

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

SOUTHWESTERN PEANUT SHELLERS  
ASSOCIATION,

Defendant.

CIVIL ACTION NO CA-3-6028

FILED: June 30, 1972

COMPLAINT

The United States of America, plaintiff, 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 above-named defendant, and complains and alleges as follows:

I

JURISDICTION AND VENUE

1. This Complaint is filed and these proceedings are instituted under Section 4 of the Act of Congress of July 2, 1890, as amended, 15 U.S.C. §4, commonly known as the Sherman Act, in order to prevent and restrain the continuing violation by the defendant, as hereinafter alleged, of Section 1 of said Act, 15 U.S.C. §1.

2. The defendant maintains offices, transacts business and is found within the Northern District of Texas, Dallas Division.

## II

### THE DEFENDANT

3. The Southwestern Peanut Shellers Association (hereinafter referred to as Southwestern), a non-profit corporation organized and existing under the laws of the State of Texas and having its principal place of business in Dallas, Texas, is named as defendant herein. Southwestern is a trade association whose active members are approximately seventeen peanut shelling firms located in the states of Texas, New Mexico and Oklahoma. Southwestern also admits brokers and others connected with the peanut industry as non-voting members.

## III

### THE CO-CONSPIRATORS

4. Various members of Southwestern who participated in the offense alleged herein and performed acts and made statements in furtherance thereof are not named as defendants herein but are named as co-conspirators.

## IV

### NATURE OF INTERSTATE TRADE AND COMMERCE

5. Members of defendant are engaged in the business of purchasing peanuts from farmers, removing the hulls, sizing the shelled peanuts into various grades, removing the defective shelled peanuts, having the shelled peanuts graded by the Federal and State Inspection Service, and selling the shelled peanuts through brokers to farmers for seed purposes, and to manufacturers of peanut products. In 1970 members of Southwestern purchased approximately 175,000 tons of peanuts grown in the states of Texas,

New Mexico and Oklahoma and after shelling, sold them through brokers and other channels of interstate commerce to customers located in these and other states. The 1970 sales of shelled peanuts by members of Southwestern were approximately \$52,000,000, an amount equal to approximately seventeen percent of the total sales of edible peanuts grown in the United States in that year. Most of these sales were made through independent brokers whose commission for performing this service is calculated as a percentage of the sales value of the peanuts.

V

OFFENSE CHARGED

6. Since at least as early as 1967 and continuing up to and including the date of the filing of this Complaint, the defendant and co-conspirators have been continuously engaged in an unlawful combination and conspiracy to restrain the aforesaid trade and commerce in the sale of shelled peanuts in violation of Section 1 of the Sherman Act.

7. The aforesaid combination and conspiracy has consisted of a continuing agreement and concert of action between and among the defendant and co-conspirators to fix and maintain uniform commission rates paid by them to brokers, to establish uniform terms for the sale of shelled peanuts, and to refuse to deal with some brokers. Said unlawful combination and conspiracy will continue unless the relief hereinafter prayed for is granted.

8. In effectuating the aforesaid combination and conspiracy the defendant and co-conspirators have done the things which, as hereinbefore alleged, they combined

and conspired to do, including, among other things, the following:

- (a) Agreed to pay a uniform rate of commission to brokers;
- (b) Agreed on the amounts by which contract prices would be increased in the event delivery time was extended;
- (c) Agreed on the amounts by which contract prices would be reduced for damaged, split or broken peanuts;
- (d) Published, circulated and adhered to the agreed upon uniform commission rates, contract price increases and contract price reductions;
- (e) Agreed to standard contracts which incorporated the agreed upon uniform commission rates, contract price increases and contract price reductions;
- (f) Adhered to the use of such standard contracts;
- (g) Agreed to other uniform terms and conditions for the sale of shelled peanuts; and
- (h) Agreed to deal only with recognized brokers.

## VI

### EFFECTS

9. The aforesaid combination and conspiracy has had the following effects, among others:

- (a) Commission rates for the sale of shelled peanuts have been fixed and maintained at an artificial and non-competitive level;
- (b) Price competition in the purchase of the services of brokers of shelled peanuts has been eliminated;
- (c) Brokers of shelled peanuts have been denied the right to deal with members of the defendant association; and
- (d) Competition in establishing the terms and conditions upon which shelled peanuts are offered for sale has been restrained.

PRAYER

WHEREFORE, plaintiff prays:

1. That the Court adjudge and decree that the defendant and co-conspirators have engaged in a combination and conspiracy in unreasonable restraint of the aforesaid trade and commerce in shelled peanuts in violation of Section 1 of the Sherman Act.

2. That the defendant, its officers, directors and agents and all other persons acting or claiming to act on its behalf, and each of its members, be enjoined and restrained from, in any manner, directly or indirectly, continuing, maintaining, or renewing the combination and conspiracy hereinbefore alleged, or from engaging in any other combination, conspiracy, contract, agreement, understanding, or concert of action having a similar purpose or effect, and from adopting or following any practices, plan, program or device having a similar purpose or effect.

3. That the defendant, its officers, directors and agents and all other persons acting or claiming to act on its behalf, and each of its members, be enjoined and restrained

- (a) From publishing, adopting, distributing or otherwise adhering or agreeing to adhere to any schedule of or other recommendation concerning amounts to be paid for any goods or services, amounts to be charged or credited to buyers of shelled peanuts for any reason or the terms or conditions upon which shelled peanuts will be sold;
- (b) From convincing or attempting to convince members of Southwestern, or any other person, to adhere to any such schedule or recommendation; and
- (c) From in any way restricting or attempting to restrict the persons with whom any member of Southwestern, or any other person, can deal.

4. That the plaintiff have such other, further, general and different relief as the case may require and the Court may deem just and proper under the circumstances.

5. That the plaintiff recover its taxable costs.



RICHARD G. KLEINDIENST  
Attorney General



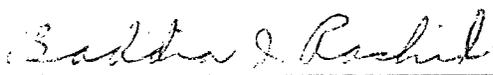
SAMUEL B. PREZIS



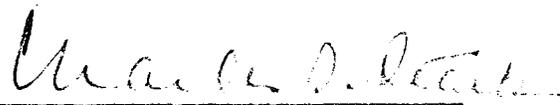
WALKER B. COMEGYS  
Acting Assistant Attorney General



D. BRUCE PEARSON



BADDIA J. RASHID



CHARLES S. STARK



GERALD A. CONNELL

Attorneys, Department of Justice

Attorneys, Department of  
Justice

UNITED STATES ATTORNEY