

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF KENTUCKY**

**UNITED STATES OF AMERICA,** )  
 )  
 ) *Plaintiff,* )  
 )  
 vs. )  
 )  
**SUIZA FOODS CORPORATION,** )  
 )  
 ) **d/b/a Louis Trauth Dairy,** )  
 ) **Land O' Sun Dairy, and** )  
 ) **Flav-O-Rich Dairy, and** )  
 )  
**BROUGHTON FOODS COMPANY,** )  
 )  
 ) **d/b/a Southern Belle Dairy,** )  
 )  
 ) *Defendants.* )

Civil Action No.

**MOTION OF UNITED STATES FOR  
TEMPORARY RESTRAINING ORDER**

Comes the plaintiff, the United States of America, pursuant to Section 15 of the Clayton Act, 15 U.S.C. § 25, and Rule 65 of the Federal Rules of Civil Procedure, and respectfully moves the Court for the entry of a Temporary Restraining Order prohibiting the defendants Suiza Foods Corporation (“Suiza”), headquartered in Dallas, Texas, and Broughton Foods Company (“Broughton”), of Marietta, Ohio, and all persons acting on their behalf, from consummating their proposed acquisition described in the Complaint, or from implementing any other plan or agreement by which Broughton, or any part thereof, would be combined with Suiza pending consideration by the Court of the United States’ Motion for

Preliminary Injunction.

This Motion is supported by the attached Memorandum in Support of United States' Motion for a Temporary Restraining Order and is not opposed by defendants.

CERTIFICATION OF COUNSEL

Pursuant to Rule 65 of the Federal Rules of Civil Procedure, undersigned counsel for the plaintiff respectfully certifies to the Court the following with respect to notice to the defendants:

On March 16, 1999, plaintiff provided defendants' counsel with notice by telephone of its intention to seek a temporary restraining order in this matter. On March 17, 1999, plaintiff provided defendants' counsel with advance copies of this Motion, the Memorandum in Support, and proposed Order. On March 17, 1999 defendants responded to plaintiff by letter stating that defendants would not contest the Motion. (See Letter from Paul T. Denis, Counsel for Suiza, and Thomas J. Murray, Counsel for Broughton, to James K. Foster, Jr., March 17, 1999, appended as Attachment A to the plaintiff's Memorandum in Support of Its Motion for Temporary Restraining Order, filed herewith.)

Because defendants have received actual notice and do not intend to oppose this Motion, and because there is no time to proceed on the basis of further notice and opportunity to be heard, plaintiff respectfully submits that no further notice or hearing be required.

WHEREFORE, the United States respectfully moves the Court for entry of

the Temporary Restraining Order tendered herewith.

Dated: March 18, 1999

Respectfully Submitted,

/s/

JAMES K. FOSTER  
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U.S. Department of Justice  
Antitrust Division  
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CERTIFICATE OF SERVICE

This will certify that a true and correct copy of the foregoing, together with a copy of any Order or Judgment the United States proposes in connection therewith, has been served by telecopier and by mail to:

Suiza Foods Corporation  
c/o Paul T. Denis, Esq.  
Myles R. Hansen, Esq.  
ARNOLD & PORTER  
555 Twelfth Street, N.W.  
Washington, D.C. 20004

Broughton Foods Company  
c/o Thomas J. Murray, Esq.  
Daniel J. Konrad, Esq.  
HUDDLESTON, BOLEN, BEATTY, PORTER & COPEN  
611 Third Avenue  
Suite 4000  
Huntington, WV 25722

On this the \_\_\_\_ day of March, 1999.

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