

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. National Board of Fur Farm Organizations, Inc., EMBA Mink Breeders Assn., and Great Lakes Mink Assn., U.S. District Court, E.D. Washington, 1977-1 Trade Cases ¶61,522, (Jan. 31, 1977)

[Click to open document in a browser](#)

United States v. National Board of Fur Farm Organizations, Inc., EMBA Mink Breeders Assn., and Great Lakes Mink Assn.

1977-1 Trade Cases ¶61,522. U.S. District Court, E.D. Washington, Civil Action No. 74 Civ. 546, Entered January 31, 1977.

(Competitive impact statement and other matters filed with settlement: 41 *Federal Register* 48384). Case No. 2415, Antitrust Division, Department of Justice.

Sherman Act

Price Fixing: Mink Pelts Industry: Consent Decree.— Mink breeders organizations were enjoined by a consent decree from fixing prices, establishing quotas, restricting quality of import into the United States and exchanging information with other mink breeders organizations as to the sale of mink pelts. They were required to file affidavits describing conferences or meetings attended and to maintain complete minutes of meetings of their committees or groups. The decree ordered the organizations to terminate their membership in, and any association with, the International Mink Marketing Council. It did not prohibit the organizations from exercising such rights as they may have under the laws relating to customs, tariffs, patents or trademarks; from exchanging price information provided it was released to the public and did not involve price fixing; from conducting bona fide arms length negotiations subject to certain conditions; from procuring legislation; and from certain advising and promoting activities.

For plaintiff: Donald I. Baker, Asst. Atty. Gen., William E. Swope, Charles F. B. McAleer, Joel Davidow, and Donald A. Kaplan. **For defendants:** Phillips, Richards & Mayew, for Great Lakes Mink Assn.; Schoone, McManus & Hanson, S. C., for EMBA Mink Breeders Assn., and Natl. Bd. of Fur Farm Organizations, Inc.

Final Judgment

Gordon: Plaintiff, United States of America, having filed its complaint herein on November 19, 1974, and Plaintiff and National Board of Fur Farm Organizations, Inc. ("National Board"), EMBA Mink Breeders Association, a Cooperative ("EMBA") and Great Lakes Mink Association ("GLMA"), (collectively, "Consenting Defendants"), by their attorneys, having consented to the entry of this Final Judgment, without trial or adjudication of any issue of fact or law herein, and without this Final Judgment constituting evidence or an admission by any party consenting hereto with respect to any such issue:

Now, Therefore, without the taking of any testimony and without trial or adjudication of any issue of fact or law herein, and upon the consent of Plaintiff and of each said Consenting Defendant, it is hereby

Ordered, Adjudged and Decreed as Follows:

I

[Jurisdiction]

This Court has jurisdiction over the subject matter hereof and the parties consenting hereto. The Complaint states claims upon which relief may be granted against each Consenting Defendant 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," commonly known as the Sherman Act (15 U. S. C. §1) as amended.

©2017 CCH Incorporated and its affiliates and licensors. All rights reserved.

Subject to Terms & Conditions: http://researchhelp.cch.com/License_Agreement.htm

II

[*Definitions*]

As used in the Final Judgment:

- (A) "Person" means any individual, partnership, firm, corporation, association or other business or legal entity;
- (B) "Mink Pelts" mean ranch raised, raw or dressed, mink skins suitable for sale for use in the manufacture of fur garments;
- (C) "Floor Price" means any selling price at public auction of mink pelts below which the auctioneer has been instructed not to sell those Mink Pelts;
- (D) "Valuation" means any predicted or expected selling price at auction of Mink Pelts estimated prior to sale;
- (E) "Subsidiary" or "Affiliate" means any person controlled by a Consenting Defendant or one in which 50 percent or more of the voting rights is owned or controlled by a Consenting Defendant or by 50 per cent or more of the members of Consenting Defendant;
- (F) "Member" means any person who was or is listed as such by one or more Consenting Defendants;
- (G) "United States" means the United States, any territory thereof, the District of Columbia and any insular possession or other place under the jurisdiction of the United States;
- (H) "CMB" means the Canada Mink Breeders Association and its members;
- (I) "Scandinavian Organizations" means the Board of Scandinavian Fur Farm Organizations, any of its member organizations or any subsidiaries, members or affiliates including but not limited to Nordic Fur Auctions, Oslo Fur Sales, Danish Fur Sales, Finnish Fur Sales, Scandinavian Mink Association and Scandinavian Fur Agency.

III

[*Applicability*]

The provisions of this Final Judgment shall apply to each Consenting Defendant, its officers, directors, agents and employees, and to its subsidiaries, affiliates, successors and assigns, and to all persons, including members, in active concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise.

IV

[*Prices*]

Each Consenting Defendant is enjoined and restrained from directly or indirectly:

- (A) Entering into, adhering to, maintaining, furthering, enforcing, directly or indirectly, or claiming any rights under any contract, agreement, arrangements, understanding, plan, program, rule or regulation with the Scandinavian Organizations, CMB or any person, other than as permitted by the Capper-Volstead Act (7 U. S. C. §291 et seq.) or [Section 6 of the Clayton Act](#) (15 U. S. C. §17) to:
 - (1) Raise, fix, maintain, or stabilize prices, valuations or other terms or conditions for the sale of Mink Pelts;
 - (2) Allocate, limit, divide or establish quotas for the offering, sale, production, processing or purchase of Mink Pelts;
 - (3) Restrict the quantity of Mink Pelts imported into the United States, except that this provision does not restrict the petitioning of the United States Government by any Consenting Defendant;
- (B) For a period of five years from the date of entry of this Final Judgment, authorizing, permitting or approving the attendance by any Person at any conference, meeting or other gathering attended by any representative of CMB or any of the Scandinavian Organizations, if such conference, meeting or other gathering deals in whole

or part with prices received for Mink Pelts, the cost of production of Mink Pelts, valuations, floor prices, buy back prices or other terms or conditions of sale for Mink Pelts;

(C) Exchanging with any representative of CMB or any of the Scandinavian Organizations any statistics or other data, not available to the public, relating to past, present, or future production, offerings, or prices of Mink Pelts, including but not limited to valuations and floor prices.

V

[*Affidavits*]

For a period of five years from the date of entry of this Final Judgment, each Consenting Defendant is ordered and directed to file with Plaintiff, every six months, an affidavit in writing listing and describing all subjects discussed by, or communicated to the participants at any conference, meeting or other gathering attended by any Person authorized, permitted or approved to attend such conference, meeting or other gathering by any Consenting Defendant and any similarly authorized representative of CMB or any of the Scandinavian Organizations.

VI

[*Records of Meetings*]

Each Consenting Defendant is ordered and directed to require each committee or other group established by it, or under its auspices, which is empowered to consider any of the following matters, to maintain accurate and complete minutes of each meeting of such committee or group:

(A) Market conditions, auction sales, floor prices, valuations, terms or conditions of sales, past, present or future production or offerings of Mink Pelts;

(B) Trade practices in the United States, Canada, Norway, Sweden, Denmark or Finland;

(C) Relations between the United States and the Canadian, Norwegian, Swedish, Danish or Finnish mink industries.

VII

[*Termination of Membership*]

Within thirty days from the date of entry of this Final Judgment, each Consenting Defendant is ordered to terminate its membership in, and any association with, the International Mink Marketing Council.

VIII

[*Permissive Activity*]

(A) The terms of this Final Judgment shall not prohibit Consenting Defendants from:

(1) Exercising such rights as they may have under the laws relating to customs, tariffs, patents or trademarks;

(2) Communicating or disseminating information as to past, present or future production, offerings or prices of Mink Pelts, or other terms and conditions of sale of Mink Pelts, provided (a) that such information, in the same form communicated or disseminated, has been or is simultaneously released to the public and made available at any public auction of Mink Pelts; (b) only information as to the range of prices or aggregate prices, production or offerings may be so communicated or disseminated, and (c) no such information may be communicated or disseminated for the purpose or effect of raising, fixing, maintaining or stabilizing the prices of Mink Pelts;

(3) Conducting any bona fide arms length purchase or sale negotiations, as agent or principal, with any producer or customer of Mink Pelts, or communicating or exchanging information concerning prices relevant to such negotiations, provided that for a period of ten (10) years Consenting Defendants may not engage in

any purchase or sale transaction in Mink Pelts, or negotiations relating thereto, with CMB, any Scandinavian Organization or any members thereof;

(4) Seeking to procure the enactment, issuance, repeal, amendment or interpretation of any federal or state law or regulation applicable to Mink Pelts; or from complying with or doing anything authorized under the Capper-Volstead Act (7 U. S. C. §291 et seq.) or [Section 6 of the Clayton Act](#) (15 U. S. C. §17) or required under any duly promulgated rule or regulation of any federal agency or any federal law or statute now or hereafter in force;

(5) Advising, consulting with or reporting to any individual member of any Consenting Defendant concerning the sale, distribution, pricing or marketing of such member's own Mink Pelts;

(6) Advertising and promoting the sale, either individually or cooperatively with any other person or persons, of Mink Pelts, mink garments, or other products of its members.

(B) Seattle Fur Exchange, Inc., a whollyowned subsidiary of EMBA, is not enjoined or restrained from conducting, as heretofore conducted, its customary and normal business as agent for producers and owners of Mink Pelts delivered to it for sale at auction or otherwise to purchasers of Mink Pelts.

IX

[Notification]

(A) Within sixty days from the date of entry of this Final Judgment, each Consenting Defendant is ordered and directed to serve, by mail or otherwise, a copy of this Final Judgment on each of its officers, directors, employees, agents and members; provided that service upon individuals who are members of more than one Consenting Defendant need not be duplicated.

(B) For a period of ten years following the date of entry of this Final Judgment, each Consenting Defendant is ordered and directed to serve, by mail or otherwise, a copy of this Final Judgment on each person upon its admission to membership of one or more Consenting Defendants.

X

[Publication of Notice]

Within sixty days from the date of entry of this Final Judgment, Consenting Defendants are each ordered to cause this Final Judgment to be published in Woman's Wear Daily, U. S. Fur Rancher and Fur Age Weekly; provided Consenting Defendants jointly may cause such publication.

XI

[Affidavit]

Within ninety days from the date of the entry of this Final Judgment, each Consenting Defendant is ordered to file with the United States District Court, Eastern District of Wisconsin, and with the Plaintiff, an affidavit in writing describing all actions taken to comply with this Final Judgment.

XII

[Inspection and Compliance]

(A) For the purpose of determining or securing compliance with this Final Judgment and for no other purpose, and subject to any legally recognized privilege, any authorized representative of the Department of Justice shall upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division or of either of their authorized representatives, and on reasonable notice to each such Consenting Defendant, be permitted:

(1) Access during office hours of each Consenting Defendant or any employee of such Consenting Defendant, to inspect and copy all books, ledgers, accounts, correspondence, memoranda and other records and documents

in the possession or under the control of each Consenting Defendant or employee of such Consenting Defendant relating to any matters contained in this Final Judgment; and

(2) Subject to the reasonable convenience of each Consenting Defendant, and without restraint or interference from it, to interview officers, directors, employees and agents of each Consenting Defendant, who may have counsel present, regarding any matters contained in this Final Judgment.

(B) Upon the written request of the Attorney General, or the Assistant Attorney General in charge of the Antitrust Division, or of either of their authorized representatives, each Consenting Defendant shall submit such reports in writing, under oath if 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.

(C) No information obtained by the means permitted in this Section XI shall be divulged by any representative of the Department of Justice to any other person other than a duly authorized representative of the Executive Branch of the plaintiff, except in the course of legal proceedings in which the United States is a party, or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

XIII

[Retention of Jurisdiction]

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

XIV

Entry of this Final Judgment is in the public interest.