

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

UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, )  
 ) Civil Action No. C-80-1893  
 v. )  
 ) Filed: October 10, 1980  
 FIRST NATIONAL SUPERMARKETS, )  
 INC., dba PICK-N-PAY )  
 SUPERMARKETS; )  
 FISHER FOODS, INC., dba )  
 FAZIO'S; and )  
 ASSOCIATION OF STOP-N-SHOP )  
 SUPER MARKETS, )  
 )  
 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 violations 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) "grocery products" means dry groceries, dairy products, frozen foods, non-alcoholic beverages, pet foods, paper goods, detergents, and other such products commonly sold in a grocery store;
- (b) "meat items" means those portions of animals in whatever form, including beef, pork, and poultry, commonly sold in a grocery store;
- (c) "advertised prices" means those prices contained in advertisements in newspapers of general circulation.

III

DEFENDANTS

4. Each of the corporations named below is hereby made a defendant herein. During the period covered by this Complaint, each of said corporations was engaged in the retail sale of grocery products and meat in Cuyahoga County, Ohio. Each is incorporated and exists under the laws of the state listed opposite its name and has its principal place of business at the place listed.

<u>Name of Corporation</u>	<u>State of Incorporation</u>	<u>Principal Place of Business</u>
First National Supermarkets, Inc., dba Pick-N-Pay Supermarkets	Massachusetts	Maple Heights, Ohio
Fisher Foods, Inc., dba Fazio's	Ohio	Bedford Heights, Ohio

5. The Association of Stop-N-Shop Super Markets is hereby made a defendant herein. The Association of Stop-N-Shop Super Markets is a voluntary association of retail food corporations. During the period covered by this Complaint, the Association of Stop-N-Shop Super Markets and its members engaged in the retail sale of grocery products and meat in Cuyahoga County, Ohio. The principal place of business of the Association of Stop-N-Shop Super Markets is in Bedford Heights, Ohio.

IV

CO-CONSPIRATORS

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

V

TRADE AND COMMERCE

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

8. During the period covered by this Complaint, the defendants engaged in the retail sale of grocery products and meat to consumers in Cuyahoga County, Ohio. Substantial quantities of said grocery products and meat were purchased directly by the defendants from manufacturers, or from brokers and wholesalers.

9. During the period covered by this Complaint, the defendants purchased and received substantial quantities of grocery products and meat, whether direct from the manufacturer or through brokers and wholesalers, that were shipped in interstate commerce and moved in a continuous and uninterrupted flow from the out-of-state suppliers into Cuyahoga County, Ohio.

10. During the period covered by this Complaint, the defendants were among the leading retail sellers of grocery products and meat in Cuyahoga County, Ohio. In the period 1977 through 1978, the defendants had total gross sales in Cuyahoga County, Ohio of approximately \$1.1 billion.

VI

VIOLATION ALLEGED

11. Beginning at least as early as August 1977 and continuing at least until October 1978, 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.

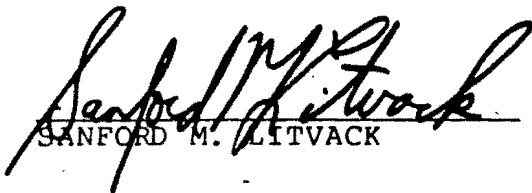
12. The aforesaid combination and conspiracy consisted of a continuing agreement, understanding, and concert of action among the defendants and co-conspirators to fix, raise, stabilize, and maintain the advertised prices and everyday shelf prices of grocery products and the advertised prices of some meat items sold to consumers in Cuyahoga County, Ohio.

13. 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.

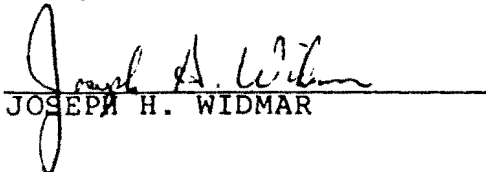
3. That the defendants, including any subsidiaries or successors thereof, their officers, directors, members, agents, employees, and all persons acting or claiming to act on their behalf be enjoined and restrained from exchanging, directly or indirectly, any prices, costs, or information relating to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

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

Attorneys  
Department of Justice

\_\_\_\_\_  
JAMES R. WILLIAMS  
United States Attorney