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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH
NORTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

BEATRICE FOODS CO.; FEDERATED
DAIRY FARMS, INC.; and HI-LAND
DAIRYMAN'S ASSOCIATION,

Defendants.

Civil No. NC-3869

Entered: Feb. 11, 1971

PARTIAL FINAL JUDGMENT AGAINST DEFENDANTS,
FEDERATED DAIRY FARMS, INC. AND HI-LAND
DAIRYMAN'S ASSOCIATION

Plaintiff United States of America, having filed its
complaint herein on June 26, 1969, and the consenting
defendants, Federated Dairy Farms, Inc. and Hi-Land Dairy-
man's Association, having appeared by their respective
attorneys and having filed their respective answers to such
complaint denying the substantive allegations thereof; and
plaintiff and consenting defendants, by their respective
attorneys, having separately consented to the making and
entry of this Partial Final Judgment pursuant to stipulation
entered into on **January 6, 1971** without trial or
adjudication of or finding on any issue of fact or law here-
in, and no testimony having been taken herein and without

1 this Partial Final Judgment constituting any evidence
2 against or admission by any party to said stipulation with
3 respect to any such issue and upon consent of the parties
4 hereto,

5 IT IS HEREBY ORDERED, ADJUDGED AND DECREED as follows:

6 I

7 This Court has jurisdiction of the subject matter
8 herein and of the consenting defendants. The complaint
9 herein having presented more than one claim for relief and
10 dismissal being sought as to Counts I and II as to the
11 consenting defendants, the Court having considered all
12 facts and circumstances in this case hereby determines that
13 there is no just reason for delay and directs entry of this
14 Partial Final Judgment as to the claim made in Count III.

15 The complaint herein in Count III states a claim upon
16 which relief may be granted against said consenting
17 defendants under Section 1 of the Act of Congress of July 2,
18 1890, entitled "An Act to protect trade and commerce against
19 unlawful restraints and monopolies," commonly known as the
20 Sherman Act, as amended (15 U.S.C. § 1).

21 II

22 As used in this Partial Final Judgment:

23 (a) "Consenting defendants" means the
24 defendants Federated Dairy Farms, Inc. and
25 Hi-Land Dairyman's Association;

26 (b) "Raw milk" means unprocessed cows'
27 milk sold or delivered by producers to dis-
28 tributors for processing into dairy products;

29 (c) "Dairy products" means end products
30 which have been processed from raw milk and,
31 in addition, means related products which are
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not processed from raw milk but which are usually marketed by distributors. "Dairy products" includes but is not limited to pasteurized and homogenized milk; two-percent milk; skim milk; buttermilk; whipping and table cream; half and half; sour cream; cottage cheese; chocolate and orange drinks; ice creams and ice milk; sherbets; popsicles and other novelties;

(d) "Distributor" means any corporation, co-operative, partnership, firm or individual which either processes raw milk into dairy products or purchases dairy products from processors, and which sells and distributes dairy products to, among others, whole sale customers including grocery stores and retail customers including home delivery purchasers and purchasers at milk depots;

(e) "Wholesale prices" means those list prices, discounts and other terms and conditions of sale at which dairy products are to be sold by distributors to grocery stores and other retail outlets;

(f) "Retail prices" means those list prices, discounts and other terms and conditions of sale at which dairy products are to be sold to home delivery customers and other customers

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III

The provisions of this Partial Final Judgment applicable to any consenting defendant shall apply to such consenting defendant, its subsidiaries, successors and assigns and to their respective officers, directors, agents and employees, and to all persons in active concert or participation with any of them who receive actual notice of this Partial Final Judgment by personal service or otherwise.

IV

Each consenting defendant is enjoined and restrained from directly or indirectly in any manner entering into, adhering to, or claiming or maintaining any right under any contract, agreement, arrangement, understanding, plan or program with any other distributor:

(a) to fix, raise, maintain or stabilize wholesale prices for the sale of dairy products;

(b) to fix, raise, maintain or stabilize retail prices for the sale of dairy products;

(c) to submit collusive or rigged bids on dairy products to the United States of America or any instrumentality or agency thereof, to the State of Utah or any instrumentality or agency thereof, or to any other customer;

(d) to allocate, rotate or divide sales territories or any dairy product business among distributors.

V

Each consenting defendant is enjoined and restrained from:

(a) communicating with any other distributor

1 concerning prices and terms or conditions of
2 sale for dairy products bid or to be bid to
3 any third person prior to the bid opening of
4 any such bid, or, in the absence of a bid
5 opening, prior to the release by such third
6 person of such information publicly or to the
7 trade in general;

8 (b) communicating with any other distributor
9 concerning wholesale prices or retail prices
10 of said consenting defendant at any time prior
11 to the release of such prices publicly or to the
12 trade in general.

13 VI

14 Each consenting defendant is ordered and directed for
15 a period of five years from the date of the entry of this
16 Partial Final Judgment, to attach to each bid submitted by
17 it to any federal, state or local governmental authority,
18 agency or instrumentality thereof for the sale of dairy
19 products, a written certification by an officer or an
20 employee of such consenting defendant regularly having the
21 authority to determine the price for the type of bid in-
22 volved, which certification shall be substantially identical
23 to the language contained in Appendix A attached hereto
24 and made a part hereof.

25 VII

26 Each of the consenting defendants is ordered and
27 directed to:

28 (A) Serve within thirty (30) days after the
29 entry of this Partial Final Judgment a conformed copy of
30 this Partial Final Judgment upon each of its respective
31 officers, directors, managing agents and employees
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1 (excluding wholesale and retail truck drivers) who have any
2 responsibility for establishing wholesale prices, retail
3 prices or bids for the sale of dairy products by such
4 consenting defendant;

5 (B) Serve forthwith upon each successor officer,
6 director, managing agent and employee (excluding wholesale
7 and retail truck drivers) who shall have any responsibility
8 for establishing the wholesale prices, retail prices or
9 bids for the sale of dairy products by such consenting
10 defendant a conformed copy of this Partial Final Judgment;

11 (C) Maintain such records as will show the name,
12 title and address of each such officer, director, managing
13 agent and employee upon whom the Partial Final Judgment
14 has been served, as described in subparagraphs (A) and (B)
15 above, together with the date on which service was made;

16 (D) Advise and inform each such officer, director,
17 managing agent and employee upon whom the Partial Final
18 Judgment has been served as described in subparagraphs (A)
19 and (B) above, that violation by him of the terms of this
20 Partial Final Judgment could result in a conviction for
21 contempt of court and could subject him to imprisonment
22 and/or a fine.

23 VIII

24 (A) For the purpose of determining or securing
25 compliance with this Partial Final Judgment, and for no
26 other purpose, and subject to any legally recognized
27 privilege, duly authorized representatives of the Department
28 of Justice shall, upon the written request of the Attorney
29 General, or the Assistant Attorney General in charge of the
30 Antitrust Division, upon reasonable notice to any consenting
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1 defendant made to its principal office, be permitted:

2 (a) access, during the office hours of
3 said consenting defendant, and in the presence
4 of counsel if said defendant chooses, to all
5 books, ledgers, accounts, correspondence, memo-
6 randa, and other records and documents in the
7 possession of or under the control of said
8 consenting defendant relating to any of the
9 matters contained in this Partial Final
10 Judgment; and

11 (b) subject to the reasonable convenience
12 of said consenting defendant and without re-
13 straint or interference from it, to interview
14 the officers and employees of said consenting
15 defendant, who may have counsel present,
16 regarding any such matters.

17 (B) Upon the written request of the Attorney
18 General or the Assistant Attorney General in charge of the
19 Antitrust Division, made to its principal offices, each of
20 the consenting defendants shall submit such written reports
21 with respect to any of the matters contained in this Partial
22 Final Judgment as from time to time may be requested for the
23 enforcement of this Partial Final Judgment.

24 (C) No information obtained by the means provided
25 in this Section VIII shall be divulged by any representative
26 of the Department of Justice to any person other than a duly
27 authorized representative of the Executive Branch of the
28 plaintiff except in the course of legal proceedings to which
29 the United States is a party for the purpose of securing
30 compliance with this Partial Final Judgment, or as otherwise
31 required by law.
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IX

Jurisdiction is retained for the purpose of enabling any of the parties to this Partial 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 Partial Final Judgment or for the modification or termination of any of the provisions thereof, and for the enforcement of compliance therewith and punishment of violations thereof.

Dated this 11th day of February, 1971.

BY THE COURT:

/s/ A. SHERMAN CHRISTENSEN
A. Sherman Christensen
UNITED STATES DISTRICT JUDGE

APPENDIX A

1
2 By submitting this bid the undersigned hereby certi-
3 fies that said bid has not been made or prepared in collusion
4 with any other distributor of dairy products and that the
5 prices, terms or conditions applicable to the sale thereof
6 have not been communicated by or on behalf of the bidder to
7 any other distributor and will not be so communicated to any
8 other distributor prior to the official opening of said bid
9 in violation of any decree entered against bidder by the
10 United States District Court for the District of Utah
11 (Northern Division) which may be applicable to said bid.

12 Dated:

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16 Signature of Officer or Employee of
the Consenting Defendant
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