

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

.....
UNITED STATES OF AMERICA,

Plaintiff,

v.

NATIONAL CRANBERRY ASSOCIATION,
A. D. MAKEPEACE CO.,
UNITED CAPE COD CRANBERRY CO.,
MARCUS L. URANN, and
JOHN C. MAKEPEACE,

Defendants.
.....

Civil Action

No. 55-418-3

STIPULATION AS TO MODIFICATION OF FINAL JUDGMENT

Whereas, upon consent of all of the parties to this action, a Final Judgment was entered herein on October 28, 1957, Section 4 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 Stipulations approved by the Court and entered herein on January 20, 1960 and February 29, 1960, the plaintiff, United States of America, and the defendant, Ocean Spray, agreed that said Section 4 of said Final Judgment be modified to the extent necessary to permit said defendant to carry out the plans described in said respective Stipulations; and

Whereas, Section 7 of said Final Judgment provided that in the event that any of the provisions of said Final Judgment shall conflict with any provisions of any marketing agreement with or marketing order of the Secretary of Agriculture, the defendant, without showing any

other change in circumstances and upon notice to the Assistant Attorney General in charge of the Antitrust Division, may petition the Court for such modification of such of the terms of said Final Judgment as is necessary to permit compliance with such marketing agreement or order; and

Whereas, pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, the Acting Secretary of Agriculture has issued a marketing order regulating the handling of cranberries, dated August 10, 1962 and effective August 15, 1962, published in the Federal Register of August 15, 1962, Volume 27, Number 158, page 8101; and Ocean Spray is subject to the provisions of said order and is a party to the marketing agreement referred to in § 929.0(c)(1) thereof, and some of the provisions of said Final Judgment conflict or may conflict with some of the provisions of said marketing order and of said marketing agreement;

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 said Final Judgment entered herein on October 28, 1957, as heretofore modified, be further modified to the extent necessary to permit compliance by said defendant to the said marketing agreement and order.

For the Plaintiff:

/s/ W. D. Kilgore, Jr.

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

So Ordered:

/s/ John R. Quarles

Ropes & Gray

/s/ George C. Sweeney

United States District Judge

9-18-62