

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA,)	
Plaintiff,)	
v.)	Civil Action
)	No. 56-532-S
HAVERHILL FUEL OIL DEALERS')	(FILED SEPTEMBER 18, 1956)
ASSOCIATION;)	
CRANTON FUEL OIL CO., INC.;)	
GEORGE E. GAGNON;)	
WALTER F. BUSFIELD;)	
GEORGE H. CRANTON;)	
LAWRENCE BACIGALUPO; and)	
RAYMOND SAYERS)	
Defendants.)	

FINAL JUDGMENT

The plaintiff, United States of America, having filed its complaint herein on June 27, 1956, and each of the defendants having appeared herein, and the plaintiff and the defendants, by their respective 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 admission by the defendants in respect of 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 the parties hereto, it is hereby

ORDERED, ADJUDGED, AND DECREED as follows:

I

The Court has jurisdiction of the subject matter herein and all the parties hereto. The complaint states a claim against the defendants and each of them 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, as amended.

As used in this Final Judgment:

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

(B) "Fuel Oil" means that oil commonly used for heating plants of dwellings and places of business and shall be deemed to include No.1 and No.2 oil, so called;

(C) "Bulk plant dealer" means persons engaged in the business of purchasing fuel oil from distributors for resale to tank truck dealers or consumers or to both;

(D) "Tank truck dealer" means persons engaged in the business of purchasing fuel oil from bulk plant dealers for resale to consumers;

(E) "Defendant Association" means the defendant Haverhill Fuel Oil Dealers' Association.

III

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

IV

The defendants are jointly and severally enjoined and restrained from entering into, maintaining or furthering, or claiming any rights under, any contract, combination, conspiracy, agreement, understanding, plan or program among themselves or with any other person:

(a) to fix, establish, stabilize or maintain prices, profit margins, discounts, allowances, or other terms and conditions of sale of fuel oil to third persons;

(b) to influence or attempt to influence any third person with respect to the price or prices, profit margins, markups, discounts, or other terms and conditions of sales to be charged or used by such third person for the sale of fuel oil.

V

The defendants are jointly and severally enjoined and restrained from directly or indirectly:

(a) controlling or attempting to control through the defendant Association or otherwise, the prices, profit margins, markups, discounts or other terms or conditions of sale to be charged or used by any other person engaged in the fuel oil business for the sale of fuel oil;

(b) distributing or disseminating, in any manner, any price list or price bulletin to any person engaged in the fuel oil business which purports to indicate any prevailing, standard or established price of fuel oil, except in connection with the bona fide purchase or sale of fuel oil from or to such other person.

VI

Defendant Association is ordered and directed:

(a) to admit to membership any bona fide bulk plant or tank truck dealer making written application therefor, provided, however, such dealer may be subsequently dropped from membership for failure to pay dues;

(b) to cancel and revoke any provision of its by-laws, rules and regulations, including Paragraph 8 of its Rules and Regulations relating to sales of fuel oil below "established prices," which is inconsistent with the provisions of this Final Judgment;

(c) within thirty (30) days after the entry hereof to serve by mail upon each of its present members a conformed copy of this Final Judgment and to file with this Court and with the Attorney General or the Assistant Attorney General in Charge of the Antitrust Division, proof by affidavit of service upon each such member;

(d) to institute forthwith and to complete within three months from entry of this Judgment such proceedings as may be appropriate and necessary to amend its by-laws so as to incor-

porate therein Sections IV and V of this Judgment and require as a condition of membership or retention of membership that all present and future members be bound thereby in the same way that the defendants herein are now bound;

(e) to furnish to all its present and future members a copy of its by-laws as amended in accordance with subsection (d) of this Section VI;

(f) to expel promptly from membership any present or future member of the defendant who shall violate the provisions of its by-laws incorporating Sections IV and V of this Judgment, when the said defendant shall have knowledge of such violation.

VII

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, 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 of the matters contained in this Final Judgment, and (b) subject to the reasonable convenience of any 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, any defendant, 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 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.

Dated: September 18, 1956

/s/ George C. Sweeney
United States District Judge

We hereby consent to the making and entry of the foregoing Final Judgment.

For the Plaintiff:

/s/ Victor R. Hansen
Assistant Attorney General

/s/ John J. Galgay
/s/ Philip Bloom

/s/ W. D. Kilgore, Jr.

/s/ William J. Elkins

/s/ Worth Rowley

/s/ Richard B. O'Donnell

/s/ Anthony Julian
United States Attorney

/s/ Charles F.B. McAleer
Attorneys for Plaintiff

For the Defendants:

Haverhill Fuel Oil Dealers' Association;
Cranton Fuel Oil Co., Inc.; George E. Gagnon;
Walter F. Busfield; George H. Cranton;
Lawrence Bacigalupo; Raynond Sayers

/s/ JOHN J. RYAN, JR.
Attorney for above defendants.