

**APPENDIX A - PART II**

**FINAL JUDGMENTS**

(Ordered by Case Listing in the Case Caption)

U.S. v. CHARG-IT OF BALTIMORE, INC.

Civil Action No.: 12330

Year Judgment Entered: 1960

WK\_Trade Regulation Reporter - Trade Cases 1932 - 1992 United States v Charg-It of Baltimore Inc US District Court D Maryland 1960 Trade Cases 69870 .pdf

## **Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. Charg-It of Baltimore, Inc., U.S. District Court, D. Maryland, 1960 Trade Cases ¶69,870, (Dec. 14, 1960)**

United States v. Charg-It of Baltimore, Inc.

1960 Trade Cases ¶69,870. U.S. District Court, D. Maryland. Civil No. 12330. Dated December 14, 1960. Case No. 1555 in the Antitrust Division of the Department of Justice.

### **Sherman Antitrust Act**

**Exclusive Dealing—Competitive Central Credit Service Plan—Agreements.**—A central credit service plan was ordered to delete from all central credit service plan agreements any provision that its plan shall be exclusive in nature or that the terms and conditions of the agreement will be affected in the event that a member merchant contracts with a competing central credit service plan.

**Exclusive Dealing—Cancellation for Non-Compliance—Participation in Competitive Plans.**—A central credit service plan was prohibited from canceling or terminating the membership of any merchants because of the extent to which he deals with any competitor, requiring any member merchant to disclose the extent of dealing with competitors, conditioning participation in any plan upon the member selling any specified dollar amount of accounts receivable to it, or refusing to do business with any member merchant who otherwise qualifies. However, the defendant was permitted to terminate agreements where dollar amount of receivables has been so small as to be unprofitable and to refuse to enter into any agreement where the reasonably anticipated dollar amount of receivables to be sold to the defendant would be unprofitable.

**Exclusion from Market—Central Credit Service Plan—Coercive Tactics.**—A central credit service plan was prohibited from hindering, limiting, or preventing, either directly or by agreement, any person from engaging in the central credit service plan business by use of exclusive dealing provisions in its agreements, limitation on advertising of affiliation with competitive plans, boycotts of member merchants, refusals to deal, or other restrictions on freedom of choice.

**Consent Decrees—Permissive Provisions—Customer Requests—Service Charges.**—A central credit service plan was permitted to require member merchants to discount to it all sales invoices from sales made to customers who request that those sales be charged through such plan. Also, it was permitted to impose a reasonable service charge on any member merchant who used the plan's credit information to determine the advisability of extending credit but chose not to process the sales invoice through the plan.

For the plaintiff: Robert A. Bicks, Assistant Attorney General; W. D. Kilgore, Jr., Paul A. Owens, and Leo A. Roth, Attorneys, Department of Justice.

For the defendant: Theodore Sherbow and James J. Doyle, Jr., of Sherbow & Sherbow, Baltimore, Maryland.

### **Final Judgment**

THOMSEN, Chief Judge [ *In full text*]: The plaintiff, United States of America, having filed its complaint herein on July 18, 1960, the defendant, Charg-It of Baltimore, Inc., having appeared and filed its answer to such complaint denying the substantive allegations thereof; and the parties hereto, 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 admission by any of the parties hereto with respect to any such issue;

Now, therefore, before the taking of any testimony and 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:

1

[ *Jurisdiction*]

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This Court has jurisdiction of the subject matter hereof and of the parties hereto. The complaint states claims upon which relief may be granted under Section 1 of the Act of Congress of July 2, 1890, entitled "An act to protect trade and commerce from unlawful restraints and monopolies," commonly known as the Sherman Act, as amended.

II

[ *Definitions* ]

As used in this Final Judgment:

- (A) "Defendant" means Charg-It of Baltimore, Inc., a corporation organized and existing under the laws of the State of Maryland;
- (B) "Member merchant" means a person who has contracted with a credit company for participation in a central credit service plan;
- (C) "Customer" means a person who uses charge account facilities made available at retail stores affiliated with a credit company offering a central credit service plan;
- (D) "Central credit service plan" means a service offered by credit companies to member merchants and customers pursuant to which a member merchant agrees to sell and the credit company agrees to purchase, at stipulated discounts from face value, accounts receivable arising from the purchase of merchandise or services from the member merchant by customers whose credit has been approved by the credit company; such customers are entitled to purchase merchandise or services at any of the member merchants; after purchasing such accounts receivable from the member merchants the credit company assumes the risk and responsibility for billing and collecting such accounts directly from the customers;
- (E) "Accounts receivable" means those assets of a member merchant consisting of the obligations (usually evidenced by a sales slip signed by the customer) of a customer to pay for merchandise or services purchased on credit;
- (F) "Person" means any individual, corporation, partnership, association, firm or other legal entity.

III

[ *Applicability* ]

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

IV

[ *Exclusive Dealing* ]

- (A) The defendant is enjoined and restrained from, directly or indirectly, entering into, adhering to, maintaining, furthering or claiming any rights under, reviving, adopting or enforcing any provisions of any agreement, relating to a central credit service plan, which are inconsistent with any of the provisions of this Final Judgment;
- (B) The defendant is ordered and directed to delete from all central credit service plan agreements, and is prohibited from inserting in any such agreement hereafter entered into, any provision that its central credit service plan shall be exclusive in character or that the terms and conditions of the agreement will be affected in the event the member merchant contracts with a competing central credit service plan.

V

[ *Restrictive Practices* ]

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The defendant is enjoined and restrained from, directly or indirectly, entering into, adhering to, maintaining, furthering, enforcing or claiming any rights under any contract, agreement, understanding, plan or program with any other person for the purpose or with the effect of:

- (A) Hindering, restricting, limiting, preventing or prohibiting any person from entering into any central credit service plan agreement;
- (B) Interfering, in any way, with the participation of any member merchant in any central credit service plan;
- (C) Boycotting or otherwise refusing to do business with any person engaged in business as a member merchant;
- (D) Conditioning the making or continuing of a central credit service plan agreement on any of the conduct referred to in the foregoing subsections (A), (B) and (C);
- (E) Limiting, directly or indirectly, the free choice of any person with regard to his engaging in or participating in any aspect of any central credit service plan;
- (F) Limiting, prohibiting or preventing any person with regard to advertising affiliation with any central credit service plan.

VI

[ *Exclusive Dealing* ]

The defendant is enjoined and restrained from, directly or indirectly:

- (A) Canceling or terminating the affiliation or membership of any member merchant with the defendant's central credit service plan, or refusing to do business with any person because or partially because of the fact that or the extent to which he does business with any competitor of defendant;
- (B) Excluding, hindering, restricting, limiting or preventing, or attempting to exclude, hinder, restrict, limit or prevent any person from entering into a central credit service plan agreement;
- (C) Boycotting or otherwise refusing to do business with any member merchant who qualifies under defendant's standards which are not inconsistent with any provision of this Final Judgment;
- (D) Conditioning the making or continuing of a central credit service plan agreement upon a member merchant refusing to enter into or agreeing to limit the extent of doing business under any central credit service plan agreement with any other person;
- (E) Conditioning participation in any central credit service plan upon the member merchant selling to the defendant any specified dollar amount or any specified portion of its accounts receivables arising from the sale of merchandise or services on credit;
- (F) Requiring any member merchant to disclose to defendant the fact of or the extent to which it is doing business with any other person operating a central credit service plan.

Provided, however, that nothing in subsections (A) or (E) of this Section VI shall be deemed to prohibit the defendant, with respect to central credit service plan agreements heretofore or hereafter entered into by defendant, (i) from terminating any such agreement where the dollar volume of accounts receivable sold to the defendant by the member merchant has been so small as to make such business unprofitable to the defendant, or (ii) from refusing to enter into any such agreement where the reasonably anticipated dollar volume of accounts receivable to be sold to the defendant is so small as to make such business unprofitable to the defendant;

Provided, further, that nothing in this Final Judgment shall prevent defendant (i) from including in its agreement with its member merchants a provision requiring the member merchants to discount with Charg-It all sales invoices from sales made to customers who request that such sales be charged through Charg-It, and/or (ii) from imposing a reasonable service charge upon any member merchant who utilizes credit information obtained from Charg-It's central office to ascertain the advisability of extending credit to a prospective customer, if the member

merchant thereafter decides not to process the sales invoice of such transaction through Charg-It; such service charge to be reasonable and to reflect only actual costs plus a normal profit.

VII

[ *Notice of Judgment* ]

The defendant is ordered and directed:

(A) Within thirty (30) days from the date of entry of this Final Judgment to mail a copy of this Final Judgment, or the substance thereof approved as to form and content by plaintiff herein, to each member merchant with whom it has entered into a central credit service plan agreement;

(B) For a period of three years from the date of the entry of this Final Judgment, to furnish a copy of this Final Judgment, or the substance thereof approved as to form and content by plaintiff herein, to any person who hereafter becomes affiliated with the defendant as a member merchant.

VIII

[ *Compliance Affidavit* ]

The defendant is ordered and directed, within sixty (60) days from the date of entry of this Final Judgment, to file with the Clerk of this Court, with a copy to the plaintiff herein, an affidavit setting forth the fact and manner of compliance with subsection (B) of Section IV hereof and with subsection (A) of Section VII hereof.

IX

[ *Enforcement 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 the defendant made to its principal office, be permitted, subject to any legally recognized privilege:

(a) Reasonable 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 defendant, relating to any of the matters contained in this Final Judgment; and

(b) Subject to the reasonable convenience of the defendant, and without restraint or interference from it, to interview officers and employees of such defendant, who may have counsel present, regarding any such matter.

Upon the written request of the Attorney General, or the Assistant Attorney General in charge of the Antitrust Division, the 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 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 plaintiff, 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.

X

[ *Jurisdiction Retained* ]

Jurisdiction is retained for the purpose of enabling any of the parties to this Final Judgment to apply to this 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.

U.S. v. THE H.E. KOONTZ CREAMERY, INC., *ET AL.*

Civil Action No.: 14308

Year Judgment Entered: 1967

**Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. The H. E. Koontz Creamery, Inc.; National Dairy Products Corp.; Green Spring Dairy, Inc.; Cloverland Farms Dairy, Inc.; Royal Farms Dairy, Inc.; High's of Baltimore, Inc., U.S. District Court, D. Maryland, 1967 Trade Cases ¶72,267, (Dec. 12, 1967)**

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United States v. The H. E. Koontz Creamery, Inc.; National Dairy Products Corp.; Green Spring Dairy, Inc.; Cloverland Farms Dairy, Inc.; Royal Farms Dairy, Inc.; High's of Baltimore, Inc.

1967 Trade Cases ¶72,267. U.S. District Court, D. Maryland. Civil Action No. 14308. December 12, 1967. Case No. 1728 in the Antitrust Division of the Department of Justice.

**Sherman Act**

**Price Fixing—Milk—Consent Decree.**—Milk distributors were prohibited by a final consent judgment from entering into an agreement with any other distributor to fix prices, exchange price information, or submit rigged bids. The judgment enjoined each distributor from communicating price information to another distributor before such information is made known to the trade or the public, unless in connection with a bona fide sale or purchase transaction.

For the plaintiff: Donald F. Turner, Asst. Atty. Gen.; Baddia J. Rashid, W. D. Kilgore, Jr., Charles D. Mahaffie, Jr., Edna Lingreen and Sinclair N. Gearing, Attorneys, Dept. of Justice.

For the defendants: M. William Adelson for H. E. Koontz Creamery, Inc.; John T. Chadwell and J. Cookman Boyd, Jr. for National Dairy Products Corp.; Ambler H. Moss for Green Spring Dairy, Inc.; Nathan Patz for Cloverland Farms Dairy, Inc. and Royal Farms Dairy, Inc.; Robert F. Skutch for High's of Baltimore, Inc.

**Final Judgment**

THOMSEN, D. J.: The United States of America, having filed its complaint herein on December 21, 1962, each of the defendants having appeared and filed its answer to such complaint in which each denied the substantial allegations of the complaint, the parties by their respective attorneys having consented to the making and entry of this Final Judgment without trial or adjudication of any issue of fact or law herein, and without this Final Judgment constituting any evidence or an admission or adjudication by any party hereto with respect to any such issue, and the Court having considered the matter and being duly advised.

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

Ordered, Adjudged and Decreed as follows:

I.

[ *Jurisdiction* ]

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

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- (A) "Milk" means all processed milk sold by distributors for consumption as whole milk (including types known as plain, selected, homogenized, and homogenized Vitamin D), skim milk, chocolate milk, or chocolate milk drink;
- (B) "Milk products" means certain processed products, other than milk, derived from raw milk, butterfat or milk solids, and distributed by defendant milk distributors as part of their fluid milk distribution, namely, sour cream, table cream, whipping cream, cottage cheese, yogurt, buttermilk and any new products of similar nature to those designated which might hereafter be so distributed;
- (C) "Person" means any individual, partnership, corporation, or other legal entity;
- (D) "Distributor" means a person engaged in the business of processing raw milk purchased from producers or others and bottling, selling, and distributing milk to customers for consumption or for resale;
- (E) "Baltimore metropolitan area" means the geographical area consisting of the City of Baltimore and all or parts of Baltimore, Carroll, Hartford, Howard, and Anne Arundel Counties, all in the State of Maryland.

III.

[ *Applicability* ]

The provisions of this Final Judgment applicable to any defendant shall also apply to each of its subsidiaries, successors, assigns, representatives, officers, directors, agents, and employees, and to all other persons in active concert or participation with it who have received actual notice of this Final Judgment by personal service or otherwise, but shall not apply to transactions solely between any defendant and its subsidiaries.

IV.

[ *Price Fixing* ]

(A) Each defendant is enjoined and restrained from entering into, adhering to or furthering any contract, agreement or understanding with any distributor to:

- (1) Fix, establish or maintain any prices, discounts, deposits, differentials or other terms or conditions for the sale or delivery of any milk or milk products to any third person in the Baltimore metropolitan area;
- (2) Exchange information concerning prices, discounts, deposits, differentials or other terms or conditions for the sale or delivery of any milk or milk products to any third person in the Baltimore metropolitan area;
- (3) Submit noncompetitive, collusive or rigged bids or quotations for supplying any milk or milk products in the Baltimore metropolitan area;
- (4) Bid or quote, refrain from bidding or quoting or communicate an intention to bid or quote or to refrain from bidding or quoting on any milk or milk product to be sold to any third person in the Baltimore metropolitan area;

(B) Each defendant is enjoined and restrained from communicating to or exchanging with any distributor any prices, discounts, deposits, differentials or other terms or conditions for the sale or delivery of any milk or milk products in the Baltimore metropolitan area except with or after the release of such information to the trade generally or to the public or except in connection with a bona fide purchase or sale negotiation between the defendant and the purchaser or seller involved.

V.

[ *Compliance and Inspection* ]

For the purpose of determining or securing compliance with this Final Judgment and for no other purpose, and subject to any legally recognized privilege, duly authorized representatives of the Department of Justice shall upon the written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, upon reasonable notice to any defendant made to its principal office, be permitted:

(A) Reasonable access, during the office hours of the defendant and in the presence of counsel if such defendant so chooses, to all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or control of said defendant relating to any matters contained in this Final Judgment;

(B) Subject to the reasonable convenience of said defendant, and without restraint or interference from it, to interview officers and employees of said defendant who may have counsel present, regarding any such matters contained in this Final Judgment.

Upon the written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, any defendant shall submit within a reasonable time such written reports with respect to any of the matters contained in this Final Judgment as from time to time may be requested. No information obtained by the means provided in this section 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 plaintiff, except in the course of legal proceedings to which the United States is a party for the purpose of securing compliance with this Final Judgment or as otherwise required by law.

VI.

[ *Jurisdiction Retained* ]

Jurisdiction is retained for the purpose of enabling any of the parties to this Final Judgment to apply to this 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 thereof, for the enforcement of compliance therewith or for the punishment of violations thereof.

VII.

This Final Judgment is entered without costs to any of the parties.

U.S. v. PRINCE GEORGE'S COUNTY BOARD OF  
REALTORS, INC.

Civil Action No.: 21545

Year Judgment Entered: 1970

UNITED STATES DISTRICT COURT  
DISTRICT OF MARYLAND

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action No. 21545
	)	
	)	
PRINCE GEORGE'S COUNTY BOARD	)	
OF REALTORS, INC.,	)	
	)	Entered: <u>December 28, 1970</u>
Defendant.	)	

FINAL JUDGMENT

Plaintiff, United States of America, having filed its complaint herein on December 18, 1969 and defendant having filed its answer to said complaint 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

This Court has jurisdiction over the subject matter of this action and of the parties hereto. The complaint states claims upon which relief may be granted against

the defendant under Section 1 of the Act of Congress of July 2, 1890, as amended (15 U.S.C. §1), commonly known as the Sherman Act.

II

As used in this Final Judgment:

(A) "Board" shall mean the defendant Prince George's County Board of Realtors, Inc.;

(B) "Multiple Listing Service" shall mean any plan or program the members of which submit for common circulation listings of real properties;

(C) "Person" shall mean any individual, partnership, firm, association, corporation, member of the Board or other business or legal entity.

III

The provisions of this Final Judgment applicable to the defendant shall also apply to each of its directors, officers, agents, employees, subsidiaries, successors and assigns, and, in addition, to all members and other persons in active concert or participation with any of them who receive notice of this Final Judgment by personal service or otherwise.

IV

The Board, whether acting unilaterally or in concert or agreement with any other person, is enjoined and restrained from:

(A) Fixing, establishing, or maintaining any commission rates for the sale, lease or management of real estate;

(B) Urging, recommending, or suggesting that any of the members of the Board adhere to any schedule or other recommendation concerning the amount of commissions or fees for the sale, lease, or management of real estate;

(C) Adopting, suggesting, publishing, or distributing any schedule or other recommendation concerning the amount of commissions or other fees for the sale, lease or management of real estate;

(D) Adopting, adhering to, maintaining, enforcing, or claiming any rights under any by-law, rule, regulation, plan or program which restricts or limits the right of any of its members or any other real estate dealer to seek any commission or fee in accordance with his own business judgment;

(E) Taking any punitive action against any of its members where such action is based upon the member's failure or refusal to adhere to any schedule or other recommendation concerning fees;

(F) Fixing, maintaining, suggesting, or enforcing any percentage division of commissions between the selling and listing broker;

(G) Boycotting or otherwise refusing to do business with any person;

(H) Establishing, maintaining, or enforcing any fees for membership in the Board or its Multiple Listing Service which are not related to the cost of providing the services of the organization.

V

The defendant is ordered to insert in all rules, by-laws, regulations, contracts, and other forms which previously contained a set commission rate, a provision that commission rates for the sale, lease or management of property shall be negotiable between the broker and his client.

VI

(A) The defendant is ordered and directed within ninety (90) days from the date of entry of this Final Judgment to amend its by-laws, rules, and regulations by eliminating therefrom any provision which is contrary to or inconsistent with any provision of this Final Judgment.

(B) Upon amendment of its by-laws, rules and regulations as aforesaid, defendant is thereafter enjoined and restrained from adopting, adhering to, enforcing or claiming any rights under any by-law, rule or regulation which is contrary to or inconsistent with any of the provisions of this Final Judgment.

VII

Defendant is ordered and directed to mail within sixty (60) days after the date of entry of this Final Judgment, a copy thereof to each of its members and to the person listed in Schedule (A) attached to this Final Judgment and within one hundred and twenty (120) days from the aforesaid date of entry to file with the Clerk of this Court, an affidavit setting forth the fact and manner of compliance with this Section VII and Section VI (A) above.

VIII

For the purpose of determining or securing compliance with this Final Judgment, and for no other purpose, duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to defendant, made to its principal office, be permitted, subject to any legally recognized privilege, (A) access during its office hours to all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession of or under the control of the defendant relating to any matters contained in this Final Judgment, and (B) subject to the reasonable convenience of defendant, and without restraint or interference from it to interview officers or employees

of the defendant, who may have counsel present, regarding any such matters; and upon such request, defendant shall submit such reports in writing, under oath if so requested, to the Department of Justice with respect to any of the matters contained in this Final Judgment as may from time to time be requested. No information obtained by the means provided 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 Executive Branch of plaintiff, except in the course of legal proceedings to which the United States of America is a party for the purpose of securing compliance with this Final Judgment or as otherwise required by law.

IX

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to this 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 of any of the provisions hereof, for the enforcement of compliance therewith, and for the punishment of violations thereof.

Dated:

/s/ ROSZEL C. THOMSEN  
United States District Judge

Schedule A

Arie B. Stouten, Executive Vice President,  
Prince George's County Board of Realtors, Inc.

U.S. v. SWEETHEART BAKERS, INC., *ET AL.*

Civil Action No.: 71-821 HM

Year Judgment Entered: 1972

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND

UNITED STATES OF AMERICA )

Plaintiff, )

v. )

, Civil No. 71-821 HM

SWEETHEART BAKERS, INC., )  
THE E.H. KOESTER BAKERY )  
COMPANY and THE HAUSWALD )  
BAKERY, )

Entered: November 27, 1972

Defendants. )

FINAL JUDGMENT

Plaintiff, United States of America, having filed its Complaint herein on July 29, 1971 and the defendants, by their respective attorneys, having consented to the entry of this Final Judgment, pursuant to a Stipulation entered into on October 25, 1972, without trial or adjudication of any issue of fact or law herein, and without admission by any party in respect to any such issue, and without this Final Judgment constituting evidence with respect to any such issue;

NOW, THEREFORE, before the taking of any testimony and upon the consent of the parties hereto, it is hereby ORDERED, ADJUDGED and DECREED as follows:

I

This Court has jurisdiction of the subject matter hereof and of the parties consenting hereto. The Complaint states claims against the defendants upon which relief may be granted 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," as amended

(15 U.S.C. §1), commonly known as the Sherman Act.

II

As used in this Final Judgment:

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

(B) "Bakery Products" means any type of bread, bread type buns or rolls, and sweet goods.

III

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

IV

Each defendant is enjoined and restrained from entering into, adhering to, maintaining or furthering any contract, agreement, understanding, plan or program with any other person, directly or indirectly to:

(A) Fix, determine, maintain or stabilize prices, discounts, or other terms or conditions for the sale of any bakery product to any third person;

(B) Communicate to or exchange with any other person selling any bakery product any actual or proposed price, price change, discount, or other term or condition of sale at or upon which any bakery product is to be, or has been, sold to any third person prior to the communication of such information to the public or trade generally.

V

Each defendant is enjoined and restrained directly or indirectly from communicating to any other person selling any bakery product, any actual or proposed price, price change, discount, or other term or condition of sale at or upon which any bakery product is to be sold by the defendant, or such other person to any third person, prior to the communication of such information to the public or trade generally.

VI

Each defendant is ordered and directed:

(A) Within thirty (30) days after the date of entry of this Final Judgment, independently and individually, to review and determine its prices, discounts, terms and conditions for the sale of each bakery product (other than sweet goods) which defendant Sweetheart Bakers, Inc. sold out of its Salisbury, Maryland plant and which defendants The E. H. Koester Bakery Company and The Hauswald Bakery sold out of their Baltimore, Maryland plants and to issue new price lists based upon such review; and within forty-five (45) days after the date of entry of this Final Judgment, to file with the Court and serve upon the plaintiff an affidavit as to the fact and manner of compliance with this Section VI(A), including a statement setting forth the method used to review and determine such prices, discounts, and terms and conditions for sale of bakery products.

(B) Within ninety (90) days after the date of entry of this Final Judgment, to furnish a copy thereof to each of its officers and directors and to each of its

plant managers, and to file with this Court and serve upon the plaintiff an affidavit as to the fact and manner of its compliance with this Section VI(B).

VII

Nothing in this Final Judgment shall be deemed to prohibit the lawful exercise by any defendant of such legal rights, if any, which a defendant may have under the Miller-Tydings Act, 50 Stat. 693 (1937), and the McGuire Act, 66 Stat. 632 (1952).

VIII

For a period of ten (10) years the defendants are ordered to file with the plaintiff, on each anniversary date of this Final Judgment, a report setting forth the steps which each defendant has taken during the prior year to advise each of the defendant's appropriate officers, directors, and employees of its and their obligations under this Final Judgment.

IX

For the purpose of determining or securing compliance with this Final Judgment and for no other purpose, and subject to any legally recognized privilege, upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division and on reasonable notice to a defendant, made through its principal office:

(A) Duly authorized representatives of the Department of Justice shall be permitted:

(1) Access during office hours to all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of defendant, who may have counsel present, relating to any of the subject matters contained in this Final Judgment;

(2) Subject to the reasonable convenience of a defendant, and without restraint or interference from it, to interview officers, directors, employees or agents of the defendant, who may have counsel present, regarding any such matters; and

(B) Defendant shall submit such reports in writing, under oath if so requested, to the Department of Justice with respect to any of the matters contained in this Final Judgment as may from time to time be requested. No information obtained by the means provided in this Section IX 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 plaintiff, except in the course of legal proceedings to which the United States of America is a party for the purpose of securing compliance with this Final Judgment or as otherwise required by law.

X

Jurisdiction is retained for the purpose of enabling any of the parties to this Final Judgment to apply to this 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 or for the modification of any of the provisions thereof,

and for the enforcement thereof.

Dated: November 27, 1972

/s/ HERBERT MURRAY  
UNITED STATES DISTRICT JUDGE

U.S. v. THE E.H. KOESTER BAKERY CO., *ET AL.*

Civil Action No.: 71-822 HM

Year Judgment Entered: 1972

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND

UNITED STATES OF AMERICA, )  
Plaintiff, )

v. )

THE E.H. KOESTER BAKERY )  
COMPANY, )  
SCHMIDT BAKING COMPANY )  
INCORPORATED and )  
THE HAUSWALD BAKERY, )

Defendants. )

Civil No. 71-822HM

Entered: November 27, 1972

FINAL JUDGMENT

Plaintiff, United States of America, having filed its Complaint herein on July 29, 1971 and the defendants, by their respective attorneys, having consented to the entry of this Final Judgment, pursuant to a Stipulation entered into on October 25, 1972, without trial or adjudication of any issue of fact or law herein, and without admission by any party in respect to any such issue, and without this Final Judgment constituting evidence with respect to any such issue;

NOW, THEREFORE, before the taking of any testimony and upon the consent of the parties hereto, it is hereby ORDERED, ADJUDGED and DECREED as follows:

I

This Court has jurisdiction of the subject matter hereof and of the parties consenting hereto. The Complaint states claims against the defendants upon

which relief may be granted 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," as amended (15 U.S.C. §1), commonly known as the Sherman Act.

II

As used in this Final Judgment:

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

(B) "Bakery Products" means any type of bread, bread type buns or rolls, and sweet goods.

III

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

IV

Each defendant is enjoined and restrained from entering into, adhering to, maintaining or furthering any contract, agreement, understanding, plan or program with any other person, directly or indirectly to:

(A) Fix, determine, maintain or stabilize prices, discounts, or other terms or conditions for

the sale of any bakery product to any third person;

(B) Communicate to or exchange with any other person selling any bakery product any actual or proposed price, price change, discount, or other term or condition of sale at or upon which any bakery product is to be, or has been, sold to any third person prior to the communication of such information to the public or trade generally.

V

Each defendant is enjoined and restrained directly or indirectly from communicating to any other person selling any bakery product, any actual or proposed price, price change, discount, or other term or condition of sale at or upon which any bakery product is to be sold by the defendant, or such other person to any third person, prior to the communication of such information to the public or trade generally.

VI

Each defendant is ordered and directed:

(A) Within thirty (30) days after the date of entry of this Final Judgment, independently and individually, to review and determine its prices, discounts, terms and conditions for the sale of each bakery product (other than sweet goods) sold out of its Baltimore plant and to issue new price lists based upon such review; and within forty-five (45) days after the date of entry of this Final Judgment,

to file with the Court and serve upon the plaintiff an affidavit as to the fact and manner of compliance with this Section VI(A), including a statement setting forth the method used to review and determine such prices, discounts, and terms and conditions for sale of bakery products.

(B) Within ninety (90) days after the date of entry of this Final Judgment, to furnish a copy thereof to each of its officers and directors and to each of its plant managers, and to file with this Court and serve upon the plaintiff an affidavit as to the fact and manner of its compliance with this Section VI(B).

#### VII

Nothing in this Final Judgment shall be deemed to prohibit the lawful exercise by any defendant of such legal rights, if any, which a defendant may have under the Miller-Tydings Act, 50 Stat. 693 (1937), and the McGuire Act, 66 Stat. 632 (1952).

#### VIII

For a period of ten (10) years the defendants are ordered to file with the plaintiff, on each anniversary date of this Final Judgment, a report setting forth the steps which each defendant has taken during the prior year to advise each of the defendant's appropriate officers, directors, and employees of its and their obligations under this Final Judgment.

IX

For the purpose of determining or securing compliance with this Final Judgment and for no other purpose, and subject to any legally recognized privilege, upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division and on reasonable notice to a defendant, made through its principal office:

(A) Duly authorized representatives of the Department of Justice shall be permitted:

(1) Access during office hours to all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of defendant, who may have counsel present, relating to any of the subject matters contained in this Final Judgment;

(2) Subject to the reasonable convenience of a defendant, and without restraint or interference from it, to interview officers, directors, employees or agents of the defendant, who may have counsel present, regarding any such matters; and

(B) Defendant shall submit such reports in writing, under oath if so requested, to the Department of Justice with respect to any of the matters contained in this Final Judgment as may from time to time be requested. No information obtained by the means provided in this Section IX 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 plaintiff; except in the course of legal proceedings to which the United States of America is a party for the purpose of securing compliance with this Final Judgment or as otherwise required by law.

X

Jurisdiction is retained for the purpose of enabling any of the parties to this Final Judgment to apply to this 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 or for the modification of any of the provisions thereof, and for the enforcement thereof.

Dated: November 27, 1972

/s/ HERBERT MURRAY  
UNITED STATES DISTRICT JUDGE