

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA,
Plaintiff
v.
NATIONAL CRANBERRY ASSOCIATION,
A. D. MAKEPEACE CO., Civil Action
UNITED CAPE COD CRANBERRY CO.,
MARCUS L. URANN, and No. 55-418-3
JOHN C. MAKEPEACE,
Defendants
.

STIPULATION AS TO MODIFICATION OF FINAL JUDGMENT

WHEREAS, upon consent of all the parties to this action,
a Final Judgment was entered herein on October 28, 1957,
Section IV of which enjoined and restrained the defendant
National Cranberry Association (now Ocean Spray Cranberries,
Inc. and sometimes hereinafter referred to as Ocean Spray)
from engaging in various practices, and

WHEREAS, by a Stipulation approved by the Court and entered
herein on January 20, 1960, the plaintiff, United States of
America, and the Defendant, Ocean Spray, agreed that said
Section IV of said Final Judgment be modified to the extent
necessary to permit said defendant to carry out the plan described
in said Stipulation, and Ocean Spray now asserting that

WHEREAS, as a result of the general public reaction to the
announcement and warning concerning possible contamination of
cranberries issued early in November 1959 by the Secretary of
Health, Education and Welfare, the heavy stocks of cranberry
products which were in the hands of the trade for the 1959
Thanksgiving and Christmas markets have still to a large extent

remained unsold, and Ocean Spray's customers are overloaded with inventories the movement of which within a reasonable time will require special effort; and it is of vital interest to Ocean Spray that these stocks be moved as promptly as possible and, to this end, that its customers exercise their best efforts to promote the sale of cranberries especially in the Easter market; and

WHEREAS, Ocean Spray, although unable to furnish much help of other kinds to its customers because of its present financial condition, desires to cooperate with its customers in disposing of their wholesale stocks and for this purpose has developed a plan for giving a merchandise allowance designed to stimulate special sales and promotion efforts by its customers in disposing of these inventories; and

WHEREAS, the essential features of said plan are as follows:

(a) All of Ocean Spray's direct customers will be entitled to the allowance.

(b) The allowance will cover all Ocean Spray whole sauce and jellied sauce in the 24/1 lb. and the 24/12 oz. cases moved to retail stores from wholesale warehouse stocks during the period from March 1 to May 1, 1960, and will be computed at \$1 per case for the 24/1 lb. cases and \$.75 per case for the 24/12 oz. cases.

(c) The allowance will be made in the form of merchandise credit memoranda issued upon receipt by Ocean Spray of certification from the customer of the number of said cases of wholesale warehouse stock in the customer's hands as of March 1, his purchases of additional such cases between March 1 and May 1 and the number of said cases in his hands as of May 1, 1960. Such credit memoranda may be used by the customer only for

the purchase from Ocean Spray of replacement stocks of merchandise at any time up to and including December 31, 1960.

NOW, THEREFORE, subject to the approval of the Court, it is stipulated and agreed by the plaintiff, United States of America, and the defendant, National Cranberry Association (now Ocean Spray Cranberries, Inc.), that Section IV of the Final Judgment entered herein on October 28, 1957, as heretofore modified, be further modified to the extent necessary to permit said defendant to carry out the foregoing plan.

For the Plaintiff:

/s/ W. D. Kilgore, Jr.

Attorney for Plaintiff

For the Defendant, National
Cranberry Association (now
Ocean Spray Cranberries, Inc.)

/s/ John R. Quarles

Ropes, Gray, Best, Coolidge & Rugg

Approved:

/s/ Geo. E. Sweeney

United States District Judge

2-29-60

Filed in Clerk's office
February 29, 1960 - 10:35 A.M.
U. S. District Court
District of Mass.