

# Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. The Shade Tobacco Growers Agricultural Association, Inc., et al., U.S. District Court, D. Connecticut, 1954 Trade Cases ¶67,751, (May 10, 1954)

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United States v. The Shade Tobacco Growers Agricultural Association, Inc., et al.

1954 Trade Cases ¶67,751. U.S. District Court, D. Connecticut. Civil Action No. 3992. Dated May 10, 1954.. Case No. 1144 in the Antitrust Division of the Department of Justice.

## Sherman Antitrust Act

**Consent Decree—Practices Enjoined—Limitation of Production—Trade Associations.**—An association of tobacco producers and its members were each enjoined by a consent decree from limiting the production of Connecticut Valley shade grown tobacco by agreement with any other defendant or any grower or by use of the facilities of the defendant trade association or any similar organization of the defendants.

**Consent Decree.—Permissive Provisions.**—In an action against a tobacco growers association and its members a consent decree provided that nothing contained in the decree shall be deemed to prohibit any defendant from acting with any other defendant or with any grower in establishing common policies with regard to participation in endeavors to obtain legislation affecting the growing of tobacco, activities authorized by Federal or State administrative agencies, or with regard to leases of land, joint contracts relating to the growing or purchase of the crop of any grower, or with regard to the procurement and allocation of foreign and domestic labor.

For the plaintiff: Stanley N. Barnes, Assistant Attorney General; William D. Kilgore, Jr.; Worth Rowley; Richard B. O'Donnell; Vincent A. Gorman; John J. Galgay; William J. Elkins.

For the defendants: Solomon Eisner and Aaron Nassau for The Shade Tobacco Growers Agricultural Assn., Inc.; Alexander T. Douglas of Bainton, Devlin, Douglas & Voorhees for American Sumatra Tobacco Corp.; Paul, Weiss, Rifkind, Wharton & Garrison for Cullman Bros., Inc., and H. Duys & Co., Inc.; Joseph V. Kline of Mudge, Stern, Williams & Tucker for General Cigar Co., Inc.; Harry L. Nair for The Hartman Tobacco Co.; A. Arthur Miller of Fox, Rothschild, O'Brien & Frankel for Meyer & Mendelsohn, Inc.; Edward S. Rogin for Kohn Bros. Tobacco Co., Inc., L. H. Grant, B. R. Grant, J. Ford Ransom, and Wilhelmina F. Ransom; Solomon Eisner and Aaron Nassau for V. C. Brewer & Son, Inc., The Griffin-Fuller Tobacco Co., H. C. Thrall & Sons, O. J. Thrall, Inc., F. B.: Arnold, C. J. Arnold, F. M. Arnold, R. E. Arnold, William P. Haas, William P. Haas, Jr., Victor Fassler, Charles A. Huntington, Jr., William C. Huntington, Ernest S. Clark, Jr., Richard C. Clark, G. F. Woodford. Hubbell F. Brown, Tudor F. Holcomb, and Nelson A. Shepard; and Maass, Davidson, Levy, Friedman & Weston for Consolidated Cigar Corp.

## Final Judgment

[ *Consent Decree* ]

J. JOSEPH SMITH, District Judge [ *In full text* ]: The plaintiff, United States of America, having filed its complaint herein on September 9, 1952, and all the defendants signatory hereto having appeared herein and severally filed their answers to such complaint denying the substantive allegations thereof and denying any violation of the law as alleged in the complaint; and all the parties signatory hereto by their attorneys having severally consented to the entry of this Final Judgment herein without trial or adjudication of any issue of fact or law herein, and without constituting evidence or admission by any defendant in respect to any such issue;

Now, therefore, before any testimony or evidence has been taken herein, and without trial or adjudication of any issue of fact or law herein, and upon the consent of all the parties signatory hereto, it is hereby ordered, adjudged and decreed as follows:

I.

[ *Sherman Act*]

The Court has jurisdiction of the subject matter herein and all the parties signatory hereto. The complaint states a cause of action against the defendants signatory hereto and each of them under Section I of the Act of Congress of July 2, 1890 entitled "An Act to protect trade and commerce against unlawful restraints and monopolies", commonly known as the Sherman Act, as amended.

II

[ *Definitions*]

For the purposes of this Final Judgment:

- (A) "Connecticut Valley Shade Grown Tobacco" shall mean leaf tobacco which is used as a wrapper to enclose the filler and binder of cigars and which is grown under cloth in the Connecticut Valley area;
- (B) "Grower" shall mean any person engaged in the business of growing and selling Connecticut Valley Shade Grown Tobacco;
- (C) "Person" shall mean an individual, partnership, firm, association, corporation or other legal entity;
- (D) "Defendants" shall mean each and all of the defendants signatory hereto.

III.

[ *Applicability of Judgment*]

The provisions of this Final Judgment applicable to any defendant shall apply to such defendant, its subsidiaries, officers, directors, agents and employees, and to all other persons acting or claiming to act on behalf of such defendant.

IV.

[ *Limitation of Production*]

Each of the defendants is enjoined and restrained from:

- (A) Entering into any contract, agreement, plan, or understanding, or adhering to any heretofore existing contract, agreement, plan or understanding, with any other defendant or any grower to reduce, curtail or limit the production of Connecticut Valley shade grown tobacco;
- (B) Using or permitting to be used the facilities or organization of defendant Shade Tobacco Growers Agricultural Association, Inc., or any similar organization of such defendants, or any of them, to promulgate, adopt, carry out or enforce any contract, agreement, plan or understanding to reduce, curtail or limit the production of Connecticut Valley shade grown tobacco.

V.

[ *Publicity*]

Defendant Shade Tobacco Growers Agricultural Association, Inc., is ordered and directed to send a copy of this Final Judgment (a) forthwith to each present member thereof and (b) to each person becoming a member thereof after the date of entry of this Final Judgment within 30 days after such person becomes a member.

VI.

[ *Permissive Provisions*]

Without hereby determining, adjudicating or affecting the legality or illegality under the antitrust laws of the common policies and agreements hereafter referred to, the provisions of this Final Judgment shall not be

deemed to prohibit any defendant from acting with any other defendant or with any grower in establishing and executing such common policies and activities as are appropriate:

(A) To participation in endeavors to obtain the amendment of the Agricultural Adjustment Act, so-called, so as to cover Connecticut Valley shade grown tobacco thereunder, or to obtain the enactment of any legislation affecting the growing or marketing of such tobacco or to obtain the adoption, amendment or repeal of any regulation, order, decision or ruling under any such legislation;

(B) To activities authorized by Federal or State laws or regulations or orders duly issued by Federal or State administrative officials, agencies or boards having authority to issue the same;

(C) To entering into bona fide leases of land for the growing of Connecticut Valley shade grown tobacco, bona fide joint accounts or contracts relating to the growing or purchase of all or any part of the crop of any grower, or to the procurement and allocation of foreign and domestic labor, or to other agreements necessary to such undertakings.

## VII.

### [ *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 the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to any defendant made to its principal office, be permitted subject to any legally recognized privilege, (a) 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 matters contained in this Final Judgment, and (b) 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 Final Judgment the defendants upon the written request of the Attorney General, or the Assistant Attorney General in charge of the Antitrust Division, 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 Final Judgment. No information obtained by the means permitted in this Section VII 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 legal proceedings for the purpose of securing compliance with this Final Judgment in which the United States is a party or as otherwise required by law.

## VIII.

### [ *Jurisdiction Retained* ]

Jurisdiction of this Court is retained for the purpose of enabling any of the parties to this Final Judgment to apply to the Court at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the modification or termination of any of the provisions thereof, for the enforcement of compliance therewith and punishment of violations thereof.