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8 UNITED STATES DISTRICT COURT  
9 WESTERN DISTRICT OF WASHINGTON  
10 AT SEATTLE

11 UNITED STATES OF AMERICA, )  
12 )  
13 Plaintiff, )  
14 )  
15 vs. )  
16 ARDEN-MAYFAIR, INC.; )  
17 CARNATION COMPANY; )  
18 CONSOLIDATED DAIRY PRODUCTS )  
19 COMPANY; and )  
20 FOREMOST-McKESSON, INC., )  
21 )  
22 Defendants. )  
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Civil No. 189-71C2

Filed: Feb. 20, 1973

Entered: March 23, 1973

19 FINAL JUDGMENT

21 Plaintiff, United States of America, having filed its  
22 Complaint herein on September 29, 1971, and plaintiff and  
23 the defendants, by their respective attorneys, having consented  
24 to the entry of this Final Judgment, without trial or adjudi-  
25 cation of any issue of fact or law herein, and without admission  
26 by any party with respect to any such issue, and without this  
27 Final Judgment constituting evidence or admission by any party  
28 with respect to any such issue;

29 NOW, THEREFORE, before the taking of any testimony  
30 and without adjudication of any issue of fact or law herein and upon

1 the consent of the parties hereto, it is hereby:

2 ORDERED, ADJUDGED and DECREED as follows:

3 I

4 This Court has jurisdiction of the subject matter  
5 of this action and of all parties hereto. The Complaint  
6 states a claim against the defendants upon which relief may be  
7 granted under Section 1 of the Act of Congress of July 2,  
8 1890, entitled "An Act to protect trade and commerce against  
9 unlawful restraints and monopolies," as amended (15 U.S.C. §1),  
10 commonly known as the Sherman Act.

11 II

12 As used in this Final Judgment:

13 (A) "Raw milk" means unprocessed cows' milk sold  
14 or delivered by producers to processor-distributors for  
15 processing into dairy products;

16 (B) "Dairy products" means pasteurized and homogenized  
17 milk, two-percent milk, skim milk, buttermilk, whipping and  
18 table cream, half and half, sour cream, yogurt, cottage cheese,  
19 chocolate and other flavored milk, ice cream and ice milk,  
20 certified raw milk, butter, cheese, and margarine; and, in  
21 addition, means related products which are not processed from  
22 raw milk but which are regularly marketed by processor-  
23 distributors, consisting of orange and other fruit drinks,  
24 sherbet, water ices, popsicles and similar frozen novelties;

25 (C) "Wholesale prices" means those list prices,  
26 discounts, and other terms and conditions of sale at which  
27 dairy products are to be sold by processor-distributors to  
28 grocery stores, restaurants and others who purchase dairy  
29 products for resale;

30 (D) "Processor-distributor" means any person who

1 either processes raw milk into dairy products or purchases  
2 dairy products from processors for resale and distribution  
3 to wholesale customers;

4 (E) "Wholesale customer" means grocery stores,  
5 restaurants and others who purchase dairy products for resale;

6 (F) "Person" means any individual, partnership,  
7 corporation, firm, association, or other business or legal  
8 entity.

### 9 III

10 The provisions of this Final Judgment unless  
11 otherwise expressly limited shall apply throughout the  
12 United States to each of the defendants, their subsidiaries,  
13 successors and assigns and to their respective officers,  
14 directors, agents and employees, and shall also apply to  
15 all persons in active concert or participation with any of  
16 them who receive actual notice of this Final Judgment by  
17 personal service or otherwise, but shall not apply to  
18 activities between a defendant and its officers, directors,  
19 agents and employees, nor to activities between a defendant  
20 and its subsidiary companies or affiliated companies of  
21 which 50% or more of the common stock is owned by said  
22 defendant or which is in fact controlled by said defendant;  
23 provided further that this Final Judgment shall not deprive  
24 any defendant of any right which it may enjoy under Section 6  
25 of the Clayton Act (15 U.S.C. §17) and/or the Capper-Volstead  
26 Act (7 U.S.C. §§291-292) or prohibit any defendant from  
27 complying with any other federal or state law or regulation.

### 28 IV

29 Each of the defendants acting as a processor-  
30 distributor is enjoined and restrained from directly or  
31 indirectly in any manner entering into, adhering to, or  
32 claiming or maintaining any right under any contract,  
agreement, arrangement, understanding, plan or program with  
any other person:

1 (A) To fix, raise, maintain or stabilize  
2 prices for the sale of dairy products to any third person;

3 (B) To submit collusive or rigged bids on dairy  
4 products to any agency of the local, state, or federal  
5 government, or to any other person;

6 (C) To allocate or rotate customers or dairy  
7 product business among processor-distributors.

8 V

9 Each of the defendants is enjoined and restrained  
10 from:

11 (A) Communicating to or exchanging with any other  
12 processor-distributor any information concerning prices  
13 and terms or conditions of sale for dairy products that  
14 are contained in any bid or are to be contained in any  
15 bid to any third person prior to the opening of any such  
16 bid, or, in the absence of a bid opening, prior to the  
17 release by such third person of such information to the  
18 public;

19 (B) Communicating to or exchanging with any other  
20 processor-distributor any actual or proposed price, price  
21 change, discount, or other terms or conditions of sale  
22 at which any dairy product is to be, or has been, sold  
23 to any third person, prior to the communication of such  
24 information to the public or to customers generally.

25 Nothing in this paragraph V shall be construed  
26 to enjoin or restrain any defendant from communicating to or  
27 exchanging with any other processor-distributor any information  
28 concerning prices, terms or conditions of sale of bona fide  
29 sales of dairy products between said defendant and such other  
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1 processor-distributor; provided, however, that any such  
2 transactions shall be subject to the prohibitions of Section  
3 IV(A), (B) and (C) above.

4 VI

5 Each defendant is ordered and directed to individually  
6 and independently review and determine its prices, discounts,  
7 and other terms and conditions for the sale of dairy products  
8 to wholesale customers in the States of Washington and Alaska,  
9 put into effect those prices, discounts, terms, and conditions  
10 so determined, and file with this Court within ninety (90) days  
11 affidavits certifying that these requirements have been fulfilled.

12 VII

13 Each defendant is ordered and directed to:

14 (A) Serve within ninety (90) days after the entry of  
15 this Final Judgment a conformed copy of this Final Judgment  
16 upon each of its respective officers, directors, managing agents  
17 and employees who have any responsibility for establishing  
18 wholesale prices, or bids for the sale of dairy products by  
19 said defendant;

20 (B) Serve forthwith a conformed copy of this Final  
21 Judgment upon each successor officer, director, managing agent  
22 and employee who shall have any responsibility for establishing  
23 wholesale prices or bids for the sale of dairy products by said  
24 defendant;

25 (C) Advise and inform each such officer, director,  
26 managing agent and employee upon whom the Final Judgment has  
27 been served as described in subparagraphs (A) and (B) above,  
28 that violation by him of the terms of this Final Judgment could  
29 result in a conviction for contempt of court and could subject  
30 him to imprisonment and/or fine;



1 employees of said defendant, who may have counsel  
2 present, regarding any such matters.

3 B. Upon the written request of the Attorney General or  
4 the Assistant Attorney General in charge of the Antitrust  
5 Division, made to its principal office, each defendant shall  
6 submit such written reports with respect to any of the matters  
7 contained in this Final Judgment as from time to time may be  
8 requested.

9 C. No information obtained by the means provided in  
10 this Section IX shall be divulged by any representative of  
11 the Department of Justice to any person other than a duly  
12 authorized representative of the Executive Branch of the  
13 plaintiff except in the course of legal proceedings to which  
14 the United States is a party for the purpose of securing com-  
15 pliance with this Final Judgment, or as otherwise required by  
16 law.

17 X

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

25 DATED this 23rd day of March, 1973.

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28 /s/ WALTER T. McGOVERN  
29 UNITED STATES DISTRICT JUDGE  
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