

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. Western Farmers Assn., U.S. District Court, W.D. Washington, 1969 Trade Cases ¶72,958, (Dec. 8, 1969)

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

United States v. Western Farmers Assn.

1969 Trade Cases ¶72,958. U.S. District Court, W.D. Washington. Civil No. 8150. Entered December 8, 1969. Case No. 2042 in the Antitrust Division of the Department of Justice.

Clayton Act

Acquisition of Competitor—Fryer Chickens—Consent Decree.—A fryer processor was required by the terms of a consent decree to divest itself of the trade name together with all of the business and good will attached thereto of a competitor which it had acquired. The decree also prohibited the association from utilizing acquired realty in fryer production, from having common officers, directors or executive employees with other firms engaged in fryer production, and from acquiring any fryer processing plant for a period of ten years except upon sixty-day written notice to the government.

For the plaintiff: Richard W. McLaren, Asst. Atty. Gen., William D. Kilgore, Jr., Harry N. Burgess, Marquis L. Smith, James J. Coyle, Anthony E. Desmond, and James E. Figenshaw, Attys., Dept. of Justice; Eugene G. Cushing, U. S. Atty., and Luzerne E. Hufford, Jr., Asst. U. S. Atty.

For the defendant: Thomas H. Macbride, of Macbride and Sax, Seattle, Washington.

Final Judgment

LINDBERG, D. J.: Plaintiff, United States of America, having filed its complaint herein on February 19, 1969, and defendant having filed its answer thereto denying the substantive allegations thereof, and plaintiff and defendant by their respective attorneys having consented to the making and entry of this Final Judgment without admission by either party in respect to any issue:

Now, Therefore, before any testimony has been taken herein, without trial or adjudication of any issue of fact or law herein, and upon consent of the parties hereto, it is hereby,

Ordered, Adjudged and Decreed as follows:

I.

[Jurisdiction]

This Court has jurisdiction of the subject matter of this action and of the parties hereto. The complaint states claims for relief against the defendant under [Section 7 of the Clayton Act](#), as amended (15 U. S. C. § 18).

II.

[Definitions]

As used herein:

(A) "Defendant" means the defendant Western Farmers Association;

(B) "Trade-mark rights" shall mean any and all rights to, or to the use of the trade-names "Little Pete" or "Pederson" and any derivative thereof, together with all of the business and good-will attached thereto, acquired by the defendant as a result of or in connection with its acquisition on January 2, 1968 of the Pederson processing plant;

(C) "Acquired realty" shall mean the real estate, plant and processing facility acquired by the defendant as a result of or in connection with its acquisition on January 2, 1968 of the Pederson processing plant, and all additions and betterments attached thereto.

III.

[*Applicability*]

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

IV.

[*Divestiture*]

(A) Defendant is ordered and directed, not later than February 18, 1970, to divest itself of all right, title and interest which it may have in any and all trade-mark rights.

(B) The divestiture required by the foregoing paragraph (A) of this Section IV shall be made in good faith, shall be absolute and unconditional, and to a person or persons approved in advance by the plaintiff or this Court.

V.

[*Use of Acquired Realty*]

After February 18, 1970, defendant is enjoined and restrained from, in any manner, using any of the acquired realty in connection with any phase of the production, processing or sale of fryers.

VI.

[*Third Party Rights*]

(A) The divestiture required herein shall include appropriate provisions respecting rights and liabilities as between defendant and other persons arising from the transactions which are the subject matter of the complaint and any offer of sale involving Pederson or related interests shall include provisions for settling such rights and liabilities without abridgement thereof.

(B) Upon divestiture, Laharjo Poultry Company, Inc. shall have the right to cancel its "Procurement and Marketing Agreement" and its "Agreement Respecting Fryer Production" with defendant on defendant's standard ninety (90) day basis as set forth in said "Procurement and Marketing Agreement."

VII.

[*Common Employees— Acquisition of Competitor*]

(A) For a period of ten (10) years after the date of divestiture pursuant to this Final Judgment, no person serving as an officer, director or executive employee of defendant shall also serve at the same time as an officer, director or executive employee of any other person engaged in the production, processing or sale of fryers.

(B) For a period of ten (10) years after the date of entry of this Final Judgment, defendant is enjoined and restrained from acquiring any fryer processing plant except after delivery of written notice of any such proposed acquisition to the Assistant Attorney General in charge of the Antitrust Division at least sixty (60) days in advance of the intended effective date of such acquisition.

VIII.

[*Inspection and Compliance*]

For the purpose of determining and securing compliance with this Final Judgment, duly authorized representatives of the Department of Justice shall, on written request of the Assistant Attorney General in charge of the Antitrust Division and on reasonable notice to the principal office of the defendant, be permitted, subject to any legally recognized privilege, access during the office hours of defendant, who may have counsel present, to those books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of defendant, regarding the subject matters contained in this Final Judgment; and, subject to the reasonable convenience of defendant and without restraint or any interference from them, to interview officers or employees of any of them, who may have counsel present, regarding any such matters.

Upon such written request, the defendant shall submit reports in writing in respect to any such matters as may from time to time be requested.

No information obtained pursuant to this Section VIII 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 United States, except in the course of legal proceedings in which the United States is a party for the purpose of securing compliance with this Final Judgment or as otherwise required by law.

IX.

[*Jurisdiction Retained*]

Jurisdiction of this cause is retained by the Court 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 or directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment, the modification of any of the provisions thereof, the enforcement of compliance therewith, and the punishment of violations thereof.