

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. Growers Finance Corporation., U.S. District Court, S.D. Indiana, 1944-1945 Trade Cases ¶57,345, (Mar. 2, 1945)

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United States v. Growers Finance Corporation.

1944-1945 Trade Cases ¶57,345. U.S. District Court, S.D. Indiana, Indianapolis Division. Civil Action No. 914. March 2, 1945.

A provision of uniform stand leasing contracts of a vegetable market, providing that produce shipped into the city from distant points may be kept off the market if, in the opinion of the market master, the sale of such products will be in harmful competition to the sale of home grown produce, is void and illegal under the Sherman Anti-Trust Act. The vegetable market is enjoined, by consent, from maintaining any plan to discriminate against produce on the basis of the area of production of such produce.

For the Government: Wendell Berge, Assistant Attorney General; Geo. B. Haddock, Special Assistant to the Attorney General; and Richard B. O'Donnell, Special Assistant to the Attorney General.

For defendant: Edward W. Hohlt.

Consent by Wm. E. Ristow, President, and Edward W. Hohlt, Secretary & Counsel, of the Growers Finance Corporation.

Baltzell, Robert L., United States District Judge.

Final Decree

ROBERT L. BALTZELL, U. S. District Judge: Plaintiff, United States of America, having filed its Complaint herein on the 2nd day of March, 1945; the defendant Growers Finance Corporation, having appeared by its President, Secretary and Counsel, and each of the aforesaid parties, by their respective attorneys herein, and by the aforesaid President and Secretary having consented to the entry of this final decree herein;

Now, therefore, without taking any testimony, it is hereby

Ordered, adjudged and decreed as follows:

I

[*Jurisdiction and Cause of Action*]

The Court has jurisdiction of the subject matter hereof and of the defendant, and the complaint states a cause of action against the defendant 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 Anti-trust Act, and acts amendatory thereof and supplemental thereto.

II

[*Contract Provision Eliminating Competition of Outside Produce with Home Produce*]

The provision of the "Uniform Stand Leasing Contracts" described in paragraph 19 of said Complaint, reading "Produce shipped into the city from distant points may be kept off the market if, in the opinion of the Market Master the sale of such products will be in harmful competition to the sale of home grown produce" is hereby declared to be void and illegal in violation of Section 1 of said Sherman Anti-trust Act, and shall forthwith be deleted from each such contract, and the defendant, its successors, officers, directors, agents, employees and all persons acting or claiming to act in its behalf, is hereby enjoined and restrained from directly or indirectly claim-ing any right under, or enforcing, said provision in any such contract.

III

[Discrimination on Basis of Area of Production Enjoined]

The defendant, its successors, officers, directors, agents, employees and all persons acting or claiming to act in its behalf, is hereby enjoined and restrained from entering into, adhering to, maintaining or furthering any plan, program, lease, rule, practice or arrangement relating to the operation of the Indianapolis Producers Market, to discriminate through interruption, suspension or restriction on shipments or sales, against produce, or shippers, truckers, handlers or growers of produce on the basis of the area of production of such produce or upon the basis of place from which any such produce originates for shipment.

IV

[Copies of Decree to Contracting Parties]

Within thirty days from the entry hereof, the defendant shall mail a copy of this decree to each person with whom it now has a "uniform stand leasing contract" and within forty days from the entry hereof, the defendant shall file with the Court a verified statement stating that it has complied with this section.

V

[Department of Justice to Be Permitted Access to Record and Interviews]

For the purpose of securing compliance with this decree, duly authorized representatives of the Department of Justice shall, on written request of the Attorney General, or an Assistant Attorney General, be permitted (1) access, during the office hours of the defendant, to all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of the defendants, relating to any matters contained in this decree, and (2) subject to any legally recognized privilege, without restraint or interference from the defendant, to interview officers or employees of the defendant, who may have counsel present, regarding any such matters: Provided, however, that information obtained by the means permitted in this paragraph shall not be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Department of Justice except in the course of legal proceedings under this decree in which the United States is a party or as otherwise required by law.

VI

[Jurisdiction Retained]

Jurisdiction of this cause is retained for the purpose of enabling either of the parties to this decree to apply to the Court at any time for such further orders and decrees as may be necessary or appropriate for the construction or carrying out of this decree, for modification or termination of any of the provisions thereof, for the enforcement or compliance therewith and for the punishment of violations thereof.