INC.; |) | |
| SCHAAKE PACKING CO., INC.; |) | |
| HYGRADE FOOD PRODUCTS |) | |
| CORPORATION; |) | |
| BLINCOE PACKING CO., INC., |) | CONSPIRACY IN RESTRAINT OF |
| d/b/a MAGIC VALLEY PACKING |) | INTERSTATE TRADE AND COMMERCE: |
| CO., |) | EQUITABLE RELIEF SOUGHT |
| |) | |
| Defendants. |) | |

COMPLAINT

The United States of America, by its attorneys,
acting under the direction of the Attorney General of
the United States, brings this action to obtain equitable
relief against the above-named defendants, and complains
and alleges as follows:

Counsel for Government:

John F. Young
Christopher S Crook
Steven L. Weinstein
Antitrust Division
U.S. Department of Justice
450 Golden Gate Avenue
Box 36046
San Francisco, California 94102
(415) 556-6300

I

JURISDICTION AND VENUE

1
2
3 1. This complaint is filed and this action is
4 instituted under Section 4 of the Sherman Act (15 U.S.C. §4),
5 in order to prevent the continuing violation or reoccurrence
6 thereof by the defendants, as hereinafter alleged, of
7 Section 1 of said Act (15 U.S.C. §1).

8 2. Each of the defendants transacts business and is
9 found within the Western District of Washington.

10 II

11 DEFENDANTS

12 3. Each of the corporations named below is hereby
13 made a defendant herein. Each is incorporated and exists
14 under the laws of the state and has its principal place
15 of business in the city indicated:

| <u>Defendant Corporation</u> | <u>State of Incorporation</u> | <u>Principal Place of Business</u> |
|---|-------------------------------|------------------------------------|
| 16 Flavorland Industries, 17 Inc. | Delaware | Denver, Colorado |
| 18 Schaake Packing Co., Inc. | Washington | Ellensburg, Washington |
| 19 Hygrade Food Products 20 Corporation | New York | Southfield, Michigan |
| 21 Blincoe Packing Co., Inc. 22 d/b/a Magic Valley 23 Packing Co. | Idaho | Gooding, Idaho |

24 4. During all or part of the period of time covered
25 by this complaint, each of the defendants except Blincoe
26 Packing Co., Inc. operated a meat packing plant in the State
27 of Washington. Blincoe Packing Co., Inc. has operated a
28 meat packing plant in Gooding, Idaho during part of the time
29 period covered by this complaint. All the defendants sold
30 beef products in the States of Washington, Oregon and Idaho
31 during all or part of the time period covered by this
32 complaint.

1 III

2 CO-CONSPIRATORS

3 5. Various corporations, firms, and individuals not
4 made defendants herein participated as co-conspirators with
5 the defendants in the violation alleged herein, and performed
6 acts and made statements in furtherance thereof.

7 IV

8 TRADE AND COMMERCE

9 6. Meat packing is the business of slaughtering
10 beef cattle, and dressing and selling such slaughtered
11 cattle as beef products. Beef products include carcass
12 beef, which is slaughtered beef that has been dressed
13 into halves or sides of beef, primal cuts, which are
14 carcasses reduced into major components of the carcass,
15 such as ribs, loins, and shanks, and subprimal cuts,
16 which are subcomponent parts of the primal cuts. Meat
17 packers obtain live beef cattle for their slaughtering
18 operations both from feedlots owned and operated by
19 themselves and from independent entrepreneurs who purchase
20 young cattle, confine and feed such cattle until the cattle
21 attain optimum weight for slaughter, and sell them to
22 meat packers.

23 7. During the period of time covered by this
24 complaint, the defendants purchased substantial quantities
25 of live cattle from feedlot operators in states other than
26 the states in which their meat packing plants are located.
27 During 1976, the defendants' total purchases of beef cattle
28 exceeded \$160 million, a substantial portion of which were
29 purchased, in anticipation of or in fulfillment of upcoming
30 beef sales, in interstate commerce.

31 8. Defendants' sales of beef products were made to
32 wholesale grocery companies, retail chain stores, specialty

1 meat wholesalers, and other customers located in various
2 states. In 1976, defendants' sales of beef products exceeded
3 \$180 million, substantial quantities of which were to
4 customers in states other than the states in which defendant
5 corporations' respective meat packing plants were located.

6 9. During the period of time covered by this complaint,
7 the sale of beef products by each of the defendants was
8 within the flow of and substantially affected the above-
9 described interstate commerce.

10 V

11 VIOLATION ALLEGED

12 10. Beginning at least as early as 1962, the exact
13 date being unknown to the plaintiff, and continuing
14 thereafter at least until March, 1976, the defendants and
15 co-conspirators engaged in a continuing combination and
16 conspiracy in unreasonable restraint of the aforesaid
17 trade and commerce in violation of Section 1 of the
18 Sherman Act (15 U.S.C. §1). This violation may continue
19 or recur unless the relief hereinafter prayed for is
20 granted.

21 11. The aforesaid combination and conspiracy consisted
22 of a continuing agreement, understanding and concert of
23 action among the defendants and co-conspirators to fix,
24 maintain, and stabilize the price of carcass beef sold
25 to their customers in the State of Washington.

26 12. In formulating and effectuating the aforesaid
27 combination and conspiracy the defendants and co-conspirators
28 did those things which they combined and conspired to do.

29 VI

30 EFFECTS

31 13. The aforesaid combination and conspiracy has had
32 the following effects, among others:

1 (a) Price competition in the sale of
2 carcass beef in the State of Washington has
3 been restrained;

4 (b) Prices for carcass beef sold to
5 customers of the defendants in the State of
6 Washington have been artificially fixed
7 and stabilized;

8 (c) Customers of the defendants in the
9 State of Washington have been deprived of the
10 opportunity to purchase carcass beef in an
11 open and competitive market; and

12 (d) Competition between and among
13 defendants and various co-conspirators in the
14 sale of carcass beef in the State of Washington
15 has been restrained.

16 PRAYER

17 WHEREFORE, plaintiff prays:

18 1. That the Court adjudge and decree that the
19 defendants and each of them have engaged in an unlawful
20 combination and conspiracy in unreasonable restraint
21 of the aforesaid interstate trade and commerce in violation
22 of Section 1 of the Sherman Act.

23 2. That each of the defendants, their successors,
24 assigns, subsidiaries and transferees, and the respective
25 officers, directors, agents, and employees thereof, and
26 all other persons acting or claiming to act on behalf
27 thereof, be enjoined and restrained from, in any manner,
28 directly or indirectly, continuing, maintaining, renewing,
29 or reviving the aforesaid illegal combination and conspiracy,
30 and from engaging in any other combination, conspiracy,
31 agreement, understanding, or concert of action having a
32 similar purpose or effect and from adopting or following any

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32

practice, plan, program, or device having a similar purpose
or effect.

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

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

Dated:

John H. Shenefield

JOHN H. SHENEFIELD
Assistant Attorney General

JOHN F. YOUNG

Richard J. Favretto

RICHARD J. FAVRETTO

CHRISTOPHER S CROOK

ANTHONY E. DESMOND
Attorneys, Department of
Justice

STEVEN L. WEINSTEIN
Attorneys, Department of
Justice

JOHN C. MERKEL
United States Attorney