

UNITED STATES DISTRICT COURT
DISTRICT OF KANSAS

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	CIVIL ACTION
v.)	
)	NO. 78-1123
LAUHOFF GRAIN COMPANY, and)	
KRAUSE MILLING COMPANY,)	Filed: July 14, 1980
)	
Defendants.)	Entered: November 3, 1980

STIPULATION

It is stipulated by and between the undersigned parties, by their respective attorneys, that:


1. The parties consent that a Final Judgment in the form hereto attached may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. § 16), and without further notice to any party or other proceedings, provided that plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on defendants and by filing that notice with the Court.

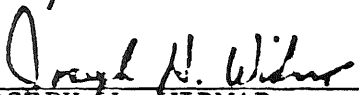
2. In the event plaintiff withdraws its consent or if the proposed Final Judgment is not entered pursuant to this Stipulation, this Stipulation shall be of no effect whatever and the making of this Stipulation shall be without prejudice

to the plaintiff and defendants in this and any other proceeding.

DATED: July 14, 1980

FOR THE PLAINTIFF:

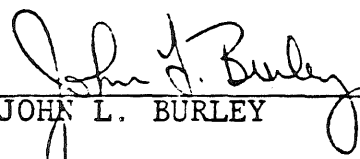

SANFORD M. WITVACK
Assistant Attorney General

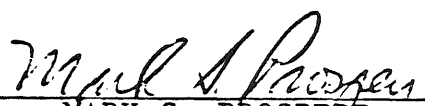

JOSEPH H. WIDMAR
Director of Operations


ALLYN A. BROOKS

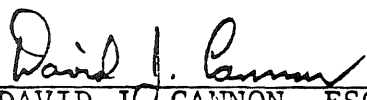

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By 
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FINAL JUDGMENT

Plaintiff, United States of America, having filed its complaint herein on March 27, 1978 and its amended complaint on July 26, 1978 and defendants Lauhoff Grain Company ("Lauhoff") and Krause Milling Company ("Krause") having appeared and filed their Answers to the Amended Complaint denying the material allegations thereof and raising affirmative defenses, plaintiff having dismissed Counts Two and Three of its amended complaint against, and by agreement with, defendants Lauhoff and Krause, by their respective attorneys, and plaintiff and defendants Lauhoff and Krause by their respective attorneys each having consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein, and without this Final Judgment constituting evidence against or an admission by any party hereto with respect to any such issue;

NOW, THEREFORE, before the taking of any testimony, without trial or adjudication of any issue of fact or law herein, and without this Final Judgment constituting any evidence or admission by any party with respect to any such issue, and upon consent of the parties aforesaid, it is hereby

ORDERED, ADJUDGED, and DECREED with respect to Count One of plaintiff's amended complaint as to defendants Lauhoff and Krause as follows:

I

This Court has jurisdiction of the subject matter of this action and of each of the parties consenting hereto. Count One of the amended complaint states a claim upon which relief may be granted against defendants Lauhoff and Krause under Section 1 of the Sherman Act (15 U.S.C. § 1).

II

As used in this Final Judgment:

(A) "blended foods" means any soy fortified sorghum grits, soy fortified bulgur, soy fortified rolled oats, soy fortified corn meal, corn-soy-blend, corn-soya-milk, instant corn-soya-milk, sweetened instant corn-soya-milk, instant soy fortified corn meal, sweetened instant soy fortified corn meal, soy fortified bread flour, whey soy drink mix, wheat protein concentrate blend, wheat soy blend and sweetened wheat soy blend, and soy fortified rice;

(B) "government agency" means any department, division, agency, branch or instrumentality of the United States, and any state or municipality;

(C) "person" means any individual, partnership, firm, corporation, association, or other business or legal entity.

III

The provisions of this Final Judgment shall apply to defendants Lauhoff and Krause and to each of their officers, directors, agents, employees, subsidiaries, successors and assigns, and to all other persons in active concert or participation with any of them who shall have received actual notice of this Final Judgment by personal service or otherwise.

IV

Defendants Lauhoff and Krause are enjoined and restrained from entering into, adhering to, maintaining, enforcing or furthering, directly or indirectly, any contract, combination or conspiracy with any other person to:

(A) Fix, determine, establish, maintain or stabilize the prices, discounts or other terms or conditions for the sale of blended foods to any person, government agency or foreign government;

(B) Submit noncompetitive, collusive, or rigged bids on contracts for the sale of blended foods to any person, government agency or foreign government;

(C) Allocate contracts, rotate or divide markets, customers or territories with respect to sales of blended foods to any person, government agency or foreign government; and

(D) Communicate to or exchange with any other person manufacturing or selling blended foods any terms or conditions of sale including but not limited to any actual or proposed price, price component, price change, discount, total quantity, incremental price or quantity, or freight rate, at or upon which blended foods are to be, or have been, sold to any person, before such information is available to the public.

Subparagraphs (A) and (D) of this Section IV shall not apply to prices, discounts, or any other terms or conditions of purchase or sale, or necessary communications relating thereto, offered by either defendant Lauhoff or Krause to any person or offered by any person to either defendant Lauhoff or Krause in negotiating for, entering into or carrying out a bona fide sale or purchase or proposed sale or proposed purchase of blended foods either between defendant Lauhoff or Krause and such other person or where such other person is acting as a purchasing or selling agent or group buying or selling representative on behalf of any third person.

V

Defendants Lauhoff and Krause shall furnish to the plaintiff a copy of each audit of their bidding procedures required by paragraph (c) of the Order of the Commodity Credit Corporation Debarring Officer regarding defendants Lauhoff and Krause issued on December 17, 1978, and any written modifications or interpretations of that Order.

VI

For a period of five (5) years from the date of entry of this Final Judgment, defendants Lauhoff and Krause shall preserve all written price computations and other written calculations performed by defendants subsequent to March 27, 1978, in the preparation of any bid on blended foods.

VII

Defendants Lauhoff and Krause are ordered and directed:

- (A) To furnish, within sixty (60) days after the entry of this Final Judgment, a copy of this Final Judgment to each of its officers and directors, and to each of its employees and agents who have any responsibility for preparing, reviewing or submitting bids on blended foods;
- (B) To furnish a copy of this Final Judgment to each successor to such officers, directors, employees or agents described in Section VII (A) hereof within sixty (60) days after such successor becomes employed or associated with either defendant Lauhoff or Krause;
- (C) To obtain a receipt from each person to whom a copy of this Final Judgment has been furnished pursuant to Sections VII (A) and (B) hereof, and to maintain said receipts so long as this Final Judgment is effective;
- (D) To establish a program for dissemination of, education as to, and compliance with this Final Judgment, for each individual to whom a copy of the Final Judgment has been furnished pursuant to Section VII (A) and (B) hereof and for each corporate employee and agent having responsibilities in connection with or authority over the establishment of prices, discounts or other terms or conditions of sale of blended foods, advising them of its and their obligations under this Final Judgment.

(E) To furnish to plaintiff within one hundred and twenty (120) days of the entry of this Final Judgment, and thereafter upon request by plaintiff for a period of five (5) consecutive years from the date of its entry, an annual account of all steps defendant has taken since the prior account to discharge its obligations under this Section VII and to include with said account copies of all written directives issued during the prior year with respect to compliance with the terms of this Final Judgment.

VIII

Defendants Lauhoff and Krause shall require, as a condition of the sale or disposition of all, or substantially all, of the assets used in the production and sale of blended foods, that the acquiring party agree to be bound by the provisions of this Final Judgment, and that such agreement be filed with the Court.

IX

For the purpose of determining or securing compliance with this Final Judgment, and subject to any legally recognized privilege, from time to time:

(A) Duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to a defendant made to its principal office, be permitted:

(1) Access during office hours of such defendant to inspect and copy all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of such defendant, who may have counsel present, relating to any matters contained in this Final Judgment; and

(2) Subject to the reasonable convenience of such defendant and without restraint or interference from it, to interview under oath officers, employees and agents of such defendant, who may have counsel present, regarding any such matters.

(B) Upon the written request of the Attorney General or of the Assistant Attorney General in charge of the Anti-trust Division made to a defendant's principal office, such defendant shall submit such written reports, under oath if requested, with respect to any of the matters contained in this Final Judgment as may be requested.

No information or documents obtained by the means provided in this Section IX shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the United States except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

(C) If at the time information or documents are furnished by any defendant to plaintiff, such defendant represents and identifies in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and such defendant marks each pertinent page of such material, "Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure," then 10 days notice shall be given by plaintiff to such defendant prior to divulging such material in any legal proceeding (other than a grand jury proceeding) to which such defendant is not a party.

X

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to

apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the modification of any of the provisions thereof, for the enforcement of compliance therewith, and for the punishment of violations thereof.

XI

This Final Judgment shall be in effect for a period of ten years from the date of its entry by this Court.

XII

Entry of this Final Judgment is in the public interest.

Dated: November 3, 1980

Earl E. O'Connor

UNITED STATES DISTRICT JUDGE