

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. C-80-1894
)	
HAWTHORN MELLODY, INC.;)	Filed: October 10, 1980
HILLSIDE DAIRY COMPANY, INC.,)	
)	
Defendants.)	

COMPLAINT

The United States of America, by its attorneys, acting under the direction of the Attorney General of the United States, brings this civil action to obtain equitable relief 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 Sherman Act (15 U.S.C. § 4) in order to prevent and restrain the violation by the defendants, as hereinafter alleged, of Section 1 of that Act (15 U.S.C. § 1).

2. The defendants transact business, maintain offices, and are found within the Northern District of Ohio, Eastern Division.

II

DEFINITIONS

3. As used herein:

- (a) "fluid milk" means pasteurized milk in fluid form that is fit for human consumption;
- (b) "dairy" means any corporation, firm, or individual which processes raw milk into fluid milk and other dairy products or sells and distributes fluid milk and other dairy products to customers such as grocery stores, restaurants, hotels, schools, hospitals, government entities, and home delivery purchasers;
- (c) "raw milk" means unprocessed cows' milk sold or delivered to dairies for processing into fluid milk and other dairy products;
- (d) "Northeastern Ohio" means the area encompassed by Cuyahoga, Lake, Lorain, and Summit Counties.

III

DEFENDANTS

4. Each of the corporations named below is hereby made a defendant herein. Each is incorporated and exists under the laws of the state listed opposite its name and has its principal place of business in the place listed.

<u>Name</u>	<u>State of Incorporation</u>	<u>Principal Place of Business</u>
Hawthorn Mellody, Inc.	Delaware	Schaumburg, Illinois
Hillside Dairy Company, Inc.	Ohio	Cleveland Heights, Ohio

IV

CO-CONSPIRATORS

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

V

TRADE AND COMMERCE

6. The activities of the defendants as hereinafter described were within the flow of interstate commerce and had a substantial effect on interstate commerce.

7. During the period covered by this Complaint, the defendants engaged in the business of processing and distributing fluid milk and other dairy products in the state of Ohio. In 1978, the defendants had sales of fluid milk in Northeastern Ohio of approximately \$29,000,000.

8. During the period covered by this Complaint, the defendants purchased and received substantial quantities of raw milk from sources located in states other than Ohio. The raw milk was utilized by defendant dairies in the processing of fluid milk and other dairy products sold by them to their customers. There was a continuous and substantial flow of raw milk in interstate commerce from sources located outside the state of Ohio to the processing plants of defendants in Ohio.

VI

VIOLATION ALLEGED

9. Beginning at least as early as April 1978, and continuing at least until April 1979, the exact dates being unknown to the plaintiff, the defendants and co-conspirators engaged in a combination and conspiracy in unreasonable restraint of the aforesaid trade and commerce in violation

of Section 1 of the Sherman Act, as amended (15 U.S.C. § 1). This offense may be revived or renewed unless the relief hereinafter prayed for is granted.

10. The aforesaid combination and conspiracy consisted of a continuing agreement, understanding, and concert of action among the defendants and co-conspirators to fix, raise, stabilize, and maintain the wholesale prices of fluid milk sold by defendant corporations in Northeastern Ohio.

11. In furtherance of the aforesaid combination and conspiracy, the defendants and co-conspirators have done those things which, as hereinbefore alleged, they combined and conspired to do, including, among other things, discussed and agreed upon the amount of wholesale price increases to pass on to various customers.

VII

EFFECTS

12. The combination and conspiracy alleged herein has had the following effects:

- (a) the price of fluid milk in Northeastern Ohio was fixed, raised, stabilized, and maintained at artificial and non-competitive levels;
- (b) purchasers of fluid milk were deprived of the benefits of free and open competition in the sale of fluid milk;
- (c) competition in the sale of fluid milk in Northeastern Ohio was restrained.

PRAYER

WHEREFORE, plaintiff prays:

1. That the Court adjudge and decree that the defendants and co-conspirators 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 the defendants, including any subsidiaries or successors thereof, their officers, directors, agents, employees, and all persons acting or claiming to act on their behalf be enjoined and restrained from continuing, maintaining, reviving, or renewing the aforesaid combination and conspiracy, and from engaging in any other combination, conspiracy, agreement, practice, understanding, or concert of action having a similar purpose or effect.

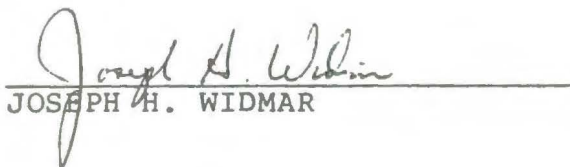
3. That the defendants, including any subsidiaries or successors thereof, their officers, directors, agents, employees, and all persons acting or claiming to act on their behalf be enjoined and restrained from exchanging directly or indirectly any prices, costs, or information relating to prices or costs of fluid milk or other dairy products.

4. That the plaintiff have such other and further relief as the nature of the case may require and the Court may deem just and proper.

5. That the plaintiff recover its taxable costs.


SANFORD M. LITVACK

DONALD S. SCHERZER


JOSEPH H. WIDMAR

RICHARD E. REED

JOHN A. WEEDON

PAUL L. BINDER

DAVID F. HILS

Attorneys
Department of Justice

Attorneys, Department of Justice
Antitrust Division
995 Celebrezze Federal Building
Cleveland, Ohio 44199
Telephone: 216-522-4082

JAMES R. WILLIAMS
United States Attorney