

## **Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. Garden State Retail Gasoline Dealers Association, Inc., Anthony Vitolo, and Irving Lichtenstein., U.S. District Court, D. New Jersey, 1956 Trade Cases ¶68,493, (Sept. 19, 1956)**

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United States v. Garden State Retail Gasoline Dealers Association, Inc., Anthony Vitolo, and Irving Lichtenstein. 1956 Trade Cases ¶68,493. U.S. District Court, D. New Jersey. Civil Action No. 482-55. Filed September 19, 1956. Case No. 1239 in the Antitrust Division of the Department of Justice.

### **Sherman Antitrust Act**

**Combinations and Conspiracies—Consent Decree—Practices Enjoined—Price Fixing—Gasoline.**—A retail gasoline dealers' association and two individuals were prohibited by a consent decree from entering into any understanding with any retailer or any association of retailers to fix prices, pricing methods, or other terms for the sale of gasoline to consumers, and from suggesting to any other retailer the prices to be charged by such other retailer or circulating any price list containing any prices for the sale of gasoline agreed upon by two or more retailers.

**Combinations and Conspiracies—Consent Decree—Practices Enjoined—Preventing Persons from Selling.**—A retail gasoline dealers' association and two individuals were prohibited by a consent decree from entering into any understanding with any retailer or association of retailers to hinder, restrict, limit, or prevent any person from selling gasoline to customers, and from hindering, restricting, limiting, or preventing any person from selling gasoline.

**Combinations and Conspiracies—Consent Decree—Practices Enjoined—Membership in Association.**—A retail gasoline dealers' association and two individuals were each prohibited by a consent decree from being a member of, contributing anything of value to, or participating in any of the activities of, any trade association, the activities of which are inconsistent with the provisions of the decree.

**Department of Justice Enforcement and Procedure—Consent Decrees—Specific Relief—Dissolution of Association.**—A retail gasoline dealers' association and two individuals were ordered to institute such action as may be necessary to dissolve the association under the laws of the state of its incorporation, to complete such dissolution within the minimum period of time permitted by such laws, and to file an affidavit setting forth the fact of their compliance upon the completion of such dissolution.

**Department of Justice Enforcement and Procedure—Consent Decrees—Specific Relief—Notice of Judgment.**—A retail gasoline dealers' association was ordered by a consent decree to cause to be published in a specified trade magazine an advertisement setting forth a summary of the substantive provisions of the consent decree.

For the plaintiff: Victor R. Hansen, Assistant Attorney General, and Worth Rowley, John D. Swartz, Charles F. B. McAleer, W. D. Kilgore, Jr., Richard B. O'Donnell, Walter W. K. Bennett, and Bernard Wehrmann, Attorneys, Department of Justice.

For the defendants: Anthony D. Rinaldo for Garden State Retail Gasoline Dealers Association, Inc., and Anthony Vitolo; and Norman Fischbein for Irving Lichtenstein.

### **Final Judgment**

WORTENDYKE, District Judge[ *In full text*]:The plaintiff, United States of America, having filed its complaint herein on May 25, 1955, and each of the said defendants having appeared herein and the plaintiff and the defendants, by their respective attorneys, having severally 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 any defendant 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 all the parties hereto, it is hereby

Ordered, adjudged and decreed as follows:

I

[ *Sherman Act*]

The Court has jurisdiction of the subject matter hereof and all the parties hereto. The complaint states a claim upon which relief may be granted 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.

II

[ *Definitions*]

As used in this Final Judgment:

- (A) "Person" shall mean any individual, partnership, firm, association, corporation or other legal entity;
- (B) "Defendant association" shall mean the defendant Garden State Retail Gasoline Dealers Association, Inc.;
- (C) "Retailer" shall mean any person who sells gasoline to consumers.

III

[ *Applicability of Judgment*]

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

[ *Dissolution of Association*]

The defendants are ordered and directed:

- (A) Forthwith to institute such action as may be necessary to dissolve the defendant association under the laws of the State of New Jersey and to complete such dissolution within the minimum period of time permitted by the laws of the State of New Jersey;
- (B) Upon the completion of such dissolution of the defendant association, to file an affidavit with this Court and with the Attorney General setting forth the fact of their compliance with this Section.

V

[ *Price Fixing—Restrictions on Sales*]

The defendants are jointly and severally enjoined and restrained from, directly or indirectly, entering into, adhering to, enforcing, maintaining or claiming any rights under any contract, agreement, understanding, plan or program with any retailer or with any association or central agency of or for retailers:

- (A) To fix, determine, establish, maintain or stabilize prices, pricing methods, discounts, mark-ups or other terms or conditions for the sale of gasoline to consumers;
- (B) To hinder, restrict, limit or prevent any person from selling gasoline to consumers.

VI

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

- (A) Suggesting, or attempting to suggest to any other retailer the price or prices, or other terms or conditions to be charged by such other retailer for the sale of gasoline to any other person;
- (B) Hindering, restricting, limiting or preventing or attempting to hinder, restrict, limit or prevent any person from selling gasoline;
- (C) Circulating, exchanging or using, in any manner, any price list or purported price list containing or purporting to contain any prices, terms or conditions for the sale of gasoline agreed upon or established pursuant to agreement between two or more retailers;
- (D) Being a member of, contributing anything of value, or participating in any of the activities of, any trade association or other organization, the activities of which are inconsistent in any manner with any of the provisions of this Final Judgment.

## VII

### [ *Notice of Judgment* ]

Defendant association is ordered and directed, at the earliest practical date, to cause to be published in the trade magazine THE GASOLINE RETAILER an advertisement, in a form first approved by plaintiff, setting forth a summary of the substantive provisions of this Final Judgment.

## VIII

### [ *Inspection and Compliance* ]

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 made to its principal office, 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 such defendant, and without restraint or interference, to interview officers and employees of such defendant who may have counsel present, regarding any such matters. Upon such written request said defendant 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 VIII 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 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 is retained by this 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 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.