

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

UNITED STATES OF AMERICA,)

Plaintiff,)

v.)

THE E.H. KOESTER BAKERY)
COMPANY,)
SCHMIDT BAKING COMPANY)
INCORPORATED and)
THE HAUSWALD BAKERY,)

Defendants.)

Civil No. 71-822HM

Entered: November 27, 1972

FINAL JUDGMENT

Plaintiff, United States of America, having filed its Complaint herein on July 29, 1971 and the defendants, by their respective attorneys, having consented to the entry of this Final Judgment, pursuant to a Stipulation entered into on October 25, 1972, without trial or adjudication of any issue of fact or law herein, and without admission by any party in respect to any such issue, and without this Final Judgment constituting evidence with respect to any such issue;

NOW, THEREFORE, before the taking of any testimony and upon the consent of the parties hereto, it is hereby ORDERED, ADJUDGED and DECREED as follows:

I

This Court has jurisdiction of the subject matter hereof and of the parties consenting hereto. The Complaint states claims against the defendants upon

which relief may be granted 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 (15 U.S.C. §1), commonly known as the Sherman Act.

II

As used in this Final Judgment:

(A) "Person" means any individual, partnership firm, corporation, association or other business or legal entity;

(B) "Bakery Products" means any type of bread, bread type buns or rolls, and sweet goods.

III

The provisions of this Final Judgment applicable to any defendant shall also apply to each of its officers, directors, agents, employees, subsidiaries, successors and assigns, and to all other persons in active concert or participation with any of them who shall have received actual notice of this Final Judgment by personal service or otherwise.

IV

Each defendant is enjoined and restrained from entering into, adhering to, maintaining or furthering any contract, agreement, understanding, plan or program with any other person, directly or indirectly to:

(A) Fix, determine, maintain or stabilize prices, discounts, or other terms or conditions for

the sale of any bakery product to any third person;

(B) Communicate to or exchange with any other person selling any bakery product any actual or proposed price, price change, discount, or other term or condition of sale at or upon which any bakery product is to be, or has been, sold to any third person prior to the communication of such information to the public or trade generally.

V

Each defendant is enjoined and restrained directly or indirectly from communicating to any other person selling any bakery product, any actual or proposed price, price change, discount, or other term or condition of sale at or upon which any bakery product is to be sold by the defendant, or such other person to any third person, prior to the communication of such information to the public or trade generally.

VI

Each defendant is ordered and directed:

(A) Within thirty (30) days after the date of entry of this Final Judgment, independently and individually, to review and determine its prices, discounts, terms and conditions for the sale of each bakery product (other than sweet goods) sold out of its Baltimore plant and to issue new price lists based upon such review; and within forty-five (45) days after the date of entry of this Final Judgment,

to file with the Court and serve upon the plaintiff an affidavit as to the fact and manner of compliance with this Section VI(A), including a statement setting forth the method used to review and determine such prices, discounts, and terms and conditions for sale of bakery products.

(B) Within ninety (90) days after the date of entry of this Final Judgment, to furnish a copy thereof to each of its officers and directors and to each of its plant managers, and to file with this Court and serve upon the plaintiff an affidavit as to the fact and manner of its compliance with this Section VI(B).

VII

Nothing in this Final Judgment shall be deemed to prohibit the lawful exercise by any defendant of such legal rights, if any, which a defendant may have under the Miller-Tydings Act, 50 Stat. 693 (1937), and the McGuire Act, 66 Stat. 632 (1952).

VIII

For a period of ten (10) years the defendants are ordered to file with the plaintiff, on each anniversary date of this Final Judgment, a report setting forth the steps which each defendant has taken during the prior year to advise each of the defendant's appropriate officers, directors, and employees of its and their obligations under this Final Judgment.

IX

For the purpose of determining or securing compliance with this Final Judgment and for no other purpose, and subject to any legally recognized privilege, upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division and on reasonable notice to a defendant, made through its principal office:

(A) Duly authorized representatives of the Department of Justice shall be permitted:

(1) Access during office hours to all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of defendant, who may have counsel present, relating to any of the subject matters contained in this Final Judgment;

(2) Subject to the reasonable convenience of a defendant, and without restraint or interference from it, to interview officers, directors, employees or agents of the defendant, who may have counsel present, regarding any such matters; and

(B) Defendant shall submit such reports in writing, under oath if so requested, to the Department of Justice with respect to any of the matters contained in this Final Judgment as may from time to time be requested. No information obtained by the means provided in this Section IX shall be divulged by any representative of the Department of Justice to

any person, other than a duly authorized representative of the Executive Branch of the plaintiff; except in the course of legal proceedings to which the United States of America is a party for the purpose of securing compliance with this Final Judgment or as otherwise required by law.

X

Jurisdiction 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 Final Judgment or for the modification of any of the provisions thereof, and for the enforcement thereof.

Dated: November 27, 1972

/s/ HERBERT MURRAY
UNITED STATES DISTRICT JUDGE