

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. Savannah Cotton and Naval Stores Exchange, Inc., Turpentine and Rosin Factors, Inc., Pine Tree Products, Inc., Columbia Naval Stores Co. of Savannah, Georgia, Columbia Naval Stores Co. of Hazelhurst, Georgia, Columbia Naval Stores Co. of Fitzgerald, Georgia, Columbia Naval Stores Co. of Jesup, Georgia, and Columbia Naval Stores Co. of Tifton, Georgia., U.S. District Court, S.D. Georgia, 1950-1951 Trade Cases ¶62,929, (Oct. 18, 1951)

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United States v. Savannah Cotton and Naval Stores Exchange, Inc., Turpentine and Rosin Factors, Inc., Pine Tree Products, Inc., Columbia Naval Stores Co. of Savannah, Georgia, Columbia Naval Stores Co. of Hazelhurst, Georgia, Columbia Naval Stores Co. of Fitzgerald, Georgia, Columbia Naval Stores Co. of Jesup, Georgia, and Columbia Naval Stores Co. of Tifton, Georgia.

1950-1951 Trade Cases ¶62,929. U.S. District Court, S.D. Georgia, Savannah Division. No. 559, Dated October 18, 1951.

Sherman Antitrust Act

Consent Decree—Price Fixing and Price Reporting Activities—Furnishing of Information Required—Amendment of Rules Required.—In a consent decree entered in a suit against a naval stores exchange and naval stores companies for conspiring to fix the price of crude gum, rosins, and turpentine and the posting of fictitious prices of such products, the exchange is enjoined from disseminating any price which is not a price at which such products were in fact, sold; is ordered to terminate, twelve months following entry of this decree, all activities unless within thirty days prior to the expiration of said twelve months the exchange moves the court to amend and the exchange establishes that the continued operation of the exchange is in the public interest; and is ordered to amend its rules and by-laws to prevent any member from purchasing on the exchange, prevent any member buying or processing crude gum or making first sales of the derivatives of crude gum from purchasing on the exchange, and require each member to report to a service designated by the United States Department of Agriculture such information as may be requested. The naval stores companies are enjoined from refusing to comply with the request of a service designated by the United States Department of Agriculture for information as may be requested, inducing any person to fail to comply with such requests, and buying on the exchange.

For the plaintiff: H. G. Morison, Assistant Attorney General; J. Saxton Daniel, United States Attorney; Sigmund Timberg, Allen A. Dobey, Wm. D. Kilgore, Jr., and John H. D. Wigger, Attorneys for the United States.

For the defendants: W. W. Douglas of Douglas, McWhorter and Adams, for the Columbia Naval Stores companies; Dunbar Harrison of Hitch and Harrison, for Turpentine and Rosin Factors, Inc. and Pine Tree Products, Inc.; Alex A. Lawrence of Bouhan, Lawrence, Williams and Levy, for Savannah Cotton and Naval Stores Exchange, Inc.

Final Judgment

SCARLETT, District Judge: [*In full text*] Plaintiff, United States of America, having filed its Complaint herein on October 11, 1950; defendants having filed their answers to the Complaint denying the substantive allegations thereof; and plaintiff and defendants by their attorneys having severally consented to the entry of this Final Judgment without adjudication of any issue of fact or law herein, and without admission by any defendant in respect of any such issue;

Now, therefore, before any testimony has been taken herein and without trial or adjudication of any issue of fact or law herein, and upon the aforesaid consent of all parties hereto, it is hereby

Ordered, adjudged and decreed as follows:

I

[*Sherman Antitrust Act*]

This Court has jurisdiction of the subject matter herein and of all the parties hereto, and the Complaint states a cause of action against the defendants under Section 1 of the Act of Congress of July 2, 1890, entitled "An Act to Protect Trade and Commerce Against Unlawful Restraints and Monopolies", as amended.

II

[*Applicability of Judgment*]

The provisions of this Final Judgment applicable to any defendant shall apply to such defendant, its officers, directors, members, agents, employees, subsidiaries, successors and assigns, any person having a controlling influence in such defendant, and all other persons acting under, through or for such defendant.

III

[*Definitions*]

As used in this Final Judgment:

(A) "Exchange" shall mean Savannah Cotton and Naval Stores Exchange, Inc., a corporation organized and existing under the laws of the State of Georgia;

(B) "Columbia defendants" shall mean defendants Columbia Naval Stores Company of Savannah, Georgia, Columbia Naval Stores Company of Hazelhurst, Georgia, Columbia Naval Stores Company of Fitzgerald, Georgia, Columbia Naval Stores Company of Jesup, Georgia, and Columbia Naval Stores Company of Tifton, Georgia, or any of them;

(C) "T & R defendants" shall mean defendants Turpentine and Rosin Factors, Inc. and Pine Tree Products, Inc., or either of them;

(D) "Crude gum" shall mean the gum originally produced by scarifying living pine trees;

(E) "Rosin and turpentine" shall mean gum rosin and gum turpentine obtained by distillation of crude gum, or either of them, or any grade thereof;

(F) "Person" shall mean an individual, partnership, firm, association, corporation, cooperative or other legal or business entity.

IV

[*Activities of Exchange Terminated*]

Defendant Exchange is ordered and directed to terminate, twelve months following entry of this Final Judgment, all activities of said defendant relating to rosin and turpentine, and is perpetually enjoined from thereafter conducting or engaging in, directly or indirectly, any such activities, unless the defendant Exchange moves this Court, within thirty days prior to the expiration of said twelve months, to amend this Section IV and, on such motion, the defendant establishes, and the Court finds, that the continued operation of the defendant Exchange is in the public interest. Any such motion by the defendant Exchange shall be upon reasonable notice to the Attorney General with an opportunity on the part of the latter to be heard.

V

[*Amendment of Rules of Exchange Ordered*]

(A) Defendant Exchange is ordered and directed forthwith to amend its rules, regulations and by-laws and to take such other steps as are necessary or appropriate to:

(1) Prevent any member, or any other person which sells or offers for sale any rosin or turpentine on the Exchange, from purchasing or bidding for, or causing to be purchased or bid for, directly or indirectly, any rosin or turpentine on the Exchange;

(2) Prevent any member or any other person engaged in, or having any affiliation whatsoever with any person engaged in, buying or processing crude gum or making first sales of the primary derivatives of crude gum, from purchasing or bidding for, or causing to be purchased or bid for, directly or indirectly, any rosin or turpentine on the Exchange;

(3) Require each member and each person authorized to buy or sell on the Exchange to report to an independent reporter or service designated by the United States Department of Agriculture such information as to purchases and sales of crude gum and rosin and turpentine as may be requested by said reporter or service.

(B) In the event that any member, or any other person authorized to buy or sell on the Exchange, refuses to comply with the reporting program referred to in subsection (A)(3) of this Section V, defendant Exchange is ordered and directed forthwith to expel such member from the Exchange, and to forbid that member or such other person, as the case may be, from utilizing, directly or indirectly, the facilities of the Exchange.

VI

[Dissemination of Prices Prohibited]

Defendant Exchange is perpetually enjoined and restrained from posting, publishing or disseminating any price for rosin or turpentine, including, but not limited to, any price based on weighted averages or any price for a grade based on prices for other grades, which is not the sales price at which rosin and turpentine were in fact sold on the Exchange.

VII

[Refusing to Furnish Information Prohibited]

Each of the Columbia defendants and T & R defendants is enjoined and restrained from:

(A) Refusing to comply with the request of an independent reporter or service designated by the United States Department of Agriculture for such information as to purchases and sales of crude gum and rosin and turpentine as may be requested by said reporter or service;

(B) Causing, coercing or inducing, in any manner, any person to fail to comply or cooperate with the request of an independent reporter or service designated by the United States Department of Agriculture for such information as to purchases and sales of crude gum and rosin and turpentine as may be requested by said reporter or service;

(C) Buying or bidding for, or causing to be bought or bid for, directly or indirectly, any rosin or turpentine on the defendant Exchange.

VIII

[Notice of Judgment Ordered]

Each defendant is hereby ordered and directed to give notice of terms of this Final Judgment to its officers, directors, members and subsidiaries, and to take such steps as are necessary to cause such persons to comply with said terms.

IX

[Inspection and Compliance]

For the purpose of securing compliance with this Final Judgment duly authorized representatives of the Department of Justice shall, on written request of the Attorney General or an Assistant Attorney General, and on reasonable notice to any defendant, be permitted reasonable access, during the office hours of such defendant, to all books, ledgers, accounts, correspondence, memoranda, and other records and documents

in the possession or under the control of such defendant, relating to any of the matters contained in this Final Judgment and, subject to the reasonable convenience of such defendant, and without restraint or interference, to interview officers and employees of such defendant, who may have counsel present, regarding any such matters. For the purpose of securing compliance with this Judgment any defendant, upon the written request of the Attorney General or an Assistant Attorney General, shall submit such written reports with respect to any of the matters contained in this Final Judgment as from time to time may be necessary for the purpose of enforcement of this Judgment. No information obtained by the means permitted in this Section shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Department except in the course of a legal proceeding for the purpose of securing compliance with this Final Judgment in which the United States is a party, or as otherwise required by law.

X

[*Jurisdiction Retained*]

Jurisdiction of this action is retained 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 Judgment, for the modification or termination of any of the provisions thereof, for the enforcement of compliance therewith and the punishment of violations thereof.